

1 THE COURT: All right. Feel free to  
2 walk over here. Have a seat there in the witness  
3 chair and adjust the microphone and answer as  
4 directly as you can.

5 You may proceed.

6 MS. DAVIDSON: Thank you --

7 THE COURT: If one of the -- excuse  
8 me -- if one of the lawyers stands up while you're  
9 answering a question, go ahead and stop your answer.  
10 I'll talk to them, then I'll talk to you.

11 You may proceed.

12 MS. DAVIDSON: Thank you, Judge.

13 **CRAIG CLOPTON,**  
14 having been first duly sworn, testified as follows:

15 **DIRECT EXAMINATION**

16 BY MS. DAVIDSON:

17 Q Can you state your name, please?

18 A Craig Clopton, C-L-O-P-T-O-N.

19 Q How are you employed?

20 A I'm a sergeant investigator with Harris  
21 County Sheriff Department homicide division.

22 Q How long have you been a sergeant with the  
23 sheriff's office?

24 A About seven years.

25 Q And what exactly do you do in the homicide

1 division?

2 A We investigate deaths, including homicides  
3 and suicides and unanswered deaths.

4 Q Were you employed back in the homicide  
5 division in that same capacity on April 16th of 2008?  
6 I'm sorry, May 16th of 2008?

7 A Yes.

8 Q Did you have an occasion to become involved  
9 in a homicide that occurred at 6607 Springfield  
10 Garden Lane in Spring, Texas?

11 A Yes.

12 Q And is that a location in Harris County,  
13 Texas?

14 A Yes, it is.

15 Q Can you briefly tell the Court what your  
16 role was in that investigation?

17 A Initially, we get called out as a -- as a  
18 squad -- as a group. And it depends on the  
19 circumstances of who is going to be the lead  
20 investigator on that -- that particular case. We  
21 alternate.

22 On this occasion, the -- the lead  
23 investigator was going to be Sergeant Wedgeworth.  
24 And it also depends on how many we need at the scene,  
25 or if somebody needs to go to the hospital, or if

1 somebody needs to go to the -- to the office, in --  
2 in expectation of witnesses to be brought to the  
3 office. And in this case, I was told to go to the  
4 homicide office.

5 Q Okay. And that would be the homicide office  
6 located at 601 Lockwood?

7 A That's correct.

8 Q Any particular persons that you were  
9 supposed to be responsible for interviewing?

10 A Initially, I was told to go there, that  
11 there was going to be a witness to come to the  
12 office, along with Sergeant Wedgeworth.

13 Q And did that witness eventually show up at  
14 601 Lockwood?

15 A Yes.

16 Q Can you tell the Judge who that witness  
17 was?

18 A Theron Owens.

19 Q Do you see Mr. Owens in the courtroom  
20 today?

21 A Yes, I do.

22 Q Can you identify him by where he's sitting  
23 and something he's wearing?

24 A He's sitting here to my left, and has on an  
25 orange jumpsuit and he's wearing glasses.

1 MS. DAVIDSON: Your Honor, may the  
2 record reflect the witness has identified the  
3 defendant.

4 THE COURT: It will so reflect.

5 Q (BY MS. DAVIDSON) Approximately what time of  
6 the day or night -- I'm assuming, Officer, that  
7 you've moved into May 17th now.

8 A Yes, ma'am.

9 Q Okay. Approximately what time of the day or  
10 night was it that you met Mr. Owens at 601 Lockwood?

11 A I got to the -- to the Lockwood office about  
12 4:00 a.m. When I actually spoke with him, that was  
13 about 8:30 a.m.

14 Q Okay. Okay. And what was your purpose for  
15 speaking to him?

16 A Sergeant Wedgeworth wanted me to sit in with  
17 him to interview him.

18 Q Where was this to take place, this  
19 interview?

20 A In an interview room -- at the time we  
21 had -- I can't remember -- we did -- we had some  
22 construction since then. But it was either two or  
23 three interview rooms that we have.

24 Q Can you describe the interview room that you  
25 met the defendant in for the Judge?

1           A        It's about maybe 8 by 8 room.  It's squared.  
2  No windows.  Just a door as the entrance and exit, and  
3  two or three chairs.  And sometimes a -- the movable  
4  desk.

5           Q        Does the room have the ability to videotape  
6  the interviews with people?

7           A        Yes, it does.

8           Q        When you met with the defendant, can you  
9  tell the Judge what was the first thing that  
10 happened?

