

ORIGINAL

VOLUME I OF III

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM YORK COUNTY

John C. Hayes, III, Circuit Court Judge

SC Court of Appeals
SEP 6 6 2013
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THE STATE,

RESPONDENT,

V.

BRAQUETTE WYKINA WALTON,

APPELLANT

APPELLATE CASE NO. 2012-213552

RECORD ON APPEAL

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	)	2012-GS-46-0870
	)	2012-GS-46-0871
vs.	)	2012-GS-46-3015
	)	2012-GS-46-3016
Braquette Wykina Walton.	)	2012-GS-46-3017
	)	2012-GS-46-3018
	)	
	)	

TRANSCRIPT OF RECORD

October 29th - November 1st, 2012
York, South Carolina

BEFORE:

JOHN C. HAYES, III, JUDGE; and a jury.

APPEARANCES:

KEVIN BRACKETT, SOLICITOR
WILLY THOMPSON, DEPUTY SOLICITOR
Attorneys for the State

PHIL SMITH, PUBLIC DEFENDER
ASHLEY ANDERSON, PUBLIC DEFENDER
Attorney for the Defendant

AMINAH R. HARDY, RPR
Official Court Reporter

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P R O C E E D I N G S

1
2 THE COURT: Counsel, anything -- State object to any
3 of the voir -- suggested -- requests for voir dire?

4 MR. BRACKETT: No exceptions to their request, Your
5 Honor. Just the addition or -- questions regarding any
6 member of the jury panel related by blood or marriage to
7 the State or the police, we just ask the same questions be
8 asked regarding the public defender's office or any
9 attorneys, of course the defendant. I know you ask that
10 as a standard matter of practice. But other than that, we
11 leave it to the Court's discretion.

12 THE COURT: Looking at Number 8, this is a question
13 about forgery or financial fraud. What happened to those
14 charges? There was some discussion in camera -- in
15 chambers, I guess I'm going to call it -- about those
16 being disposed of prior to the case going forward.

17 MR. SMITH: Ms. Walton has indicated she does not
18 wish to enter a guilty plea to those charges, Your Honor.

19 THE COURT: Anything else before we get the jury up?

20 MR. SMITH: Your Honor, Ms. Walton has requested a
21 change in venue. I discussed that with her. It's my
22 understanding the current status of the law in South
23 Carolina is that we would need to attempt to empanel one
24 first. This case did receive publicity both at the
25 incident time, her time of arrest, as well as at the time

1 of the filing of a civil suit. A quick search of Google
2 revealed approximately 20 different sources that have
3 covered this case from -- some sort or another. Some of
4 that being video anywhere from Charlotte down to Columbia
5 and Augusta. But it would include the Herald newspaper,
6 Charlotte Observer newspaper, most all of the local
7 networks, and then even some local attorneys' websites, as
8 well as nursing home-specific sites such as the South
9 Carolina Nursing Home News, Nursing Home Abuse Blog, as
10 well as a courthouse news service. So on behalf of
11 Ms. Walton, we would ask for a change in venue.

12 THE COURT: State have any kind of...

13 MR. BRACKETT: I believe Mr. Smith is correct. I
14 think pursuant to State versus Manning, we must first try
15 to empanel a jury after inquiring of the panel whether or
16 not they know anything and then if they could set it aside
17 and be fair and impartial. If we are unable to do that,
18 then I submit that would be the appropriate time to
19 consider that.

20 THE COURT: You are correct in that. And so I will
21 take that under advisement, see what happens in regard to
22 empaneling the panel. And if we can have the jury come
23 up. Bring the jury up.

24 MR. BRACKETT: After the jury has taken a seat, we'll
25 see how many seats were left over after we've got the jury

1 pulled in here because the victim's family was cleared out
2 in an effort to make most space available for them, but we
3 might need just a brief period so they can be brought back
4 in.

5 THE COURT: Okay. While the jury is coming up, we'll
6 go ahead and put on the record the strikes.

7 MR. BRACKETT: Yes, sir, Your Honor. I believe the
8 strikes are ten and five. Ten for the defense, five for
9 the State.

10 THE COURT: And we'll draw two alternates?

11 MR. BRACKETT: And I have the indictments whenever
12 Your Honor would --

13 THE COURT: I will. I'd like you to tell the jury --

14 MR. BRACKETT: Yes, sir.

15 THE COURT: -- when you call the case. Yes, sir.

16 Mr. Brackett, will you publish the indictments. Be
17 helpful, might be in there to make sure that the jurors
18 know the date and the time and the place particularly.

19 MR. BRACKETT: The allegations?

20 THE COURT: Yeah.

21 MR. BRACKETT: Okay. The forgeries are going to have
22 different dates and times. I've put the --

23 THE COURT: Well, main concern about the nursing home
24 event.

25 MR. BRACKETT: Yes, sir, and I put that at the top of

1 your witness list, the incident location and the exact
2 address and its general location.

3 THE COURT: Okay.

4 MR. BRACKETT: I can do it. I don't mind.

5 THE COURT: I will. You got it on here. I just want
6 to make sure -- it's kind of simple to say if they heard
7 anything about it, tell them a little more than just the
8 names.

9 (The jury panel entered the courtroom at 12:38 p.m.)

10 THE COURT: Members of the jury panel, I'm going to
11 give the solicitor the chance -- we didn't know how much
12 room we were going to have, so we had some people step
13 out. I'm going to give them the chance to come back in
14 and utilize those last couple rows.

15 All right. I'm John Hayes. Along with Judge Alford,
16 who you met this morning, I'm a resident -- a circuit
17 judge here in the 16th judicial circuit, which is York
18 and Union Counties. I have been doing some other matters
19 that did not need the presence of the jury this morning
20 while Judge Alford has been qualifying you.

21 We're now starting our first trial in this courtroom
22 for the week. It's the State of South Carolina versus
23 Braquette, B-R-A-Q-U-E-T-T-E -- I hope I'm pronouncing
24 that right -- Walton, W-A-L-T-O-N. And I'm going to ask
25 Solicitor Brackett to do two things, tell us the charges

1 against Ms. Walton and also introduce who he has assembled
2 with him.

3 MR. BRACKETT: Thank you, Your Honor. May it please
4 the Court. Your Honor, the State is prepared to draw a
5 jury and go forward with the prosecution on indictments
6 2012-GS-46-3016, 3017, 3018, 0867, 0868, 69, 70, and 71.
7 These are all indictments true billed by the grand jury of
8 York County charging Braquette Wykina Walton with the
9 crimes of forgery and uttering. In addition, Your Honor,
10 the State is prepared to go forward on 2012-GS-46-0866,
11 the State versus Braquette Wykina Walton, true billed
12 indictment for exploitation of a vulnerable adult.
13 2012-GS-46-0685 is a true billed indictment charging
14 Braquette Walton with the crime of murder. The State
15 versus Braquette Walton, 2012-GS-46-3015, true billed
16 indictment for burglary in the first degree. And 2012 GS
17 46-0883, a true billed indictment charging Braquette
18 Walton with abuse or neglect of a vulnerable adult
19 resulting in their death.

20 Seated with me at counsel table is my Deputy
21 Solicitor, Mr. Willie Thompson; Detective Cedric Stokes
22 from the Rock Hill Police Department; Detective Allen
23 Cantey from the Rock Hill Police Department; Investigator
24 Martha Parish with the 16th Circuit Solicitor's Office;
25 and Investigator Mary Collins with the 16th Circuit

1 Solicitor's Office. The State is prepared to draw a jury
2 on these indictments, Your Honor.

3 THE COURT: Thank you.

4 MR. BRACKETT: Yes, sir.

5 THE COURT: Now I'm going to ask one of Ms. Walton's
6 counsel to stand and -- Ms. Walton, I'm going to ask
7 Ms. Walton to stand first. Ms. Walton, would you stand,
8 and the jury can see who -- this is Ms. Walton. She's
9 represented by Mr. Smith and Ms. Anderson. And I'm going
10 to ask Mr. Smith to introduce us to himself and those who
11 are sitting with him.

12 MR. SMITH: Thank you, Your Honor. I'm Phil Smith,
13 an attorney with the public defender's office. This is
14 also Ashley Anderson, another attorney in our office.
15 Braquette Walton in the gray suit that you see and Barton
16 O'Kelly, our investigator, beside her at the table.

17 THE COURT: You may be seated.

18 The alleged forgeries occurred at various times.
19 The -- I'm going to focus my attention as far as -- all
20 the questions I ask go to all of those charges. But I
21 specifically want you to be aware that as to the homicide
22 and the neglect of a vulnerable adult resulting in
23 homicide, the victim there was a Ms. Pauline Cook. The
24 alleged incident occurred on November 12 of last year. It
25 allegedly occurred at Park Pointe Village Assisted Living

1 on Chesbrough Boulevard right off Highway 5 near
2 Northwestern High School in Rock Hill.

3 As to the indictments that the solicitor has just
4 read to you, I first ask are any of you related or do you
5 know or are you a close personal friend or acquaintance of
6 Ms. Walton, Braquette Wykina Walton, also known as Bea?
7 And that's the young lady in the gray suit. Any member of
8 the jury related by blood or marriage to Ms. Walton? If
9 so, please stand. Do any of you know Ms. Walton, worked
10 with her, socialized with her, go to church with her,
11 anything like that? If so, please stand. No one stands.

12 Have any of you been represented at any time by
13 Mr. Brackett, Mr. Thompson, or anyone with the
14 16th Solicitor's Office -- 16th Circuit Solicitor's
15 Office, or worked with them in any way, worked through
16 some voluntary program or through victims' assistance or
17 anything like that? If so, please stand. No one stands.

18 Have any of you or member of your immediate family
19 been represented by either Mr. Smith, Ms. Anderson, or
20 anyone in the public defender's office here, Mr. Harry
21 Dest's office, 16th Circuit Public Defender's Office?
22 If so, please stand. No one stands.

23 Mr. Brackett has gone over the indictments. Were any
24 of you members of the grand jury which passed on this set
25 of indictments at an earlier time? If so, please stand.

1 No one stands.

2 Have any of you or a member of your immediate
3 family -- are you or any member of your immediate family
4 employed in law enforcement at any level or in the
5 prosecution of criminal cases at any level, anything such
6 as a solicitor, a district attorney, sheriff's office,
7 state trooper, anything like that? If you or a member of
8 your family has served in that capacity, please stand.

9 All right. What I will do is go through and ask each of
10 you who are standing to give me your name and your number
11 and tell me why you're standing. Uncle Joe is a policeman
12 or something like that. We'll start over here.

13 JUROR: My dad is a retired FBI agent.

14 THE COURT: Your name?

15 JUROR: Carrie Newman.

16 THE COURT: Yes, sir.

17 JUROR: I'm not sure if I need to be standing. I
18 work the Department of Public Safety Communications in the
19 dispatch center.

20 THE COURT: Just remain standing.

21 Yes, ma'am.

22 JUROR: Both my parents were retired police officers.

23 THE COURT: Your name?

24 JUROR: Elsie Cavin.

25 THE COURT: All right.

1 JUROR: My brother-in-law is a public defender now.
2 He was lieutenant for York County Sheriff's Department.

3 THE COURT: And your name?

4 JUROR: My name is Todd Doede.

5 THE COURT: All right.

6 JUROR: Dustin Fain. My brother-in-law is a York
7 County detective.

8 THE COURT: Now, there are five of you standing. If
9 this relationship with law enforcement -- I'm sorry. Yes,
10 ma'am, your name and number?

11 JUROR: It's Kristy Rae, Number 183. My ex-husband
12 is a special agent for the IRS.

13 THE COURT: All right. If any of you, the six of you
14 standing, if that relationship would prevent you from
15 being fair and impartial, please raise your right hand.
16 Your name again?

17 JUROR: Dustin Fain, F-A-I-N.

18 THE COURT: You'll be excused. Don't leave. You
19 will not be included in this draw. All of you can have a
20 seat except for Mr. Fain. He's the only one who indicated
21 he cannot be fair and impartial. The rest have not
22 indicated, so have indicated they could be fair and
23 impartial. All of you may be seated at this time. Thank
24 you.

25 You can be seated now. Are any of you or a member of

1 your immediate family members of or contributors to
2 Mothers Against Drunk Drivers, Students Against Drunk
3 Drivers, Citizens Against Violence, Troopers Association,
4 Sheriffs' Association, or Fraternal Order of Police? If
5 so, please stand. No one stands.

6 Some of these questions are going to have a lot of
7 you stand, I know, and what I'll do is go along the lines
8 of what I've done just a moment ago is I kind of start on
9 my right, your left, go across and have each of you
10 identify yourselves. And unless I tell you to give me
11 more information, all you need to do is give me your name.
12 As an example on this next question, I'll preface it a
13 little more when I ask it. But I'll have all of you that
14 need to respond to these questions stand, and then I will
15 ask in general if any of you cannot be fair and impartial,
16 please raise your right hand. So that will be the -- the
17 methodology. And the reason I'm telling you that at this
18 time is because I anticipate a fair number of you will
19 stand. Have any of you had a relative or close personal
20 friend who now or has previously resided in an assisted
21 living facility? If so, please stand.

22 All right. Like I said, I knew this would have an
23 awful lot. And, of course, this would include any at Park
24 Pointe Village, which is the one at issue where this
25 allegedly happened. So in keeping with what I've already

1 said, I'm going to go across and let each of you give me
2 your name and number. And some of you I can't see, so
3 make sure you kind of go row by row on this side and then
4 row by row on your right side. And you don't need to tell
5 me who it is or why they're in assisted living. Some
6 people are elderly. Some people are there for other
7 reasons, disabilities as such. So I'm not asking you to
8 give me that. Just the fact that you're standing
9 indicates you have some connection with someone who has
10 been in or is in an assisted living. So if you'll just
11 give me your name and number as we go across, starting
12 over here. We're starting here because this is the front
13 row and then going back.

14 JUROR: Start here?

15 THE COURT: Yes.

16 JUROR: Frank Dotson, Juror 55.

17 THE COURT: All right. Yes, sir.

18 JUROR: Ralph Walling, Juror 235.

19 JUROR: Debbie Alexander, Number 3.

20 JUROR: Matthew Blue, 21.

21 JUROR: John Benton, 18.

22 JUROR: Harold Alewine, Number 2.

23 JUROR: CarrieNewman, 171.

24 JUROR: Julie Helms, 251.

25 THE COURT: Now we start over here and go across the

1 front row. It's kind of hard for me to tell. You may be
2 the first one.

3 JUROR: Angela McCowie151.

4 JUROR: Elsie Cavin, 37.

5 JUROR: Karen Forehand, 81.

6 JUROR: Barbara Wages, 234.

7 JUROR: Joseph Laney, 138.

8 JUROR: Thomas Fетters, Number 73.

9 JUROR: Patricia Kiser, 126.

10 JUROR: Jessica Bramblett, 24.

11 JUROR: Elizabeth Jarrett, 118.

12 JUROR: Jane Rozuk, 197.

13 JUROR: Karen Cox, Number 46.

14 JUROR: Nursing home, is that --

15 THE COURT: Yes, ma'am, that would be assisted
16 living.

17 JUROR: Madeline Hudson, Number 115.

18 JUROR: Timico Hart, Number 105.

19 JUROR: Jennifer McCrae, 152.

20 JUROR: Linda Landgraf, 137.

21 JUROR: Nicole Ramsey, Number 185.

22 JUROR: Judy Legrone, 140.

23 THE COURT: All right. If -- now, this allegedly
24 occurred, as you heard, with the death of Ms. Cook in an
25 assisted living facility, nursing home or assisted living.

1 If the fact that you have had some contact with an
2 assisted living facility, had some contact with someone
3 who was living therein. If that would prevent you from
4 being fair and impartial, please raise your right hand.
5 We have one. Your name and number again?

6 JUROR: Madeline Hudson, 115.

7 THE COURT: And no one else raised their right hand.
8 Ms. Hudson will be excused. Don't leave. Just have a
9 seat and everybody can be seated. Thank you.

10 I do the same with -- yes, ma'am, your name and
11 number?

12 JUROR: I thought you meant assisted living, but when
13 you mentioned nursing home, I also had somebody in a
14 nursing home.

15 THE COURT: Your name and number?

16 JUROR: Margaret Ruddy, 198.

17 THE COURT: Would you be able to be fair and
18 impartial in this case?

19 JUROR: Yes, sir.

20 THE COURT: Anybody else? And I'm sorry, assisted
21 living would include nursing home, skilled, those sort of
22 thing.

23 Yes, ma'am, your name and number?

24 JUROR: Kimberly Clifton, Number 39. And I was just
25 questioning about someone being in there for rehab of a

1 broken --

2 THE COURT: Let's ask that. I don't think that
3 covers that, but just would you be able to be fair and
4 impartial?

5 JUROR: Yes.

6 THE COURT: Okay. Now the next we're going to follow
7 the same procedure. I hope we don't have as many
8 standing. All of us -- quite a few people obviously have
9 contact with individuals in assisted living, but I hope we
10 get fewer on the next one. And that is have any of you on
11 the jury panel been the victim of any type of forgery or
12 financial transaction card fraud? Anybody used a credit
13 card of yours when they weren't authorized to do so or
14 anybody cashed a check saying they were you or in some
15 other fashion made you the victim of a fraudulent check?
16 If so, please stand. And we'll follow the same procedure
17 with going across, names, numbers, and then I'll ask about
18 fairness.

19 JUROR: Kimberly Clifton, Number 39.

20 JUROR: Thomas Van Dyke, Number 230.

21 JUROR: Angela McCowie, 151.

22 JUROR: Joseph Laney, 138.

23 JUROR: Thomas Feters, Number 73.

24 JUROR: Jane Rozuk, Number 197.

25 JUROR: Jill Winter, 247.

1 JUROR: Timico Hart, 105.

2 THE COURT: If this fact would prevent you from being
3 fair and impartial in the trial of this case wherein
4 Ms. Walton is charged with some financial transaction
5 matters, if this would prevent you from being fair and
6 impartial, please raise your right hand. No one does.
7 Thank you. You may be seated.

8 This one also I hope -- I'll see who all -- if we
9 have any that stand. This is a smaller question than the
10 earlier one about assisted living. Have any of you had a
11 relative or yourself or a close personal friend who has
12 been in some type of facility or not even in a facility,
13 but who have had a family member or a close friend who you
14 believe was guilty of some sort of elder abuse or neglect?
15 That is because of their age, somebody took advantage of
16 them or neglected them. If so, please stand.

17 All right. Yes, ma'am, your name and number?

18 JUROR: Jessica Bramblett, Number 24.

19 THE COURT: Would the fact that you've had this in
20 your life experience, if that would prevent you from being
21 fair and impartial, raise your right hand. She does not.
22 Thank you. You may remain with us.

23 Have any of you or a member of your family or a close
24 personal friend been the victim of a homicide? That is
25 have you or -- not you. Has a member of your family or a

1 close personal friend been the victim of a murder? If so,
2 please stand. We'll start and go just like we have
3 before. Yes, sir?

4 JUROR: Dennis Williams, 243.

5 JUROR: Karen Simpson, 210.

6 JUROR: Angela McCowie, 151.

7 JUROR: Chris Bond, Number 22.

8 THE COURT: All right. If any of the four of you
9 would be unable to be fair and impartial because of this
10 life experience, please raise your right hand. Your name
11 and number again?

12 JUROR: Angela McCowie, Number 151.

13 THE COURT: We will excuse you. Don't leave, but you
14 will not be in this draw. The other three remain with us,
15 and you may be seated.

16 The following are possible witnesses in this case. I
17 do not know that all will testify, but even if they don't
18 testify, their names may come up in testimony. So if you
19 know or if you're related to, of course, or if you're a
20 close personal friend or acquaintance, or even if you know
21 these individuals through work or some social outlet or
22 church or anything like that, please stand. And sometimes
23 I can't read the writing and sometimes the names are
24 unusual, so I'll try my best to state them right, and if I
25 don't, I'll ask the attorneys to correct me.

1 Cindy Day, Welch Caldwell, Ramona Wesley, David
2 McCreary, Christine Gibney, Ruth Williams, Vicki
3 Hedgepath, Sammy Alfakir -- A-L-F-A-K-I-R -- Breyanna
4 Rickia Barton, Lori Allycia Barton, Cindy Bergeron, Edward
5 Leroy Blackwell, Lisa Suzanne Brinkley, Anthony Burke,
6 Billy Cloninger, Harold Cloninger.

7 From the coroner's office, Chris Westover. EMS
8 person Charles Doug Silk. Roxanne Falls with EMS.

9 From the York County Forensic Service Unit, Brian
10 Bagwell, Tim Buchanan, John George, Paula Neely, Kevin
11 Sullivan, George Weeks. Then individuals who are not
12 indicated to be associated with any particular entity,
13 Carolyn Hurt, Marvin James Lawrence, John McFarlane,
14 Jennifer McCall, David McCreary, Lauren Passmore, Chris
15 Pearson, Jeff Prophet, Antoine Robinson, and Jean
16 Robinson. Then from Fort -- Park Pointe Village, Jackie
17 or Jacqueline Austin, Charles Barnes, Sara Borschelewicz.

18 MR. BRACKETT: I believe it's Borschelewicz.

19 THE COURT: Borschelewicz. Brian S. Cromwell, Richard
20 Hegarty, Carolyn Hodge, Angelo Ivey, Kayla Nicole Larson,
21 Neva Lattimer, Marvin James Lawrence, Brittany Martin,
22 Tony Mulligan, Jim Petty, Linda Renee Roach, Sam
23 Sammataro, Michael Smith, Teresa Stagner.

24 From the Rock Hill Municipal Court, Denise Mundy,
25 Delores Williams.

1 From the Rock Hill Police Department, Brent Almon,
2 Michael Belk, Sarah Blair, Tony Breeden, Allen Cantey,
3 Michael Chavis, Teresa Childers, Chris Crowder, Keith
4 Dugan, Ray Hamilton, Kathy Harveston, Wesley Hope,
5 Jonathan Langley, Tamar -- T-A-M-A-R -- Marshall. Toshia
6 Smith, Cedric Stokes, Darin Swiger -- S-W-I-G-E-R -- Phil
7 Tripp, Josh Welch.

8 Then the not connected to any entity, David Sanders,
9 Kathy Schillaci -- that's S-C-H-I-L-L-A-C-I -- Lonnie
10 Simmons, Ralph Simmons.

11 Then with the State Law Enforcement Division, Maryann
12 E. Boehn -- B-O-E-H-N -- Janice Bryson, Mark A. Keel, Paul
13 Meeh -- M-E-E-H -- Doris P. Yarbrough.

14 From Tega Cay Police Department, A.R. Breeland, Tina
15 Truesdale.

16 Then not affiliated with any entity, Brian Sullivan,
17 Janice Sullivan, Monica Sullivan, Cynthia Diane Simmons
18 Walton, Chase Walton, Christian Walton, David Walton,
19 LaDreena Walton, Micah Walton, Josh Welch, Desmond Wesley,
20 Ramona Wesley, Valerie Williamson, David Wood.

21 Then from Woodforest National Bank, Bryan Abraham,
22 Loretta Anderson, Lucy Cooper, Andrew Rabuck.

23 From the York County Sheriff's Department, Nick
24 Schifferle. From York Pathology Associates, Drs. Earl
25 Jenkins, James Maynard, and Robert Thomas.

1 Any of you related or know any of those individuals?
2 If so, please stand. All right. Again we'll start and
3 work our way back. Even though some of you stood several
4 times, we have to make a record, so I have to get it each
5 time. We'll go back. This time I would like you to tell
6 me who on the list. A little different from the last few
7 times. Tell me why you're standing and who you know or
8 think you may know.

9 JUROR: Frank Dotson, 55. Brent Almon, go to church
10 with him.

11 THE COURT: All right.

12 JUROR: Harold Alewine, Number 2. I work dispatching
13 for numerous people that were named for the different
14 agency.

15 THE COURT: Yes, ma'am, again.

16 JUROR: Officer Breeland, Tega Cay, he works at my
17 children's school.

18 THE COURT: You need to keep your voice up. You
19 said -- works at your kids' school. I understand.

20 JUROR: That's the only way I know him. Spoken with
21 him several times.

22 THE COURT: Your name and number?

23 JUROR: Carrie Newman, 171.

24 JUROR: Julie Helms, 251. I'm Earl Jenkins's
25 landscaper.

1 THE COURT: Yes, sir.

2 JUROR: Elsie Cavin, Number 37. I worked with Bryan
3 Robinson and Andrew at Woodforest.

4 THE COURT: All right. If any of you because of the
5 association you mentioned of knowing the person you
6 mentioned, if that would prevent you from being fair and
7 impartial, please raise your right hand. None do.
8 Thanks. You may be seated.

9 Now, this is the next-to-the-last question. And I'm
10 going to try to ask it to make it make sense. That is
11 this case, I understand, has received media coverage. I
12 told you when it occurred, last November. Occurred at
13 Park Pointe Village Assisted Living. I understand that
14 the decedent, Ms. Cook, was an occupant or -- I don't want
15 to call them patient -- or client there. And I understand
16 that Ms. Walton may have worked there.

17 The only reason I tell you that is because I'm asking
18 if any of you have read about or heard about this case
19 from any source whatsoever, read anything in the
20 newspaper, seen anything on the TV, heard anything on the
21 radio, seen anything on any kind of blogs or any kind of
22 websites or Facebook or any kind of social media.
23 Basically if any of you have heard anything about this
24 case from any source whatsoever, please stand at this
25 time. All right. We'll start and do the same thing with

1 the names and numbers, and then I'll ask that general
2 question. Start up here on the front again.

3 JUROR: Kimberly Clifton, Number 39.

4 JUROR: Harold Alewine, Number 2.

5 JUROR: Patrick Quinn, 181.

6 JUROR: Jill Winter, 247.

7 JUROR: Timico Hart, 105.

8 JUROR: Linda Landgraf, 137.

9 THE COURT: All right. The ones that you are
10 standing, I believe there are six of you, if -- let me ask
11 you first this: If you were seated on this jury, could
12 you disabuse your mind -- that is, can you remove from
13 your mind any of the information that you received before
14 you got here today through any media or through any source
15 and sit and face this case solely on the law and the
16 evidence developed in the trial? That is, can you not
17 factor in and put out of your mind any prior knowledge
18 that you have regarding the allegations and base your
19 verdict solely on the law and the evidence developed in
20 the trial? If you cannot do that, raise your right hand.
21 All right. Yes, ma'am, your name and number?

22 JUROR: Linda Landgraf, 137.

23 THE COURT: You'll be excused. Don't leave. Just
24 have a seat. And no one else raises their hand. You may
25 be seated.

1 All right. I particularly asked that question about
2 news coverage. Those of you already stood need not
3 respond, but have any of you heard about this case from
4 any source whatsoever, a friend at the grocery store or at
5 work or at the garage, barbershop, anything like that? If
6 so, please stand. No one stands.

7 Anything further from the State?

8 MR. BRACKETT: Nothing from the State, Your Honor.

9 THE COURT: Anything else from defense?

10 MR. SMITH: Nothing further, Your Honor.

11 THE COURT: If any of you know any reason why you
12 could not or should not serve as a fair and impartial
13 juror on the trial of this particular case, if so, please
14 stand. No one stands.

15 Now, the way we draw juries in this court is as
16 follows: Names are drawn at random by the computer. If
17 you hear your name called, please come forward. Bring
18 with you any books or jackets or coats or anything you may
19 have so that you won't have to go back and get them if
20 you're seated on the jury. Please come up and stand next
21 to the bailiff. Turn around and face first the table
22 first which will then be to your left, where Mr. Brackett
23 and Mr. Thompson are seated. One of them will say either
24 "present the juror" or "excuse the juror." If you hear
25 the words "excuse the juror," return to your seat. If you

1 hear the words "present the juror," turn and face the
2 table where Mr. Barton and -- I mean Ms. Walton and her
3 attorneys are seated. And either Mr. Smith or
4 Ms. Anderson will say either "swear the juror," which
5 means you may have a seat in the jury box, or "excuse the
6 juror." If you hear the words "excuse the juror," of
7 course, return to your seat.

8 The State has a right to excuse up to five
9 individuals. The defense has a right to excuse up to ten
10 individuals. We will draw two alternates. There the
11 State can excuse one each and the defense two each.

12 Madame Clerk.

13 THE CLERK: Number 118, Elizabeth Jarrett.

14 MR. BRACKETT: That number again, Madame Clerk?

15 THE CLERK: 118. What say you for the State?

16 MR. BRACKETT: Please present the juror.

17 THE CLERK: Defense?

18 MR. SMITH: Please seat Ms. Jarrett.

19 THE CLERK: You may have a seat in the jury box.

20 Number 117, Ashley Isbell. What say you for the
21 State?

22 MR. BRACKETT: Please excuse the juror.

23 THE CLERK: You're excused from this case.

24 Number 183, Kristy Rae. What say you for the State?

25 MR. BRACKETT: Please present the juror.

1 THE CLERK: Defense?

2 MR. SMITH: Please seat Ms. Rae.

3 THE CLERK: You may have a seat in the jury box.

4 Number 24, Jessica Bramblett. What say you for the
5 State?

6 MR. BRACKETT: Please present the juror.

7 THE CLERK: Defense?

8 MR. SMITH: Please excuse Ms. Bramblett.

9 THE CLERK: You're excused from this case.

10 Number 33, Patsy Capps. What say you for the State?

11 MR. BRACKETT: Please present Ms. Capps.

12 THE CLERK: Defense?

13 MR. SMITH: Please excuse Ms. Capps.

14 THE CLERK: You're excused in this case.

15 Number 26, Ewanda Burris. What say you for the
16 State?

17 MR. BRACKETT: Please present Ms. Burris.

18 THE CLERK: Defense?

19 MR. SMITH: Please seat Ms. Burris.

20 THE CLERK: You may have a seat in the jury box.

21 Number 21, Matthew Blue. What say you for the State?

22 MR. BRACKETT: Please present the juror.

23 THE CLERK: Defense?

24 MR. SMITH: Please seat Mr. Blue.

25 THE CLERK: You may have a seat in the jury box.

1 Number 247, Jill Winter. What say you for the State?

2 MR. BRACKETT: Please present the juror.

3 THE CLERK: Defense?

4 MR. SMITH: Please excuse this juror.

5 THE CLERK: You're excused from this case.

6 Number 130, Sandra Koroll. What say you for the

7 State?

8 MR. BRACKETT: Please present the juror.

9 THE CLERK: Defense?

10 MR. SMITH: Please seat Ms. Koroll.

11 THE CLERK: You may have a seat in the jury box.

12 Number 251, Julie Helms. What say you for the State?

13 MR. BRACKETT: Please present Ms. Helms.

14 THE CLERK: Defense?

15 MR. SMITH: Please seat Ms. Helms.

16 THE CLERK: You may have a seat in the jury box.

17 Number 217, James Steiner. What say you for the

18 State?

19 MR. BRACKETT: Please present Mr. Steiner.

20 THE CLERK: Defense?

21 MR. SMITH: Please seat Mr. Steiner.

22 THE CLERK: You may have a seat in the jury box.

23 Number 132, Laura Kyer. What say you for the State?

24 MR. BRACKETT: Please present the juror.

25 THE CLERK: Defense?

1 MR. SMITH: Please seat Ms. Kyer.

2 THE CLERK: You may have a seat in the jury box.

3 Number 138, Joseph Laney. What say you for the

4 State?

5 MR. BRACKETT: Please present Mr. Laney.

6 THE CLERK: Defense?

7 MR. SMITH: Please excuse Mr. Laney.

8 THE CLERK: You're excused in this case.

9 Number 46, Karen Cox. What say you for the State?

10 MR. BRACKETT: Please present the juror.

11 THE CLERK: Defense?

12 MR. SMITH: Please seat Ms. Cox.

13 THE CLERK: You may have a seat in the jury box.

14 Number 55, Franklin Dotson. What say you for the

15 State?

16 MR. BRACKETT: Please present the juror.

17 THE CLERK: Defense?

18 MR. SMITH: Please excuse Mr. Dotson.

19 THE CLERK: You're excused in this case.

20 Number 32, Eric Canty. What say you for the State?

21 MR. BRACKETT: Please present the juror.

22 THE CLERK: Defense?

23 MR. SMITH: Please excuse Mr. Canty.

24 THE CLERK: You're excused in this case.

25 Number 160, Yolanda Minott. What say you for the

1 State?

2 MR. BRACKETT: Please present the juror.

3 THE CLERK: Defense?

4 MR. SMITH: Please seat Ms. Minott.

5 THE CLERK: You may have a seat in the jury box.

6 Number 230, Thomas Van Dyke. What say you for the

7 State?

8 MR. BRACKETT: Please present the juror.

9 THE CLERK: Defense?

10 MR. SMITH: Please excuse Mr. Van Dyke.

11 THE CLERK: You're excused in this case.

12 Number 1, Jason Ackerman. What say you for the

13 State?

14 MR. BRACKETT: Please present the juror.

15 THE CLERK: Defense?

16 MR. SMITH: Please seat Mr. Ackerman.

17 THE CLERK: You may have a seat in the jury box.

18 Number 167, Byron Mugabe. What say you for the

19 State?

20 MR. BRACKETT: Please excuse Mr. Mugabe.

21 THE CLERK: You're excused in this case.

22 Number 39, Kimberly Clifton. What say you for the

23 State?

24 MR. BRACKETT: Please present the juror.

25 THE CLERK: Defense?

1 MR. SMITH: Please excuse Ms. Clifton.

2 THE CLERK: You're excused from this case.

3 Number 198, Margaret Ruddy. What say you for the
4 State?

5 MR. BRACKETT: Please present the juror.

6 THE CLERK: Defense?

7 MR. SMITH: Please seat Ms. Ruddy.

8 THE CLERK: You may have a seat in the jury box.

9 THE COURT: We'll draw first draw alternates.
10 Strikes will be one and two.

11 THE CLERK: Number 197, Jane Rosuk. What say you for
12 the State?

13 MR. BRACKETT: Please present the juror.

14 THE CLERK: Defense?

15 MR. SMITH: Please excuse Ms. Rosuk.

16 THE CLERK: You are excused in this case.

17 Number 111, Barry Hodges. What say you for the
18 State?

19 MR. BRACKETT: Please present the juror.

20 THE CLERK: Defense?

21 MR. SMITH: Please seat Mr. Hodges.

22 THE CLERK: You may have a seat in the jury box.

23 Number 53, Todd Doede. What say you for the State?

24 MR. BRACKETT: Please excuse the juror.

25 THE CLERK: You're excused from this case.

1 Number 91, Cheryl Good. What say you for the State?

2 MR. BRACKETT: Please present the juror.

3 THE CLERK: Defense?

4 MR. SMITH: Please seat Ms. Good.

5 THE COURT: Anything from the State regarding
6 striking the panel?

7 MR. BRACKETT: Nothing from the State, Your Honor.

8 THE COURT: Anything from the defense regarding
9 striking the panel?

10 MR. SMITH: Nothing from defense, Your Honor.

11 THE COURT: Those of you who were not chosen, I'm
12 going to ask you to go back downstairs because I know it's
13 getting into lunch hour, but they'll tell you what to do.
14 I think they're going to draw another jury panel to go up
15 to Judge Alford. I don't know all the logistics of it,
16 but right now I'm instructing you to go back downstairs to
17 the jury assembly room. Try to do that fairly quietly so
18 I can start talking to this jury panel.

19 Members of the jury panel, it is getting toward
20 lunchtime, and we also have some legal matters to take up
21 outside your presence. So I'm going to let you go to
22 lunch and then return. It's 1:30 now. And we have some
23 matters to take up. I'm going to ask you to be back at
24 3:00 so we can have some lunch and take care of some legal
25 matters.

1 Not going to administer the oath yet, but you are on
2 the jury panel. So you are bound to do a few things. I
3 will tell you some when you get back, but before you even
4 go to lunch, I'll tell you a few. One is that you're not
5 to try to make up your own mind or discuss this case among
6 yourselves until we reach the point where I instruct you
7 to joint deliberate and return a unanimous verdict. Prior
8 to that time, you don't have all the tools you need to
9 make a fair and reasonable decision. So don't discuss the
10 case and try to make up your own mind until I instruct you
11 to joint deliberate and return a unanimous verdict.

12 Do not let anyone discuss this case with you outside
13 the courtroom. If anyone tries to discuss this case with
14 you, tell them you cannot because you're serving as a
15 juror. And if anyone does try to discuss this case with
16 you, please report that back to me because I will have to
17 take action against anyone who tries to talk to a seated
18 juror.

19 Do not let yourself be exposed to any news coverage
20 if there is any. Don't watch anything, listen to
21 anything, or read anything that could remotely deal with
22 this trial, either from old news or from current news.
23 Again, your verdict must be based on the law and the
24 evidence as presented here in the courtroom and cannot be
25 influenced by anything outside the courtroom. So don't

1 let yourself be exposed to any news coverage whatsoever.

2 Do not access any electronic means to do any research
3 about anything that could remotely deal with this trial.
4 Do not access -- go to the Cloud to find that information,
5 go to Google or Yahoo, Facebook, Twitter, Tweet. Don't do
6 anything regarding this trial as far as research or
7 communication with anyone. Don't even tell anybody you're
8 on the jury panel. Don't put on Facebook. That's
9 happened before. Don't put on Facebook that you're on the
10 jury. Nobody's business but ours. So don't use any
11 electronic means to obtain any information. Don't look up
12 anything about the law, about courtroom procedure, about
13 the solicitor, about the public defenders, about
14 Ms. Walton, about me, about evidence. Just let -- just
15 follow the rules, follow your oath, which I'm not going to
16 administer until you get back from lunch. Even though you
17 hadn't been sworn in, you're bound to follow my
18 instructions. But don't access any information any way
19 whatsoever throughout this trial that could remotely deal
20 with this trial.

21 Now, when you leave, I'm going to appoint a
22 foreperson. That person will always sit in this first
23 seat. The two alternates will always sit in the two seats
24 where they're seated right now. For the rest of you,
25 there's no assigned seating. Just however you happen to

1 come in and have a seat. Now, when you exit now, the
2 bailiff will show you the jury room where you'll be for
3 the next few days. And whenever I tell you to report to
4 the jury room, this will be your jury room. The bailiff
5 will tell you how to get in and out of the building while
6 you are serving as jurors.

7 Keep in mind if anyone tries to discuss this case
8 with you, report that back to me. I don't think that will
9 happen, but of course tell anybody that does that you
10 cannot do that. Ms. Cox, I'm going to ask you to be the
11 foreperson. When you come back, you'll take this first
12 seat. The alternates will take those two seats. No other
13 assigned seating. Anything before we dismiss the jury for
14 lunch?

15 MR. BRACKETT: Nothing from the State, Your Honor.

16 MR. SMITH: Nothing from defense.

17 THE COURT: Be back at 3:00. And we'll start as
18 promptly at that time as we can. I'll tell you in advance
19 for your planning, I have an obligation Judge Alford and I
20 share every other week. We hold a certain type of
21 diversion court. Court -- well, a diversion court. That
22 is for pretrial court. I have that at 6:00 tonight, so we
23 will not be going any later than about 5:30 or quarter to
24 6:00. Usually we keep -- I'll go ahead and tell you that
25 now. Usually we keep a 9:30 or 10:00 in the morning until

1 around 5:00, 5:30 in the afternoon. We might go a little
2 later depending on where we are with the witness. But for
3 your planning purposes, we will definitely be through by
4 6:00 tonight. So be back at 3:00.

5 (The jury left open court at approximately 1:31 p.m.)

6 THE COURT: All right. We will now finalize the
7 motion for change of venue. Anything from the defense on
8 that?

9 MR. SMITH: Nothing further, Your Honor.

10 THE COURT: Anything from State?

11 MR. BRACKETT: No, sir.

12 THE COURT: I deny the motion for change of venue.
13 Surprisingly few stood. I think my question was pretty
14 clear. I hope there's no one that slipped by
15 inadvertently. But I find there has been no undue
16 publicity such that there's any adverse taint to the jury
17 which would preclude Ms. Walton receiving a fair trial on
18 these charges here in York County, South Carolina. Motion
19 for change of venue is denied.

20 Now, do we want to go eat lunch and get back about
21 2:30 and see if there are any other motions? I know we
22 got some Jackson versus Denno and some things to do.

23 ATTORNEY1: Yes, sir, I think we will be prepared to
24 go forward on the Jackson versus Denno, which I believe
25 are going to be -- consume the bulk of pretrial motions.

1 There are other ones I think we can pretty much come to
2 an --

3 THE COURT: Let's reconvene at 2:30. That's just a
4 little short of an hour, but that's what we'll do.

5 (A recess was taken from 1:33 p.m. to 2:35 p.m.)

6 THE COURT: What's first?

7 MR. SMITH: Your Honor, we have a motion to sequester
8 witnesses.

9 THE COURT: Motion will be granted, reciprocal. I
10 don't know where we'll put everybody, but -- and let me --
11 let's do it -- of course the case agents can stay in, and
12 there's more than one case, so I would guess we have
13 different case agents, and they can stay in. And the
14 victim's family, which apparently is grouped to my left,
15 which is a rather sizable group, but they're not all
16 witnesses. To the extent -- are any of them witnesses?

17 MR. BRACKETT: One of them may be a witness, Your
18 Honor, as to the identity of a signature on the checks.

19 THE COURT: I'm not going to sequester a member of
20 the victim's family.

21 MR. BRACKETT: Yes, sir. And only one other person.
22 I don't know whether Mr. Smith would have an objection.
23 He's on our witness list, but as of now, we don't intend
24 to call him. But he is the executive director of Park
25 Pointe Village, which I think it's safe to say has been

1 victimized by this incident as well. And he has asked to
2 be in the courtroom, and we ask -- we told him we would
3 inquire of the Court whether there was any objection to
4 Mr. Petty, Jim Petty being in the courtroom.

5 MR. SMITH: If he's going to be a witness, I'll move
6 to sequester.

7 THE COURT: If he's going to be a victim, we'll
8 sequester.

9 MR. BRACKETT: Under the Victims' Rights Act, would
10 he not qualify as representing the facility that was at --

11 THE COURT: You want to look at the Victims' Rights
12 Act and tell me. I don't know that it quite extends that
13 far. He's not a family member. And I don't -- this is --
14 this had been a robbery at the Citgo, would the manager of
15 the Citgo have a right to sit in for his murdered
16 employee? I notice it isn't an employee. It's a
17 customer.

18 MR. BRACKETT: Yes.

19 THE COURT: I don't have a good answer. If you find
20 out I'm wrong, let me know, but I'll grant the request.

21 MR. BRACKETT: Yes, sir.

22 THE COURT: Anything else?

23 MR. SMITH: Yes, Your Honor. There were some checks
24 of Ms. Cook that had been, I believe, presented with
25 indictment. There were also some other checks from a

1 Mr. McFarland, who was also a resident. Those are not
2 being called, I don't believe, and we would make a motion
3 to exclude any reference or testimony concerning those.

4 MR. BRACKETT: We do not intend to go into those
5 checks.

6 THE COURT: All right.

7 MR. BRACKETT: Obviously unless they open the door.

8 THE COURT: Of course.

9 MR. SMITH: Your Honor, there's a police report made
10 concerning a cell phone. State alleges that Ms. Walton
11 fraudulently opened the account that had the phone for
12 which they intend to introduce phone calls of her on the
13 day before, day of, and day after the date in question
14 here. We had some discussions in chambers about it. If
15 the State is willing to make no reference to that alleged
16 crime of the fraudulent information concerning the
17 account, then the defense will stipulate that that is
18 Braquette Walton's cell phone.

19 MR. BRACKETT: So just so the stipulation is clear,
20 the issue is the cell phone with the number (980)253-0066
21 was the cell phone of the defendant Braquette Walton and
22 was in her possession during the times in question?

23 MR. SMITH: It is her cell phone. I cannot speak for
24 when it's in her possession or not.

25 MR. BRACKETT: The concern we have is that the

1 account was opened in another person's name and if some --

2 THE COURT: I understand that. The question -- could
3 be in her name or she could have left it at home. I think
4 that's what Mr. Smith's point is. I think they will
5 stipulate it was her phone.

6 MR. BRACKETT: Okay.

7 THE COURT: But rather than stipulate -- understand
8 pretrial conference, there's certain pings from that
9 phone, and they're just not saying that she had in her
10 pocket or in her purse or in her hand when those pings
11 occurred, but it was a phone that belonged to her.

12 MR. BRACKETT: Okay.

13 THE COURT: I could be carrying your phone and get
14 pings, and that wouldn't necessarily mean you were
15 pinging.

16 MR. BRACKETT: Yes, sir. As long as -- the phone was
17 open -- the account was opened in the name of Lisa
18 Brinkley's. As long as there will be no effort to say
19 that this phone was Lisa Brinkley's and that account
20 was -- then we're fine.

21 THE COURT: That's my understanding we'll stipulate
22 it was Ms. Walton's phone but not that she had it on her
23 person during the pertinent times.

24 MR. BRACKETT: Yes, sir.

25 MR. SMITH: Next, Your Honor -- and we'll do Jackson

1 v. Denno in a moment, so it may be better to take this up
2 after, but there are some references to some bad acts or
3 potential crime, drug use or going to a strip club. We
4 would just ask that that portion of the statements be
5 suppressed as they are not relevant to this alleged crime.

6 MR. BRACKETT: Can you reference the specific parts
7 of the statements so we know?

8 MR. SMITH: Yeah. She talked about going to buy weed
9 and going to Charlotte to a gay strip club. It may be
10 easier after we do Jackson v. Denno so everybody hears
11 what the statements are.

12 MR. BRACKETT: Yeah, why don't we --

13 MR. SMITH: Next, Your Honor, just make sure that
14 there is no Lyle evidence. I don't think the State
15 intends to introduce any specifically concerning a child
16 abuse charge or a financial transaction card fraud or the
17 telephone that we just spoke of.

18 MR. BRACKETT: No, sir, Your Honor, we won't go into
19 that. Unless, again, the door is opened so --

20 THE COURT: Right. I understand.

21 MR. SMITH: And to that end, we move to settle
22 Ms. Walton's record should she choose to testify.

23 MR. BRACKETT: There's nothing that we could use to
24 impeach her.

25 MR. SMITH: Your Honor, renew our discovery request.

1 Your Honor, Ms. Collins is very thorough, and I'm
2 confident that she's given me page after page of the
3 items, but just in case there's anything new that they
4 have gotten or would be developed during this case, we
5 would ask for that as well.

6 MR. BRACKETT: I believe we provided them everything
7 they're entitled to under Rule 5 and Brady and probably
8 more. As I mentioned in our pretrial conference, the cell
9 phone records that we have show latitude and longitude of
10 certain cell towers that will be referenced during the
11 testimony from the cell phone company's engineer, who will
12 come and testify about that. And we'll print up a Google
13 map that depicts the area immediately around the facility
14 from the cell tower that serves that area as well as the
15 cell tower that serves the Tega Cay Walmart where the
16 Woodforest National Bank where one of the forged checks
17 was cashed. But those latitude and longitude of those
18 towers has been provided. We just haven't printed a
19 Google map to show them, but I think that's readily
20 accessible to both parties.

21 MR. SMITH: We understand. That's fine.

22 And then next, Your Honor, there's reference in the
23 summary of a hearsay statement. Alleged neighbor of
24 Ms. Walton's approached an FSU officer and indicated that
25 they had seen Ms. Walton throw some trash in a dumpster at

1 some earlier time. This person is not named in the
2 report. We would just object to that hearsay and request
3 that that be suppressed if they intended to offer. I do
4 not know if they do.

5 MR. BRACKETT: We do not. We will not attempt to
6 introduce that.

7 MR. SMITH: And that just leaves Jackson v. Denno,
8 and at the tail end, Your Honor, we go back to our motion
9 to exclude, and there's a potential Doyle issue, but I
10 think we resolved it by them just saying the interview
11 terminated or she did not wish to go forward with the
12 signature.

13 MR. BRACKETT: She refused to sign at the appropriate
14 time. She actually said, "I want to talk to my mother or
15 my lawyer before I do that." And so instead of saying
16 that, we'll just say she refused to sign at that point.

17 THE COURT: Any problem with that?

18 MR. SMITH: I do not.

19 THE COURT: Make sure before we get there.

20 MR. SMITH: Thank you, Your Honor.

21 THE COURT: Now Jackson versus Denno.

22 MR. THOMPSON: State would call Allen Cantey.

23 ALLEN CANTEY, after having first being duly sworn,
24 testified under oath as follows:

25

ALLEN CANTEY - DIRECT EXAMINATION BY MR. THOMPSON

1 DIRECT EXAMINATION

2 BY MR. THOMPSON:

3 Q. Detective Cantey, could you give your full name for
4 the court, please.

5 A. Lewis Allen Cantey, Jr.

6 Q. Where do you work?

7 A. Rock Hill Police Department.

8 Q. How long have you been at Rock Hill?

9 A. Since 1995. About 17 years now, I think.

10 Q. All right. And you're currently a detective there;
11 is that correct?

12 A. That's correct.

13 Q. And how long have you been in the detective division?

14 A. Since July of last year.

15 Q. And prior to that, where did you work?

16 A. Worked for approximately eight years in the drug
17 enforcement unit, the multi-jurisdictional drug
18 enforcement unit we have.

19 Q. Did you ultimately become a case agent in this case?

20 A. Yes, I did.

21 Q. Can you tell me how -- when you became involved, did
22 you have -- what was your initial contact with the
23 defendant? Let's start there.

24 A. The initial contact I had with Ms. Walton was after
25 she was arrested on the charges of the forgery.

ALLEN CANTEY - DIRECT EXAMINATION BY MR. THOMPSON

1 Q. So she was arrested on a forgery charge. And what
2 date was that?

3 A. That was on the 13th of November, 2011.

4 Q. The 13th when the -- the date you went out to the
5 scene or the --

6 A. Correction. The 14th.

7 Q. Okay. So it was the 14th. Tell me how you come in
8 contact with her at that point.

9 A. We were executing a search warrant on her house for
10 the checks that were forged by Ms. Walton.

11 Q. And tell me about your first contact. Go ahead and
12 describe how you made contact with the defendant.

13 A. Well, after we served the search warrant, Ms. Walton
14 was not at her residence. She was -- pulled up while we
15 were at her house. And stopped off at the first -- at the
16 dumpster outside of her apartment complex. At that time
17 the police pulled up around her, and she was arrested for
18 it.

19 Q. All right. And did you talk to her at that point in
20 time?

21 A. I did.

22 Q. And what did -- what was your conversation with her
23 then?

24 A. I advised her of her Miranda rights at the time.

25 Q. And how did you do that?

ALLEN CANTEY - DIRECT EXAMINATION BY MR. THOMPSON

1 A. By reading them off a Miranda card.

2 Q. Do you have the Miranda card with you that you read
3 to her that day?

4 A. Yes, I do.

5 Q. Would you read it to us like you read it to her that
6 day, please.

7 A. "You have the right to remain silent. Anything you
8 say can and will be used against you in a court of law.
9 You have the right to talk to a lawyer and have them
10 present with you while you're being questioned. If you
11 cannot afford to hire a lawyer, one will be appointed to
12 represent you before any questioning if you wish. You can
13 decide at any time to exercise these rights and not answer
14 any questions or make any statements."

15 Q. All right. Where was she when you read that to her?

16 A. She was in the backseat of Officer Blair's patrol
17 car.

18 Q. And at that point -- did you speak to her at that
19 point? Did you ask her questions or attempt to?

20 A. I asked her if she understood her rights, and that
21 was it.

22 Q. Did she indicate she understood her rights?

23 A. Yes, she did.

24 Q. And after that, did you actually have a time that you
25 interviewed her following that?

ALLEN CANTEY - DIRECT EXAMINATION BY MR. THOMPSON

1 A. Yes, sir, I did.

2 Q. Tell me when that was.

3 A. Approximately 4:45 on the same day, p.m. Myself and
4 Officer Stokes met with her at the Rock Hill Police
5 Department. At that time, I read the Miranda rights again
6 off of a computer screen that's part of a statement.

7 Q. All right. If you would, tell me a little bit about
8 how you do your statements normally and how you did it
9 with her that day. You said you read the Miranda rights
10 off a computer screen. What's the process you use in
11 order to do that?

12 A. Well, I advised Ms. Walton again of her Miranda
13 rights, which is part of the statement, the first part of
14 the statement that was taken. And went over her rights,
15 advised her it's the same thing we had just read earlier.
16 She stated she did understand her rights. At that point,
17 I read a waiver of her rights, which it states, "I have
18 read or had read to me the statement of my rights shown
19 above. I understand what my rights are, and I am willing
20 to make a statement. I do not want an attorney at this
21 time. I understand and know what I am doing. I know the
22 person talking to me is a police officer, and I understand
23 what he is talking about."

24 Q. All right. Did she acknowledge that she still wanted
25 to talk to you at that point after that?

ALLEN CANTEY - DIRECT EXAMINATION BY MR. THOMPSON

1 A. Yes, she did.

2 Q. And -- now, for the process of taking a statement,
3 what process did you use? Obviously you said you read
4 this off a computer screen. Were there other things on
5 the computer screen that you were doing at that point?

6 A. Yes. At that time, it asked her personal
7 information, like her name, her date of birth, social
8 security number, her address, place of employment, cell
9 phone number, and other information.

10 Q. And you recorded all that onto the statement at that
11 time?

12 A. Yes, I did.

13 Q. And this is information she provided you; is that
14 correct?

15 A. Yes, it is.

16 Q. All right. And going back again, you had read that
17 second portion that you had read to her. What was the
18 first? If you would for the Court as well read the first
19 portion of Miranda rights that you read to her at that
20 time.

21 A. "Before we ask you any questions, you must understand
22 your rights. You have the right to remain silent.
23 Anything you say can be used against you in court. You
24 have the right to talk to an attorney for advice before we
25 ask you any questions and to have him with you during

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1 questioning. You have this right to the advice and
2 presence of an attorney even if you cannot afford to hire
3 one. We have no way of appointing you an attorney, but
4 one will be appointed by the court for you if you wish.
5 If you wish, you may answer questions without the presence
6 of an attorney and you may stop answering at any time you
7 desire until an attorney is present."

8 Q. After you read that, did she indicate that she
9 understood those rights?

10 A. Yes, she did.

11 Q. At that point -- do you print it off at that point
12 and have her sign it, or do you wait until the statement
13 is actually done?

14 A. After the statement is concluded and typed out, I
15 print it off and then advise her that this is the same
16 thing that we just discussed and ask her if she would read
17 it if she wants to. And I sign it and she signs it
18 acknowledging her rights. And then go over the waiver of
19 her rights again. Stating it's the same thing I just told
20 you earlier.

21 Q. So about how long before you actually sat down with
22 her for this written statement was her actual arrest? Was
23 it fairly close within the same day?

24 A. Yes.

25 Q. Do you remember about how long?

ALLEN CANTEY - DIRECT EXAMINATION BY MR. THOMPSON

1 A. I believe it was within the same hour.

2 Q. Okay.

3 A. Her first Miranda that I read to her was at
4 4:05 p.m., and I started this statement and read the
5 Miranda at 4:45 p.m.

6 Q. Okay. And so this would be then the second time
7 basically within the hour that she had had her rights read
8 to her?

9 A. That's correct.

10 Q. And were you actually asking her about the murder
11 charge at that point or anything regarding --

12 A. No, I was not.

13 Q. What were you discussing with her at this point?

14 A. About the forgery charge.

15 Q. All right. And how many warrants were served on her
16 at that point?

17 A. I believe the -- several from the City and several
18 from other agencies.

19 Q. Okay. And when you start to talk to her at that
20 point, go through a little bit, you know, how the
21 conversation went. Tell us kind of when -- I guess before
22 we do that, let's do it this way. Tell me the process you
23 used as far as getting it onto paper and having her sign
24 it. What process do you use? Do you go over things first
25 and then type things out? Do you type things out as she

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1 talks? How do you do it?

2 A. Well, usually I don't type very fast, so I just take
3 notes to start off with and -- while we're talking. And
4 then after we're finished with that part of the interview,
5 which is why mine takes longer than most people because I
6 have to take the time to type it up, and I'm going over
7 the statement while I'm typing it up with her. Asking her
8 so is this what happened next, is this what happened next.
9 Basically asking what I've wrote down on my notes,
10 confirming it with her as she's giving the statement to
11 me.

12 Q. Okay.

13 A. So as I'm typing it into the computer.

14 Q. Okay. So that's the process you used with her as
15 well that day, right?

16 A. Yes.

17 Q. So ultimately you have a typed statement that you
18 print off on the computer at that point?

19 A. Yes, it is.

20 Q. And what did you do with it after you printed it off?

21 A. After that I hand it to the person I'm taking the
22 statement from. In this case, Ms. Walton. Ask them to
23 please read it and if there's any problems anywhere in the
24 statement, if I have anything wrong in the statement or if
25 anything is not the way that they want it to let me know,

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1 mark it, and I hand them a pen. And if it is, we'll fix
2 it or basically reprint another one out with the
3 corrections on it.

4 After they print it out, they read it -- if they
5 agree with everything that was on it, I ask them to please
6 sign the bottom of it and date it. And even to go beyond
7 that, I ask them to draw a line from the last part of
8 their name to the period, the last word of the statement.
9 and then put their initials across that line so nothing
10 could be added to the statement afterwards.

11 Q. And did she do that on her statement?

12 A. That's correct.

13 Q. Did she have time to look at it? Did she appear to
14 have read her statement as --

15 A. She appeared to have read it.

16 Q. Did she ask you to change anything or alter anything
17 in the statement?

18 A. I don't recall her asking me to change anything.

19 Q. When you and Detective Stokes were in there, at any
20 point did she ask for an attorney during the time that
21 y'all were in there?

22 A. No, she did not.

23 Q. At any point did either of you or anyone else
24 threaten or coerce her in any way to give her -- force her
25 to give a statement?

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1 A. No, sir, we did not.

2 Q. Did anyone offer any hope of reward if she gave a
3 statement or promise her anything?

4 A. No, they did not.

5 Q. And from what you could tell, was this statement from
6 her given freely and voluntarily at that time?

7 A. Yes, sir, it was.

8 Q. And did she sign the statement at the end after
9 having read the statement?

10 A. Yes, sir, she did.

11 Q. And I believe -- is there a date on there as well?

12 A. 11/14/11.

13 Q. And when you -- you had mentioned that after you
14 printed out that that's when you showed her the Miranda.
15 Did you go over the Miranda with her again after it was
16 printed out?

17 A. I did not read it to her again. I just state that's
18 the same Miranda that I read off of the computer screen to
19 her.

20 Q. And did she sign under each parts of the Miranda
21 right there as well?

22 A. Yes, she did.

23 Q. And I believe there's -- in her statement, how many
24 total pages do you have as far as her statement goes?

25 A. There was a total of four pages. There's also a

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1 notary page attached to the end of it.

2 Q. Okay. So the notary page, is that the fourth page?

3 A. Yes, sir.

4 Q. Okay. And you -- you prepared this statement; is
5 that correct?

6 A. Yes, sir, I did.

7 Q. And who witnessed this statement?

8 A. Officer Stokes.

9 Q. Was it also sworn before a notary at that time?

10 A. Yes, it was.

11 Q. Who was the notary on it?

12 A. Kathy Harveston.

13 Q. Do you note when the time is on the statement itself?

14 A. The time I put at the end of it's the time the
15 statement was concluded.

16 Q. Is the time it's?

17 A. Concluded --

18 Q. Concluded?

19 A. -- when it's over with.

20 Q. So what was the time that it concluded?

21 A. 7:56 p.m.

22 Q. Your Honor -- do you have the original statement with
23 you today?

24 A. Yes, I do.

25 MR. THOMPSON: I'd ask to make this an exhibit at

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1 this time.

2 THE COURT: Any objection?

3 MR. SMITH: No objection.

4 THE COURT: Make it Court's exhibit.

5 (Court's Exhibit Number 1 was marked.)

6 Q. If you would, Detective Cantey, if you would publish
7 that statement or read it to the Court at this time.

8 A. "I have been receiving checks from Pauline Cook since
9 the end of July 2011 or the beginning of August 2011.
10 Ms. Cook overheard me on the phone one day talking to my
11 mother. I was upset, and she asked me what was wrong. I
12 told her that I was coming into a financial strain and
13 that I wasn't getting enough hours at work. Ms. Cook
14 asked me if I had tried to get a loan from a bank or a
15 credit union. I told her they would not loan me money, a
16 small amount I needed. I told her that I needed about
17 \$3,200 to catch up on some bills and to get ahead.

18 "Ms. Cook said that she did not feel comfortable
19 giving me a check for \$3,200 but that she could give me
20 small payments. I told her that I would pay her weekly
21 until each amount was paid off. I think the first check
22 she gave me was around five to \$600. That day she also
23 made me initial a piece of paper."

24 Page 2. "The paper had our agreement written out by
25 Ms. Cook at the top. And it had my whole name and her

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1 whole name, stating that she was loaning me money to --
2 loaning money to me and that the debt had to be paid
3 weekly and that the debt had to be zeroed out before any
4 other money would be given by her to me. She signed the
5 paper and I signed it. And we both dated it. She would
6 either always pull it out of her purse or from her walker
7 seat for me to sign off on.

8 "Under our agreement, Ms. Cook wrote several columns
9 stating the date, check number, and amount of the check,
10 and I would have to initial beside the amount. After I
11 had paid a payment for the full amount off, I would sign
12 my name beside the amount paid. Once the balance was
13 zeroed out, she would give me another check.

14 "The last check Ms. Cook gave me was on Thursday
15 morning before I got off work. I think it was for \$235.
16 And I deposited it into Woodforest Bank at the Walmart in
17 Tega Cay. I went to get my hair colored that morning at
18 10:00 a.m., and while my rollers were in, I walked over to
19 the bank and put it in my account, all but \$50. That is
20 because my hair coloring was \$21 and I needed to get some
21 gas in my car as well.

22 "I think I left the salon at either 2:00 p.m. or
23 2:30 p.m. I went to get my son from Gold Hill Middle
24 School and sat in line there. And after I picked him up,
25 we went home. I stopped at one of the fast food places to

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1 get him something to eat, and we went home.

2 "I left for work at about 10:30 p.m. that night, and
3 I gave Ms. Cook \$25 that Friday morning before I left
4 work. I didn't have time to sign the form because the
5 girls had run late relieving me and I had to get my son to
6 school by 8:15 a.m. I gave her \$10, two \$5 and five \$1.
7 I came back later that night, about 7:30 p.m., to see
8 Jackie and Marvin. The security guard was an older white
9 man, and he waved at me when we came in as I used my
10 clicker to raise the arm up. I know him from when I had
11 to be in the security guards' orientation, when they all
12 got hired. I was leaving for Greenville when Marvin
13 called, called to tell me that Ms. Jackie wanted to talk
14 to me about watching my mother, who was sick. My son was
15 with me, and we stopped by Park Pointe Village and talked
16 to Ms. Jackie for 20 to 25 minutes.

17 "I left and went to Greenville to see Desmond Wesley
18 and his mother, Romona Wesley.
19 Williamston, South Carolina, is their address. I got to
20 their house about 10:00 to 10:30 p.m. We just hung out at
21 their house, and we stopped to see his cousin Charlie, who
22 is a crackhead, and he lives around the corner. Desmond
23 told him to call him about doing some work.

24 "We went back to their house and drank some.
25 Saturday morning around 9:30 to 10:00 a.m., I got up and

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1 Desmond fixed breakfast for all of us. After that we hung
2 out a little and drank some beer on the lake. I left my
3 son there and came back toward Rock Hill about 6:00 p.m.
4 I know it was getting -- I was just starting to get dark
5 when I left his house.

6 "I made plans to go out with two friends, Chris and
7 Zo, of mine in Charlotte. Chris Pearson is a friend of
8 mine who lives in Charlotte, and I've known him for over
9 13 years. Alonzo, Zo, is Chris's friend who lives in
10 Atlanta. I don't know him that well.

11 "While I was on my way back to Rock Hill, Chris
12 called me to tell me he couldn't make it because he had to
13 leave town for work. I went on home and got home. Got
14 there about 9:00 p.m. to 9:30 p.m. I didn't stay home
15 long before I went out to meet a guy named Dread in
16 Charlotte off Brookshire or Mount Holly area, to buy some
17 marijuana from him. Dread didn't show up, so I went back
18 home and stopped into the Sam's Mart across from Cherry
19 Park and bought a pack of Dutch Master cigarillos and a
20 ginger ale. I think I paid cash for it. It was around
21 12:00 to 12:30 a.m. I talked to the cashier for a moment
22 because he was making fun of my ID because it was about to
23 expire, and he wished me happy birthday."

24 Page 3. "He's an older black male under 50 years
25 old. I left there and went home. The next morning I woke

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1 up and went outside to get my brown overnight bag from the
2 car. I went to the Marathon gas station and got gas. I
3 then stopped by the Mr. Express and got two Red Bulls and
4 a pack of cigarettes and went back home.

5 "Around 12:00 p.m. I went to Greenville and got Micah
6 and hung out with them. Desmond wanted to wash and clean
7 up my car for my birthday. He drove his mom's car, and
8 Micah and I rode in my Ford Focus to the car wash. Micah
9 and Desmond washed both his mom's car -- or his mom's and
10 my car. Desmond was going to clean the inside, but I told
11 him he didn't need to because I had wiped it down that
12 morning after I had got gas.

13 "After that we went back to Desmond's house, and
14 Micah and I headed back to Rock Hill about 4:00 p.m. or
15 5:00 p.m. We got stuck on the interstate because traffic
16 was backed up really bad. I pulled in a gas station to
17 get some gas and hear that a cop had gotten shot and that
18 they were doing a manhunt for him.

19 "I got back to Rock Hill around 7:00 p.m. -- 7:00 or
20 8:00 p.m., and my boyfriend, Edward Blackwell, was making
21 cupcakes and a cake for me and cooked some chicken. I
22 didn't eat because I felt sick to my stomach. My right
23 arm and shoulder were also hurting because I had
24 tendinitis in my arm."

25 Q. Was that the conclusion of her statement at that

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1 time?

2 A. Yes, it was.

3 Q. Did she sign the statement then?

4 A. Yes, she did.

5 Q. And can you tell me, initially in the statement she
6 said something about -- almost describing what seems like
7 a ledger, a piece of paper that they would initial and
8 write down the amounts and things like that.

9 A. Yes, sir.

10 Q. Did she describe that further to you?

11 A. I asked her to clarify on it, and I handed her a pad
12 that I was taking the notes down on and asked her to
13 please draw it out for me, what it looked like.

14 Q. Did she draw out for you what the ledger, for a
15 better term, looked like?

16 A. Yes, sir.

17 Q. Okay. And do you have the original of that with you
18 today?

19 A. Yes, sir, I do.

20 MR. BRACKETT: Your Honor, I'd ask to make that a
21 Court's exhibit as well.

22 MR. SMITH: No objection.

23 THE COURT: In without objection.

24 (Court's Exhibit Number 2 was marked.)

25 Q. Has the ledger been altered or changed in any way

ALLEN CANTEY - DIRECT EXAMINATION BY MR. THOMPSON

1 since she originally wrote it?

