

1 MR. CORNELIUS: All right. I'll pass the
2 witness.

3 MS. FULLER: Nothing further, Your Honor.

4 THE COURT: May this witness be excused?

5 MS. FULLER: Yes, Your Honor.

6 MR. CORNELIUS: Yes, Your Honor.

7 THE COURT: Thank you, Officer. Please do not
8 discuss your testimony with any of the other witnesses.

9 Call your next witness, please.

10 MS. FULLER: State calls Sergeant Cisneros.

11 (Witness sworn.)

12 THE COURT: Have your seat. And if you'll
13 just kind of adjust that microphone. Perfect.

14 And you may proceed.

15 **ELI CISNEROS,**

16 having been first duly sworn, testified as follows:

17 **DIRECT EXAMINATION**

18 Q. (BY MS. FULLER) Good afternoon, Sergeant Cisneros.

19 A. Good afternoon.

20 Q. Who are you employed by?

21 A. The Houston Police Department.

22 Q. How long have you been with the Houston Police
23 Department?

24 A. Roughly 19 and a half years now.

25 Q. All right. Prior to joining the HPD, what did you

1 do before that?

2 A. I was in the Marine Corps.

3 Q. How long were you in the Marine Corps for?

4 A. Four years.

5 Q. And did you join the Marine Corps right after high
6 school or college?

7 A. Right after high school.

8 Q. Okay. You said you've been with HPD for 19 years;
9 is that correct?

10 A. 19 and a half.

11 Q. Tell me what kind of jobs you've had, assignments
12 that you've had within that 19-year time period.

13 A. I started off as a patrol officer working all sides
14 of Houston. I've been all over the place. I have promoted
15 to sergeant back in 2006. Excuse me. I did one year as a
16 street sergeant, applied for and was accepted by homicide
17 after that.

18 Q. And so, how long have you been with homicide?

19 A. For almost five years now.

20 Q. All right. Now, how long do you think you were in
21 patrol for?

22 A. For between 13 and 14 years.

23 Q. Okay. So, and you went from patrol to homicide
24 directly.

25 A. Yes.

1 Q. Is that right?

2 A. Yes.

3 Q. All right. When you went to homicide, that's after
4 you become a sergeant?

5 A. Yes.

6 Q. Are there special classes that they send you to in
7 order to prepare you to be a homicide investigator?

8 A. Yes, they do.

9 Q. What kind of classes did you receive?

10 A. I've attended the basic dead man class, which
11 teaches basic investigations. I've taken the basic
12 investigator course, which is a five-day course. I've
13 attended the interviews and interrogation class, which is
14 put on by one of the investigators inside the homicide
15 division which specifically teaches interviews and
16 interrogations. I've attended the National Center for the
17 Analysis of Violent Crime workshop, which is put on by the
18 feds, by the FBI, and that was, I believe, a three-day
19 class, and I've attended a five-day course, which is kind of
20 advanced course in Sacramento, California, called Reading
21 Between the Lines by Carl Stincelli.

22 Q. What kind of case was that?

23 A. It's an interview and interrogation class.

24 Q. Now, within -- outside of those classes, do you
25 have classes that are offered to you on a regular basis,

1 regular meaning maybe yearly, biyearly that also keep you up
2 to date into this area?

3 A. Actually not. Your day-to-day operations once
4 you've attended these classes, they'll keep you up to date.

5 Q. Okay. So, once you join homicide, they send you to
6 some of these courses -- I mean, did you do that, do all
7 that at once or is that in the time you've been in homicide?

8 A. That's since I've been in homicide, yes.

9 Q. When you first go over to homicide, do you get a
10 partner?

11 A. Yes, I do.

12 Q. What's the purpose of being assigned to a partner?

13 A. That's just the way they operate. We typically
14 work in pairs, a sergeant and a officer team.

15 Q. Okay. And while you're working your day-to-day
16 routine, are you able to observe what other homicide
17 detective investigators are doing?

18 A. Yes.

19 Q. Now, you said that you joined homicide in 2006; is
20 that correct?

21 A. I said I got promoted to sergeant in 2006.

22 Q. Okay. And when did you join homicide?

23 A. Approximately five years ago.

24 Q. Okay. Now, back in June of 2010, were you with the
25 homicide department then?

1 A. Yes.

2 Q. Okay. Were you called out to a scene on June 25th
3 of 2010?

4 A. Yes, I was.

5 Q. What scene were you called out to?

6 A. It was a skeletal remains case. Skeletal remains
7 were discovered at the 6100 block of Frisco.

8 Q. Do you -- I'm sorry.

9 A. During my off duty hours and I was called out to
10 that scene.

11 Q. What time were you called out to that scene?

12 A. Roughly 6:45 PM.

13 Q. All right. So, when you get that call, you're off
14 duty. So, are you at home at that point?

15 A. Yes.

16 Q. What do you do when you get that phone call?

17 A. Of course get dressed and proceed onto the 6100
18 block of Frisco.

19 Q. And is that a location that's in Harris County,
20 Texas?

21 A. Yes, it is.

22 Q. Can you tell the jury a little bit about where that
23 area is?

24 A. It's located on the -- I guess that would be kind
25 of the northeast side of Houston near the 610 Loop and I

1 guess the closest street other than Frisco would be
2 Irvington.

3 Q. Okay. When you arrived out on the scene, what did
4 you see?

5 A. Okay. Are you specific -- talking about the area
6 itself or the immediate scene?

7 Q. Let's talk about when you got to 6100 Frisco. What
8 are you seeing there?

9 A. Okay. Okay. That is -- of course it's at the
10 corner of Frisco and the 610 Loop and it is a small wooded
11 area that's at the corner, kind of in the middle of a field,
12 so to speak. It's a pretty small wooded area.

13 Q. When you got up to that location, what did you see?

14 A. I took a walk-through of the area and did kind of a
15 walk-through just to kind of take a look for myself and saw
16 the skeletal remains that were located inside of the bushes.

17 Q. Okay. When you did a walk-through of the area,
18 were you careful about where you were stepping?

19 A. Sure, yes.

20 Q. When you get to the scene?

21 A. Yes.

22 Q. Why is that?

23 A. I didn't want to step on any bones or trample on
24 any of the scene.

25 Q. Okay. And is that something that you're trained

1 not to do?

2 A. Yes.

3 Q. Okay. So, you get out there and you do the
4 walk-through of the scene. Tell the jury a little bit about
5 what you see specifically when you get into that wooded
6 area.

7 A. Well, what I noticed was once I was in the bush,
8 the wooded area, it seemed to me, based on my patrol
9 experience, to be a location where perhaps the homeless kind
10 of congregated and hung out and I came to that conclusion by
11 the debris that was left behind. There were some buckets
12 that maybe people sat on that were upside-down that people
13 used for a bench, beer cans, beer bottles, things like that.

14 Q. Okay. And were those things close to the cluster
15 of bones that you saw?

16 A. They were near. They were near the bones.

17 Q. Can you give me an estimation, you think, of how
18 many feet away they were?

19 A. It was in a different section of the bushes where
20 the bones were located; another section of bushes where the
21 buckets and the beer bottles were located. I don't recall
22 any right up on the bones. I don't remember that.

