

1 (Open court, defendant and jury present.)

2 *THE COURT:* Be seated, please. Good morning,
3 ladies and gentlemen.

4 *THE JURORS:* Morning.

5 *THE COURT:* All right. Ms. Fuller.

6 *MS. FULLER:* Thank you, Your Honor. May I
7 proceed?

8 *THE COURT:* Sure.

9 **ELI CISNEROS,**

10 **DIRECT EXAMINATION (CONTINUED)**

11 *Q.* (BY *MS. FULLER*) Good morning, Sergeant Cisneros.

12 *A.* Good morning.

13 *Q.* Are you the same Sergeant Cisneros who testified
14 yesterday in this matter?

15 *A.* I am.

16 *Q.* All right. And you're still under oath; is that
17 correct?

18 *A.* That's correct.

19 *Q.* Okay. When we left off yesterday, we were talking
20 about the interrogation or interview style that you've
21 developed for yourself; is that right?

22 *A.* That's correct.

23 *Q.* Okay. And we started to talk about June 28th,
24 2010, the date in which you met the defendant and actually
25 interviewed him; is that right?

1 A. That's right.

2 Q. All right. And I believe when we left off we
3 admitted the actual statement of the defendant itself; is
4 that right?

5 A. That's correct.

6 Q. All right. Now, prior to you going into that
7 interview with the defendant, did you know whether or not
8 those remains that were found out at 6100 Frisco had been
9 identified?

10 A. Yes.

11 Q. Okay. So, you were notified by whom of the
12 identification?

13 A. By Doyle with the Harris County ME's Office.

14 Q. Okay. And so, going in, you knew that the remains
15 had been identified?

16 A. That's correct.

17 Q. Okay. When -- going into that interview, had the
18 ME's Office given you any other further information?

19 A. No.

20 Q. Did you know the manner and means at which that
21 person who had been identified died?

22 A. No.

23 Q. Okay.

24 MS. FULLER: May I approach the witness, Your
25 Honor, or the bench?

1 THE COURT: You may.

2 MS. FULLER: Permission to publish State's
3 Exhibit 98. Your Honor, at this time may I publish State's
4 Exhibit 98?

5 THE COURT: Sure.

6 MS. FULLER: And Your Honor, just to let you
7 know, this is going to be very loud from the speaker.

8 THE COURT: Okay.

9 (State's Exhibit No. 98, the videotaped
10 statement of the defendant, was played.)

11 Q. (BY MS. FULLER) Sergeant Cisneros, I want to go
12 back to the beginning of the interview and talk about some
13 of the things that you saw when you were conducting this
14 interview. Let's -- you mentioned yesterday the
15 rapport-building phase. And you mentioned that it wasn't
16 videotaped. What can you tell us, from your memory,
17 occurred during the rapport-building stage with this
18 defendant?

19 A. Well, it's like I said -- is this on? Like I said
20 yesterday, the -- I don't think this is on.

21 MS. FULLER: Your Honor.

22 THE COURT: It's not on.

23 THE WITNESS: How about now?

24 THE COURT: Mine is on, unless it's turned off
25 from that, I don't know. But mine is on.

1 MS. FULLER: Yeah.

2 THE COURT: Try that.

3 A. Okay. With the rapport building was just me
4 entering the room and introducing myself, letting him know
5 who he was about ready to speak to, what I wanted to talk to
6 him about, to offer restroom, drink or food, which he
7 accepted the drink, which is a bottle of water, and to let
8 him know that's what I wanted to talk to him about. Also
9 said it was apparent that he was very nervous. The whole
10 objective during the rapport building is to, of course, you
11 know, introductions, like I just said, and to bring the
12 anxiety level down because what I want to do is just get a
13 quick, cursory look of what his body language is like and
14 his nonverbal behavior in a relaxed state is what I'm
15 attempting to do at that point.

16 Q. (BY MS. FULLER) At that point were you able to get
17 a baseline on his relaxed state?

18 A. As relaxed as one can get, of course, being inside
19 a homicide interview room.

20 Q. I believe you testified yesterday that he told you
21 that he was scared.

22 A. That's correct.

23 Q. Okay. Can you describe for the jury what his
24 demeanor is like at this point?

25 A. If you noticed at the beginning of the video, where

1 he was kind of with his head down in the head-down position,
2 arms crossed in front with his head hanging down, he was
3 very similar to that but was able to make eye contact and
4 talk to me face-to-face at that point.

5 Q. Okay. How was his body language or his baseline
6 different in that rapport-building phase versus what we see
7 in the interview and the interrogation phase?

8 A. Okay. During the interview phase of this, as
9 everybody just saw, the moment I walked in, he was with the
10 head-down position there, not fidgeting around at all. As
11 soon as I walk into the room and sit down and actually start
12 speaking, the clusters start occurring, which I was
13 referring to yesterday, which is the nonverbal behavior in
14 clusters.

15 Q. Okay. Can you describe for the jury what kind of
16 clusters you saw at that point?

17 A. Throughout the entire interview phase is what I was
18 concentrating on, some of the clusters were the head down,
19 covering the eyes, rubbing or pinching the nose area kind of
20 with his hands over his face and some of them are real
21 subtle and you have to really pay attention to them and
22 they're fast but those are considered what we call clusters,
23 nonverbal behavior in clusters.

24 Some of the other ones were the rubbing of the
25 face. Looking down was another cluster. Looking down,

1 fidgeting with the water bottle was another one. The mental
2 escape, as I mentioned, covering the eyes, that is what we
3 call mental escape and that is the -- it's kind of a natural
4 reaction that a person has when they're under a lot of
5 stress or a lot of anxiety is mentally they're trying to
6 remove themselves from the situation because it's -- the
7 anxiety is high. I observed a lot of them throughout.

8 Q. Okay. And that was different from what you
9 observed when you very first introduced yourself during that
10 rapport-building phase?

11 A. Yes, yes.

12 Q. Okay. Now, anything else that you recall from the
13 rapport-building phase that we haven't talked about?

14 A. No.

15 Q. Now, when you moved into the interview phase,
16 that's when you start to find those body language clusters;
17 is that correct?

18 A. That's correct.

19 Q. And tell us what your goal is with the defendant
20 during this interview phase.

21 A. Well, again, I'm talking about the specifics about
22 the case itself and as I do so, what I try and key in on is
23 any movements or any nonverbal behavior that's different and
24 not consistent with what I originally saw when I went in and
25 through the initial rapport building, that quick cursory

1 glance that I looked at, that kind of gives me -- again,
2 this is an investigative tool for me in the interview phase
3 and what it basically does is it lets me know in conjunction
4 with what I've learned throughout the investigation up until
5 that point if I need to proceed on from the interview phase
6 to an actual interrogation phase.

7 Q. Okay. So, you're using the statements that you've
8 already obtained from other witnesses in the case, what you
9 know about the scene as you saw it, in addition to the
10 questions that -- and answers that you're getting from the
11 defendant and that's telling you whether or not you need to
12 move into this next phase.

13 A. That's correct.

14 Q. And let me make sure I have this right, too. Also
15 to give you another tool to know whether or not this witness
16 is now becoming a suspect, you're also watching his body
17 language to see if you find these deceptive body clusters.

18 A. That's correct.

19 Q. Okay. Now, and we saw at the very beginning of
20 this you read him his rights; is that correct?

21 A. That's correct.

22 Q. And he was able to tell you that he wanted to waive
23 those rights and speak with you?

24 A. Yes.

25 Q. When you started to do the interview portion, you

1 started asking questions, does Ruben say anything to you
2 that, in your training and experience, triggers more
3 questions that you need to talk about?

4 A. Yes.

5 Q. What is that?

6 A. During the interview, without asking any questions,
7 he offered: I didn't hit her or nothing. And that
8 immediately got my attention because I didn't ask any
9 questions, anything related to that, hitting, pushing,
10 anything. That was offered up. That got my attention. It
11 was very quick. If you don't pay attention, you'll miss it
12 but he did say that, I didn't hit her or nothing.

13 During the statement when he says that she was
14 convulsing, that got my attention as well.

15 Q. Why did that get your attention?

16 A. I had worked a previous double murder case and in
17 that case the victims were strangled and I did obtain a
18 confession in that case as well. And the person admitted --
19 the suspect in that case admitted that as he was strangling
20 this individual, that just prior to death, that the victim's
21 body started convulsing violently. So, hearing that, that
22 got my attention.

23 When I'm viewing this nonverbal body language
24 that in my opinion was consistent with the person being
25 deceptive and the statement that was made by the defendant,

1 I didn't hit her or nothing, as well as that statement about
2 her convulsing, and my prior experiences, that led me to
3 believe that there was probably more to this than what was
4 being said.