2 A. No, it has not.

3 Q. Is that in her handwriting?

4 A. Yes, sir.

5 Q. And as well as the statement itself, the original
6 statement, has it been altered or changed in any way since
7 it was originally taken?

8 A. No, it has not.

9 Q. And describe to us how she said the ledger worked, if
10 you would. Tell us a little bit about it.

11 A. She said at the top of it would be Ms. Cook's name
12 and then her name. And I asked her to --

13 Q. Did she write that down on the top, the way it would
14 look?

15 A. Yes. She drew it out.

16 Q. Okay.

17 A. At first she drew a line and an X and a line and an
18 X, and I asked her whose name would go at the top. She
19 said Ms. Cook's. And then her name underneath it. And I
20 asked her to please sign the names like it would look on a
21 ledger. And she signed Pauline Cook and Braquette Walton.
22 Then she put a date and a line, CK for check number and a
23 line, and then a signature or signed line with the
24 initials B.W. on it. Then second column would be return
25 date, a line, amount, a line, and signed and then another

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1 B.W., and there she signed, being her initials.

2 Q. So basically a ledger to record when she pays off or
3 as she pays off each one of these checks she's saying is
4 loaned to her?

5 A. Yes, sir.

6 Q. Now, did she say Ms. Cook wrote these checks to her?

7 A. Yes, sir, she did.

8 Q. So she's not saying she herself was just given a
9 check that she would write out; she's saying Ms. Cook did?

10 A. That's correct.

11 Q. Where did the interview take place with Ms. Walton at
12 that time?

13 A. In the interview room at the Rock Hill Police
14 Department detective division.

15 Q. And you and Detective Stokes were in there. Anyone
16 else in there with you during that time?

17 A. That was it.

18 Q. So Kathy Harveston, who notarized it, was she in with
19 you or did she just come to notarize the signature page?

20 A. At that time I was a notary and Detective Stokes was
21 not a notary, and I looked out the hallway and I asked
22 Sergeant Harveston as she was walking by if she was a
23 notary, and she stated she was, and I asked would she
24 notarize this form. At that time I had -- it was signed
25 off by myself, Detective Stokes, and Ms. Walton.

ALLEN CANTEY. - DIRECT EXAMINATION BY MR. THOMPSON

1 Q. So Detective Harveston wasn't in there during the
2 actual statement itself, correct?

3 A. No, she was not.

4 Q. Once again, while you were with the defendant during
5 this period of time, did she at any point ask for an
6 attorney?

7 A. No, she did not.

8 Q. Was she threatened or coerced in any way?

9 A. No, she was not.

10 Q. Any physical abuse of any type on her or anything of
11 a physical nature you used to get her to talk?

12 A. No, sir.

13 Q. I believe that's all the questions I have right now,
14 Detective Cantey. Thank you.

15 CROSS-EXAMINATION

16 BY MR. SMITH

17 Q. Detective, you mentioned that you first had contact
18 with her, I guess, out of her apartment after she was
19 being served an arrest warrant; is that right?

20 A. Yes, sir. She was arrested for the forgeries.

21 Q. Okay. For the forgeries.

22 And at that point, you knew of Ms. Cook's death; is
23 that right?

24 A. Yes, sir, I knew of it.

25 Q. And were you assigned for property crimes or crimes

ALLEN CANTEY - CROSS-EXAMINATION BY MR. SMITH

1 against person, or what was your role at that point?

2 A. I was actually assigned to the property crime side.
3 I have since then been assigned to the persons' crimes
4 side. But I was the on-call detective when the incident
5 took place.

6 Q. Okay. And by the point you went out to Braquette's
7 apartment complex, did you have bank statements at your
8 disposal at that point?

9 A. I don't recall if we had gotten the bank statements
10 back on that yet not.

11 Q. Was her car taken from the scene? Do you know?

12 A. Yes, sir, it was.

13 Q. And during the interview process that you described,
14 was Ms. Walton handcuffed or was she -- how was she held
15 or how was she detained?

16 A. I believe she was -- handcuffs had been removed from
17 her while she was sitting there talking with us.

18 Q. And initially you said she's in the backseat of
19 Officer Blair's car. Is she cuffed at that point?

20 A. Yes, sir, she is.

21 Q. So for the initial Miranda she's cuffed, but for the
22 second, you think she's out of cuffs in the interview room
23 at Rock Hill Police Department?

24 A. Yes.

25 Q. And clothing-wise, was she wearing the clothes that

ALLEN CANTEY - CROSS-EXAMINATION BY MR. SMITH

1 she brought in, or had she been booked and processed by
2 the time you --

3 A. She was wearing the same clothes she had brought in.

4 MR. SMITH: No further questions concerning this
5 statement, Your Honor.

6 THE COURT: Redirect?

7 MR. THOMPSON: No, Your Honor. State would call
8 Cedric Stokes.

9 CEDRIC STOKES, after having first being duly sworn,
10 testified under oath as follows:

11 DIRECT EXAMINATION

12 BY MR. THOMPSON:

13 Q Detective Stokes, could you give your full name for
14 the Court, please.

15 A. Cedric Antoine Stokes.

16 Q. And where do you work?

17 A. For the Rock Hill Police Department.

18 Q. How long have you worked there, Detective?

19 A. I've worked there since February of 2006, sir.

20 Q. All right. And what are your duties there at the
21 Rock Hill Police Department?

22 A. Yes, sir. Currently I'm assigned to the criminal
23 investigations division as a persons' crime detective.

24 Q. And did you become involved in this case back in
25 November of last year?

CEDRIC STOKES - DIRECT EXAMINATION BY MR. THOMPSON

1 A. Yes, sir, I did.

2 Q. And when you became involved in the case, did you
3 have contact with the defendant yourself?

4 A. Yes, sir, I did.

5 Q. All right. And when was your first contact with the
6 defendant?

7 A. My first contact with the defendant was along with
8 Detective Cantey, when actually we were tasked with
9 interviewing her.

10 Q. Okay. And did you mainly conduct that interview or
11 did he?

12 A. Detective Cantey was the main interviewer. I was
13 just actually in the room.

14 Q. And at that point, where were y'all when you
15 conducted that interview?

16 A. Sir, we conducted that interview inside of our
17 interview room, our larger interview room at the police
18 department.

19 Q. And were you two the only people with her at the time
20 that she gave the interview?

21 A. Yes, sir.

22 Q. And are both of you dressed in plain clothes when you
23 do the interview at that time?

24 A. Shirt and ties, yes, sir.

25 Q. And when you talked to her, how did it start off?

CEDRIC STOKES - DIRECT EXAMINATION BY MR. THOMPSON

1 What did y'all do first?

2 A. Sir, whenever we interview somebody, the first thing
3 we do is we read them their Miranda rights.

4 Q. All right.

5 A. Detective Cantey actually read her her rights first
6 again. And at that point, you know, we go forward.

7 Q. And I ask you to take -- I believe the statement is
8 up there, the Court's exhibit. If you'll look. The court
9 reporter can give that to you. Is that a copy of the
10 statement that was given that first day when you met with
11 the defendant?

12 A. Yes, sir, it is.

13 Q. Or actually I believe it's the original.

14 A. The original statement, yes, sir.

15 Q. And the -- on the front page of that, can you tell
16 me, is that the Miranda rights that were read to the
17 defendant that day?

18 A. Yes, sir, her rights and the waiver.

19 Q. Are they actually read off the paper, or is there
20 some other way that it's read to her at that point?

21 A. Yes, sir. Actually what we do is we read them
22 straight from the computer to her. Usually when I conduct
23 my interviews, I actually turn the screen and read them.

24 Q. Did you read both portions of the Miranda waiver here
25 and the willingness to talk underneath?

CEDRIC STOKES - DIRECT EXAMINATION BY MR. THOMPSON

1 A. Yes, sir.

2 Q. And were you there -- did she acknowledge both of
3 those?

4 A. Yes, sir. She signed.

5 Q. Did she agree to speak with y'all at that time?

6 A. Yes, sir, she did.

7 Q. And during the course of that interview, can you tell
8 me how the interview itself was conducted. Typed right
9 away? Was it as she went? How did that go?

10 A. Detective Cantey usually leads the interview, and he
11 actually was taking notes as he was going along in the
12 interview. Usually the second person in the interview
13 would do notes, but in this case, Detective Cantey decided
14 to go ahead and take notes as he was going along. Once he
15 takes his notes, sir, then he'll get with whoever we're
16 interviewing, and we'll type up their statement, and we
17 usually ask them to read the statement to make sure this
18 is what's true, and we ask them to sign.

19 Q. Did y'all discuss with her anything about the murder
20 that day?

21 A. No, sir.

22 Q. Was she even charged with the murder that day?

23 A. No, sir.

24 Q. So what was the purpose of this interview at that
25 time?

CEDRIC STOKES - DIRECT EXAMINATION BY MR. THOMPSON

1 A. The whole purpose of this interview was actually
2 about a check fraud case.

3 Q. Okay.

4 A. That Detective Cantey was working at that time or
5 Detective Dugan. I can't remember which detective was
6 assigned. But we actually talked about a case where
7 Ms. Cook's money was leaving her account.

8 Q. Okay. And ultimately was it you or was it Detective
9 Cantey that typed up the statement?

10 A. It was actually Detective -- Detective Cantey.

11 Q. Okay. And after it was typed up, what did he do with
12 it in your presence?

13 A. He asked her to read the statement, asked her to
14 sign, and I witnessed her signing it and then I witnessed
15 the page.

16 Q. All right.

17 A. And then we had a notary come in and notarize her
18 sworn statement.

19 Q. And did you see her sign the Miranda waivers as well
20 when you first printed them off?

21 A. Yes, sir.

22 Q. And did she appear to have read her statement at that
23 time?

24 A. Sir, at that time, yes.

25 Q. Was she given an opportunity to change or alter

CEDRIC STOKES - DIRECT EXAMINATION BY MR. THOMPSON

1 anything in her statement if she would want to?

2 A. Yes, sir. We always give you an opportunity to do
3 that.

4 Q. Did she ask to change anything in the statement?

5 A. No, sir.

6 Q. And ultimately did she agree that the statement was
7 correct?

8 A. Yes, sir.

9 Q. Did she sign it?

10 A. Yes, sir.

11 Q. And that was in your presence?

12 A. Yes, sir.

13 Q. And I believe you signed on the final affidavit page.
14 as the witness; is that correct?

15 A. Yes, sir, I did.

16 Q. Was she threatened or coerced in any way in giving
17 this statement?

18 A. No, sir.

19 Q. Did she ever stop and ask for an attorney or ask to
20 stop speaking with officers at any point during this
21 statement?

22 A. No, sir.

23 Q. Was she offered any hope of reward in order to give
24 the statement?

25 A. No, sir.

CEDRIC STOKES - DIRECT EXAMINATION BY MR. THOMPSON

1 Q. Now, after that statement was taken, did you have an
2 opportunity to talk to her again?

3 A. Yes, sir, I did.

4 Q. And when was that?

5 A. I believe this was -- let's see, this was on the
6 14th. I spoke with her on the 15th, the next day.

7 Q. Okay. The next day?

8 A. Yes, sir.

9 Q. And what was the purpose of speaking with her the
10 next day?

11 A. The purpose of speaking with her the next day was
12 because we had some further information that was passed
13 along to us in reference to Ms. Cook's passing, and I
14 wanted to speak with Ms. Walton again about, you know,
15 this particular case and make sure that, you know, we were
16 clear and precise on where she was and what she was doing.

17 Q. And so is this the first time you talked to her about
18 Ms. Walton's (sic) passing?

19 A. Yes, sir. It was actually toward the end of our
20 second conversation or our second interview.

21 Q. All right. And when you talked to her about that,
22 tell me, what time was it? Where were you when this
23 conversation occurs?

24 A. The second interview was actually conducted inside of
25 Detective Hair's office. I was there with -- along with

CEDRIC STOKES - DIRECT EXAMINATION BY MR. THOMPSON

1 Detective Smith.

2 Q. Is that Toshia Smith?

3 A. Yes, it is.

4 Q. Okay.

5 A. The reason why I was there with Detective Smith is
6 because Ms. Walton said she didn't want to speak with
7 Detective Cantey anymore. So I asked Detective Smith to
8 go in and talk with Ms. Walton.

9 Q. And now let me clarify. Did you say didn't want to
10 talk to the police anymore, or was it specifically
11 Detective Cantey?

12 A. Specifically Detective Cantey. She actually said he
13 was a mean detective.

14 Q. So she said she wanted to speak with you at that
15 point?

16 A. Yes.

17 Q. And she was all right with Toshia Smith being there
18 as well?

19 A. Yes, sir.

20 Q. Now, did -- how did you conduct this interview? What
21 was the way that you did it? Do you type as you go, or
22 how do you do it?

23 A. Second interview was pretty much the same way as this
24 first interview. She was read her Miranda rights again
25 and the waiver, which she signed them. She gave us a

CEDRIC STOKES - DIRECT EXAMINATION BY MR. THOMPSON

1 statement at that point, and she pretty much gave us a
2 timeline of where she was and what she was doing. And in
3 her statement, I recall her saying that she was nowhere
4 near Park Pointe Village at all that night.

5 Q. And if you would -- so did you -- go back in. Did
6 you type this as you went along, or did you kind of go
7 over the story with her and then type it?

8 A. Type as she was going along and retyped. I wanted to
9 make sure she was telling me exactly what happened, I
10 would type it out.

11 Q. When you read her Miranda rights, can she see it on
12 the computer screen --

13 A. Yes, sir.

14 Q. -- as you're reading it to her? How did you do that?

15 A. Yes, sir. I always turn my computer screen, and I
16 read it right along on the screen.

17 Q. So she could read along with you as you read it to
18 her at that point?

19 A. Yes, sir.

20 Q. And if you would go over for us how you read them to
21 her that day. The first paragraph first and then we'll
22 go to the --

23 A. Yes, sir. It reads, "Before we ask you any
24 questions, you must understand your rights. You have the
25 right to remain silent. Anything you say can be used

CEDRIC STOKES - DIRECT EXAMINATION BY MR. THOMPSON

1 against you in court. You have the right to talk to an
2 attorney for advice before we ask you any questions and
3 have him with you during questioning. You have this right
4 to the advice and presence of an attorney even if you
5 cannot afford to hire one. We have no way of appointing
6 you an attorney, but one will be appointed by the court if
7 you wish.

8 "If you wish, you may stop answering questions
9 without the presence of an attorney and you may stop
10 answering at any time -- you may answer questions without
11 the presence of an attorney. You may stop answering at
12 any time you desire until an attorney is present." And
13 when I read these, the Miranda rights, I usually stop and
14 say, "Do you understand?"

15 Q. All right. Did you tell her -- did you stop her --

16 A. Do you understand? Do you understand that?

17 Q. And what did she say?

18 A. Yes.

19 Q. Okay.

20 A. The second paragraph reads, "I've read or have read
21 to me a statement of my rights shown above. I understand
22 what my rights are, and I wanted to make a statement. I
23 do not want an attorney at this time, and I understand and
24 I know what I'm doing. I know that the person or persons
25 talking to me are police officers, and I understand what

CEDRIC STOKES - DIRECT EXAMINATION BY MR. THOMPSON

1 he or she is talking about."

2 Q. Did you stop at that time and ask her if she wished
3 to speak?

4 A. Yes.

5 Q. What did she say?

6 A. She spoke with us.

7 Q. And the personal information that's in here, did you
8 use that from the prior day or did she give it to you all
9 again?

10 A. No, sir, I always go over name, date of birth, social
11 security number, all the information in there as a -- I
12 would have it in the original statement, but I always want
13 to reconfirm.

14 Q. So you confirmed that information with her again?

15 A. Yes, sir, I did.

16 Q. All right. And ultimately when you typed out this
17 statement, did you give her an opportunity to read it?

18 A. Yes, sir.

19 Q. And was she able to change anything if she'd wished
20 at that point in time?

21 A. At any time you can change.

22 Q. Did she ask to change anything in the statement?

23 A. No, sir.

24 Q. Did she appear to have read it when you handed it to
25 her and asked her to look over it?

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1 A. Yes, sir.

2 Q. Did she sign the statement then at that time saying
3 it was her statement?

4 A. Yes, sir.

5 Q. I believe it was dated as well.

6 A. It was.

7 Q. All right. And I believe you also have a notary page
8 with yours. If you would tell me who notarized that
9 statement, please.

10 A. I don't have that statement right in front of me.

11 Q. I'm sorry. Let me give that to you.

12 A. That would be Detective Smith, Toshia Smith.

13 Q. And is that the original second statement? Is that
14 correct?

15 A. Yes, it is.

16 MR. BRACKETT: Your Honor, I'd ask to make that a
17 Court's exhibit at this time.

18 MR. SMITH: No objection.

19 THE COURT: In without objection.

20 (Court's Exhibit Number 3 was marked.)

21 Q. I'm skipping statements. I think we're still back on
22 the first statement. I'm sorry, I -- now we are. We're
23 on the second.

24 With this statement, Detective, has it been altered
25 or changed since the time that it was given to you?

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1 A. No, sir.

2 Q. And before we publish it, though, if you would
3 look -- the court reporter has a second exhibit for you to
4 see.

5 MR. BRACKETT: If you could hand that to him, the
6 Court's Exhibit Number 2. It's just the one piece of
7 paper.

8 Q. I believe it's Court's Exhibit Number 2, Detective.

9 A. Yes.

10 Q. Is that right? This one right here.

11 A. Yes.

12 Q. Can you tell me what that is?

13 A. This is actually the piece of paper where we asked
14 Ms. Walton to sign her name on this paper.

15 Q. All right. I guess that paper was that one -- this
16 is actually the first statement. I'm sorry.

17 A. Yes, sir.

18 Q. I jumped at the first statement before I asked you
19 about this.

20 A. Yes, sir.

21 Q. But it's like a ledger-looking thing. Is that
22 something she wrote for Detective Cantey at that time at
23 his request?

24 A. At Detective Cantey's request, Ms. Walton wrote this
25 out and signed it.

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1 Q. And has that been altered or changed since he wrote
2 it out back then?

3 A. No, sir.

4 Q. Thank you. Let's go back into the second statement,
5 if you would.

6 A. Yes.

7 Q. If you would publish the second statement to us.
8 You've already gone through the Miranda rights there. If
9 you would go to the actual statement itself which she gave
10 you at that point in time.

11 A. Yes, sir. "I'd been receiving checks from Pauline
12 Cook since the end of July 2011, the beginning of
13 August 2011" --

14 Q. I believe that's the first statement. If you go to
15 the second statement.

16 A. Sorry. Second statement reads, "I started working at
17 Park Pointe back in July. The first day I worked was on
18 Thursday night. I went in at 11:00 and got -- and got
19 around 7:30. That was the last time I saw Pauline, that
20 Friday morning when I left.

21 "I'm only part-time there. Linda is the other girl
22 who works nights. She is the full-time person there. I
23 worked that Wednesday and Thursday last week from 11:00
24 until about 7:30. During the summer I worked until 8:00,
25 but once my son started school, I told them that I had to

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1 leave at 7:30. On Friday, once my son Micah got out of
2 school, we went to Greenville to my friend Desmond's
3 house.

4 "Leaving out to Greenville, we went by Park Pointe so
5 that I could talk to Jackie about watching her mother
6 during the daytime. I work at night, so I told her I
7 could do it. Marvin, another cook, actually called me and
8 told me to get in contact with Jackie. She is also a cook
9 there too. I used my black car clicker to come through
10 the main gate. I didn't go into the building. I just
11 talked to Jackie outside on the back loading dock in the
12 back by the kitchen.

13 "Marvin was outside too. I called Marvin to tell him
14 I was out back, and they came out. From there we went
15 down Highway 5, and we went to Desmond's house. I stayed
16 the night there on Friday night, and when I woke up
17 Saturday, Desmond cooked breakfast for us. We chilled out
18 on the lake and drank some beer before I left. My son
19 stayed in Greenville, and I left once it got -- once it
20 started getting dark. I went back around 5:30 or 6:00
21 that evening. I was going to Charlotte to meet up with my
22 friend Chris's house. I was supposed to meet up with him
23 and my friend Zo." You want me to continue on?

24 Q. Yes. Go ahead and read.

25 A. "We were going to a gay strip club named Chasers, but

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1 when I was halfway back from Greenville, Chris called me
2 and said that he had to go of out of town to Azrael
3 (phonetic) to do a run. He is a supervisor for Coach
4 America, and he said that he couldn't make it for dinner.
5 I got back to Rock Hill about an hour to an hour and a
6 half later.

7 "I went straight home, and then I changed clothes and
8 got dressed and went to Charlotte. I left back out about
9 10:00. I was going up there to meet Dread to get some
10 weed. That didn't work out because I thought that he was
11 getting off work at 10:00, and he was going -- and he was
12 going in at 10:00. I came back to Rock Hill, stopped at
13 the Sam's Mart on Cherry Road to get some Dutch Masters.
14 There was a black guy working there, and it had to be
15 before 12:45.

16 "I went home and had sex with my man because I was
17 gone all weekend, and it wouldn't have looked right. The
18 next day I got up and went back to pick up my son in
19 Greenville. It was about 11:30 or 12:00. On my way back
20 we got caught up in traffic, so we stopped in Gaffney and
21 went to the truck stop. Then I took Micah back to Burger
22 King because he said that he wanted something to eat.

23 "We got back to Rock Hill about 6:00 or 7:00. I did
24 not go into Park Pointe on Saturday night."

25 Q. All right. And I believe this is the statement as

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1 well that she signed and agreed that it's her statement,
2 correct?

3 A. Yes, sir.

4 Q. And during the course of that statement, I believe
5 you said earlier that you at some point told her the fact
6 that Ms. Pauline Cook was now dead?

7 A. Yes, sir, I did.

8 Q. How did you explain that to her? What did you say to
9 her?

10 A. What I said to her, I said -- well, you know, we went
11 over her statement. And I said, well, you know,
12 Braquette, you know Ms. Walton passed away. And --

13 THE COURT: Not Ms. Walton.

14 A. I'm sorry, Ms. Cook passed away. Thank you.
15 Ms. Cook passed away, and she started acting very
16 surprised like it was the first that she had heard about
17 it.

18 Q. Had y'all told her that in the first interview with
19 her?

20 A. No, sir. The first interview was just about the
21 check, the check.

22 Q. All right. And did you mention anything about any
23 incident other than the checks with Ms. Cook to the
24 defendant that first time?

25 A. No, sir.

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1 Q. And now the second statement, then you do mention it
2 to her near the end of that statement?

3 A. I do.

4 Q. And as you said, she acted surprised at that point?

5 A. Yes, sir, she did.

6 Q. And what was her demeanor during the time that she
7 was talking during most of the statement?

8 A. During the statement, I mean, it was -- you know,
9 she -- there was nothing abnormal about her behavior. She
10 was just freely talking, freely telling us about what
11 happened. I actually made sure she had something to
12 drink. I made sure she had a Mountain Dew, and at the end
13 of the interview she got a shower this evening because she
14 hadn't had a shower, she told me, so I made sure she got
15 that taken care of.

16 Q. Was that a condition for her to give you the
17 statement that she take a shower?

18 A. No, sir. No, sir, not at all.

19 Q. Now, you mentioned a shower -- was she still wearing
20 the same clothes that she had been wearing the day before
21 at this point?

22 A. Yes, sir, she was.

23 Q. So once again, any promises or threats given her or
24 made to her --

25 A. No, sir.

CEDRIC STOKES - DIRECT EXAMINATION BY MR. THOMPSON

1 Q. -- to give a statement? Hope of reward offered to
2 her?

3 A. No, sir.

4 Q. At any point did she invoke her right to an attorney
5 or say she didn't want to speak to you at all?

6 A. No, sir.

7 Q. Let's go -- now, after that statement was given, did
8 you have an opportunity to talk to her again?

9 A. Yes, sir.

10 Q. When was that?

11 A. That was actually the day that she was served with
12 her murder warrant.

13 Q. All right. And tell me the process. How did that
14 come to pass that you talked to her that day?

15 A. Yes, sir. Actually, I was at lunch, and I received a
16 call from the correction officer inside our jail, Tamar
17 Marshall. She said that Ms. Walton wanted to speak with
18 me, you know, in reference to the case.

19 Q. Okay.

20 A. I said, okay, when I get back from lunch, I'll make
21 sure I go and talk with her. Once I got back to the
22 police department, went into the jail. Asked Ms. Walton
23 did she want to speak to me. She said yeah. She was very
24 distraught at that point. Her demeanor, she was very
25 distraught. She had her inhaler in her hand. And I said,

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1 okay, well, let's talk.

2 We went back to the big interview room inside the
3 police department. I again read her her Miranda rights
4 again because now it was a different case. We're talking
5 about the murder case. I read her her rights again that
6 time, her waiver again, and we started talking at that
7 point.

8 Q. And is it the same waiver that you've been -- that
9 she's had read to her the last two times?

10 A. Same exact one.

11 Q. And when you went to get her, talk to her, did anyone
12 talk to her with you that day?

13 A. Detective Toshia Smith again.

14 Q. Okay. Tell me what happened. Tell me how it worked.
15 Where did you go to have the interview?

16 A. Again we went into the larger of the two interview
17 rooms that we have at the police department. We sat her
18 down and we spoke again. Read her her Miranda rights and
19 her waiver. And we again started talking about -- you
20 know, at this point we were talking about the murder
21 trial -- the murder charge. Ms. Walton at the beginning
22 started out her statement the same way here. When I
23 confronted her with the fact --

24 Q. The same way here, explain what you mean by that.

25 A. Meaning she started telling the same exact story that

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1 she originally told about where she was at the time or
2 that night of the murder.

3 Q. Okay.

4 A. When confronted with the fact that I had her phone
5 records, that I had reviewed her phone records and I know
6 that she was at Park Pointe Village, she immediately
7 started crying.

8 Q. All right.

9 A. So we started talking some more, and I said we need
10 to talk about this. We need to get to the truth now. We
11 talked a little bit about her son, and she was crying, and
12 then I stepped outside of the interview room to go get
13 some tissue for her and also to try to get her something
14 else to drink. At that time, she was still in there with
15 Detective Smith, Toshia Smith.

16 Q. Did Toshia continue to talk with her --

17 A. Yes, sir, she did.

18 Q. -- when you left?

19 A. Yes, sir, she did.

20 Q. Now, if you would, Detective, tell me, were you the
21 one actually taking the notes and typing these up in the
22 computer in this interview or --

23 A. What happened in this interview was I actually
24 started out the interview. Detective Smith was actually
25 listening. When I got up to go get the tissue for her

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1 because she was crying, Detective Smith assumed the role
2 as the lead interviewer and I kind of got back in a
3 support role at that point.

4 Q. You had mentioned the cell phone records to her at
5 that time. Did you also show her the cell phone records?

6 A. No.

7 Q. So how -- about how long were you gone from the room
8 before you came back?

9 A. I was gone maybe five minutes. When I came back into
10 the room, her and Detective Smith were still talking. And
11 actually, she was displaying exactly what was going on
12 inside of Ms. Cook's room when I walked back in the door.

13 Q. You say "she," the defendant?

14 A. Yes.

15 Q. And so when you come back in, are -- you play the
16 role, then, of listening at this point?

17 A. Correct.

18 Q. Rather than directing the interview?

19 A. Correct.

20 Q. That was passed over to Toshia Smith at that time?

21 A. Detective Smith, yes, sir.

22 Q. And during the course of that interview, did the
23 defendant at any time ask for an attorney or say that she
24 didn't wish to speak with either of you?

25 A. No, sir.

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1 Q. During that period of time, did you offer her
2 anything or any hope of reward or anything like that?

3 A. No, sir.

4 Q. During that period of time threaten her or coerce her
5 in any way?

6 A. No, sir.

7 Q. Now, when you read her rights to her initially in
8 this interview, did she also indicate that she understood
9 her rights and agree to talk to you at that point in time?

10 A. Yes, sir, she did.

11 Q. Ask you if you would identify this. We'll make it a
12 Court's exhibit as well.

13 A. Yes, sir. The last statement.

14 Q. It's the last statement that she gave?

15 A. Yes, sir.

16 Q. And has it been altered or changed since the time
17 that you did that statement, then?

18 A. No, sir.

19 MR. BRACKETT: Your Honor, I'd ask to make it a
20 Court's exhibit at this time.

21 MR. SMITH: No objection.

22 THE COURT: In without objection.

23 (Court's Exhibit Number 4 was marked.)

24 Q. So in this particular instance, was it -- it was
25 Toshia Smith that typed up this statement, correct?

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1 A. Yeah. I started and Toshia finished.

2 Q. And have you had a chance to read over this
3 statement?

4 A. I have.

5 Q. And is that what the defendant told y'all when she
6 was in there with you?

7 A. Yes, sir.

8 Q. Okay. Now, what happened when this statement was
9 printed out and showed to the defendant? Describe that at
10 that point.

11 A. Once -- you know, the same as what we did the two
12 previous times, we type it out and you can read it. Once
13 you read it, if there's anything that need to be changed,
14 we'll change it. However you want it -- you know, I go as
15 far as to say if I didn't write it right, you can change
16 it. She -- Ms. Walton read through her statement, and she
17 said, well, I'll sign it after I speak with my mom or I
18 talk to a lawyer. I said that was fine, and we ended the
19 interview.

20 Q. You terminated the interview at that point?

21 A. Yes, sir.

22 Q. Did she actually ever sign the statement?

23 A. No, sir, she didn't.

24 Q. Did she actually have time to sit down and read it
25 and look at it?

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1 A. She did.

2 Q. Did she appear to have read the statement at that
3 point in time?

4 A. Yes, sir, she did.

5 Q. And I think you indicated she said she was going to
6 sign it, but she wanted to talk to her mom?

7 A. Talk with her mother or --

8 Q. Or a lawyer?

9 A. -- a lawyer.

10 Q. And so is that a precaution at that point that you
11 ended the interview?

12 A. At that point the interview was over. She -- we
13 didn't -- we didn't reapproach her as far as signing the
14 statement.

15 Q. If you would, then, Detective, if you would for the
16 Court just go over just briefly, if you could read the
17 Miranda rights as you read them to her that day again for
18 us.

19 A. Yes, sir. "Before we ask you any questions, you must
20 understand your rights. You have the right to remain
21 silent. Anything you say can be used against you in
22 court. You have the right to talk to an attorney for
23 advice before we ask you any questions and have him with
24 you during questioning. You have this right to the advice
25 and presence of an attorney even if you cannot afford to

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1 hire one. We have no way of appointing you an attorney,
2 but one will be appointed by the court for you if you
3 wish. If you wish, you may answer questions without the
4 presence of an attorney and you may stop answering any
5 time you desire until an attorney is present."

6 Q. And when you read those rights to her off the
7 computer screen, did you turn the screen as you said
8 before?

9 A. I always turn the screen so they can read it.

10 Q. Did she indicate she understood those rights?

11 A. Yes, sir.

12 Q. The second part of that, how did you read that to
13 her?

14 A. The second part reads, "I have read or read to me a
15 statement of my rights shown above. I understand what my
16 rights are, and I'm willing to make a statement. I do not
17 want a lawyer at this time. I understand and know what
18 I'm doing. I know that the person or persons talking to
19 me are police officers, and I understand what he's talking
20 about."

21 Q. Did she indicate to you that she understood those
22 rights at that time --

23 A. Yes, sir.

24 Q. -- and that she would talk to you?

25 A. Yes, sir.

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1 Q. And if you would again, now, the personal information
2 here, did you start again with the personal information or
3 confirm it at that point?

4 A. Yes, sir.

5 Q. Now, if you would, if you would read the -- has this
6 statement been altered or changed since it was given?

7 A. No, sir.

8 Q. If you would, if you would read the body of the
9 statement for the Court, please.

10 A. Yes, sir. "I drove back from Greenville on Saturday
11 night. I got home around 6:30 or 7:00. It was dark, so
12 it was around that time. I got back to Park Pointe
13 Village around 8:00. I sat in the tree room and waited
14 for the hallways to clear. I could hear the ladies at the
15 nursing station. When I went to the room the first time,
16 Ms. Pauline was not there, so I looked around for her bank
17 statement.

18 "I could not locate the bank statement, so I went
19 back down to the tree house room and waited for
20 Ms. Pauline to return to her room. I heard Ms. Pauline
21 talking and walking back up the hallway. I had to wait
22 until the hallway was clear. I was calling the nursing
23 station phone to see who had it and where they were.

24 "When the hallway was clear, I went down to
25 Ms. Pauline's room. Ms. Pauline was in the bathroom when

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1 I got there. I opened the door and I called out her name.
2 I called Ms. Pauline's name, and she answered from the
3 bathroom and said that she would be out in a minute. I
4 sat on the couch and I waited for her to come out.

5 "Ms. Pauline came out and sat down on the bed, and I
6 started talking. I told her that I needed -- that I had
7 cashed her checks, and I told her that I was in need, and
8 I told her that I would pay her back even though she had
9 already called the police. Ms. Pauline was upset and
10 said, 'I have already called the police, and you have
11 already taken my money.' And that's when she got up to
12 call the police.

13 "Ms. Pauline went to grab the phone, so I got up off
14 the couch and I said, 'There's no need to do that. I just
15 want to talk to you.' Ms. Pauline hit me with the phone,
16 and it fell out of her hand. We started to tussle -- we
17 started to tussle and fell onto the bed. Ms. Pauline hit
18 her hand on the bedside table, and I kept telling her to
19 stop because I knew that her skin would tear easily. The
20 hand that was injured was her right hand, and the injury
21 was on the top of her hand.

22 "I was on top of her, and I was trying to get her to
23 calm down. She kept screaming, 'Get off me, get off me.'
24 I told her that I would get off, but she had to stop
25 wailing and pulling on my hair. I told her that I was not

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1 there to hurt her. Ms. Pauline stopped moving around
2 after I don't know how long, and I checked her pulse, and
3 she did not have a pulse and I panicked. I put my head to
4 her chest, and I even checked the pulse in her feet.

5 "I did not know what to do, so I sat down and I was
6 like I didn't -- I did not realize that the blood was
7 everywhere until I turned the light on. There was blood
8 all over the pillow and the sheet. The blood on the
9 headboard must have come from the welt. I was just going
10 to leave her there. I decided that I could not leave her
11 there like that. I used a sheet to pull her into the
12 bathroom, and I put her into the shower. I think that she
13 was halfway in the shower. I figure that it would look
14 like a fall. I took the sheets and put them in a clear
15 plastic bag that was in the room.

16 "I turned the shower on and grabbed the bag with the
17 pillows and the white sheets in the bag, and I put it in
18 the compactor beside the kitchen. I took my access card
19 off the badge ring, and I had it in my jacket pocket. I
20 had on a blue pullover jacket with Russell written in red
21 on the front, gray sweatpants, and black boots.

22 "I left through the woods beside Willow Brook. I
23 went to Burger King, sat there and smoked a few
24 cigarettes. I threw the checkbook away at the Burger King
25 when Marvin called me. I did not intend to hurt

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1 Ms. Pauline. I was scared to call the police because I
2 knew they would arrest me."

3 Q. All right. Now, while she didn't particularly sign
4 the statement, is this what she told you at the time or --

5 A. Yes, sir.

6 Q. Is this statement accurate as to what she told you
7 and Detective Smith?

8 A. Yes.

9 Q. And in addition, after the interview, once she didn't
10 sign the statement, did you also do any notes regarding
11 the statement itself?

12 A. Sorry, sir, I didn't...

13 Q. After the interview, did you do any notes yourself
14 regarding the statement?

15 A. Yes, sir, I did.

16 Q. And can you tell me, what was the purpose of that?

17 A. We did an investigator interview follow-up just to
18 give an account of what exactly Ms. Walton said to us.
19 She didn't sign her statement.

20 Q. So basically it was an accounting of kind of what
21 happened in the room that night; is that --

22 A. Yes, sir, it is.

23 Q. And as well -- you mentioned that when you had gone
24 to get her Kleenex, some Kleenex and possibly a drink, and
25 when you came back she was showing Detective Smith

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1 something about what happened that night?

2 A. Yes, sir.

3 Q. Describe to me what she was showing Detective Smith
4 after you learned when you came in what she was doing.

5 A. She actually was displaying how she was over the top
6 of Ms. Cook with her hands above her head. Like Ms. Cook
7 had her hands above her head and like she was -- had her
8 weight down on top of Ms. Cook while they were tussling.
9 I'm sorry.

10 Q. Now, you're kind of making a motion there. She's
11 saying basically she had both of her hands where, the
12 defendant?

13 A. Over Ms. Cook's head and her body on top. She was on
14 top of Ms. Cook.

15 Q. Did she indicate what she was holding with her hands,
16 the defendant's hands?

17 A. Ms. Cook's hands.

18 Q. So she's holding Ms. Cook's hand?

19 A. Yes.

20 Q. And she had her hands placed up above her head?

21 A. Yes.

22 Q. And that's describing basically part of the --

23 A. The actual altercation that took place, and she said
24 that they were arguing and they fell onto the bed, and
25 that's what was going -- and that was what she was

CEDRIC STOKES - DIRECT EXAMINATION BY MR. THOMPSON

1 displaying when I walked into the room.

2 Q. So as she describes ultimately in the statement that
3 y'all recorded for her, she was like that -- that's how
4 she was laying? On top of her, in other words, on the
5 bed?

6 A. Yes, sir.

7 Q. Now, Detective Stokes, the -- the follow-up that you
8 did, did you also -- I guess -- it was a statement that
9 you took as well. Do you have a copy of that with you at
10 this time? Is that the follow-up notes or interview notes
11 that you did?

12 A. This is it.

13 Q. If you could tell me, then, Detective, or I guess if
14 you would, is that true and accurate as far as what
15 happened during the time that you interviewed with her
16 that night?

17 A. Yes, sir.

18 Q. If you would read that to the Court as well. I think
19 that might be the easiest way to handle it, just to
20 publish it to the Court at this time.

21 A. Like me to read it?

22 Q. Yes, please.

23 A. Sure. "On November 17th, 2011, Detective Smith and I
24 met with Braquette Walton regarding Pauline Cook's murder
25 investigation. Ms. Walton requested to speak with me

CEDRIC STOKES - DIRECT EXAMINATION BY MR. THOMPSON

1 about the incident, and I was notified by telephone by
2 Correction Officer Marshall of the Rock Hill Police
3 Department. I advised Ms. Walton of her Miranda rights,
4 and she waived them and agreed to give a statement.

5 "In her statement, Ms. Walton gave details about the
6 incident that eventually led to the murder of Pauline
7 Cook. Ms. Walton said that she received a phone call from
8 Marvin Lawrence, the cook at Park Pointe, on Saturday
9 morning. Walton stated that Lawrence advised her that
10 Ms. Cook filed a police report in reference to her taking
11 her checks and cashing them against Ms. Cook's checking
12 account. Walton said that Marvin told her that her name
13 was on the copies of the checks and that police were --
14 and that the police were looking for her.

15 "Walton then stated that she was in Greenville, South
16 Carolina, at the time and she drove back to Rock Hill
17 sometime that night. Walton told Detective Smith and I
18 that she got back into Rock Hill sometime around 6:30 or
19 7:00 p.m. And Walton stated that she went straight home.
20 When I told Ms. Walton that I had her cell phone records,
21 she changed her story and said that she went to Park
22 Pointe Village before going home and once there, she
23 waited for Ms. Cook.

24 "Walton stated that she parked her car across from
25 the facility on a side street of Highway 5 and walked

CEDRIC STOKES - DIRECT EXAMINATION BY MR. THOMPSON

1 through the woods onto the property of Park Pointe
2 Village. Walton stated that the way she came onto the --
3 that the way she came onto the property that way so that
4 she could not be seen by security. Walton stated that she
5 was only carrying her keys and her access card for the
6 building onto the property.

7 "Walton said that once there, she went to Ms. Cook's
8 room and Ms. Cook was not in her room. Walton then stated
9 that she went into the tree room and waited until she
10 heard Ms. Cook talking in the hallway. Walton stated that
11 she then went to Ms. Cook's room and to talk to her about
12 trying to pay Ms. Cook the money back for the stolen
13 checks.

14 "Walton said that she went into the room, and
15 Ms. Cook was in the bathroom getting ready for bed.
16 Walton said that she sat down and waited on Ms. Cook to
17 come out of the bathroom. Walton stated that Cook came
18 out of the bathroom and sat on her bed, and she started to
19 talk to Cook about the stolen checks. Ms. Walton stated
20 that Ms. Walton said that she was asking Ms. Cook could
21 she pay the money back and Ms. Cook did not want to
22 cooperate and she was threatening to call the police.

23 "Walton said that when Cook picked up the telephone
24 to call the police, she, Walton, tried to grab the phone
25 and she said that Ms. Cook hit her head with the phone.

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1 Hit her in the head with the phone. Walton stated that
2 they began to tussle and they both fell onto the bed and
3 Ms. Cook was underneath her. While on the bed, Walton
4 stated that Ms. Cook was wailing and flailing around and
5 Ms. Cook hit her right hand on the bedside table and her
6 hand started to bleed.

7 "Walton stated that during the tussle, Ms. Cook was
8 pulling her hair and yelling for Walton to get off me.
9 Walton told Detective Smith and I that she put her body
10 weight down on Ms. Cook in order to stop her from yelling,
11 and after a while Ms. Cook stopped moving. Walton said
12 that she checked Ms. Cook's pulse and she could not get
13 one.

14 "Walton said that she -- said that she -- Ms. Cook --
15 Ms. Cook into the bathroom by using the bed sheets.
16 Walton stated that she was taught how to move people and
17 demonstrated to detectives the way she moved Ms. Cook.
18 Walton said that she laid Ms. Cook halfway into the shower
19 and the other half onto the bedroom -- bathroom floor in
20 order to make it seem like Ms. Cook had fallen. Walton
21 stated that she took the bed sheets and pillows and placed
22 them into a plastic bag and she threw them into a trash
23 compacter by the kitchen as she left out of the facility.

24 "Walton then stated that she continuously called the
25 nurses' station several times during the night to see if

CEDRIC STOKES - DIRECT EXAMINATION BY MR. THOMPSON

1 Linda, a coworker, had found Ms. Cook. Ms. Walton stated
2 that every time she called the nurses' station, she did
3 not say anything, but she hung the phone up after Linda
4 picked up the phone.

5 "I completed typing the statement, and I asked
6 Ms. Walton to sign it. Ms. Walton then declined to sign
7 and asked if she could call her mother or a lawyer before
8 signing it. I concluded the interview at that time and
9 took Ms. Walton back to the holding cell at the Rock Hill
10 Police Department."

11 Q. And can you tell me, when you mentioned that she
12 showed how to move with sheets or that she was discussing
13 how to do that, what did she show you specifically?

14 A. She told us that she had actually learned how to move
15 people in her training or one of the classes, that -- and
16 she was kind of demonstrating about pulling the sheets up
17 and moving Ms. Cook's body.

18 Q. Okay. And again can you tell me, during the course
19 of this final interview, other than the part where she
20 says that -- at the very end where she said before she
21 signed it she wanted to speak to her mother or a lawyer,
22 did she ever bring up saying that she wanted a lawyer
23 prior to that?

24 A. No, sir.

25 Q. At any point was she threatened or coerced to do this

CEDRIC STOKES - DIRECT EXAMINATION BY MR. THOMPSON

1 statement?

2 A. No, sir.

3 Q. Offered any hope of reward in order to give this
4 statement?

5 A. No, sir.

6 Q. Made any promises --

7 A. No, sir.

8 Q. -- if she would give a statement?

9 A. No, sir.

10 Q. Did she give the statement freely and voluntarily at
11 that time?

12 A. She did.

13 Q. All right. Thank you, Detective Stokes.

14 MR. THOMPSON: No further questions.

15 CROSS-EXAMINATION

16 BY MR. SMITH:

17 Q. Detective Stokes, what Deputy Solicitor Thompson was
18 referring to as the second statement, that was a follow-up
19 about checks; is that right? That's not about the murder?

20 A. No, sir.

21 Q. And you indicated there that you had some new
22 information that you wanted to go over with Ms. Walton; is
23 that right?

24 A. Well, no. What I indicated was is that I had the new
25 information -- we had new information in reference to the

CEDRIC STOKES - CROSS-EXAMINATION BY MR. SMITH

1 murder. And I wanted to talk with her to make sure that
2 she didn't omit anything out of her original statement.

3 Q. And did you talk to her on the second statement about
4 the checks or about the murder?

5 A. We talked back about -- we were talking about the
6 checks.

7 Q. Okay. And was she still in jail, or did you have to
8 go get her somewhere?

9 A. I believe she was still in jail.

10 Q. So she had not made bond yet?

11 A. I don't think she did, sir.

12 Q. But she had been to bond court for her first forgery
13 charge by then; is that right?

14 A. I'm not sure, sir.

15 Q. Okay. She had been served the forgery warrant when
16 you arrested her the day before, right?

17 A. I'm not sure when she was assigned a forgery warrant.

18 Q. They have bond court at Rock Hill City 8:00 and 2:00,
19 8:00 in the morning and 2:00 in the afternoon; is that
20 right?

21 A. Generally, yes.

22 Q. And then this interview, this what you're calling the
23 second interview, would have occurred on November the
24 15th at 4:45 p.m.; is that right?

25 A. That's when it was concluded, yes.

CEDRIC STOKES - CROSS-EXAMINATION BY MR. SMITH

1 Q. And that would have been after any bond court that
2 would have occurred that day, right?

3 A. Right. Well, like I said, sir, it varied.

4 Q. I'm going to show you documentation. Do you
5 recognize that to be the type of information that
6 defendants receive at their bond hearing in Rock Hill City
7 court?

8 A. Yes.

9 Q. Okay. And that's an application for an appointment
10 of an attorney; is that right?

11 A. Yes.

12 Q. And it indicates that the court appointed Ms. Walton
13 an attorney on November 15th; is that right?

14 A. Yes, sir.

15 Q. And that would be -- is that Judge Williams?

16 A. Yes.

17 Q. Okay. And so she had had an attorney appointed on
18 those check charges before you then began talking to her
19 again on the 15th; is that correct?

20 A. I'm not sure, sir. It doesn't indicate on there when
21 she went to --

22 Q. But it would have been done by a bond court; is that
23 right?

24 A. Yeah, it would have. Yes.

25 Q. And your interview happened at 4:45 in the p.m.?

CEDRIC STOKES - CROSS-EXAMINATION BY MR. SMITH

1 A. Yes.

2 Q. As noted on the time of your statement; is that
3 right?

4 A. Correct.

5 Q. Did you look to inquire if she'd got an attorney yet
6 before you started a second interview with somebody?

7 A. No, I think at that time we had actually had more
8 charges that were being called into question.

9 Q. The murder charge came later. That's the third
10 statement; is that right?

11 A. Yeah. That's the third statement.

12 Q. Talking about the third statement. Was she still in
13 jail when you went to interview her on that charge?

14 A. On the third statement?

15 Q. On the third, yes, sir.

16 A. Yes, sir, she was actually -- she was just served her
17 murder warrant.

18 Q. And she had not made bond yet? You were aware that
19 she had been served that murder warrant?

20 A. I was made aware once the corrections officer called
21 me and said that she wanted to talk to me about the
22 murder.

23 Q. So that third interview you didn't set up. You were
24 actually called by someone to go speak to Ms. Walton?

25 A. Yes, sir. Yes, sir.

CEDRIC STOKES - CROSS-EXAMINATION BY MR. SMITH

1 Q. Was she -- when you interviewed her on the third
2 statement, was she still in the clothes that she
3 originally wore when she was arrested, or had she been
4 booked and processed out of those clothes?

5 A. She was in, I believe, some sweatpants and a T-shirt.

6 Q. That interview, did you go down to the jail and get
7 her, or how did she come from the jail to the detective
8 division?

9 A. I went down and brought her from the jail.

10 Q. Anybody go with you?

11 A. No, sir.

12 Q. When did you begin asking her what she wanted to talk
13 to you about?

14 A. Once we read her rights.

15 Q. And you indicated that you began the process and you
16 stepped out, I believe, to get tissues and Detective Smith
17 sort of took over the interview process at that time?

18 A. Yes, sir.

19 Q. Within the statement, this third statement, do you
20 know where you stopped typing and where she began typing?

21 A. Probably right at the beginning because I was in the
22 room just a few minutes, and I stopped to go because she
23 was crying.

24 MR. SMITH: I have no further questions, Your Honor.

25 REDIRECT EXAMINATION

CEDRIC STOKES - REDIRECT EXAMINATION BY MR. THOMPSON

1 BY MR. THOMPSON

2 Q. Just a few, Detective. Were you at any of the bond
3 hearings or the bond hearing she had --

4 A. No, sir, I was not.

5 Q. Do you give her -- are you authorized to do any of
6 the paperwork that Mr. Smith has put forth?

7 A. No, sir, I'm not.

8 Q. Once again, did she, to your knowledge, invoke the
9 right to an attorney to you or anyone else at the
10 detective division or any police officer, as far as you
11 know?

12 A. Not that I know of, sir.

13 Q. And you gave her the opportunity then too as well to
14 ask for an attorney at the beginning of your interview
15 with her?

16 A. Yes, sir.

17 Q. And on -- as to the third interview, there's one
18 other thing. Detective Smith writes that the statement is
19 prepared by her and puts a date and time. What is the
20 date and time that she writes that it's prepared by her?

21 A. It was November 17, 2011, at 2:23 p.m.

22 Q. Right. And, now, Detective Smith, does she do things
23 as far as the time a little different than you do?

24 A. Yes, sir, she does.

25 Q. What, to your knowledge, is that?

CEDRIC STOKES - REDIRECT EXAMINATION BY MR. THOMPSON

1 A. When she does her statements, she actually notes the
2 time that we start the statement.

3 Q. Okay.

4 A. And that's -- she'll note the time that the statement
5 was started.

6 Q. So on the statements you do?

7 A. I do them at the end.

8 Q. Okay. So you put the time is when the statement's
9 concluded?

10 A. Yes. Generally, yes.

11 Q. And when she does it, she puts the time the
12 statement's beginning. So the beginning of this interview
13 is around 2:23 p.m.?

14 A. Yes.

15 Q. Okay. Thank you.

16 MR. THOMPSON: No further questions.

17 MR. SMITH: All right. You can step down.

18 We'll take a break, and then if you have any other
19 witnesses, let's --

20 MR. BRACKETT: Yes. We have Detective Toshia Smith,
21 who was in our last --

22 THE COURT: I figured that. Let's take a break.

23 (A recess was taken from 3:55 p.m. to 4:08 p.m.)

24 THE COURT: Ready?

25 MR. BRACKETT: Yes, sir. State would call Detective

CEDRIC STOKES - REDIRECT EXAMINATION BY MR. THOMPSON

1 Toshia Smith.

2 THE COURT: Let's get Ms. Walton. You can have the
3 witness come in on up, then.

4 TOSHIA SMITH, after having first being duly sworn,
5 testified under oath as follows:

6 DIRECT EXAMINATION

7 BY MR. BRACKETT:

8 Q. Good afternoon. Would you please state your full
9 name for the record.

10 A. Toshia Smith.

11 Q. And where are you employed, Ms. Smith?

12 A. Rock Hill Police Department.

13 Q. And what do you do for the Rock Hill Police
14 Department?

15 A. I'm currently assigned to criminal investigations
16 division as a violent crimes detective.

17 Q. How long have you been a police officer?

18 A. I have been a police officer with the City of Rock
19 Hill since 2006. I was currently in law enforcement in
20 Florida also, since 2001.

21 Q. When did you get promoted to a detective?

22 A. I've been back in criminal investigations for about
23 two years.

24 Q. So you were working as a detective back in November
25 of 2011?

TOSHIA SMITH - DIRECT EXAMINATION BY MR. BRACKETT

1 A. I was.

2 Q. Were you involved in the investigation into the
3 homicide of Pauline Cook?

4 A. I was.

5 Q. Let's cut right to the chase here. Did you have
6 occasion to be involved in the interviews of the defendant
7 in this case, Ms. Braquette Walton?

8 A. Yes.

9 Q. What was your role in -- how many interviews were you
10 involved in?

11 A. I was involved in two interviews.

12 Q. Okay. The second and the third out of the three?

13 A. Correct.

14 Q. Now, what was your role in the second interview?

15 A. The second interview I sat with Detective Stokes as
16 backup. He was the primary interviewer, and I was playing
17 a backup role to him.

18 Q. Were you in there for the entire interview?

19 A. I was.

20 Q. Were you present when she was brought into the room?

21 A. Yes.

22 Q. Were you present when her Miranda rights were read?

23 A. I was.

24 Q. Did you hear them read to her?

25 A. I did.

TOSHIA SMITH - DIRECT EXAMINATION BY MR. BRACKETT

1 Q. And did she understand her Miranda rights?

2 A. She stated that she understood her Miranda rights,
3 yes.

4 Q. Was it your understanding from what she said at that
5 time that she wished to speak with the officers?

6 A. Yes.

7 Q. With you and Detective Stokes?

8 A. Correct.

9 Q. What was her mood at the time? Was she cooperative?

10 A. She was very cooperative at the time.

11 Q. Was any -- were any threats or any kind of coercion
12 or anything employed by you or Detective Stokes in order
13 to get her to talk to you?

14 A. No.

15 Q. Was she willing to talk to you?

16 A. She was.

17 Q. What kind of room were you doing this interview in?

18 A. We were across the hall from the regular criminal
19 investigations division. We have two detectives that work
20 sexual assaults. They have their own office area, and
21 that's where we were for the second interview.

22 Q. Was it comfortable?

23 A. It was.

24 Q. Was she deprived of anything, like trips to the
25 bathroom or anything like that?

TOSHIA SMITH - DIRECT EXAMINATION BY MR. BRACKETT

1 A. No, she wasn't.

2 Q. Did you make any promises or promise her any hope of
3 reward, tell her that if she just told you -- talked to
4 you that she would -- things would go easier, anything of
5 that nature in order to get her to talk?

6 A. We did not.

7 Q. So did she, in fact, give a statement at that time?

8 A. Yes.

9 Q. All right. I'm showing you -- let's see where it's
10 at -- what's been marked as Court's Exhibit Number 3. And
11 I'll ask you, can you identify that document?

12 A. Yes. This is a statement that Detective Stokes and
13 myself took from Ms. Walton.

14 Q. Okay.

15 A. On the 15th.

16 Q. And that statement was the result of the interview
17 you described?

18 A. Yes.

19 Q. Were you in there for the entire interview?

20 A. I was.

21 Q. Okay. At any point in time did anybody threaten or
22 coerce her in any way to get her to sign that statement?

23 A. No.

24 Q. Any promises made?.....

25 A. No.

TOSHIA SMITH - DIRECT EXAMINATION BY MR. BRACKETT

1 Q. Did she appear to know what she was doing and who she
2 was talking to?

3 A. She did.

4 Q. Was there anything about her demeanor or how she
5 interacted with you that led you to believe she might be
6 intoxicated or unable to understand what she was doing?

7 A. No.

8 Q. Did you witness her signing that document?

9 A. I did.

10 Q. Are those the rights that were read to her at the top
11 of the first page?

12 A. They are.

13 Q. Did she sign underneath there indicating those had
14 been read to her?

15 A. Yes.

16 Q. And secondly, directly under that is her signature
17 again. Did you witness that signature?

18 A. I did.

19 Q. Did she indicate to you she wanted to talk to you?

20 A. She did.

21 Q. On the final page of the statement, signature of
22 person giving statement, under the portion where it
23 talks -- it describes what she told you, did she sign that
24 document in your presence?

25 A. She did.

TOSHIA SMITH - DIRECT EXAMINATION BY MR. BRACKETT

1 Q. That's her signature?

2 A. Yes.

3 Q. And did you notarize that document?

4 A. I did.

5 Q. Turning your attention to the 17th of November.

6 Did you have occasion to be involved in another interview
7 with Ms. Walton?

8 A. Yes.

9 Q. And where was that interview conducted?

10 A. That interview was conducted in one of the two
11 interview rooms that we have actually in the criminal
12 investigation division. We have one small interview room
13 and a larger interview room, and we were in the larger
14 interview room.

15 Q. And who was involved in that interview?

16 A. It was myself, Detective Stokes, and Ms. Walton at
17 the time.

18 Q. Were there any other officers in the room?

19 A. No.

20 Q. Were you present for that entire interview?

21 A. I was.

22 Q. Was Detective Stokes?

23 A. For the entire interview?

24 Q. Yes.

25 A. No. He stepped out for a minute.

TOSHIA SMITH - DIRECT EXAMINATION BY MR. BRACKETT

1 Q. Were you present, then, at the beginning of the
2 interview?

3 A. Yes.

4 Q. And what was her demeanor at the beginning of that
5 interview?

6 A. At the time when she came in, she was kind of
7 distraught. She was a little bit upset about the warrants
8 that she had just been served with.

9 Q. And to your knowledge, had she just been charged with
10 a crime?

11 A. Yes. When she came in, that's what she indicated,
12 yes.

13 Q. What was that charge?

14 A. Murder.

15 Q. Okay. And prior to that, had you been aware that she
16 had been charged with a crime?

17 A. Yes.

18 Q. What were those charges?

19 A. The initial charge was forgery, I believe. And the
20 day right before the 17th, the interview, she was charged
21 with -- she was served with a murder warrant.

22 Q. So immediately prior to coming into the interview,
23 she had been served with a murder warrant?

24 A. From what I understand, yes.

25 Q. All right. Now, at the beginning of that interview,

TOSHIA SMITH - DIRECT EXAMINATION BY MR. BRACKETT

1 was she advised of her Miranda rights?

2 A. She was.

3 Q. Do you remember by who?

4 A. Detective Stokes.

5 Q. How did he do that?

6 A. Usually when we're in the interview room together.

7 That day he read her the Miranda warnings, and what he'll
8 do is he'll turn the computer screen to let whoever he's
9 interviewing read them and ask if you understand the
10 rights that were read and ask if you wish to speak to us,
11 make a statement at the time.

12 Q. Did he do that in this particular interview?

13 A. He did.

14 Q. Did she say that she understood her rights?

15 A. She did.

16 Q. Was there anything about her demeanor or how she
17 interacted with you that day that led you to believe that
18 maybe she didn't understand what she was doing or who she
19 was talking to?

20 A. No.

21 Q. The second question, was she asked about waiving her
22 rights and speaking to you?

23 A. Yes.

24 Q. Okay. And did she indicate that she wished to speak
25 with you?

TOSHIA SMITH - DIRECT EXAMINATION BY MR. BRACKETT

1 A. She did. She requested to speak to us.

2 Q. And she told -- did she tell you that she had
3 requested to speak with you?

4 A. That's how we ended up on that last interview on the
5 17th. We were called, contacted and said that she
6 requested to speak to Detective Stokes.

7 Q. All right. Now, during the course of this interview,
8 you said you were present the entire time, but Detective
9 Stokes had left out of the room?

10 A. Yes.

11 Q. For a brief period of time?

12 A. He did.

13 Q. At any point in time -- if you were there for the
14 whole thing, at any point in time did you or Detective
15 Stokes threaten her in any way, shape, or form to get her
16 to talk to you?

17 A. No.

18 Q. Did you coerce her, do anything that could be
19 considered coercive --

20 A. No.

21 Q. -- in order to get her to talk?

22 A. No.

23 Q. Did you make her any promises or assurances or hope
24 of reward or offers of leniency in exchange for her
25 talking to you?

TOSHIA SMITH - DIRECT EXAMINATION BY MR. BRACKETT

1 A. No.

2 Q. Did she speak to you of her own free will?

3 A. She did.

4 Q. Was that throughout the entire interview?

5 A. Correct.

6 Q. Now, was a statement prepared in the third interview?

7 As one had been prepared in the first and the second, was
8 a statement prepared in the third interview?

9 A. Yes.

10 Q. And who prepared that statement?

11 A. At the time, Detective Stokes was on lead. He
12 stepped out to get some tissue or something for
13 Ms. Walton. I took over the interview when she started
14 giving the statement. I got up into the lead chair and
15 began to type the statement.

16 Q. And when you -- can you describe -- what were you
17 typing into? Is this a typewriter? Computer? What
18 were --

19 A. We have a computer with our statement forms on it.

20 Q. The statement form you're holding in your hands --

21 A. Yes.

22 Q. -- Court's Exhibit Number 3, is that an example of
23 that statement form that's on the computer?

24 A. It is.

25 Q. All right. Now, on that statement form, is it just

TOSHIA SMITH - DIRECT EXAMINATION BY MR. BRACKETT

1 like a blank document that's like a Word document that...

2 A. Well, you've -- on that form you've got Miranda and
3 you've got the second part here that asks if they would
4 like to speak to you. You have some of the stuff here
5 where you have to fill out personal information. But
6 after that, it's just a blank form to fill in a statement.

7 Q. When you were typing, do you typically listen first
8 and then go back and type it all in or were you typing as
9 she talked?

10 A. I was typing as she talked.

11 Q. And at the conclusion of her statement, how do you
12 handle that when she's done telling you everything she's
13 going to do? How do you -- telling you everything she's
14 going to tell you. How do you typically handle that from
15 that point forward?

16 A. At the conclusion of her statement, what I would
17 usually do is print out the statement and I would give a
18 copy of it to the person that I'm interviewing, as in this
19 case Ms. Walton, I gave her a copy of the interview and
20 had her read it just to make sure everything was correct.

21 Q. And did she, in fact, read it?

22 A. She did read it.

23 Q. And did you ask her if everything was correct?

24 A. I asked her if anything was wrong with it.

25 Q. And what did she say?

TOSHIA SMITH - DIRECT EXAMINATION BY MR. BRACKETT

1 A. She said, "No, I just" -- she thought about it for a
2 little while. She hesitated, and she said, "Well, I would
3 just prefer to call my mom or a lawyer or somebody if I
4 can before I sign this, if you guys don't mind."

5 Q. Separating the signing part from the asking if
6 everything is correct. Let's take it one at a time. Did
7 you ask her if everything on the statement was correct
8 after she read it?

9 A. I did.

10 Q. And did she indicate yes or no?

11 A. She said that there was nothing wrong with the
12 statement. Right.

13 Q. And then what did you do next? What would be the
14 next step in the statement-taking procedure you followed?
15 What would you do next?

16 A. Well, what I did next is if you look at the signature
17 lines where she would have to sign, where it says "sign."

18 Q. Okay. You have a copy of the unsigned statement up
19 here. I believe it is Court's Exhibit Number 4. Take a
20 look at that.

21 A. What I would do at the time when I'm finished with
22 the statement is on the signature line -- there's two
23 signature lines underneath Miranda portion of the
24 statement form that says "signed." I put a little X next
25 to it to show you where -- show Ms. Walton where she

TOSHIA SMITH - DIRECT EXAMINATION BY MR. BRACKETT

1 needed to sign, and I also put an X underneath signature
2 of person giving statement for her to sign.

3 Q. All right. And you put a pen in her hand?

4 A. I put a pen in front of her on the table.

5 Q. Tell us what you told her.

6 A. I just said, "You need to sign on the places that
7 I've Xed."

8 Q. Okay. And what did she say?

9 A. At that time, she asked me if it was okay for her to
10 contact her mom or her lawyer prior to signing the
11 document.

12 Q. Okay. And what did you say in response to that?

13 A. I told her that was her right. I had no problem with
14 her contacting her mom or a lawyer.

15 Q. At any point in time prior to her saying that, had
16 she ever mentioned a lawyer anywhere in that third
17 statement?

18 A. She had not.

19 Q. Had she ever speculated or requested that she be
20 allowed to call somebody or -- at all, or had she spoken
21 to you freely and voluntarily?

22 A. She hadn't indicated that she needed to call anybody
23 during the statement until the end.

24 Q. And how about in that second statement? Had she ever
25 asked to speak with her attorney?

TOSHIA SMITH - DIRECT EXAMINATION BY MR. BRACKETT

1 A. No.

2 Q. So at that point you said you terminated the
3 interview?

4 A. Correct.

5 Q. Did you prepare a report of this interview?

6 A. I did.

7 Q. Show you a document. Ask if you can recognize what
8 I've handed to you.

9 A. This is the interview notes that I prepared after we
10 interviewed Ms. Walton the third time.

11 Q. Is that an accurate copy of the interview summary you
12 generated for this case?

13 A. It appears to be an accurate copy, yes.

14 Q. Does the second page bear your signature?

15 A. It does.

16 Q. And is that an accurate summary of what she related
17 to you in the course of that third interview on the
18 17th of November, 2011?

19 A. Yes.

20 MR. BRACKETT: Your Honor, I'd ask that that be
21 marked as Court's Exhibit 5. And I noticed as I came up
22 the summary prepared by Detective Stokes was not marked as
23 a Court's exhibit. I'd ask that that be marked as well
24 for the record.

25 MR. SMITH: Without objection.

TOSHIA SMITH - DIRECT EXAMINATION BY MR. BRACKETT

1 THE COURT: Both?

2 MR. SMITH: Both, Your Honor.

3 MR. BRACKETT: Thanks. The one prepared by Stokes --
4 I'm sorry, the one prepared by Stokes, we'll make that
5 Number 5, and the one prepared by Detective Smith
6 Number 6.

7 Q. I'm showing you what's been marked as State's
8 Exhibit 6, the document you identified as the summary you
9 generated for this case. Would you please read that to
10 the Court, the summary that you prepared of her statement
11 that day.

12 A. "On the above date and time, Detective Smith and
13 Stokes interviewed Braquette Walton regarding Pauline
14 Cook's murder investigation. Detective Stokes started the
15 interview by advising Ms. Walton of her Miranda rights,
16 which she waived. And she also told detectives -- and she
17 told detectives details about Ms. Cook's murder.
18 Ms. Walton advised that she was advised earlier on the
19 Saturday of the murder that Ms. Cook had filed a police
20 report regarding some fraudulent checks that were cashed
21 by Ms. Walton from Ms. Cook's account. Ms. Walton advised
22 that the cook at Park Pointe Village, Marvin, had called
23 her and told her that detectives were looking for her and
24 told her that her name was on the copies of the checks
25 that Ms. Cook had her in her possession.

TOSHIA SMITH - DIRECT EXAMINATION BY MR. BRACKETT

1 "Ms. Walton stated that she was in Greenville at the
2 time and drove back to Rock Hill that night. Ms. Walton
3 told detectives that she got back to Rock Hill around 6:30
4 or 7:00 p.m. and initially stated that she'd gone straight
5 to her residence. When Ms. Walton was made aware of phone
6 record findings, she finally advised that she went
7 straight to Park Pointe Village and waited for Ms. Cook.

8 "Ms. Walton said that when she arrived and went to
9 Ms. Cook's room, Ms. Cook was not there. Ms. Walton then
10 says that she went down to the tree room and waited until
11 she heard Ms. Cook going back to her room and then went
12 down to her room to talk to her. Walton states that once
13 she got into the room, Ms. Cook was in the bathroom
14 preparing for bed. Walton says that she sat down on the
15 couch and waited for Ms. Cook to come out. When Cook came
16 out of the restroom and was prepared for bed, she came out
17 and sat on her bed and they started to talk about the
18 stolen checks.