23 Q. Okay. Now, could you have seen -- from the cluster
24 of bones, could you see to the -- to the area where the
25 bucket and the bottles were found?

1 A. Yes.

2 Q. Or was it -- was there bushes there?

3 A. You could see where the bucket was located at.

4 Q. Okay. When you got out to the scene, did you
5 notice anything other than the bones, the bucket, the
6 bottles, did you notice anything else?

7 A. I looked down the feeder underneath -- there was an
8 underpass there and I noticed a couple of individuals, it
9 was a man or a woman, who were panhandling in the distance.

10 Q. What is panhandling?

11 A. They were begging for money.

12 Q. Okay. Did you see any other people close by that
13 were not HPD, that were not called out to that scene?

14 A. There were other spectators in the area, of course
15 outside the area that was corded off.

16 Q. Did those people look like they were people that
17 would use that homeless area that you were talking about?

18 A. The ones outside, no.

19 Q. What did they appear to be?

20 A. Just -- they were -- from my patrol experience,
21 again, these were people that looked to me as if they just
22 lived in the neighborhood.

23 Q. Okay.

24 MS. FULLER: May I approach to look for
25 evidence?

1 THE COURT: Sure.

2 MS. FULLER: Do you have anything over there
3 with you?

4 MR. CORNELIUS: I don't think so. No.

5 Q. (BY MS. FULLER) This is a area located within
6 Houston, right?

7 A. Yes.

8 Q. The city of Houston. What is surrounding this
9 fielded area?

10 A. A neighborhood.

11 Q. Okay. And I'm going to show you State's Exhibit
12 17. What can you kind of see the end of here? You know,
13 are these the neighborhood that you're talking about?

14 A. Yes.

15 Q. And State's Exhibit 18, also the neighborhood that
16 you're talking about?

17 A. Yes.

18 Q. Okay. And do you recall which underpass you see
19 the two people that were panhandling?

20 A. I don't remember which one it was. There was only
21 one underpass that was closest to me. It was not Irvington.
22 It was the opposite direction.

23 Q. Okay. So, are we talking back towards, like,
24 Hardy?

25 A. Yes.

1 Q. Hardy Street, that overpass right there?

2 A. Yes.

3 Q. Or further down the 610 feeder?

4 A. No, I think it would be down Hardy.

5 Q. All right. So, you get to the scene, you do your
6 walk-through, you notice some spectators, you notice another
7 set of folks. What do you do next?

8 A. There were some patrol officers, of course, on the
9 scene and I instructed a couple patrol officers to go back
10 and approach the male and female that I was just referring
11 to and inform them that I wanted to speak to them and bring
12 them back to me.

13 Q. Okay. Now, before you did that, was there a
14 reportee in this case?

15 A. Yes, there was.

16 Q. What was the reportee's name?

17 A. Kenneth Wayne Davis.

18 Q. Did you meet with Kenneth Davis?

19 A. I did.

20 Q. Were you able to get a statement from him?

21 A. Yes, I did.

22 Q. Were you able to determine whether or not he had
23 anything to do with the scene, with the location?

24 A. Yes, and he did not.

25 Q. Okay. After taking his statement, was he released?

1 A. Yes.

2 Q. All right. Now, did you do that prior to speaking
3 with or having the patrol officers bring those two
4 individuals back?

5 A. That's correct.

6 Q. Okay. So, you instruct the two patrol officers to
7 bring the two people back. What do you do next?

8 A. I spoke to the female first and identified her as a
9 female by the name of Carolyn or Carol -- I'm sorry.
10 Carolyn Vandruff and the male was Jim Neville.

11 Q. Okay. And were you able to get statements from
12 them?

13 A. Yes.

14 Q. Were you able to get any important information from
15 them?

16 A. Yes, I did.

17 Q. What did you get from them?

18 A. What I learned was --

19 *MR. CORNELIUS:* Hearsay, Your Honor, we object
20 to it.

21 *THE COURT:* Sustained.

22 Q. (*BY MS. FULLER*) From the information that you
23 received from them, what did you do next?

24 A. I determined that a female from the area by the
25 name of Linda was missing.

1 Q. What did you do next?

2 A. I learned also that there was a missing persons
3 flier for this individual by the name of Linda that was
4 supposedly posted at a local gas station at the intersection
5 of Irvington and the Loop, which was a Shell gas station.

6 Q. Okay.

7 MS. FULLER: May I approach the witness, Your
8 Honor?

9 THE COURT: Sure.

10 Q. (BY MS. FULLER) I'm going to show you what's
11 marked as State's Exhibits 99, 102 and 103.

12 A. Okay.

13 Q. Do those look familiar to you?

14 A. Yes.

15 Q. And what are we looking at?

16 A. First we're looking at the Shell gas station that I
17 was referring to at the intersection of Irvington and the
18 610 Loop and we're looking at the Amigo Food Mart, which is
19 located on the opposite side of the 610 Loop at Irvington
20 and also 610 and that's across the street from the Chevron
21 gas station.

22 Q. From the Chevron?

23 A. Yes. And this is the intersection of Reid at
24 Irvington.

25 Q. Okay. Are these a fair and accurate depiction of

1 the area that you began your investigation at?

2 A. Yes.

3 *MS. FULLER:* Your Honor, at this time State
4 moves to admit State's Exhibit 99, 102 and 103, tenders to
5 defense counsel for inspection.

6 *MR. CORNELIUS:* No objection.

7 *THE COURT:* They will be admitted.

8 *MS. FULLER:* Permission to publish, Your
9 Honor?

10 *THE COURT:* You may.

11 Q. (*BY MS. FULLER*) Okay. So, you go to the Shell
12 station; is that correct?

13 A. That's correct.

14 Q. What's the location of the Shell station?

15 A. The actual physical address is 718 North Loop East.

16 Q. Do you know the intersections, street intersections
17 right there?

18 A. Behind it? I mean, it's at -- it's at Irvington
19 and 610.

20 Q. Okay. I'm going to show you State's Exhibit 6,
21 which was previously admitted. Is this the Shell station
22 you're talking about?

23 A. Yes, it is.

24 Q. Now, you go to -- I'm sorry. I'm going to show
25 you -- I believe this is State's Exhibit 99. Pan out. Can

1 you point out the Shell station?

2 A. Yes.

3 Q. Okay. And the same Shell station that we're
4 talking about from State's Exhibit 6?

5 A. Yes.

6 Q. Okay. So, you go to this location and what is the
7 first thing that you do when you -- what is the purpose of
8 going there?

9 A. Well, Carolyn wanted to point out which Shell gas
10 station she was referring to.

11 Q. Okay. So, you go to that gas station why?

12 A. Because this is the gas station where the missing
13 persons flier of Linda was supposed to be posted.

14 Q. Okay. When you got to that gas station, were you
15 able to find the missing persons flier?

16 A. Not at that point but I continued on from there.

17 Q. Okay. What did you do next?

18 A. I also had learned that there was a second location
19 where Linda had previously been to, which was 920 Kelley.

20 Q. Okay.

21 A. So, I was taken by that location and that residence
22 was pointed out to me. They didn't specifically know the
23 physical address, they just knew where this location was and
24 it was pointed out.

