

1 (Jury in)

2 THE BAILLIFF: This witness has not been
3 sworn in, Judge.

4 THE COURT: Would you raise your right
5 hand for me.

6 (Witness sworn.)

7 THE COURT: You may have a seat.
8 State, you may proceed.

9 MS. PALMER: Thank you, Your Honor.

10 **MAURICE CARPENTER,**
11 having been first duly sworn, testified as follows:

12 **DIRECT EXAMINATION**

13 BY MS. PALMER:

14 Q Would you please introduce yourself to the
15 jury.

16 A I'm Deputy Maurice Carpenter.

17 Q And how are you employed?

18 A Employed as a crime scene investigator with the
19 Harris County Sheriff's Office.

20 Q And are you a certified peace officer in the
21 state of Texas?

22 A Yes, I am.

23 Q How long have you been a certified peace
24 officer?

25 A For 22 years.

1 Q And have you always been a crime scene
2 detective?

3 A No.

4 Q How long have you had that position?

5 A For eight years.

6 Q And what training and experience do you have to
7 hold that position?

8 A I've had numerous training classes put on by
9 the Department of Public Safety, F.B.I., various
10 independent agencies for training. I've had a year of
11 in-house field training officer training within the
12 crime scene unit in areas such as fingerprint
13 examinations, crime scene investigations, DNA
14 collection, photography, videography, et cetera.

15 Q I think because of television a lot of people
16 understand more of what you do, but can you explain to
17 the jury exactly what you do as far as what your duties
18 are in your role.

19 A As far as at the Harris County Sheriff's
20 Office, our duties as crime scene investigators, when a
21 crime has occurred, a homicide, murder, some type of
22 theft investigation, we're called out to the scene to,
23 basically, document the scene, document what's there, to
24 collect evidence, to preserve and collect evidence,
25 photograph the scene, take notes for report to describe

1 what the scene looks like, what we've observed there and
2 our actions there. We -- like I say, we collect
3 evidence that's there relevant to the crime, we
4 photograph, we videotape sometimes the scene, document
5 it, we'll process some of evidence, process the scene
6 for fingerprints, any DNA evidence, we generate reports
7 and secure the evidence. We transport the evidence,
8 secure it in the property room; or we transport it to a
9 lab to be analyzed.

10 Q I want to talk about a scene that you went to
11 at 22126 Moss Falls Lane. Is that in Harris County,
12 Texas?

13 A Yes, it is.

14 Q And you went there on December 26, 2010. What
15 time did you arrive at that scene?

16 A Can I refer to my notes?

17 Q Absolutely.

18 A I arrived there at that scene at approximately
19 4:50 a.m.

20 Q So, what were your working hours at that time?

21 A My regular duty hours at that time were night
22 shift, 10:00 p.m. to 6:00 a.m., Monday through Friday.
23 This happened on the weekend, was a call-out. On
24 weekends call-out duty, we're at home. If something
25 occurs, they call us, and we respond from home.

Maurice Carpenter - September 11, 2013
Direct Examination by Ms. Palmer

1 Q So, you responded from your home to the scene?

2 A Yes.

3 MS. PALMER: May I approach the witness?

4 THE COURT: Yes.

5 Q (BY MS. PALMER) I'm going to show you State's
6 28 through 85. If you could, look at these photos.

7 A (Witness complies.)

8 Q Do these fairly and accurately represent the
9 scene as you found it on December 26, 2010?

10 A Yes, they do.

11 MS. PALMER: I'd offer State's 28 through
12 85.

13 MS. REKOFF: Judge, we have no objection
14 to the admittance of State's Nos. 28 through 85.

15 THE COURT: 28 through 35 will be
16 admitted.

17 MS. PALMER: 85.

18 THE COURT: 85. I'm sorry.

19 Q (BY MS. PALMER) State's Exhibit No. 28. Can
20 you tell the jury what we're looking at here.

21 A That's a view from the street of Moss Falls
22 Lane to the residence at 22126.

23 Q So, this is the driveway at 22126 Moss Falls
24 Lane?

25 A Yes. The residence is actually a duplex.

1 There's two addresses at this site.

2 Q So, is driveway on the right in relation to
3 22126?

4 A Yes.

5 Q Okay. State's Exhibit 29, is that the front
6 door?

7 A Yes, it is.

8 Q State's Exhibit No. 30, what is this?

9 A That's another view to the front. It's the
10 front and side of 22126.

11 Q And State's Exhibit No. 31, is that a
12 representation of the emergency vehicles that were at
13 the location?

14 A Yes.

15 Q State's Exhibit No. 32 is another residence.
16 Do you know which residence that is?

17 A The residence is -- that should be 220 -- I'm
18 sorry. 22202 it should be. Let me check my notes here.
19 Yes.

20 Q And State's Exhibit No. 33, is that that
21 residence?

22 A That's the entrance door to that residence,
23 yes.

24 Q So, this is a better picture on State's Exhibit
25 No. 24. What are we looking at here?

1 A This is -- well, it's a wood deck area right at
2 the entrance to the residence. On the wood deck are a
3 large area of blood, a lot of bloodstains on the deck.
4 On the walls, bloodstains on the wall and on the glass
5 door.