5 Q. Okay. So, based on all of that, you then, in your
6 mind, based on your training and experience and what you
7 know about the case up to this point, you think that perhaps
8 you should start down the line of questioning with
9 strangulation?

10 A. That's correct.

11 Q. Okay. Is that why you start to suggest perhaps
12 strangulation or --

13 A. Right. I kind of incorporated that into the themes
14 that I presented.

15 Q. Is there anything else that you learned during the
16 interview phase from the defendant?

17 A. No.

18 Q. Okay. So, at this point, armed with all the
19 information that you have and what you're seeing with
20 Ruben's body language and what he's telling you, what do you
21 decide to do next?

22 A. At that point I decided that this definitely
23 warrants a interrogation and I kind of switch gears and
24 moved on into that.

25 Q. Okay. And when you switch into the interrogation

1 phase, what do you do specifically with Ruben to get into
2 that next phase?

3 A. Well, I started offering themes and I believe I
4 offered about four different themes.

5 Q. Okay. We talked a little bit about themes
6 yesterday but can you tell me specifically in this case did
7 you develop those themes as you were -- as you were talking
8 to him in the interview phase?

9 A. Yes.

10 Q. Okay. So, you don't -- you didn't go into this
11 interview planning what you were -- what these themes were
12 going to be?

13 A. No. As -- during the interview phase, I'm kind of
14 paying attention to what's going on. I have this previous
15 knowledge of the case as I'm going into the interview and
16 based on what I'm seeing, based on what I'm hearing, I'm
17 kind of formulating these themes in my mind as I'm going
18 through the interview and should the investigation be
19 warranted, I use these themes and present these themes
20 during the interrogation phase.

21 Q. And are these themes themes that you believe to be
22 true?

23 A. No. Some of the themes I may believe are true,
24 like in this case about the hand over the throat part, I
25 believe that based on what I'd heard up until that point or

1 suspected that, had pretty good suspicions about that. Some
2 of the others I don't believe, like, perhaps maybe it was an
3 accident or he didn't mean to do it. I don't have to
4 believe it. They don't have to be -- sometimes it's not the
5 truth. It's the -- the whole purpose of that is to justify
6 or minimize the actions of the person whom I'm interviewing
7 at that time -- I'm interrogating at that time. Sometimes,
8 again, I even shift the blame from the offender himself to
9 the victim in the case.

10 Q. Okay. Tell us what the themes are that you used
11 during this interrogation phase.

12 A. One of the themes I used was it was an accident and
13 he didn't mean to do it. You didn't mean for it to happen
14 like that. Sometimes sex gets a little rough and some women
15 like it a little rough.

16 Q. Okay. At any point did he -- when you offered,
17 let's say, the first theme, when you offered: It was an
18 accident, wasn't it? We saw in the video but does he, in
19 fact, agree with you that it was an accident?

20 A. No.

21 Q. When you put forth a theme that it just got a
22 little bit out of control, did he agree with that?

23 A. No.

24 Q. When you put forth a theme that things got a little
25 bit out of hand -- excuse me -- that things got a little

1 rough, did he initial -- did he agree to that?

2 A. Initially, no.

3 Q. And the final one, you said some women like sex a
4 little rough. Did he agree to that?

5 A. No.

6 Q. Okay. So, once you put forth those themes, even if
7 they -- even though the defendant did not agree to those, do
8 you continue using those themes in your interrogation as you
9 proceed forward?

10 A. Yes, I do.

11 Q. Okay. And why is that?

12 A. It takes more than one round of presenting themes.
13 Sometimes it can go on for hours of presenting themes and if
14 you have pretty good suspicions that the person committed
15 whatever act it is you're investigating, if those themes
16 aren't working, then sometimes you even change themes as you
17 go along. You might use a couple of them as you continue.
18 Sometimes as you go along, you come up with new themes to
19 keep presenting.

20 Q. What -- I'm sorry.

21 A. Go ahead. I'm sorry.

22 Q. What is the longest interview that you've conducted
23 with a suspect?

24 A. About six or seven hours.

25 Q. Okay. And do you know approximately how long this

1 interview lasted for?

2 A. It was pretty quick, maybe about 25 to 30 minutes,
3 I guess.

4 Q. Okay. So, in the -- in your experience was this on
5 the longer or shorter side of an interview?

6 A. This was extremely short.

7 Q. Okay. Tell us what you observed in the defendant
8 during the interrogation phase.

9 A. Well, one of the things I noticed was the crying
10 part of that. And I've done many, many interviews and many,
11 many interrogations. The crying, in my opinion, was not
12 sincere, was what we refer to in homicide as crocodile
13 tears.

14 Q. Okay. What else did you observe?

15 A. His behavior was very mild and meek as opposed to
16 the end of the interview or interrogation, rather.

17 Q. What did you notice -- what change did you notice
18 from the beginning of the interrogation phase to the end of
19 the interrogation phase in his body language?

20 A. Well, towards the end of the interrogation, once
21 the admission had already been made, where he becomes angry
22 after the fact, you had the very controlled Ruben attempting
23 to plead his case and at the end he becomes -- he goes into
24 what we call mental escape again where he laid his head down
25 on the table and was -- just removed himself from the

1 situation itself and up until the point where he stood up
2 and was defiant at that part and in my opinion that is the
3 real Ruben at that point.

4 Q. Okay. I want to go back to the themes. When you
5 are suggesting these themes to him, do you believe that
6 these themes are true? For instance, do you believe that it
7 was an accident?

8 A. No.

9 Q. Okay. Again, the themes are used more as a tool?

10 A. It's a tool. Again, it's meant to minimize or
11 justify the person's actions in their mind.

12 Q. Okay.

13 A. Sometimes that makes it easier for a person to
14 admit to, when you minimize what it is that was actually
15 done or again, like I said, you sometimes move the blame
16 from the person or the offender to the victim.

17 Q. Okay. Now, there's some things that he -- were
18 there things that the defendant offered on his own to you
19 during that interrogation phase, information that he offered
20 on his own?

21 A. Yes.

22 Q. What were those pieces of information?

23 A. Well, once the admission had been made and he said
24 it got a little crazy, well, that wasn't one of the themes
25 that I suggested. I said, You know, it may have -- well,

1 you didn't mean for it to happen like that, sometimes it
2 gets a little rough, well, first he said, Well, it got a
3 little rough and then said, It got a little crazy after that
4 and actually demonstrated by placing his right hand up. And
5 when I asked a question, you know, Were you on top of her,
6 he responded yes. When I asked how long he had his hand
7 around her neck, he offered, Three minutes. First he said a
8 second. And I clarified, Well, how long? And he offered
9 up -- you know, I didn't suggest, hey, was it three minutes
10 you had your hand around her neck? No, he offered that up
11 on his own.

12 Q. Okay. Now, while you're in this interrogation
13 phase, there are a couple of lies that you say to him; is
14 that correct?

15 A. Yes.

16 Q. Okay. For instance, talking about the fact that
17 you knew she didn't want to have sex with him.

18 A. Right.

19 Q. Okay. Why did you do that?

20 A. Legally it's permissible for us to lie during an
21 interrogation. Sometimes when we suspect that a person has
22 committed an offense, if -- we may lead them to believe we
23 have more information than what we actually do have on that
24 and sometimes that will cause the person to admit to
25 whatever offense it is that they did.

1 Q. Okay. One of the other things that you said to him
2 that was a lie was that you know she didn't die from
3 convulsing.

4 A. Right.

5 Q. And that was a lie at that point?

6 A. Yes.

7 Q. Again, had you heard from the Medical Examiner's
8 Office how she had died?

9 A. I had no idea what the cause of death was at that
10 point.

11 Q. Okay. You also said to him that I have evidence
12 that you put your hand around her neck. Again, is that a
13 lie that you say to him at that point?

14 A. Yes.

15 Q. These are all tools that you're using that you're
16 permissibly allowed to use in order to see if he'll tell you
17 the truth.

18 A. That's correct.

19 Q. Now, you say that -- before I move on, is there
20 anything else in the interrogation phase that you noticed
21 that we have not covered?

22 A. No.

23 Q. Okay. Now, you state that at the end of the
24 interrogation phase that he starts going to mental escape.

25 A. Yes.

1 Q. Tell us what we saw when you cued in that he was
2 going into a mental escape. What does he do?

3 A. Well, he completely removed himself from the
4 interrogation by turning around and placing his head on his
5 hands on the table there. As I mentioned yesterday, one of
6 the ways that we bring a person out of mental escape is by
7 referring to them by name, calling their name, and that
8 typically will snap the person out of this mental escape.

9 When he actually stood up and walked away, I
10 interpreted that as, you know, there's no bringing him back
11 to the table at that point to continue with anything. So,
12 it was my understanding that the interrogation was going to
13 be over at that point and I stopped it.