19 "Walton said that she offered to pay Ms. Cook back
20 and Ms. Cook refused her offer and threatened to call
21 police. Once Cook was at the phone attempting to call
22 police, Walton tried to grab it and says that Cook hit her
23 in the head with the phone. Walton said that she began to
24 tussle and they both fell onto the bed. Once they were on
25 the bed, Walton states that Cook was wailing" -- I have in

TOSHIA SMITH - DIRECT EXAMINATION BY MR. BRACKETT

1 parentheses wailing because she was saying wailing but she
2 was doing a flailing motion in the interview room --
3 "flailing around and hit the top of her hand on the
4 bedside table and started to bleed.

5 "Walton said that Cook was also pulling her hair and
6 yelling, 'Get off me.' Walton told detectives that she put
7 her body weight down on Cook to try to stop her from
8 yelling and flailing and that after a while, she stopped
9 moving. Walton said that she panicked at the time and
10 tried to check Cook's pulse, but there was not one.
11 Walton then moved Cook's body into the bathroom using the
12 bed sheet and laid her halfway into the shower and half
13 onto the bedroom floor to make it appear as if she had
14 fallen.

15 "Detectives were advised that Walton took the bed
16 sheets and pillows and placed them into a clear plastic
17 bag and dumped them into the trash compactor beside the
18 kitchen on her way out. According to Walton, she left
19 through the woods and went back to her car, which was
20 parked on the street right off of Highway 5.

21 "When asked what she had in her hand when she went to
22 Park Pointe Village, she advised that she had just the
23 white access card for the building and her car keys.
24 Walton stated that she removed the white card from her
25 picture ID and name tag and left those two items in her

TOSHIA SMITH - DIRECT EXAMINATION BY MR. BRACKETT

1 car. Walton also advised that she -- that she called the
2 nurses' station several times during that time that she
3 was inside the building and again at around 1:30 a.m. on
4 the night of the murder to see if Linda had found
5 Ms. Cook. Walton said that she did not say anything on
6 the phone but just hung up after hearing her voice. When
7 asked why she did not say anything, Walton said that she
8 just wanted to hear Linda's voice to see if she was upset.

9 "When the statement was complete and Walton was asked
10 to sign, she asked if she could call her mom or lawyer
11 prior to signing her statement. Walton was advised that
12 that was her right to contact her lawyer, and this
13 concluded the interview."

14 Q. Thank you very much, Detective Smith. Please answer
15 any questions Mr. Smith may have.

CROSS-EXAMINATION

16
17 BY MR. SMITH

18 Q. Detective Smith, I'll start with what's been
19 described to you as the second statement. I guess it's
20 the first one that you were involved with. That was also
21 you and Detective Stokes; is that correct?

22 A. Correct.

23 Q. But it occurred in a different room at the Rock Hill
24 Police Department; is that right?

25 A. That's right.

TOSHIA SMITH - CROSS-EXAMINATION BY MR. SMITH

1 Q. Now, both of you were in the room, though? No one
2 else. Ms. Walton and the two of you, Detective Stokes and
3 yourself; is that right?

4 A. Correct.

5 Q. Is it policy to have two persons there during an
6 interview?

7 A. Usually when we have interviews, we do interview in
8 pairs. It's not policy, but that's how we interview.

9 Q. And then moving to the third statement, did you
10 indicate you thought that she had been served a murder
11 warrant the day before or the day of? Or relative to that
12 interview, when do you think she was served a murder
13 warrant?

14 A. I believe it was the day of.

15 Q. Day of?

16 A. Shortly before we talked to her.

17 Q. At the time you began speaking with her, did you know
18 she had been served yet or not?

19 A. Yes, I knew that she had been served with her murder
20 warrant.

21 Q. Okay. Do you recall talking to her about having been
22 served the warrant, you and Detective Stokes actually
23 getting her warrant and reading it?

24 A. I believe that's why she requested to speak to us,
25 because she had been served with the murder warrant and

TOSHIA SMITH - CROSS-EXAMINATION BY MR. SMITH

1 she wanted to talk to us about that warrant.

2 Q. Right. But in the room when you're interviewing her,
3 do you recall her saying she'd been served with a warrant,
4 you inquiring to what she was talking about and reading
5 her actual warrant?

6 A. I didn't read her warrant. I don't remember taking
7 her warrant from her or reading it.

8 Q. Do you know if Detective Stokes did?

9 A. He may have. I can't remember if he did so or not.

10 Q. You indicated that he began in what you called the
11 lead chair or sort of conducting the interview and you
12 were sort of the second chair or witness; is that right?

13 A. Right.

14 Q. And then he left at some point, and you stepped up
15 into what you call first chair?

16 A. Right.

17 Q. Do you know at what point within the typing of that
18 statement that would have been? In other words, what line
19 did you take over typing that statement?

20 A. All he had done at that point was fill out her
21 personal information.

22 Q. So the actual body of the statement was typed
23 exclusively by you?

24 A. Yes.

25 Q. And then you indicated at some point that statement

TOSHIA SMITH - CROSS-EXAMINATION BY MR. SMITH

1 was printed out and shown to Ms. Walton and she asked if
2 she could call her mother or a lawyer before she signed
3 it; is that right?

4 A. That's right.

5 Q. And you told her that was her right?

6 A. Right.

7 Q. And then she went away. And did you ever go back to
8 her to see if she wished to sign that statement?

9 A. We did not.

10 Q. Why not?

11 A. Because at that time she had asked to speak to an
12 attorney, so -- prior to signing the document, so we did
13 not make contact with her again.

14 Q. Okay.

15 A. She indicated that she would I guess ask to speak to
16 us again if she wanted to, to talk to us.

17 Q. And then how about before that first -- the first
18 statement you were involved in, that second statement?
19 Were you aware she'd been appointed an attorney before
20 that interview?

21 A. I was not aware of an attorney before that second
22 interview.

23 Q. If you knew she had been approved for a public
24 defender to be appointed, would you have conducted an
25 interview with her at that point?

TOSHIA SMITH - CROSS-EXAMINATION BY MR. SMITH

1 A. Regarding?

2 Q. The checks.

3 A. We didn't conduct an interview regarding the checks.

4 Q. The second statement, the first one that you saw, was
5 that regarding checks or was that regarding the murder?

6 A. That was regarding her whereabouts on Saturday, on
7 the day of the murder. It was not regarding the checks.

8 Q. Were you aware she had given a first statement
9 concerning her whereabouts?

10 A. I was aware that she had given a first statement
11 regarding the forgeries.

12 Q. And you weren't familiar with what that statement
13 was?

14 A. I wasn't in on that statement, no.

15 Q. It was marked as a Court's exhibit, I believe
16 Number 6, a report that you made concerning this
17 interview; is that right -- I should say this -- the third
18 statement?

19 A. That's right.

20 Q. Is that right?

21 When did you make that report?

22 A. It would have been after we come -- we came out of
23 the interview room.

24 Q. And I understand that. I mean --

25 A. I mean, after she refused to sign it, what we'll

TOSHIA SMITH - CROSS-EXAMINATION BY MR. SMITH

1 usually do is we'll do interview notes on --

2 Q. So you think it was that same day?

3 A. It should have been that same day, yes.

4 Q. Okay. And what would you have used to make that

5 report? Were you looking at notes, or what were you

6 looking at to create the content of that report?

7 A. At that time, I'm usually the note taker. I wasn't

8 taking notes at the time. I was in the interview chair,

9 the lead chair, so I was typing the interview. We would

10 have read what we had written down, typed down, to go over

11 it.

12 Q. So when you hit the lead chair, would there have been

13 a note taker?

14 A. No. I was in there alone with Ms. Walton.

15 Q. All right. And do you know at what point Detective

16 Stokes reentered?

17 A. Detective Stokes reentered -- we were -- we started

18 talking about what had happened. I can't remember exactly

19 when he came back into the room. But I know that we were

20 already talking and I was already typing when he came back

21 in.

22 Q. And would he have assumed the note-taker role once he

23 reentered?

24 A. He possibly could have. Everybody does things

25 differently in the interview room. There's no set plan

TOSHIA SMITH - CROSS-EXAMINATION BY MR. SMITH

1 that we go in there and say, hey, you take notes, you take
2 lead.

3 Q. Okay. But for the preparation of your report, did
4 you review his notes to prepare the report?

5 A. No.

6 Q. So you only reviewed the statement?

7 A. Right.

8 Q. Okay.

9 MR. SMITH: No further questions, Your Honor.

10 MR. BRACKETT: Just briefly.

11 REDIRECT EXAMINATION

12 BY MR. BRACKETT:

13 Q. Mr. Smith asked you about the second interview, which
14 there were three interviews altogether.

15 A. Right.

16 Q. You were involved in the second and the third --

17 A. Right.

18 Q. -- just to focus your attention. The middle one, the
19 first one that you were involved in with Detective Stokes,
20 what was the point of that interview? What were you
21 trying to learn during the course of that interview?

22 A. The point of that interview, we were trying to
23 determine a timeline to get to see where exactly
24 Ms. Walton was on that Saturday.

25 Q. Why that -- what was -- what happened on that

TOSHIA SMITH - REDIRECT EXAMINATION BY MR. BRACKETT

1 Saturday that you were focused on?

2 A. That was the time that Ms. Cook was murdered.

3 Q. So you were focused on her whereabouts during the
4 time of the murder?

5 A. Correct.

6 Q. So this was furthering the murder investigation?

7 A. Correct.

8 Q. Were you involved in the forgery investigation?

9 A. I was not.

10 Q. Are you aware, were there any -- there were even any
11 forgeries committed on that Saturday that she was
12 murdered?

13 A. Am I aware that there --

14 Q. Yeah. To your knowledge, did she even forge any
15 checks or utter them on that Saturday, the 12th? Do you
16 know?

17 A. I did know that that was the basis for the initial
18 investigation.

19 Q. But you don't know the dates of -- where she forged
20 them --

21 A. Right.

22 Q. -- where she uttered them, so --

23 A. I don't know all of that. I just knew that there was
24 some word that there had been some forged checks.

25 Q. Thank you.

TOSHIA SMITH - REDIRECT EXAMINATION BY MR. BRACKETT

1 MR. SMITH: Nothing further.

2 THE COURT: You can step down. Thank you.

3 THE WITNESS: Thank you.

4 THE COURT: Appreciate your time.

5 MR. THOMPSON: State would call Tamar Marshall.

6 TAMAR MARSHALL, after having first being duly sworn,
7 testified under oath as follows:

8 DIRECT EXAMINATION

9 BY MR. THOMPSON

10 Q. Officer Marshall, could you give your name for the
11 Court, please.

12 A. Tamar Marshall.

13 Q. How do you spell Tamar?

14 A. T-A-M-A-R.

15 Q. Where do you work?

16 A. For the Rock Hill Police Department. I'm a
17 correctional officer.

18 Q. How long have you worked there?

19 A. Ten years.

20 Q. And were you working there when the defendant was
21 being housed there in November of last year?

22 A. Yes, sir.

23 Q. Can you tell me, did you have occasion to see her
24 upon the serve -- or after the service of the murder
25 warrant upon her?

TAMAR MARSHALL - DIRECT EXAMINATION BY MR. THOMPSON

1 A. Yes.

2 Q. How do you recall that?

3 A. I was serving lunch at the time. When I went
4 through, I heard her crying. I went back through, and
5 that's when I asked her if she was okay.

6 Q. Okay. And what did she indicate to you at that
7 point?

8 A. She was crying and just, you know, screaming and
9 saying, "How can they do this?" And I was like, "Are you
10 okay?" She was like, "No. I need to speak with a
11 detective." And I was like, "Who do you need to speak
12 with?" And she said Detective Stokes. So I told her I
13 would call, and I did.

14 Q. Okay. At that point, you said that was around the
15 serving of lunchtime at that point?

16 A. Yes.

17 Q. Do you recall, did you serve her lunch?

18 A. No. She didn't want anything.

19 Q. Okay. And where was she when you spoke with her?

20 A. She was lying -- well, knees on the floor and lying
21 on the bunk.

22 Q. The bunk in her cell?

23 A. Crying, yes.

24 Q. And at that time, did you then contact Detective
25 Stokes to --

TAMAR MARSHALL - DIRECT EXAMINATION BY MR. THOMPSON

1 A. Yes.

2 Q. -- tell him that she wished to speak with him?

3 A. Yes, I did.

4 Q. All right. Thank you.

5 MR. THOMPSON: No further questions.

6 THE COURT: Mr. Smith.

7 CROSS-EXAMINATION

8 BY MR. SMITH:

9 Q. Officer Marshall, how did you contact Detective
10 Stokes?

11 A. I called him on his cell phone.

12 Q. And do you have a cell phone number for all the
13 detectives in the detention center?

14 A. Yes, sir.

15 Q. And do you know when someone next came and got
16 Ms. Walton?

17 A. I don't know what time, but he told me he was at
18 lunch and he would be there when he was done.

19 Q. Were you still working when they came and got her?

20 A. Yes, sir.

21 Q. And who came and got Ms. Walton?

22 A. Detective Stokes.

23 Q. By himself?

24 A. From what I could recall, yes, sir.

25 Q. Okay.

TAMAR MARSHALL - CROSS-EXAMINATION BY MR. SMITH

1 MR. SMITH: No further questions.

2 THE COURT: Recross?

3 MR. THOMPSON: No, Your Honor.

4 THE COURT: You can step down. Thank you.

5 Any further witnesses from the State?

6 MR. BRACKETT: No, Your Honor.

7 THE COURT: Defense have any witnesses they wish to
8 call?

9 MR. SMITH: We do not, Your Honor.

10 THE COURT: All right. We've had the Jackson versus
11 Denno hearing. Any comments?

12 MR. SMITH: Your Honor, we have no objection to the
13 first statement. The second statement we would ask to be
14 suppressed by the Court because she had been appointed an
15 attorney by that point and was not -- that attorney was
16 not present when that interview occurred. We would also
17 ask for suppression of the third statement as being
18 building upon the issues gained or the insight gained from
19 that second interview additionally due to the fact that
20 she did not sign acknowledging either her waiver,
21 knowledge, or the content of that statement. Additionally
22 that she was told she would have the right to consult with
23 someone to make certain that that statement was in the
24 form she wished before she signed and that opportunity was
25 not given to her. So we think it would be unduly

1 prejudicial for the jury to hear --

2 THE COURT: I don't follow. The opportunity was not
3 given to her? The officers talked to you at some point.

4 MR. SMITH: She had spoken to me, Your Honor, but my
5 point was that the testimony as I understood it, they
6 always allow persons to review the statement, see if they
7 want to make any changes or any of that. She said, "Let
8 me talk to my mother and an attorney," so she had not
9 finalized if she wished to make any changes to that
10 statement. So she was not given full opportunity to make
11 the statement as she wished, so we would ask that it be
12 suppressed as well.

13 THE COURT: What's the State's position?

14 MR. BRACKETT: Your Honor, as regards to the second
15 statement, the first one is not being contested. As
16 regard to the second statement, first the State would
17 contend that there is no testimony or evidence as to when
18 the bond hearing was held, when counsel was appointed as
19 regard to when the statement was taken. But assuming for
20 the sake of argument that the bond hearing was prior to
21 that.

22 The second interview, as Detective Smith testified,
23 was focused on where she was during the time of the
24 murder. In other words, it was conducted on the murder
25 investigation. She was appointed counsel on the forgery

1 charges. The Sixth Amendment right to counsel is
2 offense-specific. So it does not preclude. Even assuming
3 that you counted her appointment as an invocation, which
4 the State would contest, and that would be my third point.
5 But even if you assume that there was some invocation at
6 this bond hearing, it would only be as to the forgery
7 charges that the bond was being set on.

8 This was a questioning, an interview in regards to
9 her location at the time of the murder. So that would be
10 our second contention as the Sixth Amendment right to
11 counsel being specific. Any invocation that may have been
12 made by the defendant was only as to the forgeries.

13 And finally, Your Honor, I would refer the Court to
14 *Montejo versus Louisiana* at 556 U.S. 778. I have a copy
15 of the case here. This --

16 THE COURT: I read it at length last week, but if
17 you'll hand it up, I'll look at it again. And *Texas*
18 *versus Cobb* last week.

19 MR. BRACKETT: *Montejo* overrules *Michigan versus*
20 *Jackson*. I believe the situation in *Montejo* is very
21 similar to what we have here. First of all, I would note
22 for the record that under the current case management
23 system in York County and indeed throughout the state,
24 defendants are taken routinely in front of magistrates
25 who, pursuant to a court order, are mandated to screen

1 them for a public defender whether they ask for it or not,
2 and I contend that this is not a actual invocation of
3 counsel in the same manner as it was not an invocation of
4 counsel in Montejo.

5 And in any event, it is routinely done by the courts.
6 The law enforcement officers had no knowledge of it,
7 assuming that it actually took place prior to the
8 interview in question, the second interview. And under
9 Montejo, it should not be excluded. When Michigan versus
10 Jackson was overruled by Montejo, it created a new
11 standard to be employed in evaluating statements taken
12 under these circumstances. This defendant was taken from
13 the cell at -- and read the Miranda warnings properly.
14 She waived them. She had full control of her faculties
15 and was able to make her own decision as to whether she
16 wished to interact with law enforcement. If she had
17 moments or hours before invoked her right to counsel, she
18 had ample opportunity right then to invoke it again and
19 she did not.

20 THE COURT: All right. Well, initially under the
21 cases of Texas versus Cobb and Montejo versus Louisiana, I
22 find that both the second and third opportunities to give
23 a statement, let's just start like that, were proper. As
24 to the third, there's also undisputed evidence -- and I'm
25 making all these findings by a preponderance of the

1 evidence, as I'm required to at this time -- that the
2 third statement was based on an interview initiated at the
3 request of the defendant. She gave the statement. The
4 fact that she did not sign it does not negate the validity
5 of the statement.

6 I know Mr. Smith in his argument said she was not
7 given the opportunity to review it. I don't recall that
8 being the testimony. Is that -- I just thought they said
9 you need to sign this and she said she needed to talk to
10 her mother or -- or an attorney.

11 MR. BRACKETT: Yes. Your Honor, I specifically
12 inquired of Detective Smith -- I broke it down into the
13 two issues. First, did she have an opportunity to review
14 it and did she affirm that it was correct. And second,
15 when you tender it to her for her signature or when you
16 tender it to pen for her to sign, that was the second
17 issue. She declined at that point, saying she would like
18 to talk to her mother or a lawyer. So she did have a
19 chance to review it, and she did affirm the contents were
20 accurate. She just declined to sign it.

21 THE COURT: My notes indicate -- and mine are always
22 cryptic -- that, quote, she did read statement, end quote.
23 So she did have an opportunity to read it, and she chose
24 not to sign it. And I again do not find that to be of any
25 significance, at least as far as my analysis of whether or

1 not a statement was given freely, voluntarily, knowingly
2 and intelligently and -- are admissible.

3 As to all three statements, the evidence -- I find by
4 a preponderance of the evidence that as to all three,
5 Ms. Walton was given her Miranda rights and therein
6 informed of her rights under the Fifth and Sixth
7 Amendments of the Constitution of the United States of
8 America, and that she knowingly, intelligently waived
9 those rights. She was advised as to each that she could
10 remain silent and that if she chose to not remain silent
11 and make a statement, that statement -- the first one said
12 could and would be used. In the first time it was read in
13 the car, I believe the officer said could and would be
14 used. I think in the other two it just said -- the
15 Miranda warnings as testified to said it can be used
16 against you in a court of law.

17 She was -- as to all three, Ms. Walton was informed
18 that she had the right to have an attorney present with
19 her while she was being questioned and if she could not
20 afford one, the State would be required to appoint an
21 attorney for her before any questioning would commence and
22 she had the right to have an attorney present during her
23 questioning if she so requested and that she had the right
24 to determine to exercise those rights at any time during
25 the interview.

1 She indicated as to each that she understood her
2 right, and she waived her right all three times by, in
3 fact, giving statements. There's no evidence that in any
4 of the statements she was coerced in any way, promised
5 anything, no promise or hope of reward, that she was not
6 coerced, that she was not threatened, promised anything.
7 There's no indication that she -- she was intoxicated or
8 had any inability to understand. And, in fact, the
9 testimony was that she appeared to understand the
10 statements -- I'm sorry, the questions and responded
11 thereto.

12 She was, of course, in custody, but other than the
13 fact -- when she gave the statements, she was not
14 handcuffed. She was handcuffed the first time the Miranda
15 warnings were read in the patrol car at her house, but
16 there's no evidence she was at any other time cuffed
17 during the giving of the statements. And I therefore find
18 that all three statements are admissible. And, of course,
19 it would be up to a jury to consider under the greater
20 standard beyond a reasonable doubt as to whether or not
21 the statements were freely, voluntarily, knowingly, and
22 intelligently given after Ms. Walton had received her
23 Miranda rights. Again, the third -- whether she had
24 counsel or not, the third interview was clearly an
25 interview initiated by Ms. Walton. So I'll allow all

1 three statements into evidence.

2 Now, it's ten to 5:00. I'm going to get the jury in
3 and just give them my -- rest of my remarks, swear them
4 in, and let them go until 9:30 in the morning. Anything
5 else before we get the jury in?

6 MR. SMITH: Small phrases in the statements, but we
7 can handle that after the jury, Your Honor.

8 THE COURT: Okay. Bring in the jury.

9 (The jury entered the courtroom at 4:49 p.m.)

10 THE COURT: Now that you're all comfortably seated,
11 if you'll stand and the clerk will administer the oath.

12 (The jury was duly sworn.)

13 THE COURT: I know when you look at the clock, you
14 think I missed that class in kindergarten when they taught
15 you how to tell the time. I really didn't. I told you we
16 had some matters to take up and we wanted to have a little
17 time for lunch. Well, the matters that we had to take up
18 turned out to be lengthier than I anticipated. But on the
19 bright side, at least from your perspective, is that I
20 have dealt with quite a few issues that may have popped up
21 during the trial and instead of having to screen them out
22 at various times in a way, we kind of got most of it, if
23 not a substantial part of it, out of the way so that we
24 can go smoothly through the trial.

25 We're not going to start testimony today, and we're

1 not going to go into the attorneys' opening statements.
2 But when we start out tomorrow, the attorneys have the
3 right, but no obligation, to come before you and make what
4 we call opening statements. These are not arguments.
5 They are not at this time -- the attorneys are not trying
6 to convince you of anything. They're simply giving you a
7 road map, a blueprint of the trial.

8 At a later point in the trial, they will have the
9 opportunity to argue their case, to sum up it and tell you
10 why your verdict should be a certain verdict based on the
11 facts as they see them and as they have been developed
12 during the trial and based on the law as I charge you.
13 They're not witnesses. If they were, they couldn't be
14 representing a party. So what they're giving you, again,
15 is like a road map of the trial.

16 I have three primary jobs to do as a trial judge.
17 One is I'm the logistics person. That is, I make sure we
18 take breaks, that one person speaks at a time, that we set
19 the times to start and stop. I'm a logistics person. My
20 second job is that I rule on questions of admissibility of
21 evidence, and I just spent some time doing that. Once I
22 have ruled on the admissibility of evidence, that ruling
23 is binding on the attorneys and the witnesses and you the
24 jury. If I rule something is out, it's out. It cannot be
25 considered. If I ruled it in, it's in and can be ruled --

1 it's in the record for your consideration.

2 My third job is that I'm the sole judge of the law.

3 You must take and apply the law as I charge it, even if

4 you think I charged the law in error or even if you think

5 the law should be different. Your oath requires you to

6 take, accept, and apply the law as I charge it. You're

7 not to infer from anything I say or do at any time during

8 this trial as being an indication of an opinion of mine on

9 the facts. Our law does not allow a trial judge to

10 formulate or express to a jury any opinion on the facts.

11 That is solely your job. It's solely your job to examine

12 the facts, examine the evidence, give to the evidence the

13 effect, the value, the weight, and the truth you believe

14 it should have. In doing this, you may believe one

15 witness as opposed to several; several witnesses as

16 opposed to one. You may believe all, part, or none of the

17 witness's testimony.

18 Use your common sense, your sense of logic, your

19 sense of reason. Use your experiences in life as you

20 analyze the evidence. As judges of the facts, you

21 necessarily must judge the credibility, the believability

22 of the witnesses who testify. In assessing believability,

23 use the things I've already been talking to you about, but

24 you can also use certain evaluators. Of course, use your

25 common sense, your sense of logic, your sense of reason,

1 and your experiences in life in analyzing all the
2 evidence.

3 And you can use that in examining the credibility,
4 but you can also look at things such as a witness's
5 demeanor, how they act on the stand. Are they hesitant or
6 straightforward in responding to questions? Do they have
7 any bias or prejudice; that is, if they have any reason to
8 help or hurt one side or the other. You can examine
9 whether or not the witness had the opportunity to testify
10 or see or know the things to which they testified to. And
11 you can look at whether witnesses are hesitant,
12 straightforward, and you can look at consistencies and
13 inconsistencies in the evidence. All of these things you
14 look at to determine the true facts, apply the law, and
15 you'll be in a position to return a verdict that speaks
16 the truth.

17 I'm not going to repeat what I told you earlier about
18 not discussing the case, not letting anyone discuss the
19 case, not doing any electronic research or any research,
20 electronic or not, and also not letting yourself be
21 exposed to any news coverage if there is any. We take
22 breaks about every hour and a half. I find that is a good
23 break time. But if anybody needs a break at any time,
24 just simply raise your right hand and we'll take a break.
25 I know you can't pay attention if you're not comfortable,

1 and so if you need a break, raise your right hand and,
2 again, no questions asked, we'll take a break. And I
3 extend that to counsel and Ms. Walton also. We want to
4 move the case along, but we're not in such a hurry that we
5 will do it to inconvenience someone who is not -- when
6 someone needs a break.

7 Again, we try to go for about an hour and a half. I
8 told you that works out to be a pretty good length of time
9 to go between breaks. We usually break at 12:30 or 1:00
10 for lunch and take an hour and 15 minutes or an hour and a
11 half for lunch. That may sound like a long time, but
12 everybody has to -- unless you walk across the street.
13 Somewhat dangerous walking across Highway 5, but we do it,
14 to Mr. Pope's place across the street. Unless you do
15 that, you have to get in your car and drive somewhere, so
16 we allow a little extra time for lunch.

17 We try to start around 9:30, which we'll start in the
18 morning at 9:30, and we try to stop no later than 5:30 or
19 6:00. I'm going to let you go in just a moment. Ask you
20 to be back at 9:30, 9:30 in the morning, and we'll try to
21 start as promptly after 9:30 as we can. Just follow the
22 instructions as to the bailiff as to how to get in and out
23 of the courthouse.

24 State have anything else they wish me to cover before
25 we stop for the evening?

1 MR. BRACKETT: No, sir, Your Honor.

2 THE COURT: How about the defendant?

3 MR. SMITH: Nothing further, Your Honor.

4 THE COURT: We'll see you back at 9:30. Have a
5 pleasant evening. Thank you.

6 (The jury left open court at approximately 4:58 p.m.)

7 THE COURT: Anything else on this case for the day?

8 MR. BRACKETT: A couple of issues on the statements I
9 believe Mr. Smith wanted to go over.

10 THE COURT: Okay.

11 MR. SMITH: Yes, Your Honor. With regards to the --
12 what's been characterized as the first statement, there's
13 a...

14 (A sotto voce discussion was held between Mr.
15 Brackett and Mr. Smith.)

16 THE COURT: Weed and strip club. Can't we redact
17 those somehow?

18 MR. SMITH: Yeah, "get some wee"d and the words "gay
19 strip club."

20 MR. BRACKETT: How about if we just start -- the
21 statement goes "I was going up there to meet Dread to get
22 some weed," if we just go "I was going up there to meet
23 Dread"?

24 MR. SMITH: Fine.

25 MR. BRACKETT: And then, "We were going to a club

1 named Chasers."

2 MR. SMITH: That's fine. And it's been characterized
3 as the second statement, going to Mount Holly area to buy
4 some marijuana from him.

5 MR. BRACKETT: Again, to meet a guy named Dread in
6 Charlotte off of Brookshire, Mount Holly area, period.

7 MR. SMITH: And it says, "We stopped to see his
8 cousin Charlie, who is a crackhead."

9 THE COURT: Let's just leave that out. I don't know
10 that's --

11 MR. BRACKETT: To see his cousin Charlie, who lives
12 around the corner.

13 MR. SMITH: And then I was passed a note, there are
14 two witnesses, a Jennifer McCall and a Lauren Passmore.
15 Apparently my office has represented them. I have no idea
16 what they had to do with this case, if they are witnesses
17 or not, but I don't know if we need to look at a potential
18 conflict.

19 THE COURT: How would them being a witness be a
20 conflict?

21 MR. SMITH: I don't know what they're going to
22 testify to and I don't --

23 THE COURT: You actually -- you represented them?

24 MR. SMITH: I did not. I know our office did is what
25 I'm told.

1 THE COURT: And you think it may be in regard to
2 something that --

3 MR. SMITH: I didn't see them in discovery. I have
4 no idea what they're on the list for, Your Honor.

5 THE COURT: Lauren Passmore and what was the other
6 one?

7 MR. SMITH: Jennifer McCall. Bottom left.

8 THE COURT: I got it. I see them both, page 1.

9 MR. BRACKETT: We will not be calling Jennifer
10 McCall, and we will not be calling Lauren Passmore.

11 MR. SMITH: Thank you, Your Honor. Nothing further.

12 THE COURT: All right. We'll see you in the morning.
13 Have a good evening.

14 (Court was adjourned at 5:02 p.m. on 10/29/2012 and
15 resumed at 9:29 a.m. on 10/30/2012.)

16 THE COURT: Any matters before we get the jury?

17 MR. BRACKETT: Yes, just two matters, Your Honor. We
18 neglected to put on the record yesterday when the defense
19 asked if we had complied with discovery, we had served a
20 reciprocal discovery request on the defense and would ask
21 if there's anything to be provided. We've not been
22 provided with anything to date. I don't think, from what
23 I've heard, that there is anything to provide. In
24 addition, we served a notice for alibi, we're told there
25 is no alibi, and notice of any mental status defenses, and

1 we were told there were none of those as well. Just
2 wanted to put that on the record. If that's correct.

3 MR. SMITH: That's correct, Your Honor.

4 THE COURT: Any --

5 MR. BRACKETT: One more thing, Your Honor. We have
6 four witnesses after opening, and then the fifth witness
7 will be Chris Westover from the coroner's office, followed
8 by Dr. Thomas, the pathologist in this case. There are
9 some photographs that we would seek to introduce during
10 the testimony of Westover and Thomas. We would need to
11 take up that matter because I believe based on some
12 postcourt conversations last evening, there will be some
13 objections to some of those photographs. In addition,
14 prior to those witnesses testifying and those photographs
15 being displayed, we would like to give an opportunity to
16 the family to leave the courtroom so that -- they're
17 sensitive in nature.

18 THE COURT: Well, from a timing aspect, it looks like
19 we will probably be in a good position after those
20 openings and four witnesses. Depending how long they are,
21 it might be the right time.

22 MR. BRACKETT: Yes, sir.

23 THE COURT: Anything else?

24 MR. SMITH: Nothing further.

25 THE COURT: And, Gina, you might want to behave.

1 THE CLERK: I know. I'm being watched today.

2 THE COURT: Bring in the jury.

3 (The jury entered the courtroom at 9:42 a.m.)

4 THE COURT: Good morning. I received your note about
5 notes. I'm going to ask you not to take notes. Some
6 judges allow notes and even give out notebooks. I have at
7 least philosophically felt that it was distracting when
8 someone is trying to keep up by taking notes, and I know
9 from my own experience when I'm taking notes, sometimes I
10 miss what comes after what I'm writing down. Plus if two
11 or three people take notes and get wrong and you get into
12 talking about the case and these notes because they're
13 cold written become sort of a gospel, and sometimes they
14 might not be right. So I do not allow note taking. I
15 have a reason for it. It's not arbitrary.

16 And also, we will be utilizing, or the attorneys
17 will, some electronic equipment. Of course we're all used
18 to the pings and dings and rings that they make. The
19 system we have, and we've tried and cannot silence it,
20 makes some pinging noises or electronic noises that you
21 are probably used to hearing. They're not that
22 distracting, but I want you to be aware of them because
23 occasionally when they view the video, you may hear --
24 after the lawyers get to talking, you may hear a little
25 ding and I just want you to be aware that it's nothing to

1 be alarmed about and it's not that distracting, but I
2 wanted you to be aware of what it was.

3 All right. Counsel.

4 OPENING STATEMENTS BY MR. BRACKETT

5 MR. BRACKETT: Shortly after 6:30 a.m. on November 12
6 of 2011, Linda Roach, a patient care assistant at the Park
7 Pointe Village assisted living facility, which is located,
8 if you're going down Highway 5 towards Rock Hill, just
9 before you get to the area where the Rawlinson Road Middle
10 School and Northwestern High School is on your right, just
11 before you get there, in that little wooded area off to
12 the right is the Park Pointe Village assisted living
13 facility. Linda Roach was a patient care assistant, and
14 right after 6:30, she noticed that something wasn't right.
15 Something was different.

16 She looked up at the clock and saw how late it was
17 and realized that Ms. Pauline Cook, a resident of the
18 facility there for over ten years, hadn't come out of her
19 room yet. She was usually up pretty early, drinking
20 coffee sometimes as early as 5:30 in the morning, reading
21 the newspaper, waiting outside the dining room for
22 breakfast to be served. She was a creature of habit. She
23 was up every morning. Everybody knew Ms. Pauline was
24 going to get up early. She got herself showered, got
25 herself dressed, came out and waited for breakfast,

1 chatted with the staff while they went about their duties
2 and just basically started her day that early.

3 And when 6:30 or 6:35 rolled around and she hadn't
4 seen Ms. Pauline, she became concerned. So she walked
5 down the hallway in the nurses' stations to where
6 Ms. Pauline's room was at the end of the hall. She
7 knocked on the door, opened it, stuck her head in, called
8 out for Ms. Pauline, and didn't hear anything. She walked
9 in the room, looked around a little bit, turned on the
10 lights, and noticed there was water all over the floor.
11 Ms. Pauline wasn't in her bed.

12 She could hear the shower running in the bathroom.
13 She walked over to the bathroom, opened the door, and saw
14 Pauline Cook lying half in and half out of the shower on a
15 mat. Water running over her. Water all over the floor.
16 The room was flooded out. Ms. Pauline had a shower cap on
17 her head. A walker was right beside the shower. Her
18 clothes were laid out on top of the walker as if she had
19 put them out there in preparation for getting dressed
20 after she took her shower. And Ms. Pauline was not
21 responsive.

22 She ran back out, called for help. They went through
23 the things that they're supposed to do when something like
24 this happens. They called for EMS to come out and
25 respond. They try their own efforts at CPR to see if she

1 can be revived, but Ms. Cook could not be revived because
2 she had been dead for too long. They didn't know that at
3 the time.

4 EMS came out. They hooked up the cardiac monitor to
5 her to see whether there were any signs of life. There
6 were none. So the next thing they did was call the
7 coroner's office. The coroner came out and looked at it.
8 And for most appearances, you would think an elderly woman
9 living in an assisted living facility, found in the shower
10 with the shower running, shower cap on her head, clothes
11 laid out, it appeared that Ms. Cook had just passed away
12 while she was taking a shower.

13 But Chris Westover with the coroner's office looked
14 at the situation and noticed that something didn't seem
15 right. The bruising around her face. The way things
16 looked to her, she's trained in death investigation, from
17 a medical perspective, things just didn't seem to add up
18 to Chris Westover. So she took some pictures with her
19 cell phone and e-mailed them to Sabrina Gast, the coroner,
20 to see if she thought something seemed odd too.

21 Sabrina came back and said, yeah, this doesn't seem
22 right. I would like an autopsy, which is what the coroner
23 does. In cases where there's a questionable death or if
24 the coroner has a reason to suspect something isn't adding
25 up, the coroner has the power and the duty to order an

1 autopsy. They also called the police at that point
2 because things just seemed wrong.

3 Rock Hill Police Department came out and secured the
4 scene about 8:30 or 8:45. And then the forensic service
5 unit came out and started processing the scene. Ms. Cook
6 was taken to the hospital, and an autopsy was performed
7 the next day. They let some time pass because that helps
8 bruising that may not have yet developed. It helps it
9 come out a little bit more so you can get a clearer
10 picture of the nature of any external injuries.

11 On Monday, they performed the autopsy, Dr. Thomas
12 did, and we'll hear from him in a lot more detail. But
13 the upshot of it is is he determined that this was not an
14 accidental death. This was not natural causes. Somebody
15 killed Ms. Cook. Asphyxiated her. This was a homicide.

16 So now police began looking even harder, and they
17 started asking questions about Ms. Cook, and they realized
18 that on Saturday, something unusual had happened.
19 Ms. Cook was usually just a delightful, classic,
20 easy-going lady. Everybody loved her. Saturday afternoon
21 she was very upset. She was walking around Park Pointe
22 with her bank statement in her hand and going up to some
23 of the employees saying, "This isn't right. There are
24 checks here. I don't know what these checks are. I don't
25 know who this person is that these checks are written to,

1 and that's not my signature. These checks are made out to
2 somebody I don't know."

3 The staff, who are all instructed and trained you
4 can't talk to residents about their personal finances.
5 You're not allowed to discuss their personal finances with
6 them because older folks sometimes aren't as sharp.
7 Sometimes they lose a little bit of their abilities and
8 their faculties, and they're not quite as sharp, and it's
9 too easy to take advantage of them. So they have a
10 hard-and-fast policy. If they come to you to talk about
11 their finances, you have to send them to a supervisor.
12 You cannot discuss their finances. You can't get involved
13 in their finances. You can't take money from them.

14 So the employees that she talked to sent her to see
15 Neva Lattimer, the head of nursing. They said, "You need
16 to go see Ms. Lattimer about that. I can't talk to you
17 about it." And Neva Lattimer sat down and looked at the
18 bank statement and the checks that Ms. Cook was concerned
19 about. And she looked down, and she saw a name pay to the
20 order of Braquette Walton. And there were several of them
21 on there made out in the amounts of about \$1,500. Neva
22 knew exactly who Braquette Walton was.

23 The reason that Ms. Cook didn't know is because she
24 didn't know her as Braquette. She knew her as Bea. Bea,
25 patient care assistant who had worked there since about

1 July. Neva knew because she's the head of nursing. She
2 knew her real name. But it was Bea, Bea Walton.
3 Braquette Walton. That's who those checks were made out
4 to. And Ms. Lattimer knew, from what she was being told
5 by Ms. Cook, that somebody had taken advantage of her.

6 So she said, "We're going to call your bank and tell
7 them to stop any other checks. We're going to call your
8 family and let them know that this is going on. We're
9 going to call the police and let them know that there's a
10 problem, that there are checks that you didn't write that
11 were cashed, money had been taken from your account." So
12 those things were done, and Officer Langley came out and
13 took the statement about the forgeries, and Officer
14 Langley and Neva Lattimer told Ms. Cook, "Look, keep this
15 to yourself right now. Don't tell anybody about this.
16 Let's just let the police -- we don't need her to know
17 that the police are on to it or you're on to it. Let the
18 police do their job."

19 Mr. Langley from the Rock Hill Police Department said
20 this would be turned over to detectives and they would
21 begin looking at it on Monday morning. This was a
22 Saturday when he came out. Monday morning the detectives
23 would get this case and begin looking into it. What they
24 didn't know at the time that in the course of Ms. Cook
25 running around with her statement looking for somebody to

1 help her, she had shown a fellow by the name of Marvin
2 Lawrence, who is the cook at Park Pointe Village. She had
3 shown him the bank statement and said, "There's a problem
4 here." And he looked down and saw the name Braquette
5 Walton. And he knew who that was, because he and
6 Braquette were friends at work and outside of work. They
7 would see each other socially.

8 So he got back to the kitchen shortly after seeing
9 her statement and got on the cell phone. He knew
10 Braquette Walton, so it was plugged into his phone, and
11 called her and said, "Hey, you got a problem here. This
12 lady, Ms. Cook, she's running around saying checks are
13 written on her account to you that she didn't write.
14 What's going on with that?" And Braquette said, "You
15 better be kidding me. This is what -- what are you
16 talking about? Don't be fooling with me like this. This
17 is my job. Come on, stop kidding me. He said, "I'm not
18 kidding. She's running around saying this stuff."

19 At the time that phone call was made, Ms. Walton was
20 in Greenville. That was Saturday afternoon. Throughout
21 the rest of the afternoon and into the evening hours,
22 Ms. Cook made the report to the police. That finished at
23 about 6:00, 6:30, right around dinner time. She
24 socialized a little bit, and Saturday night was bingo
25 night at Park Pointe Village. So she went downstairs and

1 played bingo until about 8:30 or so and then came back up
2 to her room to go to bed.

3 Kayla Larson, one of the ladies who works there, went
4 in about 9:15 to give her her medicine. She walks in the
5 door. The lights are out. The TV is on. Ms. Cook is in
6 bed. She turns the lights on, sits her up, gives her her
7 medicine, some water. Ms. Cook was very sharp. She was
8 on her game. Sits her up, talks to her, says, "Good
9 night, here's your medicine, sleep well, I love you,"
10 gives her a hug, turns around, walks out, closes the door.

11 Now, she stayed there for about another 15 minutes
12 and left. The night shift was on throughout the night.
13 And throughout the night, strange things were happening.
14 Phone calls to the nurses' station. The phone would ring.
15 The nurse, who would sometimes follow at the desk phone to
16 a portable phone that they carried around as they made
17 their rounds through the building, would ring. It rang
18 loudly. They'd pick it up, answer it, hello. Hello.
19 Hello. Hang up. That happened several times through the
20 night.

21 Like noise was heard in one of the rooms adjacent to
22 the nurses' stand, the desk area there. They went in and
23 looked, didn't see anything. At another part of the
24 evening, while carrying the garbage down to the garbage
25 room at the end of the hall, right next to where

1 Ms. Cook's apartment was, the garbage room door was
2 propped open. It was supposed to be closed. It was never
3 open.

4 And then at about 12:30, one of the silent alarms
5 went off down in the boiler room that there was a problem
6 down there, so one of the fellows went downstairs to look
7 in the boiler room and noticed water leaking from the
8 ceiling. He called about -- he called his boss and said,
9 "What should I do?" They said, "Well, it's probably that
10 old pipe that we had problems with before. Don't worry
11 about it." The boiler room is right underneath Pauline
12 Cook's room. There's a drain on the floor. So he said,
13 "We'll take care of it in the morning. Just let it go,"
14 never realizing that the water that was leaking down into
15 the boiler room was coming from Ms. Cook's room above.

16 The police learn all this, and they wonder where
17 Ms. Walton was, and they learn about all this stuff. They
18 wonder where was Ms. Walton on Saturday night, and what
19 about these forgeries. So Keith Dugan with the Rock Hill
20 Police Department starts investigating the forgeries, and
21 by Monday, Monday afternoon, he's accumulated enough
22 evidence of the forgery that he obtains a warrant for her
23 arrest, charging her with the forgeries for these checks
24 that Ms. Cook was concerned about.

25 They take her into custody. They question her about

1 it. She claims that these were loans from Ms. Cook, that
2 Ms. Cook had authorized these, that she had told her she
3 could borrow the money and that there was a payment plan
4 that was set up. She gives a statement to that effect.

5 More checks are discovered. More warrants are issued
6 and done by the Tega Cay Police Department because the
7 checks were cashed at the Walmart in Tega Cay. There's a
8 bank inside the Walmart, the Woodforest National Bank.
9 Some of those checks were cashed there. So the Tega Cay
10 Police Department gets involved, and they issue their own
11 warrants for the uttering and cashing of those checks in
12 their jurisdiction.

13 She's arrested on those charges on Tuesday. Tuesday
14 she's interviewed again, and this time the interview is
15 focused on where were you on Saturday night? And they say
16 she says, "Well, I was in Greenville. I was visiting some
17 friends. I took my son up there. I came back to Rock
18 Hill, and I went straight home. I had to try to meet
19 somebody up in Charlotte, so I went up there in the
20 evening hours, and I was up in Charlotte for most of the
21 evening, and then I came back very late, right around
22 midnight or so, and came home. That's where I was."

23 "Were you over at Park Pointe at any point in time?"

24 "No, I was never there. I didn't go to Park Pointe
25 on Saturday night." Said okay. She gives another

1 statement to that effect. Signed it.

2 The investigation continues. They obtain her cell
3 phone records from AT&T. And they check the security logs
4 of Park Pointe Village. And what do they discover? On
5 Saturday night, at 7:50, Braquette Walton's key card was
6 used to gain access to Park Pointe Village at 7:50 p.m.
7 And according to the cell phone records, her cell phone
8 was pinging, it was connecting to the cell phone tower
9 right on Highway 5 at Mathis Road just up from Park Pointe
10 Village. The tower that you'll hear an AT&T engineer come
11 in here and tell you services the area where Park Pointe
12 Village is.

13 Her cell phone was there being used from about 7:30
14 until the last call that pinged off that tower was about
15 10:00 p.m. Two and a half hours. And they'll also tell
16 you that her records show multiple calls were made from
17 her cell phone to the nurses' stand at Park Pointe Village
18 throughout that time period. Little short calls that
19 lasted about two or three seconds. Like somebody was
20 calling and hanging up.

21 So they bring Ms. Walton out, charge her with murder.
22 And she says, "I want to talk to the police, I want to
23 talk to the police." So Detective Stokes and Detective
24 Smith go in to interview her again. And she starts in on
25 her story about how she just came back from Greenville and

1 went straight home, and they go, "Unh-unh. Tell us about
2 how come your cell phone was over at Park Pointe Village
3 at 7:30 that night." And then she proceeds to tell after
4 she realizes that they put her at the location. She
5 proceeds to confess to Detective Smith and Stokes that she
6 did go there, that she went there to talk to Pauline. To
7 ask her can I -- can we work this out somehow, and that
8 they got into an argument. That Pauline asked her to
9 leave and reached for the phone. And she grabbed her hand
10 and said, "You don't need to do that. You don't need to
11 do that."

12 And then Ms. Pauline started flailing and wailing, as
13 she puts it, trying to get her off of her, telling her to
14 get out. And she grabbed her hands and laid down on top
15 of her to stop her from hitting her. And she laid on top
16 of her until she stopped breathing.

17 You're going to hear about this in a lot more detail,
18 but that's the road map. I'm Kevin Brackett. I'm the
19 solicitor for the 16th Circuit, and over here with me is
20 Willy Thompson, my deputy solicitor. And for the next two
21 days or so, we're going to be presenting the State's case
22 for the charges of forgery, for the charges of burglary,
23 the charge of murder for the death of Ms. Pauline Cook.

24 I submit to you after you've heard this evidence, you
25 will be satisfied we've carried our burden of proof. And

1 it's our job to show she's guilty. That's our burden. I
2 submit you will be satisfied we carried our burden and
3 we've established beyond any reasonable doubt that
4 Braquette Walton is guilty of murdering Pauline Cook.
5 Thank you.

6 MS. ANDERSON: May it please the Court.

7 THE COURT: Yes, ma'am.

8 OPENING STATEMENTS BY MS. ANDERSON

9 MS. ANDERSON: Ladies and gentlemen of the jury, you
10 might not have been very enthusiastic as you came in this
11 morning. It's cold outside. You're taken away from your
12 work and your family responsibilities. We all understand
13 that jury service may feel very much like an imposition.
14 Your mind may be racing right now with all of the things
15 that aren't going to get done today while you're sitting
16 in this courtroom or the things that you're worried about
17 or concerned about. But what I ask you to do today is to
18 clear your mind of all of those things. To take a breath,
19 clear your mind, and focus on what's going on today. That
20 when you're seated in these chairs and in the jury room,
21 that your focus is on this case.

22 Because our criminal justice system relies on its
23 juries. And you are part of that. We rely on juries to
24 consider the facts, consider the evidence, consider lack
25 of evidence, listen to the law, and to come back with a

1 verdict. Our system relies on juries coming in without
2 any outside knowledge. It's the reason you were asked
3 questions by the judge when you initially came into the
4 courtroom.

5 In the past, juries were made up of people who knew
6 the parties involved. And their opinions, their verdicts
7 could be swayed by that outside knowledge. And our system
8 has evolved so that when you come into a jury, our juries
9 don't know what's happened or hasn't happened. Don't know
10 anyone involved. Don't come in with any prior
11 preconceived notions. And that's so important so that you
12 can listen carefully and critically and objectively to
13 what the State presents to you and also to what the State
14 doesn't present to you.

15 The judge talked to you briefly about the law, and
16 he'll talk to you again when he gives you instructions at
17 the end of this case. But I want to talk to you about a
18 few things that are very important to our system, because
19 I think they give you a lens through which to look at this
20 case over the course of it. And one of those is the
21 presumption of innocence. And it's one of the most
22 important parts of our system.

23 Every person who is charged is presumed innocent.
24 Braquette Walton is presumed innocent. And it's such an
25 important part of our law, and it's a part that you as a

1 jury are tasked with honoring that presumption of
2 innocence. And the other part of that is the State's
3 burden of proof. Mr. Brackett referenced that briefly at
4 the end of his opening. And that holds that the State
5 always has the burden of proof.

6 Braquette Walton is presumed innocent, and she has
7 absolutely nothing to prove to you here. But the State
8 must prove their case beyond a reasonable doubt.. That
9 means they must prove each and every element of each and
10 every charge that they've charged Braquette Walton with
11 beyond a reasonable doubt. The judge will talk to you
12 about what that standard means. But it's been described
13 as the kind of doubt that would cause a reasonable person
14 to hesitate to act. It's a very high burden of proof.
15 And our system entrusts juries with holding the State to
16 that burden.

17 Ladies and gentlemen, I talk about the jury's duty.
18 That's not just a theoretical duty. You are here today
19 because you have been selected for this case. And you
20 have been tasked with hearing this case. And so yes,
21 while you are a part of our system working and our
22 system's integrity depends on you, this is also extremely
23 important to Braquette Walton.

24 These are serious charges. Her liberty is at stake.
25 This is an important situation. And it's something that

1 we ask you to give your full attention and your focus. To
2 put blinders on to everything else going on outside. And
3 to focus on this case. And to look at it critically and
4 objectively. Keeping in mind the State has the burden of
5 proof and that Braquette Walton is presumed innocent.

6 Ladies and gentlemen, I know given the allegations of
7 this case, I know given the charges that have been read to
8 you, I understand that this is a situation where it may be
9 very easy to have emotion come into play. Emotion is very
10 human. It's a natural thing. But your task as jurors is
11 to not be swayed by emotion. Your task as jurors is to
12 not let emotion guide your decisions and guide your
13 thinking and guide how you hear and you see what comes in
14 before you. It's another reason that each and every one
15 of you was inquired as to whether you knew anyone involved
16 in this case. Because your task as jurors and your duty
17 is to be objective and if the State tries to rely upon
18 emotion, to block that out and instead to look at it
19 through a lens of objectivity. That is your duty. I
20 understand it's a difficult duty. I understand it's a
21 difficult situation. But our system for years has trusted
22 jurors like you to meet that responsibility.

23 As you look in this case, ask you to remember that it
24 is the State's burden of proof; that it is the State who
25 has the ability and the decision to bring in whatever

1 witnesses and whatever evidence they choose. I ask you to
2 look critically at what those witnesses say, what those
3 witnesses don't say, what witnesses may not come into
4 court. And I ask you to look critically for the gaps.

5 At the end of this case, it is your responsibility to
6 apply the law, to listen carefully, to discuss the case.
7 I ask as you sit in these chairs and as you sit in the
8 seats in the jury room that you put aside everything else
9 you might be thinking about in your outside lives. I ask
10 that you put aside the emotion that may be easy to fall
11 into. I ask that you look at this with the lens that the
12 State must prove their case beyond a reasonable doubt.
13 And if they fail to do so, then it is your duty as jurors
14 to return a verdict of not guilty.

15 I ask you to remember throughout the course of this
16 case that Braquette Walton is presumed innocent. I ask
17 you to exercise the responsibility our system has
18 entrusted you with, that Braquette Walton is entrusting
19 you with. To look at this case, to consider everything
20 through the lens of what the law says and what our system
21 requires. And at the end, we'll ask you to return a
22 verdict of finding Braquette Walton not guilty. Thank
23 you, ladies and gentlemen.

24 THE COURT: Call your first witness.

25 MR. THOMPSON: May it please the Court, Your Honor.

1 The State would call Linda Roach.

2 Ms. Roach, if you will come in to be sworn in,
3 please.

4 LINDA ROACH, after having first being duly sworn,
5 testified under oath as follows:

6 DIRECT EXAMINATION

7 BY MR. THOMPSON

8 Q. Good morning, Ms. Roach.

9 A. Good morning.

10 Q. Could you give your full name for the court, please.

11 A. My name is Linda Roach.

12 Q. And, Linda, where do you work?

13 A. I work at Park Pointe Village.

14 Q. And where is that located?

15 A. It's located in Rock Hill, South Carolina. I work on
16 the assisted living side.

17 Q. Okay. And can you tell me, what is your title there,
18 your job description there?

19 A. I'm a PCA, which is a patient care assistant. I help
20 the residents in any way that they need help.

21 Q. All right. And do you have a certain shift that you
22 usually work?

23 A. Yes, sir. I work 11:00-to-7:00 shift or 11:00 to
24 8:00.

25 Q. Is that 11:00 at night until --

LINDA ROACH - DIRECT EXAMINATION BY MR. THOMPSON

1 A. Yes, sir.

2 Q. -- 7:00 or 8:00 in the morning?

3 A. Yes, sir.

4 Q. So you kind of work a third shift --

5 A. Yes, sir.

6 Q. -- a late shift?

7 And is that -- how long have you been working there
8 at Park Pointe Village?

9 A. I've been there four years.

10 Q. Four years?

11 A. Yes, sir.

12 Q. And were you familiar with Pauline Cook?

13 A. I was.

14 Q. And if you would, tell me how you were familiar with
15 her.

16 A. She was a resident there. But -- and she was a very
17 sweet lady. She would come out and sit with me at the
18 mornings and chitchat with me, and after I would get off
19 shift, off work, sometimes she would be sitting outside in
20 the rocking chair, and she and I would sit and chitchat
21 and talk, and I helped her any way I could. You know, if
22 she needed help, which was very rarely because she was
23 very independent.

24 We like the same books. We talked about the books
25 and the movies and the current events. She liked to stay

LINDA ROACH - DIRECT EXAMINATION BY MR. THOMPSON

1 on top of current events, and she'd say, did you see
2 so-and-so in the paper? And I'd say, no, tell me about
3 it, and she would proceed to tell me about it. So she and
4 I were very close.

5 Q. Okay. And can you tell me, during your shift, did
6 you see her, like, at 11:00? Was she up at 11:00 when you
7 came?

8 A. No, sir.

9 Q. When did you mainly deal with Ms. Cook?

10 A. Usually it was very rarely to deal with her during
11 the night because she was very independent. She would
12 take herself to the restroom. She would -- occasionally
13 wanted Tylenol or some medication, you know, during the
14 night. But most of the time, she was just very
15 independent. She did everything herself. She would take
16 her showers and get up.

17 Q. Did she have any kind of routine that you observed
18 during the time that you worked with her?

19 A. Yes, sir. She would get up and get her showers, and
20 sometimes she would read her book. But always she would
21 go down to the coffee shop and get coffee. There's a
22 group there that would meet and discuss the morning days,
23 and she would get coffee and come back. She'd always be
24 right there around the desk, the nurses' desk at 6:30,
25 waiting for breakfast. Breakfast was at 7:30.

LINDA ROACH - DIRECT EXAMINATION BY MR. THOMPSON

1 So a lot of the residents would come out and sit and
2 talk and chitchat, and that's when we would have a lot of
3 conversations. And then after breakfast, she would go
4 walking. She and some of the residents would go walking
5 or she would go outside and sit on the rocking chair and
6 rock and enjoy the morning.

7 Q. Okay. And as far as you mentioned at 6:30, if she
8 wasn't out there by 6:30, what, if anything, did that mean
9 to you?

10 A. That meant there was something up. There was
11 something wrong, because Pauline was always there with her
12 feet propped up, reading or waiting to talk to somebody.
13 She was a very people person. She loved to talk to
14 people. And so if she was not there by 6:30, I knew
15 something was up.

16 Q. All right. Were you working the night of
17 November 11th, 2011?

18 A. Yes, sir, I was.

19 Q. And did you start around 11:00 that night?

20 A. Yes, sir.

21 Q. What time do you normally come in when you're
22 scheduled to start at 11:00?

23 A. 10:00, 10:20, something like that.

24 Q. And is that about the time you came in that day?

25 A. Yes, sir, it was.

LINDA ROACH - DIRECT EXAMINATION BY MR. THOMPSON

1 Q. And when you came in, was Ms. Cook already in bed at
2 that time?

3 A. Yes, sir.

4 Q. Tell me a little bit about how your night went. What
5 was going on when you arrived?

6 A. When I arrived, I was relieving the second-shift
7 group. We counted off her meds. She gave me the midnight
8 report, the report on the residents that was current. We
9 had one that had fallen and had a bad head injury, so we
10 had to make hourly checks on her. She told me the day had
11 been totally chaotic. It was just a chaotic day. So she
12 left at 11:20, and then after that, I went to the back to
13 the kitchen to help kind of start for breakfast. I have
14 everything prepared for breakfast, like sitting at the --
15 breakfast utensils and everything, so I had -- was working
16 on getting the coffee and stuff ready.

17 And so after that, I came back out and checked the
18 activity room. We do their laundry. We do the residents'
19 laundry if they want us to. But there wasn't any laundry,
20 so I came back out. And I went back and made orange juice
21 back in the kitchen. And then by that time, it was 12:00.
22 It was time for the 12:00 call. We do two-hour hourly
23 checks.

24 Q. What is the 12:00 call?

25 A. The 12:00 call is the security guard will call every

LINDA ROACH - DIRECT EXAMINATION BY MR. THOMPSON

1 two hours, and we do a radio check to make sure that our
2 batteries are working in case of emergency, and we just
3 say "OBT radio check," and he'll say, "We got you covered
4 OBT. You're fine."

5 Q. All right.

6 A. Just in case of an emergency or if we need it.
7 Sometimes if he notes something, he'll say "Did not catch
8 that, OBT. We're sending someone to check on it. Make
9 sure."

10 Q. Okay. So, now, you have a radio that puts you in
11 contact with security; is that right?

12 A. Yes, sir.

13 Q. And how about a telephone? Is there a telephone that
14 you have with you at any point?

15 A. Yes, sir. We have a cordless telephone too we always
16 carry with us. We carry the medcart keys to -- in case
17 residents need medicine. But it is a cordless telephone.

18 Q. All right. Let me ask you a little bit about that.
19 Does that phone, when it rings, does it ring out loud or
20 does it vibrate?

21 A. It rings out loud.

22 Q. Is it loud enough that people hear it around you or
23 just the person holding it?

24 A. Oh, no, sir. It's a loud ring in case we're busy
25 with another resident, someone else, if they're on the

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1 floor can also answer it too. So it rings loud.

2 Q. Now, by midnight is there anyone else -- any of the
3 other care workers with you in the assisted living wing
4 working?

5 A. No, sir. I'm the only one there.

6 Q. So basically you have that whole wing to kind of
7 watch during that period of time?

8 A. Yes, sir.

9 Q. And so you carry that phone with you. Does the -- is
10 there a phone at the main nurses' desk as well?

11 A. Yes, sir, there is.

12 Q. Now, does that phone, does it automatically forward
13 to the phone you're carrying --

14 A. Yes, sir.

15 Q. -- or do both of them ring at the same time? How
16 does that work?

17 A. I believe it's automatically forwarded to the one
18 that I'm carrying.

19 Q. Now, can you tell by looking at that phone where the
20 call is coming from?

21 A. No, sir.

22 Q. So do you know if it's coming from -- would you be
23 able to tell the difference of whether it came from inside
24 the facility or outside the facility?

25 A. No, sir.

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1 Q. So do the residents when they have -- do they have
2 phones in their rooms?

3 A. They do have phones in their rooms.

4 Q. Okay. When they use their phones, do they just dial
5 an extension to call that phone or how does that work?

6 A. No, sir. You have to dial the entire number to get
7 to us at the desk.

8 Q. So the residents' phones, are those actual phones
9 that they have to pay for and things like that? They have
10 their own lines?

11 A. Yes, sir, they have their own lines.

12 Q. So you don't know, though, when your phone rings
13 whether it's a resident or someone from outside of the
14 facility?

15 A. No, sir.

16 Q. Now, during the course of your shift, did anything
17 unusual happen with the phone?

18 A. It kept ringing, and there would be no one on the
19 other end, which really it was alarming because I thought
20 maybe it was a resident that needed help, you know, in
21 another part or just dialed the number wrong. So it kept
22 ringing. But there would be no one there. No one to
23 answer.

24 Q. Was that unusual?

25 A. That was very unusual.

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1 Q. Okay. Let's go back. You've had the call, then, the
2 security call at 12:00. What happened after that?

3 A. Well, I basically set up -- we have a resident that
4 needed medication at 12:00, so I went and started his.
5 His took a fairly long time because he got lotion and a
6 breathing treatment also. So I went and did part of his.
7 I rubbed him down with lotion and let him sit and watch
8 television for a little bit and told him I'd be back and
9 start the breathing treatment. I went back to the desk
10 because I knew it was time for the medicine to come. So
11 the medicine came at 12:20. I signed off on the medicine.

12 Q. And who brings you the medicine?

13 A. It's a lady from the pharmacy, and her name was
14 Wanda. So when Wanda came in, I signed off. I watched
15 her get back in her car, just because, you know, it's
16 safety reasons. I watched her get back in her car. After
17 she left, I put the medicine up and went back and helped
18 the resident back into bed after we did his breathing
19 treatment.

20 Q. Okay. And what happened next in your shift?

21 A. I went back to the desk, checked the papers. I do
22 medicine, doctors' appointments. I make sure all the
23 papers are ready for the residents when they go to the
24 doctors. I check to make sure who needed what paperwork.
25 I checked the lobby. I checked on a few residents. The

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1 one that had fallen, I checked on her, made sure she was
2 okay. And the lady beside of her.

3 As I was coming out of a resident's room, I heard the
4 alarm going off, the fire alarm going off again. It had
5 went off.

6 Q. Now, you said the fire alarm going off again. Is
7 that a loud alarm, it's audible throughout the whole
8 building, or how does that alert you?

9 A. No, sir. It's a panel box at the front door, and it
10 beeps, and it's a high-pitched beep, so you can hear it.
11 And I heard it go off, so I went to the front desk and I
12 checked it and it said fire, I believe, in trash room --
13 smoke detected in trash room beside our L-room. So I
14 proceeded to call our roving security and talked to Angelo
15 and asked him to go check it out. And he went to check it
16 out, and he came back and said that there was not anything
17 detected, that it must have been a false alarm.

18 Q. So then do you have the ability to reset it, then, at
19 that point?

20 A. I did. I reset it.

21 Q. Did any other alarms go off that night?

22 A. They constantly went off.

23 Q. Was that unusual?

24 A. Somewhat unusual. We had been having some problems
25 with the system, but to be back to back to back to back

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1 was totally unusual. Usually after you set it a time or
2 two, after you made sure it was fine, it would quit. The
3 system would go in like a quiet mode. But this night it
4 was particularly back to back to back to back.

5 Q. All right. Can you describe for me, where were some
6 of the other alarms that went off in the facility?

7 A. One of the alarms that went off was a alarm in -- in
8 the boiler room downstairs.

9 Q. Okay.

10 A. That was -- it said smoke detected in the boiler
11 room.

12 Q. Okay. What did you do when that happened?

13 A. I alerted Angelo, Angelo Ivey. He is our roving
14 security. He went downstairs and checked it out, and he
15 came back up and said -- told me that there was water in
16 the boiler room, that he would prefer if we called the
17 on-call maintenance man. So we did.

18 Q. All right. Did you call him?

19 A. I did.

20 Q. And what did you tell him?

21 A. We explained to him that the alarm was going off and
22 that Angelo had went and checked it out and said that
23 there was a lot of water in the boiler room. And he
24 proceeded to tell me that they was aware of a problem,
25 that they had ordered parts and the parts would be in and

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1 they would fix it.

2 Q. Did you also let Angelo talk to the maintenance man?

3 A. Yes, sir. He wanted to speak directly to Angelo, so
4 I turned the phone over to Angelo. And then after Angelo
5 hung up with him, he told me the same thing, that they had
6 ordered parts and that they would be in to fix it.

7 Q. Do you remember, where is the boiler room in --
8 situated in proximity to Ms. Cook's room, Pauline Cook's
9 room?

10 A. It's directly under her room.

11 Q. Okay. And did you go in and check on Pauline Cook at
12 that time?

13 A. No, sir.

14 Q. All right. And can you tell me, do you remember
15 about what time it was that that alarm went off? Do you
16 recall?

17 A. Around 12:30.

18 Q. So about a half hour after midnight or so, somewhere
19 in there?

20 A. Yes, sir.

21 Q. Now, after that alarm went off, were there more
22 alarms too? You've already told us of a couple.

23 A. Yes, there was more alarms.

24 Q. Do you recall where those were?

25 A. Several of them said fire detected in the prep area

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1 in the kitchen. So I went and checked that and made sure
2 that there was no fire in there.

3 Q. So now when you go to check the kitchen, was there
4 anyone else at the nurses' desk at that time?

5 A. There's no one else at the nurses' desk, no. I'm the
6 only one there.

7 Q. All right. And so you checked the kitchen. Do you
8 go back? Do you then undo the alarm again?

9 A. I go back and reset the alarm again, and I go and
10 check on a couple more residents. When I come out of the
11 room, there's another alarm that states that there is
12 smoke detected in the living room in 509. Well, 509 is a
13 new resident, so I go and check on him and make sure
14 there's no fire in there. And while I'm there, I check on
15 the lady that had fallen. And she was still resting.
16 There was still no fire detected.

17 Q. Now, when you say you check on someone, what exactly
18 do you do to check on someone?

19 A. I open the door, and we have a little small
20 flashlight we carry, and we just shine in and just make
21 sure they're in the bed and they're not on the floor or
22 don't need -- you know, they're in the bed.

23 Q. So you don't come in and wake them up and disturb
24 them, things like that?

25 A. Oh, no, no.

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1 Q. Now, as the day progressed, or as the early morning
2 hours progressed, did you ever have an opportunity prior
3 to 6:30 to go check on Ms. Cook?

4 A. No, sir, I did not.

5 Q. Did it stay kind of hectic like you've been
6 describing all night?

7 A. It was like that all night. It was constant. One
8 beep after another beep, like the alarm system. And by it
9 saying fire, of course we had to check it out and we had
10 to come back and reset it. And it was like that all
11 night. It was just one of those crazy nights.

12 Q. All right. So I'm assuming if you just took out the
13 various alarms, you have a busy night without that when
14 you're all alone; is that right?

15 A. Yes, I do. Checking on residents and putting up
16 medicine when it comes and getting -- and it was on a
17 Saturday night, so Saturday night routine was to clean out
18 medcarts and put up -- pull the expired medicines and make
19 sure that everybody had their medicines that was needed
20 that was ordered. So we cleaned out the medcarts. And I
21 tried to follow as close as I could my Saturday night
22 routine. And just I tried to check on as many patients as
23 I could.