6 Q Why did you document this?

7 A The complainant was -- reportedly had exited
8 her residence and walked on foot to the front door of
9 this residence and to another residence, and that was
10 blood left by the complainant.

11 Q So, this is State's Exhibit No. 35 and 36 which
12 is showing that same area with the blood. State's
13 Exhibit 37 is more of the decking. State's Exhibit 38
14 is the paneling of the house. Same with 39. And
15 State's Exhibit 40 is kind of tricky. In the middle of
16 State's Exhibit No. 40 is a red substance, is that
17 actually on the screen door or on the glass door?

18 A On the glass door, yes.

19 Q And, so, State's Exhibit 41 is simply with the
20 door closed; is that right?

21 A Yes.

22 Q And 42 shows the same thing. 43 shows -- what
23 is this?

24 A That's next door at the residence of 22204,
25 some socks laying in the entryway to the residence.

1 Q Okay. And these socks were there as well,
2 those are the same socks?

3 A Yes, ma'am.

4 Q Now, State's Exhibit No. 45, where is this?

5 A That is the residence of 22204 Moss Falls.

6 Q Okay. So, I don't want to get confused here.
7 Which residence belonged to the complainant, Cristina
8 Garcia?

9 A 22216.

10 Q Okay. So, that's not this residence and that's
11 not the residence with the decking, right?

12 A Correct.

13 Q Okay. So, these are other homes?

14 A Yes.

15 Q So, here in State's Exhibit No. 46, in the
16 upper right-hand corner, what is that?

17 A Those are the socks that were in the earlier
18 picture.

19 Q So, State's Exhibit No. 43 shows bloody socks,
20 and State's Exhibit 46 shows where those were
21 positioned. Is that right?

22 A Yes.

23 Q And State's Exhibit 49 shows the front door of
24 that residence and State's Exhibit 50, but that's the
25 same. And State's Exhibit 51 shows the doorbell and the

1 siding of that residence.

2 A Yes.

3 Q Along with State's 52, closer picture; and
4 State's 53 is a closer picture. Now we're going to
5 State's Exhibit No. 54, and where are we in this
6 picture?

7 A That's the entrance to the residence at 22216.

8 Q So, the complainant's residence?

9 A Yes.

10 Q So, now when we go to State's 54, we're in the
11 complainant's residence. Why did you document this
12 picture?

13 A This picture -- well, the complainant's
14 residence, this is where the event occurred. And there
15 was evidence in the house and -- bloodstain evidence and
16 other physical evidence in the house.

17 Q Can you describe for us the appearance of the
18 complainant's residence?

19 A The entry and the living room, the area was --
20 there was considerable amount of bloodstains on the
21 floors and walls of the residence. There were items
22 appeared to have been strewed around the area, inside
23 the residence that may have been, like to me in my
24 opinion, my experience, signs of a struggle had occurred
25 inside the residence.

1 Q So, State's Exhibit No. 54 is showing the front
2 door; and State's Exhibit No. 55, where was this in the
3 home?

4 A The opposite direction from the previous photo.
5 That's showing from inside the residence outwards,
6 towards the front door.

7 Q So, in this picture you were actually standing
8 inside Cristina's home and taking a picture to the
9 outside?

10 A Yes.

11 Q State's Exhibit 56, what is that?

12 A That's from the front door, again looking in
13 the residence. That's the door to the closet right
14 there, right there by the front door.

15 Q So, in State's Exhibit 56 we are right at the
16 front door?

17 A Yes.

18 Q State's Exhibit 57, where is that in the home?

19 A That's -- I'm standing in the entryway looking
20 towards the living room area of the house. The front
21 door is behind me.

22 Q What did you find in that room?

23 A Most significantly was considerable amount of
24 blood on the walls and the floor of the room.

25 Q And how did you know that it was blood?

1 A Well, initially from the appearance of it; also
2 from the report of the complainant sustaining multiple
3 stab wounds that she had been bleeding; and eventually I
4 took samples of the bloodstains, had them tested at the
5 DNA lab, and they came back as being blood.

6 Q State's Exhibit 58, what is that?

7 A This is a view towards the front door from the
8 living room showing one of the walls in the living room,
9 bloodstain on the wall.

10 Q State's Exhibit No. 59, is that the same area?

11 A Yes.

12 Q And State's Exhibit No. 60?

13 A Same area, the door slightly closed.

14 Q And if we see kind of in the middle of State's
15 Exhibit No. 60, there appears to be a streak of blood
16 along the wall. Is that what we see in State's Exhibit
17 61?

18 A Yes.

19 Q And State's Exhibit 62, is that that same area
20 but a little more of a vantage point?

21 A Yes. The entry is on the left-hand side of the
22 photo.

23 Q And State's Exhibit 63?

24 A That's the previous mentioned closet door on
25 the right-hand side, the entry door right there, and to

1 the left is the living room. There was bloodstains,
2 considerable amount of bloodstains on the wall there.

3 Q State's Exhibit 64?

4 A That's looking toward the living room area.
5 The front door of the residence is on the right-hand
6 side of the photo.