11          A        Well, when we went in Sergeant Wedgeworth  
12 had told Owens that he was going to take a -- a  
13 statement from him.  He was going to video -- video  
14 record it.

15          Q        And this is on that first morning right  
16 after the homicide occurred on May 17th; is that  
17 correct?

18          A        Yes.

19          Q        And what did you understand as to why he  
20 wanted you in there?

21          A        He had already given a written statement.

22          Q        Yes, sir.

23          A        And he'd also taken a polygraph.  And after  
24 finding out the results of the polygraph, he wanted  
25 to interview him some more on some of his

1 inconsistencies. And he wanted me to go in, as well  
2 as him.

3 Q Okay. At the time that you and Sergeant  
4 Wedgeworth meet with the defendant in -- to do this  
5 first videotaped interview, was he in custody?

6 A No.

7 Q Okay. And why is that?

8 A We had -- he hadn't been charged, and at  
9 that point we were still under the investigation  
10 process. And he -- we haven't even spoken to the  
11 district attorney's office. So, he wasn't charged  
12 with anything.

13 Q And did y'all -- you and Sergeant Wedgeworth  
14 eventually interview him that morning?

15 A Yes.

16 Q And after the interview what, if anything,  
17 did you do?

18 A Took him home.

19 Q So, he was free to leave after y'all  
20 interviewed him and you drove him to his residence?

21 A Yeah, I believe it was myself and Deputy  
22 Pool that actually gave him a ride home.

23 Q Okay. When was the next time you saw the  
24 defendant during the course of the investigation?

25 A It was -- I'm trying to find -- it -- it was

1 one or two days later. I can't -- I can't remember  
2 the exact date, but it was one or two days later.

3 Q And where was it that you met with the  
4 defendant?

5 A It was at his residence.

6 Q Okay. Were you with Sergeant Wedgeworth?

7 A Yes.

8 Q And what was y'all's purpose for going over  
9 to the residence?

10 A I don't want to misspeak. I don't remember  
11 the exact purpose. I knew we were going over there  
12 to speak with him. I can't say the exact purpose.

13 Q When you got to the residence, would it be  
14 fair to say that that was on May 19th; does that help  
15 you out? When you --

16 A Yes.

17 Q Who was at the residence?

18 A As I recall, Theron Owens was there and  
19 there were some other family members. I don't  
20 remember everybody's name.

21 Q Did you or Sergeant Wedgeworth have any  
22 conversation with the defendant?

23 A Yes.

24 Q Okay. At any time during that conversation,  
25 did you tell him he was under arrest?

1 A No.

2 Q At any time did you tell him y'all were  
3 going to arrest him?

4 A No.

5 Q How long do you remain at the residence?

6 A I really couldn't say. I don't -- I mean,  
7 not -- not an extended time.

8 Q At some point after leaving the residence,  
9 did you receive a phone call from Quanell X?

10 A Yes.

11 Q What time of the day or night was that?

12 A That was on the -- the 19th and it was about  
13 5:20 p.m.

14 Q Okay. And where were you when you received  
15 that phone call?

16 A I was at the homicide office. I hadn't gone  
17 home for the day yet.

18 Q So, he called you at 601 Lockwood?

19 A I don't know if he called the -- the office,  
20 or -- or he called my cell phone. But he did call  
21 me.

22 Q Did you, prior to that day, know Quanell X?

23 A Yes.

24 Q Okay. And how did you know him?

25 A There were other cases that he -- other



1 potential defendants that contacted him and wanted to  
2 turn themselves in. And for whatever reason they  
3 trusted him to turn himself in. And that's how I  
4 came in contact with him.

5 Q How many occasions prior to May 19th of 2008  
6 had you come in contact with Quanell X?

7 A Maybe three or four. Once I took a  
8 statement from him under the same circumstances. And  
9 maybe three, four times at the most.

10 Q Okay. On May 19th what, if anything, did he  
11 say to you?

12 A He -- he told me that he had gotten a call.  
13 I believe he said it was from Theron. And that  
14 Theron was telling him that we were hassling him.  
15 And that he was wanting to meet with Quanell.

16 And he asked me, you know, is there any  
17 concerns. That's why he was interested. And I told  
18 him that we were investigating this homicide, and  
19 that we had suspicions that Theron wasn't being  
20 truthful with us and he was a suspect.

21 Q Did you tell him anything else -- Quanell X  
22 anything else about your investigation other than  
23 that?

24 A No.

25 Q Did you ask him to assist in any manner

1 during course of the investigation to maybe get the  
2 defendant to confess?