14 Q. Okay. Now, there were a couple of things that the
15 defendant says to you during -- up to the point where you
16 stop the interview. One of the things that he says is, You
17 tricked me; is that right?

18 A. Yes.

19 Q. Did you trick him into saying it was an accident?

20 A. No.

21 Q. In fact did he ever say it was an accident?

22 A. No.

23 Q. Did you trick him into saying that you didn't mean
24 for it to happen?

25 A. No.

1 Q. In fact does he ever say that he didn't mean for it
2 to happen?

3 A. No.

4 Q. Did you trick him into saying sometimes sex gets a
5 little rough?

6 A. No.

7 Q. Did he ever say sometimes sex gets a little rough?

8 A. No.

9 Q. Did you trick him into saying that some women like
10 it a little rough?

11 A. No.

12 Q. Did he ever admit that Linda liked it rough?

13 A. No.

14 Q. He also says to you at the end, I thought you were
15 going to help me, man. In your mind what is he talking
16 about?

17 A. He's referring to when I walked in during the
18 rapport-building stage, when I first met him, I made the
19 introductions and he said, I'm scared and I told him, Look,
20 I need you to relax, calm down, and I'm going to help you
21 through this, meaning the process that we was about to go
22 through, which was the interview phase.

23 Q. Okay. Now, he also keeps repeating, I didn't kill
24 her, man, and you've already convicted me. Did you ever
25 accuse him of killing her during your interview or

1 interrogation?

2 A. No.

3 Q. He also is worried about being convicted. Did you
4 ever tell him that he was going to be charged with the
5 murder of Linda Hartsough during the interview or
6 interrogation?

7 A. No.

8 Q. Where do you think that came from?

9 A. As far as the -- I don't know. That -- the
10 question, I can't answer. As far as being tricked, you
11 know, when we -- a person comes into the interview room and
12 they've committed an act, that person will come in typically
13 with their game face on and in their mind they have no
14 intentions of admitting what it is that they've done.
15 When -- at the end of the interrogation, once it finally
16 leads to that, when the person finally admits that they did
17 whatever it is that they did, probably in their mind they
18 think, How did this guy get me to say or admit to this and
19 in their mind they probably believe that they were tricked
20 because they didn't want to say that to begin with in the
21 first place, you know, so that's --

22 Q. At any time did you ever promise the defendant that
23 you'd give him anything to -- or help him with anything if
24 he gave you a statement?

25 A. No.

1 Q. Okay. The only thing you'd tell him is, I'm going
2 to help you through this interview process?

3 A. Right.

4 Q. Okay.

5 *MS. FULLER:* May I approach the witness?

6 *THE COURT:* You may.

7 Q. (*BY MS. FULLER*) At one point during the interview
8 you showed the defendant a photograph of Linda Hartsough; is
9 that correct?

10 A. That is correct.

11 Q. I'm going to show you what has been marked as
12 State's Exhibit 4, previously been admitted. Do you
13 recognize that?

14 A. I do.

15 Q. Is that the photograph that you showed the
16 defendant when you were making sure that the two of you were
17 talking about the same person?

18 A. Yes.

19 Q. Okay. And did he, in fact, say that this was Linda
20 Hartsough, the person he was talking about?

21 A. Yes.

22 Q. All right. In his statement he also talks about
23 getting two for 10. Is that lingo familiar to you?

24 A. Yes, it is.

25 Q. What does that two for 10 mean?

1 A. It means two crack rocks, \$10 rocks.

2 Q. Okay. So, for \$10 you get two rocks?

3 A. Well, one \$10 rock is a \$10 rock. Two for 10 is
4 one \$10 rock that's, like, broke in half.

5 Q. That's what he says that he purchased for him and
6 Linda?

7 A. Yes.

8 Q. You were on patrol for many years. In your
9 training and in your experience as a police officer, is that
10 a lot of crack cocaine?

11 A. It's a very small amount of cocaine.

12 Q. And when you've got two people or more sharing that
13 amount, makes it even smaller?

14 A. Makes it even smaller and when you break away
15 another portion of this to give away, which in this case
16 happened, it's even a smaller amount.

17 Q. Okay. All right. So, this interview happened on
18 what day?

19 A. I believe it was the 28th.

20 Q. Okay. And did you do anything else in terms of the
21 investigation on that day? On the 28th?

22 A. At the conclusion of the interrogation, I made
23 contact with the Harris County DA's Office and spoke with
24 Assistant District Attorney Katherine McDaniel.

25 Q. Okay. And any other -- anything further on that

1 day?

2 A. He was charged on that day. The District
3 Attorney's Office accepted charges based on that statement
4 that he made. Charges were filed.

5 Q. And also the other pieces of evidence that you told
6 them on the phone.

7 A. Of course, yes.

8 Q. Okay. On June 28th -- excuse me -- Tuesday,
9 June 29th, do you do anything further with the case the next
10 day?

11 A. Now that we have this new information from the
12 interview and interrogation --

13 Q. Let me stop you there. What is that new
14 information?

15 A. Well, that -- his admission to placing his hand
16 around Linda's neck on that date, the date this incident
17 happened.

18 Q. Okay. So, what do you need to do with that
19 information?

20 A. Well, that's information the Harris County ME's
21 Office should be aware of and a call was placed to
22 Dr. Pinneri, who was the medical examiner in charge at that
23 time, and this information was left on the voice mail.

24 Q. In your experience, why is that information
25 important to get to the ME's Office?

1 A. The Medical Examiner's Office always wants to know,
2 well, any important information or pertinent information
3 that might be useful to them in helping to determine what
4 cause of death is.

5 Q. Is it unusual for you as a homicide investigator to
6 speak with the Medical Examiner's Office?

7 A. No, it was not. And specifically in this case
8 right now that we're talking about, we had a skeleton where
9 bones were strewn about. Another reason we left this
10 information or an important reason we left this information
11 with Dr. Pinneri was that now we had this information or
12 this admission that he placed his hand around her neck --
13 typically in strangulation type matters that I've worked,
14 the hyoid bone, which is located in the neck, is either
15 fractured or broken and because there were bones strewn
16 about, I wanted to ensure that we did have the hyoid bone or
17 that she had the hyoid bone.

18 Q. Okay. Is it unusual in your experience for -- and
19 I'm talking any homicide case that you're investigating --
20 for you as the homicide investigator to accompany the
21 medical examiner while they're performing the autopsy?

22 A. It's very common.

23 Q. Is it fair to say you and the Medical Examiner's
24 Office have to work together in order to solve a case?

25 A. Sometimes.

1 Q. Now, after -- did anything else occur on June 29th?

2 A. No.

3 Q. And can you tell me what happened further in this
4 case in your investigation?

5 A. Well, that was June 29th, on a Tuesday. On
6 July 8th of 2010, we received a phone call from Dr. Pinneri,
7 informing us that --

8 MR. CORNELIUS: Objection to the hearsay at
9 this point, Judge.

10 THE COURT: Sustained.

11 Q. (BY MS. FULLER) At that point were you notified of
12 her findings?

13 A. Yes.

14 Q. Now, you said on June 29th, were you actually able
15 to speak to somebody or was a message left?

16 A. I believe a message was left.

17 Q. Okay. So, between June 29th and July 8th, did you
18 have any phone calls where you actually spoke with
19 Dr. Pinneri?

20 A. No.

21 Q. Now, in your experience investigating homicide
22 cases, have you found that a hand can be used as a deadly
23 weapon?

24 A. Yes.

25 Q. How so?

1 A. Well, specifically when a person -- I've worked
2 strangulation cases before where the hand has been used as a
3 weapon to strangle the other person.

4 Q. Okay. And in those cases was the hand the cause of
5 death?

6 A. Yes.

7 Q. In your investigation of homicide cases, have you
8 found any other instances where a hand was placed around
9 somebody's neck and it didn't cause harm to that person?

10 A. Not -- my cases are homicide specific. So, in my
11 types of cases, no.

12 Q. Okay. So, in your dealings, if somebody's putting
13 their hands around somebody's neck, it's to cause serious
14 bodily injury or death?

15 A. In my cases, yes.

16 Q. Now, did you request DNA testing of the evidence
17 that was collected at the scene?

18 A. Yes.

19 Q. Do you recall what you requested to be tested?

20 A. The clothing that was located near the skeletal
21 remains, DNA was requested on that. The debris, some of the
22 debris that was around there, which were bottles and cans,
23 DNA was requested off of that. And, of course, her
24 toothbrush that was submitted and my understanding, no DNA
25 was located. Also two fingernail scrapings off of the

1 victim's fingernails and my understanding, no DNA was
2 recovered off of that.

3 Q. Okay. Were the victim's fingernails recovered?

4 A. Well, I requested the scrapings. I wasn't sure
5 what they actually had in terms of fingernails or not. In
6 the event that fingernails were recovered from the bones, I
7 had requested DNA from that.