25 Q. And it was a residential house?

1 A. Yes, it is.

2 Q. Is it in pretty close proximity to the Shell
3 station on the corner of Kelley and Irvington?

4 A. Maybe a block or two.

5 Q. So, you go by that location. What happens next?

6 A. At that point I took Carolyn back to the location
7 where I picked her up at.

8 Q. Okay. What do you do next?

9 A. At this point I went back to the Shell gas station
10 and -- by myself and I met with a store clerk.

11 Q. Okay. Now, are we talking about the Shell or the
12 Shell station, correct?

13 A. I'm sorry. Shell. Yeah.

14 Q. Okay. You met with an employee there?

15 A. I did.

16 Q. Okay. What was the purpose of going there the
17 second time?

18 A. Same thing. I was looking for the missing persons
19 flier and this time I actually got out to speak to the store
20 clerk.

21 Q. Okay. Did they still have that flier?

22 A. No, they did not.

23 Q. Did they know that a flier had at one point
24 existed?

25 A. Yes.

1 Q. Okay. While you were out there, did you also at
2 this point check for any kind of surveillance video?

3 A. Yes.

4 Q. And did that Shell station have any surveillance
5 video?

6 A. No, it did not.

7 Q. All right. So, what do you do next?

8 A. I gave the store clerk my business card and I asked
9 that if the individual who posted the missing persons flier
10 returned, I asked that he give him my business card.

11 Q. Did that clerk give you any description of the type
12 of person, what that person looked like who had posted that
13 flier?

14 A. Just that he was an elderly male.

15 Q. An elderly male?

16 A. Male, yes.

17 Q. Okay. Did he tell you a race?

18 A. White male.

19 Q. White male. Okay. What did you do next?

20 A. Next I drove back to 920 Kelley and I was going to
21 make an attempt to knock on the door and speak to the people
22 who lived there at this house and I came across an
23 individual who was in the driveway.

24 Q. All right. Now, without saying anything that he
25 told you, were you able to talk to that male?

1 A. I did.

2 Q. And was he able to provide you any information?

3 A. Yes, he was.

4 Q. What did you do next?

5 A. I gave him my business card and I asked that when
6 the owner of the house returned -- I had gained knowledge
7 that there was a -- also a missing persons flier in the
8 residence. So, that was the purpose of me giving him my
9 business card and asking him when the home owner returned,
10 if he would ask her to call me.

11 Q. Okay. So, to this point your investigation's led
12 you to this house as also potentially having a missing
13 persons flier?

14 A. Yes.

15 Q. All right. What happens next?

16 A. Right almost immediately around 9:20 PM, when I
17 finished speaking with this individual at that house, I
18 received a phone call from a male who identified himself as
19 Roger Rowland.

20 Q. Okay.

21 A. And he informed me that he was the person who had
22 posted the missing persons flier at the Shell.

23 Q. Okay. Once you received that information from
24 Mr. Rowland, do you make attempts to meet with him in
25 person?

1 A. I do.

2 Q. Do you make that attempt right then and there?

3 A. Yes.

4 Q. To be clear, is this still June 25th or are we on a
5 different day now?

6 A. Same day.

7 Q. Same day?

8 A. Yes.

9 Q. Okay. Do you recall approximately how long you
10 were at the initial scene? Just an estimation.

11 A. Well, I arrived at 7:40 and we're now at 9:20.

12 Q. Okay. So, it's at 9:20 at night that you're
13 getting this phone call from Roger Rowland.

14 A. Yes.

15 Q. You don't stay at the scene to wait for them to
16 process the scene. You see the scene and you immediately
17 start to investigate whatever leads you come up with?

18 A. That's correct, because like I said, we work in
19 teams. One of the investigators, one of the two will work
20 the scene side of the investigation while the other will
21 conduct the canvass of the area, look for any potential
22 witnesses.

23 Q. All right. And that's your job?

24 A. That's my job.

25 Q. All right. So, 9:20 on June 25th, 2010, you get

1 that phone call from Roger Rowland. Do you meet with him
2 that evening?

3 A. I do.

4 Q. Where do you meet with him at?

5 A. I turned around and drove directly to the Shell gas
6 station, which was roughly two blocks away.

7 Q. Okay. Same one, corner of Kelley and Irvington.

8 A. That's correct.

9 Q. All right. What happens when you meet with Roger?

10 A. I was handed a missing persons flier that had the
11 full name now of Linda Hartsough on it and the flier
12 indicated that Linda Hartsough was missing, of course, and
13 was last seen on May 15th of 2010, and it gave a description
14 of the clothing that she was wearing.

15 Q. Okay.

16 *MS. FULLER:* May I approach the witness, Your
17 Honor?

18 *THE COURT:* You may.

19 Q. *(BY MS. FULLER)* I'm going to show you what has
20 been marked as State's Exhibit 126. Do you recognize that?

21 A. Yes, I do.

22 Q. What is that?

23 A. This is the missing persons flier I was handed from
24 Roger when I met him at the Shell.

25 Q. Fair and accurate copy of the flier you were

1 handed?

2 A. Yes, it is.

3 MS. FULLER: Your Honor, at this time State
4 moves to admit State's Exhibit 126, tenders to defense
5 counsel for inspection.

6 MR. CORNELIUS: No objection.

7 THE COURT: 126 will be admitted.

8 MS. FULLER: May I publish, Your Honor?

9 THE COURT: You may.

10 Q. (BY MS. FULLER) Roger gives you this flier and you
11 learned Linda's full name. What else do you learn about
12 her?

13 A. About Linda?

14 Q. Yes.

15 A. Actually I went back from -- that location back to
16 the office to talk to Roger in a little more detail.

17 Q. Okay. So, we're still talking 9:20 at night; is
18 that correct?

19 A. Yes.

20 Q. You had met with him at the Shell station but do
21 you take him back to the homicide office to do a formal
22 statement?

23 A. Yes, I do.

24 Q. Okay. Are you able to get a statement from him?

25 A. Yes, I do.

1 Q. All right. And after you get his statement, what
2 do you do?

3 A. During the interview, the name Ruben Escobedo
4 Juarez had come up at that point.

5 Q. All right. At that point do you realize that maybe
6 that's somebody that you also want to speak with regarding
7 this case?

8 A. Yes, eventually.

9 Q. What happens next?

10 A. After obtaining the statement, I took Roger back to
11 his residence, which was 507 Kelley. That's where he lives
12 and -- well, two things prior to doing that. One is I was
13 able to determine that Linda had a dentist that was
14 located -- we didn't have the exact physical address but
15 what we did know, it was at the -- near the intersection of
16 Ella and 43rd.

17 Q. Okay.

18 A. So, I was able to get that location from him,
19 establish that she had a dentist in that area, also drove
20 Roger back to his house at 507 Kelley and he granted me
21 permission to obtain Linda's toothbrush in case it was
22 needed for DNA comparison later on in the investigation.

23 Q. Okay. And what did you do with that toothbrush?

24 A. It was tagged in the property room.

25 Q. Okay. So, you get her toothbrush, you learn the

1 location of her dentist, a vague or -- not the exact
2 location but the area of her dentist. What do you do next?