7 Q So, where were you standing when you took this
8 picture?

9 A Standing, like, right in front of the entryway.
10 The entryway would be in this area here on the photo.

11 Q State's Exhibit 65, is that that same entryway
12 area?

13 A Yes, on the right-hand side.

14 Q And we can tell that better in State's 66
15 because we see the front door right here to the right?

16 A Yes.

17 Q State's Exhibit No. 68, where is that?

18 A That needs to be turned.

19 Q Oh, I'm sorry. It does. There we go.

20 A Right. That's the entryway, is this area over
21 here. This, in the living room, looking back towards
22 that area.

23 Q So, this is not -- is this the front door area?

24 A The front door is to the right of this photo.

25 Q Okay.

1 A That's the same wall we saw in the earlier
2 picture.

3 Q This wall?

4 A Yes, it is.

5 Q So, this wall and here's the front door to the
6 right and that's the same wall we're looking at here in
7 State's Exhibit No. 68.

8 A Correct. In this photograph the game that's
9 leaning up against the wall is right here.

10 Q Now, I want to go back to State's Exhibit --
11 that doesn't really. Because I'm going to go to State's
12 Exhibit 69. Can you tell us what that is that we're
13 seeing there.

14 A This is a switchblade knife that was lying on
15 the floor of the living room.

16 Q So, if I go back to State's 64, can you see
17 where you recovered it in that picture?

18 A Not in this picture.

19 Q Yeah. I didn't think that was a different one.
20 I'm going to go through -- State's Exhibit 70 is another
21 picture of the switchblade. State's Exhibit 71, what
22 are we seeing right here in the middle?

23 A Right in the middle there, pair of boots, look
24 like a type of house shoe type boots. And right here is
25 a knife, a kitchen knife.

1 Q And State's Exhibit No. 72 is a closer up
2 picture of that?

3 A Yes, it is.

4 Q And State's 73 is a close picture of that
5 knife?

6 A Yes.

7 Q State's 74, what is that?

8 A That's a clump of hair that was lying on the
9 floor next to those boots.

10 Q Now, State's 75, what area of the house is
11 that?

12 A That's the kitchen, the kitchen counter and the
13 kitchen sink. The kitchen sink is over here. The front
14 door of the residence is right here in this background.

15 Q Can you describe for us the layout of this
16 house. Where is the kitchen in relation to the front
17 door?

18 A When you walk in the front door entryway, it's
19 just a small entry; and then the kitchen is directly in
20 front of you to the right when you walk in. And then
21 the living area, large living room area, is off to the
22 right.

23 Q How many bedrooms are we talking about?

24 A There's three bedrooms in the house.

25 Q How many bathrooms?

1 A One.

2 Q State's 76 is a closer picture of this. What
3 do we see here in State's 76?

4 A This item is just a knife block, to put your
5 kitchen knives in. This over here is a knife sharpener
6 that appeared to come from the knife block.

7 Q State's 77 shows more of that counter area.
8 Why did you take a picture of State's 77, that area?

9 A Showing items on the counter, and the
10 bloodstains are on top of the counter also. Shows
11 there's a bottle of wine to the right, the knife
12 sharpener, and this is a blood sugar monitor that the
13 EMS personnel had left behind at the scene.

14 Q So, that didn't belong to the house; that
15 belonged to EMS?

16 A Yes.

17 Q State's 78, that looks like a refrigerator.
18 What else are we seeing there?

19 A Over to the right is the hallway leading from
20 the living room back to the bedrooms and bathroom.

21 Q Is that hallway the same hallway as the
22 entrance?

23 A No.

24 Q So, how close are we to the front door at this
25 point?

1 A The counter that we just saw in the previous
2 picture is on the opposite side of the kitchen in front
3 of the refrigerator and the front door entrance is
4 behind that. So, it's probably maybe 20 feet to the
5 front door.

6 Q State's Exhibit 80, where is this in the house?

7 A This is the hallway, kitchen area is right
8 here. And this is the wall, one of the hallway walls.

9 Q And in State's Exhibit 82, you actually
10 measured this area of the wall. Why did you do that?

11 A This area of the wall appeared to be damaged,
12 pushed in, with bloodstains on the sections in the wall
13 and surrounding it. And there were some piece of
14 Sheetrock and wall on the floor below it. This appeared
15 to be a fresh damage to the wall.

16 Q State's Exhibit 83, where is that?

17 A That's in the bathroom.

18 Q Why did you take a picture of that?

19 A The glass here was broken or piece of broken
20 glass in the sink and some red substance in the glass
21 that appeared to be wine.

22 Q Did you also collect some items from the house?

23 A Yes.

24 Q Why did you do that?

25 A Collect items from a scene, items that might be

1 pertinent to the investigation, items that might have
2 been either used during the crime or have relevance to
3 the crime.

4 Q Let's start with State's Exhibit 92. Do you
5 recognize this item?

6 A Yes, I do.

7 Q How do you recognize this?

8 A Has a bar code label on the package that I
9 affixed here with the case number. The item number
10 inscription has my initials and my unit number on the
11 seal from this box.