8 Q. Did you request any kind of contact or trace DNA?

9 A. Not that I'm aware of.

10 Q. If you hadn't -- didn't, was there a thought
11 process behind not doing so?

12 A. Yes. The amount of time that the clothing had
13 remained there would, from my experience, ruin any chances
14 of recovering any type of contact DNA.

15 Q. Okay.

16 MS. FULLER: May I have just a moment, Your
17 Honor?

18 THE COURT: You may.

19 MS. FULLER: Pass the witness, Your Honor.

20 THE COURT: Ladies and gentlemen, let's go
21 ahead and take our morning break. We'll be in recess until
22 11:25, please.

23 *(Jury not present.)*

24 *(Recess.)*

25 *(Jury present.)*

1 THE COURT: Be seated, please.

2 And Mr. Cornelius, you may proceed.

3 **CROSS-EXAMINATION**

4 Q. (BY MR. CORNELIUS) Sergeant Cisneros, we have met
5 and talked about this case and other cases before, haven't
6 we?

7 A. Yes, we have.

8 Q. Just sitting here listening to you testify today
9 and yesterday, you know a lot about lying, apparently. You
10 can tell when people are lying, right?

11 A. Well, I went over the interview and interrogation
12 techniques that I use.

13 Q. Do they work on you?

14 A. Did it work on me?

15 Q. I mean, would they work on you? I mean, for
16 example, when you're lying to the suspect, do you cover your
17 eyes or put your head down or cry or cross your arms or any
18 of that stuff?

19 A. I'm not the one being questioned. It's the person
20 whom I'm interviewing or interrogating.

21 Q. That stuff, all your technique stuff really
22 wouldn't apply to you because you don't do any of those
23 things when you're telling lies.

24 A. It applies the other way around because it is a
25 person being questioned and responding to the questions that

1 are being asked.

2 Q. That's convenient for you, isn't it?

3 MS. FULLER: Objection to argumentative, Your
4 Honor.

5 THE COURT: Sustained.

6 Q. (BY MR. CORNELIUS) Okay. When you began your
7 interview with Mr. Juarez, you knew that he was a crack
8 user, right?

9 A. No.

10 Q. Roger didn't tell you that?

11 A. That he was a cracker user?

12 Q. Uh-huh. He didn't tell you in your statement
13 that's part of your offense report --

14 A. I stand corrected on that. Yes, I did know that.

15 Q. All right. So, from your experience, 19 and a half
16 years in the police department, being on the streets a large
17 part of that and the training that you've had, you know that
18 people that smoke crack one time are addicted to it. You
19 know that, don't you?

20 A. Sometimes.

21 Q. Well, is there a doubt about that?

22 A. Yes, sir, yeah, there is.

23 Q. Okay. And is there a stronger -- from your
24 experience and training -- a stronger, more addicting drug
25 other than maybe smoking methamphetamine than crack cocaine?

1 A. Perhaps heroin.

2 Q. You think heroin's more addictive than crack?

3 A. It's been my experience on the streets that it's
4 probably as addictive.

5 Q. Okay. So, if you knew that my client habitually
6 smoked crack at least with Roger and Linda, you knew he was
7 a crackhead, right, a crack addict?

8 A. Well, a person that smokes crack doesn't
9 necessarily make that person a crackhead. It depends on how
10 you define crackhead, habitual user or occasional user.
11 It's been my experience that not -- every person that smokes
12 crack is not a crackhead or an habitual user.

13 Q. Didn't it appear to you from your interview with
14 Roger and what you knew about this case at the time you
15 started your interview with Mr. Juarez that they were all
16 habitual crack users?

17 A. No.

18 Q. You didn't know that?

19 A. No.

20 Q. You didn't think they lived to drink alcohol and
21 smoke crack?

22 A. No.

23 Q. Okay. You think that -- you know that now, though,
24 right?

25 A. I still don't know that.

1 Q. Okay. What kind of training and education were you
2 aware of, if any, that Mr. Juarez had in his life at the
3 time you sat down to interview him?

4 A. I wasn't aware of any.

5 Q. Certainly had not been to all the schools that
6 you've been to, teaching you how to interview people and get
7 them to confess to something, right?

8 A. I would not know what schools he attended.

9 Q. Okay. Couple of things before we get into the
10 statement. You got the toothbrush.

11 A. Yes.

12 Q. Who did you get that from?

13 A. From Roger.

14 Q. That was Roger's wife's -- common-law wife's
15 toothbrush?

16 A. That's correct.

17 Q. And you got that to try to get DNA from it,
18 correct?

19 A. In the event that it was needed, yes.

20 Q. And do you know if the Medical Examiner's Office
21 tried to get DNA from it or maybe the Houston crime lab
22 or --

23 A. DNA was requested from there. I'm not sure if they
24 got it or not. The remains were identified prior to and
25 that was the sole purpose of the DNA.

1 Q. That's not my question.

2 A. Okay.

3 Q. My question was: Do you know if either the Medical
4 Examiner's Office or the Houston crime lab attempted to get
5 a DNA profile from the toothbrush?

6 A. I'm not aware of any.

7 Q. You're not aware of any attempt to do it?

8 A. Any attempt, yes.

9 Q. Well, what you told the jury not more than 30
10 minutes ago was, at least you left the implication, that
11 they weren't able to get DNA from it. Isn't that what you
12 said?

13 A. Well, referring to the evidence itself, it was
14 asked, the clothing, the --

15 Q. Talking about the toothbrush?

16 A. Well, if the toothbrush was mentioned in there, I'm
17 not aware of the crime lab extracting DNA from the
18 toothbrush.

19 Q. Or even attempting to.

20 A. Or even attempting to.

21 Q. Okay. The reason for that would have been to get a
22 DNA profile on the alleged victim, right?

23 A. In the event that it was needed, correct, to
24 identify the remains.

25 Q. Okay. And if you couldn't have gotten DNA from the

1 toothbrush itself, and it was -- if it was important to
2 somebody to actually identify by DNA the victim, you could
3 have gone and gotten her clothing. There would be an
4 infinite number of things that could have been attempted to
5 develop a DNA profile from, correct?

6 A. Correct.

7 Q. You made some comments about another case that you
8 handled where somebody was strangled and they convulsed?

9 A. Yes.

10 Q. Wouldn't you think just in common sense that
11 somebody that is being strangled would convulse?

12 A. Common sense? No. In fact, this was, you know,
13 this was the first case I've heard of someone actually
14 convulsing. I've never been present when a person was being
15 strangled to say what they do or don't do.

16 Q. Well, in the old westerns when people got hung,
17 usually we didn't get to see all that. All we get to see is
18 their legs convulsing. Remember those movies?

19 A. Sure.

20 Q. Can you imagine anybody just laying there passively
21 getting strangled unless they were already unconscious?

22 A. Well, from what I do know about strangulations is
23 typically when the blood is cut off from a person's neck,
24 the first thing that happens is a person passes out and when
25 you're, of course, unconscious, you lose control of your

1 body itself and what it does after that, I mean, of course,
2 I don't know.

3 Q. Okay. Do you think that people, from your
4 experience, convulse when they have a heart attack?

5 A. I've been present when a person has literally
6 fallen down in front of me. I performed CPR and that
7 person -- actually it's happened twice and I performed CPR
8 twice and both of those individuals died right in front of
9 me and neither of those two individuals convulsed.

10 Q. Okay. That's two. Do you think that people
11 convulse? Think it's possible people convulse when they
12 have a heart attack?

13 A. I don't know. It's possible. It's not -- I mean,
14 I'm not a doctor.

15 Q. What about a seizure?

16 A. Sure.

17 Q. A seizure? Somebody having a seizure?

18 A. Sure.

19 Q. A seizure is a form of epilepsy, correct, remember
20 that?

21 A. Yes.

22 Q. So, that's convulsions.

23 A. Yes.

24 Q. What about a drug -- a bad reaction to drugs?

25 A. I've never seen anyone have a bad reaction to

1 drugs.

2 Q. Think somebody could seizure because of that?

3 A. Yes.

4 Q. What about a cerebral hemorrhage?

5 A. I wouldn't know.

6 Q. All right. Do you think the Medical Examiner's
7 Office is part of law enforcement?

8 A. They're their own separate entity.

9 Q. I mean, they don't really report to the police,
10 right, or the sheriff's department?

11 A. That's correct.

12 Q. They're medical doctors.

13 A. Yes.

14 Q. And they're trying to determine, if they can,
15 medically, the cause of death.

16 A. Yes.

17 Q. And do you think it's their job to try to conform
18 their findings to what you believe are your theme as to how
19 a case happened?

20 A. Absolutely not.

21 Q. All right. From your experience, and I'm sure
22 you've seen pretty much everything, you think that chronic
23 alcohol, crack or other kind of drugs, marijuana, has a
24 positive or negative effect on someone's mind?