3 A. Also prior to taking Roger back home, I ran the
4 name Ruben Juarez and I pulled the photograph of him because
5 I wanted to ensure that we were talking about the same
6 individual and I presented that photograph to him and he
7 positively identified him as the person he was referring to
8 in his statement.

9 Q. Okay. And the photograph that you pulled was of
10 Ruben Escobedo Juarez?

11 A. Yes.

12 Q. Is that correct?

13 A. That's correct.

14 Q. Do you see that individual here in the courtroom
15 today?

16 A. Yes, I do.

17 Q. Can you identify him by an article of clothing and
18 point him out?

19 A. This is him sitting here in the blue button-up
20 shirt next to his attorney.

21 Q. Okay. Does he have a tie or no tie?

22 A. No tie.

23 MS. FULLER: Your Honor, may the record
24 reflect this witness has identified the defendant?

25 THE COURT: The record will so reflect.

1 Q. (BY MS. FULLER) And from the picture of the
2 defendant Ruben was also -- excuse me -- Roger was able to
3 say, This is the person I'm talking about?

4 A. Yes.

5 Q. Okay. What happens next?

6 A. That concluded my day there. So, I picked it up
7 again on Saturday, which is June 26th of 2010, about
8 9:50 AM.

9 Q. Okay. What's the first thing -- you said that's a
10 Saturday?

11 A. That's a Saturday.

12 Q. All right. What's the first thing you do on
13 Saturday?

14 A. I drove the search for this dentist office, Linda's
15 dentist, and I drove the area, kind of scouted it out and I
16 located a dentist office located at 1214 West 43rd, Suite
17 300. The dentist's office was closed; so, I took down the
18 phone number and --

19 Q. Was that the only dentist office in the area?

20 A. That was the only one that I could find.

21 Q. Okay. So, you felt pretty confident that was the
22 one Roger was describing to you?

23 A. I wasn't certain at that point but I had a pretty
24 good idea that would be it.

25 Q. Okay. So, you got the phone number from where?

1 A. Off the window.

2 Q. Okay. What did you do next?

3 A. At that point I drove to the property room and the
4 toothbrush that I obtained the night before, I tagged that
5 into the property room.

6 Q. Okay. What did you do after that?

7 A. Well, that concluded my day on Saturday and I
8 picked it up again on Sunday, June 27th, 2010, at about
9 9:10 AM.

10 Q. Okay. What did you do on Sunday? What's the first
11 thing that you did?

12 A. On Sunday I drove out to the Chevron gas station,
13 which is located directly across the freeway, 610 Loop at
14 Irvington at 610, and I searched out surveillance cameras at
15 that location.

16 Q. Okay. And that would be the Chevron station; is
17 that correct?

18 A. That is a Chevron gas station, yes.

19 Q. And if you could -- might have to zoom in. Can you
20 point out from this picture -- do you see a little bit of
21 the Chevron station? You see it?

22 A. Yes. If you look through the underpass on the
23 left-hand side, I think you can make out some of the sign.

24 Q. Can you touch it on your screen or circle it?

25 A. (Indicating.) Roughly around here.

1 Q. All right. So, that is the Chevron location; is
2 that right?

3 A. That's Chevron.

4 Q. And is that located in State's Exhibit 103 at this
5 intersection?

6 A. Yes.

7 Q. Okay. What was the purpose of going to the Chevron
8 gas station?

9 A. I was looking for surveillance cameras in the
10 parking lot.

11 Q. And did they have any?

12 A. They did, but I discovered that they were not
13 operational on that date.

14 Q. Okay. So, absolutely nothing was recorded on that
15 date?

16 A. That's correct.

17 Q. All right. What'd you do next?

18 A. I went across the street to the Amigo Mart, which
19 is directly across the street from the Chevron gas station.

20 Q. Okay. Let me show you State's Exhibit 102. Is
21 that the Amigo Mart?

22 A. Yes, it is.

23 Q. All right. And so that would also be on the corner
24 of Reid and Irvington; is that right?

25 A. Yes.

1 Q. Just the opposite side?

2 A. Yes.

3 Q. All right. What did you do there?

4 A. Looked for cameras there as well.

5 Q. And did they have any?

6 A. They did not, and the business also shut down at
7 about midnight.

8 Q. Okay. So, they were not open?

9 A. No.

10 Q. And again, this was on a Sunday?

11 A. Sunday.

12 Q. All right. So, you've now gone to the Shell
13 station that's on the other side of the freeway, the Chevron
14 and the Amigo Mart. Are those the only three gas stations
15 at that big intersection?

16 A. Well, two of them are gas stations. This one,
17 Amigo Mart is just simply a small grocery store.

18 Q. Okay. Are there any other businesses like that in
19 that area?

20 A. No.

21 Q. All right. And all three of them, were you able to
22 get any surveillance video?

23 A. No.

24 Q. Okay. What do you do next?

25 A. At roughly 10:00 o'clock that same morning, I

1 received a phone call from a female by the name of Anna
2 Khan.

3 Q. Okay.

4 A. And Anna is the home owner of 920 Kelley because
5 you remember I left my business card with the male who was
6 left in the driveway and received a phone call from her.

7 Q. Okay. Were you able to speak with her?

8 A. Yes, I was.

9 Q. All right. And did you decide after speaking with
10 her that you wanted to meet with her?

11 A. Yes.

12 Q. And were you able to do that?

13 A. Yes.

14 Q. Did anybody else come along during that meeting?

15 A. Her roommate, which is another female by the name
16 of Angel Griffith, when I went to pick up Anna, she was
17 present and she rode back with us.

18 Q. Okay. Did you take statements from both of them?

19 A. Yes.

20 Q. And did you determine if they knew Linda Hartsough?

21 A. Yes.

22 Q. And did they?

23 A. They did.

24 Q. Did you determine if they knew Ruben Juarez?

25 A. Yes.

1 Q. And did they?

2 A. They did.

3 Q. All right. Did you also determine whether or not
4 they were with Ruben or Linda on May 15th, May 16th, that
5 time frame?

6 A. In that general time frame, you know, I don't
7 remember that.

8 Q. Okay.

9 A. If they were or not.

10 Q. All right. Do they -- do you recall them saying
11 that they -- do you recall them saying the last time they
12 had seen Linda?

13 A. Was around that time frame, what -- that the flier
14 had posted, when she was missing.

15 Q. Okay.

16 A. Within a day or two.

17 Q. Okay. Where did you take them to get their
18 statement?

19 A. Back to the homicide office downtown.

20 Q. And after you got their statement, what did you do?

21 A. Dropped them back off.

22 Q. All right. What happened next?

23 A. On -- well, at that point, after conducting those
24 interviews, I decided that I wanted to speak with Ruben.

25 Q. Okay. And why did you determine that to be

1 important?

2 A. From the investigation, it showed that this was the
3 last individual to have been seen with Linda.

4 Q. Okay. So, at that point, you determined that he's
5 the last person who's been seen with Linda. In your mind is
6 he a suspect at that point?

7 A. Not at that point.

8 Q. All right. Why not?

9 A. Well, I could have spoken with him and found out
10 that there was another individual who he saw her with and it
11 could just go on and go on. Sometimes that happens.