24 Q. All right. Now, as it gets closer to 6:00, what are
25 some of your duties at that point? What are some of the

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1 things that you're required to do then?

2 A. Okay. 6:00, I start giving out medicine. We have
3 6:00 a.m. medicines I give. So about 5:30 I start
4 checking and making sure that nobody has new medicines,
5 because it had been that hectic. Usually I check earlier,
6 but 5:30, it was the first time I could. Nobody got new
7 medicines, so I went ahead and started pulling the
8 6:00 meds. Like I said, we had one gentleman that
9 required -- in 509 that required the rubbing down of
10 lotions and a breathing treatment, and his took quite a
11 while to do. So I started him a little bit before 6:00.

12 Q. Okay. And then as time went on and you're getting
13 closer to 6:30, did you remain busy through that time as
14 well?

15 A. I did. We have a gentleman, he was a diabetic and
16 his sugar fluctuated quite a bit, so I had to spend quite
17 a bit of time with him checking his sugar, giving him his
18 insulin. I even had to make him a snack that day because
19 his sugar level was low.

20 Q. Had you seen Ms. Cook at all by this point?

21 A. I had not.

22 Q. What is that you noticed that you hadn't seen
23 Ms. Cook -- when was it that you first noticed that you
24 hadn't seen her?

25 A. At 6:30. I had just come out of room 507, and she

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1 was not sitting there, because where she sits is directly
2 across from the nurses' station, and you can see her from
3 all hallways. And she was not there. And I knew then,
4 you know, okay, where is she at? So I came around the
5 corner, and she was not there. So it was right at 6:30.

6 Q. Now, Ms. Cook's room, if we can just describe where
7 that is quickly. What room is that, by the way?

8 A. 519.

9 Q. Okay. And where is her room located in the facility?

10 A. Her room is located on the opposite hall. It's on
11 the left-hand hall, all the way at the very end of the
12 hall.

13 Q. Okay.

14 A. You can stand at the nurses' desk and see her room.

15 Q. You can see her door from the nurses's desk?

16 A. You can see her door from the room.

17 Q. So is it sideways to when you face it from the
18 nurses' desk, or is it facing you straight on?

19 A. It's facing straight on.

20 Q. So it's the room right at the end of the hall?

21 A. Right at the end of the hall, yes.

22 Q. Are there any other rooms right at the end of the
23 hall?

24 A. No, sir, not facing directly towards the nurses.

25 Q. Are there any other rooms other than residents' rooms

LINDA ROACH - DIRECT EXAMINATION BY MR. THOMPSON

1 at that end of the hall?

2 A. There are. There was a linen room and a trash room.

3 Q. Okay. And where are they located in relationship to
4 Ms. Cook's room?

5 A. They're off to the left-hand side of her room also.

6 Q. Okay. Now, can you actually see those rooms from the
7 nurses' desk?

8 A. You cannot because there is a wall blocking it.

9 Q. And did you have an opportunity to -- during the
10 course of that night during your shift to go down to those
11 rooms?

12 A. I did not.

13 Q. All right. And did you have an occasion to empty
14 trash at any point?

15 A. I did not. Usually security comes through and picks
16 up the trash I have.

17 Q. Now, one other thing with Ms. Cook. What was her
18 ability like to get around within the facility on her own?
19 Did she have to use anything to assist her or did she use
20 anything?

21 A. She walked with a walker, but it was more for
22 security purposes. But she was able to do whatever she
23 wanted to. She dressed herself. She was very
24 sharp-witted.

25 Q. Now, when you say for security purposes with the

LINDA ROACH - DIRECT EXAMINATION BY MR. THOMPSON

1 walker, you don't mean to defend herself?

2 A. Oh, no, no.

3 Q. What do you mean?

4 A. Fall purposes. It was just a fall precaution.

5 Q. Okay.

6 A. She did that and she kept her books and her stuff in
7 it, but it was more for fall precaution.

8 Q. Was she slow with it, or was she pretty quick with
9 it?

10 A. Oh, no. She was very fast.

11 Q. Now, if you would, if you can turn your attention to
12 about 6:30, when you said you realized you didn't see her
13 there. What did you do when you realized you didn't see
14 her in the area in front of the nurses' station?

15 A. When I realized she was not there, I quickly put up
16 what I had and I went down to check on her. And that's
17 when I found her.

18 Q. And can you tell me, what did the scene look like
19 when you found her?

20 A. When I opened the door, her room was full of water.
21 And I quickly turned on the light.

22 Q. The light was off inside her room?

23 A. Her light was off on the inside, yes, sir.

24 Q. Was the TV on when you went in?

25 A. No, sir, there was no TV on. Her light was off, and

LINDA ROACH - DIRECT EXAMINATION BY MR. THOMPSON

1 I went around the corner and turned the light on, and I
2 was going to tell her to stay in bed because I thought
3 maybe she accidentally overslept, which I knew was
4 unusual, but it does happen sometimes. I just wanted her
5 to stay in bed and not get in the water. She was not
6 there. So I turned around and I looked, and the bathroom
7 door was open just about a half an inch. And I saw a
8 light coming on.

9 Q. What did you do then?

10 A. I opened the bathroom door, and I saw Ms. Cook laying
11 in the shower. Half in, half out of the shower.

12 Q. And the light was on in the bathroom?

13 A. The light was on in the bathroom.

14 Q. What about the shower?

15 A. The shower was running, and I reached up and cut it
16 partially off. I cut it off.

17 Q. And what did -- at that point did you feel -- was the
18 water hot? Was it cold? How was -- what was the --

19 A. The water was tepid. It was very tepid, like you
20 might have just started a shower and it was just very --
21 barely warm.

22 Q. Okay. Okay. And did you notice the position that
23 Ms. Cook was in at that point?

24 A. Yes, I did.

25 Q. Would you describe that for us.

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1 A. She was on her side, and one arm was up above her
2 head like this, and the other was down. Her legs were
3 tilted like she -- like you might have seen somebody
4 sitting in a chair one leg above another leg.

5 Q. Okay. And what part of her was in the shower itself?

6 A. The upper torso of her. The upper half of her was in
7 the shower. Her legs were laying out.

8 Q. When you said that one arm was above her head, was
9 that arm under her head or over her head on the side?

10 A. It was kind of over her head. Let me think. Yeah, I
11 think it was over her head.

12 Q. Was she laying on her side?

13 A. Yes, she was.

14 Q. And the arm that was over her head, was that on the
15 bottom of the shower, or was that on the outside on the
16 top?

17 A. On the outside on the top.

18 Q. And what -- at that point, what did you do when you
19 saw her -- before I get there, did she have any clothing
20 on of any -- at that point?

21 A. No, she didn't. She had a cap on her head, a shower
22 cap, but it was pinned back at the back of her head. Not
23 like you would pull a shower cap on her, you know, to
24 protect your hair. It was like it was just pinned on.

25 Q. What did you do at this point now? You turned off

LINDA ROACH - DIRECT EXAMINATION BY MR. THOMPSON

1 the water, you found her. What did you do next?

2 A. I felt for a pulse, and I kind of turned her over
3 just a little bit to feel for her pulse. I could feel no
4 pulse on her arm, so I reached for her neck and tried a
5 pulse there. She had no pulse. So I opened the door and
6 I went outside, and as I was going outside, I saw two
7 coworkers coming in. And I told them 911 emergency,
8 Ms. Cook was hurt. And so one of them jumped on the phone
9 and started dialing emergency. The other one came down
10 with me. We was told to start CPR. So we rolled her over
11 and --

12 Q. And when you rolled her over, were you the person who
13 had to roll her over?

14 A. Sara and I both gently rolled her over.

15 Q. And what direction did you roll her over?

16 A. More on her back.

17 Q. Okay.

18 A. So we could do CPR.

19 Q. Did you move her from where she was in the shower at
20 all at that point?

21 A. No, sir. We just rolled her over. She was laying
22 previously on her side, but we just rolled her on her
23 back.

24 Q. When she was on her side there, was she covering the
25 drain? Is that why the water was pouring --

LINDA ROACH - DIRECT EXAMINATION BY MR. THOMPSON

1 A. Yes, sir, she was partially covering the drain.

2 Q. Okay. And at that point, did y'all attempt to
3 perform CPR?

4 A. We did.

5 Q. And what part of it did you do?

6 A. I did the mouth part. The blowing in the mouth. I
7 had to tilt her head back.

8 Q. Okay.

9 A. And open her mouth, and I tried to give her
10 mouth-to-mouth.

11 Q. All right. Did you use anything to assist you? Do
12 you have any equipment that you kind of use to help assist
13 with that?

14 A. We did. We had a -- one of the girls had a plastic
15 safety shield to go over the mouth, so that's what we
16 used.

17 Q. All right. And what color is that? Do you recall?

18 A. It's blue. I believe it was blue.

19 Q. Was it Sara that helped you with the rest of that?
20 Do you recall?

21 A. Yes, Sara.

22 Q. And what part of it did she do?

23 A. She did the compressions.

24 Q. How long do you recall that y'all tried to perform
25 CPR at that point?

LINDA ROACH - DIRECT EXAMINATION BY MR. THOMPSON

- 1 A. It was just a matter of minutes before the fire
2 engine came. The EMS arrived, so I would just say just a
3 matter of minutes.
- 4 Q. All right. And when they arrived, did you turn it
5 over to them at that point?
- 6 A. We did. We turned it over to them and we stepped
7 out.
- 8 Q. Other than having to put Ms. Cook on her back to try
9 and perform the CPR, did you move anything else within the
10 bathroom? Do you recall?
- 11 A. There was a bathmat that was soaking wet and some
12 towels. I did move that. And there was a --
- 13 Q. Where were they when you came in?
- 14 A. They were in front of the shower.
- 15 Q. Okay.
- 16 A. And a bath stool. I remember moving it.
- 17 Q. And how did you move the bath stool? Do you recall?
- 18 A. I just pushed it to the side so I could get to her.
- 19 Q. Okay. And was that actually in the shower when you
20 moved her, or was that out on the floor?
- 21 A. That was outside of the shower.
- 22 Q. When you took -- put the mat aside from the towels,
23 did you just kind of push them back on the --
- 24 A. Yeah.
- 25 Q. -- floor part? Is that where you put them?

LINDA ROACH - DIRECT EXAMINATION BY MR. THOMPSON

1 A. We just pushed them back so we could just get to her.
2 Our main priority was just getting to her and try and help
3 her any way we could.

4 Q. Had you moved anything else?

5 A. No, sir.

6 Q. Let me ask you, when you came in, was the curtain
7 shut when she was lying there? Was the curtain open to
8 the shower?

9 A. It was open.

10 Q. Was anything in your way when you tried to walk over
11 to her? Did you have to move anything initially to
12 actually get to her?

13 A. No, sir.

14 Q. Now, what was your condition then at this point in
15 time after you had found her and all this had happened and
16 now EMS has taken over? What condition were you in?

17 A. I was totally hysterical. I had never had an
18 incident like this happen, and to know it was Ms. Cook. I
19 know we're not supposed to have favorites, but she was --
20 a -- very special to me. So I was totally hysterical.

21 Q. Now, can you tell me, as you look back, was there any
22 time in that night that you had checked on her during your
23 shift prior to finding her in the bathroom?

24 A. No, sir.

25 Q. Now, was there a time that you told one of the

LINDA ROACH - DIRECT EXAMINATION BY MR. THOMPSON

1 officers that you thought you had checked on her?

2 A. There was a time. During --

3 Q. And why is that?

4 A. Well, during normal days, during a normal shift, I
5 check on them at 1:00 and 3:00. That's usually after the
6 12:00 meds, so I come up the hall, checking on them and at
7 3:00. So normally if it's a quiet night, I check on them
8 twice, at 1:00 and 3:00. So being so hysterical and so, I
9 guess, in state of shock when he asked, I just told him
10 automatically 1:00 and 3:00.

11 Q. But did you actually check on her at those times?

12 A. No, I did not.

13 Q. And is that due to the hectic nature of that night?

14 A. It was due to the hectic nature of that night. It
15 was just a crazy night, and as we started walking -- as
16 the officer started asking me questions, then I realized
17 that I had not checked on her. And I told him. I told
18 him, I said, "I did not check on her." It hit me. I had
19 not checked on her. But during a quiet night, I would
20 have at 1:00 and 3:00.

21 Q. Now, do you know the defendant, Braquette Walton?

22 A. I do.

23 Q. Had you worked with her before there, Park Pointe
24 Village?

25 A. Not prior to Park Pointe, no, sir. I did not know

LINDA ROACH - DIRECT EXAMINATION BY MR. THOMPSON

1 her before then.

2 Q. I mean did you work with her at Park Pointe I guess
3 is what I mean.

4 A. Yes, sir, I worked with her.

5 Q. Did you see her at all during the time that you were
6 on your shift?

7 A. No, sir, I did not.

8 Q. All right. Did you hear from her at all? Did she
9 speak to you in any way --

10 A. No, sir.

11 Q. -- form of a text or anything like that?

12 A. No, sir.

13 MR. THOMPSON: Beg the Court's indulgence, Your
14 Honor.

15 Q. Just briefly, Ms. Roach. The door to Pauline Cook's
16 room, could it be locked?

17 A. It could be locked.

18 Q. And is that because it's her residence; she can lock
19 it if she wants?

20 A. Yes, sir. Each resident can lock their own room.

21 Q. Did she keep her door locked?

22 A. No, sir.

23 Q. Was it locked that night when you went to go in?

24 A. No, sir.

25 Q. And you had mentioned the hang-up calls. Do you

LINDA ROACH - DIRECT EXAMINATION BY MR. THOMPSON

1 recall about the time frame in which you received those
2 hang-up calls? Was it earlier in the shift? Later in the
3 shift? Kind of the middle of the shift? Where was it?

4 A. It was later, about in the middle of the shift. I
5 would say around 2:00.

6 Q. All right. And did it just happen during that period
7 of time? None else that you recall?

8 A. Between 2:00 and 4:00 I got several of them.

9 Q. Okay. Thank you. Please answer any questions the
10 defense has for you.

11 THE COURT: We'll take a short refresher break before
12 we get into cross-examination. If you'll follow the
13 bailiff. We'll send for you in about ten minutes.

14 Ms. Roach, you can step down and have a drink of
15 water if you like. Don't discuss your testimony with
16 anyone.

17 (The jury left open court at approximately 10:45
18 a.m.)

19 (A recess was taken from 10:45 a.m. to 11:05 a.m.)

20 THE COURT: Bring in the jury -- I'm sorry, wait,
21 Mike, just wait one minute. We got to get Ms. Walton. Oh,
22 she's in. I'm sorry. Yes, bring in the jury. I
23 apologize.

24 (The jury entered the courtroom at 11:07 a.m.)

25 THE COURT: Mr. Smith.

LINDA ROACH - CROSS-EXAMINATION BY MR. SMITH

1 MR. SMITH: May it please the Court, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. SMITH

4 Q. Ms. Roach, my name is Phil Smith. I'm an attorney
5 for Braquette Walton.

6 Do you still work at Park Pointe?

7 A. Yes, sir.

8 Q. And you talked about when you arrived or how you get
9 in, but do you go down a road that has a security gate
10 there at first when you enter?

11 A. Yes, sir.

12 Q. And back on November 12th, when you would come for
13 the PM shift last year of 2011, did you go to that
14 security gate as you drove in?

15 A. I did.

16 Q. And are there sort of two different ways you can get
17 the arm to go up? One would be you have a clicker, and
18 the other would be I guess is there someone there, a
19 security guard who could raise the gate as well?

20 A. There is. There's always a security guard.

21 Q. And do you remember on that evening which you did?
22 Did you use a clicker, or did the guard allow you in?

23 A. I used the clicker, but I wasn't -- it was fairly new
24 to me, and I'm not a high-tech person. I think the
25 security guard let me in. It was Tony. He was our

LINDA ROACH - CROSS-EXAMINATION BY MR. SMITH

1 security guard.

2 Q. Tony is the name of one of the security guards, and
3 he was working that evening?

4 A. Yes, sir.

5 Q. And you were having or had been having some sort of
6 difficulties with your clicker?

7 A. Yes, sir.

8 Q. But obviously you got in; you got access to the
9 property?

10 A. Yes, sir.

11 Q. And you mentioned some shifts. At some point are
12 there three persons, be they either nurses or patient care
13 assistants, who were working at the same time on one
14 shift?

15 A. Yes, sir.

16 Q. It can be as many as three and as few as one; is that
17 right?

18 A. Yes, sir.

19 Q. And in the sort of afternoon, there can be three on,
20 but one of these leaves at 7:00; is that right?

21 A. Yes, sir.

22 Q. And then one leaves around 9:00?

23 A. 9:00.

24 Q. Is that right?

25 A. Yes, sir.

LINDA ROACH - CROSS-EXAMINATION BY MR. SMITH

1 Q. And I'm saying 7:00. I'm saying 9:00. There's
2 paperwork and things to do afterward, so it wouldn't be
3 unusual to be there until 7:30 or 9:30 if you were to
4 scheduled to leave at 7:00?

5 A. Yes, sir.

6 Q. And then one leaves at 11:00 as well?

7 A. Yes, sir.

8 Q. And the 11:00 would be the person who you're
9 relieving; is that right?

10 A. Yes, sir.

11 Q. But you get there early. You may get there as early
12 as 10:00 or 10:30.

13 A. Yes, sir.

14 Q. So there's some sort of overlap; is that right?

15 A. Yes, sir.

16 Q. There's never a time when there's no one; is that
17 right?

18 A. That's staffed?

19 Q. Correct.

20 A. No, sir. There's always staff on duty.

21 Q. Okay. And you mentioned that you had spoken with
22 some police officers sort of the morning of the 13th,
23 but you also had an opportunity to give a statement in
24 this case; is that right?

25 A. Yes, sir.

LINDA ROACH - CROSS-EXAMINATION BY MR. SMITH

1 Q. And you didn't do that that same day. At some point
2 did you go back to the police department, or did they come
3 to you?

4 A. I did. I went back to the police department and
5 spoke with Detective Cantey.

6 Q. And have you had an opportunity to review that
7 statement?

8 A. I did.

9 Q. I'm going to hand you a copy. If you want to refer
10 to it, feel free. First I should ask you if that's your
11 statement.

12 A. Yes, sir.

13 Q. Okay. And in there you describe in that first
14 paragraph sort of how you got there and the date and time
15 and all that you just sort of told the jury a moment ago;
16 is that right?

17 A. Yes, sir.

18 Q. And then in the next paragraph, you talk about going
19 inside, you didn't see anyone, and you sort of talk about
20 the different shifts that we talked about; is that right?

21 A. Yes, sir.

22 Q. And then the next paragraph, you say the first person
23 you saw that night was Teresa; is that right?

24 A. Yes, sir.

25 Q. And I believe her last name is Stagner?

LINDA ROACH - CROSS-EXAMINATION BY MR. SMITH

1 A. Yes, sir.

2 Q. And you talked about the things that had gone on that
3 day. I believe you mentioned that it was a hectic day and
4 that she left sometime around 11:20; is that right?

5 A. Yes, sir.

6 Q. And she told you about a hectic day already by that
7 point because I believe a patient had fallen; is that
8 correct?

9 A. Yes, sir.

10 Q. And that's obviously unfortunate, but that does
11 happen sometimes at an assisted care facility. So would
12 that mean sort of extra checks for that patient?

13 A. It did that night. We had an hourly check because it
14 was a head wound and she had a big knot. And that is
15 not -- sometimes when a patient has been very ill, we do
16 do excessive checks on them. They'll leave a sheet out,
17 and we would sign it stating that we had checked on them.

18 Q. Okay. But normally checks would be every two hours,
19 not every hour; is that right?

20 A. It was twice a night.

21 Q. Okay. Twice a night?

22 A. Yes, sir.

23 Q. Or twice per shift, or how does that go? A normal
24 check would be how many?

25 A. A normal check would have been, for me, at 1:00 and

LINDA ROACH - CROSS-EXAMINATION BY MR. SMITH

1 3:00. That was the normal check.

2 Q. And you talk about -- you mentioned a Wanda showing
3 up.

4 A. Yes.

5 Q. Now, that's a person who delivers medication. She
6 doesn't work for Park Pointe, but she delivers medication
7 there; is that right?

8 A. Yes, sir.

9 Q. And she comes in around 12:20, something like that?

10 A. Yes, sir.

11 Q. Okay. And does she sort of restock the carts that
12 you have to...

13 A. No, sir. She brings the medication that we order
14 that the resident may be running out of. And so we
15 reorder it for them, make sure they have it. So she'll
16 bring it at night and sometimes during the day. But she
17 had brought the medication that was reordered for Saturday
18 night.

19 Q. So she showed up, and that's 12:20 a.m., so in the
20 nighttime dark hours?

21 A. Yes, sir.

22 Q. And you mentioned that you walked her back to the
23 door for safety concerns?

24 A. Yes, sir.

25 Q. And you saw her get into her vehicle?

LINDA ROACH - CROSS-EXAMINATION BY MR. SMITH

1 A. Into her car.

2 Q. And then you -- on the next page of your statement,
3 you mention that you peeped in next door on a resident and
4 they were doing okay?

5 A. Yes, sir.

6 Q. Now, you mentioned an Angelo -- Angelo Ivey.

7 A. Yes, sir.

8 Q. Who is he?

9 A. He is our roving security for that night. His duty
10 is maintenance/roving security. So he was the one I
11 called when I noticed the fire alarms. He was supposed to
12 go check them out.

13 Q. Yes, ma'am. So that's someone different from Tony,
14 who was working up at the front gate?

15 A. Yes, sir.

16 Q. So Angelo Ivey is a roaming security guard. And you
17 indicated that you had seen a smoke alarm in a trash room
18 beside room 212, and that was around 12:30; is that right?

19 A. Yes, sir.

20 Q. And then you mentioned in that paragraph that you
21 reset that alarm but then another alarm went off and
22 registered in a boiler room.

23 A. Yes, sir.

24 Q. Near the -- in the AL. I'm assuming that to mean
25 assisted living?

LINDA ROACH - CROSS-EXAMINATION BY MR. SMITH

1 A. Yes, sir.

2 Q. Okay. And then again you contacted Angelo concerning
3 that, and he went down to check it?

4 A. Yes, sir.

5 Q. And then he made a call to a person named Chuck.

6 Now, who is Chuck?

7 A. No, sir. I placed the call to Chuck.

8 Q. Oh, you called?

9 A. Chuck is our on-call -- he was the on-call
10 maintenance man for the night. If we have a problem with
11 maybe a stopped-up toilet or something during the night,
12 he's -- the maintenance men rotate who's on call and who's
13 not. It just so happened it was Chuck that night, so I
14 called Chuck.

15 Q. Okay. So he was on call. That's someone obviously
16 different than Angelo --

17 A. Yes, sir.

18 Q. -- or someone different from Tony. And they had a
19 conversation. And so now we're to about 12:45. Is that
20 about right?

21 A. Yes, sir.

22 Q. And then you mentioned that you again started
23 checking on residents, and you were checking both a north
24 hall and a south hall; is that right?

25 A. More on the north hall.

LINDA ROACH - CROSS-EXAMINATION BY MR. SMITH

1 Q. Okay. And then at the end of that next paragraph --
2 or the middle of that next paragraph, you say you checked
3 on the south hall. You believe there are nine residents
4 on that hall.

5 A. Yes, sir.

6 Q. Then it was time to go to 509, so that's back to the
7 north hall?

8 A. Yes, sir.

9 Q. And then there was another alarm. This is for a
10 smoke detector in the living room area of that room, of
11 room 509. Was that where you mentioned there was a new
12 patient?

13 A. Yes, sir.

14 Q. I'm sorry, a new resident. And you were able to
15 determine that there was no smoke there?

16 A. Yes, sir.

17 Q. And then an alarm went off in the kitchen about smoke
18 being detected there; is that right?

19 A. Yes, sir.

20 Q. So this is sometime obviously after 12:45 --

21 A. Yes, sir.

22 Q. -- 1:00, 1:30 somewhere in there. Did you go to the
23 kitchen yourself, or was someone in the kitchen?

24 A. No, sir, there was nobody in the kitchen. All
25 kitchen staff was gone. The only ones on the premises

LINDA ROACH - CROSS-EXAMINATION BY MR. SMITH

1 that was staff was Angelo Ivey, myself, and just security
2 guard --

3 Q. Okay.

4 A. -- at the main gate.

5 Q. And when do kitchen staff begin showing up to prepare
6 breakfast?

7 A. Depending on who it is and what they have to prepare,
8 anywhere from 4:00 a.m. to 6:00 a.m.

9 Q. And then you reset an alarm around 2:00. An alarm
10 went off in the kitchen area. You reset it, and you know
11 it's around 2:00 because that's when you did a 2:00 radio
12 check; is that right?

13 A. Yes, sir.

14 Q. And again went and checked the south hall. And then
15 this is where you mentioned between 2:00 and 4:00 that you
16 had sort of a phone with you and you began receiving these
17 calls with no one on the other end?

18 A. I always carry the phone with us. We always have
19 the -- that was nighttime routine. Always had the phone
20 in case of an emergency. We had a walkie-talkie too, a
21 walkie-talkie, and the med keys on us.

22 Q. Yes, ma'am. And then on the next page, you indicate
23 an alarm going off in room 509?

24 A. Yes, sir.

25 Q. All right. And you went and checked that. And you

LINDA ROACH - CROSS-EXAMINATION BY MR. SMITH

1 have a 4:00 radio check. And then you had checked
2 rooms 514, 516, 517, and noted that the room at 517 was
3 making a noise, so you made a note for maintenance in
4 that; is that right?

5 A. Right.

6 Q. This is down in the south hall; is that right?

7 A. Yes, sir.

8 Q. And you also at the end of that paragraph noted that
9 the trash room door was propped open; is that right?

10 A. Yes, sir.

11 Q. And you indicate that it had something under it, and
12 you said it's the second door to the right of Ms. Cook's
13 room?

14 A. Yes, sir.

15 Q. And you said that it's usually closed, but lately you
16 had seen that someone had stuck a piece of paper in the
17 latch so it won't close, and that had happened about a
18 month prior?

19 A. Yes, sir.

20 Q. Safe to say you don't just sit at that nurses'
21 station desk all evening?

22 A. Oh, no, sir. No, sir.

23 Q. There's a lot of moving up and down the hallways and
24 different places?

25 A. Yes, sir.

LINDA ROACH - CROSS-EXAMINATION BY MR. SMITH

1 Q. And you really don't know where you're going to have
2 to be at any given time other than back for the radio
3 checks and those sorts of things?

4 A. Correct.

5 Q. Now, you mentioned that you spoke with officers at
6 the Park Pointe place that morning --

7 A. Yes, sir.

8 Q. -- is that right?

9 Do you remember how many different officers you spoke
10 to?

11 A. Oh, no, sir, I don't.

12 Q. And at some point, though, you think you told an
13 officer that you had checked on Ms. Cook at, I believe,
14 1:00 and 3:00?

15 A. Yes, sir. I believe it was Detective Cantey.

16 Q. Now, that whole nighttime hour into that morning
17 shift, you never saw Braquette Walton, did you?

18 A. No, sir.

19 Q. Are you familiar with her car? Would you know her
20 vehicle if you saw it?

21 A. I believe it was the little red car. I do.

22 Q. Did you ever see it that evening?

23 A. Not in the parking lot, no, sir.

24 Q. Had you seen it -- were you in other places other
25 than on the property that night?

LINDA ROACH - CROSS-EXAMINATION BY MR. SMITH

1 A. No, sir.

2 Q. So you wouldn't have seen it anyway?

3 A. No, sir.

4 Q. At any point in time that evening or that morning did
5 you hear a struggle --

6 A. No, sir.

7 Q. -- like people fighting or tussling?

8 A. No, sir.

9 Q. Did you ever hear any screams or hollers or anything
10 like that?

11 A. No, sir.

12 Q. Did you ever hear any argument?

13 A. No, sir.

14 Q. There's a room in the front when you go in. I
15 believe you call it the tree room; is that right?

16 A. Yes, sir.

17 Q. It's got a tree painted on the back wall?

18 A. Yes, sir.

19 Q. Is that an area where people could gather or family
20 came in? It's got TV and some tables and chairs in it?

21 A. Yes, sir. It's the OBT television room, game room,
22 story room. The residents meet in there, and they have
23 stories or watch movies and popcorn. Sometimes they just
24 sit in there, and we have a gentleman that comes on
25 Wednesday nights, and he likes to read and chitchat with

LINDA ROACH - CROSS-EXAMINATION BY MR. SMITH

1 the residents, so they gather in there.

2 Q. Okay. And that's sort of right at the entrance; is
3 that right?

4 A. Yes, sir. On the entrance on the right, I believe.

5 Q. Okay. And then Ms. Cook's room you indicate is down
6 a hall. It sort of sits right directly in front. If this
7 were the nurses' stations, it would be sort of like that
8 far door --

9 A. Yes, sir.

10 Q. -- at the back of the courtroom?

11 A. Yes, sir.

12 Q. So if you were at the nurses' station, no doubt you
13 could see Ms. Cook's door, right?

14 A. Yes, sir.

15 Q. The -- on a general night, you would check each
16 resident roughly a couple times a night, so every two
17 hours or thereabout?

18 A. At 1:00 and 3:00.

19 Q. Okay. At 1:00 and 3:00?

20 A. Yes, sir.

21 Q. And the other doors, we talked about one main
22 entrance. Is that how you would normally come in?

23 A. Yes, sir.

24 Q. Are there some other exits?

25 A. There are other exits. On each hall they have an

LINDA ROACH - CROSS-EXAMINATION BY MR. SMITH

1 exit door that they can get out of. On the north hall
2 they have one exit door down next to room 509. Then there
3 is another exit door on the south hall. Actually, there's
4 two exit doors on the south hall. One is in a little
5 lobby that the residents can -- they used to go in there
6 and play bridge. So there is an exit door there. It's a
7 fire exit. And then there is an exit door beside of the
8 trash room for housekeeping to come in and out when they
9 used it in the morning, I believe. That's who mainly used
10 that.

11 Q. Okay. And if those doors are open, do they alarm or
12 do they signal or they indicate that those doors are open?

13 A. (There is an alarm that goes on, but you can also turn
14 it -- it's a very simple alarm. You can just slide the
15 alarm to off. And no one would notice unless they just
16 particularly went and checked.

17 Q. All right. Did you hear any of those alarms going
18 off?

19 A. No, sir.

20 Q. And then do you know Marvin Lawrence?

21 A. Yes, sir.

22 Q. Now, who is Marvin?

23 A. He is a cook in the kitchen at OBT and Park Pointe.

24 Q. Does he work at night?

25 A. He -- I really don't know his shifts. I know he

LINDA ROACH - CROSS-EXAMINATION BY MR. SMITH

1 cooks, but whether it's morning or night, I'm not sure of
2 his shift because I didn't have a lot of dealings with
3 him. He was usually gone before I came.

4 Q. On your shift from the 12 to the 13th that you've
5 been describing to the jury, did you see Mr. Lawrence at
6 any point in time?

7 A. No, sir.

8 MR. SMITH: No further questions.

9 MR. THOMPSON: Just a few follow-up questions.

10 REDIRECT EXAMINATION

11 BY MR. THOMPSON

12 Q. Now, you were describing the hall from the nurses'
13 desk that you can see down to Ms. Cook's room, right?

14 A. Yes, sir.

15 Q. Now, is the way the building is situated, the other
16 hall on the assisted living side, can you see all the way
17 from the end of that hall all the way down to Ms. Cook's
18 room?

19 A. On the north hall?

20 Q. Yes.

21 A. No, sir.

22 Q. Why is that?

23 A. Because it's built at an angle. The north hall is at
24 an angle and it kind of curves, so you won't be able to
25 see at all down there.

LINDA ROACH - CROSS-EXAMINATION BY MR. THOMPSON

1 Q. So is the nurses' desk right in the middle of that
2 angle basically?

3 A. It is.

4 Q. And tell me just a little bit more about the facility
5 itself. You're talking about the -- we've been talking
6 about the assisted living side. So there's a whole nother
7 side to the facility?

8 A. Yes, sir. There's an independent side.

9 Q. Is that attached right there? I mean, how do you get
10 to the independent side from the assisted side?

11 A. We have doors, double black doors. They're fire code
12 doors. They shut automatically if there's a fire, but at
13 night we always pull them closed in case we have wandering
14 residents. They may wander into that section, so we
15 always kept it closed so no one would wander out.

16 Q. Are those doors locked, though?

17 A. They do. They automatically lock. The only way you
18 can get in or out is with your card key or name tag card
19 key. That's the only way you could get in or out of them.

20 Q. All right. Now, we talked about Angelo Ivey being
21 the roving security maintenance guy?

22 A. Yes, sir.

23 Q. Is that over the entire facility there?

24 A. Yes, sir.

25 Q. Inside and out?

LINDA ROACH - CROSS-EXAMINATION BY MR. THOMPSON

1 A. Yes, sir.

2 Q. So he's not necessarily just on the assisted living
3 side? He's --

4 A. Oh, no, sir. He's everywhere. Plus he also does
5 light maintenance, like take out trash and nightly duties.

6 Q. And Mr. Smith was referring to your statement. If
7 you could look at that again for me. And as you pick that
8 up, did you talk to the police the day this happened as
9 well?

10 A. The police the day that --

11 Q. Yeah, the day that you found Pauline Cook, did you
12 talk to them at that time as well?

13 A. I did.

14 Q. So this -- just the formal statement was given a
15 little bit -- a day or two after that?

16 A. Yes, sir.

17 Q. And the part that he brought you to where he was
18 talking about the trash room door being propped open, will
19 you tell the jury when was it you noticed that, that the
20 door to the trash room was propped open?

21 A. At 6:30, when I went down to check on Ms. Pauline, I
22 noticed it then.

23 Q. So when you actually got to her door, you looked over
24 and saw that this door was propped open?

25 A. Saw the doors, yes, sir.

LINDA ROACH - CROSS-EXAMINATION BY MR. THOMPSON

1 Q. Was that unusual for that door to be propped open?

2 A. It was very unusual. In fact, we were -- we kept
3 needles and -- where we could use, so it was very
4 important that we kept that door shut so the residents
5 wouldn't wander in and maybe get hurt. It had cleaning
6 supplies in. So yeah, it was very unusual.

7 Q. And I think you also mentioned at that point
8 something about a linen cart. Can you tell us about that?

9 A. Yes, sir. There was a linen cart outside propped up
10 against the wall, which is again unusual. That was a big
11 no-no for us because we wanted it nice and neat in the
12 facility. We wanted it kept up for cleanliness. So it
13 would be fresh linens when we made the resident's bed, and
14 it was parked outside, and I thought, well, that was
15 unusual, you know, for it to be parked out because there
16 again, that was a big no-no for us to leave it out.

17 Q. Okay. And where was it usually?

18 A. Usually it was in the clean linen room. We had a
19 separate room for clean linens.

20 Q. Is that the room right next to the trash room there?

21 A. Yes, sir.

22 Q. And both of those off to the side --

23 A. Off to the side. And I would not have seen it from
24 the main desk.

25 Q. And on that linen cart, you mentioned stuff to make

LINDA ROACH - CROSS-EXAMINATION BY MR. THOMPSON

1 beds?

2 A. Yes, sir.

3 Q. Sheets?

4 A. There was sheets, pillow cases, towels, washcloths.

5 Anything that a resident may need during the night or when
6 we made their beds.

7 Q. And did the facility provide the towels and
8 washcloths to the residents there?

9 A. Yes, sir. Most of them we always did, but now there
10 was a few residents that preferred their own towels and
11 linens because it was their home, so they wanted their
12 own.

13 Q. How about Ms. Cook? Did she use the facility's
14 towels?

15 A. She used the facility's towels.

16 Q. How about the facility's sheets and pillow cases?

17 A. I'm not sure of that because being on third, I didn't
18 make her bed.

19 Q. Okay.

20 A. But I'm thinking she used the facility's.

21 Q. And you said you noticed that right as you were about
22 to go into her room you --

23 A. Yes, sir.

24 Q. One other question. Were there any -- did you notice
25 any injuries or anything like that on Ms. Cook when you

LINDA ROACH - CROSS-EXAMINATION BY MR. THOMPSON

1 saw her in her shower?

2 A. Yes, sir. I noticed her eyes was dark and black up
3 under her eyes and a bump on her head. I did notice that
4 when Sara and I was giving CPR. When we were turning her
5 over, you know, Sara noticed it and she said, "Look at her
6 forehead." And, you know, I noticed then her face because
7 prior to that, my main concern was just getting her some
8 help.

9 Q. Right.

10 A. I was just concentrating on getting her help. But I
11 did notice that. A bruise on the arm. There was a bruise
12 on her arm.

13 Q. Thank you.

14 MR. THOMPSON: I have no further questions.

15 THE COURT: Recross?

16 MR. SMITH: Nothing further.

17 THE COURT: You can step down and be excused. We
18 appreciate your time, Ms. Roach. Thank you.

19 THE WITNESS: Thank you.

20 THE COURT: Call your next witness.

21 MR. THOMPSON: The State would call Sara Borchlewicz.
22 Your Honor, I'd ask that Ms. Roach be released.

23 THE COURT: You can be excused, Ms. Roach. You can
24 feel free to leave.

25 SARA BORCHLEWICZ, after having first being duly

SARA BORCHLEWICZ - DIRECT EXAMINATION BY MR. THOMPSON

1 sworn, testified under oath as follows:

2 DIRECT EXAMINATION

3 BY MR. THOMPSON:

4 Q. Would you give your full name for the Court, please.

5 A. Sara Marie Borchlewicz.

6 Q. And, Sara, if you would spell your last name for the
7 court reporter so she can get that correct.

8 A. It's B-O-R-C-H-L-E-W-I-C-Z.

9 Q. I'm just going to try and call you Sara if that's all
10 right so I don't mess that up.

11 A. Yes, sir.

12 Q. Sara, where do you work?

13 A. I work at Park Pointe Village in Oakbridge Terrace,
14 the assisted living.

15 Q. And how long have you worked there, Sara?

16 A. About a year and five months.

17 Q. What position do you have there? What is your
18 training for there?

19 A. I'm a certified nurse's aide, and I'm also a licensed
20 practical nurse.

21 Q. And what are your duties there at the facility at the
22 Park Pointe Village?

23 A. Basically I give medications to the residents.

24 Assist with activities of daily living, such as bathing,
25 getting them dressed if they need it. We help with

SARA BORCHLEWICZ - DIRECT EXAMINATION BY MR. THOMPSON

1 dinner, breakfast, and lunch. Any sort of care that the
2 resident needs, we assist with.

3 Q. And what is the shift that you usually work while
4 you're there?

5 A. I usually work second shift, and on the weekends I
6 work first shift, 7:00 to 3:00.

7 Q. Did you work -- what shift did you work back on
8 November 13th of 2011?

9 A. 7:00 to 3:00.

10 Q. So 7:00 a.m. to 3:00 p.m.?

11 A. Yes, sir.

12 Q. And did you come in right at 7:00 for your shift, or
13 did you come in earlier than that?

14 A. No, sir. I came in about 6:45 or so. I usually get
15 there early.

16 Q. All right. And when you arrived, was anyone else
17 arriving at the same time with you?

18 A. Yes, sir.

19 Q. Who was that?

20 A. Another coworker. Brittany walked in with me. We
21 walked in together.

22 Q. Can you tell me what happened when you walked in that
23 day?

24 A. When I walked in with Brittany, we walked in and just
25 thought it was a normal day. And then Linda came running

SARA BORCHLEWICZ - DIRECT EXAMINATION BY MR. THOMPSON

1 down the hall. She was pretty hysterical and told us that
2 a resident had fallen, and at that point she was screaming
3 to call 911, and that's all I knew at that point.

4 Q. And did you then call 911?

5 A. Yes, sir, I did.

6 Q. Show you State's Exhibit Number 80. Can you tell me
7 what that is?

8 A. That's a copy of the 911 call that I made.

9 Q. Have you listened to that? Have you had an
10 opportunity to listen to it?

11 A. Yes, sir, I have.

12 Q. And did you note that you had listened to it on the
13 tape somewhere?

14 A. Yes, sir. My initials are on that CD.

15 Q. And is that an accurate depiction of the 911 call you
16 had?

17 A. Yes, sir.

18 MR. THOMPSON: Your Honor, I'd ask to enter this into
19 evidence at this time.

20 MR. SMITH: No objection.

21 THE COURT: In without objection.

22 (State's Exhibit Number 80 was marked and admitted.)

23 MR. THOMPSON: And ask permission to publish to the
24 jury, Your Honor.

25 (Audiotape played in open court.)

SARA BORCHLEWICZ - DIRECT EXAMINATION BY MR. THOMPSON

1 Q. All right. Now, Sara, when you made that call, had
2 you actually gone in the room or seen anything at that
3 point?

4 A. No, sir.

5 Q. And after you hang up there, is that when you go to
6 the room then?

7 A. Yes, sir. I ran down the hall.

8 Q. And what did you see when you went into the room?

9 A. When I first walked in the room, the entire room was
10 flooded with water. There was water immediately when I
11 walked in. Then I walked into the bathroom, where I saw
12 Ms. Cook.

13 Q. And where is the bathroom in location to that front
14 door when you come into the room?

15 A. It's immediately to your right when you first walk
16 in.

17 Q. And what did you see when you went into the bathroom?

18 A. I saw water everywhere. I saw Ms. Cook laying in the
19 shower. She was kind of placed -- if I can demonstrate.

20 Q. Sure.

21 A. That's okay. She was kind of with her arm extended
22 out like that with her legs on top of each other. She was
23 facing in the shower on the right with her legs placed out
24 of the shower over the drain.

25 Q. All right. And did you happen to move anything out

SARA BORCHLEWICZ - DIRECT EXAMINATION BY MR. THOMPSON

1 of the way in order to get to her at that point?

2 A. I did, yes, sir. I had to turn her on her side to
3 initiate CPR, and when I rolled her over, I heard the
4 drain suction. I heard the water immediately start to
5 drain.

6 Q. So she had been covering the drain?

7 A. Yes, sir, she had.

8 Q. And when you moved her over, did you move her legs
9 around or did you just move the top, her torso?

10 A. I just moved her chest over so we could initiate CPR.

11 Q. What part of the CPR did you perform?

12 A. I did chest compressions.

13 Q. Was there any results that y'all were able to get
14 during that time?

15 A. No, sir.

16 Q. When you were able to touch Ms. Cook at that time,
17 how did she feel? What was the impression you had from
18 her?

19 A. She felt cold and very stiff to me.

20 Q. And about how long did it take before EMS got there?

21 A. I'm not sure.

22 Q. Was it fairly quick?

23 A. It was maybe ten minutes. I'm not 100 percent sure,
24 but I know as soon as I made the phone call, I went down
25 and immediately started CPR.

SARA BORCHLEWICZ - DIRECT EXAMINATION BY MR. THOMPSON

1 Q. Okay. Did y'all continue to perform CPR until they
2 arrived?

3 A. Yes, sir.

4 Q. Now, while you were in the room or in the bathroom at
5 that time trying to help Ms. Cook, did you move anything
6 while you were in there?

7 A. No, sir. We just moved some towels that were on the
8 floor just so we could get to her. But other than that,
9 no, sir.

10 Q. And did anyone else move anything that you saw?

11 A. No, sir, not that I know of.

12 Q. Now, did you know Ms. Cook well?

13 A. Yes, sir, I did.

14 Q. Had she -- had you, I guess, known her the entire
15 time you worked at the facility at that point?

16 A. Yes, sir.

17 Q. And were you familiar with any of her habits or any
18 of her routine that she would normally do?

19 A. Yes, sir. Her morning routine, normally she would
20 get up in the mornings and on her own she would take a
21 shower. Usually she was outside her door up at the front
22 desk by 6:30, 6:45. She would get the newspaper, sit in
23 the chair, and she would talk with some of the residents
24 that were already awake or she would talk with some of the
25 staff until breakfast, which was at 7:30. And if she

SARA BORCHLEWICZ - DIRECT EXAMINATION BY MR. THOMPSON

1 wasn't there by 6:45, we would check on her because we
2 knew she was always up early.

3 Q. Okay. And do you know the defendant in this case --

4 A. Yes, sir.

5 Q. -- Ms. Walton?

6 A. Yes, sir.

7 Q. How do you know her?

8 A. From work. Coworker.

9 Q. Did you see her at all there during that shift that
10 day?

11 A. No, sir.

12 Q. When EMS came, what did you then do?

13 A. I left the room. The bathrooms are small, so it was
14 kind of getting crowded, so I left the room so EMS could
15 take over from there.

16 Q. Did you have any more dealings at that time with
17 Ms. Cook?

18 A. No, sir, not after that.

19 Q. Were you able to talk to the police that day?

20 A. Yes, sir.

21 Q. Did you tell them what you observed when you had come
22 in?

23 A. I did.

24 Q. What, if anything, did you notice about Ms. Cook,
25 whether she had injuries or things like that?

SARA BORCHLEWICZ - DIRECT EXAMINATION BY MR. THOMPSON

1 A. As far as I noticed when I walked in, I noticed her
2 placement and then I also noticed right above her
3 eyebrows, her eyebrows were -- it was bulging out. It
4 looked like -- they were very swollen. And I also noticed
5 right under her eyes, all under here was blood, not
6 actively bleeding, but it was under her skin. That was
7 bleeding under her skin I had noticed.

8 Q. And did that appear to be -- where, just around the
9 eyes, or was it farther into the face or other areas?

10 A. No, sir. It was just under her eyes, and then all up
11 in her forehead above her eyebrows was very, very swollen.

12 Q. Okay. Thank you. Please answer any questions the
13 defense has for you.

14 A. Yes, sir.

CROSS-EXAMINATION

15
16 BY MR. SMITH

17 Q. Ms. Borchlewicz, you said you spoke to the police
18 that morning; is that right?

19 A. Yes, sir.

20 Q. Did you ever give a statement any other time in this
21 case?

22 A. No, sir.

23 Q. And you obviously just came on shift that morning.
24 When was the last time you had worked at Park Pointe?

25 A. That Saturday, 7:00-to-3:00 shift, the --

SARA BORCHLEWICZ - CROSS-EXAMINATION BY MR. SMITH

1 Q. So you would have left at 3:00 p.m. the prior day and
2 then came back around 7:00?

3 A. Yes, sir.

4 Q. So you wouldn't have any reason to be on the property
5 that evening?

6 A. No, sir.

7 MR. SMITH: No further questions.

8 THE COURT: Redirect?

9 MR. THOMPSON: No, Your Honor.

10 THE COURT: You can step down and be excused.
11 Appreciate your time.

12 Call your next witness.

13 MR. THOMPSON: May it please the Court, Your Honor,
14 the State would call Brittany Martin.

15 MR. BRACKETT: She just stepped to the bathroom a few
16 minutes ago, Your Honor. We'll get her in here.

17 BRITTANY MARTIN, after having first being duly sworn,
18 testified under oath as follows:

19 DIRECT EXAMINATION

20 BY MR. THOMPSON

21 Q. Good afternoon -- good morning. Could you give your
22 full name for the Court, please.

23 A. Brittany Leigh Martin.

24 Q. And, Brittany, where do you work?

25 A. At Park Pointe Village.

BRITTANY MARTIN - DIRECT EXAMINATION BY MR. THOMPSON

1 Q. If you could speak up a little bit. I'm having a
2 little bit of a hard time hearing you.

3 A. Park Pointe Village.

4 Q. How long have you worked at Park Pointe Village?

5 A. In January it will be two years.

6 Q. What are your duties there? What title do you have
7 there?

8 A. I'm a CNA, and we assist with the assisted living
9 residents.

10 Q. What does CNA stand for?

11 A. Certified nursing assistant.

12 Q. So in your training there, what type of assistance do
13 you give the residents?

14 A. I administrate (sic) their medication, and then I
15 assist with dressing or if they need a shower.

16 Q. Basically any help that they need, you provide?

17 A. Yeah, anything they need assistance with.

18 Q. Now, can you tell me, were you working back in
19 September 12th and 13th of 2011?

20 A. Yes, I was.

21 Q. What shifts did you work back then?

22 A. I worked first shift.

23 Q. And what hours were first shift?

24 A. 7:00 a.m. to 3:00 p.m.

25 Q. Did you work both that Saturday and Sunday, the

BRITTANY MARTIN - DIRECT EXAMINATION BY MR. THOMPSON

1 12th and the 13th?

2 A. I did.

3 Q. That was the shift both days, 7:00 to 3:00?

4 THE COURT: You said September.

5 MR. THOMPSON: I'm sorry, I meant November.

6 Q. November 12th and 13th; is that correct? Not
7 September.

8 A. That's correct.

9 Q. Not talking about September.

10 Now, Brittany, when you were working those days in
11 particular, did you have occasion to meet with and speak
12 with the victim in this case, with Ms. Cook?

13 A. Yes, I talked to her on Saturday.

14 Q. All right. And did you know Ms. Cook well?

15 A. I did. I knew her from when she was from IL and when
16 she moved to assisted living.

17 Q. What do you mean "when she was from IL"? What does
18 IL mean?

19 A. Assisted living responds to emergency calls in IL, so
20 she would often press her pendant from falls, and we would
21 respond to that call.

22 Q. What does IL stand for?

23 A. Independent living.

24 Q. So prior to being in assisted living, she was in
25 independent living?

BRITTANY MARTIN - DIRECT EXAMINATION BY MR. THOMPSON

1 A. She was.

2 Q. And you knew her for the time she pressed her
3 pendant?

4 A. Yeah. I would actually be the one to respond if I
5 was working at the time.

6 Q. And describe to us, what do you mean by the pendant?

7 A. It's an emergency necklace or you can get it on your
8 wrist. It's a button, and if you're in distress you press
9 the button and it would alert our pagers and it would tell
10 us exactly where you are, and we respond to that location.

11 Q. And there was times that you went to help her when
12 she was in independent living?

13 A. I did, several occasions. That's why she was
14 actually moved to assisted living, because she was
15 starting to fall frequently.

16 Q. So to be around for her if she fell is why she had
17 gone into the assisted living at that time?

18 A. Yes.

19 Q. When you worked with her in assisted living, did you
20 kind of get to know her habits or her routines?

21 A. Actually, yeah, I did. She kept to a very strict
22 routine. She pretty much did the same thing every
23 morning, every evening.

24 Q. And did you come in right at 7:00 when your shift
25 starts, or did you come in earlier than that?

BRITTANY MARTIN - DIRECT EXAMINATION BY MR. THOMPSON

1 A. I was usually about 20 minutes early. That way I
2 could see what the assignments were, get everything
3 straight.

4 Q. And in your dealings, when you came in about 6:40,
5 what would Ms. Cook be doing at that point in time?

6 A. She would be getting out of the shower. She took a
7 shower almost every morning. She would be getting dressed
8 for breakfast. And usually about 6:40 she would be coming
9 out of her room, and she would read the newspaper.

10 Q. Did she call you Brittany? What name did she use for
11 you?

12 A. Actually, she actually called me "angel" because of
13 all the responds that I went to IL for. She said I was
14 always saving her, so she called me her guardian angel.

15 Q. Can you tell me, did you see her on that Saturday,
16 November 12th --

17 A. I did.

18 Q. -- during your shift? And that was the 7:00-to-3:00
19 shift?

20 A. It was 7:00 to 3:00.

21 Q. Did you have occasion to be in her room at that time?

22 A. I was in her room pretty much all that morning. I
23 made her bed. I think actually I just made her bed, and
24 that was the last time I was in her room that day.

25 Q. When you made her bed, did you put sheets on it?

BRITTANY MARTIN - DIRECT EXAMINATION BY MR. THOMPSON

1 A. Yes, I did.

2 Q. What sheets did she use? Did she have her own sheets
3 that she preferred to use?

4 A. No, she used our sheets. She used a fitted sheet,
5 flat sheet, and we would also change the pillow cases.

6 Q. How many pillows did she have on her bed?

7 A. She had two regular, normal-sized ones that we put
8 white pillow cases on and she had her green pillow, but we
9 didn't put any cases on that.

10 Q. Describe her green pillow. What is that exactly?

11 A. It kind of hugs you. It's -- I don't know the name
12 of it, but it's got a tall square back with arms that come
13 around the side.

14 Q. It's one of those with the little arms that you kind
15 of prop up and sit against?

16 A. Yes.

17 Q. And where did she normally keep her pillows? Did she
18 normally have them on her bed?

19 A. Yeah, she liked them all on her bed.

20 Q. All three of the pillows?

21 A. All three of them.

22 Q. And where would she keep that pillow that you kind of
23 sit back up on or prop on? Where would that be on the
24 bed?

25 A. It was the first one against the headboard, and then

BRITTANY MARTIN - DIRECT EXAMINATION BY MR. THOMPSON

1 the two white ones would lean up against it.

2 Q. And when you made the bed that day, did you put that
3 back on the --

4 A. Yes.

5 Q. -- headboard where it was?

6 A. Yes.

7 Q. And did you know from dealing with her, did you ever
8 see her sleeping in the bed?

9 A. Yes, I -- when I first started working there, I
10 worked second and actually alternated shifts. I would
11 work second one weekend and first the next. I worked
12 pretty much every weekend when I first started.

13 Q. And when you worked second and you would see her in
14 bed, did she usually have that green pillow in the bed at
15 the same time that she was sleeping?

16 A. Yeah, she would keep it there. She would watch TV
17 and prop up against it, and then she would just lean down
18 when she was ready to go to bed, and she would put -- she
19 would lay on the white pillow, and then the second white
20 one she would put under her feet.

21 Q. And going back, I guess, to the 12th of November,
22 that Saturday, while you were working that shift, did
23 anything unusual happen with Ms. Cook that Saturday?

24 A. She approached me about 2:45 with some papers and was
25 telling me that someone was taking her money, and I told

BRITTANY MARTIN - DIRECT EXAMINATION BY MR. THOMPSON

1 her she couldn't discuss it with me but I could get our
2 head nurse and she could discuss it with her.

3 Q. Okay. Did you see what kind of papers she was
4 holding at that time?

5 A. I actually didn't see them. I wouldn't look at them,
6 but it was several. And I told her just not to show
7 anyone, that I was going to go get the head nurse.

8 Q. And why wouldn't you look at the papers?

9 A. We're really not to deal with the residents' money.

10 Q. And she was talking about finances at that time?

11 A. She was. She was saying someone was -- yeah.

12 Q. What was her countenance at that time? What was she
13 like? How was she?

14 A. She was very angry and she was yelling, and that's
15 what got my attention. I approached her and I said, "What
16 is wrong, Ms. Cook? And she said, "Someone is writing
17 checks on me. I need you to look at this." And that's
18 when I told her I couldn't look at it if it was dealing
19 with her money.

20 Q. Was it unusual for her to be angry?

21 A. Yes.

22 Q. Had you ever seen her angry like that before?

23 A. I'd never seen her angry before.

24 Q. Did that surprise you?

25 A. It did.

BRITTANY MARTIN - DIRECT EXAMINATION BY MR. THOMPSON

1 Q. And what did you do as a result of that, when she
2 came to you?

3 A. I went and got Neva, but at the exact same time we
4 had another resident fall, so we dealt with the resident
5 who fell first, and Pauline sat at the desk and waited for
6 Neva.

7 Q. Did you ask Ms. Pauline to sit at the desk?

8 A. I did. I asked her to sit in the seat until Neva
9 came, which is our head nurse.

10 Q. And as far as you know -- and I guess 2:45, that's
11 near the end of our shift. How much longer did you stay?

12 A. I didn't leave until 4:00. I had to write an
13 accident report on the fall.

14 Q. Did you actually stay at all for the time that
15 Ms. Neva went to speak with Pauline or not?

16 A. When we finished with the fall, Neva came up to
17 Pauline and asked her to come to her office and I believe
18 they went to the office and shut the door.

19 Q. Did you leave around that time?

20 A. She left -- they went to the office maybe about 3:15,
21 and at that time I was still writing my report. I stayed
22 at the front desk.

23 Q. How long did you stay?

24 A. Until about 4:00.

25 Q. Okay. And did you leave at that point?

BRITTANY MARTIN - DIRECT EXAMINATION BY MR. THOMPSON

1 A. I did.

2 Q. All right. Now, during that shift on the 12th, did
3 you know the defendant, Braquette Walton?

4 A. I did.

5 Q. And had you seen her during that shift at all, the
6 shift that you worked?

7 A. I had not seen her.

8 Q. And so at the end of that day, when you come back the
9 following day, on the 13th, that morning, did you come
10 in again at 6:40?

11 A. I stayed in my car, actually, and then another
12 employee named Sara, she pulled up, so I got out of my car
13 and we walked in together.

14 Q. Would that be before 7:00?

15 A. It was before 7:00.

16 Q. Do you know about what time it would have been?

17 A. Probably about 6:45.

18 Q. And so when you came in with Sara, what happened when
19 you walked in the door?

20 A. We heard our third shift employee running down the
21 hallway. I heard heavy breathing, so we looked to the
22 left, and we saw the third shift employee coming down the
23 hallway, and she was kind of hysterical.

24 Q. Is that Linda Roach?

25 A. It is.

BRITTANY MARTIN - DIRECT EXAMINATION BY MR. THOMPSON

1 Q. Okay. And what happened at that point? What went
2 on?

3 A. Me and Sara were trying to get out of her what was
4 going on, what was the matter. We had her sit down at the
5 front desk because she really couldn't speak, and she
6 finally told us, she said, "Pauline Cook is dead" and she
7 said, "There's no hope." And then me and Sara, when we
8 got to respond, I checked her MAR to see if she had a DNR
9 and I couldn't find one.

10 Q. What do you mean checked for DNR? What is DNR?

11 A. Do not resuscitate.

12 Q. And you couldn't find one?

13 A. She did not have one, so I told Linda, I asked her,
14 "Can you call Willow Brook Court" -- which is total
15 care -- "and ask them for backup," and they would come
16 over and help hold the floor down while we respond. And
17 Sara said, "I'll call 911." And I called Neva just to
18 verify and to let her know, to see if there was no DNR
19 because I couldn't find one, and she said the DNR was not
20 signed, and I went ahead and told her what was going on
21 with Pauline Cook, that she was unresponsive.

22 Q. Did you then go down to where Pauline Cook was?

23 A. We did. All three of us went.

24 Q. All three of you went. And when you got down there,
25 what did you observe?

BRITTANY MARTIN - DIRECT EXAMINATION BY MR. THOMPSON

1 A. Well, first instinct was I saw all the water. Her
2 whole room was flooded, and I remember seeing it going all
3 the way across the room, across the carpet. And -- and
4 then Sara got down, and her and Linda saw Pauline, and we
5 saw her on her side, and they rolled her over to start
6 CPR.

7 Q. Rolled her to her back?

8 A. She was on her side, and they rolled her onto her
9 back.

10 Q. All right. And did you notice any injuries on her at
11 that time?

12 A. All I could remember is her face. All the bruises
13 around her eyes and on her face.

14 Q. Okay. And you had dealt with her just the day
15 before. Did she have any of those bruises on her face the
16 day before?

17 A. No. She took real good care of her face, always
18 wearing makeup, but there was nothing on her face. We
19 usually -- if there's any bruises, even if it's small, we
20 report it all. We keep very good documentation of all
21 bruises or cuts on residents. That way if a family member
22 wants to know how the bruise got there, we have
23 documentation that we did see it and whether or not we
24 knew where it came from.

25 Q. Okay. Okay. Now, at the point that they were doing

BRITTANY MARTIN - DIRECT EXAMINATION BY MR. THOMPSON

1 CPR, did you help with that at all or did you provide
2 anything for them to assist?

3 A. No. I -- actually, I stayed at the door and waited
4 for the ambulance and the fire department.

5 Q. All right. Now, I believe -- so you waited for --
6 you were going to get them to get in. You were the person
7 assigned to making sure they got to the right spot?

8 A. Yes.

9 Q. And did it take long for them to get there?

10 A. It felt like really after we just called them, they
11 arrived quickly.

12 Q. And when they got there, what did you do?

13 A. Led them to the door, and that's when we were trying
14 to get Linda and Sara out of the room. And I believe they
15 stopped CPR.

16 Q. Now, did you have any more dealings at that time with
17 Ms. Cook then? Did you stay in the room at all or --

18 A. No. We all left the room.

19 Q. You all left the room.

20 And can you tell me, just describe a little bit for
21 me the actual setup of some of the rooms. When you come
22 in, where is the bathroom in relation to the front door as
23 you walk in?

24 A. As soon as you walk in the front door, it's to the
25 right.

BRITTANY MARTIN - DIRECT EXAMINATION BY MR. THOMPSON

1 Q. And is the entire room carpeted, or how was the
2 flooring?

3 A. The floor in the bathroom is tile. And also where
4 you first walk in is not carpet. And then after you pass
5 the refrigerator is carpet from then back.

6 Q. So, like, where the bed is, there would be carpet?

7 A. That's carpet.

8 Q. And when you come in the front door, can you see the
9 bed when you first walk in, or is it around the corner?

10 A. You can partially see it. You can see maybe the
11 front of it, the head -- like the top of the bed.

12 Q. And in Ms. Cook's room, what size bed did she have?

13 A. A twin.

14 Q. Okay. Now, you had mentioned about having made the
15 bed the day before. Did you know what -- the sheets that
16 she used, did she use the facility sheets or did she use
17 her own?

18 A. She did.

19 Q. How about as far as the towels and things like that?
20 Did she use her own, or did she use the facility's?

21 A. She also used ours. We have a routine in the
22 mornings, if it's their day to change their bed, you
23 change their sheets, but every day you would take all
24 towels out of the bathroom and you would apply two more
25 towels and one rag unless they requested more.

BRITTANY MARTIN - DIRECT EXAMINATION BY MR. THOMPSON

1 Q. And so the morning before, did you supply the two
2 towels and the rag?

3 A. I did.

4 Q. Washrag, I'm assuming; is that correct?

5 A. Yes.

6 Q. And also new sheets on her bed at that point?

7 A. Yes.

8 Q. And what are the towels like? What are they? A
9 specific color?

10 A. They're white. All of them are white, and the
11 washcloth is also white.

12 Q. How about the sheets?

13 A. White.

14 Q. Can you tell me, how many trash cans were in
15 Ms. Cook's residence?

16 A. I can remember two.

17 Q. Okay.

18 A. One in the bathroom and one in her -- it was near her
19 couch.

20 Q. All right. Do you remember the size of the trash
21 cans within the room?

22 A. They're medium size.

23 Q. Okay. And do they -- are they lined with anything?

24 A. They're just transparent.

25 Q. Transparent. Do you mean the bags within them are

BRITTANY MARTIN - DIRECT EXAMINATION BY MR. THOMPSON

1 transparent or the trash can is transparent?

2 A. The one in the bathroom is brown. You can't see
3 through it. Everyone has that trash can, and then the one
4 in her bedroom was -- I think it was circle.

5 Q. Okay. And do they have -- do they have liners in
6 them, trash bags of some sort?

7 A. Usually the housekeeper, she will put two on top of
8 each other. That way if we have an emergency, you can
9 just take the top one off and there will be another one
10 underneath.

11 Q. So are they actually both fitted in, or is it like
12 you take one bag out and there's a clean bag underneath
13 the trash?

14 A. Usually there's two fitted in and then some more
15 underneath.

16 Q. So if you had some sort of emergency -- for instance,
17 something that needed to be disposed of from one of the
18 residents --

19 A. Yeah. We would take --

20 Q. -- how -- how would you handle that?

21 A. You would put it in the trash bag. For instance,
22 incontinence, you want to get that out of the room
23 immediately, so you would put it in the trash can and then
24 you would take it immediately out.

25 Q. And there's another bag in there that you can

BRITTANY MARTIN - DIRECT EXAMINATION BY MR. THOMPSON

1 immediately put back in?

2 A. There should be several.

3 Q. And the trash bags themselves, were they transparent?

4 Could you see through the trash bags?

5 A. You could.

6 Q. Now, again, during either of your shifts, did you
7 ever see the defendant in this case, Braquette Walton,
8 either that Saturday or that Sunday?

9 A. I did not.

10 Q. And after you left out of the room and EMS had left,
11 I believe the police came at some point; is that correct?

12 A. Yes.

13 Q. Did you talk to the police while they were there?

14 A. I believe the only two people I talked to, they had
15 me come in the room. I believe it was the detectives.

16 And they just --

17 Q. Okay. And when they had you come in the room, what
18 information did you give them when you went into the room
19 at that time?

20 A. They wanted to know if I made the bed previously and
21 how did I make it and what did I put on the bed.

22 Q. Did you tell them like you told us today, the --

23 A. I did.

24 Q. -- sheets that you put on?

25 Did you notice anything about the bed at that point

BRITTANY MARTIN - DIRECT EXAMINATION BY MR. THOMPSON

1 when they were asking you those questions?

2 A. I noticed that two of her white pillows were missing
3 and the only one in the room was the green one.

4 Q. And did you notice where the green one was?

5 A. It was against the wall near the foot of the bed.

6 Q. All right. And the other two pillows weren't in the
7 room at all?

8 A. No.

9 Q. And did you tell them that there should have been two
10 pillows there?

11 A. I did.

12 Q. One other thing. When you went into the bathroom
13 where Ms. Cook was, did you move anything in the bathroom?

14 A. No, I didn't touch anything.

15 Q. All right. Thank you.

16 MR. THOMPSON: I have no further questions.

17 MR. SMITH: No questions, Your Honor.

18 THE COURT: Thank you. You can step down.

19 Appreciate your time. You may be excused.

20 Call your next witness.

21 MR. THOMPSON: May it please the Court, Your Honor.

22 The State would call Doug Silk.

23 DOUG SILK, after having first being duly sworn,

24 testified under oath as follows:

25

DOUG SILK - DIRECT EXAMINATION BY MR. THOMPSON

DIRECT EXAMINATION

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BY MR. THOMPSON:

Q. Mr. Silk, I believe it's technically good afternoon.

Could you tell your full name for the Court, please.

A. Charles Douglas Silk.

Q. And where do you work?

A. I work for Piedmont Medical Center EMS.

Q. And what are your duties there?

A. I'm a paramedic on an ambulance.

Q. And how long have you been a trained paramedic?

A. Since 1984.

Q. Okay. So do you -- been running an ambulance ever since 1984, all those years?

A. That's correct.

Q. And can you tell me, were you -- did you happen to become involved in this particular case? Did you respond to Pauline Cook on November 13th of 2011?

A. I did.

Q. And if you would, do you keep a record of when you're called out and when you get there?

A. That's correct, and I have a copy with me.

Q. When were you called out? When did you receive the call to go?

A. At 0649.

Q. And when did you arrive?

DOUG SILK - DIRECT EXAMINATION BY MR. THOMPSON

1 A. We arrived on scene at 0657.

2 Q. So just three minutes before 7:00 a.m.?

3 A. That's correct.

4 Q. And when you got there, what did you see? What did
5 you do when you got there?

6 A. When we arrived, we were led into the apartment. As
7 I recall, the patient was on the floor in the bathroom to
8 my right. We immediately assessed her. I also applied
9 the cardiac limb leads and got a reading on that as well.