12 Q So, when you collect items from a scene, do you
13 assign them a number?

14 A Yes.

15 Q And do you document that number?

16 A Yes, I do.

17 Q And you did that in this case?

18 A Yes.

19 Q State's Exhibit 93. Same question: What is
20 this?

21 A This is a kitchen knife recovered from the
22 scene, same markings on it, same bar code, and the case
23 number.

24 Q And State's Exhibit 94?

25 A This is the knife sharpener, the same markings,

1 case number, my initials on the package.

2 Q Okay.

3 MS. PALMER: At this time I'd offer
4 State's 92, 93, and 94.

5 MS. REKOFF: I have no objection to their
6 admittance into evidence.

7 THE COURT: 92, 93, and 94 are admitted.

8 Q (BY MS. PALMER) State's Exhibit No. 92, what is
9 this?

10 A It's the switchblade knife recovered from the
11 floor of the living room.

12 Q Okay. And did you do anything with the knife
13 to -- when you recovered it, how do you do that? Do you
14 wear gloves like I'm wearing?

15 A Yes.

16 Q And did you submit the knife for testing?

17 A I had took swabs of the knife. I swabbed the
18 blade and the handle and submitted the swabs for
19 testing.

20 Q How do you -- how do you take swabs from an
21 item like this knife?

22 A We have sterile cotton tip swabs. They're like
23 large Q-tips with cotton on one end that are packaged
24 two to a package, sterile package. We have boxes that
25 when we take a swab of an item, if it's a wet item,

1 we'll just swab the item. If it's a dry item, we'll wet
2 the swab with some sterile, clean -- sterilized water
3 and we'll take a swab sample of the item, place it in
4 the box, and seal it in an envelope.

5 Q And what I have now is State's 93. Where did
6 you recover this from?

7 A In the floor of the living room.

8 Q And this was by the slippers?

9 A Yes.

10 Q Did you take samples from this knife?

11 A Yes.

12 Q How did you do that?

13 A The same method, with the cotton swabs.

14 Q And there's visible hairs on this knife. Did
15 you have this tested?

16 A Those hairs, no.

17 Q The last item here in this package is a knife
18 sharpener. Why did you collect this?

19 A Because the handle of the sharpener has what
20 appears to be blood on it.

21 Q Okay. I'm not going to take it out of the box.

22 *(Exhibit published.)*

23 Q Did you have that tested?

24 A Yes.

25 Q Who does testing on these kind of items from

1 the Harris County Sheriff's Office?

2 A The Harris County Medical Examiner's Office,
3 which entitled is Harris County Institute of Forensic
4 Sciences, they have a DNA lab.

5 Q Okay. Put these over here so we can talk about
6 the rest of the stuff.

7 This is State's Exhibit No. 95. Do you
8 recognize that?

9 A Yes, I do.

10 Q Okay. What is that?

11 A This is a wallet I collected from the laundry
12 room of the residence. This packaging has the case
13 number, item number, and my initials on the seal.

14 Q And State's Exhibit No. 96, what is this?

15 A This is a clump of hair coming from the living
16 room floor, also has the bar code with the case number,
17 my initials, and seal.

18 MS. PALMER: I'd offer State's 95 and 96.

19 MS. REKOFF: No objection by defense,
20 Your Honor.

21 THE COURT: 95 and 96 are admitted.

22 Q (BY MS. PALMER) And in State's Exhibit 95, are
23 there items in this wallet?

24 A Yes.

25 Q And what are they?

1 A Credit cards, social security card, some
2 other -- his cards and papers.

3 Q Was there a paper in here that seemed to be a
4 note --

5 A Yes.

6 Q -- of some sort? I'm going to put this up
7 here.

8 MS. REKOFF: Your Honor, I object to
9 hearsay on the paper document.

10 THE COURT: It's part of 95 that's been
11 admitted. I can look at it.

12 (At the Bench)

13 MS. REKOFF: I'll withdraw my objection.
14 Just instinct. We'll go into it as well.

15 THE COURT: Okay. You may publish as
16 well.

17 (End bench conference)

18 Q (BY MS. PALMER) And if it's okay, I'm going to
19 read it because it's also hard to see on here. I'm
20 going to read the part that I can read. But you can
21 also follow along up there.

22 "Anthony, you are the only person that
23 can alleviate my worries, evaporate my fears. You are a
24 cunning thief. You've stolen my heart. You are the
25 true definition of pure love. Your touch is

1 intoxicating. Like an addict I crave your flesh warmth
2 and strength. You have made a hole in my soul and
3 filled it with your love. I no longer hold back tears.
4 You've helped release them and cleared my eyes. I can
5 finally see what I didn't even know what I was looking
6 for, love. I've fallen to the depths of self-imposed
7 depression but in order to rise, I had to let everything
8 fall. You were there to help put the pieces of my
9 broken spirit back together a little more each day. You
10 put me, the real me, back together. In all my moments
11 of despair, you were always there. You've helped me
12 face my toughest obstacle, myself. Each day you helped
13 me shed a little of my past and helped create a new
14 memory to put in its place. With your help, I can step
15 out of my darkness and into the light you have created,
16 the light that is our future. Thank you for not letting
17 me give in to fear. You, my love, have given me so much
18 hope. I am truly taken back by your love. This is a
19 journey that has taken me into serene ecstasy. You are
20 the venture my soul has been waiting to take. You are
21 the key that has unlocked my heart. Thank you. You
22 have set me free. Free from now on, Cristina."