12 Q. Okay. But from the information you had received up
13 to that point, he was the last person seen with Linda and it
14 was somebody that you wanted to talk to.

15 A. That's correct.

16 Q. All right. What day was that on?

17 A. What day was what on?

18 Q. What day was that that you met with Anna and Angel
19 and made the determination you probably wanted to talk to
20 Ruben Juarez?

21 A. That was on Sunday, June 27th.

22 Q. All right. Do you do anything else on Sunday,
23 June 27th?

24 A. No.

25 Q. Do you pick up back with the case on Monday,

1 June 28th?

2 A. Yes, I do.

3 Q. All right. Tell me what you do on June 28th.

4 A. On June 28th I contacted another sergeant that I
5 know who works the southeast side of town for the
6 investigative first responders and I informed him there was
7 an individual by the name of Ruben Juarez that I wanted to
8 speak to and I asked for his assistance in locating him.

9 Q. Okay. Now, after that phone call, who did you call
10 next?

11 A. At around 10:15 I contacted the dentist's office
12 and I spoke to a female by the name of Penny Gamble.

13 Q. Okay. Were they able to confirm if Linda Hartsough
14 was a patient of theirs?

15 A. They were. A former patient, yes.

16 Q. Okay. Former patient?

17 A. Yes.

18 Q. All right. When you found that that was the right
19 dentist office, what did you do?

20 A. I asked them if they still had her dental records
21 and they confirmed that they did.

22 Q. Okay.

23 A. And I also made arrangements to drive by there and
24 pick them up after contacting the ME's Office and informing
25 them that dental records were located and I informed them

1 that I was going to pick those records up and transport them
2 from the dentist office to the Harris County ME's Office.

3 Q. Okay. Is that what you did?

4 A. That's what I did.

5 Q. All right. So, you drop off the dental records.
6 And again, this is on Monday, June 28th; is that correct?

7 A. That's correct.

8 Q. Now, at some point on Monday, June 28th, are you
9 able to speak with Ruben Juarez?

10 A. Yes.

11 Q. Where did you speak with Ruben at?

12 A. In our office downtown.

13 Q. Okay. And --

14 MS. FULLER: Just one moment, please, Judge.

15 Q. (BY MS. FULLER) Do you recall what time it was
16 that you went to your office to speak with Ruben?

17 A. It was around 4:40 PM that I received a phone call
18 from Sergeant Kinsworth and about 5:20, somewhere around
19 there.

20 Q. Is when you --

21 A. Is when I began talking to him, yes.

22 Q. Okay. I want to talk to you a little bit about
23 interviewing people. We talked about this briefly when we
24 were talking about your training and education. But
25 specifically regarding interviewing witnesses and suspects,

1 can you tell me what kind of training you've had just in
2 regards to that -- in interviewing?

3 A. Okay. Well, the way it kind of works is this, is
4 through the various courses that we attend, the training
5 that we receive -- there's nothing set in concrete. With
6 each individual course you go to, you take a little bit from
7 each course and you kind of develop your own style
8 interviewing and interrogations. It's kind of trial and
9 error, so to speak. What works for me may not work for the
10 next investigator. It's all basically the same. It's just
11 I take bits and pieces from each course that I learned from
12 and come up with my own techniques.

13 Q. Can you tell me a little bit about the courses that
14 you did go to?

15 A. Well, the courses I named off. I don't know what
16 specifically you want to know about each course. They're
17 all basically the same. They all teach the same techniques.
18 I can explain my technique and what I learned from that if
19 that helps.

20 Q. We'll get into that in a second. I want to know
21 generally about how many courses you've been to that you
22 were able to pull various things from to develop your own
23 style and technique.

24 A. As I mentioned before, I've attended four different
25 courses. Some of them were five-day courses. Some of them

1 were, you know, less. A lot of what I've learned is on the
2 job working with other investigators that have been in
3 homicide for some time.

4 Q. Okay. So, you're able to also view investigators
5 who maybe have more training or who have been in homicide
6 longer than you, you can observe them also doing interviews?

7 A. Yes.

8 Q. Okay. Tell me about, generally speaking, your
9 trial for how you do an interview.

10 A. What I do is I break it down into three different
11 phases beginning with what I call a rapport-building phase
12 and what that simply is is when I prepare to talk with a
13 person, conduct an interview, I'll go in and I'll make an
14 introduction, I'll introduce myself, I'll let the person
15 know who I am, what I want to talk to them about and at that
16 point during the rapport-building stage, I offer them
17 something to eat, something to drink. If they need a
18 restroom break, I'll offer them a restroom break.

19 I guess the important part of the
20 rapport-building stage is I want to bring their anxiety
21 level down in a relatively short period of time. I want
22 them to be calm. In this rapport-building stage, which
23 lasts very quick -- it's very fast -- is to take a very
24 quick baseline reading of their overall nonverbal behavior
25 and their body language. I can take a look into the jury

1 panel right now or outside anywhere and take a look and for
2 the most part everybody is comfortable and I can take a
3 quick glance and see what their baseline reading is based on
4 that. That's the main purpose of that. During the
5 rapport-building phase I do not record that because it is
6 quick. Typically it's just me going in there, making
7 introductions, introducing myself, offering food, drink,
8 restroom break. Sometimes they do accept food and, you
9 know, they're sitting there eating for 30 or 40 minutes; so,
10 it's just something that there's no questions regarding the
11 case that are being asked. We're not talking about the
12 case. There's no reason to record that. So, that's why I
13 do not do that.

14 Q. Okay. Do you --

15 A. After that I move into what I call the interview
16 phase.

17 Q. This is after the rapport phase?

18 A. This is after the rapport phase. I notify them
19 prior to that I'm going to activate the recording equipment.

20 Q. Let me stop you. This is now during the interview
21 phase?

22 A. During the interview phase, yeah.

23 Q. At this point they've been offered food, they've
24 been offered something to drink, they have been offered to
25 use the restroom. You've gotten to know them a little bit,

1 introduced yourself, now you're telling them: I'm going to
2 turn on the camera and I'm going to interview you?

3 A. That's correct.

4 Q. Okay. What else do you do in that, generally
5 speaking, in this portion of your -- in this phase?

6 A. Okay. We're now done with the quick
7 rapport-building phase and we move into the actual interview
8 phase now. Now, the interview phase, it consists of a
9 series of questions that are directly related to the case
10 now. Now, the questions are non-accusatory in nature.
11 However, what I do want is by asking these questions it's my
12 hope that the anxiety level of the person I speak to will
13 increase if there's anything that -- if there's any
14 deception being withheld, if a person is lying, so to speak,
15 their anxiety level will increase.

16 Q. Okay.

17 A. And so what I'm doing now is from the initial
18 baseline reading that I took during the rapport-building
19 stage, I'm now looking at his body language, his nonverbal
20 behavior during the interview phase to see if there's any
21 deviation from that.