25 A. I'm sure it has a negative effect.

1 Q. We don't know where the defendant was or how he got
2 arrested. Did you arrest him, by any chance?

3 A. No.

4 Q. So, we don't know what he was doing when he got
5 arrested. Are you under the impression that you were
6 conversing with him within 40 minutes or so of the time he
7 was arrested?

8 A. Yes.

9 Q. I mean, you got -- you weren't there when he was
10 arrested but you got a call saying he was arrested or in
11 custody or whatever?

12 A. Yes.

13 Q. And you think you were talking to him within 40
14 minutes.

15 A. Yes.

16 Q. People don't sober up in 40 minutes, do they?

17 A. I've never seen anyone sober up in 40 minutes.

18 Q. When you're talking to a witness and you're trying
19 to find out what that witness knows and you're honestly
20 trying to find out what the witness knows, you're not trying
21 to tell them or signify what you want to hear; you want to
22 know what they know. For example, if you want to find out
23 which was the first one that came into a convenience store,
24 in a robbery, let's say, if you say to the witness you're
25 talking to, Wasn't it the guy in the red shirt that came in

1 first, and they agree with you, that's a leading question,
2 right?

3 A. Yes, it is.

4 Q. It has the answer in the question.

5 A. Yes.

6 Q. You wouldn't have the same level of comfort in
7 knowing that witness really knows the one in the red shirt
8 came first, you wouldn't have the same level of comfort as
9 you would if you asked the witness, Which one came in the
10 store first, the one in the black shirt or the one in the
11 white shirt or the one in the red shirt and they told you,
12 The one in the red shirt, correct?

13 A. In that specific scenario that you just gave, I
14 would agree with you.

15 Q. Okay. Well, in any scenario where you're trying to
16 find out what a witness knows, in a homicide investigation,
17 you're trying to find out what they know. Wouldn't it
18 always be better and more convincing to you if they gave you
19 the information freely and you didn't have to suggest to
20 them what the information was?

21 A. Are you referring to this case or just --

22 Q. Any case.

23 A. Any case?

24 Q. Any witness, any case.

25 A. If it was a situation to where they were given the

1 opportunity to speak and they laid out all of the
2 information as it was in this case right here without asking
3 any questions, it's different than the scenario that you're
4 giving there. When you're not asked any questions and
5 you're saying what happened and the individual lays it out
6 and spells it out for you and you're able to determine as in
7 this case that there was nobody else left to talk to, that
8 he was, in fact, the last person with her, that he was in
9 the woods with her when she died, I would have to disagree
10 with you in the scenario that you're giving.

11 Q. I don't know what you're disagreeing with. I mean,
12 if -- in this case if you had said, Ruben, what happened,
13 and he told you what you believed to have happened, wouldn't
14 that be more believable than you having to suggest it to him
15 and doing it that way?

16 A. In the time I've been in homicide and all the other
17 investigators that I've worked with, there has never been,
18 as far as I'm aware of, anyone coming into the homicide
19 office that has committed a crime that would sit there and
20 meet with the investigator and spell it out exactly what
21 happened the way it happened.

22 Q. Let me ask you to rethink that for a minute.

23 A. Okay.

24 Q. How often is it do you have people come into
25 homicide and confess to murders they didn't do?

1 A. I've never seen anyone do that.

2 Q. You've never heard of that?

3 A. No. Well, let me rephrase that. I've heard of
4 this happening in, like, on TV shows or things of that
5 nature but I've never seen a person or in my office heard of
6 anyone confessing to a murder they did not commit.

7 Q. You've never had a murder case where more than one
8 person confessed? You never had a wife say she did it when
9 the child did or a husband say he did it when the wife did?
10 Give me a break.

11 A. I have not.

12 Q. Okay. All right. Well, if you had a situation
13 like that and you were just trying -- you didn't know who
14 did it -- somebody did it. You didn't know who did it and
15 you got more than one person confessing, wouldn't you be
16 more comfortable when you were questioning them to find out
17 what -- the details that they know -- not you suggesting to
18 them what the details are.

19 A. Again, in the interrogation, if you have a
20 reluctant person that you're speaking to that's reluctant to
21 admit to what it is that they did, no one's going to spell
22 it out for you, as you're saying, as to what happened unless
23 you go through these techniques.

24 Q. Okay. Well, when you talked to Roger Rowland,
25 okay, how do you know he didn't do it?

1 A. Again, speaking at that point in the investigation,
2 what we're trying to do is locate the last individual that
3 was seen with Linda.

4 Q. Okay.

5 A. So, with the information that I received from
6 Roger, the last individual to be seen with her was Ruben.

7 Q. Okay.

8 A. So, now we're going to proceed on to Ruben and talk
9 to him and --

10 Q. Well --

11 A. As I said before in my testimony, that I could have
12 went to Ruben and Ruben said, well, yeah, I saw her with Joe
13 later that night and I would have interviewed Ruben, got his
14 statement and I would have went to look for Joe.

15 Q. Okay.

16 A. And maybe it goes on and on and on.

17 Q. Is the reason that you believe that Ruben is the
18 last person to be with her is because Roger told you that?

19 A. Yes.

20 Q. Okay. So, all you have is Roger's word for that.

21 A. As far as who Linda was last seen with.

22 Q. Right.

23 A. Then, of course, Ruben confirmed that.

24 Q. Okay. But I'm talking about when you're
25 interviewing Roger.

1 A. Okay.

2 Q. I didn't notice when you interviewed Roger that you
3 put in your report this part about rapport building. In
4 fact, the only person in your report that you divided out
5 your interview to rapport building and the rest of the
6 interview was with Ruben.

7 A. Yes.

8 Q. Okay. So, you already thought when you began your
9 interview with Ruben, you already thought he was guilty,
10 right?

11 A. No.

12 Q. Okay. Well, it looks like you kind of set up your
13 review here like you're trying to get a statement from him,
14 right?

15 A. We're getting ready to conduct an interview at this
16 point.

17 Q. Why didn't you do that with Roger?

18 A. Because the last individual that was seen with
19 Linda, from what the investigation had showed up to that
20 point, was Ruben. So, it's different. It's not the same
21 with Roger or any of the other individuals we spoke to. The
22 last person who was seen with this female, who is now
23 deceased in the bushes, is Ruben. We're going to go
24 speaking to him in a different way. We're going to
25 interview him in this manner.

1 Q. Maybe I'm not making my question clear. You didn't
2 know that until after you spoke with him, right? You didn't
3 know what Ruben was going to say until after you talked to
4 him, right?

5 A. Exactly. The information I had at that point was
6 that he was the last individual.

7 Q. Okay. All right. So, you didn't know what he was
8 going to say.

9 A. That's correct.

10 Q. So, why did you have to build rapport with him and
11 you didn't have to build it with Roger? You didn't know
12 what Roger was going to say either until you talked to him,
13 right?

14 A. Okay. Again, the investigation -- of course I
15 can't go into what the individuals said. I realize that. I
16 knew that -- this is a different type of witness that I'm
17 talking to at this point, okay. The circumstances are
18 different. This is the last individual who was seen with
19 Linda. The information that I had at that point was that
20 they left together and that they did not return together.
21 So, the way I went about the interview was different.

22 Q. But what if he'd have said in the interview, after
23 you build all this rapport with him that, yeah, I left her
24 at the filling station. Last time I saw her was at the
25 filling station.

1 A. Okay. Then what I would have done was, again,
2 based on the interview and what I'm looking at -- and we
3 went over that with the nonverbal behavior, as I'm talking
4 to him, if it indicated to me if he was showing signs of
5 deception, then maybe I would have questioned him further.
6 If he didn't exhibit those signs of nonverbal behavior like
7 that, then I would have taken his statement and went back
8 to the gas station and see if maybe I could round up
9 somebody else that perhaps saw her.

10 Q. Did you put anything in your report about his
11 nonverbal behavior? All this stuff that you told the jury
12 today?

13 A. No, I did not.

14 Q. Have you ever told it to anybody before other than
15 the prosecutors?

16 A. No.

17 Q. Okay. And in another hearing you've testified
18 fully in this case, right?

19 A. That's correct.

20 Q. You never said one word about that, did you?

21 A. I did not.

22 Q. Not one word?

23 A. Not one word.

24 Q. You testified for hours in that hearing, didn't
25 you?

1 A. That's not something I generally like to put out.
2 I don't like to educate anyone on the -- I mean, there's
3 enough of these shows that are out there on TV right now.
4 It's just something that I feel that I don't like to put out
5 there.

6 Q. But it was important to put it out today in front
7 of this jury.

8 A. These are a different set of circumstances. We've
9 been there and this is our second time around.

10 Q. Okay. So, this time we have all this conversation
11 and study about nonverbal behavior that isn't in the report,
12 has never been testified to before. This jury gets to hear
13 it.