23 And that was in the defendant's wallet,
24 right?

25 A Yes.

1 Q This is State's Exhibit 97. What is this?

2 A This is a sketchbook I recovered from the
3 bookcase in the living room.

4 Q This was from the bookcase in the living room
5 at Cristina Garcia's house?

6 A Yes.

7 Q Okay.

8 MS. PALMER: I'd offer State's 97.

9 MS. REKOFF: Your Honor, I do object to
10 State's No. 97. I believe the photos are dated in here
11 and they are dated 2003 and I don't know what their
12 relevance would be to this murder case.

13 THE COURT: May I see?

14 *(Bench conference.)*

15 THE COURT: Are you contesting the
16 relevance?

17 MS. REKOFF: Relevance. They were drawn
18 in 2003, and he didn't even know Cristina Garcia then.

19 THE COURT: Overruled.

20 *(End bench conference.)*

21 MS. PALMER: Is State's 97 admitted?

22 THE COURT: Yes, I'm sorry.

23 Q (BY MS. PALMER) Again, I'm going to put this up
24 here so we can see. Why did you take this?

25 A The notebook had depictions, drawings in it

1 that at the time we -- sometimes at the crime scene,
2 we're not sure of the relevance or what is needed,
3 what's the relevance to the case. These had certain
4 drawings in it that appeared to be relevant to this
5 case.

6 Q In the front of this notebook it says "Tony
7 Martinez," right?

8 A Yes.

9 Q Okay. And then if we look at some of the
10 pictures in here -- now, the date -- let me go back.
11 The date on this picture is September 6th, 2003, right?

12 A Yes.

13 Q So, some of this stuff is dated before this
14 offense occurred, right?

15 A That's the date that's on the page.

16 Q Right. But this second one doesn't have a
17 date, right?

18 A Correct.

19 Q That's one of the pictures. This is a little
20 hard to turn around there. But that says "Martinez"; is
21 that right?

22 A Yes.

23 Q Now, you talked about submitting some items to
24 the medical examiner's office; and I want to go through
25 that with you. This is State's Exhibit 26, which is the

1 report from the medical examiner's office. And I want
2 to first turn your attention to the second page of that
3 report where it talks about -- and it gets confusing
4 because you label something with a number. Then the
5 medical examiner's office labels it with a number,
6 right?

7 A Yes.

8 Q So, I want to focus on No. 48 which says "the
9 blade of item No. 9" and then No. 50 which says "the
10 blade of item No. 10." What is item No. 9?

11 A Item 9 is the switchblade knife.

12 Q What is item No. 10?

13 A Item 10 is the kitchen knife.

14 Q So, here, it says their number at the Institute
15 of Forensic Sciences is 48 for what your swab is of the
16 blade of item 9; is that right?

17 A Yes. My item numbers for these items are the
18 SW numbers. "SW" for swab, those are the numbers I give
19 the items. The medical examiner numbers are on the
20 left-hand side, the left-hand column.

21 Q So, when we say 48, we're talking about the
22 blade of the switchblade, your swab there?

23 A Yes.

24 Q When we say 50, we're talking about your swab
25 of the blade of the kitchen knife?

1 A Yes.

2 Q So, in looking at the report -- well, let me
3 start right here. I'm sorry. So, 48 and 50 are what
4 we're talking about, can you read this sentence right
5 here.

6 A "Blood was detected on items 1, 2, 24 through
7 31, 33 through 42, and 47 through 52."

8 Q So, that would include the swabs that you took
9 from the switchblade and the knife; is that right?

10 A Yes.

11 Q And we see later on in the report it talks
12 about 48A-2. Do you know why they do that?

13 A It's a cutting from the swab, and the cutting
14 is given that number.

15 Q Okay. And so, can you read -- I'm testing your
16 eyesight here.

17 A Yes.

18 Q Are you able to read this paragraph for us
19 about No. 48?

20 A Yes. If I could, I have this. If I could read
21 it from my report?

22 Q Absolutely.

23 A "The DNA results obtained from items 1A-2,
24 1B-1, 2B-1, 24B-1, and 24C-1, and 48A-2, are consistent
25 with mixtures of DNA from two or more individuals. The

1 DNA results obtained from the major contributor to these
2 mixtures are consistent with the DNA results of K1.
3 Therefore, Cristina Garcia (K1; ML 10-3812) cannot be
4 excluded as a possible major contributor to these
5 mixtures of DNA. There is insufficient information to
6 determine whether Adolpho Martinez (K2) is a minor
7 contributor to these mixtures."

8 Q So, in 48 we're talking about the blade of the
9 switchblade knife and the Institute of Forensic Sciences
10 has concluded that Cristina Garcia cannot be excluded as
11 a possible major contributor to these mixtures of DNA;
12 is that right?

13 A Yes.

14 Q And then they give statics -- don't get
15 nervous, I'm not going to ask you to say what those are.
16 But those are pretty big numbers, right?