3 A No. I don't have that kind of relationship  
4 with him.

5 Q Did you talk to Quanell X again after that  
6 one conversation?

7 A I believe, I'm not sure. I want to say that  
8 I didn't. The -- the next word that I got from  
9 Quanell, it -- I believe he called my lieutenant and  
10 my lieutenant relayed the message to me.

11 Q Okay. He called your lieutenant; when was  
12 that?

13 A That was on Tuesday, May the 20th.

14 Q Okay. What time of the day or night were  
15 you aware that Quanell had called your lieutenant?

16 A It was about 11:00 a.m.

17 Q And what was your understanding of what was  
18 going to happen, after that phone call was made to  
19 the sheriff's office?

20 A Lieutenant Denholm told me that -- that  
21 Quanell had -- had called him and told him that he  
22 was going to meet with him. And that if -- if he  
23 admitted being involved in any kind of homicide, that  
24 he would try to get him to turn himself in.

25 Q Okay. So at the time you were made aware

1 that Quanell had contacted -- you didn't speak to  
2 Quanell on that occasion; is that correct?

3 A That's correct.

4 Q Okay. Did you at some point after that  
5 information was relayed to you see either Quanell X  
6 or the defendant at 601 Lockwood?

7 A Yes.

8 Q When was that?

9 A That was the same day.

10 Q Okay. And how much longer after that?

11 A About an hour.

12 Q Okay. Where were you at 601 Lockwood when  
13 you came in contact with them?

14 A In the parking lot.

15 Q Okay. In the parking lot at 601 Lockwood?

16 A Yes, ma'am.

17 Q And what, if anything, was your  
18 understanding of what was going to happen?

19 A That Theron was coming in to the homicide  
20 office to tell the truth on his involvement in this  
21 investigation.

22 Q Okay. And when you say, "The parking lot,"  
23 when you run into him, could you describe that area  
24 for the Judge?

25 A The building sits on -- on Lockwood and

1 Lockwood runs north and south, and so the building is  
2 longways, north and south. On the north end of the  
3 building there is a -- it's a small parking lot.  
4 Maybe 30 cars can fit in there. And it's in that  
5 parking lot.

6 Q And when you say you met him in the parking  
7 lot, did they drive in? Did somebody drive them  
8 there? Did you see how they arrived?

9 A Well, we knew that -- that they were coming,  
10 so, there's -- our floor is on the second floor and  
11 at the end of the building you can see out the  
12 windows. And I knew that Quanell would drive -- I  
13 want to say extravagant, but flashy vehicles. And I  
14 saw -- I want to say it was a Hummer, because I've  
15 seen him in different vehicles. But it was some --  
16 some car flashy that struck me that that's -- that's  
17 probably him. That's why I went down to the parking  
18 lot.

19 Q Okay. And was it Quanell X?

20 A Yes.

21 Q Who was with him?

22 A Couple other guys. I don't know who they  
23 are. I just took it maybe they were bodyguards. I  
24 don't know.

25 Q Okay.

1 A And -- and Theron.

2 Q And after seeing them come in the parking  
3 lot, what happened next?

4 A We then walked into the homicide office.  
5 There was Theron and Quanell. I can't recall if --  
6 if the two guys was with him, if they came up or if  
7 they just stayed down here. I don't remember.

8 Q Did you ever cuff the defendant?

9 A No.

10 Q Okay. Was the defendant in custody when he  
11 went up to the homicide office?

12 A No.

13 Q What happened next?

14 A We took him in a -- one of the interview  
15 rooms. I don't know if it was the same one or not.  
16 It could've been the same one. I'm not sure.  
17 Wedgeworth, or Sergeant Wedgeworth, let me find that  
18 place --

19 Q Well, let me ask you this. When you say,  
20 "We took him," who are you referring to?

21 A Sergeant Wedgeworth and myself.

22 Q And who was the "him" that you took in the  
23 interview room?

24 A Theron Owens.

25 Q The defendant?

1 A Yes.

2 Q Are all the interview rooms pretty much set  
3 up the same as they were at 601 Lockwood on that day?

4 A Are they set up the same now?

5 Q No, then. Back then?

6 A You mean is each room the same?

7 Q Pretty much. Same size, same setup, with  
8 one door?

9 A They're -- they're pretty much the same in  
10 size, but one of them had -- it's kind of -- I don't  
11 know what you call the board, but it's like, you  
12 know, you could dry erase on the board. It's just  
13 like that. All the walls are like that. And then  
14 one of the other ones had like foam -- like egg  
15 carton, like for sound proofing on the walls. And  
16 part of it was torn off.