14 A. This jury gets to hear it.

15 Q. Now, do you remember your interview with Roger?

16 A. Yes.

17 Q. It's very hard -- the jury's met Roger. You know
18 that, right?

19 A. Yes.

20 Q. It's very hard for me to imagine that Roger didn't
21 have some behavior, nonverbal behavior that you might have
22 been offended by. Do you remember that at all?

23 A. Being offended by?

24 Q. Yeah, might think that Roger's not telling the
25 truth. I mean, he's not the kind of guy that gets right up

1 on the edge of his seat and looks you right in the eye and
2 talks firmly right at you like you do when you're lying to a
3 suspect.

4 A. Roger, when I met Roger, was very, very upset.

5 Q. Uh-huh.

6 A. Was crying.

7 Q. He was crying, right?

8 A. Yes, he was.

9 Q. Does that mean he was lying?

10 A. Roger took the time to meet me back at the Shell
11 gas station -- he was so concerned about his wife --

12 Q. Did you not understand my question?

13 A. Maybe I didn't.

14 Q. Did that mean he was lying?

15 A. I didn't think he was lying.

16 Q. Okay. He's crying, right?

17 A. Yes.

18 Q. Probably had his head down, too?

19 A. No.

20 Q. Okay. So, you interviewed Roger at the gas
21 station?

22 A. Yes.

23 Q. And then had him brought down or did you take him
24 down yourself?

25 A. I think I took him down myself.

1 Q. To homicide, downtown? On Travis -- what is it?
2 1200 Travis?

3 A. 1200 Travis.

4 Q. Put him in a little room just like the one Ruben
5 was in?

6 A. Yes.

7 Q. He's sitting in that little room. Is it recorded?

8 A. We took a written statement from Roger.

9 Q. A written statement?

10 A. A written statement.

11 Q. So, it wasn't videotaped?

12 A. No.

13 Q. Okay. So, when you put Ruben in that room, getting
14 back to my question here, you already thought he was guilty
15 before you ever started interviewing him. I mean, you did
16 everything you could do to get a confession from that guy
17 because he was your suspect, right?

18 A. That's incorrect.

19 Q. In a legal proceeding like this, do you think this
20 court reporter right here can just take down what she wants
21 to? Or you think she's got to take it all down?

22 A. She has to take it all down.

23 Q. Okay. If this case went up on appeal, the
24 appellate court would want the entire record, right?

25 A. That's correct.

1 Q. So, what makes you think that you can go interview
2 a suspect and turn on the recorder whenever you feel like
3 it?

4 A. Okay. I explained -- you're referring to the
5 rapport-building stage, what I described yesterday. The
6 rapport-building stage is me going in, introducing myself --

7 Q. You've said all that.

8 A. I have.

9 Q. What does that have to do with turning on the
10 video?

11 A. I'm trying to explain it to you and that is that
12 it's just me introducing myself to this person, letting them
13 know why they're there. Sometimes offering them -- not
14 sometimes. Offering them something to eat, drink, restroom
15 break. Sometimes they can eat a meal and they'll be a
16 last -- you know, as long as they want it to last, sometimes
17 it lasts 30 minutes, sometimes longer than that. If -- I
18 mean, there's really no point when I'm not talking about the
19 case; so, it doesn't need to be recorded. I mean, we're
20 going to have folks sitting here watching, you know, this
21 person eat a cheeseburger. I just -- I don't do that.

22 Q. Okay. That is not at all what I'm talking about
23 and I bet you know it.

24 A. No, I don't.

25 Q. When you make statements --

1 MS. FULLER: Objection, argumentative, Your
2 Honor.

3 THE COURT: Sustained.

4 Q. (BY MR. CORNELIUS) When you make statements to the
5 person you're interviewing like, Relax, calm down, I'm here
6 to help you through this, you think a jury might want to
7 hear that and see that, see how that came down and see how
8 the person there took that statement?

9 A. There was a correction to what you said. I did not
10 say, I'm going to help you. What I said was, I need you to
11 relax, calm down, I'm going to help you through this,
12 meaning the process itself.

13 Q. Isn't that what I just said?

14 A. I thought you said something different there.

15 Q. Relax, calm down, I'm going to help you through
16 this.

17 A. Okay.

18 Q. That's what you said yesterday that you said to
19 him.

20 A. Okay. Yes.

21 Q. Okay.

22 A. Meaning the process.

23 Q. What else did you say to him that isn't recorded?

24 A. That's it.

25 Q. All right. Let's just take for granted that that's

1 it, that's all you said in that regard.

2 A. Okay.

3 Q. Relax, calm down, I'm going to help you through
4 this. Now, you know what you meant by that or at least
5 you're telling the jury what you meant by that was I'm going
6 to help you give your statement, right?

7 A. No.

8 Q. All right. Tell us what you meant by that.

9 A. As I said yesterday, that he made it known he was
10 scared. My response to that statement that he made, I'm
11 scared, relax, calm down, I'm going to help you through
12 this, we'll get through this, meaning the process of being
13 interviewed itself and nothing more.

14 Q. Okay. That's what it meant to you, right, when you
15 said that statement?

16 A. Yes.

17 Q. Okay. Now, have you ever had conversations with
18 people, especially drug people, and they just hear what they
19 want to hear? They hear the part that they like and they
20 don't hear the other part of the statement?

21 A. I can't say what they hear and what they don't
22 hear.

23 Q. Are you married?

24 A. Yes.

25 Q. Have you ever had that kind of conversation with

1 your wife?

2 MS. FULLER: Objection, that would call for
3 speculation.

4 THE COURT: Or incrimination, one of the two.

5 Q. (BY MR. CORNELIUS) I mean, are you telling the
6 jury that you've never had a conversation with people in
7 life -- you have a conversation -- you mean one thing; they
8 hear what they think they hear.

9 A. Sure.

10 MS. FULLER: Objection to speculation.

11 Q. (BY MR. CORNELIUS) It's not what you meant.

12 MS. FULLER: He wouldn't know what other
13 people hear.

14 THE COURT: Overruled. You can answer.

15 A. Sure.

16 Q. (BY MR. CORNELIUS) Okay. So, is it surprising to
17 you when the defendant said, I thought you were going to
18 help me, man, that that's what he was referring to?

19 A. Yes, it did surprise me.

20 Q. Do you think that he thought, I'm going to help you
21 confess to this murder, that that's what he thought?

22 A. No.

23 Q. He didn't think that at all, did he?

24 A. No.

25 Q. Okay. So, we'll get back to that in a minute.

1 What else was said in that rapport-building session that you
2 didn't record?

3 A. Nothing.

4 Q. Nothing?

5 A. Nothing.

6 Q. Well, how long did it take? That statement would
7 only take, what? 10 seconds? 15 seconds?

8 A. Just the time that I said, just going in there and
9 doing what I did.

10 Q. Well, I think you said yesterday you talked to him
11 for five to ten minutes?

12 A. Five to ten minutes.

13 Q. Okay. We've got ten seconds of it. What's the
14 other five to ten minutes?

15 A. Just going in there and making the introductions,
16 like I said, getting him to calm down.

17 Q. And by "rapport," you're trying to calm him down
18 and make him trust you.

19 A. Yes.

20 Q. You don't tell him you're fixing to lie your off
21 (sic) to him, do you?

22 A. No.

23 Q. You don't tell him that at all?

24 A. No.

25 Q. You don't tell him, look, I'm going to tell you all

1 kind of lies to get you to adopt my theme. You don't tell
2 him that, do you?

3 A. Well, that's not the intent, no.

4 Q. Now, you could have turned the recording equipment
5 on at any time you were talking to him, right?

6 A. Yes.

7 Q. And do you know other homicide investigators that
8 do that? They record the entire interview from the minute
9 they sit down with them until the time they leave?

10 A. Maybe some of them do. It's probably, like, a
11 50/50 split.

12 Q. 50/50 split.

13 A. Yeah.

14 Q. Okay. I'm not talking about recording watching him
15 eat a hamburger. I'm talking about recording when you're
16 talking to them, okay? So, we don't have to worry about
17 wasting time on watching somebody eat a hamburger or drink a
18 Coke unless you're talking to them while they're doing that
19 but my point is this jury could have seen every minute of
20 your conversation with this defendant if you turned the
21 projector on or the camera on, right?

22 A. Sure.

23 Q. But you chose not to do that?

24 A. For the reasons that I mentioned.

25 Q. You also did not have to tell him a single lie if

1 you wanted to be truthful with him. You did not have to
2 tell him a single lie, did you?

3 A. I did. In this case I did.

4 Q. You had to tell him a lie?

5 A. Well, again, we're going to the interrogation
6 techniques and we're talking about the themes that I
7 presented and I explained that.