17 A Yes.

18 Q Then 50 is once again talking about the blade
19 of the kitchen knife. And, so, right here two
20 paragraphs below what you just read, we're talking about
21 50. Can you read to the jury what it says about 50?

22 A Yes. "The DNA results obtained from items
23 3C-1, 3L-1, 3R-1, 49A-2, and 50A-2 are consistent with
24 mixtures of DNA from two of more individuals. Cristina
25 Garcia (K1; ML 10-3812) and Adolpho Martinez (K2) cannot

1 be excluded as possible contributors to this mixture."

2 Q And then, if you flip that page over, we talk
3 about 50 again here. And so, they're giving the
4 frequency of the occurrence. Can you tell us what the
5 frequency of the occurrence is in relation -- and this
6 is on 50. So, what's the frequency on the occurrence on
7 the kitchen knife blade for Hispanics?

8 A It's 1 in 1,623,000.

9 Q Now, it's fair to say -- or is it fair to say
10 that you collected a lot more items than we have here
11 today from the house?

12 A Yes, I did.

13 Q And why did you collect all those items?

14 A When we work a scene, at the time of the --
15 we're there, we're not sure exactly what will be needed,
16 what's necessary, what's relevant to the case. So, we
17 generally collect more items than we think might be --
18 if there's a question of whether something might be
19 relevant, we'll just collect it. That way we'll have it
20 in case it is needed.

21 MS. PALMER: I pass the witness.

22 THE COURT: Defense.

23 **CROSS-EXAMINATION**

24 BY MS. REKOFF:

25 Q Deputy Carpenter, if you will, let's stay with

1 the DNA results on State's Exhibit 26. And just to make
2 it easier, because I can't read off of the screen, I'm
3 going to ask you about some other numbers and give you
4 references and then will you look to the body of the
5 results and read for the members of the jury and I'll
6 direct you to what the results were for that.

7 A Okay.

8 Q Okay? Let's start with 47A-2, which was the
9 switchblade handle. Can you turn to the paragraphs that
10 have 47A-2.

11 A All the paragraphs may have that. It might
12 take me a minute to find all those.

13 Q Hang on. I had mine marked and now I misplaced
14 it. It's on page 3 of page 8 and can you start with the
15 second paragraph where it says "The DNA results" and
16 then it's continued. It's in there 47A-2?

17 A Okay. I see it.

18 Q Thank you, sir.

19 A "The DNA results obtained from items 33A-2,
20 36A-2 and 47A-2 are consistent with mixtures of DNA from
21 two or more individuals. The DNA results obtained from
22 the major contributor to these mixtures are consistent
23 with DNA results of K1. Therefore, Cristina Garcia,
24 (K1; ML 10-3812) cannot be excluded as a possible major
25 contributor to these mixtures of DNA. Adolpho Martinez

1 (K2) cannot be excluded as a possible minor contributor
2 to these mixtures."

3 Q So, that is the handle of the switchblade,
4 correct?

5 A I'd have to refer back to my report. Item 47
6 is SW23 which is the swab of handle of item 9, the
7 switchblade.

8 Q So, what that result, basically, says is that
9 the handle of the switchblade, Cristina's DNA, she's a
10 major contributor to the DNA that was found on there,
11 correct?

12 A It says she cannot be excluded as a major
13 contributor.

14 Q And they're using the word "major," correct?

15 A Yes.

16 Q And when they talk about Tony, they say he
17 cannot be excluded as a minor contributor to these
18 mixtures, correct?

19 A Cannot be excluded as a possible minor
20 contributor.

21 Q Right. And that result would make sense if
22 that was the knife used during the stabbing, correct?
23 Because it's her blood and it's found on the handle of
24 the switchblade, correct?

25 A I'm not sure what you mean by "make sense."

1 Q It supports the fact that that switchblade was
2 used to stab Cristina Garcia, correct?

3 A Well, it just supports that her DNA is found on
4 it.

5 Q Her DNA is found on it, right?

6 A Correct.

7 Q How would it get her DNA on it?

8 A It could be touched by her.

9 Q Right. It has to be touched on her body and
10 there's blood on that DNA and you swab the blood,
11 correct?

12 A Correct.

13 Q So, logically speaking, it's showing that
14 that's her blood on that switchblade; or to put it in
15 their words, she cannot be excluded as a possible major
16 contributor to the mixture of that blood, correct?

17 A That's what it states, yes.

18 Q So, somehow her blood got on the handle of the
19 switchblade, according to this, correct?

20 A Yes, according to this.

21 Q Now, you already did 48A-2, which was the
22 switchblade blade and again, I think it said that
23 Cristina was a possible major contributor to that and
24 Tony was -- had not enough information to determine if
25 he was a minor contributor, again; is that right? You

1 want to look at it again?

2 A I'd have to look at it again.

3 Q That's 48A-2 and it's on page 4 of 8 and it's
4 in the third paragraph down. "The DNA results," if you
5 could just read that out loud for the members of the
6 jury?