17 Q Okay. Do you recall which room you took the  
18 defendant in on that day?

19 A I -- I really can't remember. I want to say  
20 it was in the all-white room.

21 Q Okay. And are all the interview rooms at  
22 the sheriff's office, back in April -- excuse me, May  
23 of 2008, were they capable of making a recording?

24 A Yes. Although we had problems with, you  
25 know, working sometimes and working -- not working

1 other times.

2 Q And on that particular day, when you took  
3 him in the interview room, was that room capable of  
4 making a recording --

5 A Yes.

6 Q -- of your conversation with the defendant?

7 A Yes.

8 Q Okay. Tell the Judge, if you recall, what  
9 time was it that you got into that room?

10 A Well, he arrived there at -- at 12:00, so it  
11 was, you know, within five or ten minutes later.

12 Q Okay. And what did you do when you got in  
13 the room, or what did y'all do?

14 A Either Wedgeworth or I started -- actually  
15 started the video. You know we have to -- actually  
16 have to hit "record," for which room it's in. And  
17 then we both sat in and began the interview.

18 Q Okay. Did either one of you read the  
19 defendant his rights?

20 A Yes.

21 Q And who would that be the first time?

22 A Sergeant Wedgeworth.

23 Q And what did he read him his rights off of?

24 A It's a preprinted blue card that we all  
25 carry, and they're distributed by the DA's office.

1 Q Okay. And did the defendant indicate to you  
2 and Sergeant Wedgeworth that he understood the rights  
3 that were read to him?

4 A Yes.

5 Q Did he agree to give up those rights and  
6 speak to y'all?

7 A Can I say what he -- what he said?

8 Q Yes.

9 A He said that he understood his rights and  
10 that he wanted to tell us what happened. But he  
11 wanted to have an attorney to sit with him while he  
12 spoke with us.

13 Q And what, if anything -- what, if anything,  
14 did you and Sergeant Wedgeworth do after he made that  
15 request for an attorney?

16 A Well, we stopped talk -- I hadn't even begun  
17 talking to him at that point. But we stopped talking  
18 to him, and Sergeant Wedgeworth got up and went out  
19 the room.

20 Q And did you remain in the room with the  
21 defendant?

22 A Yes.

23 Q What, if any, conversation did you have with  
24 him after Sergeant Wedgeworth left the room?

25 A Well, I didn't conversate with him. I just



1 sat there. And he -- he -- he was making comments  
2 and having his reactions.

3 Q Tell the Judge what kind of comments he was  
4 making?

5 A He was -- he started to cry and -- and bend  
6 over. Then he was saying things under his breath,  
7 and he was saying that, you know, this was all his  
8 fault. And he said that his mother and his  
9 grandmother would still be alive if it wasn't for  
10 him.

11 Q Did you ask him any questions at all about  
12 the killing of his mother and his grandmother during  
13 that period of time Sergeant Wedgeworth had left the  
14 room?

15 A No, I didn't.

16 Q Okay. At the time you're sitting in the  
17 room with the defendant, is he in custody?

18 A No, he's not.

19 Q Would he have been free to leave if he'd  
20 said, "I don't want to talk to you anymore"?

21 A Yes.

22 Q Okay. Did Sergeant Wedgeworth eventually  
23 come back?

24 A Yes.

25 Q And what happened when he came back?

1           A       He told Theron that he had spoken to his  
2 lieutenant, which was Denholm. And that he could let  
3 him look in a phone book for an attorney. He asked  
4 him did he -- did he have an attorney. Theron told  
5 him that he -- he didn't. That he didn't have any  
6 money. Couldn't afford one. That he wanted a Court  
7 appointed attorney.

8                       Wedgeworth told him that, "No, you  
9 haven't been charged with anything, so we can't just  
10 appoint you -- appoint you an attorney, because you  
11 have not been charged with anything."

12                      And he told him, I -- he said, you  
13 know, "I don't know what to tell you to do then."

14                      And Theron said, "Can I speak to  
15 Quanell X again?"

16           Q       And then what happened?

17           A       He told him that -- that he could, and went  
18 out and told Quanell that he requested to speak with  
19 him.

20                      Quanell said, "You know, hey, if it's  
21 not a problem with y'all, I don't want to interfere.  
22 I'd like to see what he wants to, you know, ask me."