22 Q. Okay. And tell the jury what kind of things are
23 you looking for when you talk about deceptive body language.

24 A. Nonverbal behavior. There are numerous forms of
25 nonverbal behavior. As far as in interview and

1 interrogations, when we're talking about deceptive body
2 language, for instance, and I'll just -- like I said,
3 there's so many. A person who is covering their eyes, that
4 alone doesn't mean anything but when you view body language,
5 deceptive body language in clusters, which are two or more,
6 then that usually indicates that a person is being deceptive
7 when answering the questions that I'm asking.

8 Q. Okay. Tell me -- give me a couple other examples
9 of things that could be --

10 A. Okay.

11 Q. -- according to your courses and your training --

12 A. Sure.

13 Q. -- that could be deceptive body language when
14 clustered and seen together.

15 A. A person who is covering their eyes, is doing what
16 we call mental escape, and mental escape means that the
17 person is mentally trying to remove themselves from the
18 situation because the anxiety level has reached a high, that
19 in conjunction with maybe perhaps turning his body away with
20 covering his eyes, no eye-to-eye contact with the person,
21 covering the mouth when they're speaking to you after that,
22 all of these clusters can be indicative of a person who is
23 being deceptive.

24 Q. Okay. And that's what has been taught to you by
25 the course work that you've been to?

1 A. Yes.

2 Q. And you look for at least two of those things
3 together in order to deem it to be deceptive body language?

4 A. That's correct. I think it's important to mention,
5 too, this is just an investigative tool that we use during
6 the interview phase and based on what -- the final
7 assessment I make after the interview, after what I found
8 out as far as his verbal cues, what I know about the
9 investigation itself, that lets me know whether I need to
10 proceed into an interrogation phase or not.

11 Q. Okay. And let me stop you there because I think we
12 missed an important part. At some point during this
13 interview process, during these three phases, do you read
14 the person their rights?

15 A. I do.

16 Q. And at what point would you read the person their
17 rights?

18 A. Prior to doing the interview phase.

19 Q. Okay. So, after rapport building but prior to
20 asking them any specific questions about the case?

21 A. That's correct.

22 Q. And when you -- what is the purpose of reading them
23 their rights?

24 A. To inform them of their legal rights.

25 Q. All right. Now, when you read them their rights,

1 if they say to you that they don't want to waive their
2 rights, what happens?

3 A. The -- it goes no further. The interview does not
4 happen. Anything obtained after that would be useless and
5 pointless; so, it doesn't go any further.

6 Q. Okay. So, in order for you to get into the
7 interview stage to ask the questions, the person that you're
8 talking to has to be able -- has to waive their rights?

9 A. Yes --

10 Q. And agree to speak with you?

11 A. That's correct. He is read his rights, he has to
12 verbally acknowledge he understands his rights and after
13 that he has to voluntarily waive those rights in order for
14 me to obtain a statement.

15 Q. Okay. Now, we were talking about the interview
16 phase. Have we missed anything in the interview phase that
17 you would be doing? You said at this point you're asking
18 non-accusatory questions but that are specific to whatever
19 it is you're investigating.

20 A. Yes.

21 Q. All right. And you're watching the person to see
22 if their body language changes from that baseline in the
23 rapport-building stage?

24 A. Yes, and again, just as I mentioned, this is just
25 an investigative tool that lets me know if -- based on what

1 I know from the investigation at that point, in conjunction
2 with what I found out during the interview, also with the
3 body language cues that I'm getting, it lets me know if I
4 need to proceed on to the interrogation phase or not.

5 Q. Okay. What would tell you, generally speaking,
6 that, yes, I need to move on to the interrogation phase at
7 this point?

8 A. Everything that I just mentioned.

9 Q. Okay. Which is?

10 A. Which is the nonverbal body cues which are showing
11 deception on the questions I'm asking, the information I
12 obtained up until that point in the investigation. I would
13 assess the whole group of things there and decide whether or
14 not I need to proceed on with the interrogation.

15 Q. All right. So, you get to look at everything as a
16 whole, not just what you're observing in that room with that
17 person.

18 A. That's correct.

19 Q. All right. Tell us about the interrogation phase.

20 A. Interrogation phase is a little bit different now.
21 It is accusatory. And the interrogation does not begin
22 until an accusation is actually made. That's the difference
23 there. The tone of the interrogation changes now. You're
24 now accusing the person of whatever it is that you're
25 interrogating them about.

1 Q. Okay.

2 A. One of the interrogation techniques that I use is
3 called theme building.

4 Q. All right. Let's talk about theme building for a
5 little while, or for a second. What is theme building?

6 A. Theme building is used to -- it's a phrase that we
7 use to either minimize or justify the actions of the
8 offender, of the person I'm interrogating, to minimize or
9 justify the actions, at least in their mind, okay?
10 Sometimes we even shift the blame from the offender who I'm
11 interrogating to the victim itself. Sometimes that makes it
12 more palatable for the person to accept that. They accept
13 that because we are now -- they are no longer the bad guy in
14 this interrogation. It's the victim and sometimes people,
15 that makes it a little more acceptable and they're able to
16 admit when you turn things that way.

17 Q. All right. Let me ask you this. In the years that
18 you've been a homicide investigator and with the experience
19 that you have had interrogating and questioning people, is
20 it common for people to come in and just tell you everything
21 that happened?

22 A. No.

23 Q. What is more common?

24 A. What's more common is we actually enter the three
25 phases I just mentioned and the interrogation phase, when

1 presented with a theme, most of the time they'll admit to
2 whatever it is we're talking to them about.

3 Q. All right. Now, these themes that you put forth,
4 are they things that you believe in?

5 A. No. That was another good point there, is whatever
6 theme I use, most of the time, I guess I could say, they're
7 not meant literally. I don't have to believe what the theme
8 is. Like I said, the whole -- sole purpose of that is to
9 minimize or justify the actions of the person who I'm
10 talking to in their minds and sometimes, again, we shift the
11 blame from them to the victim.

12 Q. Okay. And does that work in your experience, to
13 get people to give you more information about what they've
14 done?

15 A. It's been very successful for me.

16 Q. Okay. And you stated that this process that you've
17 developed for yourself is something that you've pulled from
18 the various courses that you've gone to.

19 A. That's correct.

20 Q. And has it been successful for you?

21 A. It's been extremely successful.

22 Q. Okay. Through the course of being a homicide
23 investigator, have you interviewed suspects that you thought
24 were suspects that later turned out to not be the suspect?

25 A. Yes.

1 Q. Has that happened on few or many occasions?

2 A. It's -- if I had to guess, I guess it would be
3 maybe about sometimes 50 percent.

4 Q. Okay.

5 A. You know, and it would stop during the -- most of
6 the time during the interview phase.

7 Q. Now, if you're talking to somebody during the
8 interview phase that you later determined to be not involved
9 with the crime that you're investigating, what kind of
10 things would you find from them in that interview phase?

11 A. That's kind of hard to say. I mean, it depends on
12 what it is I'm investigating.

13 Q. Okay.

14 A. I mean, I don't know specifically what you're
15 asking.

16 Q. Well, you said in order to move into the
17 interrogation phase, you look for body cluster -- deceptive
18 body language clusters.

19 A. Yes.

20 Q. Can you give us an example of something that would
21 be indicative to you of this person's not involved with
22 whatever it is that I'm investigating?