7 A Whole paragraph?

8 Q Yes, sir.

9 A "The DNA results obtained from items 1A-2,
10 1B-1, 2B-1, 24B-1, 24C-1, and 48A-2 are consistent with
11 the mixtures of DNA from two or more individuals. The
12 DNA results obtained from the major contributor to these
13 mixtures are consistent with the DNA results of K1.
14 Therefore Cristina Garcia (K1, ML 10-3812), cannot be
15 excluded as a possible major contributor to these
16 mixtures of DNA. There is insufficient information to
17 determine whether Adolpho Martinez (K-2) is a minor
18 contributor to these mixtures.

19 Q So again, when we're talking about the blade of
20 the switchblade -- right -- the DNA results are
21 consistent with that blade touched Cristina and got her
22 blood on it, correct?

23 A That is her blood, yes.

24 Q And there's not enough information to know if
25 it touched or has any Mr. Martinez's DNA on it, correct?

1 A Correct.

2 Q Let's go to 49A-2, which I have for the chart
3 is the handle of the kitchen knife, and it's on that
4 same page, sir. It's the next paragraph down that talks
5 about DNA results. It's also in there as 50A-2; so,
6 what we have in this next paragraph that you're going to
7 talk about is the handle of the kitchen knife and the
8 blade of the kitchen knife.

9 Can you go ahead and read the DNA results
10 for both of those.

11 A "The DNA results obtained from items 3C-1,
12 3L-1, 3R-1, 49A-2, and 50A-2 are consistent with
13 mixtures of DNA from two or more individuals. Cristina
14 Garcia (K1; ML 10-3812) and Adolpho Martinez (K-2)
15 cannot be excluded as possible contributors to this
16 mixture."

17 Q Okay. Now, that had a little different
18 language from that paragraph, correct, sir? As far as
19 it didn't have Cristina Garcia as a major contributor?

20 A Correct.

21 Q A possible major contributor. But instead, it
22 used a word that is different from major. It said that
23 they both cannot be excluded just as "possible"
24 contributors, right? They didn't have major, they
25 didn't have minor, they just had it's possible. It's

1 possible that their DNA, both DNA from each person,
2 could be on the kitchen knife?

3 A That's what it says, yes.

4 Q Let's go to item 51A-2 which is the handle of
5 the knife sharpener. And I believe that that is on page
6 3 of 8 and it's the fourth paragraph down.

7 MS. REKOFF: And, Your Honor, may I
8 approach and get that item?

9 THE COURT: Yes.

10 MS. REKOFF: No. 94.

11 Q (BY MS. REKOFF) Okay. You collected a knife
12 sharpener from the scene that day, right, sir?

13 A Yes.

14 Q And you collected that knife sharpener because
15 you thought maybe somebody used it to sharpen a knife, I
16 guess, during this incident, correct?

17 A No, that's not why I collected it.

18 Q Why did you collect it then?

19 A Because there was blood on the handle and it
20 matched the knives that were in the house that -- the
21 knife on the floor of the living room and the other
22 knives that were on the scene.

23 Q But you thought it was maybe relevant to what
24 happened out there, right?

25 A Yes.

1 Q Can you go ahead and read to the members of the
2 jury what the results are for whose DNA was found on
3 51A-2, the handle of the knife sharpener?

4 A Make sure I'm under the right paragraph for
5 you.

6 Q It's at the very end, that number is. Fourth
7 paragraph down.

8 A I've got it. "The DNA results obtained from
9 items 2A-2, 24A-2, 24D-1, 25A-2, 26A-2, 27A-2, 28A-2,
10 29A-2, 30A-2, 31A-2, 34A-2, 35A-2, 37A-2, 38A-2, 39A-2,
11 40A-2, 41A-2, 42A-2, 51A-2, and 52A-2 are consistent
12 with the DNA results obtained from item K1. Therefore,
13 Cristina Garcia, (K1; ML 10-3812) cannot be excluded as
14 a possible source of DNA on these items. Adolpho
15 Martinez (K2) is excluded as the source of the DNA on
16 these items."

17 Q Okay. So what that, basically, is saying is
18 that any evidence that you could collect through the
19 swab could possibly be Cristina Garcia's but it is not
20 Mr. Martinez's DNA?

21 A Right. States Adolpho Martinez is excluded
22 from the source.

23 Q And when they say it's excluded, means they
24 tested against his DNA and his DNA was not found on it,
25 correct, sir?

1 A Not found on the swab, correct.

2 Q If you will, sir, let's go back to the crime
3 scene and talk a little bit about that. And when you
4 get there, it's really not your job to interview
5 witnesses or anything, you're just going in there and
6 you're taking photographs of things that are important,
7 you're collecting evidence, correct?

8 A Yes.

9 Q How would you describe that crime scene? We
10 saw the pictures; but in your words, how would you
11 describe it?

12 A Well, the crime scene, major noticeable factor
13 of the crime scene was the amount of bloodstains
14 throughout the crime scene. In the living room, on the
15 walls, the blood -- basically, trail of blood being --
16 continuing from the complainant's residence to the other
17 residences. The living room of the complainant's
18 residence appeared to be -- items appeared to be
19 disturbed, maybe like they've been moved or like -- the
20 overall appearance appeared like a scuffle with a knife
21 occurred in the residence. From the bloodstains, the
22 appearance of bloodstains, appearance of items moved
23 around the room, the broken wall all to me appeared to
24 be some type of struggle. The rest of the house, the
25 bedroom, the other rooms appeared pretty much

1 undisturbed, like no event occurred in there, other than
2 the broken glass that was in the bathroom.