10 Q. And will you describe what you mean by applying the
11 leads. What was that exactly?

12 A. It's a cardiac monitoring device, and you actually
13 apply surface electrodes to the arms and the legs, and it
14 will give us a reading if there's any cardiac electrical
15 activity.

16 Q. And what do those electrodes look like that you have
17 to attach to the person?

18 A. They're basically a foam-type pad with an adhesive.
19 Then they have conductive gel and a metal snap that
20 connects to the lead to the monitor.

21 Q. Are those small round things?

22 A. That is correct.

23 Q. So if the jury sees little small round things on the
24 victim's chest, those are things you placed there?

25 A. That is correct.

DOUG SILK - DIRECT EXAMINATION BY MR. THOMPSON

1 Q. And those are the leads for the monitor?

2 A. Cardiac monitor. Correct.

3 Q. When you hooked up the monitor, did anything show up?
4 Did you have any signs of life?

5 A. By my record, there was no electrical activity.

6 Q. Okay. And you mentioned we. Who else was with you
7 when you went there?

8 A. My partner for that shift was Kyle McClellan, another
9 paramedic. We also had the assistant supervisor, John
10 Hammet, responded with us.

11 Q. Did you take the lead in this particular instance?

12 A. I did.

13 Q. And when you went in, did you as well check her for a
14 pulse or anything like that as you got up to her?

15 A. I did physically assess for a pulse, for any sign of
16 breathing. I also looked at her pupils.

17 Q. Okay. And other than that, did you move her body in
18 any way?

19 A. Not that I recall, no, sir.

20 Q. Okay. So how she was laying when you arrived is how
21 she was laying when you left?

22 A. That is correct.

23 Q. Did you have to move anything out of the way to get
24 to her?

25 A. As I recall, we had full access to her from our

DOUG SILK - DIRECT EXAMINATION BY MR. THOMPSON

1 position.

2 Q. All right.. Did you have to move anything within the
3 room at all while you were there, or did you move anything
4 in the room while you were there?

5 A. Not that I recall, no, sir.

6 Q. Did anyone else that was with you move anything?

7 A. Not that I recall.

8 Q. Now, what, if anything, was apparent to you at the
9 point that you started to work on her regarding her
10 condition?

11 A. I noted her -- as I touched her skin was very cold
12 and damp. I also noticed that there was ecchymosis and
13 lividity specifically around her eyes, around her nose,
14 hands, and feet.

15 Q. And what, if anything, did that indicate to you?

16 A. It indicated to me that death had been present for a
17 while. Commonly with lividity, it may take at least 30
18 minutes but maybe even hours for that to develop.

19 Q.. At that point, as one of the EMS works there, what,
20 if anything, was your duty at that time to do?

21 A. At that point in time, any attempt at CPR would be
22 considered futile. We notified the staff that was present
23 and our assistant supervisor, John Hammet, notified
24 dispatch to notify the coroner's office at that time.

25 Q. So the coroner's office was notified from y'all --

DOUG SILK - DIRECT EXAMINATION BY MR. THOMPSON

1 A. From EMS. Correct.

2 Q. About how long did you stay during that period of
3 time?

4 A. By my records, we were at the patient at 0659 and we
5 cleared from the scene at 0716.

6 Q. So a little less than 20 minutes?

7 A. That's correct.

8 Q. Did you have any contact with the fire department
9 when they arrived?

10 A. We did not. In fact, we canceled them prior to
11 actually needing any assistance from them.

12 Q. So did they actually ever come into the scene itself?

13 A. Not that I'm aware of, no, they did not.

14 Q. Do you know if their truck actually arrived?

15 A. I'm not sure if it did. We contacted Medcom by radio
16 to tell them we did not require any assistance.

17 Q. Thank you, Mr. Silk. Please answer any questions the
18 defense has for you.

CROSS-EXAMINATION

19
20 BY MS. ANDERSON

21 Q. Mr. Silk, you essentially have over 20 years of
22 experience, you said, as a -- with these types of calls,
23 correct?

24 A. That is correct.

25 Q. So you've been out on numerous calls, you know, with

DOUG SILK - CROSS-EXAMINATION BY MS. ANDERSON

1 your responsibility with an ambulance?

2 A. Correct.

3 Q. So you pretty -- have some pretty good experience
4 when you arrive on a scene of assessing a situation?

5 A. That is correct.

6 Q. And you referenced in your testimony on direct that
7 you observed ecchymosis and lividity. This may be not
8 very technical, but lividity is essentially sort of a
9 pooling of blood after death, correct?

10 A. That is correct.

11 Q. So it gives the appearance of sort of dark or a
12 bruise, something similar to that?

13 A. That is correct.

14 Q. But that does result after death, not while a person
15 is alive, the lividity itself?

16 A. The lividity. That's correct.

17 Q. And the call that you were called out to at Park
18 Pointe Village was -- what was related to you was a fall
19 in the shower, correct?

20 A. That was our dispatch information, correct.

21 Q. And you indicate that the coroner -- you requested
22 the coroner be contacted, correct?

23 A. That is correct.

24 Q. You did not request police department -- Rock Hill
25 Police Department be called to the scene?

DOUG SILK - CROSS-EXAMINATION BY MS. ANDERSON

1 A. I did not at that time, no.

2 Q. And when you arrived, from your assessment of the
3 scene and your treatment at the scene, you did not observe
4 anything that would be inconsistent with a fall when you
5 were on the scene?

6 A. That is correct.

7 MS. ANDERSON: Nothing further, Your Honor.

8 MR. THOMPSON: Nothing further, Your Honor.

9 THE COURT: You can step down and be excused.

10 Appreciate your time.

11 Call your next witness.

12 MR. THOMPSON: Prior to the next witness, I believe
13 we had discussed some matters that would have to be
14 brought to the Court's attention.

15 THE COURT: We have some legal matters to take up.
16 It's also a good time to break for lunch. So we'll break
17 until 1:30. It's about a quarter after 12:00. That will
18 be an hour and 15 minutes. We may not be able to start
19 right at 1:30 because we have some matters to take up and
20 also we'll have to have our lunch, but I'll let you go at
21 this time and ask you to be back at 1:30. Have a pleasant
22 lunch.

23 (The jury left open court at approximately 12:10
24 p.m.)

25 THE COURT: This would be autopsy photographs?

1 MR. THOMPSON: Yes, Your Honor, photographs. And the
2 photographs that are with the next witness are not the
3 autopsy. Those are a few of the scene, actually. And it
4 is Chris Westover who would be the deputy coroner that
5 would be testifying in this instance. And we could go to
6 these now.

7 MR. SMITH: The State showed me all the photographs
8 yesterday that they intended to use, Your Honor. I would
9 place an objection to any showing the body saying they're
10 more prejudicial than probative. And then subsequent to
11 that, if some were admitted, I would just make a
12 cumulative objection to ones that show multiple depictions
13 of the same thing. The State has attempted to cull that
14 and I think is prepared to present Your Honor the photos
15 they intend to use.

16 MR. THOMPSON: These are State's Exhibits, premarked,
17 Numbers 36 through 65. I'll hand them to the Court. You
18 can see the entire crime scene, how they're working --

19 THE COURT: Do you have specifics so I can know what
20 I'm looking for? Do you have specific ones you want me to
21 look at --

22 MR. SMITH: I do, Your Honor. I have no objection to
23 ones that do not show the body.

24 THE COURT: All right. I'm not going to make this a
25 sidebar, but since we only have one set of these, 36 shows

1 the door. 37 shows somebody's feet on the floor. 38
2 shows a door. 35 -- I'm sorry, 39 shows a closet with the
3 door open. 40 shows a dresser -- I'm sorry, furniture.
4 41 shows what I presume to be the green pillow. 42,
5 closet. 43, a bed and some surrounding items.

6 44 is some personal items and a radio on the table.
7 45 is a couch. 46 is a sofa, couch, and a desk. 47, the
8 desk. 48 looks like the kitchen area, refrigerator. 49,
9 the floor and perhaps a trash can but no body. 50, I'm
10 not sure it shows anything, quite candidly. I have to --

11 MR. THOMPSON: That's part of the headboard of the
12 bed. It's a small amount of luminescence from
13 something --

14 THE COURT: Speak up.

15 MR. THOMPSON: It is the headboard of the bed, and it
16 shows some luminescing from the BlueStar that the forensic
17 officer put on.

18 THE COURT: 51 does show what I would guess would be
19 Ms. Cook's legs protruding from a shower. 52, the walker.
20 It's been discussed. 53, the walker that's been
21 discussed. 54, another shot of Ms. Cook in the shower.
22 This shows her entire body. Well -- the front of the
23 entire body.

24 55 shows the shower, head. 56, Ms. Cook's legs out
25 of the shower. 57, bedroom shoes. 58 and 59 and 60, a

1 bloody hand, bruised and bloody hand. 61, what appears to
2 be Ms. Cook's face. 62, 63, more pictures of the walker.
3 And 64, a white cloth towel or something apparently near
4 the walker, because there's a wheel on the upper left-hand
5 corner. And 65 has to be explained to me. It looks like
6 some sort of computer.

7 MR. THOMPSON: Yes, it's the computer monitor the
8 officer took photograph of that has the --

9 THE COURT: Speak up now because she's taking this.
10 It's not a sidebar.

11 MR. THOMPSON: It's the computer monitor that the
12 officer took a picture of that shows the entrance time for
13 Braquette Walton's card to be swiped to get into the
14 building.

15 THE COURT: Mr. Smith, which do you -- tell me how
16 you want to approach this. Tell me which ones you object
17 to.

18 MR. SMITH: Objection to 65, only with foundation. I
19 assume they'll lay foundation for that photograph. If
20 they lay foundation, no objection to it. Objections would
21 be to State's 54, 51, 52, 56, 60, 59, 58, and 61, which
22 depict some portion or all of Ms. Cook.

23 THE COURT: All right. Well, what's the State's
24 position? Let's take them one at a time. 54 is the
25 entire body of Ms. Cook.

1 MR. THOMPSON: Your Honor, this one is as -- right
2 after you come into the bathroom, shows the victim as she
3 would have been when Chris Westover comes in with the
4 coroner's office. You can see the lead that has just been
5 placed on her, according to the testimony we just had when
6 he was trying to hook her up to the monitor from EMS. You
7 can see the blue mask over her face at that point, which
8 is the CPR mask that's been testified to at this point.

9 As well you can see the position basically she's in,
10 and the only thing they said they've done at this point is
11 move her onto her back. This picture is important to show
12 the way she is in the shower. I think there's some
13 evidence in looking at this picture that shows not only is
14 this how she's found, but it's inconsistent with falling
15 in the shower and the fact that the shower curtain is
16 pulled back just like they said it was when they first
17 came in and in addition shows a couple of other things.
18 If you look, the proximity to the drain and the actual
19 washcloth that's laying right at the edge of the shower
20 itself that I think will ultimately become important to
21 the State in that it shows our theory that the crime scene
22 was then staged after she was killed. Part of the staging
23 is that she went to the extent of even putting a washcloth
24 in with the victim as if she were taking a shower. And
25 that's the basis for the entrance of that.

1 THE COURT: All right. What about 56?

2 MR. THOMPSON: At the 56, this is when you look into
3 the bathroom basically if you're standing to the left side
4 of the door as you look in, and it shows mainly the
5 walker, how she had some decorative towels hanging. You
6 can see the towel on the floor, which would be also the
7 mat that was moved away from the front of the shower, and
8 then it just shows basically the feet of the victim and
9 gives you the proximity for the showing more than her
10 feet, but it gives you an idea of what that side of the
11 bathroom looks like mainly.

12 THE COURT: 56 is another showing legs sticking out
13 of the bath area, shower area.

14 MR. THOMPSON: With 56, this is showing the proximity
15 of the slippers to the victim as well as the actual
16 washcloth at the edge of the shower there because it's
17 only a partial photo of the victim herself. It doesn't go
18 and show the entire body at that point. You can see some
19 bruising on the leg there. You can see some bruising on
20 the hand from a distance, and this is a distance from the
21 victim. This isn't a very close-up picture, and it fairly
22 covers most of the parts of the body that would, I think,
23 be embarrassing parts of the body to show. But it shows
24 the proximity to the front door, and I think this gives
25 you a good idea how small the actual bathroom is.

1 THE COURT: What about 51?

2 MR. THOMPSON: 51, this would be the first look that
3 the officers would have or the witnesses would have as
4 they look into the bathroom and see. It shows a good
5 proximity from that angle of the slippers there, the way
6 the shower curtain is, the position of the body and those
7 sorts of things. And a proximity to the door with that,
8 because the other ones don't show the proximity to the
9 door as well.

10 THE COURT: 61, this is facial.

11 MR. THOMPSON: 61 shows the close-up of the face, and
12 we had some testimony as to how badly her eyes looked and
13 the things that they noticed with that. In addition, this
14 becomes very important -- this is a more close-up of the
15 face so that it takes out other parts of the body so that
16 there's not embarrassing or shocking pictures of other
17 parts. But I think this is very telling. As Ms. Roach
18 testified, the shower cap, it's one of the only ways that
19 you see the shower cap, which also we contend was put on
20 her by the defendant in order to cover this up and make it
21 look like it was an accident in the shower. The only way
22 you can really see that cap is through this photograph,
23 but it also shows the initial injuries that each person
24 who was there saw and gives a good description of that.
25 If we combine that, I think, with what the pathologist

1 will testify to will be very helpful in those areas.

2 THE COURT: 58, 59, and 60 are pictures of the hand?

3 MR. THOMPSON: Yes, these are close-ups --

4 THE COURT: The right hand.

5 MR. THOMPSON: Yes, close-ups of the victim's hands,
6 in particular 59 and 58. 59 is her left hand and a
7 close-up of it as it was laying in the shower, and you can
8 see that it's very bruised all the way across the entire
9 back of her hand. And it's the same with the right hand.
10 You can see that. That's a close-up in the shower. You
11 can see that a small drop of blood right next to the right
12 hand. You can also see that she has heavy bruising on the
13 right hand itself.

14 And then the next picture of the right hand is when
15 they actually at the scene lift the right hand up to show
16 where there was a cut on the right hand that would have
17 caused that drop of blood in the shower, and you can as
18 well see some severe bruising to the forearm in that
19 photograph. So these also become important to show what
20 the injuries look like close up and at the time that they
21 arrived, that this is an injury that is not occurring in
22 the transport of the victim. And it becomes important
23 because in her last statement, she mentions that the
24 victim had injured her right hand, she thought, by hitting
25 the dresser, had cut her hand on the top of her hand. And

1 that's showing that cut at the scene before she's
2 transported or moved.

3 THE COURT: Mr. Smith, any follow-up?

4 MR. SMITH: Nothing additional, Your Honor.

5 THE COURT: All right. Well, the nature of these
6 cases beget photographs, and this -- of this genre, and I
7 find that based on the presentation of the State and my
8 review of the pictures that each picture contains
9 something of value which the State ought to be allowed to
10 submit to the jury in order for the jury to have a full
11 picture of the State's case. While there is some
12 prejudicial value in any photo showing injuries or a dead
13 body, I find that in this case those -- the photographs
14 we've just discussed to which the defense had some
15 objection, the prejudicial value of these is outweighed by
16 the probative value. And over objection, Numbers 51, 61,
17 54, 52, 56, 58, 59, and 60 will be -- with the proper
18 foundation, of course -- admissible into evidence.

19 MR. THOMPSON: Your Honor, just clear up one thing.
20 I think you reversed it and said that it was -- probative
21 value was outweighed by the prejudicial --

22 THE COURT: No, that's not what I meant. What I
23 meant to say was that any of these type photographs always
24 have some prejudicial -- are always to some degree
25 prejudicial, but I find that the probative value outweighs

1 the prejudicial value, again based on the presentation by
2 counsel as to the evidentiary value of these photographs.
3 I find that the probative value outweighs any prejudicial
4 value, and therefore they are admissible.

5 (State's Exhibits 36-65 were marked and admitted.)

6 MR. THOMPSON: Thank you, Your Honor.

7 THE COURT: Like saying September when you mean
8 November.

9 MR. THOMPSON: That's what I was going to say. I
10 can't throw any stones because I just said it was
11 September.

12 THE COURT: Anything else before we break for lunch?

13 MR. BRACKETT: Yes, sir. While we're on the subject
14 of photographs, the next witness after the coroner will be
15 the pathologist, so we have some --

16 THE COURT: We're taking a record of this, so don't
17 let your voice drop.

18 MR. BRACKETT: Yeah. The next witness would be the
19 pathologist, Dr. Thomas, and there's some photographs that
20 we would seek to introduce during his testimony. For the
21 record, I have two groups of photos here. One I've had
22 marked, and the other I have bound together with a paper
23 clip. All of these photographs were selected. I asked
24 Dr. Thomas to review the autopsy photographs and with an
25 eye towards which photographs would be most useful to him

1 in explaining his testimony to the jury.

2 He pulled all of these photographs here. I went
3 through those photographs that he pulled and removed the
4 ones that are paper-clipped together. I know -- I sort of
5 did my own probative-versus-prejudicial analysis and
6 removed these and tried to just focus in on those
7 photographs that were as close and tight as possible and
8 focused on specific injuries that he's going to discuss
9 during the course of his testimony. Those have been
10 marked State's Exhibit 1 through 10. I've shared those
11 with Mr. Smith, and I believe he would probably except to
12 all of these because they all obviously from the autopsy,
13 so they all depict Ms. Cook's body during the course of
14 the postmortem examination in some degree or another.

15 MR. SMITH: That's correct.

16 THE COURT: So no objection?

17 MR. SMITH: I have exception to all of those.

18 THE COURT: Oh, exception? I was surprised, but
19 that's what you said. I think on these it may be that I
20 would have to have a predicate laid as to what is being
21 shown so that I will know what value they may have. And
22 by the way of example, I'm a layman and Number 8 is a
23 photograph of Ms. Cook's face, which even though has been
24 moved from the shower to apparently a gurney, it is very
25 similar in nature. I don't know that it shows anything

1 different from the one that's already allowed into
2 evidence, although the coroner may tell me different.

3 The others show -- 10 shows some sort of wound, it
4 looks like. I'm not sure what 9 is to represent, other
5 than a picture of Ms. Cook's face, but it's partly covered
6 by a surgical glove. 6 and 7 show the eyes. I can't tell
7 whether this is -- looks like it's perhaps both eyes. I
8 don't know what value that may have, although I would
9 think, again as a layman, that the reason the doctor
10 pulled them out, there's some possible value to them.
11 Number 1 is the hand again. Number 2 is the hand.
12 Number 3, I'm not sure, but it -- may be the hand. It
13 shows the wound.

14 MR. BRACKETT: Yes, sir, and I can tell you some of
15 these things, I know, but if you'd rather hear them from
16 the doctor, I can do that --

17 THE COURT: Number 4 is a head wound, and Number 5 is
18 the different angle on the face. Well, why don't you tell
19 me what you believe and then let's see if --

20 MR. BRACKETT: Number 4 is a photograph of the top of
21 Ms. Cook's head, and it shows bruising through the hair
22 indicative of a -- some sort of trauma to the top of her
23 head. Number 5 is a shot of -- a profile shot of Ms. Cook
24 which shows some injuries, bruising to the chest of
25 Ms. Cook. Number 3 is a close-up shot of the injury to

1 her hand, which, again, Mr. Thompson referenced
2 describing -- which mirrors her statement about the injury
3 to her hand and also his -- all the shots of the hands and
4 the arms -- which are State's 1, 2, and then 3 -- will be
5 what Dr. Thomas opines are defensive wounds, possibly
6 defensive wounds incurred during the course of a struggle.

7 Number 6 and 7 are shots of the right and left eye,
8 which show petechia eye and scleral hemorrhaging in the
9 eye, which is indicative of asphyxiation and was part of
10 the basis for his opinion that this was a homicide.
11 Number 10 is a close-up photograph of an injury to her
12 hip. Numbers 8 and 9 are shots of close-ups of the
13 underside of her chin, which indicate to Dr. Thomas that
14 those are finger point bruises, where a hand had grabbed
15 Ms. Cook under -- across the bottom of her neck, and he
16 demonstrates that in the autopsy showing with this glove
17 shot, Number 9, where his fingers would correspond with
18 the bruises that he believes were ultimately part of the
19 reason for her asphyxiation.

20 THE COURT: Anything else, Mr. Smith?

21 MR. SMITH: No, Your Honor.

22 THE COURT: Well, if, in fact, the representation --
23 which I'm sure is correct -- representation by solicitor
24 is verified by the pathologist, I will allow these in. I
25 find that based -- if the doctor so testifies that the

1 photographs have more probative value than prejudicial
2 value, again, all these do have some prejudicial value
3 because of the nature of what's -- what they show. But I
4 find that, again, they're supported by testimony from the
5 pathologist that complied with and is in line with the
6 representation of counsel, then they will be admissible
7 and the probative value does, in fact, outweigh the
8 prejudicial value. Thank you.

9 MR. BRACKETT: Thank you, Your Honor.

10 THE COURT: All right.

11 MR. BRACKETT: Would you like me to mark the ones I
12 called as a Court's exhibit?

13 THE COURT: I have no need for them. You want to --

14 MR. BRACKETT: Just to show that we did make an
15 effort. There were a number of others that --

16 THE COURT: Why don't you make those a Court's
17 exhibit just for whatever value they have.

18 (State's Exhibits 1-10 were marked and admitted.)

19 (Court's Exhibits 7 and 8 were marked.)

20 MR. BRACKETT: Okay. Thank you, Your Honor.

21 THE COURT: I told the jury to be back at 1:15, but
22 it's after 12:30, so why don't we shoot for 1:30. That
23 will give us an hour. We'll be at ease until 1:30.

24 (A recess was taken from 12:32 p.m. to 1:30 p.m.)

25 THE COURT: All right. Bring in the jury.

1 (The jury entered the courtroom at 1:30 p.m.)

2 THE COURT: Call your next witness.

3 MR. THOMPSON: May it please the Court, Your Honor.

4 The State would call Chris Westover.

5 CHRISTINA WESTOVER, after having first being duly
6 sworn, testified under oath as follows:

7 DIRECT EXAMINATION

8 BY MR. THOMPSON

9 Q. Good afternoon.

10 A. Good afternoon.

11 Q. Could you state your full name for the Court, please.

12 A. Yes. Christina Diane Westover.

13 Q. And, Ms. Westover, where do you work?

14 A. I work for the York County Coroner's Office.

15 Q. And what are your duties there?

16 A. I'm a deputy coroner.

17 Q. And as deputy coroner, what are some of the things
18 that you're required to do?

19 A. We investigate all deaths in the county and determine
20 cause and manner of death.

21 Q. All right. So whether they're natural deaths or
22 ultimately homicides, you help in making that
23 determination?

24 A. Yes, sir.

25 Q. All right. How long have you been with the coroner's

CHRISTINA WESTOVER - DIRECT EXAMINATION BY MR. THOMPSON

1 office?

2 A. About two years.

3 Q. Were you working back in November of 2011 for the
4 coroner's office?

5 A. I was.

6 Q. Did you have a chance to be called out to Park Pointe
7 Village on November 13th of 2011?

8 A. I did, yes.

9 Q. Do you remember what time it was that you were called
10 out to Park Pointe?

11 A. I believe I was paged around 7:02.

12 Q. And how soon did you arrive? Do you remember?

13 A. I arrived at 7:31 a.m.

14 Q. Upon your arrival, was this to investigate the death
15 of Pauline Cook at that time?

16 A. Yes, sir, it was.

17 Q. Who was there when you arrived?

18 A. Neva Lattimer, the director of nursing. That's who I
19 first encountered and talked to.

20 Q. And when you encountered her, did you go into the
21 room right away to see what was going on or did you speak
22 to her for a while first?

23 A. I spoke to her for a while first in her office.

24 Q. At that point, how had this been reported to you as
25 far as what it was?

CHRISTINA WESTOVER - DIRECT EXAMINATION BY MR. THOMPSON

1 A. Through dispatch, through our EOC center.

2 Q. And your understanding at that point is what, why
3 you're there?

4 A. That she was found in the shower.

5 Q. So you arrived. When you start to talk to Neva
6 Lattimer, what type of information are you trying to glean
7 from her?

8 A. I'm gathering medical history, what she encountered,
9 what had happened previous to me being there, medical
10 history, medications that she was on, and what had taken
11 place previously.

12 Q. And in doing that, were you able to actually obtain
13 some of the medications she was on?

14 A. Yes.

15 Q. Was she able to give you those things?

16 A. Yes, she did.

17 Q. Was she able to give you as well the situation as far
18 as who found her and how that occurred at that point?

19 A. Yes, sir.

20 Q. Did she give you any other information regarding her
21 at that point?

22 A. Yes. Do you mean before I went in?

23 Q. Yes, before you went in.

24 A. Okay. I think that she had mentioned to me at that
25 point about her bank statement and checks.

CHRISTINA WESTOVER - DIRECT EXAMINATION BY MR. THOMPSON

1 Q. Okay. So you had understood that there was some
2 investigation as to --

3 A. Yes.

4 Q. -- that going on at that point?

5 A. Yes.

6 Q. Now, as deputy coroner, when you go into the room
7 now, what are you trying to determine? What is your job
8 at that point?

9 A. I am trying to determine as to whether a scene maybe
10 looks suspicious or anything out of the ordinary.

11 Q. And if a scene were to look suspicious, what's the
12 difference in your duty if you come into a scene that
13 looks suspicious as compared to if you come to a scene
14 that doesn't look suspicious, looks like a natural death?

15 A. Can you rephrase that?

16 Q. Sure. What are you looking to do -- if it's a
17 suspicious scene, what are you looking to do there as
18 compared to if it were nonsuspicious, what would you be
19 required to do after that? What action would you take as
20 a result?

21 A. Right. If I was investigating a natural death,
22 photographs would be taken. I would again get medical
23 history, gather all the decedent's medications, and most
24 likely, depending on age of the decedent, if it was deemed
25 to be natural, there would be no further investigation.

CHRISTINA WESTOVER - DIRECT EXAMINATION BY MR. THOMPSON

1 Q. All right. Would you then ask for an autopsy if you
2 deemed it to be natural at that point?

3 A. Most likely not, no, no. Not unless it was a younger
4 person.

5 Q. All right.

6 A. And then if the scene is suspicious in any manner, I
7 would further the investigation and call in law
8 enforcement or forensics and do further investigating as
9 far as interviewing people.

10 Q. All right. So when you went into the room, what did
11 you observe?

12 A. The first thing I observed was that the room was
13 flooded. It was very humid in there, and the first place
14 that I looked was to the bathroom to the right of me as I
15 walked in. And I saw Mrs. Cook laying half in, half out
16 of the shower with her legs hanging out of the shower.
17 And one of the very first things I noticed was that her
18 shower stool was slung up on the end on the handle of her
19 wheelchair. And that was one of the first things that I
20 thought was very odd.

21 Q. All right. Now, you said "wheelchair." Would you
22 describe what it was -- exactly what that was? Was it an
23 actual wheelchair?

24 A. Yes, it was an actual wheelchair yeah.

25 Q. And that was photographs of that taken?

CHRISTINA WESTOVER - DIRECT EXAMINATION BY MR. THOMPSON

1 A. Yes, yes, sir.

2 Q. And did you move anything within the room at that
3 point?

4 A. No.

5 Q. And did you attempt to take photographs as well at
6 that point?

7 A. I did, yes.

8 Q. Did that pose any problem with the wetness and
9 humidity in the room?

10 A. It did. It was very humid. When I first got my
11 camera out and started to take pictures, I think I was
12 able to take a couple of pictures, but then it steamed up
13 my lens and my shutter button would not work to take -- to
14 actually take the pictures. I had to acclimate, get the
15 camera and acclimate it to the humidity in the room. It
16 was very humid. It was about 80 degrees.

17 Q. So you had to wait a little while before you took the
18 other pictures --

19 A. I did, yes, sir.

20 Q. In that period of time, again, did you move anything
21 or alter anything in the room?

22 A. No.

23 Q. And what type of -- was there anything, I guess, in
24 the room initially when you go in and you look at Ms. Cook
25 there that looks suspicious to you?

CHRISTINA WESTOVER - DIRECT EXAMINATION BY MR. THOMPSON

1 A. Looking at Mrs. Cook, I thought it looked suspicious
2 the way she was laying in the shower. It was a stand-up
3 shower only. It did not have a bathtub. It was just a
4 shower. And if she had been using her shower stool, she
5 wouldn't have -- she wouldn't have fallen like she was in
6 the shower with her leg hanging out of the shower. It
7 just -- it didn't jive with the story.

8 Q. Okay. And of the photographs you took, I'm going to
9 ask if you would examine these. Ask you to look at
10 State's Exhibit Number 51.

11 A. Yes, sir.

12 Q. Does that fairly and accurately depict how it looked
13 when you first looked into the bathroom where the victim
14 was?

15 A. Yes, sir. Uh-huh.

16 Q. And I know a number of people took photographs with
17 law enforcement. But that's how it looked when you came
18 in, correct?

19 A. Yes. Yes.

20 MR. THOMPSON: Your Honor, I ask to enter State's
21 Exhibit 51 into evidence at this time.

22 MS. ANDERSON: Objection, subject to prior ruling.

23 THE COURT: Prior to earlier ruling, it's in over
24 objection.

25 MR. THOMPSON: Ask to publish it at this time.

CHRISTINA WESTOVER - DIRECT EXAMINATION BY MR. THOMPSON

1 Q. So as you came into the bathroom at that point, this
2 is what you see. Can you tell us what's here on the left
3 of the picture right at the front of the door.

4 A. Her slippers. Looks like her slippers.

5 Q. And there's something else appearing next to her knee
6 there in the shower. Can you tell us what that is? Are
7 you having a hard time seeing it in this photograph?

8 A. Yeah, hold on a minute. Yeah, let me...

9 Next to her knee. Oh, it looks like a towel.

10 Q. Some sort of towel there?

11 A. Yes, yes.

12 Q. And as well as you came closer to the body, are there
13 any other injuries that you noticed at that point in time?

14 A. Yes.

15 Q. Not within this picture, obviously, but -- we can
16 bring the lights back on.

17 A. Yes, sir, I did.

18 Q. Okay. And what are some of the injuries that you
19 noticed at that time?

20 A. The other injuries that were very noticeable were her
21 hands were very discolored.

22 Q. And was that both of her hands?

23 A. Yes.

24 Q. Show you State's Exhibits Number 58 and 59. Do those
25 fairly and accurately depict how her hands looked --

CHRISTINA WESTOVER - DIRECT EXAMINATION BY MR. THOMPSON

1 A. Yes, sir.

2 Q. -- when you arrived?

3 A. Absolutely.

4 MR. THOMPSON: Your Honor, I ask to enter those into
5 evidence at this time.

6 MS. ANDERSON: Objection to these.

7 THE COURT: Over objection, I'll allow them in.

8 MR. THOMPSON: If we could publish State's
9 Exhibit 58.

10 Q. I believe that's the left hand?

11 A. Yes, sir.

12 Q. And would you describe the bruising that you see in
13 it as you look at it.

14 A. Yes. It's very swollen, black and blue, with a lot
15 of redness. Yes, very bruised looking.

16 Q. Okay. And then was the right hand bruised as well?

17 A. Yes, sir, it was.

18 MR. THOMPSON: I'd ask to show State's
19 Exhibit Number 59.

20 Q. And there was a red dot above that. What did that
21 appear to be to you at that time?

22 A. She had a very small tear on the other side of the
23 hand that is turned over.

24 Q. On the back or side of her hand?

25 A. Yes, uh-huh, uh-huh.

CHRISTINA WESTOVER - DIRECT EXAMINATION BY MR. THOMPSON

1 Q. And you noticed that bruising as well at that time?

2 A. Yes, sir.

3 Q. Was there other injuries on her body that you noticed
4 as you looked at her?

5 A. Yes, there were.

6 Q. All right. And where were those?

7 A. To her face.

8 Q. All right. And if you would look for me State's
9 Exhibit Number 61.

10 A. Yes, sir.

11 Q. Does that fairly and accurately depict her face as
12 you saw it there in the shower?

13 A. Yes.

14 MR. THOMPSON: Your Honor, I'd ask to enter this into
15 evidence at this time.

16 MS. ANDERSON: Objection, Your Honor.

17 THE COURT: In over objection based on prior ruling.

18 MR. THOMPSON: I'd ask to publish State's Exhibit 59.

19 THE COURT: Yes, sir.

20 Q. Now, if you could, describe to us the bruising that
21 you see on her face here.

22 A. The bruising that I see on her face was dark in
23 color, the black and blue, purplish, very swollen. A lot
24 of bruising to the nose also.

25 Q. And I notice there's something else that seems to be

CHRISTINA WESTOVER - DIRECT EXAMINATION BY MR. THOMPSON

1 back a little behind her head. What was that on the
2 bottom of the floor of the shower?

3 A. That was a shower cap.

4 Q. Okay. And that -- was that semi on her head at that
5 time?

6 A. Uh-huh. Yes, sir.

7 Q. I'd ask you to look at State's Exhibit Number 52. As
8 you look at that, does that fairly and accurately depict
9 the side of the bathroom that it shows in that photograph?

10 A. Yes, sir.

11 Q. Is that how it looked when you arrived?

12 A. Yes, sir.

13 MR. THOMPSON: Your Honor, I'd ask to enter that into
14 evidence at this time.

15 MS. ANDERSON: Prior objection.

16 THE COURT: Over objection based on prior ruling.

17 MR. THOMPSON: We can show State's Exhibit 52,
18 please.

19 Q. All right. Is this the wheelchair --

20 A. Yeah.

21 Q. -- thing that you were talking about?

22 A. Yes, sir.

23 Q. So it kind of has a seat in the middle of it; is --

24 A. It does.

25 Q. -- that right?

CHRISTINA WESTOVER - DIRECT EXAMINATION BY MR. THOMPSON

1 A. Yes.

2 Q. And the ability to use it as kind of a walker on the
3 other side?

4 A. Yes.

5 Q. And in looking at that, can you tell us what was
6 draped over that when you arrived?

7 A. Yes. The shower stool, as you can see, is draped
8 over to the -- slung over the left side of the walker.
9 There was a bra that's hanging off the right side with the
10 slacks hanging over the front of the walker.

11 Q. All right. Did anything stick out to you about the
12 slacks as far as that went, as far as anything else within
13 the room itself?

14 A. Not at the time.

15 Q. Did it appear to just be a change of clothes on the
16 walker?

17 A. Yes, sir.

18 Q. Ultimately did you look -- was there any underwear as
19 far as panties on the walker?

20 A. No. No, sir.

21 Q. It's a little hard to see with it broadcast up. But
22 there's, I believe, something hanging from the walker
23 there.

24 A. Yes, there is a pocketbook that is hanging from the
25 right side of the walker.

CHRISTINA WESTOVER - DIRECT EXAMINATION BY MR. THOMPSON

1 Q. And ultimately did you remove that pocketbook and
2 walker?

3 A. I did, yes.

4 Q. And what was the reason for that?

5 A. To look for ID, a South Carolina driver's license or
6 an ID. As the coroner's office, we usually confiscate and
7 take the IDs and those are kept at our office.

8 Q. And is that for records of positive identification?

9 A. Yes, it is and -- yes. And those are kept with the
10 chart.

11 Q. All right. As you look around the room at that point
12 in time -- before we get to that, we can turn on the
13 lights. Go off of that exhibit, please.

14 When you saw these injuries that we just saw, what,
15 if anything, did that mean to you? What did that point
16 out to you at that point as the deputy coroner?

17 A. They looked suspicious to me.

18 Q. All right. Did that make you suspicious as to
19 whether or not this was a fall in the shower?

20 A. Yes, it did.

21 Q. And, in fact, what are some of the things you did to
22 confirm your suspicions at that point? Did you contact
23 anyone else regarding it?

24 A. Yes, I did. I contacted my superior, Sabrina Gast,
25 coroner.

CHRISTINA WESTOVER - DIRECT EXAMINATION BY MR. THOMPSON

- 1 Q. Okay. And how did you do that? What did you do?
- 2 A. By telephone. I contacted her by telephone.
- 3 Q. Did you transmit anything to her by telephone?
- 4 A. I did. I transmitted a picture of Mrs. Cook's face.
- 5 Yes, sir.
- 6 Q. Okay. So kind of like what we saw --
- 7 A. Yes, sir.
- 8 Q. -- just a few minutes ago?
- 9 A. Uh-huh.
- 10 Q. And ultimately what was the decision that you came up
- 11 with at that point?
- 12 A. The decision was that that was very suspicious and
- 13 that it was not livor. That was my main question to
- 14 Sabrina.
- 15 Q. And so what other things did you do as far as looking
- 16 around the room to determine if there was anything else
- 17 that you thought might be suspicious?
- 18 A. One of the first things that I noticed as I got
- 19 further in the room, that the bed pillows were missing
- 20 from her bed and that her bed was made up.
- 21 Q. All right. And do you recall, did you take a
- 22 photograph of the bed or document how the bed was at that
- 23 time?
- 24 A. Yes, I did.
- 25 Q. I'll show you State's Exhibit Number 43. Does that

CHRISTINA WESTOVER - DIRECT EXAMINATION BY MR. THOMPSON

1 fairly and accurately depict the bed as you saw it when
2 you got there?

3 A. Yes, sir, it does.

4 MR. THOMPSON: Ask to broadcast State's Exhibit 43.

5 I would ask to enter it into evidence, Your Honor, first.

6 MS. ANDERSON: No objection to this exhibit.

7 THE COURT: In without objection.

8 Q. All right. So that's how it appeared at the time?

9 A. Yes, sir.

10 Q. And you notice -- I guess at that point, that's where
11 you noticed that there were no pillows on the bed?

12 A. I did.

13 Q. And did you inquire about that at that point?

14 A. I did. I -- yes, I did.

15 Q. And after that, what decisions did you make? Did you
16 ultimately call in law enforcement as a result of this?

17 A. I did, yes.

18 Q. And who did you call in?

19 A. I called dispatch, and they called in Rock Hill

20 Police Department. And I wanted forensics there also.

21 Q. Okay. And did they show up fairly quickly after you
22 called in?

23 A. Yes, sir.

24 Q. Do you recall about what time it was that you called
25 them?

CHRISTINA WESTOVER - DIRECT EXAMINATION BY MR. THOMPSON

1 A. I think it was around -- between 8:35 and 8:50.

2 Somewhere around that time.

3 Q. So you had been there for a little while before
4 ultimately you decided to call them?

5 A. Yes, I had.

6 Q. How long did you spend with Neva before you actually
7 went back to where the body was?

8 A. I actually spent a good while with Neva. It was
9 probably a good maybe 40 minutes, around there. 40, 45
10 minutes.

11 Q. And then after spending a little bit of time looking
12 at the scene itself, you made the call?

13 A. Yes. Uh-huh.

14 Q. I'd also ask you to look at State's
15 Exhibit Number 44. And does that fairly and accurately
16 depict -- and I guess what's in the photograph, is that
17 the way it was when it was photographed when you were
18 there?

19 A. Yes, sir.

20 MR. THOMPSON: Your Honor, ask to enter that into
21 evidence at this time.

22 MS. ANDERSON: No objection.

23 THE COURT: In without objection.

24 MR. THOMPSON: Ask to publish it.

25 THE COURT: You may.

CHRISTINA WESTOVER - DIRECT EXAMINATION BY MR. THOMPSON

1 Q. What stood out to you in this picture?

2 A. What stood out to me the most was her little call
3 button. She had an emergency little call button that she
4 wore.

5 Q. And where is this little table located within the
6 room?

7 A. That's right beside her bed.

8 Q. So it's the nightstand beside her bed?

9 A. Yes, sir.

10 Q. So it's the nightstand we saw in the prior picture?

11 A. Yes, sir. Yes.

12 Q. And so, what, if anything, did that indicate to you
13 regarding the call button?

14 A. I was told that she always wore that call button, so
15 I was -- I would say it was suspicious or worrisome to me
16 that she didn't have her call button on.

17 Q. Did you stay for when the police arrived?

18 A. Yes, I did.

19 Q. Did you inform them of everything you had just
20 learned yourself?

21 A. I certainly did.

22 Q. Can you tell me, did you stick around as they began
23 to investigate at that point?

24 A. I did, yes.

25 Q. And how long did you stay there? Do you recall?

CHRISTINA WESTOVER - DIRECT EXAMINATION BY MR. THOMPSON

1 A. I recall that I was there until into the early hours
2 the afternoon. I'm thinking that I probably left around
3 2:00 that afternoon.

4 Q. And where did you go from there? Did you still work
5 on the case?

6 A. Yes, I was. I went out to the family's house,
7 Mrs. Cook's daughter's house. Janice out in Gastonia.

8 Q. All right. And what was the purpose of that visit?

9 A. Mainly to notify her and to talk to her to find out
10 some more background information, some more medical
11 history, what had taken place the day before. Because I
12 knew that Janice had been out to visit Mrs. Cook.

13 Q. You had said you called the police out. Did you make
14 any decision as to whether there should be an autopsy done
15 in this case?

16 A. Yes, I did.

17 Q. All right. And what was your decision?

18 A. That she needed to be autopsied.

19 Q. And ultimately did you contact the forensic
20 pathologist who would ultimately do the autopsy that day?

21 A. I did, yes.

22 Q. And when you did that, did you actually meet with him
23 that day?

24 A. We did that evening, around 5:00.

25 Q. Around 5:00?

CHRISTINA WESTOVER - DIRECT EXAMINATION BY MR. THOMPSON

1 A. Uh-huh.

2 Q. And where was that that y'all met?

3 A. At Piedmont Medical Center in the morgue.

4 Q. And who was it that you met with there?

5 A. Rob Thomas, Sabrina Gast, Detective Cantey, and Brian
6 Bagwell. And I also believe Michael Belk had attended.

7 Q. Now, did you actually -- was the autopsy actually
8 performed at that time, or was there something else done
9 at that point?

10 A. No, sir. The autopsy.

11 Q. No, it wasn't performed at that time? Did Dr. Thomas
12 look over the body at that point?

13 A. Yes, uh-huh.

14 Q. And at that point, what, if anything, did you learn
15 of the body at that point?

16 A. We learned that it was a suspicious death, yes.

17 Q. Preliminarily -- I guess Dr. Thomas will testify to
18 this, but preliminarily looking at the body, it was
19 determined a suspicious death at that point?

20 A. Yes. Yes, sir.

21 Q. Now, did you have any other work that you did after
22 this regarding this case and did you have to come back out
23 or do anything else at the scene after this?

24 A. No, I did not. No.

25 Q. So it was -- basically your work was what ended up

CHRISTINA WESTOVER - DIRECT EXAMINATION BY MR. THOMPSON

1 happening that day?

2 A. Yes, sir.

3 Q. And you then basically hand it all over to the police
4 at that point?

5 A. Yes. Yes.

6 Q. Okay. Now, other than, as you said, you moved the
7 purse, did you disturb the crime scene in any other way
8 that you recall?

9 A. The only other thing I did was remove the CPR -- I
10 don't know what you would call it. The mask, I guess.

11 Q. Kind of the mask that they use for CPR?

12 A. Yeah, yeah, exactly.

13 Q. You removed that from her?

14 A. Yes, I did. Yes. And that was it.

15 Q. Thank you.

16 MR. THOMPSON: No further questions.

17 THE COURT: Don't leave subject to cross-examination.
18 Stick around for a minute.

19 THE WITNESS: Okay.

20 CROSS-EXAMINATION

21 BY MS. ANDERSON

22 Q. Ms. Westover, you -- I think as you testified, you
23 arrived somewhere around 7:31?

24 A. Yes.

25 Q. And EMS had already departed by the time you arrived,

CHRISTINA WESTOVER - CROSS-EXAMINATION BY MS. ANDERSON

1 correct?

2 A. Yes, they had, Uh-huh.

3 Q. And you testified on the direct, but just make sure
4 we've got the sequence correct, the first person you
5 talked to was Neva Lattimer, correct?

6 A. Yes.

7 Q. And she's sort of like the supervisor?

8 A. She was nursing supervisor, uh-huh.

9 Q. And you testified you went into her office, talked
10 with her about 40 to 45 minutes.

11 A. Uh-huh.

12 Q. And this was prior to ever going into apartment 519
13 or seeing Ms. Cook's body at this point?

14 A. Yes, ma'am.

15 Q. And during that conversation with Ms. Lattimer, you
16 learned about some allegations of forged checks, correct?

17 A. Yes, ma'am.

18 Q. And you also learned, and I think you documented it
19 in your report, that the suspected employee had not been
20 informed of these suspicions at this point in time.

21 A. Yes.

22 Q. And you requested, did you testify, that FSU or
23 forensic service units come to the scene, correct, to
24 process the scene?

25 A. Yes, ma'am.

CHRISTINA WESTOVER - CROSS-EXAMINATION BY MS. ANDERSON

1 Q. And the reason for this was largely due or due to
2 your finding out about these prior check allegations,
3 correct?

4 A. That and the scene looking suspicious to me.

5 Q. Okay. Now, in -- but your report does indicate one
6 of the reasons you called FSU was --

7 A. Yes, ma'am.

8 Q. -- the check allegations, correct?

9 A. Uh-huh.

10 THE COURT: Need to answer with a yes or no.

11 A. Yes.

12 Q. And do you recall talking with Officer Swiger on the
13 scene that morning?

14 A. Yes, I do, uh-huh.

15 Q. And discussing with him calling FSU, I think it
16 was -- would be prudent to call FSU based on the
17 situation?

18 A. Yes.

19 Q. And do you recall having a discussion with Deputy
20 Bagwell from FSU when he arrived?

21 A. Yes.

22 Q. And the two of you had some discussions while you
23 were examining the scene in apartment 519, correct?

24 A. Yes, ma'am.

25 Q. And there was a discussion with Deputy Bagwell

CHRISTINA WESTOVER - CROSS-EXAMINATION BY MS. ANDERSON

1 regarding the cut on Ms. Cook's hand that you were asked
2 about on direct?

3 A. Yes.

4 Q. And there was some discussion at the time of how the
5 cut could have occurred during a fall. There was some
6 metal areas in the shower, that you discussed that as a
7 possibility?

8 A. Yes.

9 Q. Okay. And there was also a discussion in that time
10 with Deputy Bagwell about some of the bruising or
11 discoloration on Ms. Cook's face?

12 A. Yes, ma'am.

13 Q. And in that discussion with Deputy Bagwell, there was
14 a discussion that this could have been due to lividity,
15 correct?

16 A. There was discussion of that, yes.

17 Q. And during the course of you being on scene as well,
18 you had the opportunity to talk to some of the employees
19 who had been there, and one of those employees was Linda
20 Roach, correct?

21 A. Correct.

22 Q. The other was Sara?

23 A. Yes.

24 Q. And you documented talking to sort of what they
25 relayed to you in your report?

CHRISTINA WESTOVER - CROSS-EXAMINATION BY MS. ANDERSON

1 A. Yes, ma'am.

2 Q. And your report indicates that what you learned from
3 them was that -- let me rephrase that. Your report
4 indicated that you learned that Linda Roach had checked on
5 Ms. Cook between 1:30 and 3:00 a.m.?

6 A. That's what she stated.

7 Q. And that was documented in the report you submitted?

8 A. Yes..

9 Q. Okay.

10 MS. ANDERSON: Beg the Court's indulgence.

11 Q. Ms. Westover, you indicated one of the things you
12 regularly do as part of this is you gather medical history
13 and medications?

14 A. Yes, ma'am.

15 Q. And you actually listed all these medications out on
16 your report in connection with this?

17 A. Yes.

18 Q. And Ms. Cook was on a number of medications, correct?

19 A. Yes.

20 Q. Somewhere, I think, around 26 were listed?

21 A. Yes.

22 Q. And one of the medications indicated was Plavix?

23 A. Yes.

24 Q. And Plavix is essentially an anticoagulant; is that
25 correct?

CHRISTINA WESTOVER - CROSS-EXAMINATION BY MS. ANDERSON

1 A. It is, yes.

2 Q. And she was prescribed to take Plavix every day,
3 correct?

4 A. Yes.

5 Q. And also one of the other medications listed on your
6 report was prednisone?

7 A. Yes, ma'am.

8 Q. And she was also prescribed a daily dosage of
9 prednisone?

10 A. Yes.

11 Q. And you indicated you also listed some medical
12 conditions or illnesses?

13 A. Yes.

14 Q. And one of these was osteoarthritis?

15 A. Yes, ma'am.

16 Q. And also rheumatoid arthritis?

17 A. Yes.

18 MS. ANDERSON: Nothing further, Your Honor.

19 MR. THOMPSON: Just briefly, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. THOMPSON

22 Q. When you went into the room initially, was there
23 anyone else in the room at that time?

24 A. No.

25 Q. Did the staff have to let you into the room?

CHRISTINA WESTOVER -

1 A. Yes, they did.

2 Q. Was the door locked when they went through?

3 A. Yes, it was.

4 Q. So they had to unlock it to let you in?

5 A. Yes.

6 Q. Thank you.

7 MR. THOMPSON: No further questions.

8 THE COURT: Ms. Anderson.

9 MS. ANDERSON: Nothing further, Your Honor.

10 THE COURT: Thank you.

11 THE WITNESS: Thank you.

12 THE COURT: You may be excused. We appreciate your
13 time.

14 THE WITNESS: Thank you.

15 THE COURT: Call your next witness.

16 MR. BRACKETT: State would call Dr. Robert Thomas.

17 ROBERT THOMAS, M.D., after having first being duly
18 sworn, testified under oath as follows:

19 DIRECT EXAMINATION

20 BY MR. BRACKETT:

21 Q. Good afternoon, sir. Would you please state your
22 full name for the court reporter.

23 A. Robert Earl Thomas, Jr.

24 Q. All right, sir. Where are you employed?

25 A. York Pathology Associates.

ROBERT THOMAS, M.D. - DIRECT EXAMINATION BY MR. BRACKETT

1 Q. And what do you do for York Pathology Associates?

2 A. I'm a pathologist.

3 Q. Can you tell the jury what a pathologist is.

4 A. Pathologist is a medical doctor who studies disease.

5 We work with microscopes, make diagnoses. We work in the

6 clinical laboratories, and we do autopsies.

7 Q. All right, sir. And when you conduct an autopsy,

8 what are you attempting to ascertain? Why are you

9 conducting them?

10 A. Autopsies could be done for two possible reasons.

11 One might be a medical autopsy in a hospital where a

12 patient has died, and we're trying to find out information

13 for the family or for the physician. More commonly, an

14 autopsy would be done in a forensic manner, which would be

15 to establish a cause and manner of death and in so doing

16 document injury patterns that might help determine exactly

17 what happened.

18 Q. What kind of training and experience do you need to

19 become a pathologist? How do you -- what do you have to

20 do in order to become a pathologist?

21 A. Sure. We spend four years in a college, either a

22 B.S. degree. In my case, it was chemical engineering.

23 Then I went on to medical school for four years after

24 college. I attended Medical University of South Carolina

25 in Charleston for those four years. Then after that

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1 period spent five years training in anatomical and
2 clinical pathology also at MUSC in Charleston.

3 Q. Do you have to take a board certification or anything
4 like that? Do you have to take medical exams like a
5 regular doctor?

6 A. Sure. In your course of your training, you would
7 take a series of three exams. One after your second year
8 of medical school, the second during your fourth year of
9 medical school, and then a third during your first year of
10 postmedical school training and residency. And then you
11 would take your board certification sometime after your
12 medical residency and internship in -- in my case, in
13 anatomical and clinical pathology.

14 Q. Have you had any kind of training in forensic
15 pathology?

16 A. Yes. As part of your training in anatomical and
17 clinical pathology, you're required to train in forensic
18 pathology, which I did at MUSC in Charleston.

19 Q. Have you ever been qualified before in the courts of
20 this state as an expert in the area of pathology?

21 A. I have.

22 Q. And how many times would you say?

23 A. Six or seven.

24 Q. Okay, sir.

25 MR. BRACKETT: Your Honor, at this time I would

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1 tender Dr. Thomas as an expert in the area of pathology.

2 THE COURT: Any -- pathology in general?

3 Q. Pathology -- you have experience in forensic
4 pathology and training in forensic pathology?

5 A. I do.

6 MR. BRACKETT: Yes, sir --

7 THE COURT: Any voir dire? I'm sorry. Any voir
8 dire?

9 MS. ANDERSON: No, Your Honor.

10 THE COURT: I find Dr. Thomas is qualified in
11 pathology and in forensic pathology, to the extent that
12 there's a difference.

13 MR. BRACKETT: And, Your Honor, would it be
14 appropriate to request a charge as to what an expert
15 witness -- the difference between an expert witness?

16 THE COURT: I'll go ahead. What we're having now
17 with -- Dr. Thomas has been qualified as an expert in a
18 particular area. Generally an individual can only in
19 court testify as to something they observed with one of
20 their five senses. It's usually something they've seen or
21 heard, but it could be taste, touch, or smell. However,
22 where an individual has certain training, expertise, and
23 knowledge in a certain area, that person can be qualified
24 as an expert and they give opinions.

25 The example I sometimes use is that of a doctor, not

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1 a pathologist. But to say I have a child who has a fever.
2 I can touch, come in and testify I could feel a hot face.
3 A child may be throwing up. May be irritable. May be
4 sleeping more than it should. I could come in and testify
5 to all that. But I could not testify as to what was the
6 matter with that child. However, if I take that child to
7 a doctor, the doctor can give an opinion -- it's usually
8 called a diagnosis in that context -- and say this child
9 has whatever the child has.

10 So that's an analogy, and what we have here is
11 someone who is qualified to testify in the area of
12 pathology. Now, the opinions of experts, his testimony,
13 while I'm allowing it in as an expert, you as the trial
14 jury have a right to look at that testimony later, and I
15 will tell you this when you deliberate, and determine what
16 value you should give it. You can look at his
17 qualifications and the reasons he gives for reaching the
18 opinions he reached. His testimony and experts' testimony
19 is allowed only to assist you. It is not binding on you.

20 MR. BRACKETT: Thank you, Your Honor.

21 BY MR. BRACKETT

22 Q. Can you tell the jury, sir, if you would, were you
23 asked in November of 2011 to conduct a postmortem
24 examination on the body of Ms. Pauline Cook?

25 A. I was.

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1 Q. And who requested that examination?

2 A. The coroner's office of York County.

3 Q. Is that typical? Is that usually who requests
4 autopsies?

5 A. They do.

6 Q. All right, sir. And did someone from the coroner's
7 office assist you in performing that autopsy?

8 A. Yes.

9 Q. And who is that?

10 A. We would have gotten a call, and I believe it was a
11 Sunday afternoon -- I'm going to refer to my autopsy notes
12 if I could -- on the 12th of November 2011, and I don't
13 remember if it was Ms. Gast or Ms. Westover. One of the
14 two of them called me that afternoon, said there was a
15 suspicious death, that they wanted me to come in actually
16 that afternoon and take a look at, determine what the next
17 step would be.

18 Q. All right, sir. And did you come in on the 13th,
19 that Sunday, to examine Ms. Cook?

20 A. Yes, I did.

21 Q. And what determination did you make that evening when
22 you first examined her body?

23 A. We -- when we do an autopsy, there's two main
24 components of what I do. The first would be the external
25 examination, which we would look at the outside of the

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1 body without actually cutting into it. We would do things
2 like weigh the body, measure the height, sex, you know,
3 any injuries we would see externally, just all the small
4 little things on the outside of the body that might be
5 pertinent to determining the next step, and that would be
6 the internal examination.

7 The internal examination would be actually removing
8 the organs, looking at natural disease processes and then
9 any injuries that might have extended to the inside of the
10 body. On that particular evening, our goal was just to
11 look. We don't usually do autopsies on Sunday unless
12 there's a homicide or something we really need to look at
13 that day, but we determined that the injuries that were
14 seen externally were not typical and could not be
15 explained by just a natural death.

16 So after making that determination, we made a
17 decision to do the autopsy the next Monday morning; that
18 the investigators were to go and specifically look for
19 some things at the scene; that they could complete some
20 more of their information gathering; and that we would
21 have more people. Actually some of my partners could also
22 look at the external examination and help us put all the
23 pieces together.

24 Q. All right, sir. Is there something that helps about
25 the passage of time too as far as developing things on the

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1 body and giving you more information?

2 A. There are some things that allow us to estimate --
3 and I'll give -- that's a very broad estimation -- time of
4 death. Things like rigidity in your muscles; lividity,
5 which is settling of blood, and there's a -- and I said
6 very vague, predictable time element that can give you a
7 general idea about the timing.

8 The other thing that was important in this case is
9 sometimes some bruises can accentuate or become more
10 pronounced overnight. So we -- some of the bruises we
11 were seeing that Sunday evening we wanted to allow that
12 Sunday evening until the next day to develop better, and
13 that also gives us some information that's helpful in some
14 cases.

15 Q. All right, sir. And when did you actually conduct
16 the autopsy?

17 A. So the internal, we came back Monday morning at
18 8:00 on the 13th. We came back -- I'm sorry, the
19 initial exam was actually on the 13th, to correct my
20 prior statement. So on the 14th, which was on that
21 Monday, we came back, and at 0800 or 8:00 a.m. in the
22 morning is when we conducted the rest of the examination,
23 reconfirmed some of our findings at external examination
24 the night before, and then would have gone on to do the
25 internal examination.

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1 Q. And how do you -- when you're conducting an autopsy
2 on the 14th, how do you document the work that you're
3 doing and your findings as you go through with the
4 autopsy?

5 A. Sure. Several ways. We would take photographs, and
6 that's usually done by the forensic officers or someone
7 with the coroner's office that would be present at the
8 autopsy. They're there at most autopsies, depending upon
9 the circumstances. Certainly in this case,
10 representatives from both of those agencies were there and
11 they would have photographed any injuries, depending upon
12 what we found. In addition to that, I would take a
13 diagram, multiple diagrams of the body, concentrating on
14 different parts of the body and depending upon the
15 injuries that we saw.

16 Q. Okay, sir. Did you do those things in this case?

17 A. We did.

18 Q. Were photographs taken?

19 A. They were.

20 Q. And were diagrams of the body done?

21 A. Yes.

22 Q. And did you take notes as you were -- and ultimately
23 issue a report documenting the findings of the autopsy?

24 A. I did.

25 Q. Okay, sir. Let's start at the beginning. What's the

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1 general procedure if you're conducting an autopsy? You
2 walk into the room. What's the procedure you undertake
3 when you first start an autopsy?

4 A. We would all gown up with protective covering and
5 that sort of thing. We weigh the body. Again, just
6 document things like the height. We take body fluids,
7 blood, sometimes urine, gastric contents, which can be
8 useful for toxicology, which are done also in most cases
9 to see if the decedent had drugs onboard or alcohol. So
10 those would be drawn and obtained. And then again
11 starting with that external examination, just going
12 through, you know, limb by limb, piece by piece and just
13 finding any bruises, any injury patterns that we might see
14 and then documenting that with photography and also with
15 the body diagrams.

16 Q. All right, sir. Now, in this particular case, you
17 said there's two. There's an external examination of the
18 body and then an internal examination. Let's start with
19 the external examination, starting at the feet and working
20 our way up. Can you describe to the jury what injuries
21 you observed, if any, in her feet or her legs.

22 A. Sure. There were three small bruises on that front
23 side of the right lower leg, about halfway between your
24 knee and your heel, in this area right here.

25 Q. All right, sir. Any other injuries on the legs or

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1 feet that you observed that appeared to be significant?

2 A. No.

3 Q. All right, sir. Coming up to about the torso or the
4 hips and the waist area. Any injuries there?

5 A. Sure. On the right hip region, in about generally
6 this area, there was about a 4-inch bruise right here in
7 the right hip flank region..

8 Q. All right, sir. Now, you indicated that you had --
9 that these were documented with photographs. I'm going to
10 show you what's been marked, I believe, State's Exhibit 1
11 through 10, and try to keep them in that order. Would you
12 examine State's Exhibit 1 through 10 for identification
13 and tell me, do you recognize those photographs?

14 A. I do.

15 Q. And what are those photographs of?

16 A. These are photographs taken at external examination
17 of the different bruises that we found at autopsy.

18 Q. Do they accurately depict the condition of Ms. Cook
19 as you saw them on November 14th, when you conducted the
20 postmortem examination?

21 A. They do.

22 Q. And would those, all of those photographs just
23 generally, would those photographs assist you in
24 explaining to the jury your findings and how you
25 documented these and the significance of the various

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1 findings you made?

2 A. They would.

3 Q. All right, sir. Let's take them one by one. I think
4 the top photograph there, State's Exhibit 10, can you tell
5 me what's depicted there.

6 A. This is the hip region bruise that we were just
7 describing, and you can see the concentrated area of the
8 bruise in the center of the photograph.

9 Q. All right, sir. And does that accurately depict the
10 bruise and the injury as you saw it that day?

11 A. It does.

12 MR. BRACKETT: Your Honor, at this time I move
13 State's Exhibit 10 into evidence and seek to publish the
14 exhibit.

15 MS. ANDERSON: We would object.

16 THE COURT: Based on earlier ruling and over
17 objection, it's allowed in.

18 MR. BRACKETT: All right. Madame Clerk.

19 Q. And can you describe what we're seeing there.

20 A. In the center of the photograph, you will see this
21 area of bruising. There may be a small little linear
22 pattern right there in the middle of that bruise, which
23 may be a little laceration.

24 Q. Here's a little pointer if that would help you.

25 A. Sure. So this is the bruise right here, and this is.

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1 maybe a little laceration you can see. Some of this stuff
2 down here is what we call lividity, which is just a
3 postmortem finding of the blood settling in a
4 gravity-dependent fashion.

5 Q. So coming in -- the question about lividity, the
6 blood settles. Can you explain exactly how that happens.

7 A. Sure. Because of gravity, once our heart stops
8 beating and it's not pushing blood through your arteries
9 and back through the smaller vessels, the capillaries, and
10 then back through the veins to your heart to return, when
11 that process stops, the blood then settles in a
12 gravity-dependent manner. So over a period of time, that
13 would settle out through the soft tissues. You can
14 actually see it depending upon the position of the body
15 once they die. It builds up over a period of about 8 to
16 12 hours or so, at which point it becomes fixed.

17 Before that, you can actually push on that area and
18 the blood will shoot away. It gets kind of clear. But
19 after about 8 to 12 hours -- and there's a lot of
20 variables that can alter that time sequence, but after
21 that period of time, it becomes fixed. So that settling,
22 you can't alter it, basically.

23 Q. Is there a difference between lividity and bruising
24 that's obvious to you?

25 A. Yes. Lividity is more of a diffuse -- and, again,

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1 this is all lividity right here -- it's more of a diffuse,
2 kind of a purple-red. This is more of a dark purple right
3 here, and this again is the bruise.

4 Q. All right, sir. Any other injuries that you noted
5 around the hips or the waist --

6 A. No.

7 Q. -- that were significant?

8 Moving up to the arms of Ms. Cook, did you note any
9 injuries to Ms. Cook's arms and her hands?

10 A. Yes, I did. There were bruises on both hands and arm
11 regions. They were concentrated on the dorsal, which is
12 the nonpalmar side, of both regions. It was more
13 significant on the right side than the left, but they were
14 pretty significant on both sides.

15 Q. What did those bruises seem to indicate to you?

16 A. Either a strike of some sort. Could have been struck
17 by someone or something or they could have been defensive
18 wounds where this decedent was trying to fight someone off
19 and strike against somebody else.

20 Q. Do elderly folks -- as people age, do they tend to
21 bruise easier or more difficult? Is there a trend as you
22 age?

23 A. Yes, they do. That is correct.

24 Q. Which one is that?

25 A. They tend to bruise more easily as we age.

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1 Q. Okay. And were these bruises that you saw on the
2 hands that could have been -- you said they -- either
3 striking or defensive. Somebody could have hit her, or
4 she could have been trying to hit somebody?

5 A. Correct.

6 Q. Did you document those with photographs?

7 A. Yes.

8 Q. And I handed you what was marked as State's
9 Exhibit 1, 2, and 3 for identification. Do those
10 photographs accurately depict the injuries to her hands
11 that you saw and did they assist you in explaining that to
12 the jury?

13 A. Yes, they do.

14 MR. BRACKETT: Your Honor, at this I would seek to
15 introduce State's 1, 2, and 3 and move to publish.

16 MS. ANDERSON: Objection to all of these, Your Honor.

17 THE COURT: Based on earlier ruling, over objection,
18 they're allowed in.

19 Q. Which one would you like to go to first?

20 A. Number 1, I believe.

21 Q. What does State's Exhibit 1 depict?

22 A. This is the left hand here, and this is the bruise
23 you can see in this region right here.

24 Q. All right. And what about just above it at the
25 wrist, those two red areas?

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1 A. Those could be bruises. They -- they could also too
2 be bruises. I'm not totally sure about that, but these
3 are definitely premortem bruises.

4 Q. When you say "premortem," what do you mean?

5 A. Prior to death.

6 Q. All right, sir. How about State's Exhibit 2 or 3?

7 Are those helpful to you?

8 A. Number 2.

9 Q. What does this -- what does State's Exhibit 2
10 indicate?

11 A. This is more of the same. This is the right side,
12 and you can see a concentrated area of some bruising right
13 there. That's some soft tissue swelling, it looks like,
14 right in this region, but just a general fairly large
15 bruise right here.

16 Q. All right, sir. And State's Exhibit 3?

17 A. Number 3?

18 Q. Yes, sir. What does that show us?

19 A. That's more of the same, and this was on the right
20 side. Again, a bruise and then there's this little
21 tearing, a little laceration right in that region.

22 Q. Was that premortem or postmortem?

23 A. That looks like it was premortem. Or perimortem,
24 about the time of death.

25 Q. Were there any other injuries that you noted on the

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1 hands or the arms that were significant?

2 A. There were two additional bruises on the right
3 forearm.

4 Q. All right, sir. And how would you characterize
5 those? You indicated the other bruises were defensive,
6 potentially defensive. Do you have an opinion as to those
7 other ones on the forearm?

8 A. Those likely were defensive also based on the
9 position. One was about right here; one was about right
10 there. Potentially they also could be defensive or the
11 decedent striking against something that's in fairly close
12 range.

13 Q. All right, sir. Anything else significant about the
14 arms or the hands?

15 A. The only other thing, on the left upper inner arm,
16 there was a 1-inch bruise about this region right here.

17 Q. Anything unusual about that? Any opinion you could
18 form based on that?

19 A. It was about 1 inch in diameter. It was round to
20 oval. Could have been from a fingertip inflicting
21 pressure at that point, or it could have been something
22 else.

23 Q. Okay. How about the examination of her chest area?
24 Any injuries there?

25 A. There were two additional, about 1 inch in size,

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1 bruises. One in the right midchest region, about right
2 here. And then another one in the left region right below
3 the collarbone right here.