23 A. I guess what you're asking is truthful body
24 language.

25 Q. Yes.

1 A. Okay?

2 Q. Yes.

3 A. Typically the number of -- the clues that we clue
4 in on as far as deceptive body language are referred to as
5 tells, T-E-L-L-S, tells, and there are many of those. When
6 viewed in clusters, it's typically indicative of someone
7 being deceptive. On the opposite end, if we're talking
8 about truthful behavior, what we typically will see is a
9 person sitting on the edge of their seat making eye-to-eye
10 contact with you, leaning forward slightly a bit and talking
11 to you, open hands. They're not crossed, arms crossed,
12 blocking, none of the behaviors that I just mentioned
13 before. It's open conversation. It's not trying to pry
14 information out. It's a person genuinely wanting to be
15 honest with you. It's pretty easy to recognize, I mean,
16 it's --

17 Q. Is it easy with your training and experience to
18 tell the difference between someone who's being truthful to
19 you and somebody who's being more deceptive?

20 A. I would say so.

21 Q. Okay. Now, how would somebody who was, in your
22 mind, has sort of passed the interview phase as being
23 truthful, how would they react when accused of a crime?

24 A. When I move into -- from the interview phase, just
25 say, for instance, that I feel that I do have -- after

1 assessing the interview, I feel that I do have enough
2 information that warrants me proceeding on into the
3 interrogation phase, when you accuse an innocent person --
4 and that's been my experience -- when you accuse an innocent
5 person of whatever it is you're interrogating them about,
6 you will have an immediate and violent response to whatever
7 allegation it is that you're making towards them and it's
8 not something that five minutes from now that you can get
9 angry about and typically that is another indication to me
10 that maybe I better take another look at this guy. This
11 guy -- maybe he is being honest with me and look at it maybe
12 another direction.

13 Q. Okay. Now, I asked you if you have interviewed
14 people who are suspects in your mind who later turned out to
15 not be the target of your investigation who were innocent of
16 whatever crime you were investigating. On the flip side,
17 have you interviewed people that in your mind at that point
18 were not suspects in your mind, that then became suspects
19 throughout the interview process?

20 A. Yes.

21 Q. And again, would that all play into the deceptive
22 body language clusters and the particular themes that you
23 incorporate into the interview?

24 A. Yes. You know, I think it's important to mention,
25 too, that simply because or during the interview, if you

1 have a person that, say, is exhibiting deceptive body
2 language, you can, and I have proceeded into the
3 interrogation phase and offered themes that they did not
4 accept and still was not able to establish whether or not
5 they were actual suspects at that point.

6 Q. Okay. Give me a ballpark. How many people do you
7 think that you've interviewed and interrogated through the
8 course of your career with homicide?

9 A. I think it's over a hundred.

10 Q. Okay. So, quite a few?

11 A. Quite a few, yes.

12 Q. Would you agree? And off the top of your head, do
13 you know how many you witnessed other officers do?

14 A. Probably close to the same amount.

15 Q. Okay. Just one moment. Now, I'm not sure if we
16 finished discussing everything about the interrogation
17 phase. You talked about the theme building that you use in
18 that phase; is that correct?

19 A. That's correct.

20 Q. And are there any other tools that you use during
21 that phase?

22 A. Theme building is the primary one.

23 Q. All right. Anything else that you do with your
24 interviews and interrogations?

25 A. No.

1 Q. Now, at any point if a witness tells you that they
2 don't want to talk to you anymore, what do you do?

3 A. It's -- the interview or the interrogation,
4 whichever I'm in at that point, stops immediately.

5 Q. Okay. Do you ever get to a point in an interview
6 when you recognize that the interview's over, even if the
7 person hasn't verbally affirmatively said that?

8 A. Yes.

9 Q. Can you give me a description of that?

10 A. I spoke earlier about the mental escape and that is
11 when the person has mentally withdrew from the interview or
12 interrogation due to the high level of anxiety they're
13 experiencing. Sometimes by calling the person by their name
14 you're able to pull this person out of the mental escape and
15 sometimes you're not. When I recognize that I'm not, at
16 that point for me it's pointless to go on and I'll stop the
17 interview or interrogation.

18 Q. You'll stop it without them actually telling you:
19 I don't want to talk to you anymore?

20 A. Yes, ma'am.

21 Q. Okay. All right. I want to turn your attention
22 back to -- I want to turn your attention back to Monday,
23 June 28th, when you met with the defendant in this case.
24 First of all, can you -- you met him down at the homicide
25 office; is that correct?

1 A. That's correct.

2 Q. Do you recall where he was waiting for you?

3 A. In our interview room, Interview Room No. 5.

4 Q. All right. Can you describe to the jury what
5 Interview Room No. 5 -- what it looks like?

6 A. It's a -- let me see. I kind of guesstimated the
7 dimensions earlier. It's roughly a 10 by 8 room that has no
8 windows, it has soundproofing on the walls, camera and audio
9 capability. The room is big enough to accommodate a small
10 table and roughly two chairs. We can squeeze more in if we
11 have to but that's basically it.

12 Q. Okay. You said there's a door; is that right? But
13 no windows?

14 A. There's a door that does not lock. There's one
15 door. No windows.

16 Q. Is there video equipment in the room, recording
17 equipment?

18 A. Yes.

19 Q. It's physically in the room or is it built in so it
20 can record into the room? Does that make sense?

21 A. It's actually in the wall, if that's what you're
22 asking.

23 Q. Okay.

24 A. Yeah.

25 Q. When -- as a homicide detective, you carry a gun

1 with you, right?

2 A. Yes.

3 Q. Okay. When you interview somebody, do you take
4 your gun into that room with you?

5 A. No, I do not.

6 Q. Why not?

7 A. Well, for safety reasons, and as I mentioned, at
8 the very beginning during the rapport-building stage, the
9 whole objective is to bring down a person's anxiety and of
10 course by having a weapon by your side, that kind of defeats
11 the purpose on that.

12 Q. Okay. So, you don't take any weapons into the
13 interview room with you?

14 A. No.

15 Q. Is that correct?

16 A. That's correct.

17 Q. Okay. Specifically when you met the defendant in
18 Interview Room No. 5, was anybody in the room with him when
19 you got to the room?

20 A. No.

21 Q. What did you do first when you walked into the room
22 that the defendant was in?

23 A. I introduced myself. Told him who I was.
24 Explained to him what it was I wanted to talk to him about.
25 Offered him something to drink, which he accepted. I

1 offered him food and offered him the opportunity to use the
2 restroom, which he declined.

3 Q. All right. You said that he wanted something to
4 drink. What did you give him?

5 A. A bottle of water.

6 Q. He declined food and he declined the restroom?

7 A. That's correct.

8 Q. All right. And is it safe to say that this is
9 now -- you're in the rapport-building phase of your
10 interview?

11 A. Yes.

12 Q. So, you have not turned the camera on?

13 A. No.

14 Q. All right. At that point are you asking him
15 anything specifically about the case?

16 A. No.

17 Q. You mentioned that you told him that you tell him
18 why you want to talk to him. Is that the only thing that
19 you mention in regards to the case?