3 Q Did you see signs of any ammonia or any
4 cleaning supplies that might commonly be used to clean
5 up a mess in someone's house?

6 A There might have been some in the cabinet, but
7 I don't recall seeing any out.

8 Q Did you see any evidence that Mr. Martinez
9 tried to clean up this crime scene or conceal or hide
10 anything from you-all at this crime scene?

11 A I didn't see any signs of any cleaning up or
12 concealment.

13 Q In fact, the switchblade knife and kitchen
14 knife was laying right out in plain view on the living
15 room floor?

16 A Yes, they were.

17 Q Why is it that you didn't test the hair on the
18 kitchen knife?

19 A Somebody was -- there was a clump of hair that
20 I had already collected separately on the knife itself
21 at some point; but sometimes depending on the evidence,
22 if I was to remove it, then to me, I had already
23 collected some hair from the scene to be tested. The
24 hair on the knife was to show that the hair was actually
25 attached to the knife, stuck to the knife.

1 Q So, you just decided not to have that
2 particular hair tested?

3 A Yes.

4 Q Okay. What does nonnegligent manslaughter mean
5 to you?

6 A Nonnegligent, purposely to commit a homicide.
7 Pretty much on purpose.

8 Q And why do you classify it as manslaughter?

9 A Well, I would have to check the actual
10 definitions of manslaughter as far as murder.

11 Q I guess I was wondering because you have this
12 down as your modis operandi in your offense report. You
13 have murder and then you have another category of
14 nonnegligent manslaughter.

15 A Oh, those are filled in from the original
16 report on our system. Those items are -- that entire
17 section of the report, when we create a supplement to
18 the report, those blocks are filled in by the -- what
19 was filled in on the original report. So, I didn't
20 select those.

21 Q So, if you didn't select that language, it
22 probably would have been Deputy Fisher who selected that
23 language?

24 A No, would have been the original reporting
25 deputy, generates it from the original report. So,

1 Deputy Fisher did not generate the original report.

2 Q So, Deputy -- I think it was a constable --
3 Dodson, Officer Dodson was the responding officer?

4 A The reporting officer.

5 Q Okay. How many crime scenes have you
6 photographed in your years of experience?

7 A Hundreds.

8 Q And is there anything that you learn when
9 you're photographing a crime scene? Can you decide
10 whether you think somebody planned to do this, or just
11 something happened and it wasn't planned and things got
12 out of hand and there you are taking pictures of
13 everything that's chaotic and blood everywhere, and a
14 mess, does that tell you anything?

15 A When I'm photographing a scene?

16 Q Yes. Do you think anything about it when
17 you're doing that?

18 A Well, when I photograph a scene, I take the
19 information given to me from the reporting deputy, from
20 the homicide investigators, from my own observations of
21 the scene on what to photograph, what areas. Generally
22 I'm photographing, regardless of what I'm told,
23 everything I can at the scene. Even areas that haven't
24 been said to be relevant, I usually photograph. I'll
25 take hundreds of photographs at any given scene. As far

1 as my photographs are concerned, I'm photographing the
2 scene itself, the layout of the house, other items in
3 the house, whether relevant or not, just to give a
4 picture of the overall scene. So, as far as my
5 photographs are concerned, there was emphasis given to
6 how many photographs or how many close-up photographs
7 were given to particular areas might be more relevant to
8 actual events. But I generally photograph all areas of
9 the scene.

10 Q And you do that because you want it to be a
11 thorough investigation and when you go out to the scene,
12 sometimes you don't know what's relevant about the crime
13 that occurred, correct?

14 A Correct.

15 Q When you took photos at the station of
16 Mr. Martinez, you took them at the time when he had just
17 learned Cristina Garcia had died. Do you recall that?

18 A I don't -- I don't have information of the time
19 of when he learned that or not.

20 Q Do you remember when you were photographing him
21 that he was emotional?

22 A I don't recall if he was emotional or not.

23 Q You don't remember?

24 A No.

25 Q Okay.

1 MS. REKOFF: Pass the witness, Your
2 Honor.

3 THE COURT: State?

4 MS. PALMER: Nothing further.

5 THE COURT: May this witness be excused?

6 MS. PALMER: Yes, Your Honor.

7 MS. REKOFF: Yes.

8 THE COURT: State, call your next.

9 MS. PALMER: Patty Garcia.

10 THE COURT: You may proceed.

11 MS. PALMER: Thank you, Your Honor.

12 **PATTY GARCIA,**

13 having been first duly sworn, testified as follows:

14 **DIRECT EXAMINATION**

15 BY MS. PALMER:

16 Q Could you please introduce yourself to the
17 jury.

18 A My name's Patricia Hidalgo Garcia. I'm
19 Cristina Garcia's sister.

20 Q And you know you're going have to spell your
21 whole name?

22 A Cristina?

23 Q Your name.

24 A P-A-T-R-I-C-I-A, middle name is H-I-D-A-L-G-O,
25 last name is G-A-R-C-I-A.