8 Q. These are your interrogation techniques, right?

9 A. These are interrogation techniques that I have
10 learned through the various schools that I've attended.

11 Q. And are you under the impression that the police
12 department requires you to lie to suspects?

13 A. It's not required.

14 Q. Okay. Let me get back to my question then. You
15 chose to lie to him; you didn't have to, right?

16 A. With the interrogation techniques that I use, yes.
17 At some points.

18 Q. All right. How many lies do you think you told
19 him?

20 A. Maybe about two or three.

21 Q. Two lies. Okay. Do you really believe that?
22 Because that's a lie.

23 A. Okay. You asked me how many do I think and that's
24 what I recall.

25 Q. How many times do you think you told him it was an

1 accident?

2 A. I don't know.

3 Q. Okay. We're going to play it back and we can count
4 them and see.

5 A. Okay.

6 Q. How many times do you think you told him that he
7 didn't do it intentionally?

8 A. I don't know.

9 Q. Well, it was more than two on both of those, wasn't
10 it?

11 A. Okay.

12 Q. So, it's a lot more than two lies, right?

13 A. You're asking me how many and not the number of
14 times on one particular theme that I presented.

15 Q. Okay.

16 A. That's what I thought you meant.

17 Q. Well, just the ones that the prosecutor brought out
18 an hour ago were more than two.

19 A. Okay.

20 Q. There's a lot more than two. Let's just go over
21 them quickly. You said that you knew for a fact that she
22 didn't want to have sex and you don't know if that's true or
23 not. That was a lie.

24 A. True. That's correct.

25 Q. You said that it was probably an accident, right?

1 A. Yes.

2 Q. That was a lie. You said maybe it got a little
3 rough. You didn't believe that, either. That was a lie.
4 And you repeated that several times, didn't you?

5 A. Yes.

6 Q. You told him you didn't think he did anything
7 intentionally and you repeated that many times, didn't you?

8 A. Yes, I did.

9 Q. That was part of your theme.

10 A. Yes.

11 Q. That's a lot of lies so far, right? Lot more than
12 two?

13 A. I don't know what's lies and what's not. These are
14 themes that I'm presenting --

15 Q. You know what? That's very strange because you
16 indicated to this jury you're a genius on lying. You know
17 everything about when people are lying or not. You're an
18 expert on that.

19 *MS. FULLER:* Objection, Your Honor.

20 Argumentative.

21 *THE COURT:* Sustained.

22 Q. (*BY MR. CORNELIUS*) Aren't you? You're an expert
23 when people are lying, right?

24 A. I've never claimed to be an expert.

25 Q. You can tell how they move their body whether

1 they're lying or not, right?

2 A. No. What I said was this is an investigator
3 technique that I use.

4 Q. We heard that.

5 A. Okay.

6 Q. Let's talk about the lies for a minute. How many
7 lies are we up to so far, do you think?

8 A. I don't know.

9 Q. Doesn't make you a killer. You said that to him,
10 right?

11 A. Yes.

12 Q. That was a lie, right?

13 A. I don't know what it is at that point.

14 Q. You were lying when you said that, though.

15 A. No, I was not.

16 Q. Okay. Don't think you're a bad guy. Let's make
17 this clear. I don't think you're a bad guy. Okay? You
18 said it twice. Right?

19 A. Yes.

20 Q. Is that a lie or true?

21 A. That's true. Well, you're kind of crossing over.

22 Did I say that two times? Yes, that is true. Are you
23 asking did I believe that?

24 Q. Yes.

25 A. Once I learned what I learned from the

1 investigation, no, I did not think he was a good guy.

2 Q. So, it was a lie, right?

3 A. Yes.

4 Q. Then you went back into, It wasn't intentional,
5 trying to get him to adopt your theme again, right?

6 A. One more time on that question?

7 Q. You went back into saying it wasn't intentional.

8 You don't think he's a bad guy because what happened wasn't
9 intentional.

10 A. Right.

11 Q. You said that, right?

12 A. Yes.

13 Q. And that was a lie, right?

14 A. Well, I don't know what's intentional or what's not
15 at this point. We're still going through the process.

16 Q. Well, you know what, it's a pretty easy question.
17 Were you telling the truth when you said that or not?

18 A. I'm not clear on what it is you're asking. When
19 I'm presenting the theme to them, do I think this is the
20 truth or not? I'm presenting these themes to see what he
21 admits to. So --

22 Q. She asked you this very question.

23 A. Okay.

24 Q. And you said -- you admitted it was a lie.

25 A. Okay. I --

1 Q. When you said you didn't think it was intentional,
2 that was a lie. You've already told the jury that.

3 A. Okay.

4 Q. So, why are you hedging now?

5 A. Well, I'm not clear what it is you're asking. Your
6 questions are kind of jumbled.

7 Q. You say you have evidence that disputes what Ruben
8 says and you can prove he had his hand around the neck.
9 That was a lie, right?

10 A. That was a lie.

11 Q. You suggested that it just got out of hand, right?

12 A. Yes.

13 Q. You were just -- it was a lie. You didn't think
14 that. You were just trying to get him to adopt your theme,
15 right?

16 A. I don't know what it is at that point.

17 Q. You don't know what what is?

18 A. Exactly what's going on with this case. I'm
19 waiting to see, you know, where he goes with it. Do I
20 believe it or not? I don't necessarily have to believe what
21 it is, the theme that I'm putting in there. I explained
22 that, you know, I'm putting these themes out there and -- to
23 see what he does with them.

24 Q. Okay. Well, let's look at that when we see the
25 video again.

1 A. Okay.

2 Q. Who is it that introduced into the conversation --
3 we'll see this on the video -- that Mr. Juarez put his hand
4 on her neck?

5 A. I did.

6 Q. Okay. And then he adopted it, right?

7 A. Yes.

8 Q. Almost immediately he adopted it.

9 A. I don't think it was immediately.

10 Q. You were talking so fast there, telling him it was
11 an accident, that it had gotten out of hand, that some like
12 it rough and blah, blah, blah, blah, blah, and you got him
13 to say he put his hand on her neck.

14 A. I didn't get him to say that. He admitted to that.

15 Q. Okay. Once Mr. Juarez understands what he's agreed
16 to you that you've suggested to him, he says to you, You
17 tricked me, didn't he?

18 A. Yes, he did.

19 Q. And you did, didn't you?

20 A. No, I did not.

21 Q. Yeah, you did.

22 A. He admitted to what he did. Whether -- I mean, I
23 can't say what the individual -- we discussed this, too,
24 that the person, when they go into this interview with their
25 game face on, their intentions are not to admit to anything.

1 So, after they admit to whatever it is they've done, then I
2 guess perhaps they may feel that they've been tricked into
3 it when in reality they admitted to what they've done.

4 Q. He told you about 20 times he didn't kill her. He
5 says even after he put his hands on her throat that he
6 didn't really put his hands on her throat.

7 A. No, he didn't say that.

8 Q. And he said, You tricked me, right? You tricked
9 me?

10 A. He said, You tricked me.

11 Q. What did he say? You tricked me into saying
12 something I didn't do. Is that what he said?

13 A. I don't remember exact verbiage on that.

14 Q. We'll see it again.

15 A. Okay.

16 Q. Then he got ticked and he got up and he said, You
17 said you were going to help me. You sat down with him in
18 that room and built rapport and acted like you were going to
19 be his friend and you were going to help him, right?

20 A. I sat down there and built rapport, not acting like
21 his friend. And the video speaks for itself.

22 Q. Well, we don't have a video of that, sir.

23 A. The video of the interview itself.

24 Q. We don't have a video of the rapport. We don't
25 know how you acted on the rapport.

1 A. I'm referring --

2 *MS. FULLER:* Objection to argumentative, Your
3 Honor, and sidebar.

4 *THE COURT:* All right. Sustained. Ask the
5 question. Let's answer it.

6 *MR. CORNELIUS:* I'd like to play the video
7 over.

8 *THE COURT:* Go right ahead. Mr. Cornelius, do
9 you need to stop and start it or are we going to run it
10 straight through?

11 *MR. CORNELIUS:* No, we're going to run it
12 straight through.

13 *THE COURT:* I just wanted to make sure you
14 didn't need to work that out, stopping and starting it.

15 *MR. CORNELIUS:* Okay.

16 *(State's Exhibit No. 98, the videotaped
17 statement of the defendant, was played.)*

18 *THE COURT:* Mr. Cornelius, before you start,
19 let's go ahead and break for lunch.

20 *MR. CORNELIUS:* Yes, ma'am.

21 *THE COURT:* Since it's 12:30. Ladies and
22 gentlemen, if y'all will step in the jury room, the bailiff
23 will be with you in just a few moments to take you to lunch.