20 A. Yes.

21 Q. Itself?

22 A. Yes.

23 Q. Okay. After you give Ruben a bottle of water, what
24 happens next?

25 A. It was very apparent to me and was made known to me

1 that he was afraid, "he" being Ruben.

2 Q. Okay. How could you tell that?

3 A. It was -- he said it.

4 Q. Okay.

5 A. That he was afraid.

6 Q. Okay.

7 A. So, again, the whole objective in the
8 rapport-building is to bring down the person's anxiety. So,
9 I had said to him, I need you to relax, calm down. I'll
10 help you through this, referring, through the process of
11 being interviewed itself.

12 Q. Okay. At that time did you make him promises
13 for -- aside from telling him, I'm going to help you through
14 this process, the interview process, do you make him any
15 other promises if he'll talk to you that you'll give him
16 something else?

17 A. I didn't make any promises at all.

18 Q. Okay. Did you threaten him at any time?

19 A. No.

20 Q. Did you coerce him at any time to give you a
21 statement?

22 A. No.

23 Q. Did you ever physically put your hands on him?

24 A. No.

25 Q. Okay. No physical harm is done to him whatsoever?

1 A. No.

2 Q. All right. Are you still in the rapport-building
3 phase at this point?

4 A. Yes.

5 Q. What do you do next?

6 A. Well, I leave the room, inform him that I'm going
7 to activate the recording equipment, I leave the room, turn
8 on the recording equipment and return.

9 Q. Okay. Before we move on, do you recall
10 approximately how long you spent with Ruben building
11 rapport?

12 A. Maybe five or ten minutes.

13 Q. Okay. And again, that's not recorded?

14 A. That's not recorded.

15 Q. Okay. Five or ten minutes?

16 A. Five or ten minutes, ballpark.

17 Q. Are there any other officers that are in the room
18 with you?

19 A. No.

20 Q. Do these interview rooms have the capability of
21 officers viewing what's going on?

22 A. Yes.

23 Q. Do you have anybody else there at this time?

24 A. Yes.

25 Q. Okay. You said that you then tell him that you're

1 going to turn on the recording equipment. You leave, you
2 turn it on, you come back in.

3 A. Yes.

4 Q. What happens next?

5 A. I read him his Miranda warning.

6 Q. Okay. Can you tell the jury exactly the Miranda
7 warnings that you read to Ruben on that day?

8 A. I read them directly from our Texas Statutory
9 Warnings card, which is the Harris County District
10 Attorney's card. Did you want me to read each one of these?

11 Q. Yes, please.

12 A. Okay. This is the exact same card that I read from
13 and I'll start off with No. 1: You have the right to remain
14 silent and not make any statement at all and any statement
15 you make may be used against you at your trial. That was
16 No. 1.

17 No. 2: Any statement you make may be used as
18 evidence against you in court.

19 No. 3: You have the right to have a lawyer
20 present to advise you prior to and during any questioning.

21 No. 4: If you are unable to employ a lawyer,
22 you have a right to have a lawyer appointed to advise you
23 prior to and during any questioning.

24 And No. 5: You have the right to terminate
25 this interview at any time.

1 And then what I say at that point is -- after
2 each right that I'm reading, I ask that they verbally
3 acknowledge whether or not they understand the right or not
4 and if they don't, then I go back and I clearly explain it
5 to them. In this case he indicated verbally that he did.

6 After that -- they have to voluntarily waive
7 these rights and I asked that and I asked that and I
8 explained that: In order for me to obtain a statement from
9 you, you have to voluntarily waive your rights in order for
10 me to take that statement. Do you voluntarily waive your
11 rights?

12 And his response was yes.

13 Q. At this point you have been talking to him five or
14 ten minutes, right?

15 A. Prior to, during the rapport building.

16 Q. And you're in Interview Room No. 5?

17 A. Yes.

18 Q. Which is a pretty small room?

19 A. Yes.

20 Q. Can you smell the odor of alcohol on the defendant?

21 A. No, I do not.

22 Q. Could you tell from your years of being a patrol
23 officer and your experience interviewing witnesses and
24 suspects, could you tell if he was under the influence of
25 alcohol?

1 A. I didn't believe he was.

2 Q. Could you tell based on your training, your
3 experience, patrol and homicide, if he was under the
4 influence of any drugs?

5 A. I didn't notice any. I didn't observe any.

6 Q. Did you feel that you could speak clearly with him
7 and that he was understanding what you were asking of him
8 and talking to him about?

9 A. Yes.

10 Q. So, at this point you read him his rights and he
11 agrees to waive those rights.

12 A. That's correct.

13 Q. Right?

14 A. Yes.

15 Q. What happens next?

16 A. I proceed on to the interrogation phase -- I'm
17 sorry -- the interview phase.

18 Q. The interview phase. Okay. And do you know
19 approximately how long the interview phase lasts for?

20 A. On this particular one, I don't know. I don't
21 remember.

22 Q. Okay.

23 *MS. FULLER:* May I approach the witness, Your
24 Honor?

25 *THE COURT:* You may.

1 Q. (BY MS. FULLER) I'm going to show you what has
2 been marked as State's Exhibit No. 1. Do you recognize
3 that?

4 A. Yes, I do.

5 Q. What is State's Exhibit No. 1?

6 A. This is the interview that I took of Ruben Juarez.

7 Q. Okay. Have you had an opportunity to listen to
8 State's Exhibit No. 1?

9 A. Yes, I have.

10 Q. And do you recognize all the voices on the -- on
11 the statement?

12 A. I do.

13 Q. Okay. And was the person who made that recording
14 competent in using the recording equipment?

15 A. Yes.

16 Q. Okay. Is it a fair and accurate copy of -- of the
17 defendant's statement?

18 A. Yes, it is.

19 Q. Okay. At this time I want to show you what's been
20 marked as State's Exhibit No. 98. Do you recognize that?

21 A. I do.

22 Q. And is State's Exhibit 98 a true and accurate copy
23 of State's Exhibit No. 1?

24 A. It is with the exception of the redactions that
25 were made, to my understanding, that were acceptable by both

1 the prosecution and the defense.

2 Q. Okay. But aside from those redactions, it's a true
3 and accurate copy of State's Exhibit No. 1, the
4 confession -- the statement that the defendant gave?

5 A. That's correct.

6 Q. Okay.

7 MS. FULLER: Your Honor, at this time, State
8 moves to admit State's Exhibit No. 98, tenders to defense
9 counsel for inspection.

10 MR. CORNELIUS: No additional objection other
11 than the ones in our motion.

12 THE COURT: All right. Then State's Exhibit
13 No. 98 will be admitted.

14 Ms. Fuller, before you play that, because my
15 recollection is it's lengthy, why don't we do that first
16 thing in the morning?

17 MS. FULLER: Yes, ma'am.

18 THE COURT: Ladies and gentlemen, we're going
19 to recess for the day. We're going to start in the morning
20 once again at 10:00 o'clock. So, if y'all will be here
21 ready to go at 10:00.

22 I know now you've had an opportunity to hear
23 some testimony. Please do not begin any discussions of that
24 testimony amongst yourselves, anybody at home, don't talk to
25 anybody, like I said yesterday, about the case at all. Once