4 Q. I'm showing you what's been marked as State's
5 Exhibit 5 for identification. Can you identify that
6 photograph?

7 A. Yes.

8 Q. And what does that show?

9 A. That shows the head of the decedent, and I believe
10 what you're referencing is this left upper chest bruising.

11 Q. Yes, sir. And are those bruises that you were
12 describing reflected in that photograph?

13 A. Yes.

14 Q. Does that accurately depict the injuries as you saw
15 them at the autopsy?

16 A. It does.

17 MR. BRACKETT: Your Honor, at this time I would seek
18 to introduce State's Exhibit 5 into evidence and move to
19 publish.

20 MS. ANDERSON: Objection, Your Honor.

21 THE COURT: Over objection, based on prior rulings,
22 admitted.

23 Q. State's Exhibit 5. All right. Can you show us the
24 location of the injuries you were talking about?

25 A. Yes. The left upper chest bruise is right here.

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1 Q. Okay.

2 A. And the right upper chest bruise is right there.

3 Q. All right, sir. Moving on to the head and neck
4 region, starting at the top of the head, did you -- were
5 you able to determine whether there were any injuries
6 around her skull area at the top of her head?

7 A. I was.

8 Q. And what did you discover when you examined that
9 area?

10 A. There was a bruise in the right scalp region about
11 right here.

12 Q. All right, sir. I'm showing you what's been marked
13 as State's Exhibit 4 for identification. Can you identify
14 that photograph?

15 A. I can.

16 Q. What does it depict?

17 A. It describes or it shows the said bruise just
18 described.

19 MR. BRACKETT: Your Honor, I would seek to introduce
20 State's 4 into evidence and move to publish.

21 MS. ANDERSON: Objection as well.

22 THE COURT: Over objection, subject to prior ruling,
23 it's allowed in.

24 Q. Can you show us where the bruising is?

25 A. Yes. This is the hair, obviously, of the decedent.

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1 You can see the outline of this purplish blue area right
2 here. This is the bruise.

3 Q. What's required to cause a bruise like that?

4 A. Some sort of trauma, some impact, some force applied
5 to that region.

6 Q. Any other injuries to Ms. Cook's head?

7 A. Not shown by this photograph, no.

8 Q. All right, sir. How about not shown in the
9 photograph? How about any other injuries to the top of
10 her head but not necessarily depicted in this photograph?

11 A. There are some what we call subgaleal bruises or
12 hemorrhage, which are only evident once we reflect the
13 scalp back to remove the brain.

14 Q. On the previous picture that showed her chest and the
15 two injuries on her chest, you could see her face and
16 around her eyes. Can you describe for the jury those
17 injuries?

18 A. Sure. She had multiple abrasions and bruises around
19 both eye sockets in this region.

20 Q. I'm going to see if we haven't got something in
21 evidence already. I'm showing you what's been marked as
22 State's Exhibit 61 in evidence. Can you describe what
23 that photograph shows?

24 A. Yes. This shows the bruising around both eyes, the
25 bruising on the nose. There's abrasions on the nose.

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1 There's some additional bruising of both the right and
2 left cheek regions. I'll go back through these.

3 Q. All right, sir. Focusing specifically on the eyes
4 for right now.

5 A. Sure.

6 Q. The reddish areas that circle both eyes, can you tell
7 us what those are?

8 A. Yeah. These are bruises, what we sometimes refer to
9 as raccoon eyes, where it's a bruise pattern that we
10 sometimes see with base or skull fractures of the internal
11 parts of the skull. That was not the case in this -- in
12 Ms. Cook's case.

13 Q. In your opinion, what caused those bruises -- the
14 circular bruising around each eye?

15 A. Some sort of trauma, impact, blow, constant
16 significant pressure.

17 Q. Over each eye?

18 A. Yes.

19 Q. Is it possible that that is in any way linked to
20 lividity?

21 A. No. Based on the position of the body at the scene,
22 based on the position of the body in the morgue overnight,
23 it completely goes against lividity, pathologic mechanism
24 how it occurs.

25 Q. All right. Did you conduct in any more detail

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1 examination of Ms. Cook's eyes?

2 A. Yes.

3 Q. And what did that examination reveal?

4 A. She had what we call petechial hemorrhages in both
5 the right and left eyes, both the upper and lower
6 conjunctival regions.

7 Q. I'm showing you what's been marked as State's 6 and
8 7. Would you take a look at those photographs and tell me
9 what they depict.

10 A. This is Exhibit 6, and when we do that external
11 examination, again, we're looking for evidence of trauma
12 and that sort of thing. And this photograph in this case,
13 if you want to pull that up, Number 6, I can probably --

14 Q. Well, does that accurately depict the condition of
15 Ms. Cook's eyes as you saw them on that day?

16 A. It does.

17 MR. BRACKETT: Your Honor, at this time I would seek
18 to introduce State's 6 and 7 for identification into
19 evidence and move to publish.

20 MS. ANDERSON: Objection to both.

21 THE COURT: Over objection, based on prior ruling,
22 they're allowed in.

23 Q. All right. Starting with State's Exhibit 6, can you
24 tell the jury what we're looking at here?

25 A. Sure. This is the -- I believe this is the right eye

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1 of Ms. Cook. And you can see this is the iris here, the
2 pupil there. And this -- this white area is called your
3 sclera. Covering your sclera is conjunctiva. And what we
4 look for is these little small pinpoint-type hemorrhages.
5 These are what I was referring to a minute ago as
6 petechial hemorrhages, which are commonly seen with
7 asphyxial-type deaths, deaths from which oxygen is
8 deprived from the brain.

9 Q. How does depriving somebody of oxygen cause these
10 sorts of petechial hemorrhages in the eye?

11 A. It's felt to be pressure related. When the pressure
12 builds up, the small little capillaries and venules in
13 that region of the eye burst. And that's the mechanism or
14 thought to be the mechanism for the way these occur.

15 Q. Were petechia observed in both eyes?

16 A. Yes.

17 Q. Is there any other cause for petechia that you're
18 aware of?

19 A. You can't say petechial -- they're not specific for
20 an asphyxial death. Sometimes we'll see it in other
21 particular types of death, but it's -- when you see that
22 in an autopsy, you have to exclude an asphyxial-type
23 death.

24 Q. Okay, sir. How about the other eye?

25 A. The other eye had similar sorts of petechial

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1 hemorrhages and also had a very large area in the lateral
2 aspect, which is shown in photograph 7. And we're looking
3 up from above down on Ms. Cook here, and you can see this
4 area in the left lateral aspect, and this is a confluence
5 of these type of petechial hemorrhages, which we'll call a
6 conjunctival hemorrhage or a scleral hemorrhage, which
7 again is the same mechanisms of the petechial hemorrhages,
8 but oftentimes when a decedent may struggle, these small
9 hemorrhages become confluent and will become larger like
10 we see right here.

11 Q. All right. So is this also indicative, then, of
12 asphyxiation?

13 A. Yes.

14 Q. All right, sir. Were there any other injuries to the
15 eyes or the nose area of significance?

16 A. You can see this generalized bruising. You can see
17 an abrasion right here. See this little bruise right
18 here. Looks like one right there.

19 Q. Is that also indicative of pressure and force being
20 applied to that area like you testified with the eyes?

21 A. Yes. Slightly different mechanism. In this case,
22 it's more of a -- as far as the eyes, around the eyes,
23 yes. Not necessarily the petechial hemorrhages.

24 Q. Yes, sir. But I was thinking specifically the nose
25 and around the lower nose, those other bruises you were

ROBERT THOMAS, M.D. - DIRECT EXAMINATION BY MR. BRACKETT

1 pointing out. Those require force as well?

2 A. Yes.

3 Q. Okay, sir. Anything of significance in the eye or
4 nose region before we move on to the mouth?

5 A. No.

6 Q. All right. What did you observe when you examined
7 Ms. Cook's mouth?

8 A. She had two lacerations on the left lip, one on the
9 upper lip and then one -- and lacerations like a little
10 cut. Oftentimes it's from some blunt force that actually
11 hits an area and causes like a little cut. And there was
12 a small cut on the left upper lid -- lip and the right
13 left lower lip. So left upper and left lower lips we had
14 two cuts. In addition to that, her tongue on the right
15 side had an obvious bruise at the time of autopsy and --
16 which extended down deep into the tissue of the front side
17 of the tongue on the right and also in the back of the
18 tongue on the right.

19 Q. Do you have an opinion as to how those bruises on her
20 tongue might have been caused?

21 A. The bruises on the tongue were likely caused
22 secondary to force being applied over the mouth region,
23 forcing the mouth to be closed. And then the decedent
24 struggled. The tongue may have gotten trapped up against
25 the teeth.

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1 Q. All right, sir. And how about the injuries to the
2 lips?

3 A. Again, force being applied over the lip in that
4 region, being compressed up against and under the
5 underneath teeth, underneath the teeth.

6 Q. How many injuries were there to her lips? Did you
7 say lacerations?

8 A. There were two. One in the left upper and then one
9 in the left lower.

10 Q. Around her mouth or jaw area, were there any other
11 injuries that you observed?

12 A. There were. There were five we call fingertip-type
13 bruises that progressed underneath the chin from right to
14 left.

15 Q. When you say "fingertip-type bruises," can you
16 elaborate on that?

17 A. Sure. They were round to oval. About an inch, give
18 or take a little bit in diameter. Indicative of pressure
19 being applied with someone's fingers, fingertips.

20 Q. I'm showing you what's been marked as State's 8 and 9
21 and ask if you would, sir, take a look at that. Can you
22 identify what's depicted in those photographs?

23 A. Yes. 8 is a photograph of the neck and chin region
24 of Ms. Cook. Which shows what I was just describing. And
25 9 depicts the same with the gloved individual showing how

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1 those fingers may have been positioned.

2 Q. All right, sir. Would it assist you in explaining to
3 the jury the nature of these injuries and the possible
4 cause of the injuries if you had these photographs?

5 A. Yes.

6 MR. BRACKETT: Your Honor, at this time I seek to
7 introduce State's Exhibit 8 and 9 for identification and
8 move to publish.

9 MS. ANDERSON: Objection to both of these.

10 THE COURT: Over objection, allowed into evidence.

11 Q. All right. Can you -- first let's take a look, I
12 believe, at 8. That just shows the bruising. Show us
13 what we're looking at here, if you would, and describe
14 these injuries to us.

15 A. Sure. This is looking from down below up at
16 Ms. Cook. And these fingertip-type bruises are depicted.
17 One here, two here, three here, four here, and then five
18 right here.

19 Q. All right, sir. And your opinion as to the cause of
20 those again?

21 A. Again, if someone applying pressure to this
22 individual with their hand, with the fingertips resting in
23 some fashion where those bruises are located.

24 Q. And did you demonstrate actually during the autopsy
25 in State's Exhibit 9, does that depict a demonstration of

ROBERT THOMAS, M.D. - DIRECT EXAMINATION BY MR. BRACKETT

1 how these injuries may have occurred?

2 A. It does.

3 Q. Okay. State's Exhibit 9.

4 A. Again, this is a gloved individual showing how those
5 fingertips may have been positioned. Again, there's a
6 couple different possible ways that could have happened,
7 but this is one way that could have caused those types of
8 injuries.

9 Q. What are other ways that it could have occurred?

10 A. It's potentially possible that the hand was reversed,
11 knuckles could have been used to cause those same sorts of
12 bruising patterns. But that's, in my opinion, the most
13 likely scenario, as you see there.

14 Q. I was not able to locate a dummy head, so mine will
15 do.

16 A. Sure.

17 Q. Come on down, if you wouldn't mind. Can you show the
18 jury -- when you describe the other possible ways, is it
19 possible that more than one hand could have been used?

20 A. It is possible.

21 Q. Can you demonstrate how that would have been done?
22 Tell me what I need to do.

23 A. I hate to ask you to lay down, but --

24 Q. I don't mind.

25 A. -- can you do that?

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1 Q. It's okay.

2 THE COURT: Those on the back row of the jury, if you
3 need to stand, you can.

4 Q. If I were laying on my back?

5 A. Sure. So the most likely scenario to explain
6 everything that we've seen, in my opinion, would have been
7 for one individual to take their hand.

8 THE COURT: Would it be possible for you to move
9 around on this side? You're right-handed. Can you -- can
10 we move --

11 THE WITNESS: I can move.

12 A. So my right hand would have come like this, those
13 fingertip bruises again right in that location with the
14 second hand coming across like this, using my thumb and
15 index finger to close off the air passage. This closes my
16 right hand -- tell me if you can breathe.

17 Q. No, it's okay. I don't need to breathe.

18 A. The right hand again forcing that jaw shut, which
19 would have, number one, kept the mouth closed; number two,
20 would have caused the pressure to the tongue and the
21 bruises in the right side of the tongue, both on the front
22 side and the backside with my -- again, my thumb and index
23 finger closing the nose. And those lacerations were right
24 in this area on the left side, so my index finger creating
25 a lot of pressure in this region right here to cut off the

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1 air supply. Now, my palm of my hand -- sorry.

2 Q. That's all right.

3 A. Palm of my hand is over his eye sockets, where the
4 bruising from the pressure could have been applied. Now,
5 alternatively, could have done the same thing like this to
6 hold. You're going to see my knuckles acting as my
7 fingertip, the bruising pattern, causing that same sort of
8 effect. Other options might be from up above do the same
9 sort of thing. Two hands over, one hand like this. Again
10 trying to shut off her air supply.

11 Q. Thank you, Doctor.

12 Was there anything else that you observed of
13 significance in the external examination of Ms. Cook?

14 A. No. I think that pretty well covers everything.

15 Q. How about the -- I think you said the next step would
16 have been to conduct an internal examination?

17 A. Yes.

18 Q. Did you, in fact, do that?

19 A. I did.

20 Q. And what did the internal examination of Ms. Cook
21 reveal?

22 A. She had some coronary disease in her heart, a
23 moderate degree. She had a scar in her left posterior
24 ventricle, which is the main pumping chamber of the heart,
25 which might indicate she had had a previous heart attack.

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1 It may or may not have been known clinically. She also
2 had a -- in her right atrium, which is the receiving
3 chamber which then pumps blood to the right ventricle
4 which then goes to the lungs, she had a 2- to
5 2-and-a-half-centimeter neoplasm, a myxoma, which I
6 believe was known prior to death, as far as the heart
7 goes.

8 In the lungs she had some adhesions, which are just
9 the lining of the lung gets scarred a little bit and it
10 somewhat sticks to the outside lining of the chest cavity.
11 In her stomach we found about 12 ounces of well-chewed
12 food substance, and there was some pill debris.

13 Q. When you say "pill debris," what exactly are you
14 talking about?

15 A. Just some medications that she would have been given
16 probably at or shortly thereafter her last meal.

17 Q. I know you can't give an exact time, but would it be
18 within a very short period of time of her expiring? How
19 long would it take to digest that so that you would not
20 have observed any pill debris whatsoever?

21 A. Sure. Again, generalities, a very large meal would
22 take about five to six hours to digest. A very small
23 meal, maybe one to two hours. And not knowing how much
24 she ate at her last meal, it would be hard to say, but I
25 would say probably within one to three hours, somewhere in

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1 that range.

2 Q. All right, sir. Did you examine the skull area?

3 Were you able to ascertain any more information about the
4 injuries to her head?

5 A. Yes, the -- I think we mentioned there were some what
6 we call subgaleal areas of hemorrhage, and those were on
7 the left, just left of midline. One about right here and
8 one about right here.

9 Q. Did that correspond with the bruise that you earlier
10 described to the top of her head?

11 A. It didn't necessarily correspond to that bruise, but
12 oftentimes we will not identify a bruise externally, but
13 we might see when we reflect the scalp to take the brain
14 out.

15 Q. Did the subgaleal hemorrhaging, did that require a
16 strike or some sort of force to be applied to cause?

17 A. Yes.

18 Q. So there were two additional injuries that were not
19 visible from the exterior?

20 A. Yes.

21 Q. You indicated earlier that you also performed -- you
22 collect body fluids for toxicological analysis. Did you
23 do that in this case?

24 A. Yes, we did collect blood and send that for a tox
25 screen or tox testing.

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1 Q. Did that reveal anything of significance as far as
2 the cause of her death?

3 A. No, it did not. Those are all incidental findings.

4 Q. Was there anything else of significance as regard to
5 the internal examination of Ms. Cook?

6 A. No.

7 Q. Based on your exam -- you mentioned earlier there was
8 some scar tissue from a -- possibly a previous heart
9 attack and some arteriosclerosis. Is that what you said?

10 A. Yes.

11 Q. Am I pronouncing that right?

12 A. Yes.

13 Q. Did those cause her death?

14 A. No.

15 Q. Based on the examination that you conducted of
16 Ms. Cook postmortem, did you -- were you able to form an
17 opinion as to what caused Ms. Cook's death?

18 A. I was.

19 Q. And in your opinion, is there any way that her death
20 could have been an accident?

21 A. No.

22 Q. Is there any way that it could have been caused --
23 for example, give you a hypothetical. If someone had just
24 laid down on top of her with their torso -- a heavy person
25 like myself, for example -- laid down across her face,

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1 would that have caused the injuries and the asphyxiation
2 you saw?

3 A. Not -- no, it could not.

4 Q. What was, in your opinion, the cause of her death?

5 A. Asphyxiation.

6 Q. And what was the manner of her death?

7 A. Homicide.

8 Q. When you say "homicide," what do you mean?

9 A. I mean a death that is caused from an intentional act
10 from another individual.

11 Q. Did you prepare and issue a report in this case?

12 A. I did.

13 Q. Did you bring a copy of that with you?

14 A. I did.

15 Q. May I see that. And do you also have copies of the
16 diagrams that you prepared?

17 A. I do.

18 Q. Just the -- thank you.

19 THE COURT: Counsel, take the photographs down.

20 MR. BRACKETT: Your Honor, there may be a question
21 about one paragraph in this, but I think the body and
22 substance of the report there's no objection to, and we
23 agree to take out the first paragraph under the clinical
24 summary section at a later time prior to publishing.

25 MS. ANDERSON: That's correct, Your Honor.

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1 THE COURT: With that redaction, any objection?

2 MS. ANDERSON: No, Your Honor.

3 MR. BRACKETT: We'll discuss the redaction. We're
4 not exactly sure whether we are or not. But the State
5 would seek to introduce this at this time, mark it as
6 State's Exhibit --

7 THE REPORTER: 88.

8 MR. BRACKETT: 88. There we go. Thank you.

9 Mark it as State's Exhibit 88 and move it into
10 evidence.

11 THE COURT: In without objection subject to
12 redaction.

13 (State's Exhibit Number 88 was marked and admitted.)

14 Q. Thank you very much, Dr. Thomas. Please answer any
15 questions Ms. Anderson may have.

16 CROSS-EXAMINATION

17 BY MS. ANDERSON

18 Q. Good afternoon, Dr. Thomas. Since you've got your --
19 hand this to you just in case --

20 A. Sure.

21 Q. -- your report.

22 A. Okay.

23 Q. You mentioned on direct that there was basically a
24 toxicologic analysis was done on Ms. Cook?

25 A. Yes, ma'am.

ROBERT THOMAS, M.D. - CROSS-EXAMINATION BY MS. ANDERSON

1 Q. And you listed the findings on that on your report?

2 A. Yes, ma'am.

3 Q. Okay. And one of the -- and you also testified is
4 there was some sort of pill debris found in her stomach as
5 well?

6 A. Yes.

7 Q. And one of those that was located was doxylamine, if
8 I'm pronouncing that correctly.

9 A. Yes, ma'am.

10 Q. And that is essentially -- can be sort of an
11 antihistamine, correct?

12 A. Correct.

13 Q. And can be sometimes used for treatment of insomnia?

14 A. Yes.

15 Q. The lab report indicates that's something found in
16 Unisom; is that correct?

17 A. Yes, that's another word for it.

18 Q. And during the autopsy, I think you testified that
19 there was several people present. Someone from the
20 coroner's office was present?

21 A. Yes, ma'am.

22 Q. And someone from the forensic service unit was also
23 present, correct?

24 A. Yes.

25 Q. I believe that was Officer Buchanan, according to

ROBERT THOMAS, M.D. - CROSS-EXAMINATION BY MS. ANDERSON

1 your report?

2 A. Yes.

3 Q. And it also indicates that Detective Allen Cantey was
4 present as well?

5 A. Yes.

6 Q. And you testified on direct essentially that the
7 coroner's office or other law enforcement there can
8 basically assist in photographing any injuries or any
9 findings you have?

10 A. Yes.

11 Q. And that essentially can then be taken and placed
12 into evidence for the purposes of their case?

13 A. Sure.

14 Q. So basically you're -- I guess we're talking the
15 autopsy's conducted in a way that evidence can be
16 preserved and handed off to FSU?

17 A. Sure, yes.

18 Q. Okay. And, in fact, in this case, certain samples
19 were taken and given to Officer Buchanan, correct?

20 A. Meaning what samples?

21 Q. There were some hair samples that were recovered and
22 collected.

23 A. Yes, they standardly do that depending upon the case,
24 but I'll let them speak to that.

25 Q. Okay. But from your purpose, when you were present,

ROBERT THOMAS, M.D. - CROSS-EXAMINATION BY MS. ANDERSON

1 there were blood drawn and collected and given to FSU
2 during the autopsy?

3 A. Yes. Usually we would, either the forensic -- strike
4 that. Either the coroner's office would send blood off
5 themselves to SLED or to a reference lab they use, NMS.
6 Or in some cases, we, the pathologist, would send that
7 off. We would also then pass over blood to the forensic
8 service or the coroner's service for their purposes.

9 Q. And in this autopsy, there were fingernail clippings
10 that were taken and collected as well?

11 A. Yes.

12 Q. And also DNA swabs from Mrs. Cook's nose and mouth
13 were taken?

14 A. Yes, I believe they were.

15 Q. There were no sort of fibers or any sort of cloth
16 evidence, anything of that nature collected in this case,
17 correct?

18 A. Not that I recall, no.

19 Q. And your autopsy report lists the date and time of
20 death as November 12th, 2011, in the late p.m. hours,
21 correct?

22 A. Correct.

23 Q. And you were not able to determine the time of death
24 any more specifically than that?

25 A. No, I'm not.

ROBERT THOMAS, M.D. - CROSS-EXAMINATION BY MS. ANDERSON

1 Q. When you determined that time of death, had you been
2 told of what witnesses had relayed as the last time they
3 had seen Mrs. Cook?

4 A. Yes, that's part of the information that we want to
5 know about.

6 Q. So the time of death would be partially based on that
7 as well?

8 A. Partially. We take a compilation of historical
9 information, rigor mortis, lividity, gastric contents.
10 All those things together you have to factor together when
11 you're trying to get a general time of death.

12 Q. And I think you testified in terms of the contents of
13 the stomach, you were not able to determine with a lot of
14 specificity in this case how long they had been there?

15 A. Other than what I just testified to, no.

16 Q. And one of the things you testified on direct was
17 your finding of petechial hemorrhages?

18 A. Yes.

19 Q. And you referenced this on direct, and just to go
20 through with you a little bit that petechial hemorrhages
21 are not solely caused by an asphyxiation?

22 A. That's true.

23 Q. And there are potential medical causes that petechial
24 hemorrhaging can be found, right?

25 A. There are other causes, yes. Not specific causes,

ROBERT THOMAS, M.D. - CROSS-EXAMINATION BY MS. ANDERSON

1 but you see it on rare occasion. I would say a very small
2 amount of cases that we see it not related to asphyxial
3 deaths. But it can occur, yes.

4 Q. Can occur with cardiac arrest in some cases?

5 A. Sure, it could.

6 Q. Has also -- could occur with rheumatoid arthritis?

7 A. I don't know that for sure, but I'm sure it could.

8 But again, having done 500 autopsies that I've seen it
9 very few outside of asphyxial deaths.

10 Q. Again just talking about possibility, though, it is
11 also possible, can be a side effect of certain medications
12 or certain medications could contribute to it?

13 A. I don't know that for sure, but I wouldn't
14 necessarily say it couldn't.

15 Q. An anticoagulant medication could be a possibility?

16 A. I don't know. I can't answer that.

17 MS. ANDERSON: Beg the Court's indulgence. Nothing
18 further, Your Honor.

19 REDIRECT EXAMINATION

20 BY MR. BRACKETT

21 Q. Just one question, Dr. Thomas. Have you ever heard
22 or read in literature, medical literature, of petechial
23 and scleral hemorrhaging, the kind that you saw in
24 Ms. Cook, coupled with fingertip bruises under the chin
25 that turned out not to be asphyxiation?

ROBERT THOMAS, M.D., REDIRECT EXAMINATION BY MR. BRACKETT

1 A. No.

2 Q. Thank you.

3 THE COURT: Recross?

4 MS. ANDERSON: Nothing further, Your Honor.

5 THE COURT: You may be excused. Thank you.

6 Appreciate your time.

7 THE WITNESS: Sure. Thank you.

8 MR. BRACKETT: State would call Darin Swiger.

9 DARIN SWIGER, after having first being duly sworn,
10 testified under oath as follows:

11 DIRECT EXAMINATION

12 BY MR. BRACKETT

13 Q. Sir, would you please state your full name and spell
14 your last name for the court reporter?

15 A. Yes, sir. My name is Darin Swiger. Last name is
16 S-W-I-G-E-R.

17 Q. All right, sir. Where are you currently employed?

18 A. Currently employed at Duff-Norton. It's a
19 manufacturing facility in Charlotte, North Carolina.

20 Q. And what do you do at Duff-Norton?

21 A. I'm a manufacturing supervisor in their assembly area
22 and responsible for service and repair.

23 Q. Are you here to talk to us about Duff-Norton today?

24 A. No, sir.

25 Q. What did you do prior to working at Duff-Norton?

DARIN SWIGER - DIRECT EXAMINATION BY MR. BRACKETT

1 A. Prior to working at Duff-Norton, I worked at Rock
2 Hill Police Department. I was a patrol officer from 2008
3 until July of 2012.

4 Q. Okay. So in the past few months, you've left the
5 Rock Hill Police Department?

6 A. That's correct.

7 Q. And went to work at Duff-Norton?

8 A. That's correct.

9 Q. Well -- so you were a police officer in November of
10 2011?

11 A. That's correct.

12 Q. All right, sir. How long were you in law enforcement
13 altogether, did you say?

14 A. Just about four years.

15 Q. All right. Were you working on November 13th,
16 2011, in the morning hours?

17 A. Yes, I was.

18 Q. All right. And what shift were you working? What
19 shift is that?

20 A. That's day shift at the time. 6:30 in the morning
21 until 4:30 in the afternoon.

22 Q. And where were you patrolling? What was your
23 assignment?

24 A. My assignment, Rock Hill's broken into six patrol
25 zones. I was patrolling what's called two side, which is

DARIN SWIGER - DIRECT EXAMINATION BY MR. BRACKETT

1 Cherry Road west toward the airport, out toward
2 Northwestern High School, that general area of the city.

3 Q. Does it include the area of Chesbrough Boulevard --

4 A. That's correct.

5 Q. -- where Park Pointe Village --

6 A. Yep. That is City jurisdiction of zone 2. That's
7 City jurisdiction area.

8 Q. And what county is that in?

9 A. York County.

10 Q. Did you receive instructions sometime that morning or
11 were you advised by dispatch to go to the Park Pointe
12 Village --

13 A. Yes, I was.

14 Q. -- assisted living facility?

15 A. Yes. Approximately 8:30 I got a dispatch for a death
16 investigation. Arrived on scene there and proceeded to --
17 I spoke with Chris Westover, I guess, and went forward
18 with the situation as I saw.

19 Q. Were there any other officers there, or were you the
20 first person to arrive?

21 A. I was the first person. Since that was my zone,
22 that's primary position. I was first.

23 Q. What's your responsibilities when you arrive at a
24 scene like that?

25 A. Just gather information from the complainant or

DARIN SWIGER - DIRECT EXAMINATION BY MR. BRACKETT

1 victims if that may be the case. Put that information
2 together and put together a summary, incident report.

3 Q. Do you know about what time you arrived? Did you
4 say?

5 A. Received the dispatch at approximately 8:30 and
6 arrived at about, I think, 8:42.

7 Q. When you arrived, you said you saw Chris Westover?

8 A. Chris Westover, deputy coroner.

9 Q. And who else was there?

10 A. A nurse administrator or the manager responsible for
11 complex at the time. I don't recall her name at the
12 moment.

13 Q. And what were you able to ascertain? What
14 information did you glean upon arriving there at Park
15 Pointe Village?

16 A. Speaking with Deputy Coroner Westover and the
17 administrator, they said that they had found one of the
18 residents deceased in their room in the morning. EMS had
19 been called and they apparently tried to revive Pauline
20 Cook. They weren't able to do so. And based upon
21 information that Chris Westover saw after she had arrived,
22 she felt it was prudent to contact Rock Hill Police
23 Department just to make sure that all the bases were
24 covered and everything was investigated or looked at
25 appropriately.

DARIN SWIGER - DIRECT EXAMINATION BY MR. BRACKETT

1 Q. All right. And did you actually go down to
2 Ms. Cook's room?

3 A. We stayed in the hallway area. I did not go into the
4 room myself until forensic services unit and my
5 supervisor, Sergeant Breeden, were on scene.

6 Q. Did -- were other people going in and out of the
7 room, or was it secure?

8 A. The room was secure at that time.

9 Q. And did somebody ultimately arrive from the forensic
10 services unit?

11 A. Yes, sir.

12 Q. And during the time that -- between the time you
13 arrived and the time forensic services unit arrived, were
14 you in charge of securing the room?

15 A. That's correct.

16 Q. Did you also prepare a crime scene log?

17 A. Yes, I did.

18 Q. And ultimately turn that over to the lead
19 investigator in this case?

20 A. Yep, that's correct.

21 Q. And after the forensic services unit had arrived and
22 took over control of the scene, how long did you stay?

23 A. Probably an additional 30 minutes from the time
24 forensic services were there. I couldn't speak to how
25 long they stayed after I cleared the scene and went back

DARIN SWIGER - DIRECT EXAMINATION BY MR. BRACKETT

1 on duty in the rest of the area, but I was probably there
2 with forensic services for about 30 minutes.

3 Q. Okay. Mr. Swiger, thank you very much. I appreciate
4 it. Please answer any questions counsel for Ms. Walton
5 may have for you.

CROSS-EXAMINATION

6
7 BY MS. ANDERSON

8 Q. You testified that when you arrived on scene that you
9 talked with Chris Westover, correct?

10 A. That's correct.

11 Q. And what you relayed on direct was based on what she
12 saw or based on what she related, that FSU had been
13 contacted?

14 A. FSU had not been contacted at that point.

15 Q. FSU was requested, then, to be contacted; is that
16 correct?

17 A. After I spoke with my sergeant, I made that request,
18 yes.

19 Q. And the information was regarding allegations of a
20 report filed with Rock Hill Police Department due to
21 stolen checks, correct?

22 A. I was not aware of that at that time.

23 Q. Do you recall speaking with Chris Westover about
24 that, about an allegation of stolen checks?

25 A. I remember Chris Westover saying that there's some

DARIN SWIGER - CROSS-EXAMINATION BY MS. ANDERSON

1 circumstances that were suspicious at the time. But at
2 the time of the discussion with Chris Westover, I don't
3 believe there was a discussion of a previous report.

4 MS. ANDERSON: Beg Court's indulgence.

5 MR. BRACKETT: May we approach, Your Honor?

6 (WHEREUPON, a bench conference was held in the
7 presence but not within the hearing of the jury.)

8 THE COURT: We'll take a break at this time and take
9 up a matter outside your presence. Wait just a little
10 bit.

11 (The jury left open court at approximately 3:04 p.m.)

12 THE COURT: Ms. Anderson.

13 MS. ANDERSON: May it please the Court, Your Honor.
14 At this point -- approaching opposing counsel. At this
15 point, I would -- as intended to question Mr. Swiger,
16 Officer Swiger at the time regarding a statement he
17 previously gave as to recalling that -- comparing that
18 statement and some of the contents of that statement. I
19 understand the State has an objection to that. We
20 would --

21 THE COURT: Why don't you make a proffer so that I
22 can see what you're talking about.

23 MS. ANDERSON: Yes, Your Honor.

24 MR. BRACKETT: And just so that Your Honor knows when
25 she's asking the question, my objection is the question

DARIN SWIGER - CROSS-EXAMINATION BY MS. ANDERSON

1 calls for hearsay.

2 BY MS. ANDERSON

3 Q. You indicated on direct that one of your
4 responsibilities was to prepare an incident report or
5 prepare summaries.

6 A. Uh-huh.

7 Q. And you did actually prepare a summary --

8 THE COURT: Got to say yes or no.

9 A. Yes, ma'am.

10 Q. And you did actually prepare an incident report in
11 this case?

12 A. Yes, I did.

13 Q. And do you recall you also prepared a sort of
14 typewritten statement as well?

15 A. Yes, I do recall that now.

16 Q. And you also signed that statement?

17 A. That's correct.

18 Q. And that statement was prepared by you at the time?

19 A. Yes, it was.

20 Q. And do you recall writing in this statement that
21 Westover stated she contacted Sabrina Gast and was advised
22 to have FSU process the scene due to a report that Cook
23 had filed with Rock Hill PD in regard to stolen checks?

24 A. May I review that? I don't disagree. I just wanted
25 to review that. I hadn't seen this recently.

DARIN SWIGER - CROSS-EXAMINATION BY MS. ANDERSON

1 Q. My question is: Basically is that what your
2 statement indicates?

3 A. Yes, this is what my statement indicates, and this is
4 accurate.

5 Q. And if you could also, now that you're reviewing your
6 statement, does your statement also indicate on the next
7 line indicate that Westover did not -- and I'm
8 paraphrasing. If I could look at this real quick. I'm
9 sorry. Your statement also indicates Westover stated this
10 time it did not look suspicion (sic), but due to the prior
11 report, it would be prudent to have FSU respond. So,
12 again, is that what your statement says?

13 A. That is correct.

14 MS. ANDERSON: Your Honor, that would be the proffer
15 with regard to this witness.

16 MR. BRACKETT: My objection, of course, Your Honor,
17 is that if Westover stated she had contacted Sabrina Gast
18 and was advised inferentially by Sabrina Gast that Sabrina
19 Gast is advising Westover and Westover is telling him to
20 call FSU to process the scene due to a report that Cook
21 had filed with RHPD in regard to stolen checks, Westover
22 stated at this time it did not look suspicious. It's just
23 confusing as to who said what. But clearly Sabrina Gast
24 said some of this to Westover. Westover is telling him,
25 and he's now telling us what Westover said Sabrina told

1 him. It's --

2 THE COURT: Sounds like hearsay on hearsay, but let
3 me hear from defense.

4 MS. ANDERSON: Your Honor, my position would be
5 when -- Ms. Westover has already testified, and there was
6 cross-examination of that. With her testimony was --
7 within her testimony was that there was aspects of the
8 scene that looked suspicious. When this witness was --
9 Mr. Swiger was then questioned, again it was stated that
10 the scene looks suspicious and that was the basis.

11 So I would seek at that point to use the statement
12 that Mr. Swiger said he did prepare and was accurate, that
13 at the time what his statement essentially said was that
14 it was based on the prior report. It would be linked back
15 to what he wrote in his statement at the time.

16 THE COURT: You lost me. Tell me again. Say it
17 again. I don't follow you.

18 MS. ANDERSON: Your Honor, based on the fact that
19 Ms. Westover's testimony, who has already testified, she
20 testified that there were -- the scene essentially or
21 testified as to characteristics of the scene that she was
22 testifying looked suspicious. On question on direct, I
23 believe as well. Mr. Swiger testified that when he
24 consulted or spoke with Westover, there were things
25 gleaned about one of the -- scene was suspicion or based

1 on what Westover saw, FSU was contacted.

2 He did indicate during the proffer that he does
3 recall preparing the statement at the time. Did type up
4 the statement, did sign the statement. So I would seek to
5 elicit the testimony or basically that in his statement
6 prepared at the time indicated that the scene did not look
7 suspicious and that the FSU contact was based on --

8 THE COURT: Did he say it did not -- he doesn't say
9 in -- does he say in there that this did not look
10 suspicious until I received this information?

11 MS. ANDERSON: Your Honor, it says, "Westover stated
12 at the time it did not look suspicious, but due to the
13 prior report, it would be prudent to have FSU respond."

14 THE COURT: Mr. Brackett, anything else?

15 MR. BRACKETT: I don't -- I would -- I submit the way
16 that this -- if this was important, Westover could have
17 been questioned, did you tell Swiger and set the
18 impeachment that way rather than -- when you don't
19 question Westover or give her the opportunity to refute or
20 explain, because there may be an explanation. This may be
21 confusing. We just don't know. But to elicit it through
22 him when you can't ever get to the underlying substance of
23 the statement from the person who uttered it, it's
24 confusing, misleading, I'm not sure what it means, and I
25 certainly don't have the opportunity to address it through

1 this witness because he doesn't know what Westover meant
2 or Sabrina Gast, for that matter, when indeed this may or
3 may not have been said.

4 MS. ANDERSON: And, Your Honor, I do recall, I
5 believe I asked Ms. Westover if she recalled speaking with
6 Officer Swiger. I don't want to speak incorrectly, but I
7 do believe I did ask her at the time, and she did indicate
8 she did -- he was there and had some sort of discussion.

9 THE COURT: Was she asked what the substance of that
10 discussion was?

11 MS. ANDERSON: Your Honor, I don't recall that I
12 asked specifically what she told him in that.

13 THE COURT: Let me see the statement just a minute.
14 I'm not going to allow it. It appears to be hearsay on
15 hearsay. So you can make the statement a Court's exhibit,
16 but I'm not going to allow it. We'll take about a
17 ten-minute break.

18 (Court's Exhibit Number 9 was marked.)

19 MS. ANDERSON: Yes, Your Honor.

20 (A recess was taken from 3:13 p.m. to 3:25 p.m.)

21 THE COURT: Bring in the jury.

22 (The jury entered the courtroom at 3:26 p.m.)

23 THE COURT: All right.

24 BY MS. ANDERSON

25 Q. You were the first responding officer of the scene,

DARIN SWIGER - CROSS-EXAMINATION BY MS. ANDERSON

1 correct?

2 A. Yes, ma'am.

3 Q. And as that, you filed essentially the first report
4 on the case as well?

5 A. That's correct.

6 Q. And you testified that you contacted FSU?

7 A. Correct.

8 Q. And that was not based on anything unusual that you
9 observed, correct?

10 A. That is correct. I had not been in the room at that
11 time.

12 Q. And your initial report that you filed based on your
13 observations, your report does indicate no foul play is
14 suspected, correct?

15 A. At that point, that's correct.

16 Q. That was the report you filed --

17 A. Correct.

18 Q. -- I think on November 13th, correct?

19 A. That's correct.

20 MS. ANDERSON: Nothing further, Your Honor.

21 MR. BRACKETT: Nothing further.

22 THE COURT: I didn't hear what you said, but
23 obviously you sat down, so you're through.

24 MS. ANDERSON: Yes, Your Honor.

25 THE COURT: And you?

DARIN SWIGER - CROSS-EXAMINATION BY MS. ANDERSON

1 MR. BRACKETT: No redirect.

2 THE COURT: You can step down and be excused.

3 THE WITNESS: Thank you.

4 THE COURT: Appreciate your time. Thank you.

5 Call your next witness.

6 MR. THOMPSON: State would call Brian Bagwell.

7 BRIAN BAGWELL, after having first being duly sworn,

8 testified under oath as follows:

9 DIRECT EXAMINATION

10 BY MR. THOMPSON

11 Q. Good afternoon, Officer Bagwell.

12 A. Good afternoon.

13 Q. Could you state your full name for the Court, please?

14 A. Yes. Brian Bagwell.

15 Q. And where do you work?

16 A. For the York County Sheriff's Office forensic
17 services unit.

18 Q. And what do you do at the forensic services unit?

19 A. I'm a crime scene investigator..

20 MR. THOMPSON: And, Your Honor, we previously
21 discussed this with Mr. Smith. We're going to tender
22 Mr. Bagwell, with the consent of the defense, as an expert
23 in crime scene investigation.

24 MR. SMITH: Without objection.

25 THE COURT: He's qualified as an expert just like

BRIAN BAGWELL - DIRECT EXAMINATION BY MR. THOMPSON

1 Dr. Thomas was, just different area, crime scene
2 investigator.

3 Q. Investigator Bagwell, if you would, tell me what some
4 of your duties are with the forensic services unit.

5 A. Main duties are to process crime scenes. We also
6 examine fingerprints, process any evidence that officers
7 may turn in, do video enhancements, that sort of thing.

8 Q. And were you called in on this particular case?

9 A. Yes, sir, I was.

10 Q. Was that on November 13th of 2011?

11 A. Yes, sir.

12 Q. And what time did you get called in to this case?

13 A. It was approximately 9:00 in the morning.

14 Q. And how long did it take you to get there?

15 A. Probably about 15 minutes, 10 to 15 minutes.

16 Q. And when you arrived there, who else was there at
17 that point?

18 A. Patrol officer -- I can't remember his name.

19 Swinger. I'm sorry, I can't remember his name, but patrol
20 officer was on the scene and Coroner Chris -- I can't
21 remember her last name. I'm having issues here today.

22 I'm sorry.

23 Q. Deputy coroner?

24 A. Yes, Deputy Coroner Chris. And I can't recall her
25 last name. I'm blank right now.

BRIAN BAGWELL - DIRECT EXAMINATION BY MR. THOMPSON

1 Q. When you arrived, did you begin speaking with them as
2 to what they learned up to that point?

3 A. Yeah, we began discussing the issues and -- yes, sir.

4 Q. Did you also have any discussions then with any of
5 the personnel within Park Pointe Village?

6 A. Some when Detective Cantey showed up. I was present
7 while he was talking to some of those folks who were
8 standing by.

9 Q. Okay. And if you would, tell me, what did you do
10 initially after you spoke to them? What was your first
11 thing as far as crime scene work in addition to speaking
12 with him when you did?

13 A. First thing I did was get my digital camera and take
14 some overall photographs of the room, of the incident
15 location.

16 Q. All right. And what, if anything, did you notice in
17 particular about the room at that time?

18 A. The first thing I observed of course was Ms. Cook
19 lying in the bathroom shower area. The water had spilled
20 out from the shower area and was flowing all the way
21 around through the living room area. The floors were
22 saturated and soaked all the way through the apartment.

23 Q. When you say "all the way through the apartment," how
24 far did this saturation go in apartment?

25 A. Went all the way from the front door where the

BRIAN BAGWELL - DIRECT EXAMINATION BY MR. THOMPSON

1 bathroom is. I know it ran all the way to under the bed
2 right there at the closet area, so if you come all the way
3 around that wall, it's like at a slight downhill slope.

4 The left side of the room where the couch was was not
5 saturated, if I recall, but it was all running more
6 downhill like a slight incline there.

7 Q. Now, when you began taking pictures, did the fact
8 that there was water everywhere, did that hinder your
9 camera at all?

10 A. It did. My camera doesn't like the humidity that was
11 there. It was a cool night and a warm room, and with all
12 the moisture in there, it was a lot of humidity, which
13 caused my camera to keep fogging up on me.

14 Q. In working with that, were you still able to get some
15 pretty good pictures of the scene itself during that time?

16 A. Yes, sir, I believe so.

17 Q. I'm going to show you State's Exhibit Number 36
18 through 65. And I have out actually Number 49 and 50.
19 It's not in that, but everything else is included in that.
20 If you could look at that for me and tell me if those
21 fairly and accurately depict the scene during the time
22 that you were there.

23 A. Yes, sir.

24 Q. Have you examined those photos in addition to now
25 prior to coming into the courtroom today?

BRIAN BAGWELL - DIRECT EXAMINATION BY MR. THOMPSON

1 A. Yes, sir.

2 Q. Okay..

3 MR. THOMPSON: Your Honor, I'd ask to enter these
4 into evidence at this time.

5 MR. SMITH: No objection.

6 MR. THOMPSON: Some are already in, but the ones that
7 are not, obviously.

8 THE COURT: In without objection.

9 Q. Now, with the photographs that you took and that
10 others took while you were there, is one of the things
11 that you tried to do is basically get kind of a feel of
12 what everything looks like in the room?

13 A. Yes, sir. You want to catch an overall of the entire
14 area.

15 Q. And do those photographs show kind of an overview of
16 the rooms itself, the living quarters of Ms. Cook?

17 A. Yes, sir. If you follow a progression, they go
18 around the room and show basically the entire room.

19 MR. THOMPSON: Your Honor, I'd ask at this time to go
20 ahead and begin showing those photographs. I believe the
21 first one in the -- is which one again, the number?
22 Number 36.

23 Q. And if you would, Investigator Bagwell. If you'll
24 step down and kind of stand over here so you can see the
25 photographs. And just kind of walk us through the room

BRIAN BAGWELL - DIRECT EXAMINATION BY MR. THOMPSON

1 and tell us what it looks like inside that room.

2 A. This is the entry door looking into the apartment.

3 This is out in the hallway looking at her entry door here.

4 Q. And this is room 519?

5 A. 519, yes, sir.

6 Q. And then we'll go to the next one.

7 A. This is the entry door that we were just looking at.

8 This door right here is the bathroom door where Ms. Cook

9 was found, and this is a closet door right in the

10 immediate foyer area. This way is the kitchen area of the

11 apartment.

12 Q. And then Number 38..

13 A. Just another view of the closet and the bathroom and

14 the entry door where the officer is standing.

15 Q. So a little higher up from the floor --

16 A. Just a little higher.

17 Q. -- so we can see the doorway?

18 A. Yes, sir.

19 Q. Number 39.

20 A. This again is the bathroom door. This is a view of

21 the closet door open, a hamper, a little table beside the

22 closet that's coming over toward the bedroom.

23 Q. As part of your duties that day, did you search

24 through that hamper?

25 A. I did, sir.

BRIAN BAGWELL - DIRECT EXAMINATION BY MR. THOMPSON

1 Q. What, if anything, was in that hamper?

2 A. I remember miscellaneous clothes but not any
3 evidentiary items we were looking for.

4 Q. And at the time that you looked in that hamper, what
5 evidentiary items were you looking for?

6 A. We were looking for pillow cases, pillows and a
7 flowered nightgown in particular.

8 Q. And then if you'll go to the next one, State's
9 Exhibit 40.

10 A. And this is a closet with the door closed. This is a
11 little table.

12 Q. Is that the closet with the hamper that we just saw?

13 A. It is, yes, sir. This is a trash can beside the
14 little table, and, of course, this is the living area of
15 the bedroom.

16 Q. All right. If we can go to the next, State's
17 Exhibit 41.

18 A. Different angle, different view. This is looking
19 back toward the closet and bathroom area. This is the
20 little husband -- little cushion with arms on it. As you
21 can see, the water's saturated up on the cushion. This is
22 the closet. Of course, this is the bed area of the
23 apartment.

24 Q. So this is the bed area that you talked about earlier
25 where water had saturated all the way back under that bed?

BRIAN BAGWELL - DIRECT EXAMINATION BY MR. THOMPSON

1 A. That's correct. The water seemed to be flowing
2 around this way, going more this way. It wasn't coming up
3 towards this corner where the couch was. It was more --
4 looked like running at an angle down. Once it come around
5 this corner, you can see where it soaked up into the
6 husband and most of the water seemed to be running this
7 way.

8 Q. When you say "the husband," you're referring to the
9 green pillow as a husband pillow?

10 A. I am.

11 Q. And State's Exhibit 42.

12 A. This is a view of the closet. Of course, just
13 another end of the foot of the bed here.

14 Q. And is this how it looked when you arrived at that
15 point in time?

16 A. Yes, sir, it is.

17 Q. And State's Exhibit 43.

18 A. This is an overview shot of the bed area. As you can
19 see, the little sitting area, little sitting chair, little
20 end table. The closet would be back over in this area.
21 The wall is what we're looking at here.

22 Q. Is that how the bed was when you came in?

23 A. Yes, sir.

24 Q. We'll go to the next one, State's Exhibit 44.

25 A. This is the end table right beside the bed. It

BRIAN BAGWELL - DIRECT EXAMINATION BY MR. THOMPSON

1 appears to be a little pendant that they have at the home,
2 watch, glasses, that sort of thing. Doesn't really look
3 disturbed. Overall shot of the contents on the table
4 here.

5 Q. State's Exhibit 45.

6 A. Same table. Just showing the couch sitting area. Of
7 course in relation to the bed here.

8 Q. Okay. State's Exhibit 46.

9 A. Rotated view of the corner of the room. Just end of
10 the couch, another end table, and a little desk area.

11 Q. All right. State's Exhibit 47.

12 A. You can still see the end table and desk area. It's
13 just a different angle, different view of the same.

14 Q. All right. State's Exhibit 48.

15 A. And this is the kitchen area. The bathroom is
16 actually right adjacent to it. So as soon as you walk in
17 the front door, the kitchen is on your left and the
18 bathroom is on the right....

19 Q. So that wooded floor that we saw at first, that's in
20 this first area of the apartment; is that right?

21 A. It is. It is.

22 Q. And looking at the apartment itself in your first
23 look at it, did anything seem out of place in the
24 apartment at that time?

25 A. Initial first look, no, it didn't. It looked like

BRIAN BAGWELL - DIRECT EXAMINATION BY MR. THOMPSON

1 the bed was partially made there -- almost made up.

2 Nothing looked out of place to us at the time.

3 Q. And then if we could go to State's Exhibit 51.

4 A. Of course, this is a view just looking into the
5 bathroom area from the kitchen area, where you can see
6 Ms. Cook lying. You can see the slippers laying out right
7 here in the bathroom floor.

8 Q. Is that how she looked when you arrived when you
9 first looked into the bathroom?

10 A. It is, sir.

11 Q. The next one, State's 52.

12 A. Just a different angle where you can see the walker.
13 Different items on the walker. The little shower chair.
14 Little mat or towel. Not sure there. Of course, you can
15 see Ms. Cook's foot. Pocketbook, that kind of thing, laid
16 out onto the walker. Some different types of clothing
17 that looked very similar to the ones hanging on the closet
18 and the -- next to the bed. Looks like might be a match
19 or some kind of matching clothing there.

20 Q. All right. And as far as the undergarments there,
21 did you look to see if there were any underwear on that
22 chair?

23 A. I don't recall seeing any underwear on it, but I
24 don't remember specifically looking for any.

25 Q. Now, I believe -- did you actually go through the

BRIAN BAGWELL - DIRECT EXAMINATION BY MR. THOMPSON

1 opening, that has like a seat in it that opens?

2 A. I don't recall specifically looking. I'm sure I
3 probably flipped it open and looked in it because that's
4 kind of what we do there. I don't recall what was in it.
5 Miscellaneous contents. Nothing of evidentiary value that
6 we could determine if we did look in it.

7 Q. Did you look in the trash can there while you were
8 there?

9 A. I did look at all the trash cans, yes, sir.

10 Q. So that trash can -- I think we saw one of the trash
11 cans already near the bedroom --

12 A. Yes, sir.

13 Q. -- next to the closet.

14 Was there anything that you could see in those trash
15 cans that seemed to be of evidentiary value?

16 A. No, sir, nothing of evidentiary value that we could
17 see.

18 Q. Any clothing, anything that looked like it was bloody
19 or anything of that nature?

20 A. No, sir. I don't recall finding anything like that
21 around the apartment.

22 Q. So did anything in the trash seem out of the ordinary
23 when you looked into it?

24 A. No, sir.

25 Q. Go to the next one, State's Exhibit 53.

BRIAN BAGWELL - DIRECT EXAMINATION BY MR. THOMPSON

1 A. That's just a closer view of the walker. She had a
2 pocketbook hanging on it. A little shower chair.
3 Different clothing. Towels laid out, that sort of thing.
4 I think that's a bra right here. Toilet on the backside.

5 Q. And that other thing on it there, you see the
6 plastic-looking thing on top?

7 A. Right here?

8 Q. Yes. What is that?

9 A. I think that's the shower chair that's used inside
10 the shower, sitting for stability.

11 Q. And then State's Exhibit 54, please.

12 A. Another view of Ms. Cook. You can see the shower
13 curtain partially open, closed here. You got the little
14 washrag. I believe that was CPR -- from the EMS folks
15 trying to do CPR, a mask rebreather so they don't get
16 regurgitation or something back in the mouth.

17 Q. If we can go to the next, State's Exhibit 55.

18 A. Close-up of the shower handle, tubing, and that sort
19 of thing, showing the -- one little bottle askew there,
20 but the other two are neat and orderly.

21 Q. And that's kind of got like a shower that you can
22 lift the head off and bring down?

23 A. Yes, sir.

24 Q. Was it in that position when you went into the actual
25 room itself?

BRIAN BAGWELL - DIRECT EXAMINATION BY MR. THOMPSON

1 A. Yes, sir.

2 Q. As far as the things that you use for the shower --
3 the shampoo, conditioner, gel, whatever was up there --
4 all seem to be somewhat in order up there on the side?

5 A. Yes, sir.

6 Q. Was anything spelled within the shower that you could
7 see?

8 A. No, sir.

9 Q. Did she appear to have any soap or soap residue on
10 her at that point?

11 A. Didn't notice any at that time, any shampoo or any
12 soap or anything on her.

13 Q. State's Exhibit 56.

14 A. Just another shot showing the slippers in proportion
15 to the rag and Ms. Cook's body. Of course, this is the
16 floor down here.

17 Q. And that rag, is that a washrag?

18 A. I believe it's a washrag, yes, sir.

19 Q. And I guess you were saying proportionate to which
20 floor?

21 A. Just showing the proportion to the foyer floor that
22 leads to the kitchen area.

23 Q. If we can go to State's Exhibit -- the next one, 57.

24 A. This is inside the bathroom looking out toward the
25 kitchen area. As you can see, it runs all the way up to

BRIAN BAGWELL - DIRECT EXAMINATION BY MR. THOMPSON

1 the back wall, but just wanted to show the moisture the
2 water on the floor. Her slippers sitting there.

3 Q. 58.

4 A. Of course, this is a picture of Ms. Cook's left hand.
5 Just wanted to show the discoloration on the skin, what
6 appears to be bruising.

7 Q. All right. 59.

8 A. While I examined the body on the right hand after the
9 water had been cut off -- and this is some time later --
10 you can see where a little bit of blood had transferred
11 from the hand onto the shower. So we just wanted to
12 photograph that and show the injury.

13 Q. And what's the little object that's right there
14 between the arm and the body as the --

15 A. That is the drain of the shower.

16 Q. Okay. State's Exhibit 60.

17 A. Of course, this is just a close-up of that cut that
18 was on her hand. Lifted it up so we could photograph it a
19 little better, showing the cut and the blood transfer on
20 the hand.

21 Q. And that's at the scene at the time? Like this is
22 not autopsy?

23 A. That's correct. That's at the scene.

24 Q. State's Exhibit 61.

25 A. I just wanted to show a close-up of Ms. Cook's face.

BRIAN BAGWELL - DIRECT EXAMINATION BY MR. THOMPSON

1 Again showing the discoloration, what appears to be
2 bruising all along the eyes, under the chin, around the
3 mouth area.

4 Q. And also that item that's next to her head there in
5 the shower?

6 A. Yeah, that was a shower cap. That was laying there
7 when we got there.

8 Q. And State's Exhibit 62.

9 A. Another photograph of the walker. Got a trash can
10 beside showing the various items on it.

11 Q. Now, when you looked into the trash cans, they had
12 those plastic bags I think that we can see there. Did you
13 look to see if there were other available trash bags
14 within the trash cans?

15 A. I know that I looked under them because we keep them
16 there at work, and that was the thought that maybe some of
17 these items may have gotten taken out by a plastic bag. I
18 remember looking into it, and I don't remember having any
19 extra in the bottom of it. I may be wrong, but I don't
20 remember any being in it.

21 Q. And in that particular one?

22 A. I looked in all the trash cans.

23 Q. State's Exhibit 63.

24 A. Just another picture of the bathroom area showing the
25 relation to everything. Just the items on the counter and

BRIAN BAGWELL - DIRECT EXAMINATION BY MR. THOMPSON

1 how they're undisturbed. The items on the chair as they
2 lay.

3 Q. And I notice this one appears-- is that the shower
4 curtain on the top left?

5 A. Yes, sir. The shower curtain I tucked back at one
6 point so I could get better photographs. Partially
7 blocking the body just a little bit, so I wanted to move
8 it to I could get overall and get the entire area.

9 Q. And was that after you had taken the photographs of
10 the place where it was when you found it originally?

11 A. Yes, sir.

12 Q. I believe the last one is 64.

13 A. Just a close-up of the towel or shower mat or
14 whatever. You can see the wheel of the walker, so that's
15 the relation of where it is. The shower would be back of
16 course this way.

17 Q. And was that wet at the time?

18 A. I believe it was. I don't recall, but I think it was
19 saturated because all the water from the bathroom had run
20 off, and I'm pretty sure that one that was just soaking
21 wet laying there.

22 Q. Is there one more, 65? I'm sorry, let's step back
23 for a moment. We'll go back to that one in a few minutes.
24 You can go ahead and have a seat.

25 Now, initially when you arrive, do you even know

BRIAN BAGWELL - DIRECT EXAMINATION BY MR. THOMPSON

1 whether this is truly a crime scene at that point?

2 A. No, we don't. We just know we're investigating a
3 death at that moment. We don't know what the
4 circumstances were.

5 Q. So what type of things were you looking for at that
6 point?

7 A. Well, at first, to be honest, we thought it might
8 have been a natural, an elderly taking a shower and may
9 have fallen, so we're there to document the scene. But
10 the more things -- during the course of the investigation,
11 we realize the pillows are missing. And after talking to
12 some of the staff with Detective Cantey, we realize a
13 nightgown in particular is missing, so we realize
14 something might not be as innocent as her falling in the
15 shower. So we realize we may have something more going
16 on.

17 Initially looking at the discoloration on the legs, I
18 personally didn't know Ms. Cook, so I didn't know what her
19 skin looked like prior to the incident. I didn't know if
20 she was, you know, liver problems or what it may be,
21 anything, or from the fall in the shower. So we really
22 didn't know at that time.

23 Q. As you said, you mentioned that you figured out the
24 pillows were missing. Did you examine the bed further to
25 see if anything else was missing off the bed?

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1 A. When we came back. Initially we didn't. We did a
2 visual inspection of it and saw that the pillows and the
3 pillow case were missing, but once we got to figuring out
4 the actual sheets were missing from the bed. It had the
5 blankets on it, but the sheets were missing.

6 Q. Was it at that point that y'all decided to meet with
7 Dr. Thomas about this later that afternoon?

8 A. That's correct. Once we had so many items missing
9 and things just weren't adding up like we thought they
10 should or like it appeared to be, we decided to secure the
11 room and meet with Dr. Thomas at the hospital so that the
12 body could be examined, kind of get his opinion and his
13 take on what he thought might have occurred.

14 Q. And prior to meeting with Dr. Thomas, did you kind of
15 walk through the room? Did you look at the -- just take a
16 close look at everything to see if you could notice
17 anything that was odd or different?

18 A. Absolutely. We did a visual inspection of
19 everything. We didn't go necessarily rooting through a lot
20 of stuff at that point in time. We were kind of waiting
21 to hear back from the pathologist and go visit him, see
22 what we had. But we did a visual inspection of the room.

23 Q. At the time that you went through the actual living
24 quarters, not in the bathroom where the shower was, but
25 did the living quarters, did you find any blood or

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1 anything like that that stood out to you?

2 A. Nothing was obvious at the moment, no, sir.

3 Q. So with your naked eye you weren't seeing anything
4 specifically like blood in the room?

5 A. That's correct. That's correct.

6 Q. Now, did you at that time start processing the room
7 for prints at any point?

8 A. Not until we come back from the --

9 Q. Not until you came back?

10 A. -- postexam. Yes, sir.

11 Q. At that point, then, from the visual inspection and
12 the photographs that you took, is that basically what you
13 did at that time?

14 A. Yes, sir.

15 Q. And searched through some of those things, obviously,
16 as you said --

17 A. Yes, sir.

18 Q. -- before you went to see what Dr. Thomas had to say?

19 A. It was a while because I was hanging around Detective
20 Cantey in case he come up with some new information. He
21 was interviewing workers of the establishment, so I was
22 kind of just standing by in case any new information was
23 learned.

24 Q. All right. And did you or Detective Cantey have them
25 secure the room when you left?

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1 A. We did. We asked them to secure it until we could
2 get back. Yes, sir.

3 Q. When you left, I guess the first place you went, was
4 it to where Dr. Thomas was?

5 A. Yeah. We went to the Piedmont Medical Center, the
6 morgue area.

7 Q. As we've already heard, I believe, at that point you
8 found out other possibilities of suspicious death; is that
9 right?

10 A. Correct. He indicated that it appeared to be
11 bruising and finger marks on the face and neck area.
12 Definitely said it looked like a high probability of some
13 kind of assault had happened to her.

14 Q. As a forensic or crime scene guy, what went through
15 your mind as what you needed to do at that point when you
16 found out there may have been some sort of assault?

17 A. We knew we needed to try and figure out who had been
18 in the room. We go back, and of course we want to start
19 looking through things a little closer, a little finer
20 detail to make sure we're not missing anything and find
21 any clue or information to help us try to solve it.

22 Q. Is that when you went back to the room, then?

23 A. Yes, sir.

24 Q. What did you do when you went back to the room?

25 A. Again doing more visual inspection, but we started

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1 looking at the bed a little closer. And upon further
2 inspection of the bed, we noticed some red staining which
3 appeared to be blood on the blanket area.

4 Q. Did you have to pull that back in order to determine
5 that?

6 A. I did. You couldn't see it when it was folded out
7 from the original photos. Once we folded it back a little
8 bit, and it wasn't very much, but it was enough for us to
9 see with a naked eye at that point once we folded the
10 blanket back.

11 Q. Show you State's Exhibit Number 87, if you can tell
12 me what that is.

13 A. That is the white blanket from the bed. Pauline
14 Cook.

15 Q. Is it the one that you ended up seeing blood on when
16 you folded it back?

17 A. Yes, sir.

18 Q. Has it been changed or altered in any way in looking
19 at it today from when you collected it?

20 A. No, sir. Looks like it did when I sealed it.

21 MR. THOMPSON: Your Honor, I'd ask to enter that into
22 evidence at this time. I believe it's State's Exhibit 87.

23 MR. SMITH: No objection, Your Honor.

24 THE COURT: In without objection.

25 (State's Exhibit Number 87 was admitted into evidence.)

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1 Q. If you would, Investigator Bagwell, if you would kind
2 of pull that out for us and show the jury kind of what you
3 saw on that particular blanket.

4 A. If I could figure out which end is which.

5 Q. I can see that on the outside it appears to be
6 textured. On the underside, is it as textured on that
7 side as --

8 A. It's a smoother finish on the inside area. Actually,
9 I might have to step down, but I can --

10 THE COURT: Okay.

11 Q. Would it help if I held any of it?

12 A. Yeah, it might. I'm trying to...

13 As you can see, some staining down at the bottom of
14 it.

15 Q. Did that appear to be blood stain to you at the time?

16 A. At the time it did. Of course, it's going to dry
17 darker the longer it sits, but what we saw appeared to be
18 blood at the time of the incident.

19 Q. And is that on the underside of the blanket or the
20 top of the blanket?

21 A. That would be on the underside, closer to the body
22 section.

23 Q. Is that what you noticed when you folded the blanket
24 back?

25 A. When we fold it back, yes, sir.

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1 Q. And what's on the other side?

2 A. A little bit appears to be on the backside. Little
3 bit of staining there. And this wasn't noticeable to the
4 naked eye when it was laid out on the thing, so I'm not
5 sure where it was tucked or how it was laid.

6 Q. Was that covered by the other blankets that were over
7 it?

8 A. There was some kind of comforter or something on. I
9 don't remember what it was. Some kind of smaller
10 pattern-type thing on, but I don't remember exactly what
11 it was. It may have been covering that section up.

12 Q. Thank you. Place that back. And if we could go to
13 State's Exhibit 43. If you would point out for us where
14 the white blanket that we just showed the jury, where that
15 is on the bed.

16 A. Of course, you see the white blanket, and that's the
17 other item I couldn't remember what was -- there was some
18 kind of comforter or another blanket laying on top of it
19 here.

20 Q. That's how the bed was when you came in the room,
21 right?

22 A. Yeah. The bed was made up, yes, sir.

23 Q. So for that little bit that we saw on the outer
24 portion, could that have been underneath the part that's
25 folded back?

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1 A. Very well could have, yes, sir.

2 Q. That's not all you did with this bed at this point,
3 right?

4 A. No, sir.

5 Q. When you actually -- did you actually take the
6 greenish-looking blanket and pull it back as well?

7 A. We did. We pulled all of it back. Once we saw that
8 little bit on the white blanket, we decided to collect all
9 of it at that point, all three items.

10 Q. And at that point when you pulled back some of the
11 other blankets on the bed, did you notice anything about
12 the condition of the sheets?

13 A. I noticed that the sheets were missing, of course.

14 Q. Was there a fitted sheet still on it?

15 A. No. There was a mattress cover, the green blanket,
16 the white blanket, and this textured one here.

17 Q. But no other sheets?

18 A. No fitted sheet and no flat sheets.

19 Q. Okay. Did y'all consult with the staff about whether
20 there would be sheets on the bed?

21 A. Yes, sir. I remember Detective Cantey questioning
22 one of the workers there, of course, asking would the bed
23 have been made up and is that normal. And, of course,
24 they let us know that no, it should have been sheets and
25 fitted sheets and pillows and so forth on the bed.

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1 Q. As well did you take a visual look at the bedspreads,
2 the other things on the bed to see if you could see
3 anything that looked like --

4 A. Took an initial look while we were collecting.
5 Didn't notice anything further on those items.

6 Q. Did you use anything to try to determine if --
7 anything else to try and determine if there was blood
8 within the room?

9 A. It did. We used a chemical called BlueStar. It
10 makes the blood luminesce when you shine it on it.
11 Doesn't have to be real dark. It gives it a glow feature
12 almost like a little glow stick would glow.

13 Q. And then how do you apply the BlueStar? How does
14 that work?

15 A. They got different methods. The one we use was an
16 aerosol type. It's a little mixture. You put together
17 two tablets. You dissolve it in water and hook it onto an
18 aerosol spray, and it lights a fine mist come out of it.
19 You spray that over the area, and as it reacts to the
20 blood, you get that luminesce property to show up.

21 Q. Now, would it luminesce to other things other than
22 blood?

23 A. It will, yes, sir.

24 Q. And is it kind of like protein-based stuff that it
25 will luminesce --

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1 A. It's more protein based, but like the phosphates in
2 Clorox will cause it to sparkle and crackle and glow real
3 bright. So it has different reactions to different items,
4 but they're different reactions.

5 Q. All right. And have you been trained in the use of
6 that?

7 A. Yes, sir.

8 Q. And you've been trained in the use of trying to spot
9 blood with that?

10 A. Yes, sir.

11 Q. And how do you then look at it after you spray it on?
12 Does it just appear to you something else to then look at
13 it?

14 A. It actually just appears. It luminesce to the point
15 where you can see it with the naked eye. You don't have
16 to have it real dark. In a room of this lighting, for
17 example, you would be able to see it, but, of course, you
18 would see it a whole lot better if you darken and turn the
19 lights off. So it will fluoresce even with this amount of
20 light.