24 *(Jury not present.)*

25 *(Lunch recess.)*

1 *(Jury present.)*

2 *THE COURT:* We're waiting on Sergeant
3 Cisneros. He ran outside very quickly.

4 *(Brief pause.)*

5 *THE COURT:* Sergeant, right back up here.
6 Sorry about that. The bailiff didn't realize I let you run
7 outside.

8 *THE WITNESS:* That's okay.

9 *THE BAILIFF:* Blame the bailiff.

10 *THE COURT:* He's too good. That's right.
11 All right. And Mr. Cornelius, you may
12 proceed.

13 *Q. (BY MR. CORNELIUS)* Sergeant Cisneros, before we
14 broke for lunch, you had told the jury that you thought you
15 told the defendant when you interviewed him two lies. Now
16 that you watched the video, how many lies do you think you
17 told him?

18 A. I don't know.

19 *Q.* Pretty hard to count them, wouldn't it be?

20 A. What's that?

21 *Q.* It would be pretty hard to count them, wouldn't it?

22 A. Right. Just to clarify when you asked how many, I
23 actually took -- misinterpreted that and was counting each
24 individually as an -- not in one particular lie how many
25 times but I didn't know you were asking the total number.

1 Q. Okay. Well, maybe the question was confusing.
2 Yesterday you told the jury that during the rapport part of
3 your interview you told the defendant what you wanted to
4 talk to him about.

5 A. Yes.

6 Q. And I noticed in your report you were even more
7 specific and said that you told him that you were
8 investigating the death of Linda Hartsough, right?

9 A. Yes.

10 Q. Okay. So, when he's sitting in that room, he knows
11 that's what you're going to come talk to him about.

12 A. Yes.

13 Q. Now, how did you phrase that since we don't have a
14 video of what you actually said? How did you phrase that to
15 him?

16 A. I don't remember my exact words but I'm here --
17 when I told him what he was going to be investigated --
18 well, talked to about, rather. Said this is in regards to
19 Linda Hartsough.

20 Q. Okay. Even that and what you've already talked
21 about wouldn't take five to ten minutes. So, what else did
22 you say to him?

23 A. Well, I took that time to, like I said, try and
24 make attempts to bring down his anxiety level.

25 Q. Okay. At the end of the -- right when you turned

1 off the tape, remember when you turned off the tape?

2 A. Yes.

3 Q. The last thing that we could hear was the defendant
4 saying, You said you were going to help me and he said about
5 three words after that and then it was turned off. Did he
6 say, If I said, and then it was turned off?

7 A. I don't know what he said.

8 Q. You didn't tell him what to say, though, did you?

9 A. No, I did not.

10 Q. You just suggested everything you wanted him to
11 say, right?

12 A. No.

13 Q. Okay. Well, the word "convulsing," for example,
14 that was your word, right? He never used the word
15 "convulsing"?

16 A. No, I believe he did.

17 Q. Okay. All right. I guess I didn't know for sure
18 because I couldn't understand what all he was saying. But
19 convulsing could mean a lot of different things. I mean,
20 you think everybody knows exactly what convulsing is?

21 A. That's a hard question to answer. I'm not --

22 Q. When you use the word "convulsing," are you using
23 it in a medical standpoint or just your common understanding
24 of what that might mean?

25 A. My common understanding.

1 Q. Kicking legs, something like that?

2 A. Yes.

3 Q. Shaking?

4 A. Yes.

5 Q. Well, let's go through some of the things that you
6 introduced. You're the one who introduced that this was
7 probably an accident, right?

8 A. Yes.

9 Q. You introduced this may have just gotten a little
10 rough?

11 A. Yes.

12 Q. You've introduced there was nothing done on
13 purpose.

14 A. I don't believe I said nothing done on purpose.

15 Q. Okay. Well, it's on the tape.

16 A. Okay.

17 Q. If the jury wants to hear it again, they can play
18 it back.

19 A. Okay. That could be.

20 Q. He never said that, though, right?

21 A. No.

22 Q. He never said I did something but it wasn't on
23 purpose?

24 A. Right.

25 Q. Okay. And again, you suggested maybe it was just

1 rough, correct?

2 A. Yes.

3 Q. You suggested that his hand was on her neck, right?

4 A. Yes.

5 Q. You suggested that he got out of hand, correct?

6 A. Yes.

7 Q. You suggested he was not a killer or that wouldn't
8 make him a killer, right?

9 A. Yes.

10 Q. You suggested again that it got out of hand?

11 A. Yes.

12 Q. Correct? You suggested that he wasn't a bad guy.
13 Several times you suggested that.

14 A. Yes.

15 Q. And wanted to be very clear on that, didn't you?

16 A. Yes.

17 Q. Again, you suggested it got out of hand, correct?

18 A. Yes.

19 Q. You suggested it was not intentional, correct?

20 A. Yes.

21 Q. And you suggested several times that you had
22 evidence, which I'll come back to that, right?

23 A. Yes.

24 Q. You suggested he didn't mean to do it, right?

25 A. Yes.

1 Q. Again, you talked about your evidence. Then you,
2 again, said or suggested to him he had his hand on her neck,
3 right?

4 A. Yes.

5 Q. You suggested that maybe that some women like it
6 rough, right?

7 A. Yes.

8 Q. You suggested again that he had a hand on the neck.

9 A. Yes.

10 Q. And then he said, Well, just a little. Remember
11 that?

12 A. Yes.

13 Q. And then you started talking about your evidence
14 again, what strong evidence you have to prove that's not
15 true, right?

16 A. Yes.

17 Q. And then you suggested that it just got a little
18 crazy?

19 A. Actually that was him that said that, not I.

20 Q. Okay. Well, maybe you're right. You're the one
21 that said he's not being believable. He needs to say it the
22 way you're suggesting; that would be believable, but what he
23 was saying was not believable. You said that, right?

24 A. Not in those words.

25 Q. You said it's not believable what he's saying,

1 right?

2 A. Yes.

3 Q. Now, you don't have any other evidence, do you?

4 A. No.

5 Q. There is no other evidence in this case?

6 A. No.

7 Q. So, whatever you told him about what all evidence
8 that you've got really doesn't exist.

9 A. That's correct.

10 Q. There's no witnesses, there are no fingerprints,
11 there's not a knife, not a gun, not a rope, there's no DNA
12 of any kind of anybody, not the victim's DNA or Mr. Juarez's
13 DNA, right?

14 A. That's right.

15 Q. And you're thinking that the identification in this
16 case or you're told is by dental records, correct?

17 A. That's correct.

18 Q. Not by DNA.

19 A. That's correct.

20 Q. Now, did you hear him clearly say on the tape the
21 second time that you heard it -- I don't know, you probably
22 heard it many times, haven't you?

23 A. Not the -- about three.

24 Q. You tricked me into saying something I didn't do.
25 Those were his words, right?

1 A. Yes.

2 Q. Did you have him take you, physically take you or
3 show you where this occurred?

4 A. No.

5 Q. Okay. And I didn't see you show him any -- any
6 photographs of the area where this allegedly occurred,
7 correct?

8 A. That's correct.

9 Q. So, he didn't identify any photographs.

10 A. That's right.

11 Q. Also didn't hear anything about a homeless camp.
12 He didn't say anything about a homeless camp and you didn't
13 say anything about a homeless camp, right?

14 A. That's correct.

15 Q. And how did he describe the area? Bushes?

16 A. An area by the feeder is what I remember.

17 Q. Okay. Because there's a lot of overgrown area in
18 that -- out there in that area, general area, isn't there?

19 A. Actually there's not. I recall just that corner
20 area. A lot of it is --

21 Q. Well, just --

22 A. A lot of it is neighborhood.

23 Q. Just in that one corner, though, there's a lot
24 of -- it's a pretty large, overgrown area, right?

25 A. It is.

1 Q. And you're saying there's no other wooded area or
2 overgrown area at all other than the one we've seen on the
3 photographs?

4 A. No, not saying that.

5 Q. Because I think we can see more on the photographs.

6 A. Right. Just in that immediate area along the
7 feeder I guess is what I'm referring to.

8 Q. So, you really never had the defendant or gave him
9 an opportunity to tell you really where this happened,
10 right?

11 A. Right.

12 MR. CORNELIUS: I'll pass the witness.

13 THE COURT: Ms. Fuller?

14 MS. FULLER: One moment, please, Your Honor.

15 Nothing further, Your Honor.

16 THE COURT: May this witness be excused on
17 call?

18 MR. CORNELIUS: Yes, Your Honor.

19 MS. FULLER: Yes, Your Honor.

20 THE COURT: Thank you, Sergeant. You are free
21 to go. Please don't discuss your testimony with anyone else
22 because the Rule has been invoked.

23 THE WITNESS: Yes, ma'am.

24 THE COURT: And please call your next witness.

25 MS. FULLER: State calls Dr. Stimson.