21 Q. And did you turn the lights off in that room to try
22 and see if you could see anything fluorescent within the
23 room?

24 A. We did. Once we sprayed it and got a reaction on the
25 headboard area, we turned the lights off and we actually

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1 photographed it with the BlueStar lumination showing.

2 Q. This is State's -- I believe State's Exhibits 49 and
3 50. If you could look at those for me. Is that the
4 headboard of the bed on 49?

5 A. Yes, sir, it is.

6 Q. And on 50, is that the luminescing you were talking
7 about?

8 A. Yes, sir, it is.

9 Q. Now, when you originally tried to develop that
10 picture on the luminescing or print it out, did it show up
11 as clear as that one?

12 A. It didn't. When they developed, it came out really
13 dark. It's hard to see it luminescing in the photo.

14 Q. So did you do anything in that picture to try and
15 help see what was luminescing --

16 A. I did. I took the digital photographs and JPEG file
17 and just increased the brightness on it maybe five or six
18 clicks and e-mailed it to solicitor.

19 Q. And from the picture that you have now, does that
20 fairly and accurately indicate exactly what it looked like
21 when you were in the room and saw it with your physical
22 eyes?

23 A. Yes, sir.

24 Q. And do both of those depict, then, the room as it
25 was -- or the headboard as it was that night or that night

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1 when you were looking at it?

2 A. Yes, sir.

3 MR. THOMPSON: Your Honor, I'd ask to enter these
4 into evidence at this time.

5 MR. SMITH: No objection.

6 THE COURT: In without objection.

7 Q. If you could look at State's Exhibit 49 now. If you
8 could explain to us the purpose of this picture at this
9 point.

10 A. This picture is just the headboard area. When we
11 were visually inspecting, it appeared to have a slight
12 reddish substance on it that we thought -- believed to be
13 blood. We couldn't really tell because the headboard is a
14 reddish brownish color, so it's really, really hard to see
15 that light transfer. And really that's why we opted to
16 use the BlueStar so we'd get a better reaction and tell if
17 it was a presumptive test for blood if it was positive or
18 not.

19 Q. And then State's Exhibit 50, if you could explain
20 this photograph to us.

21 A. This is the luminesce of the BlueStar once it's
22 applied to the headboard. We cut the lights off, of
23 course, so we'd get a more brilliant luminesce so it would
24 show up better in the photographs.

25 Q. All right.

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1 A. But you can see the different areas that are
2 indicating a possible presence of blood on the headboard.

3 Q. But as you said, with the naked eye, that was
4 extremely difficult to see any of that.

5 A. Yeah. It's very, very faint glow. It's not a very
6 brilliant, bright thing. But you can see it if you look
7 for it, so we just wanted to enhance it and make it more
8 visible in the photograph. That's why we darken the
9 lights off in the room.

10 MR. THOMPSON: Madame Clerk, you can turn the lights
11 back.

12 Q. Investigator Bagwell, you -- did you also look at the
13 rest of the bed during that period of time, when you used
14 the BlueStar?

15 A. Yes, sir.

16 Q. And what, if anything, was indicated by the BlueStar
17 on the rest of the bed?

18 A. The rest of the bed was no indication. Just the
19 headboard area indicated presence or possible presence.

20 Q. Did you use it on the floor as well?

21 A. Yes, sir.

22 Q. What, if anything, was indicated on the floor?

23 A. We had a slight indication on the floor right beside
24 the bed on the carpeted area heading towards the couch
25 area. There was a slight indication right there that was

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1 swabbed and collected as evidence.

2 Q. And once again, that little spot on the floor, have
3 you been able to see that with your naked eye?

4 A. Not without any BlueStar application or anything.
5 Just to the naked eye, no, it was not visible.

6 Q. Now, as you continue to process the scene, then, was
7 there -- first, was there anywhere else in the room that
8 you looked with the BlueStar to determine if there was
9 anything else?

10 A. No, sir. We concentrated more around the bed area,
11 the -- not the hall. The little section right before the
12 closet at the foot of the bed and the carpet area out
13 toward the couch and the desk area.

14 Q. Okay. And after doing that, did you also attempt to
15 look for prints within the apartment?

16 A. We did.

17 Q. And what, if any, results did you have from that?

18 A. We processed the shower area. A very faint partial
19 palm impression was developed. It turned out not to be
20 identifiable. I processed the wall area leading up to --

21 Q. If you'll briefly tell us, what do you mean by it
22 ended up being not identifiable?

23 A. Not enough ridge detail for us to make an
24 identification with it. You could see some ridge detail,
25 but it wasn't enough for us to say positively that it was

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1 an individual's or not.

2 Q. And I guess explaining that to someone who really
3 doesn't know about these type things when you're looking
4 at it, if you'll go just a little bit more into that as
5 the ridge detail itself and what that is and how is that
6 important to a fingerprint.

7 A. All fingerprints are unique, to start off with.
8 Everybody has a different set of fingerprints. So when we
9 find a partial impression at a scene -- and when I say
10 "impression," that's the little ridge detail left behind
11 when you touch an item. The grease and oils on your hand
12 will leave a residue behind. We'll use a black
13 carbon-based powder or different chemical, but this
14 happened to be the powder-based. We apply it to it, and
15 if the ridge detail is present, the powder will stick to
16 that oils and water inside the print. Allows us to put a
17 piece of tape on it, lift it, put it on a card.

18 This little piece of impression in particular was
19 only a couple ridges, meaning the little friction ridges
20 on your fingers and the palms of your hand. It was only a
21 few of those visible, so it was not enough there for use
22 to positively say either way it was anybody's print.
23 That's what I mean by unidentifiable.

24 Q. So you had that one in the shower. Where was that in
25 the shower?

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1 A. If I recall, it was up near the shower section. We
2 was mainly looking because somebody may have put their
3 hand up in the shower. That's what we were looking for,
4 but it was right around the head, shower spout area above
5 the nozzle area, somewhere in that area.

6 Q. So it was someplace where the water is not constantly
7 hitting it?

8 A. Correct.

9 Q. Does it have a bad effect on it, the spot where the
10 rest of the shower where there's constantly water pouring?
11

12 A. Yes, sir. It can wash it away. It's mainly water
13 anyway what makes up a print, a few amino acids and oils,
14 but it's 90-something percent water anyway.

15 Q. Was there anyplace else that you were able to try and
16 pull prints off within room?

17 A. It was. I did try around the doorway in the hall or
18 the little section of wall leading up toward the bathroom,
19 but we did -- if you sitting in the bed looking out from
20 the headboard area, there's a little air handler. It's
21 like that air filter would go in apartment. I don't know
22 if you're familiar with the little frame, metal frames
23 that the filters go in. There was that on the wall. We
24 processed it thinking maybe somebody could have put their
25 hand up during a struggle or anything. Was able to get

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1 some partial impressions off of it.

2 Q. All right. And were those some that you were --
3 were, in other words, identifiable?

4 A. Yes, sir, they were identifiable prints lifted off of
5 it.

6 Q. And were you able to compare those as to the
7 defendant's prints?

8 A. I did compare them to the defendant with negative
9 results. Yes, sir.

10 Q. All right. With negative results, so they were not
11 the defendant's?

12 A. Meaning no identification was made. That's correct.

13 Q. Now, tell me a little bit about just prints in
14 general. Can you tell when a print is put down on
15 something? Is there any way to tell the age of a print?

16 A. No, sir.

17 Q. So whatever print is on the register there, the air
18 handler, any way to tell how long that's been there?

19 A. No, sir. Fingerprints will basically stay around
20 until something else takes them away. So whether it be
21 dust, heat, humidity, water, whatever may brush them off,
22 whatever it is that takes them away. They'll basically be
23 there until something alters them, and it depends on the
24 conditions of the room and the environment and everything
25 else to determine how long they'll even be around.

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1 Q. Where else did you look for prints as far as the room
2 goes?

3 A. I think that was the areas we concentrated on.

4 Q. Okay. Now, you'd look at some of the luminesce on
5 the headboard itself. Did you try to look to see if you
6 could find any prints within those areas that appeared to
7 have some blood on them?

8 A. We did, but not that day. We took the headboard back
9 and collected it as evidence, and we worked on it on a
10 later date.

11 Q. Do you recall what day it was that you did look at
12 the headboard?

13 A. I believe it was the 16th.

14 Q. Okay.

15 A. Maybe.

16 Q. 16th of November back in 2011?

17 A. Yes, sir.

18 Q. And when you looked at it at that point in time --
19 let's see -- what did you try to do to look at it and pull
20 those prints up?

21 A. We initially wanted to swab it before we put any
22 chemicals on it. So where we got the luminesce from the
23 BlueStar, I swabbed it on the backside of the headboard
24 area. If you recall, some of the luminesce was up on the
25 top around the edge area, so we swabbed the backside of

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1 it.

2 At that point we decided to use two different
3 chemicals on it. One's called leucocrystal violet. That
4 gives a reaction to the heme in blood, so basically it's
5 the iron-based elements of your blood that it's attracted
6 to. And it basically will define the ridge detail a
7 little bit. Like the BlueStar doesn't give you any more
8 vivid ridge detail quality. It just shows you the
9 presence of some possible blood. These other chemicals
10 will actually enhance the detail that's there and make it
11 more visible so that you can actually possibly, if you get
12 something, try to make an identification off of it.

13 Q. And after you put the -- leucocrystal violet?

14 A. Yes, sir.

15 Q. After you put that on it, were you able to tell
16 anything more?

17 A. There was no more significant ridge detail. It did
18 indicate the presence of more blood that we didn't see
19 with the BlueStar, but it was no ridge detail there.

20 Q. And did you put anything else on it to help try and
21 find more ridge detail?

22 A. We did. After that, the second process used is a
23 chemical called amido black. It basically dyes the
24 proteins in blood, so it's two different options we have
25 there to work with. And again we got negative results.

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1 We could see some more indication of some bloodstaining
2 and it did dye the protein, but it was just no ridge
3 detail to make an identification with.

4 Q. So you weren't able to recover any prints from the
5 bloody areas?

6 A. No, sir.

7 Q. Now, after doing that, what condition does that leave
8 the headboard in?

9 A. Not so good, sir. It has harsh chemicals in it that
10 tend to eat the finish off and puts a white sheen on it,
11 so it left it in pretty bad shape.

12 Q. Now, after doing that, can you tell me, were items
13 collected from the forensic unit to be sent to the South
14 Carolina Law Enforcement Division for testing?

15 A. Yes, sir. I know a set of keys was collected. Some
16 fingernail scrapings or clippings from Ms. Cook was
17 collected at the autopsy. I believe some swabs from the
18 mouth and nose area of Ms. Cook was collected and sent
19 down to SLED.

20 Q. Were those items tested for possible DNA matches at
21 that point?

22 A. They were.

23 Q. What, if any, results came back at that point?

24 A. The fingernail clippings of Ms. Cook revealed nothing
25 foreign to Ms. Cook, meaning that she had her own DNA and

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1 that was it under her fingernails. The swab, I think they
2 took some swabs of Ms. Walton's fingernails and they came
3 back no foreign material other than her material under it.
4 So the keys, I believe, had two different types of DNA
5 profile developed on it. They excluded Ms. Cook's as
6 being a contributor, saying she was not a contributor to
7 the blood, but they couldn't determine if Ms. Walton was a
8 second contributor or not. They couldn't include or
9 exclude her in the results.

10 Q. And those were Ms. Walton keys, correct?

11 A. Correct.

12 Q. So basically left without any results that we can say
13 as far as the DNA goes at that point?

14 A. Correct.

15 Q. Now, if you would, Investigator Bagwell, can you tell
16 us, what does it mean to stage a crime scene?

17 A. A staged crime scene is a crime scene that has been
18 altered from its original in an attempt to cover up what
19 may have happened there. It's altering the scene,
20 altering evidence, trying to change the look or appearance
21 of the scene.

22 Q. Why does someone stage a crime scene, in your
23 training?

24 A. To try not to get caught. They want to change the
25 evidence if things may point to them or if there's blood

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1 present, you want to get rid of it and make it look like
2 an accident, that sort of thing, you would stage it.

3 Q. And after your investigation in looking at this crime
4 scene as well as learning more about the other aspects of
5 the case, including the autopsy and things like that, did
6 you have an opinion as a forensic investigator as to
7 whether this crime scene was staged?

8 A. Yes, sir, it appeared to be staged to me.

9 Q. And what led you to that opinion?

10 A. Just various missing items, the fact that she had
11 been assaulted, the missing items from her room -- like I
12 said, the gown, the pillows, the sheets -- the obvious
13 assault to her. According to the pathologist, it was very
14 obvious she had been assaulted and those were bruising
15 because prior to that, she had a normal look, skin tone,
16 nothing on her. So we figured some kind of massive
17 struggle must have took place in the apartment and made it
18 look like she may have fallen in the shower.

19 Q. Okay. So those things all led up to you feeling that
20 this crime scene was staged?

21 A. Yes, sir.

22 Q. Now, I believe that there was one other thing you may
23 have done before you finished your work on this case. Did
24 you go back out to Park Pointe Village at any point
25 regarding trash?

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1 A. We did. We had trash detail. The Rock Hill Police
2 Department, I think they were searching the compactor by
3 the kitchen area. I think that's where it was. I'm not
4 100 percent sure. But it was a big compactor trash bin at
5 the facility.

6 Q. About how big is that trash compactor?

7 A. I'm not good on the guesstimating the measurements,
8 but from me to Detective Canteley long and as tall as a
9 transfer truck almost to look. I mean, it was a big,
10 great big green bin compactor, so it was huge.

11 Q. So not just a -- not --

12 A. It wasn't a trash can. Yes, sir.

13 Q. -- a can; it's a compactor. It keeps smashing in,
14 smashing in?

15 A. That's correct.

16 Q. Did you help and observe during that time of going
17 through that trash compactor?

18 A. Yes, sir, I did. We was initially called in to
19 basically observe in case something was found. If they
20 found something, we would already be there to photograph
21 it and collect it. We ended up helping with the search as
22 well, though.

23 Q. What specifically were you looking for within the
24 compactor?

25 A. Specifically looking for the pillows, pillow cases,

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1 and the flower gown that was missing from the room.

2 Q. Would y'all be looking for the sheets as well at that
3 time?

4 A. Yeah, sheets, any bloody items, anything to lead us
5 to what may have happened in the room. But that's the
6 items specifically that stood out was the sheets and the
7 pillows.

8 Q. Were you able to find anything in the compactor?

9 A. I don't believe anything of evidentiary value was
10 found there.

11 Q. All right.

12 MR. THOMPSON: Court's indulgence, Your Honor.

13 Thank you, Investigator Bagwell. I appreciate it.
14 Please answer any questions the defense has.

15 MR. SMITH: May it please the Court.

16 CROSS-EXAMINATION

17 BY MR. SMITH

18 Q. Agent Bagwell, let me be clear. Is there anything
19 forensically from this scene that ties my client,
20 Braquette Walton, to Mrs. Cook's apartment?

21 A. No DNA or no fingerprints, no, sir.

22 Q. Nothing forensically at all?

23 A. Not that I'm aware of, no, sir.

24 Q. You went out to the property on a number of different
25 occasions; is that right?

BRIAN BAGWELL - CROSS-EXAMINATION BY MR. SMITH

1 A. I went twice, yes, sir. Well, three times, yes, sir.

2 Q. And when you would go out there, did you get consent
3 to search, or was that done by someone else?

4 A. It was done by detectives and given to us.

5 Q. But your -- your unit, multi-jurisdictional forensic
6 unit has agents from Rock Hill City, from Sheriff's
7 Office, from the different municipalities around the
8 county; is that correct?

9 A. That's correct.

10 Q. And you operate sort of for any of those agencies?

11 A. That's correct.

12 Q. And you have some protocol that you require things to
13 be done, and one is that consent to search be gotten
14 before you do anything on the property; is that right?

15 A. Correct.

16 Q. And that was not done by you here, but it would have
17 been done before you would have been doing this scene
18 process?

19 A. Correct. It's typically completed and filled out
20 before we arrive.

21 Q. Do you know which days you went out to the scene?

22 A. I went out on the original incident date of the
23 13th.

24 Q. Okay.

25 A. And I went back on the 16th. And I'm not sure on

BRIAN BAGWELL - CROSS-EXAMINATION BY MR. SMITH.

1 the trash date. I don't remember what date that was we
2 were digging through the trash.

3 Q. And the 16th --

4 A. I think it was the 16th.

5 Q. -- would have been -- oh, I'm sorry.

6 A. I'm sorry. I was trying to make sure I went back on
7 the 16th. Don't want to confuse myself here. No, I'm
8 sorry, I did not go back on the 16th. I went the
9 original scene on the 13th, and I went back with the trash
10 collection. The 16th was when I processed the headboard.
11 That's where I got confused at.

12 Q. Okay. You mentioned a number of different things
13 that you can look for, but one thing you mentioned is
14 blood that you can find; is that right?

15 A. Yes, sir.

16 Q. And another would be fingerprints. You talked a
17 little bit about that to the jury as well.

18 A. Yes, sir.

19 Q. What about DNA? What is DNA and how can you get that
20 and what types or forms could you find at a crime scene?

21 A. Blood DNA being one. Of course if you have blood,
22 that's a great source of DNA. You could have saliva DNA,
23 semen DNA. You could have touch DNA, which occurs when
24 your skin cells come off. When I touch this pen, they
25 could swab it and hopefully get touch DNA developed off of

BRIAN BAGWELL - CROSS-EXAMINATION BY MR. SMITH

1 it. So there's different areas of DNA that we look for.

2 Q. And so simply touching something can leave my DNA on
3 that object?

4 A. That's correct.

5 Q. And may seem like an obvious question, but would you
6 be able to detect that with your eye?

7 A. No, sir.

8 Q. How would you know if any DNA were present?

9 A. We would have to swab it and send it for analysis.

10 Q. And when you swab items, you're careful in the way
11 that you do that; is that correct?

12 A. Correct.

13 Q. Because you don't want to contaminate or
14 cross-contaminate or destroy any swab substances that
15 you've got; is that right?

16 A. That's correct.

17 Q. And you mentioned taking a number of swabs in this
18 case; is that correct?

19 A. I took a swab from the floor area, yes, sir.

20 Q. And the headboard as well?

21 A. Yes, sir, from the back of the headboard. That's
22 correct.

23 Q. The phone, was it swabbed by you?

24 A. Not by me, no, sir.

25 Q. And you mentioned some swabs that were done, I

BRIAN BAGWELL - CROSS-EXAMINATION BY MR. SMITH

1 believe, at the autopsy; is that correct?

2 A. That's correct, yes, sir.

3 Q. And then some swabs that would have been done of my
4 client; is that right?

5 A. Yes, sir, that's correct.

6 Q. And are each of those swabs preserved in some way so
7 that they could be tested?

8 A. Yes, sir. They are placed in sterile packaging, put
9 in an envelope and sealed so they're kept separate from
10 each other.

11 Q. And then there's other evidence that you can look for
12 that aren't necessarily fluids or anything that comes out
13 of the body, but it can be what we may call trace
14 evidence; is that correct?

15 A. That's correct.

16 Q. And that basically is something that's out of place
17 somehow?

18 A. Trace, what we typically mean it to be is like hairs,
19 fibers, that sort of thing, small particles that's not
20 visible to the naked eye.

21 Q. Right. So a hair from somewhere else on me would
22 seem to be out of place, and so that may be noted and may
23 be retrieved?

24 A. Correct.

25 Q. Or plant material, debris such as that?

BRIAN BAGWELL - CROSS-EXAMINATION BY MR. SMITH

1 A. Correct.

2 Q. Dirt from shoes, gravel, those type things?

3 A. Correct.

4 Q. Was any of that taken from the room?

5 A. No, sir, there was nothing that we noted that we
6 needed to collect. I mean, we didn't notice anything of
7 evidentiary value around as far as trace evidence goes, as
8 far as hairs or dirt or plant material or anything.

9 Q. Did you have what you feel to be as an expert an
10 appropriate amount of time and access to the property to
11 do whatever search or tests you needed to do?

12 A. Yes, sir.

13 Q. You mentioned using not only your naked eye but some
14 luminescent spray, I believe originally BlueStar, at the
15 property; is that right?

16 A. Yes, sir.

17 Q. And you saw luminescence on the headboard and you
18 swabbed it, and you saw it on carpet and you swabbed that
19 area as well?

20 A. I didn't swab it at that time. We decided when it
21 luminesced on the headboard that we were just going to
22 collect it and take it back for further processing. We
23 did swab the carpet area that luminesced.

24 Q. Was a cutting taken from that carpet --

25 A. No, sir.

BRIAN BAGWELL - CROSS-EXAMINATION BY MR. SMITH

1 Q. -- or just a swab?

2 A. Just a swab.

3 Q. How about the telephone? Were you involved with
4 processing the telephone or doing anything with it?

5 A. No, sir, other than the initial glance over at the
6 original scene. Just looking at it, visual inspection.

7 Q. And you mentioned finding a fingerprint -- or a print
8 in the shower. I believe your determination, it was a
9 faint palm print --

10 A. That's correct.

11 Q. -- is that correct?

12 A. Yes, sir.

13 Q. And there was, I believe, ridge detail -- black
14 powder process was used. Able to develop and lift partial
15 impressions from the shower, and those latents were
16 retained by the forensic services unit; is that correct?

17 A. That's correct.

18 Q. That's what's in your report?

19 A. Yes, sir.

20 Q. What did you do with those once you retained them?

21 A. We actually hadn't looked at them. They stayed in
22 our files, just stayed retained. We was recently asked
23 preparation for trial to compare them to the suspect and
24 the victim in the case, and that's when they got looked
25 at.

BRIAN BAGWELL - CROSS-EXAMINATION BY MR. SMITH

1 Q. So you have now looked at those?

2 A. I have, yes, sir.

3 Q. And it's not Braquette Walton's?

4 A. It is not Braquette Walton, no, sir.

5 Q. Did you review any prints from the telephone?

6 A. I did look at those prints as well, yes, sir.

7 Q. And those were sufficient for comparison?

8 A. I believe they were. I'd have to look at them again,
9 but I think they had sufficient ridge detail.

10 Q. And again not Braquette Walton?

11 A. Nothing matched up to her, no, sir.

12 Q. And any touch DNA or anything taken off that phone?

13 A. I'm not sure if it was swabbed. Do you mind if I
14 look at the report real quick?

15 Q. Oh, sure.

16 A. I don't see any reference to swabs that he took from
17 a telephone.

18 Q. Do you know when that phone was taken into evidence?

19 A. I'm not sure if he collected the whole phone, but it
20 was on the 14th. Officer Tim Buchanan is the one that
21 went back out and processed the phone and did the
22 processing of it.

23 Q. So it was not processed that original date either; it
24 was processed after whatever extra information was gained?

25 A. Correct.

BRIAN BAGWELL - CROSS-EXAMINATION BY MR. SMITH

1 Q. And then you mentioned a -- a air handler or some
2 type vent that was processed?

3 A. Yes, sir. For lack of not knowing what to call it.
4 I think it's where the filter goes in the apartment for
5 air conditioning.

6 Q. And there was an identifiable print that you found
7 there?

8 A. Yes, sir.

9 Q. And again that's not Braquette Walton?

10 A. That's correct.

11 Q. But you did find blood, and I'm not taking about
12 fingerprints, but you found blood on the blanket, the item
13 that you displayed for the jury?

14 A. Yes, sir.

15 Q. As well as blood on the headboard; is that correct?

16 A. Yes, sir.

17 Q. And I know you said the headboard had been swabbed.
18 Was a cutting taken from the blanket on the bed or a swab
19 taken from it?

20 A. Not to my knowledge, no, sir.

21 Q. Was any type processing done on that blood?

22 A. No, sir.

23 Q. But blood obviously is a source of DNA; is that
24 correct?

25 A. That's correct.

BRIAN BAGWELL - CROSS-EXAMINATION BY MR. SMITH

1 Q. The mattress cover and then the green blanket that
2 were taken, were they examined for potential trace
3 evidence?

4 A. Nothing further that was collected. Once we
5 indicated blood on the white blanket, we opted just to
6 collect them. And to my knowledge, no further testing was
7 done on them.

8 Q. But someone could look at them and see if there were
9 any fibers on them that weren't from the makeup of that
10 fiber -- in other words, something that might have gotten
11 transferred to them; is that right?

12 A. It could be examined, yes, sir.

13 Q. Or they could be examined for hair; is that correct?

14 A. Yes, sir.

15 Q. Could it also be swabbed for DNA?

16 A. It could, I guess, but you would have to -- I mean,
17 generally you want an area where you're concentrating on.
18 I don't think SLED would swab a whole blanket, but I'm not
19 sure. I mean, potential is there for DNA to be on there.

20 Q. And you mentioned SLED. SLED is the South Carolina
21 Law Enforcement Division; is that right?

22 A. That's correct.

23 Q. And they have crime scene processors themselves?

24 A. Correct.

25 Q. But they also have testing for DNA, blood, some trace

BRIAN BAGWELL - CROSS-EXAMINATION BY MR. SMITH

1 evidence, things that you all don't have locally in York
2 County; is that right?

3 A. That's correct. Yes, sir.

4 Q. And they have certain protocols they require you to
5 do to gather evidence and submit it for them; is that
6 correct?

7 A. That's correct.

8 Q. And in this case, all the items that we talked about
9 you gathered in such a manner that they would be accepted
10 by SLED if someone chose to submit them --

11 A. That's correct.

12 Q. -- is that fair to say?

13 A. Yes, sir.

14 Q. You also took photographs that would have been
15 inclusive of those that we've seen up here. Did you take
16 photos when you went back the second time or just the
17 first time?

18 A. Just the first incident time.

19 Q. Now, you mentioned some items were being submitted to
20 SLED. You mentioned that that were keys, some clippings,
21 some fingernail swabs from Ms. Cook and Ms. Walton -- I'm
22 sorry, fingernail swabs from Ms. Walton, clippings from
23 Ms. Cook, and some keys; is that right?

24 A. I believe that is correct, yes, sir.

25 Q. So how many total items were submitted to SLED?

BRIAN BAGWELL - CROSS-EXAMINATION BY MR. SMITH

1 A. Not counting the standards, or you want the standards
2 counted?

3 Q. I'm sorry, and by "standards" you mean --

4 A. I'm sorry.

5 Q. -- a known sample. They have to know how to compare
6 it.

7 A. Correct.

8 Q. So if you get someone's blood from them, you would
9 call that a known sample; is that correct?

10 A. That's correct.

11 Q. So not the known samples that were drawn but the item
12 that you submitted to determine if there was DNA on?

13 A. Looks like six items were submitted.

14 Q. What would those be?

15 A. You got the fingernail clippings from the left hand
16 of Ms. Cook. Fingernail clippings from the right hand of
17 Ms. Cook. Swab from the nose of Ms. Cook. Swab from the
18 mouth of Ms. Cook. Swab from the set of keys. And swab
19 from Ms. Walton's fingernails.

20 Q. And that's all that was submitted to SLED?

21 A. To my knowledge, yes, sir.

22 Q. Not the blanket, blood, or any of the other swabs
23 that you took the time to luminesce and discover?

24 A. No, sir.

25 Q. All right. But of the items that have been submitted

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1 to SLED, none of those tie Braquette Walton to Ms. Cook or
2 to her body?

3 A. No, sir.

4 Q. No further questions.

5 THE COURT: Redirect?

6 MR. THOMPSON: No, Your Honor.

7 THE COURT: You may step down, be excused.

8 Appreciate your time.

9 THE WITNESS: Thank you, Your Honor.

10 THE COURT: Call your next witness.

11 MR. THOMPSON: State would call Neva Lattimer.

12 NEVA LATTIMER, after having first being duly sworn,
13 testified under oath as follows:

14 DIRECT EXAMINATION

15 BY MR. BRACKETT:

16 Q. Good afternoon, ma'am. Would you please state your
17 full name and spell your last for the court reporter.

18 A. My name is Neva Lattimer. Last name is

19 L-A-T-T-I-M-E-R.

20 Q. And why don't you spell your first name too. That's
21 a little unusual.

22 A. Sure. The first name is spelled N like in Nancy, E-V
23 as in Victor, A.

24 Q. And can you tell the jury, if you would,
25 Ms. Lattimer, where are you currently employed?

NEVA LATTIMER - DIRECT EXAMINATION BY MR. BRACKETT

1 A. Currently I'm retired. And I retired in January of
2 2012 from Park Pointe Village.

3 Q. And what did you do at Park Pointe Village prior to
4 your retirement?

5 A. My title was director of resident nursing at Park
6 Pointe Village, which is a continuing care retirement
7 community. My job encompassed -- the majority of it was
8 managing the assisted living unit both in terms of
9 managing resident care; admissions; care plans; setting up
10 care; and in managing the staff, including hiring,
11 training, making sure there was a proper schedule, ongoing
12 daily supervision of all the staff activities and work.

13 Q. Okay. So you were over the nurses, the LPNs, the
14 CNAs, and the patient care assistants, basically anybody
15 who worked with an assisted the residents there?

16 A. Anybody who worked in the assisted living unit, which
17 was comprised of CNAs. And because it was assisted living
18 as opposed to a nursing home, a skilled nursing facility,
19 it was just the CNAs and there was a housekeeper and other
20 staff that came as part of other departments. But my job
21 was to supervise the CNAs.

22 Q. For those members of the jury who have never been to
23 Park Pointe, can you give them some kind of idea, what
24 sort of place is it?

25 A. Sure. Park Pointe Village is a continuing care

NEVA LATTIMER - DIRECT EXAMINATION BY MR. BRACKETT

1 retirement community, and that means that there are three
2 levels of care there. There are residents who live in
3 independent-living apartments and duplex-type homes, and
4 they take care of themselves and they get some meals
5 there, some services, some maintenance services, but they
6 basically manage their own care.

7 There is an assisted living unit, and we call that
8 Oakbridge Terrace. That's for people who may need some
9 assistance that they've -- their health may change or
10 their needs may change so that they need a little more
11 help with housekeeping, with managing their medications,
12 meal service. So they live in a supervised assisted
13 living. They also have a full-skilled nursing facility
14 for people who need the services of a skilled licensed
15 nurse, as well as other services.

16 Q. So is Oakbridge Terrace, the place where Ms. Pauline
17 Cook lived, that wasn't a skilled nursing -- that was not
18 a skilled nursing?

19 A. That's right. Oakbridge Terrace was not skilled
20 nursing. It's residential -- considered a community
21 residential care facility under South Carolina DHEC
22 licensure. Those are for people who can do some of their
23 own care, but they need assistance. And it varies widely
24 with what they need for assistance with personal care.

25 But basically the people at Oakbridge Terrace are

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1 able to self-direct their care. They get three meals a
2 day in the dining room. They get housekeeping services.
3 The staff will give their medications to them if that's
4 what's needed and assist them that way. But each person
5 has their own apartment. And it's treated as their own
6 apartment with some common living areas there.

7 Q. All right. And focusing on their apartments, is each
8 resident -- it's not like a hospital room?

9 A. Oh, no. Each apartment has -- it's like an
10 efficiency apartment. Has a full bathroom with a walk-in
11 shower, toilet, sink, cabinets. It has a small
12 kitchenette in most of them with a sink, a microwave, an
13 apartment-sized refrigerator that they can keep snacks and
14 do whatever they'd like to with. And then another kind of
15 L-shaped living area where -- a couple of closets. Room
16 for a bed, chairs, desks. Whatever furniture they want to
17 place there. Their own belongings are there.

18 Each resident has their own key which is unique to
19 their apartment. It's treated as -- it is their
20 apartment. Staff don't enter without knocking on the door
21 and getting permission to come in. The staff do go in for
22 some routine things if the resident's not there and it's
23 time for housekeeping or to pick up their laundry, that
24 sort of thing. The staff would go in after knocking and
25 realizing the resident was not there, but they wouldn't go

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1 in the apartment otherwise.

2 Q. Do they have telephones in there?

3 A. Oh, yes. Everyone has their own telephone, and each
4 resident sets up their own telephone service. In other
5 words, they make their own arrangements, whether it's with
6 Comporium or some residents may only have a cell phone.
7 Whatever kind of telephone service they want, they arrange
8 for and they pay for.

9 Q. How about cable?

10 A. Cable is included with their -- they pay a monthly
11 maintenance fee to cover all their services. That covers
12 everything from their meals -- it would be like covering
13 their apartment rent, if you will. The activities, the
14 staff, whatever services the staff provides. Cable is
15 included in that. The only thing they pay on their own
16 would be the telephone service and if they wanted more
17 cable channels than what Park Pointe Village provides for
18 them.

19 Q. Ultimately who controls access to the apartment? Who
20 decides who can come and go from each room?

21 A. They control access to their own apartment.

22 Q. Each resident?

23 A. Each resident does, yes.

24 Q. And I think you described your responsibilities as
25 head of nursing. How long were you the head of nursing at

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1 Park Pointe Village?

2 A. I worked at Park Pointe Village from July 2000, when
3 the facility was being built. My position as a director
4 of resident nursing, and the title changed once in the
5 middle there, actually began in that unit in January of
6 2003.

7 Q. All right. I'm going to show you first -- Mary had
8 the numbers. Here we go.

9 (State's Exhibit Number 89 was marked.)

10 Q. I'm showing you what's been marked as State's
11 Exhibit 89 for identification. Do you recognize the
12 layout that's depicted there?

13 A. I do.

14 Q. Can you tell the jury what -- describe what that is.

15 A. This represents a diagram of the south hall of
16 Oakbridge Terrace. Oakbridge Terrace has built -- has two
17 halls that are at a wide V formation. This is the hall
18 where Ms. Cook's apartment was located.

19 Q. All right. While not necessarily to scale, is it an
20 accurate depiction of the general layout, including the
21 rooms and the location of various places within
22 that complex?

23 A. It's a pretty fair representation, yes. It
24 represents the location.

25 MR. BRACKETT: Your Honor, at this time I would seek

NEVA LATTIMER - DIRECT EXAMINATION BY MR. BRACKETT

1 to introduce State's Exhibit 89 and publish it to the
2 jury.

3 MR. SMITH: No objection.

4 THE COURT: In without objection.

5 (State's Exhibit 89 was admitted.)

6 Q. Ms. Lattimer, what I'd like you to do is I'm going to
7 show you some photographs. Like you to take a quick look
8 through these photographs I'm about to hand you and tell
9 me if you recognize what's depicted in them. And this is
10 going to be State's 11 through 35. Take a look at those
11 and see if you recognize what's depicted in those
12 photographs.

13 A. Yes, sir.

14 Q. What do those photos depict?

15 A. They depict a tour of Oakbridge Terrace starting at
16 the front door, and it goes in through the main lobby
17 area, the living room area, and some rooms adjoining it
18 and then it goes on down the hall towards the apartment
19 where Ms. Cook lived and some rooms. There's several
20 rooms there that that depicts, and then coming back up the
21 hall.

22 Q. Okay. And other than -- these were taken fairly
23 recently and there's still Halloween decorations in there.
24 Other than those, I mean, does it accurately depict the
25 layout --

NEVA LATTIMER - DIRECT EXAMINATION BY MR. BRACKETT

1 A. Oh, yes.

2 Q. -- and the rooms that are shown on this diagram right
3 here?

4 A. Yes, it does.

5 MR. BRACKETT: Your Honor, I would introduce
6 State's 11 through 35 at this time.

7 THE COURT: Any objection?

8 MR. SMITH: No objection.

9 THE COURT: In without objection.

10 (State's Exhibits 11 through 35 were marked and admitted.)

11 Q. I'm going to try to do this so that we don't block
12 the jury, they can see the screen. And also you can maybe
13 step over there or however is best to do this. I want to
14 kind of take the jury on a tour using your pictures and
15 this diagram so that we can go through one by one. And
16 we'll start with the first one there, State's Exhibit 11.

17 MR. BRACKETT: Madame Clerk.

18 THE COURT: Madame Forelady, can you --

19 JUROR: I can't see the bottom. Can I stand?

20 THE COURT: The person behind you needs to stand too.
21 That's fine.

22 MR. BRACKETT: Is that better?

23 JUROR: Yes.

24 THE COURT: Does that help?

25 JUROR: Yes.

NEVA LATTIMER - DIRECT EXAMINATION BY MR. BRACKETT

1 Q. We'll start with State's Exhibit 11. This might help
2 you, this little laser gizmo. You push that red button.

3 A. Thank you. All right. This is the front door of
4 Oakbridge Terrace, which would be right there on the map.
5 And there's a porch right out there at the front, and
6 that's the entry door that's considered the main door to
7 that unit.

8 Q. All right. And prior to coming in here today, did
9 you have a chance to look at this diagram?

10 A. I did.

11 Q. And did you note on the diagram where each photograph
12 was with an arrow showing where you --

13 A. I did as best I could, yes.

14 Q. So State's 11 would be 11 here with an arrow --

15 A. Right there.

16 Q. -- pointing --

17 A. Yep.

18 Q. -- and this is a shot of --

19 A. There's a Number 11, and it points -- that's -- the
20 small arrow points right in that door. I tried to put the
21 arrows the direction I thought the camera was coming from.

22 Q. All right. How about State's Exhibit 12?

23 A. Now, this is walking right in this entry door here.
24 There's a little entryway and then a second door, which
25 you see is open there. And there's some Halloween

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1 decorations there. That's the entryway. Up on the wall
2 is a telephone which can be used for guests who don't have
3 an access card if they need to call the attendant station
4 in order to have someone let them in. This door is
5 generally locked, and everyone coming in needs to use an
6 access card or have a passkey.

7 Q. And can you show where -- where would I use my
8 passkey or access card in order to enter the --

9 A. See if I can get it. Right there is the card reader.

10 Q. And right above that is the --

11 A. And right above it is the telephone so that if guests
12 come in and don't have a card, they can call on the
13 telephone. There's directions on the wall there that tell
14 what number to dial, and the staff will take the call and
15 then come to the door and let people in.

16 Q. All right. How about State's 13?

17 A. This is looking from, on the diagram here, right
18 inside that doorway that we just saw, it's looking into
19 another entryway, and over here where there's a -- you can
20 see on the picture up there there's a fireplace and
21 there's a couch there. There's a door there that goes out
22 to another patio, and there's another living room area
23 right there. To the right is the countertop for the
24 attendant station.

25 Q. The attendants of the nurses' station?

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1 A. The attendants -- nurses' station, if you want to
2 call it that, yes. Which would be right there.

3 Q. Okay. All right. And Number 14.

4 A. This is also standing as you come in that inside door
5 right there. And immediately to the right, this doorway
6 here goes into another room which we had recently
7 renovated prior to Ms. Cook's passing, and we call it the
8 tree house, and in a minute you'll see why. There's some
9 decorations in there that labeled it that. But this would
10 come right at -- this is looking almost from the right of
11 the doorway coming in right there, and it would go right
12 here on this diagram here.

13 Q. All right. And Number 15.

14 A. This is inside the tree house, which is right here on
15 the diagram, and if you notice on this diagram, this is a
16 very odd-shaped room. So I'm hoping I can give you a good
17 perspective of what the room is like. This would be
18 looking, I believe, from here. The TV is over on this
19 wall, the big-screen TV, and the wall that has the mural
20 with the trees painted on is this wall right here, kind of
21 at an angle.

22 Q. Okay. State's 16.

23 A. This is also from inside the tree house, and this
24 angle is taken, the best I can label it, from over here
25 with their back to that wall that was painted with the

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1 trees on it. There's -- the table there is on the
2 outside, next to the outside wall. Then you'll see the
3 windows, and then there's two closet-type doors right
4 there behind the chairs. They would be located right
5 there on the diagram. And then you can see where it goes
6 out. The doorway goes out into the hall again.

7 Q. Are the chairs moved around for various activities?

8 A. The chairs are moved around all the time. This room
9 was used for viewing movies. It's used for playing games.
10 They have -- they play Wii in there. Sometimes small
11 groups will get together around that small table, play
12 games. Those chairs get moved a couple, three times a
13 day. And they're very easy to move. We designed it that
14 way.

15 Q. State's 17.

16 A. This is actually the nurses' station. You can see --
17 this is the doorway where you come in. Let me show you on
18 the diagram first. This is the door where you come in.
19 This is the nurses' station. This is taken from over here
20 on the -- what I would consider the back wall of the
21 living area, looking towards the nurses' station. This is
22 a desk area here.

23 The door to that tree house would be on -- behind the
24 nurses' station to the left. You really can't see it
25 there, but it's coming in this door and from this angle

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1 it's looking towards the left. There's cabinets here.

2 There's a computer station. That's basically the office
3 area, the work area for the unit.

4 Q. All right. State's 18.

5 A. This is looking down the hallway. Right here on this
6 map with your back sort of to the nurses' station. And
7 looking through here there's a -- you can see a fire door.
8 It's open there, but you're looking straight down this
9 hall. That's the view you're looking at here on the
10 diagram.

11 Q. Whose door is all the way at the end of the hall?

12 A. All the way at the end of the hall, that door where
13 you see is apartment 519, and that is where Mrs. Cook
14 lived. There are rooms on either side going down the
15 hall.

16 Q. Now, it looks from the picture, if I walked through
17 that door, on the diagram it appears when you go through
18 the door there's a wall there, but it doesn't appear that
19 way in the photograph. Can you turn right? What's on the
20 other side of that doorway?

21 A. Right behind this doorway here, this little stretch
22 of wall you see on this side -- there's one just like it
23 on the backside, of course. And then it goes into a door
24 to a resident's room. You can kind of see from this
25 picture and I -- that there are, like, a -- little alcoves

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1 in front of the doorways to the rooms. Some of the
2 alcoves -- I just have one apartment door there. Others
3 have two apartment doors. You can see right here on this
4 wall there's actually two apartment doors between this
5 wall and where that comes out. It's in a little alcove.

6 Q. Is the space on that -- if I went through the door
7 and took an immediate right, is there enough space there
8 for me to stand such that someone at the nurses' station
9 couldn't see me?

10 A. There could be, yes. Yeah, there could be.

11 Q. State's 19.

12 A. This is walking further down the hall. This is taken
13 from right about -- it's right between room 513 and 515
14 here on the diagram. And again it's looking straight down
15 the hall at apartment 519. You can see a little more
16 clearly in the picture how the alcoves are, that it makes
17 little decorative corners for the residents, and then you
18 can see there's another one here and then there's some --
19 another area, a lounge area back there. And on the right
20 there's, of course, another little alcove for another
21 doorway to another apartment. And this is Ms. Cook's
22 apartment right down here.

23 Q. All right. State's 20.

24 A. And this is again moving further down the hall. This
25 would be right about here on this diagram, looking

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1 straight down. That chair you see on the left is in the
2 outside edge -- inside edge, whichever you look at -- of
3 the lounge area on the left here. There's a resident
4 door. One door there you can see on the right. There's a
5 door here. There's another resident apartment. And
6 across from this is a lounge area where the residents
7 could gather and sit, visit, watch TV, play games. We had
8 a bridge group down there. A number of things happen.

9 Q. 21.

10 A. This is a larger view of that lounge, which is
11 located right here as you're going down the hall towards
12 Ms. Cook's room. It's on the left. They go -- it
13 encompasses this area right here on this map. This is the
14 outside wall. There's an outside door here. That chair
15 that we saw in the previous picture. Have to coordinate
16 it with the laser.

17 Q. Okay. That's all right.

18 A. The TV. This is like a utility closet, and back
19 behind that there's another sofa.

20 Q. Next, 22.

21 A. This is the outside door of that lounge, which is
22 located right here on that diagram. This door is locked
23 from the outside, but of course you can always go through
24 the door and access the outside. It's kept locked on the
25 outside for security reasons, but residents and anyone who

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1 wishes can go out that door.

2 Q. Okay. And what's that white?

3 A. It has an alarm on it, and that alarm goes off. It's
4 set as a contact alarm so that if someone goes out, staff
5 is notified. It makes a very loud noise. And it's set so
6 that, you know, for example, a resident were to get up in
7 the middle of the night and kind of get turned around and
8 go out the door, and we've actually had incidents of
9 sleepwalking, that they're not going to get out with
10 someone's attention. It's loud enough that it's heard
11 clear down the hall. It is set on a -- you can deactivate
12 it by pushing the number on it.

13 Q. Is that number commonly known to staff?

14 A. All staff know that number. That's part of their job
15 to respond to it, turn off the alarm, and see what's going
16 on, see who's gone out, see what needs to happen.

17 Q. 23.

18 A. This is a close-up of the alarm. You can see
19 there's -- you can't see the numbers, but there is a code
20 to be pushed if it goes off and it makes contact. So when
21 that contact is broken, if somebody goes out the door and
22 this slide bar is set for alarm, it will sound.

23 Q. Okay. 24.

24 A. This again is right here from near the edge of the
25 lounge you can see. It looks like the camera angle looks

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1 from over here and kind of at an angle across. And what
2 you're looking at is the doorway to Ms. Cook's apartment
3 and then a doorway to the clean -- you -- excuse me, the
4 clean linen room next door. There's Ms. Cook's door and
5 decorative area there, and then this door here is locked
6 and the clean linens are kept in there.

7 Q. 25.

8 A. This is looking straight down that hall as if you
9 were standing actually probably right in front of
10 Ms. Cook's door or down the hall a little bit and looking
11 out towards the back of that hall. And there's a door, as
12 you can see there, an exit door. This is a housekeeping
13 hall. This is used for staff. This door right here is
14 the clean linen room. This room is the trash room, and
15 you can see the biohazard sign there. Dirty linen is kept
16 in there for laundry workers to come pick up. That's
17 where the trash pickup occurs, all that sort of thing.
18 This door again is also locked on the outside and has
19 another alarm there for safety reasons, so if a resident
20 should go out, it would be noted.

21 Q. 26, I think, is going to show us that. Same type of
22 alarm?

23 A. Same type of alarm on that door, yes.

24 Q. 27.

25 A. This is with your -- this angle is with your back to

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1 the door here, this outside door that you just saw, and
2 it's looking up this hallway towards the doorway to
3 Ms. Cook's room and the linen closet. And the one right
4 closest to you, this is the trash room, the soiled
5 linen/trash room. This is clean linen, and this is where
6 Ms. Cook's apartment would be. It's a straight hall --
7 just a straight hall. And then you would turn right to go
8 back down the hall.

9 Q. Is there any way from the nurses' station to either
10 see or monitor what might be happening in that little
11 corner?

12 A. No, there is no way you could see that at all. You
13 couldn't tell that from the nurses' station.

14 Q. 28.

15 A. This is coming back down the hall. This would be
16 standing again right near a little corner here in front of
17 where Ms. Cook's apartment and looking directly down --
18 all the way down the length of this hall back to where we
19 had come from.

20 Q. 29.

21 A. This is as if you came from that corner and again
22 looking in that same lounge that we were in before. This
23 time the angle is going this direction here on the board,
24 and there's this little sofa that's right over here kind
25 of in a little alcove. You can see -- what you can't see,

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1 where this plant is and the sofa is, there's a little
2 wall. There's actually a door on the backside of that,
3 and there's a utility closet in there.

4 Q. 20 -- 30.

5 A. This is standing again at the end of this hall and
6 looking -- well, it's actually -- we're up this way a
7 little bit further.

8 Q. Back towards the nurses' station.

9 A. Right, looking back towards the nurses' station,
10 looking all the way down to where that fire door is for
11 the hall and the little alcoves where the doors to the
12 resident apartments are.

13 Q. Okay. 31.

14 A. And this is right next to that door that goes back by
15 the nurses' station. Would be right up here on the
16 diagram. And this would be the wall -- this is the
17 decorative area, and there's a resident door right over
18 here to the left, and that's a wall there that backs up to
19 it, goes right through there.

20 Q. 32.

21 A. This is coming out of that door, this door right here
22 on the diagram, and this little sofa that you see on the
23 right is right there. And it's looking straight over at
24 the nurses' station, and you can kind of see the angle
25 into the tree house. This is the tree house door here,

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1 that's the nurses' station, and if you turn right, you
2 would go right on out the front door.

3 Q. Okay. 33.

4 A. This is coming closer to the front door. That would
5 be right about this corner here. Looking out the front
6 door and that chair on -- the sofa is here, and then
7 there's a chair there and looking out the front door
8 there.

9 Q. That beveled glass that's on that door.

10 A. Yes.

11 Q. The door that comes in there. Yes, ma'am.

12 A. Right here?

13 Q. Can you see through that, sort of, if you look right
14 through it?

15 A. You can see shadows. You can see shadows. You can't
16 see clearly because if people approach that door, you
17 can't make out features as to know exactly who it is,
18 unless it's somebody comes all the time and you know what
19 time they come. But, no, it's a frosted glass.

20 Q. 34.

21 A. This is going out this door here, the first of the
22 inside door there and then that little entryway. In
23 looking at the outside door, this is the frosted glass
24 door that we referred to in the last picture. And this is
25 going right on out to the outside.

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1 Q. And 35.

2 A. This would be looking out this outside door right
3 here, standing right at that doorway and looking out
4 towards the parking lot. There's a sidewalk here that
5 goes out to a pull-through driveway there with an overhang
6 so people can get in and out of vehicles without getting
7 wet. And there's a porch on either side.

8 Q. I think that completes our tour of Park Pointe
9 Village. Please have a seat. Thank you.

10 At the nurses' station you were referencing, there's
11 a telephone there. I believe there's been some testimony
12 about that.

13 A. There's a telephone there.

14 Q. And who attends to that telephone?

15 A. The staff that is on duty. There's not a
16 receptionist sitting at that desk really any time of the
17 day. There are times when staff may be sitting there
18 doing paperwork or recording, whatever they need to do.
19 But the desk telephone is -- has caller ID on. It's part
20 of our IP phone system. But so that staff can answer the
21 phone even when they're out on the floor taking care of
22 residents or wherever they may be, we have a set of
23 cordless phones, portable phones that the staff carry with
24 them. They are not -- they do not have caller ID, and
25 generally the desk phone is call-forwarded to those

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1 portable cordless phones.

2 Q. And the staff carries the portable ones around?

3 A. And the staff carry them in their pocket. If they're
4 on the medcart giving meds down the hall, it's with them
5 on the medcart. It's on their person at all times so that
6 they can respond to -- because residents may call them
7 from their phone and need something, as well as outside
8 people calling.

9 Q. Did you -- turning your attention now to one of the
10 residents in particular that you mentioned earlier,
11 Pauline Cook.

12 A. Yes.

13 Q. Did you know Pauline?

14 A. Oh, yes, I knew Pauline.

15 Q. How long did you know Pauline?

16 A. I've known Pauline at least a little bit from the
17 time that she and her husband moved into Park Pointe
18 Village in early 2001. My contact with her increased in
19 later years. Pauline was well known throughout the
20 community. Her husband passed away several years ago.

21 Pauline was very active. She volunteered at the
22 front desk. She was there early mornings. She was a very
23 early riser. She would -- this was when she was living in
24 her independent-living apartment up until July of 2011.
25 She'd get up some -- 4:30, 5:00. Sometimes she'd take the

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1 newspapers that were laying there and deliver them to
2 people's rooms or she would come out and work at the desk.
3 Always had a book in her hand to read. Always greeted
4 everybody. She was a quintessential receptionist, even
5 though it was volunteer basis.

6 Q. So she was mentally able, very on her game, so to
7 speak?

8 A. Oh, yes. Oh, yes. Yeah, Mrs. Cook was very mentally
9 able to do a lot of things. She spent a lot of time
10 working the puzzles. We have a game room downstairs in
11 the independent-living part. She'd be in and out of that
12 room several times a day working on puzzles. She attended
13 every social activity that happened, just about. Had a
14 particular social group she attended every afternoon at
15 4:00.

16 She knew all the staff. She just liked to be out and
17 about. She was very friendly. Everybody knew her. She
18 was very encouraging. Always had a smile. Always had a
19 kind word to say.

20 Q. How about the defendant, Braquette Walton? Did you
21 know her?

22 A. Yes, I did.

23 Q. Do you see her in the courtroom?

24 A. Yes.

25 Q. Can you point to her?

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1 A. Ms. Walton is sitting to my right dressed in the blue
2 shirt. The first girl there.

3 Q. At the desk here?

4 A. Yes.

5 Q. Okay.

6 MR. BRACKETT: Ask the record to reflect that she's
7 identified the defendant, Braquette Walton.

8 Q. How do you know Ms. Walton?

9 A. I interviewed Ms. Walton for a job that was open in
10 Oakbridge Terrace somewhere in June of 2011, and she had
11 applied to work there. I went through the application,
12 interviewing process with her, and ultimately hired her
13 for a part-time position on the night shift, on third
14 shift.

15 Q. And what were her responsibilities?

16 A. Her responsibilities on third shift included she
17 would have been the only attendant on duty at -- from
18 11:00 p.m. until 7:00 a.m., and if she worked during the
19 week she stayed until 8:00 a.m. She was responsible for
20 the residents' welfare. There were some residents who
21 needed assistance during the night. Might need help
22 getting to the bathroom on occasion. There was some
23 medications to be given. Sometimes late at night,
24 sometimes early in the morning. She was responsible for
25 managing some paper -- some daily paperwork and reports.

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1 If a resident became ill, which they do from time to
2 time, it was her responsibility to manage that illness, to
3 decide whether or not -- sometimes with some advice from
4 physician office or whatever, if necessary whether to send
5 them to the hospital, whether it was something that needed
6 a first aid. If a resident fell, it was her
7 responsibility to assess the situation, decide if it was
8 safe to help them get up. Help them get up if it was
9 appropriate. Ongoing assessments. Respond to all kinds
10 of emergencies as well as routine things and get residents
11 up in the morning on a schedule.

12 Q. How many days a week did she work?

13 A. She worked -- her regular schedule was five days in a
14 two-week pay period. It was every other weekend and one
15 to two nights during the week.

16 Q. So five week -- five days within a 10-day or
17 14-day --

18 A. Within a 14-day period, yes.

19 Q. And that's a full eight-hour day?

20 A. Yes, it's eight hours on weekends -- well, actually
21 seven and a half on weekends and eight and a half during
22 the week.

23 Q. When somebody is hired in this position, does Park
24 Pointe have a training point? Do they --

25 A. Yes, we do.

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1 Q. What do you cover?

2 A. Oh, we cover a multitude of things. There are some
3 mandatory topics that have to be covered before a staff
4 person can even have contact with the residents, and they
5 include talking about residents' rights, rights of the
6 residents, and all kinds of things, to rights to privacy,
7 choosing their own medical care. We cover things like
8 infection control, which includes universal precautions,
9 how to do deal with body fluid. It includes how to deal
10 with bloodborne pathogens. That means if there's blood
11 someplace, what you do with it, how you handle that, how
12 you take care of it.

13 It includes all our emergency procedures. What to do
14 if there's a fire or a fire drill. We have fire drills
15 once a month. It covers what to do in any kind of
16 emergency, if there's a tornado warning. If there's a
17 power outage. Who to contact, what do you do to keep the
18 residents safe. It includes medication management.
19 Safety in giving medications and how we handle
20 medications. All of our staff are additionally trained as
21 medication technicians to know how to appropriately give
22 the medications to the residents.

23 Q. Is CPR part of --

24 A. CPR is required of our staff. Ms. Walton already was
25 certified in CPR before she came, so we reviewed that --

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1 review that as part of our emergency procedures as part of
2 our first-aid training, when do you do CPR. And because
3 she already had that certification, we knew that she knew
4 how to perform CPR if it was needed. But we do cover when
5 to do CPR, when to do first aid. It's all part of
6 first-aid training.

7 Q. Is there training on dealing with vulnerable adults
8 and abuse and neglect?

9 A. Yes, there's actually an extensive module that talks
10 about how to recognize abuse, how to recognize all kinds
11 of abuse, whether it's physical, verbal, emotional,
12 financial, sexual abuse, and what to do if you suspect a
13 resident is being abused by another staff person. It's
14 strong constraints. We are certainly -- do not tolerate
15 any kind of abuse, but it's very, very strong training on
16 abuse and neglect, what constitutes abuse and neglect and
17 what to do about it should you happen on it.

18 Q. Are they trained on the company policies and
19 procedures as far as how to treat residents and what to
20 talk to them about and what not to talk to them about?

21 A. Yes. There's a high emphasis on -- that's covered in
22 part of residents' rights and how we talk with residents.
23 The Park Pointe Village is part of ACTS, and their mission
24 statement encompasses creating a culture of love and
25 kindness, and that is permeated -- that is a term we hear

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1 often there, and it's how we talk to residents, how we
2 give them respect and dignity. There should never be any
3 kind of talking to a resident in a way that would put them
4 down, that would denigrate them, that would humiliate
5 them. That's certainly not acceptable.. We give our
6 residents as much choice as possible. Everything from
7 their daily activities, what they eat at dinner, to
8 anything we can possibly give them a choice about.

9 Q. What is the policy there about dealing with residents
10 or employees dealing with residents on their personal
11 property or financial affairs?

12 A. Staff employees are taught to treat residents'
13 property and resources with respect. I mean, they are
14 responsible for helping do their laundry. That involves
15 helping take care of their clothing. Their personal
16 property and their apartment belongs to the resident. The
17 staff does not -- they don't help themselves to any snacks
18 in the residents' rooms. That belongs to the resident,
19 just like you would do at home.

20 As far as handling any finances, our staff are told
21 they really don't have any reason to be involved with a
22 resident's finances. We have some fairly strict policies
23 that are given in orientation. Staff is not allowed to
24 accept any tips or gratuities. Residents are aware of
25 that as well, that they cannot offer them. Sometimes

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1 vulnerable adults, though, they want to do something nice
2 for somebody who's been nice to them, and staff are taught
3 how to kindly refuse that, how to report it to the
4 supervisor if they're put in a position where they feel
5 pressured to take something.

6 There is a strict policy about not doing outside jobs
7 for residents for money. The company provides those
8 services. If there are -- there are occasionally -- very,
9 very seldom -- times when an employee might be asked to
10 perform an outside service for a resident outside their
11 hours of employment, and they are to tell their supervisor
12 or their executive director if that occurs and if -- there
13 is very rarely a time when someone might do an outside job
14 for a resident. Really doesn't happen. Shouldn't happen
15 in Oakbridge Terrace. But employees do not get involved
16 with the finances of the residents. They manage their own
17 or have families who help them do it if they need to.

18 Q. Was there a policy regarding employees being on the
19 property or premises there at Park Pointe Village when
20 they were not working?

21 A. Yes. That is covered in orientation. It's in the
22 handbook. Employees are expected not to be on the
23 property when they are not there on duty, when they are
24 not working. One exception is that they may come and work
25 out at the wellness center. We have a nice new wellness

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1 center. It opened up shortly before that time, and
2 employees are allowed to come on during nonworking hours
3 and use that. If they intend -- if there's some reason
4 they wish to visit a resident during nonworking hours,
5 that has to be with prior approval.

6 Q. All right. Are you aware of whether or not the
7 defendant in this case, Ms. Walton, was actually trained
8 on these policies and procedures --

9 A. Yes.

10 Q. -- as well as the regular training about all the
11 other things you talked about, CPR, bloodborne pathogens?

12 A. Yes. I did much of her orientation, then, the first
13 day that she -- day or two that she was hired. She also
14 attended a community-wide orientation later in the month
15 that was for all new employees. But she was trained
16 individually on our unit, and she was trained as part of
17 our group of new hires within the same month.

18 Q. Okay. I want to turn your attention now,
19 Ms. Lattimer, to Saturday, November the 12th, 2011.

20 A. Uh-huh.

21 Q. Did you work that day?

22 A. I was not necessarily scheduled to work, but with my
23 position as a department director, I needed to come in and
24 I needed to do some office work, some catchup for myself.
25 I had been gone two or three days during that week, and

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1 some things needed doing. So I came in somewhere around
2 1:00 in the afternoon, planned to stay a couple of hours,
3 catch up some office work. Staff knew that I was there,
4 but I was not initially involved with the activities in
5 Oakbridge Terrace. My office is a couple doors down the
6 hall from there.

7 Q. Was the defendant working that day?

8 A. No, she was not.

9 Q. To your knowledge, what was the -- when did she work?
10 What was the last day she worked prior to that?

11 A. She had worked Wednesday and Thursday night that
12 week. She had left work Friday morning, November 11th,
13 from that job, and she was not on the schedule to work
14 again until Monday night, November 14th.

15 Q. So she had worked --

16 A. She worked Thursday night.

17 Q. -- Thursday night from 11:00 until 7:00, Friday
18 morning?

19 A. That's right.

20 Q. And then she was not due to come back in until
21 11:00 Monday night?

22 A. That's right.

23 Q. So you were in just doing some paperwork and some
24 catchup things in your office?

25 A. Right.

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1 Q. Was there anything going on at the facility? Was it
2 an eventful day for you?

3 A. Well, I had gone out to the nurses' station to talk
4 with the staff and visit with the residents a little bit.
5 There's always a lot of socializing going on. And I was
6 out there probably around -- just before 3:00, ten to 3:00
7 or so. And another resident who lived on the opposite
8 hall of Oakbridge Terrace had fallen, and staff asked me
9 if I would come and assess her and help take care of the
10 situation. So I went down the hall, and the resident had
11 fallen. We assessed her for injuries, and her family was
12 there, and we were talking about what to do for follow-up
13 care and working with them. It took a little bit of time.

14 While I was down the hall -- while I was doing that,
15 attending to that resident with some staff, another staff
16 person came to me and said that Ms. Cook needed to see me
17 and wanted to see me right away. I asked her if she was
18 okay, and she said yes. And I said -- she told me that
19 she was sitting at the nurses' station. And I asked her
20 if it would be all right -- I said, "When I finish with
21 this resident here, taking care of this fall," and I said,
22 "get things squared away, stabilized, tell Ms. Cook I'll
23 be right down to see her."

24 Q. Did you eventually go down and see her?

25 A. I did. I got down the hall to see Ms. Cook somewhere

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1 around ten after 3:00, quarter after 3:00 that day. And
2 she was sitting in the chair at the nurses' station right
3 across from the desk waiting for me. And I -- she had
4 kind of a grim look on her face. I knew it was intense
5 because Ms. Cook didn't like to sit very long. But she
6 had waited for me, and she had some papers in her hand.

7 Q. What was her mood and demeanor? Did you --

8 A. She was upset. She was very upset. She was
9 frustrated because she was having trouble figuring out
10 what was going on in the papers that she had.

11 Q. And what papers was she holding?

12 A. She showed me initially, she thrust into my hand a
13 bank statement. She said, "Look at this." And she said,
14 "Who is this person?" And then she showed me the
15 photocopy of her checks that had cleared for the month,
16 and there were four checks there that were written to
17 Braquette Walton, and they were for varying amounts. They
18 were signed Pauline Cook. She said, "This is not my
19 signature. And who is this?"

20 I explained to her that that was a staff person.
21 That's who that name was, and I said, "You might not know
22 her by that name because she goes by a nickname." I said,
23 "She goes by the name of Bea." I explained to her that
24 Ms. Walton worked nights and worked part-time. And she
25 still wasn't clear on who she was. And I did look at the

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1 signature, the Pauline Cook signature, and she had
2 pictures of the other -- or photocopies of the other
3 checks she had received also, and it was clearly a
4 different signature on it.

5 Q. Were you familiar from working with her, were you
6 familiar with Braquette Walton's handwriting?

7 A. Yes, I was.

8 Q. And how was that?

9 A. It looked very similar to -- best of my eye. You
10 know, I actually compared it later that afternoon.

11 Q. No, I mean, what circumstances would you see
12 Ms. Walton's handwriting through your work?

13 A. Oh, well, she had signed any number of documents on
14 orientation. She signed off in the medication book. We
15 have a master signature list where all the med technicians
16 sign their name so that we know whose initials it is so
17 that we can verify their identity. And that was an easy
18 place to do a double-check. Plus, you know, multiple
19 other records there.

20 Q. Did she in the course of her work have to generate
21 report occasionally?

22 A. Yes.

23 Q. Did you have access to those?

24 A. Yes.

25 Q. So Ms. Cook is sitting out there. She's upset. She

NEVA LATTIMER - DIRECT EXAMINATION BY MR. BRACKETT

1 has these documents in her hand, and she tells you that
2 she doesn't know who wrote these checks. What do you tell
3 her?

4 A. I asked her to come to -- as soon as I saw the name
5 on it and got the quick drift of what was going on, I
6 asked her to come to my office. I said, "Pauline, let's
7 go to my office, where we can talk about this more fully
8 and we can see what we need to do next." And she came
9 down with me. I actually did that before I looked real
10 close at all the checks. But I got the drift because I --
11 you know, this needed to be a private discussion and not
12 in front of other residents and staff. This was a
13 personal issue for Ms. Cook.

14 So we went to my office, and I asked her where her
15 checkbook was. She had a walker that she used. It had a
16 seat on it. She kept all her goodies under the seat. She
17 had one checkbook in there, and then -- that was that time
18 that I looked at the dates and the numbers on the checks,
19 and I saw, you know, some dates that correlated with dates
20 that Ms. Walton had worked. Looked at the amounts, looked
21 more closely at the signatures. And I asked her if it
22 would be all right if I made photocopies of the checks and
23 told her that we -- after discussing with her and
24 explaining who Ms. Walton was, and then she wanted to go
25 back to her room. I said, "Okay, if it's okay with you,

NEVA LATTIMER - DIRECT EXAMINATION BY MR. BRACKETT

1 I'll make copies of the checks and I'll meet you back in
2 your room in a few minutes, and then we'll call your bank
3 and we'll see where we go from there and see what we can
4 do to take care of this situation."

5 Q. Okay. Based on seeing checks on -- drafted on
6 Ms. Cook's account and written to the attention -- pay to
7 the order of Braquette Walton, were there any policy
8 violations you were concerned about upon looking at this?

9 A. Oh, yes.

10 Q. At a minimum?

11 A. Yes. There -- you know, there were, I mean, because
12 our staff do not -- are not to be involved with finances,
13 you know, the residents' finances, and there would be no
14 reason -- if Ms. Walton wrote those checks, there would be
15 no reason why she would need a check because she -- it's
16 forbidden to do any side jobs for the residents or --
17 there's just no reason why she would be writing checks.

18 And Ms. Cook was not aware that the checks had been
19 written.

20 Q. All right. So what did you do as a result of this
21 conversation that you had with her? You sent Ms. Cook --
22 told her to wait in her room, or you --

23 A. Ms. Cook went to her room. I made copies of the
24 checks and followed her down there a few minutes later.
25 We looked for her. I was trying to put the numbers

NEVA LATTIMER - DIRECT EXAMINATION BY MR. BRACKETT

1 together, the checks for one thing because they weren't
2 from the book that she was writing on, and when she looked
3 for the check pad that would have had the numbers of the
4 four checks that had been written to Ms. Walton, it was
5 not in her desk drawer.

6 She looked several places. She had all of her
7 checkbooks in boxes. She knew where things were in her
8 desk. They were in pretty good order. And she could not
9 find that check pad, but there was a sequential check pad
10 after those numbers that was there. So basically that
11 check pad was missing.

12 Q. When you say "check pad," you mean book of checks?

13 A. A book of checks. And it caught my attention because
14 it looked like her account had 30 checks to a checkbook,
15 and many have only 25, but hers were -- there were 30 in
16 the checkbook. And I could tell by the next checkbook
17 that was there that was the case.

18 Q. Based on all this information and what she's telling
19 you and what you're learning from down in her room, what
20 course of action did you take?

21 A. The first thing I did with Ms. Cook, we were right
22 there together, is I called the bank. She asked me to do
23 that. I talked to a person at the bank and explained to
24 them what was happening. They pulled up the report, wrote
25 down the numbers, and they said they would put a hold on a

NEVA LATTIMER - DIRECT EXAMINATION BY MR. BRACKETT

1 report of disputed transaction. They gave us instructions
2 for her -- they would -- said they would help her close
3 the account and then she would need to go to the bank.
4 She could open a new account. They asked her to go to a
5 local branch of the bank on Monday if she would be able to
6 and to let them know if any checks that may have been
7 written that were not yet cashed that she did want to have
8 honored. And they would take care of that for her.

9 After I called -- so we took care of that at the
10 bank, reported it to them. The next call I made was to
11 Ms. Cook's daughter, Jan Sullivan, to notify her. I told
12 her that we -- that her mom had showed me her bank
13 statement and that there were checks written to one of the
14 employees that Ms. Cook said she had not written and it
15 did not look like Ms. Cook's signature on it, that we had
16 called the bank. And I told her that I would next call
17 the police and notify them.

18 Ms. Sullivan thanked me for helping her mother do
19 that and said she apparently had noticed earlier in the
20 day when she was with her but hadn't known quite how to
21 proceed with the course of action. So on the basis of
22 that, then I went ahead, I notified the executive director
23 of Park Pointe Village, Jim Petty, of what was happening,
24 that we had an incident of potential check fraud here.
25 And I called the police and made a report and asked them

NEVA LATTIMER - DIRECT EXAMINATION BY MR. BRACKETT

1 to send someone to take a report.

2 Q. Okay. I'm showing you what's been marked as State's
3 Exhibit 81. Do you recognize this disk?

4 A. I do.

5 Q. What is that?

6 A. This is a copy of the call I made to the police to
7 report the check fraud. I called 911, and then they
8 directed -- you know, transferred the call to the police.

9 Q. Okay.

10 MR. BRACKETT: Your Honor, I'd introduce State's
11 Exhibit 81 and move to publish it.

12 MR. SMITH: No objection.

13 THE COURT: In without objection.

14 (State's Exhibit Number 81 was marked and admitted.)

15 (Audiotape played in open court.)

16 Q. All right, Ms. Lattimer. Ultimately about how long
17 after that did law enforcement arrive? Do you recall?

18 A. Approximately a half hour.

19 Q. And how many police officers came and were they
20 detectives or uniform guy?

21 A. There was one uniform police officer that came,
22 Officer Langley.

23 Q. All right. And did you have occasion to meet with
24 him as well as Ms. Cook? Did you get to talk to him?

25 A. I did. We met with him together in Ms. Cook's room.

NEVA LATTIMER - DIRECT EXAMINATION BY MR. BRACKETT

1 Q. Okay. And about how long did you talk to him?

2 A. Probably 20, 25 minutes.

3 Q. Were you there the whole time?

4 A. I was there the whole time.

5 Q. Okay. Did Ms. Cook and you give anything to Officer
6 Langley?

7 A. We did. We gave him a copy of the checks that she
8 had received from the bank.

9 Q. Did you also provide some information regarding
10 Ms. Walton?

11 A. We did. We told him who she was, that she worked
12 there and what her position was.

13 Q. I'm showing you what's been -- it's the contents of a
14 manila envelope that's marked State's Exhibit 83, and
15 inside there are four pages of paper. Would you take a
16 look at those and tell me if you recognize those.

17 A. Yes, I do.

18 Q. And what are those?

19 A. There's a -- the front page of Ms. Cook's account
20 statement that lists the checks that had cleared that
21 month. There are two pages of photocopies of checks. One
22 page has the four checks written to Ms. Walton along with
23 a couple other checks. The other page has the other
24 checks that she had written -- photocopies of those
25 checks.

NEVA LATTIMER - DIRECT EXAMINATION BY MR. BRACKETT

1 Q. That Ms. Cook had written?

2 A. That Ms. Cook had written, yes. I'm sorry.

3 Q. And then the last --

4 A. And then the last page is the information about
5 Braquette Walton, the suspect.

6 Q. That was provided to Officer Langley as well?

7 A. That was provided to Officer Langley, yes, for their
8 follow-up.

9 Q. Thank you very much.

10 MR. BRACKETT: Your Honor, at this time I would seek
11 to introduce State's Exhibit 83, the documents from the
12 bank and the identifying information.

13 MR. SMITH: No objection.

14 THE COURT: In without objection.

15 (State's Exhibit Number 83 was admitted into evidence.)

16 Q. Were you there through the time that the officer took
17 the statement and ultimately left the facility?

18 A. Yes, I was.

19 Q. And how long after the officer left did you leave?

20 A. I left within just a few minutes after he left. I
21 actually -- it was dinner time. Ms. Cook had been anxious
22 to go to dinner. She had actually just gone to the dining
23 before he came, and we took her back to her room to talk
24 to him. So when the officer left, I walked back down the
25 hall to the nurses' station with Ms. Cook. She went to

NEVA LATTIMER - DIRECT EXAMINATION BY MR. BRACKETT

1 dinner, and I left the facility shortly after that.

2 Q. Did you give any advice or guidance to Ms. Cook about
3 discussing this incident?

4 A. Yes, I did. When we were -- I had asked her earlier
5 in the afternoon, our conversation, to -- not to discuss
6 the issue with other staff and/or residents so that we
7 could -- until we could kind of get the police report made
8 so we could take care of it. And when we talked with
9 Officer Langley in Ms. Cook's room and when he explained
10 to us what would -- you know, what would probably happen
11 next and that -- so that he would take the report back and
12 it would be given to the detectives to follow up on. And
13 that he felt it would probably be followed up on on Monday
14 morning, to follow up with that and talked about
15 possibly -- said, well, it wouldn't be a good thing for
16 Ms. Walton to know about this at this point in time, and
17 he indicated that was probably the right way to think. So
18 we discussed all that and with Ms. Cook's presence, you
19 know, asked her to just not share the information with
20 other people. She was very upset about it, was pretty
21 focused about it.

22 Q. Did she understand?

23 A. She understood. Yes, she said she understood.

24 Q. All right. The information that you provided Officer
25 Langley regarding Ms. Walton and her address and phone

NEVA LATTIMER - DIRECT EXAMINATION BY MR. BRACKETT

1 number, where did you get that information?

2 A. As her supervisor, department director, I have access
3 to that in our computerized records, you know, as -- I had
4 access to employee information.

5 Q. This is the same information you --

6 A. That's the information.

7 Q. -- would need to call her in if there was an
8 emergency and you needed somebody that night?

9 A. Right. Yeah, we kept phone lists of all the
10 employees so that we could notify them if we wanted them
11 to work extra or for whatever reason we needed to call
12 them.

13 Q. Okay. So approximately what time was it that you
14 left the facility that night?

15 A. I left the facility about 6:00.

16 Q. When did you return to the property next?

17 A. I returned to the property the next morning.

18 Q. About what time?

19 A. I arrived there about ten after 7:00.

20 Q. Why did you go in that early?

21 A. I had received a call from my staff or just a few
22 minutes before 7:00, and they called to notify me that
23 they had found Ms. Cook and that she was not breathing,
24 there was no pulse. It appeared that she had passed away,
25 and she was in her shower when they -- and the water was

NEVA LATTIMER - DIRECT EXAMINATION BY MR. BRACKETT

1 running when they went to call her in the morning because
2 she hadn't come down the hall as she usually had. So they
3 had gone to her room somewhere around 6:30, 6:40, and they
4 notified me that they had called. They had attempted to
5 do CPR. They had called 911, that EMS was on their way.
6 I had some clothes on, so I jumped in my car and went.

7 Q. Who was there when you arrived at --

8 A. When I arrived, the EMS folks were there. They were
9 coming -- I walked in the front door as they were coming
10 down the hall from Ms. Cook's room. The staff of the
11 person who had worked the overnight shift, Linda Roach,
12 was there. The folks who had come in to work a day shift
13 were there, Brittany Martin, Sara Borchlewicz, and Joy
14 Spratt.

15 Q. Okay. And when you arrived on the scene, did you
16 speak with the EMS personnel?

17 A. I did. I did as they were coming down the hall, and
18 they told me that they had already -- they said that, you
19 know, she was dead, she had passed away, she was expired.
20 They had call the coroner's office to come in because this
21 was an unwitnessed death and it was not expected and that
22 was -- I understood that was the proper thing to do.

23 Q. Did you go to the room yourself?

24 A. I did go to the room myself to see and assess the
25 situation.

NEVA LATTIMER - DIRECT EXAMINATION BY MR. BRACKETT

1 Q. How long were you in the room for?

2 A. Oh, my guess is -- time, you know, passes slowly
3 there. My guess is five to ten minutes maybe.

4 Q. Did you -- what condition was the room in? Did you
5 observe --

6 A. As I walked in, the floor was wet, the carpet -- the
7 entire room was wet, the carpet was saturated. As you
8 walk in the apartment, there is a -- a small kitchenette
9 with a vinyl flooring and then to the right is the
10 bathroom also with vinyl flooring. Those floors were wet.
11 Ms. Cook herself was in the shower, lying half in, half
12 out. The staff had already told me that they had
13 attempted CPR, so they knew they had moved her from the
14 original position. They had to do that to get her on the
15 floor to do CPR. But she was -- her head was facing into
16 the shower. Her feet were outside. She was rolled
17 slight -- tilted slightly on her right side.

18 Q. Did you -- in the course of the time that you were in
19 the room, did you disturb anything or alter the room --

20 A. I did not. I did not.

21 (Cross-talk interrupted by court reporter.)

22 Q. I asked during the time period that you were in the
23 room, Ms. Lattimer, did you alter or change anything in
24 the room, move anything around?

25 A. No, I did not.

NEVA LATTIMER - DIRECT EXAMINATION BY MR. BRACKETT

1 Q. Was the staff at the facility there generally aware
2 that Ms. Cook had passed?

3 A. Yes, they were. All of the staff that were in
4 Oakbridge Terrace were aware of it, and other staff who
5 worked in the kitchen and other areas became aware of it
6 very quickly.

7 Q. And did they ultimately become aware that the matter
8 was being investigated by the authorities?

9 A. Ultimately they did, yes. As the morning moved on,
10 yes. They -- my staff knew immediately, the staff that
11 worked in Oakbridge Terrace, and those were the only
12 people who would have been in the unit. Knew that the
13 coroner had been called, knew to leave everything alone,
14 to not do anything. They had taken -- because there was
15 so much water on the floor and didn't want anybody to fall
16 and slip and be able to get in and out, they had taken
17 some towels to soak up some of the water.

18 Q. In the foyer area --

19 A. In the foyer area, the foyer area and little bit in
20 the bathroom, if I remember correctly.

21 Q. Okay. At some point did law enforcement arrive and
22 sort of take --

23 A. Yes, they did. They did. The deputy coroner, Chris
24 Westover, came. Arrived about 20 of 8:00. She met with
25 me before she went to Ms. Cook's room, I believe. And I

NEVA LATTIMER - DIRECT EXAMINATION BY MR. BRACKETT

1 explained to her what had happened. I also explained to
2 her the incident from the day before, that we had reported
3 some potential check fraud, that that was already going
4 on. And she went and did an initial investigation and
5 came back to me and told me that she was calling the
6 detectives in and that she had talked with the coroner
7 herself and was calling detectives in.

8 Q. From the time that you went in and went into the room
9 to the time law enforcement arrived, did you control
10 access to the room, who could go in and who could go out?

11 A. Yes, there was -- the staff that were there, to the
12 best of my knowledge, did not go back in. They knew that
13 they could not go back in. They did not return.

14 MR. BRACKETT: Court's indulgence one moment.

15 Q. The alarms that you mentioned on the doors, the
16 little small alarms, the contact alarms.

17 A. Yes, uh-huh.

18 Q. Do they signal if they go off? They give an audible
19 alert?

20 A. Yes.

21 Q. And do they signal over -- are they electronically
22 connected to the nurses' station? Do they signal --

23 A. No, it's not electronically connected. It's just
24 audible in the alarm itself, but it's loud enough that you
25 can hear it at nurses' station.

NEVA LATTIMER - DIRECT EXAMINATION BY MR. BRACKETT

1 Q. Okay. What's the phone number at the nurses'
2 station?

3 A. (803) 980-8636.

4 Q. 980?

5 A. 8636.

6 Q. And once that alarm, that little alarm on the door
7 is -- it's turned off, could the door be propped open and
8 left open for --

9 A. Yes, it could.

10 Q. -- extended period of time?

11 A. Yes. The little slide bar on the bottom of the alarm
12 can be set to be off or to be a couple of different rings.
13 It's supposed to be kept on instant, meaning that as soon
14 as the door opens, the alarm sounds and it doesn't go off
15 until you push the code in to turn it off. In other
16 words, even if you pull the door shut, it won't go off
17 unless you push the code in. But it can -- for example,
18 sometimes when people are moving in and out, moving
19 furniture out -- in and out of that one door, they may
20 deactivate the alarm, push the slide bar to off so that
21 they can keep the door open without the alarm going off if
22 they're right there. So yes, it could be turned off and
23 it could be propped open.

24 Q. Was Ms. Walton trained and taught how to activate and
25 deactivate that alarm?

NEVA LATTIMER - CROSS-EXAMINATION BY MR. SMITH

1 A. Oh, yes. Yes.

2 Q. Thank you very much, Ms. Lattimer. Please answer any
3 questions that Mr. Smith might have.

4 CROSS-EXAMINATION

5 BY MR. SMITH:

6 Q. Ms. Lattimer, the alarm that you were talking about,
7 it has an audible alarm not only when it is activated, but
8 the keys tone as well. In other words, when you
9 deactivate you would hear tone strokes as you hit the
10 keys, correct?

11 A. There's little blips. It's not -- not a loud tone.

12 Q. But it is not silent, right?

13 A. No, it's not totally -- it's just little clicks.

14 Q. But it's not like a click like a button click. It's
15 a tone or a beep.

16 A. You know, I -- haven't been -- I can't answer. It's
17 not loud enough for -- to remember. It's not a musical
18 tone like you do on a dialing a phone.

19 Q. But what about like an alarm in your home? When you
20 go cut it off, it goes (descriptive sound).

21 A. It's very, very quiet.

22 Q. More quiet than an alarm in a home would be?

23 A. Yes. Best of my recollection.

24 Q. So your company intentionally installed an alarm that
25 the deactivation code is quieter than is in homes?

NEVA LATTIMER - CROSS-EXAMINATION BY MR. SMITH

1 A. The purpose of the deactivation code is just to turn
2 the alarm off by a staff member.

3 Q. What's the purpose of the deactivation code of the
4 alarm in your home?

5 A. I don't have one, so I guess you turn it off so that
6 you can come and go as you choose without the alarm going
7 off, yes.

8 Q. Yes, ma'am. But it does tone audibly?

9 A. I guess so. I don't have one.

10 Q. No, I'm talking about the one in Park Pointe Village.
11 It does tone as you enter the key to deactivate it. You
12 could not do that silently, could you?

13 A. There are no musical tones on it that I recall.

14 Q. As a supervisor of Ms. Walton, you would have known
15 when she was not at work, correct?

16 A. When she was not at work?

17 Q. Correct.

18 A. I would have known when she was not scheduled, yes.

19 Q. And certain times people get written out of work with
20 doctors' excuses; is that right?

21 A. Sometimes.

22 Q. And you're aware that she was written out at the end
23 of October for tendinitis in her elbow, correct?

24 A. I -- I'd have to go back and review that. Quite
25 possible.

NEVA LATTIMER - CROSS-EXAMINATION BY MR. SMITH

1 Q. Okay. Do you recall her having some sort of arm
2 injury?

3 A. I don't recall it specifically. That doesn't mean
4 she didn't have one.

5 Q. Okay. Let me ask you this. In your testimony about
6 Ms. Cook coming to you and talking to you about these
7 checks.

8 A. Yes.

9 Q. And you talked about cautioning her about telling any
10 other employees or anyone; is that correct?

11 A. Yes.

12 Q. You left out a portion, because you know she told
13 somebody, don't you?

14 A. She did tell -- she told me that she had told
15 somebody, yes.

16 Q. And that's another employee; is that right?

17 A. That is right.

18 Q. And who is that?

19 A. She told me that she had shown -- because she was
20 upset, she had shown the statement to a couple of people
21 that were standing at the desk. I asked her who she had
22 shown it to, who was there, and she said, "Marvin, that
23 guy that works in the kitchen." I said, "Who else did you
24 show it to? Who else was there?" She said, "I don't
25 remember. I don't know."

NEVA LATTIMER - CROSS-EXAMINATION BY MR. SMITH

1 Q. Okay. And Marvin, that guy who works in the kitchen,
2 is he a cook?

3 A. Yes.

4 Q. And that's Marvin Lawrence?

5 A. Yes, sir.

6 Q. But where she showed it to him was not in the
7 kitchen, right?

8 A. Right.

9 Q. She described the desk area?

10 A. That's what she described.

11 MR. SMITH: No further questions.

12 THE COURT: Any redirect?

13 MR. BRACKETT: Just one brief question.

14 REDIRECT EXAMINATION

15 BY MR. BRACKETT

16 Q. Mr. Smith asked you something about her being written
17 out. Did she work the Wednesday prior to the murder of
18 Ms. Cook?

19 A. I believe so.

20 Q. And the Thursday?

21 A. Yes.

22 Q. She was at work those days?

23 A. She was at work those days.

24 MR. BRACKETT: Thank you. Nothing further.

25 THE COURT: Any recross?

NEVA LATTIMER -- REDIRECT EXAMINATION BY MR. BRACKETT

1 MR. SMITH: Nothing further, Your Honor.

2 THE COURT: You can step down and be excused. We
3 appreciate your time. Thank you.

4 Members of the jury panel, we'll stop for the day and
5 start back at 9:30. So keep in mind all my admonitions
6 about what not to do, and we'll see you at 9:30 in the
7 morning. Have a pleasant evening.

8 (The jury left open court at approximately 5:36 p.m.)

9 THE COURT: We'll be at ease until 9:30.

10 (Court adjourned at 5:36 p.m. on 10/30/2012 and
11 resumed at 9:45 a.m. on 10/31/2012.)

12 MR. BRACKETT: We have one matter we need to take up
13 before the jury comes in. Our next witness, Your Honor,
14 is Marvin Lawrence, an employee of the facility there.
15 The one that --

16 THE COURT: I heard it. I remember his name.

17 MR. BRACKETT: Yes, sir. She -- apparently,
18 according to Mr. Lawrence in his statement, he said that
19 he called the defendant the morning that Ms. Cook
20 complained of the fraudulent and forged checks. He told
21 her what Ms. Cook had said, and she said -- Bea said this
22 was messing with her livelihood and asked me if it was a
23 joke. I told Bea it was not a joke and advised her that
24 Ms. Cook was ranting and raving about it to everyone. Bea
25 said that she had to contact her lawyer friend be -- but

NEVA LATTIMER -- REDIRECT EXAMINATION BY MR. BRACKETT

1 she could not because they didn't work on weekends.

2 I have no intention of specifically eliciting this.
3 However, I want to bring it to the Court's attention, and
4 I brought it to Mr. Smith's attention in case he says it
5 on the stand. I don't believe this is a Doyle violation.
6 If he states that she mentions talking to a lawyer, I
7 don't want to create -- I'd like to deal with it
8 beforehand.

9 THE COURT: I have some concerns about that also.
10 Obviously can't coach a witness, and I guess if we -- what
11 do you suggest, Mr. Smith? I agree that that is something
12 that he should not testify to, but we hadn't heard him
13 testify to it. It's just in his statement.

14 MR. SMITH: I have not. I would just request that he
15 be cautioned not to mention any contact with a lawyer.

16 MR. BRACKETT: Yes, sir. I don't mind telling him
17 that, and I have no intention to elicit it, but I've also
18 had witnesses that I've told don't say this and then they
19 come right in here and say it. I just want it to be on
20 the record. I don't think it's a Doyle violation. I
21 don't concede that it is because a Doyle specifically
22 focuses on postarrest, post-Miranda invocation of rights
23 and the State eliciting the fact that the defendant
24 exercised their constitutional right. This is not an
25 exercise of constitutional rights. This is a conversation

NEVA LATTIMER -- REDIRECT EXAMINATION BY MR. BRACKETT

1 between two people, neither of whom is charged.

2 THE COURT: It is, but it does have the flavor of a
3 prejudice, obviously, if somebody who has a lawyer waiting
4 in the wings or if that gives it flavor of someone who
5 continually needs a lawyer.

6 MR. BRACKETT: Yes, sir.

7 THE COURT: Some of us who don't ever get in trouble,
8 including me, I have a lot of lawyer friends. But that
9 does not necessarily mean I need him for legal
10 representation. In that context, that's the way it would
11 be interpreted.

12 MR. BRACKETT: Like I said, I don't intend to elicit
13 it, but I will counsel him not to bring that up.

14 THE COURT: Is that all right if he just mentions
15 that?

16 MR. SMITH: It is, Your Honor.

17 THE COURT: Bring in the jury. You're ready for the
18 jury, aren't you?

19 MR. BRACKETT: Yes, sir, and I had that conversation.

20 (The jury entered the courtroom at 9:51 a.m.)

21 THE COURT: Good morning.

22 MR. BRACKETT: Your Honor, State would call Marvin
23 Lawrence.

24 MARVIN LAWRENCE, after having first being duly sworn,
25 testified under oath as follows:

MARVIN LAWRENCE - DIRECT EXAMINATION BY MR. BRACKETT

1 DIRECT EXAMINATION

2 BY MR. BRACKETT

3 Q. Good morning, sir. Would you please state your full
4 name for the record.

5 A. Marvin James Lawrence.

6 Q. You have a soft voice. Do you go by Marvin?

7 A. Marvin.

8 Q. Is that what people call you?

9 A. Yes, sir.

10 Q. Is it all right if I call you Marvin?

11 A. Yes.

12 Q. Very good. I'm going to ask you to speak up, Marvin.
13 There's a microphone in front of you. You don't have to
14 lean into it. Just if you hold your voice up a little
15 bit, that microphone will pick it up and all the jurors
16 will be able to hear everything that you say.

17 Where do you work, Marvin?

18 A. Park Pointe Village.

19 Q. And what do you do at Park Pointe Village?

20 A. I'm a chef.

21 Q. How long have you worked there?

22 A. Seven years, going on seven years.

23 Q. Very good. Did you know Ms. Pauline Cook?

24 A. Yes, I did.

25 Q. And how did you know her?

MARVIN LAWRENCE - DIRECT EXAMINATION BY MR. BRACKETT

1 A. By during the weeks in cooking for her and during the
2 weekends when she's coming in when we have special meals
3 and stuff. And just cooking for what she wanted.

4 Q. All right. And so you interacted with her when she
5 came into the restaurant to eat?

6 A. Yes, I did.

7 Q. Okay. Did you get along pretty well with Ms. Cook?

8 A. Yes.

9 Q. Nice lady?

10 A. Pretty nice -- yeah, she was real nice.

11 Q. How about Braquette Walton? Did you know her as
12 well?

13 A. I knew her from at work from when she first started
14 and just became acquaintances through work.

15 Q. Okay. And about how long did she work there, to
16 your knowledge?

17 A. From what I could tell, probably about four months.

18 Q. Do you know what she did at Park Pointe Village?

19 A. She was the nurse for the other side, Oakbridge
20 Terrace.

21 Q. And so did you interact with her at work very much?
22 Did you see her very often?

23 A. Yes, we have to interact with them to coordinate the
24 lunches and dinners for their residents.

25 Q. Do you see Ms. Walton in the courtroom here today?

MARVIN LAWRENCE - DIRECT EXAMINATION BY MR. BRACKETT

1 A. Yes.

2 Q. Can you point her out and tell us what she's wearing.

3 A. The blue -- I guess a blue dress suit with the lime
4 green shirt.

5 Q. Okay.

6 MR. BRACKETT: Your Honor, ask that the record
7 reflect that the witness has identified the defendant,
8 Ms. Braquette Walton.

9 Q. When did y'all meet? Had you known Ms. Walton prior
10 to her working at Park Pointe?

11 A. No.

12 Q. All right. So were you friendly with her at work?

13 A. Yeah, we became friends when I was at work.

14 Q. And did you also have a friendship outside of work?
15 Did you know her or see her ever outside of work?

16 A. Yes.

17 Q. How often did you see her in the time period that she
18 was there? How many times would you say you saw her
19 outside of work?

20 A. I would say about two or three times outside of work.

21 Q. And where would you guys -- what were the
22 circumstances of seeing her? What would you guys do?

23 A. She came by my apartment a few times. We had some
24 drinks. Just sat around and talked.

25 Q. Were you friends, or were you more than friends?

MARVIN LAWRENCE - DIRECT EXAMINATION BY MR. BRACKETT

1 A. We were friends, but we wasn't in no type of
2 relationship. Just friends.

3 Q. You were not romantically involved with her?

4 A. No.

5 Q. I want to turn your attention, Marvin, to Saturday,
6 November the 12th of 2011. Saturday, November 12th of
7 last year. Do you recall that day?

8 A. Yes.

9 Q. Were you working on Saturday, the 12th of November?

10 A. Yes, I was.

11 Q. And do you remember when you came in?

12 A. Saturday I came in at 9:30.

13 Q. All right. And what time -- how long were you going
14 to be there that day?

15 A. I was there all day.

16 Q. Okay. Does -- do you recall, was Ms. Walton, the
17 defendant, was she working that day?

18 A. No, she was not.

19 Q. Did you see Ms. Cook at Park Pointe? Did you see her
20 at any point during that day?

21 A. Yes, I did.

22 Q. Where did you see her?

23 A. When I first came in, I seen her. She usually sits
24 by the piano when you walk in before you get into the
25 dining room.

MARVIN LAWRENCE - DIRECT EXAMINATION BY MR. BRACKETT

1 Q. Did you see her there that day?

2 A. Probably later on that afternoon. Later on that
3 afternoon I seen her.

4 Q. Do you remember about what time that was?

5 A. It was -- I was coming off from my lunch break, me
6 and another coworker of mine. She was at the front desk
7 of -- OBT's front desk.

8 Q. OBT is?

9 A. Oakbridge Terrace.

10 Q. And she was at the -- was that the nurses' station?
11 You say the front desk.

12 A. At the nurses' station.

13 Q. All right. What was she doing there? What did she
14 seem to be doing?

15 A. She was upset. She was trying to tell the nurses
16 that she had some checks -- she was looking at her
17 statements and seeing if she had some checks that was
18 written, and it wasn't written by her.

19 Q. Did you interact with her at all while she was
20 standing at the desk?

21 A. Yeah. I was walking by. Then I asked her what was
22 she upset about. And she was saying that she had some
23 checks that it wasn't her signature and she didn't know
24 who it was. And I asked her if she wanted me to see who
25 the -- to look at it for her and see who it was. And when

MARVIN LAWRENCE - DIRECT EXAMINATION BY MR. BRACKETT

1 I glanced down at the checks, I noticed that the checks
2 was signed by Braquette, but it was made out to her and
3 had Ms. Pauline's signature on it.

4 Q. The checks were made out to who?

5 A. Braquette.

6 Q. And whose signature was on the check?

7 A. It had Ms. Cook's signature made out to Braquette.

8 Q. Were those the checks that she was pointing to that
9 she was upset about?

10 A. Yes.

11 Q. Did you recognize Braquette as being your coworker at
12 that moment?

13 A. Yes.

14 Q. What did you advise Ms. Cook to do?

15 A. I told her to go to Neva and let her know what was
16 going on.

17 Q. Okay. And did you have any other further involvement
18 with her at that time?

19 A. Ms. Cook?

20 Q. Yes.

21 A. No.

22 Q. Where did you go from there?

23 A. I went into the kitchen with my coworker.

24 Q. Who was your coworker?

25 A. Jackie Austin.

MARVIN LAWRENCE - DIRECT EXAMINATION BY MR. BRACKETT

1 Q. Did you discuss this any further at that point in
2 time, or did you just go on with your job?

3 A. When I was walking back into the kitchen, I was
4 telling Jackie that Ms. Cook was upset that she had found
5 some checks that was written by Braquette and she was
6 surprised as much as I was. And I asked her do you think
7 I should call her and let her --

8 Q. You asked who?

9 A. I asked Jackie if she think I should call Braquette
10 to let her know what was going on.

11 Q. What did you decide to do as a result of that
12 conversation with Jackie?

13 A. I went outside the back dock and I called her, but I
14 didn't get her the first time. I left a message.

15 Q. Did you have to look up her phone number, or did you
16 have it already?

17 A. I had her number inside my phone. I already had her
18 number inside my phone.

19 Q. You plugged it into your address book?

20 A. Yes.

21 Q. Was that her home number? Her cell number? What
22 number was that?

23 A. It was a cell number.

24 Q. Do you remember that number off the top of your head?

25 A. No.

MARVIN LAWRENCE - DIRECT EXAMINATION BY MR. BRACKETT

1 Q. Do you still have it in your cell phone now?

2 A. No.

3 Q. You said when you first called her -- were you able
4 to reach her on the phone?

5 A. Not at first. I left a message.

6 Q. What did you tell her in that message?

7 A. I told her that Ms. Cook had some checks and that she
8 was upset and it had her name written on the checks.

9 Q. And at any point in time after that, did you speak
10 with the defendant?

11 A. She called me back.

12 Q. How long after?

13 A. Probably like a couple minutes after I left the
14 message. Then I told her -- she ask me what was I talking
15 about, and I said that there was some checks that Ms. Cook
16 had found in her statement saying that -- it was showing
17 that it had her signature on the checks.

18 Q. Whose signature?

19 A. Had Braquette's signature on the checks.

20 Q. You mean the checks were made out to Braquette?

21 A. The checks were made out to Braquette, signed by
22 Ms. Cook with her name.

23 Q. Okay. And what did Braquette tell you at that time?

24 A. She denied it, saying she was being set up.

25 Q. Saying she was being -- I'm sorry?

MARVIN LAWRENCE - DIRECT EXAMINATION BY MR. BRACKETT

1 A. She was being set up.

2 Q. Did she claim to have any knowledge of how this could
3 be?

4 A. No.

5 Q. All right. How long did that conversation last?

6 A. Not too long.

7 Q. All right. Did she tell you where she was at that
8 time?

9 A. No.

10 Q. All right. Did you know if she was -- did she
11 indicate whether she was in Rock Hill or --

12 A. No, she did not.

13 Q. When did you speak with her next?

14 A. I spoke with her later on, around about close to 7:30
15 that night, when I was just getting ready to finish up my
16 work.

17 Q. Did you call her or did she call you?

18 A. She called me.

19 Q. All right. And when she called you, where were you
20 located at that time?

21 A. I was leaving out of Park Pointe, going outside to my
22 vehicle.

23 Q. All right. You'd finished work that day?

24 A. I had finished -- yeah, I just finished up my work
25 and was getting ready to clock out to leave off the

MARVIN LAWRENCE - DIRECT EXAMINATION BY MR. BRACKETT

1 premises.

2 Q. And what did she tell you in that telephone call?

3 A. She told me that she was on her way back from -- she
4 didn't say where she was coming from. She just told me
5 that she was on her way back from -- on her way back to
6 Rock Hill.

7 Q. All right. And what were -- what were your plans for
8 that evening at that point in time? What were your
9 expectations were going to happen that night?

10 A. She was going to come by my apartment that night.

11 Q. Did she tell you when she was coming by?

12 A. No.

13 Q. And was there any special occasion that she was
14 coming by for, or was it just a visit?

15 A. No. Just to come by.

16 Q. And so in this phone conversation, do you remember
17 how long you talked for?

18 A. Not that I can remember. It was probably maybe about
19 ten minutes or so.

20 Q. Were you able -- in the course of the time from the
21 time she called to the time the conversation ended, were
22 you still at Park Pointe when the conversation ended?

23 A. No. I was already off the premises of Park Pointe.

24 Q. Were you in your car, or had you gotten home?

25 A. I was in my vehicle on my way home.

MARVIN LAWRENCE - DIRECT EXAMINATION BY MR. BRACKETT

1 Q. Okay. Did she tell you anything else? She said she
2 was coming back to Rock Hill. What else did she say?

3 A. She didn't say nothing else about -- all I can say is
4 that she was on her way back and she was going to try to
5 come by my apartment later that night.

6 Q. Did you discuss the situation with the checks any
7 further?

8 A. No, sir.

9 Q. Okay. Did you go -- where did you go after you left
10 work?

11 A. I went straight home.

12 Q. Did you leave anywhere? Did you go anywhere during
13 the evening, or did you stay home that night?

14 A. I stayed home -- drink -- I stayed home and was
15 talking to my neighbors and then started drinking.

16 Q. Did you ever see -- and this was a Saturday night?

17 A. A Saturday night.

18 Q. Did you see Ms. Walton? Did she come by your
19 apartment at any point that night?

20 A. No.

21 Q. How late were you up? Do you recall?

22 A. About close to 12:00.

23 Q. Did you speak with her again that evening?

24 A. She called -- it was after about 12:15 or so when she
25 had called me.

MARVIN LAWRENCE - DIRECT EXAMINATION BY MR. BRACKETT

1 Q. Okay. And when she called you -- she call you or you
2 call her?

3 A. She called me.

4 Q. And what was the subject of that conversation?

5 A. She had called and told me that she apologized that
6 she didn't make it over to my house.

7 Q. And anything else?

8 A. No, because I had cut it short because I had to get
9 up early the next day.

10 Q. Why did you have to get up early the next day?

11 A. I had to go in to work early because I was preparing
12 something that was taking a little bit longer than what I
13 expected to be.

14 Q. All right. Did you speak with her any further that
15 evening in that phone call about Ms. Cook's check
16 situation?

17 A. No, sir.

18 Q. Any conversation about that?

19 A. No, sir.

20 Q. Did the subject of Ms. Cook even come up?

21 A. No, sir.

22 Q. And did you speak to her again that evening or before
23 you went to bed?

24 A. No, sir.

25 Q. And through the evening hours in the morning, at any

MARVIN LAWRENCE - DIRECT EXAMINATION BY MR. BRACKETT

1 point did you talk to her?

2 A. No, sir.

3 Q. What time did you go in to work the next morning?

4 A. I went in around about 8:30 Sunday morning.

5 Q. About 8:30?

6 A. At 8:30.

7 Q. What's the Sunday morning routine in the kitchen at
8 Park Pointe?

9 A. Sunday morning routine, it's kind of hectic because
10 it's a short period of time that I have to prepare the
11 meal. It all depends on what it is that we have on the
12 menu that day. So it's -- usually at that time it's me
13 and another morning shift person that's in the kitchen
14 with me working until --

15 Q. Go ahead.

16 A. Until the other cook comes in to help me out.

17 Q. When you arrived at Park Pointe to report for work,
18 which door do you go in?

19 A. I go into the front of OBT's front door on -- as you
20 come in, the main entrance on Oakbridge Terrace side.

21 Q. Would that be the door near the tree house room?

22 A. Yes.

23 Q. And when you arrived at work that morning, did you
24 notice anything unusual going on that Sunday morning?

25 A. No. I just came in like I always do and go straight

MARVIN LAWRENCE - DIRECT EXAMINATION BY MR. BRACKETT

1 back through the side door where my old break room is and
2 clock in and come through the kitchen.

3 Q. What did you commence to doing?

4 A. Came in, clocked in. Then went back to the kitchen.
5 I spoke to other person that was in there, and while --
6 speaking to her, she was telling me about Ms. Cook. She
7 was telling me that they had found her that morning in the
8 shower. Said that she had slipped and fell.

9 Q. Okay. At any point that morning did you speak to
10 Ms. Walton, the defendant?

11 A. Yes. I had called her to wish her a happy birthday.

12 Q. Was that shortly after you came in?

13 A. It was close to about, like, 9:00 when I called her.

14 Q. And how long was that conversation?

15 A. It was like a couple minutes because I didn't get her
16 on the phone. I just left a message. Then after I left a
17 message, then I just texted her and told her happy
18 birthday.

19 Q. As regards to Ms. Cook, did you know anything further
20 about how she had passed at that point other than slipping
21 and falling in the shower?

22 A. That's the only thing I knew at that time because
23 usually when a resident would pass away or something like
24 that, it was just normal to have that reaction to come in
25 because everybody just so close to all the residents at

MARVIN LAWRENCE - DIRECT EXAMINATION BY MR. BRACKETT

1 the facility.

2 Q. Now, how late did you work that day?

3 A. I worked until about 5:00 that day.

4 Q. At any point in time during the course of the day,

5 did you have another occasion to call or hear from

6 Braquette Walton?

7 A. I called her after morning. It was after lunch,

8 close to lunch ending. I called her.

9 Q. And why did you call her?

10 A. I called her to tell her about -- that they was

11 showing some pictures around that --

12 Q. Who is they?

13 A. It was some cops that was there showing pictures

14 around to everybody with her -- showing her picture around

15 to everybody and asking questions about Ms. -- about

16 Braquette.

17 Q. Okay. And did you tell her what had happened with

18 Ms. Cook in that conversation?

19 A. Yes, I did.

20 Q. All right. And what time -- that was Sunday

21 afternoon?

22 A. It was Sunday afternoon, after morning.

23 Q. How did she react to the news that Ms. Cook had

24 passed?

25 A. She didn't sound surprised or upset or anything. She

MARVIN LAWRENCE - DIRECT EXAMINATION BY MR. BRACKETT

1 sounded like if I had told somebody -- if somebody had
2 died, they at least have some type of emotion, where she
3 didn't really have no emotion when I was telling her about
4 it.

5 Q. What did she say?

6 A. She was mostly just asking questions about what did
7 the cops -- what did the cops know, you know, do they have
8 anything else that -- you know, did they have...

9 She was asking questions about what the cops was
10 knowing and what did they know.

11 Q. What the cops were doing?

12 A. What was the cops doing.

13 Q. And what did they know?

14 A. And what did they know about what was going on with
15 Ms. Cook.

16 Q. What did you tell her?

17 A. At the moment when I told her, I was telling her
18 about it, I said I wasn't getting no information because
19 at the time, I wasn't able to do really anything because I
20 was trying to finish up my work so I could leave.

21 Q. Did you have any other information other than the
22 fact that they were there with her picture, showing it
23 around?

24 A. No.

25 Q. How did the staff at the facility react to Ms. Cook's

MARVIN LAWRENCE - DIRECT EXAMINATION BY MR. BRACKETT

1 death?

2 A. Everybody was upset.

3 Q. Had she been a resident there for a long time?

4 A. Yes.

5 Q. Over the course of the rest of that day and perhaps
6 the next day, the next morning or early afternoon of
7 Monday the 14th, did you have occasions to also speak
8 with Ms. Walton on the telephone?

9 A. Later that day I think she called, but I can't
10 recollect most of the conversation because all the
11 conversation was just kind of -- all the calls was kind
12 of, like, very close together and --

13 Q. What were the subjects of the calls?

14 A. Mostly the subject of the calls when she had called
15 was just regular. We had our regular conversations.
16 Mostly talking about Thanksgiving. Asking what was I
17 doing for Thanksgiving and driver's license, her driver's
18 license and --

19 Q. What about her driver's license?

20 A. Her license was -- I think probably was being
21 suspended -- not suspended, but it was expired that
22 weekend, and she was wanting to know how --

23 Q. Because it was her birthday?

24 A. Yeah. Wanting to know how to get the license
25 transferred from North Carolina to South Carolina and what

MARVIN LAWRENCE - DIRECT EXAMINATION BY MR. BRACKETT

1 was the process.

2 Q. And was there any more conversation about the
3 situation with the checks?

4 A. No, sir.

5 Q. Was there any more conversation about the situation
6 with the police coming to Park Pointe Village and asking
7 questions?

8 A. No.

9 Q. Did you know anything more after you left at
10 5:00 p.m. that day?

11 A. No.

12 Q. When you spoke with her next after that afternoon
13 call where you told her Ms. Cook had passed, was it after
14 you had left work?

15 A. It was at work when I called her and told her about
16 Ms. Cook passed.

17 Q. Yes, but the next conversation. You said you spoke
18 with her later in the day. Was that while you were still
19 at work, or had you already left work?

20 A. I had left work.

21 Q. In any of the conversations -- did you ever see her
22 again after that?

23 A. No.

24 Q. In any of those conversations that you had with her
25 either that Sunday or Monday, was there any more

MARVIN LAWRENCE - DIRECT EXAMINATION BY MR. BRACKETT

1 discussion about Ms. Cook or the checks?

2 A. No.

3 Q. You indicated she was calling you. Was she calling
4 you on a -- at the -- you said you left and you were
5 talking and driving. So this was your cell phone?

6 A. Yes.

7 Q. Okay. Mr. Lawrence, do you know your cell phone
8 number?

9 A. Yes, I do.

10 Q. I'm going to hand you a blank piece of paper that I'm
11 marking with an evidence sticker that says State's
12 Exhibit Number 90. And I'm going to give you a pen, and I
13 would ask you to write your name and then your phone
14 number and then "cell" after that if it's your cell
15 number. Would you write that with the area code, your
16 name, the cell phone number, and "cell" after that.

17 Make sure I can read it. Is it Marvin Lawrence,
18 (803) 572-7948?

19 A. Yes, sir.

20 Q. Is that your cell phone number?

21 A. That's my cell number.

22 Q. Was this the number that you had back in November of
23 2011, when you were having these conversations with
24 Ms. Walton?

25 A. Yes, sir.

MARVIN LAWRENCE - DIRECT EXAMINATION BY MR. BRACKETT

1 Q. This was the number she was calling and you were
2 calling from?

3 A. Yes, sir.

4 MR. BRACKETT: Your Honor, I would seek to introduce
5 State's Exhibit 90 for identification into evidence at
6 this time.

7 MR. SMITH: No objection.

8 THE COURT: In without objection.

9 (State's Exhibit Number 90 was marked and admitted.)

10 MR. BRACKETT: Court's indulgence for a moment.

11 Q. Mr. Lawrence, thank you very much. Mr. Smith may
12 have some questions for you. Please answer any of those
13 that he may have.

14 MR. SMITH: May it please the Court.

15 CROSS-EXAMINATION

16 BY MR. SMITH

17 Q. Mr. Lawrence, you mentioned that you're a chef at the
18 property of Park Pointe Village. What are your duties and
19 responsibilities there?

20 A. I assist the chef with production and just help him
21 provide the meals for the residents.

22 Q. So there's a chef who you assist -- there's a chef
23 supervisor or someone who is over the kitchen that is over
24 you; is that right?

25 A. Yes, sir.

MARVIN LAWRENCE - CROSS-EXAMINATION BY MR. SMITH

1 Q. You're not in a supervisory position. You don't have
2 to schedule people. You don't control the property or
3 anything of that nature; is that correct?

4 A. No, sir.

5 Q. But you do obviously have access to the property?

6 A. Yes.

7 Q. And to get on the property, how can you get into the
8 building?

9 A. Through the guard -- through that one way -- where
10 the guard check is and come in, and I use my -- my --
11 clicker, click the thing, the guard.

12 Q. And then to the building itself, how do you get in
13 there?

14 A. I go through the OBT side. Use my badge to get in.

15 Q. So a badge that you have, do you hold it up to a
16 device and it opens the door?

17 A. Yes.

18 Q. Now, does the kitchen have separate access?

19 A. It's a back door that we can use, too, to come in.

20 Q. And will your badge allow you to access via the
21 kitchen?

22 A. Yes.

23 Q. And is that with the same similar thing; you hold a
24 card up and get back into the kitchen? Okay. The day
25 before the days that you've testified here today, so if we

MARVIN LAWRENCE - CROSS-EXAMINATION BY MR. SMITH

1 back up to that Friday, did you meet with Ms. Walton that
2 Friday?

3 A. Yes.

4 Q. Where did you meet with her?

5 A. She came up on the back dock.

6 Q. Okay. On the back dock?

7 A. The back area of the kitchen. There's a back dock,
8 and she pulled up by where it's a grease trap. It's a
9 light and it's a grease trap down at the bottom of the
10 hill of the kitchen.

11 Q. And had you called her and told her to come to meet
12 with Jackie?

13 A. I called her to tell her that Jackie wanted to talk
14 to her about her mom because her mom had just had a stroke
15 and she wanted to know how she could get Medicaid started
16 for her mom and wanted to know if she wanted Braquette to
17 watch her mom for her while she be at work.

18 Q. And did you also go outside with Jackie and meet with
19 Ms. Walton?

20 A. I went -- I walked out to the back door with her, but
21 I came back in to let them two talk.

22 Q. Okay. Did you mention that to the police in your
23 statement?

24 A. Yes.

25 Q. Now, you've talked about a phone call. I believe

MARVIN LAWRENCE - CROSS-EXAMINATION BY MR. SMITH

1 today you testified it was around 7:30 when Braquette
2 called you, which is when you indicate that you told her
3 about Ms. Cook showing these checks; is that correct?

4 A. Yes.

5 Q. And you said that during that call, you were leaving
6 Park Pointe Village. You were leaving the property; is
7 that right?

8 A. Yes.

9 Q. Did you meet with Ms. Walton?

10 A. No.

11 Q. Do you know where she was?

12 A. No.

13 Q. And Park Pointe Village is right there on Highway 5,
14 right?

15 A. Yes.

16 Q. And that would be how you exit?

17 A. Yes.

18 Q. And you said that this phone call lasted about ten
19 minutes?

20 A. As far as I could recollect. It was maybe around
21 about ten minutes.

22 Q. Ten minutes is a long time. What did you talk about
23 for ten minutes?

24 A. She had called and said that she was on her way back
25 from where she was coming from. I don't know exactly

MARVIN LAWRENCE - CROSS-EXAMINATION BY MR. SMITH

1 where she was at when she called me, but she said she was
2 on her way back. And she was asking me what I was doing
3 later on, and she said she was going to come by later on
4 that night whenever she gets back.

5 Q. Okay. And that's basically what you remember from
6 that conversation?

7 A. Yes.

8 Q. And you discussed with Solicitor Brackett another
9 conversation that you had with Ms. Walton, and that's
10 where you told this jury that's the first time you told
11 Ms. Walton about Ms. Cook passing; is that right?

12 A. Yes.

13 Q. And I believe you testified that she didn't seem
14 surprised and didn't seem upset; is that correct?

15 A. Yes.

16 Q. But you've also given a statement to the police in
17 this case, haven't you?

18 A. Yes.

19 Q. And you gave that statement, I believe, back on
20 November 17th of 2011; is that right?

21 A. Yes.

22 Q. At about 11:00 in the a.m. Did you go down to the
23 police department and give statement?

24 A. Yes, I did.

25 Q. And you swore it to be accurate; is that correct?

MARVIN LAWRENCE - CROSS-EXAMINATION BY MR. SMITH

1 A. Yes.

2 Q. And they let you review it; is that right?

3 A. Yes.

4 Q. And in that statement, you talked about the
5 conversation where you told Ms. Walton about Ms. Cook's
6 death, and you said, "It also seemed like she was not
7 emotional enough to been a person that she had been
8 working with all this time," talking about Ms. Cook
9 passing, right?

10 A. Yes.

11 Q. But the front part of that sentence is something that
12 you left out when you just testified to this jury. You
13 actually said the opposite, because you said, "When I told
14 Bea about Ms. Cook's death, she seemed surprised." Do you
15 remember saying that?

16 A. Yes.

17 Q. And that's what you told the police back on
18 November 17th, right?

19 A. Yes.

20 Q. Because it was true, right?

21 A. Yes.

22 Q. But in here today when you come and testify in a
23 murder case, all of a sudden she wasn't surprised. But
24 the truth is she was surprised, just like you told the
25 police back on the 17th.

MARVIN LAWRENCE - CROSS-EXAMINATION BY MR. SMITH

1 THE COURT: You need to put a question mark on the
2 end of there. You're making statements instead of asking
3 questions.

4 Q. Isn't it correct that the truth is that she was
5 surprised, just like you told the police back on the
6 17th?

7 A. Yes, she was surprised.

8 Q. Thank you.

9 And you indicate that Braquette was supposed to be
10 coming back to your place on that Saturday evening; is
11 that right?

12 A. Yes.

13 Q. You had made arrangements for her to come over. And
14 she didn't show up; is that right?

15 A. Right.

16 Q. Did that make you mad?

17 A. No.

18 Q. But don't you also in this statement say that the
19 next day, as you talked about, you cut that one call short
20 and you weren't returning her calls the next morning?

21 A. I --

22 Q. I believe in here you say because you "had gotten
23 busy, so I didn't call her back. She called me about
24 three or four times, and I was busy and couldn't get to my
25 phone."

MARVIN LAWRENCE - CROSS-EXAMINATION BY MR. SMITH

1 A. At work?

2 Q. Right.

3 A. Yes, I was busy at the moment. I was trying to clean
4 up after lunch. Get everything squared away to leave.

5 Q. So the morning after she didn't show up to meet with
6 you, you didn't return her call immediately?

7 A. No.

8 Q. And you indicate that that night you were at your
9 apartment, I believe, with some neighbors drinking; is
10 that right?

11 A. No, I wasn't drinking with my neighbors. I was alone
12 drinking. I had discussions with my neighbors when I
13 first got home.

14 Q. So on the night that Ms. Cook was killed, you were in
15 your apartment home alone?

16 A. Yes.

17 Q. Did you talk with the police out at Park Pointe
18 Village?

19 A. Yes, I did.

20 Q. What day did you talk with them?

21 A. Monday.

22 Q. Monday? And what did you talk with them about there?

23 A. About the phone calls. They was asking where was I
24 at, was I at home. Almost same questions that you ask.

25 Q. And then on November 16th, did you actually sign a

MARVIN LAWRENCE - CROSS-EXAMINATION BY MR. SMITH

1 consent to search the property of Park Pointe Place?

2 A. No, I did not.

3 (Defendant's Exhibit Number 1 was marked.)

4 Q. Show you what's marked as Defense Exhibit 1 and ask
5 you if you recognize that.

6 A. Okay.

7 Q. Is that a consent-to-search form that you signed?

8 A. To look through my phone, yeah.

9 Q. Does it say it's to search real property or to search
10 personal property?

11 A. It says real property, but at the time when they said
12 it, they said they wanted to look through my -- they asked
13 for my consent to look through my phone.

14 Q. And where does it say your real property is located?

15 A. At Park Pointe Village.

16 Q. All right. Is that your address?

17 A. No.

18 Q. Did the police ever come and search your real
19 address?

20 A. No.

21 MR. SMITH: No further questions.

22 THE COURT: Redirect?

23 MR. BRACKETT: Yes, sir.

24 REDIRECT EXAMINATION

25 BY MR. BRACKETT:

MARVIN LAWRENCE - REDIRECT EXAMINATION BY MR. BRACKETT

1 Q. Mr. Smith asked you some questions, Mr. Lawrence,
2 about the statement that you made, but you didn't have a
3 copy of your statement when he asked you that, did you,
4 this statement here, when he asked you about you told the
5 police some stuff and your statement? Is this the
6 statement that Mr. Smith was talking about?

7 A. Yes.

8 Q. And Mr. Smith asked you isn't it true, and then he
9 read from the statement. He said, "When I told Bea about
10 Ms. Cook's death, she seemed surprised." Is that what he
11 asked you?

12 A. Yes.

13 Q. Okay. But that isn't the whole sentence, is it?

14 A. No.

15 Q. Read the rest of that sentence and the next two or
16 three lines as well.

17 A. "When I told Bea about Ms. Cook's death, she seemed
18 surprised, but also it seemed like she was not emotional
19 enough to have been a person that she had been working
20 with all this time. Bea did not cry. It seems like she
21 was more concerned about what the detectives was doing
22 than about Ms. Cook. She wanted to know what the
23 detectives was doing. She did not ask about who may have
24 killed her or what may happen. She just asked if the
25 detectives said anything else or if I had heard anything

MARVIN LAWRENCE - REDIRECT EXAMINATION BY MR. BRACKETT

1 else. She wanted to know what the detectives knew."

2 Q. Okay. So that's the complete statement that you made
3 on that issue?

4 A. Yes.

5 Q. All right. And the search form that he showed you,
6 Mr. Lawrence, this search form that's marked as
7 Defendant's Exhibit 1 for identification, did you fill
8 that out?

9 A. Yes.

10 Q. That signature is yours?

11 A. Yes, it is.

12 Q. Did you fill out the top part? I guess what I'm
13 getting at is did you circle --

14 A. No, I didn't. That's not my handwriting.

15 Q. Did you circle "real property"?

16 A. No, I did not.

17 Q. Is that your signature, though?

18 A. That's my signature.

19 Q. You signed it, but you didn't fill it out?

20 A. Yes.

21 Q. And as far as you understood, what were you telling
22 the police they could do?

23 A. Look through my phone.

24 Q. Did the police ask you -- the questions they asked
25 you when they were filling this statement out, did you

MARVIN LAWRENCE - REDIRECT EXAMINATION BY MR. BRACKETT

1 answer them all --

2 A. Yes, I did.

3 Q. -- to the best of your ability?

4 A. Yes, I did.

5 Q. And when the police asked to look at your phone for
6 these phone calls that you had told them about, did you
7 have any problem with that?

8 A. No, I did not.

9 Q. Did you cooperate with them as much as they requested
10 you to?

11 A. Yes, I did.

12 Q. Was there anything they asked you to do that you
13 refused to do?

14 A. No, I did not.

15 Q. Thank you, sir.

16 THE COURT: Any recross?

17 MR. SMITH: Nothing, Your Honor.

18 THE COURT: You can step down and be excused.

19 Appreciate your time. Thank you.

20 Call your next witness.

21 MR. BRACKETT: State would call Officer Jonathan
22 Langley. I'm sorry, Your Honor, did you say this witness
23 could be excused?

24 THE COURT: Witness can be excused.

25 JONATHAN LANGLEY, after having first being duly

MARVIN LAWRENCE - REDIRECT EXAMINATION BY MR. BRACKETT

1 sworn, testified under oath as follows:

2 DIRECT EXAMINATION

3 BY MR. BRACKETT:

4 Q. All right, sir. Would you please state your full
5 name and spell your last for the court reporter.

6 A. Jonathan Ryan Langley, L-A-N-G-L-E-Y.

7 Q. Okay. Where are you employed?

8 A. At the Rock Hill Police Department.

9 Q. Pretty obvious from how you're dressed. You're a
10 police officer?

11 A. Yes, sir.

12 Q. How long have you been with the Rock Hill PD?

13 A. November the 13th of this year will be three years.

14 Q. What do you do for the Rock Hill Police Department?

15 A. I work with the patrol division.

16 Q. And what -- in real brief summary of what your job as
17 a patrol officer, what does that entail?

18 A. Answer calls for service, patrol the city, check
19 businesses at night, that kind of stuff.

20 Q. Okay, sir. When you -- so you've been there three
21 years. You were working with Rock Hill PD as a patrol
22 officer in November of 2011?

23 A. Yes, sir, that's correct.

24 Q. And specifically were you employed and on duty the
25 afternoon of Saturday, November 12th, 2011?

JONATHAN LANGLEY - DIRECT EXAMINATION BY MR. BRACKETT

1 A. Yes, sir.

2 Q. And what were you doing that day? Just on regular
3 patrol?

4 A. Yes, sir, that's correct.

5 Q. Okay. Now, did you receive a call or were you
6 dispatched by the dispatchers at Rock Hill PD to go to
7 Park Pointe Village right off Highway 5 there?

8 A. I was.

9 Q. And what were you going to Park Pointe Village in
10 reference to?

11 A. It was in reference to a fraud investigation.

12 Q. Okay. And what -- do you know approximately what
13 time you went out there?

14 A. It was dispatched at 5:00, 5:00 p.m.

15 Q. What time did you arrive?

16 A. I arrived on scene at 5:15 p.m.

17 Q. Okay, sir. And when you arrived at Park Pointe
18 Village, who did you see there?

19 A. I met with the supervisor, Ms. Lattimer. And also
20 met with the victim, who was Pauline Cook.

21 Q. Where did you meet with them?

22 A. Met -- Ms. Lattimer met me at the front door, and
23 then we went and got Ms. Cook, who was eating in the
24 cafeteria, and then we all went into Ms. Cook's room.

25 Q. Her apartment there?

JONATHAN LANGLEY - DIRECT EXAMINATION BY MR. BRACKETT

1 A. Yes, the apartment.

2 Q. Okay. Now, who was the -- out of the two of them,
3 Ms. Lattimer and Ms. Pauline Cook, who was the complaining
4 party or the victim in this case?

5 A. The caller was Ms. Lattimer. She was the
6 complainant. And the victim was Ms. Cook.

7 Q. And what specific criminal allegations was this call
8 out in response to?

9 A. It was in regards to stolen checks and checks that
10 had been written and money that was taken from her bank
11 account.

12 Q. Okay. Forged checks?

13 A. That's correct.

14 Q. What is your role in a criminal complaint like this
15 when an allegation is made like this? Is this a case that
16 you're going to take and investigate and follow through
17 on?

18 A. Basically I would get the basic contact information
19 from both parties. I would get the story, which I got
20 from Ms. Cook. From there I would complete an incident
21 report. Any evidence that I get, I would submit that.
22 Then from there it would go to a detective who would
23 continue the investigation.

24 Q. Okay. And did you, in fact, talk to Ms. Cook in
25 detail as well as Ms. Lattimer?

JONATHAN LANGLEY - DIRECT EXAMINATION BY MR. BRACKETT

1 A. I did.

2 Q. And did you take the report that you mentioned?

3 A. I did.

4 Q. And did they provide you with any other documentation
5 of this situation, any other evidence?

6 A. Ms. Cook had a copy of checks that had been written
7 over a period of time from her bank, which was with BB&T.
8 And I submitted that into evidence.

9 Q. And I'm showing you what's been marked as State's
10 Exhibit 83, and this is in evidence. This is -- it's a
11 manila envelope with four papers in there, and I'm going
12 to show you the first three and ask if you can identify
13 those.

14 A. This is what Ms. Cook provided me on scene.

15 Q. Okay. And then --

16 A. And I submitted.

17 Q. So what is that?

18 A. This is a printout of checks over a period of time
19 that she had written out. And she noticed several of
20 them -- four of them, in fact -- that she had not written
21 and that her signature had been forged.

22 Q. All right. And are some of those checks -- there's
23 some yellow markings on there. What is that?

24 A. Those are the four checks that she identified that
25 she had not written and that her signature did not match

JONATHAN LANGLEY - DIRECT EXAMINATION BY MR. BRACKETT

1 previous checks and that her signature had been forged.

2 Q. All right, sir. And who were those checks made out
3 to? Who is the person that those checks were made payable
4 to?

5 A. Braquette Walton.

6 Q. All right, sir. Now, was -- did you get any
7 information regarding who Braquette Walton might have
8 been?

9 A. I did.

10 Q. What information?

11 A. I got that information from Ms. Lattimer. She
12 provided me -- she told me that she was an employee at the
13 assisted living center and that she has access to the
14 residents' apartments.

15 Q. All right, sir. And did you get any personal
16 information, contact information as to where she might be
17 located from Ms. Lattimer as well?

18 A. She gave me her name and date of birth. From there I
19 was able to look that up and get the rest of the
20 information. Address, et cetera.

21 Q. Did she also provide you with some information?

22 A. That's what she gave me.

23 Q. And what is that?

24 A. That's the name of the employee, Braquette Walton,
25 her address, and a telephone phone number.

JONATHAN LANGLEY - DIRECT EXAMINATION BY MR. BRACKETT

1 Q. And that was from Ms. Lattimer?

2 A. Yes, I received that from her.

3 Q. All right, sir. And does that -- is that the
4 condition that you received it in on November the 12th?

5 A. This is.

6 Q. What did you do with those documents and that
7 incident report after you collected all that stuff?

8 A. I completed the incident report, submitted that. It
9 then goes to a supervisor, who checks it off, and then
10 from there it goes to the detective to follow up with.
11 The evidence, I submitted it into the evidence room.

12 Q. And approximately how long were you at Park Pointe
13 Village taking this report and gathering this information?

14 A. Approximately 45 minutes.

15 Q. Did you have any other dealings with either Ms. Cook,
16 Ms. Lattimer, or Ms. Walton after you left the premises?

17 A. I did not.

18 Q. Okay. Get those papers back. All right, sir.

19 That's all the questions I have. Thank you very much.
20 Please answer any questions that counsel for Ms. Walton
21 may have.

22 MS. ANDERSON: No questions for this witness.

23 THE COURT: You can step down and be excused.

24 Appreciate your time.

25 Call your next witness.

KAYLA LARSON - DIRECT EXAMINATION BY MR. BRACKETT

1 MR. BRACKETT: Yes, sir. State would call Ms. Kayla
2 Larson.

3 KAYLA LARSON, after having first being duly sworn,
4 testified under oath as follows:

5 BY MR. BRACKETT:

6 Q. Good morning, ma'am. Would you please state your
7 full name for the record and spell your first and last
8 name since it's a --

9 A. Kayla Larson. K-A-Y-L-A, L-A-R-S-O-N.

10 Q. Thank you, ma'am. Can you tell the jury where you
11 work.

12 A. At Park Pointe Village in OBT, Oakbridge Terrace, the
13 assisted living.

14 Q. What do you do at Park Pointe Village?

15 A. I assist residents, give meds, et cetera.

16 Q. How long have you been doing that?

17 A. I've been there for about a year and a half now.

18 Q. About a year and a half now?

19 A. Now.

20 Q. So when did you start?

21 A. May of 2011.

22 Q. And have you been doing the same thing the entire
23 time you've been there?

24 A. Yes.

25 Q. Is it OBT? Is that right?

KAYLA LARSON - DIRECT EXAMINATION BY MR. BRACKETT

1 A. OBT is just the initials for Oakbridge Terrace. Just
2 a shorter.

3 Q. Which is the assisted living section?

4 A. Yes.

5 Q. And there's a different place that's independent
6 living?

7 A. Yes.

8 Q. So your entire time at Park Pointe has been working
9 in OBT?

10 A. Yes.

11 Q. And can you tell us, then, were you working --
12 obviously you were working November of 2011?

13 A. Yes.

14 Q. Okay. And specifically on September -- I mean
15 November 12th, 2011, which was a Saturday.

16 A. Yes.

17 Q. Did you work that day?

18 A. I did. 3:00 to 9:00.

19 Q. That was -- 3:00 to 9:00 was your shift?

20 A. 3:00 to 9:00.

21 Q. What kind of day was it, Kayla?

22 A. It was a hectic day from the time we got there.

23 Q. What were some of the things that were making it
24 hectic?

25 A. As soon as we came into work, we had a resident that

KAYLA LARSON - DIRECT EXAMINATION BY MR. BRACKETT

1 had fallen.

2 Q. Is that a big incident?

3 A. Yeah, it's -- when someone falls, it's kind of like a
4 big deal. You just have to check on them. You have to
5 make sure everything is okay. You have to write reports,
6 stuff like that.

7 Q. Were there other things that were keeping you busy at
8 that time?

9 A. Yeah. We had pages left and right. Independent
10 residents, calls.

11 Q. When you say "pages," what do you mean?

12 A. Like we get pages if somebody needs us. They have a
13 pendant they wear they can press if they need us.

14 Q. Okay. And what does that tell you when they push it?

15 A. It just shows up their name, their location.

16 Q. All right. Are all the employees there familiar with
17 that paging system?

18 A. Yes.

19 Q. Did you know Ms. Pauline Cook?

20 A. I did.

21 Q. And how did you know her?

22 A. I knew her because she came over to OBT right as I
23 started working, right after I started working, so I got
24 to know her pretty well.

25 Q. Can you tell us what kind of person she was.

KAYLA LARSON - DIRECT EXAMINATION BY MR. BRACKETT

- 1 A. Very loving, kind. She was very outgoing. Very
2 motivated. She loved being out and about. Very sweet,
3 kind. She would do anything she could for anybody.
- 4 Q. Was she sort of a creature of habit?
- 5 A. Yes.
- 6 Q. And what were some of her habits?
- 7 A. Every day she loved to come down early. She was
8 always an early bird. She would be up early for
9 breakfast. She loved playing bingo. She loved going out.
10 Anything really. Just she was very outgoing.
- 11 Q. Did you see -- what did you call her? What was --
12 was it Ms. Cook? Mrs. Cook? Ms. Pauline?
- 13 A. Ms. Pauline Cook.
- 14 Q. Ms. Pauline.
- 15 A. Yes.
- 16 Q. Did you see her that day, the 12th --
- 17 A. Yes, I did.
- 18 Q. -- that 3:00-to-9:00 shift?
- 19 Where did you see her?
- 20 A. As soon as I come on my shift, she was sitting in a
21 chair at the nurses' desk, across from the nurses' desk
22 with her bank statements in hand.
- 23 Q. Did you talk to her?
- 24 A. She had asked me about -- she told me that somebody
25 had been taking her money and wanted me to look at them,

KAYLA LARSON - DIRECT EXAMINATION BY MR. BRACKETT

1 but I know that's against our rules, so I told her that
2 she needed to talk to Ms. Neva.

3 Q. Who is that?

4 A. Neva Lattimer was our boss.

5 Q. And was that the protocol that you followed in a
6 situation like that?

7 A. Yes.

8 Q. And where -- was Ms. Neva there that day?

9 A. Yes, she was. She was down the hall assisting the
10 resident that had fallen.

11 Q. Did you have any further conversations with Ms. Cook
12 about her situation?

13 A. Not until that night, when it was time for her to go
14 to bed.

15 Q. Did you talk to Ms. Neva about her conversation
16 with --

17 A. No.

18 Q. When did you see Ms. Cook again?

19 A. I seen her at dinner for a brief minute. As soon as
20 she come in for dinner, the police had got there to talk
21 to her, so she left.

22 Q. All right. Did she eventually come back?

23 A. Yes, she did come back and finish her dinner.

24 Q. And then where else did you see her that day?

25 A. We had a page that I was unfamiliar with, and I asked

KAYLA LARSON - DIRECT EXAMINATION BY MR. BRACKETT

1 Teresa Stagner to show me the location, so she showed me,
2 and she was downstairs in the game room paying bingo.

3 Q. You said a page you were unfamiliar with. What --

4 A. I didn't recognize the location.

5 Q. And where did you ultimately go?

6 A. Ultimately went down to the game room on the first
7 floor.

8 Q. And how did you know to go there? Who showed you the
9 way?

10 A. Teresa Stagner, she showed me how to get there. And
11 when we got there, I seen Ms. Pauline sitting across from
12 the person who had accidentally hit her pendant.

13 Q. Do you know about what time that was?

14 A. 8:00 maybe? Somewhere in there.

15 Q. Who else was working with you at this time? Who else
16 was on duty with you at the time you and Teresa went down
17 to respond to this page?

18 A. It was just me and Teresa.

19 Q. How long were you gone?

20 A. Maybe five minutes.

21 Q. So was anyone in the upstairs area around the south
22 hall and north hall of Oakbridge Terrace at the time?

23 A. No.

24 Q. How long were you gone again?

25 A. Maybe five minutes.