23                      Quanell went in the room with him --  
24 with Theron, alone. And they spoke. I don't know  
25 how long. Sometime later, Quanell came out and he

1 said that Theron told him that he wanted to speak  
2 with me, and that he didn't want to speak with  
3 Sergeant Wedgeworth.

4 Q Okay. So then what happened?

5 A So then I went in alone. There was just me  
6 and Theron. He told me that he wanted to talk with  
7 me without an attorney. And I told him, "Well, since  
8 you had already asked for an attorney, I'm going to  
9 have to read your rights again and you have to waive  
10 them, in order for me to continue speaking to you."

11 Q And did you at that point read him his  
12 rights again?

13 A Not again. That would have been the first  
14 time that I read --

15 Q The first time you read -- you're right.  
16 Then -- and so that was the first time you read him  
17 his rights; is that correct?

18 A Yes, yes.

19 Q What did you read him his rights off of?

20 A I also have a preprinted blue card.

21 Q Do you have that blue card with you today?

22 A Yes.

23 Q Can you pull it out and read into the record  
24 exactly the rights that you gave the defendant on  
25 that day?

1           A       (Witness complies.)

2                        "You have the right to remain silent  
3 and not make any statement at all.  And any statement  
4 you make may be used against you at your trial.  Any  
5 statement you make may be used as evidence against  
6 you in court.  You have the right to have a lawyer  
7 present to advise you, prior to and during any  
8 questioning.  If you are unable to employ a lawyer,  
9 you have the right to have a lawyer appointed to  
10 advise you, prior to and during any questioning.  You  
11 have the right to terminate this interview at any  
12 time."

13           Q        Okay.  Those are rights that you read him on  
14 May 20th of 2008?

15           A        Yes, ma'am.

16           Q        Did he indicate to you that he understood  
17 those rights?

18           A        Yes, ma'am.

19           Q        And did he indicate to you that he wanted to  
20 give up those rights and tell you what happened to  
21 his mother and his grandmother?

22           A        Yes.

23           Q        At the point you read him his rights, and he  
24 want -- said that he gives them up and he wants to  
25 tell you what happened, was he in custody?

1 A No.

2 Q If he had at some point said, "I don't want  
3 to talk to you anymore," would he have been free to  
4 leave?

5 A Yes, he hadn't been charged.

6 Q And did you interview him about the events  
7 that transpired with his mom and his grandmother?

8 A Yes, I did.

9 Q And was that interview videotaped?

10 A Yes.

11 MS. DAVIDSON: May I approach the  
12 witness, Your Honor?

13 THE COURT: You may.

14 Q (BY MS. DAVIDSON) I'm going to show you  
15 what's been marked for identification purposes as  
16 State's Exhibit No. 3. It's a CD of the videotaped  
17 interview on May 20th of 2008.

18 Have you had an opportunity to review  
19 this prior to your testimony in Court?

20 A Yes.

21 Q And does this video -- this CD, State's  
22 Exhibit 3, fairly and accurately depict what occurred  
23 in the interview room between you and the defendant  
24 on May 20th of 2008?

25 A Yes.

1 MS. DAVIDSON: Your Honor, at this time  
2 for purposes of this hearing, I'd like to offer into  
3 evidence State's Exhibit 3 and 3A --

4 THE COURT: All right.

5 MS. DAVIDSON: -- and tender to counsel  
6 for their inspection?

7 THE COURT: All right.

8 MS. LYTLE: Your Honor, we have no  
9 objection subject to the portion of the transcript,  
10 Exhibit 3A, that we believe may -- that is  
11 transcribed "inaudible," but we believe may actually  
12 be audible. But subject to that only, we have no  
13 objection.

14 THE COURT: Okay. Subject to any  
15 indications on -- that portion is admitted for the  
16 purposes of this hearing. You may proceed, 3 and 3A.

17 (State's Exhibit Nos. 3 and 3A were  
18 admitted for purposes of the hearing.)

19 MS. DAVIDSON: Thank you, Judge.

20 Q (BY MS. DAVIDSON) And Sergeant Clopton, did  
21 the defendant tell you what had occurred -- what he  
22 had done to his grandmother and his grand -- and his  
23 mother, on May 16th of 2008?

24 A Yes.

25 Q After your interview with the defendant

1 what, if anything, did you do?

2 A I left out and conferred with Sergeant  
3 Wedgeworth, but he would have been watching the --  
4 the interview through a monitor in the -- in the next  
5 room.

6 Q And were decisions made after he gave you  
7 his statement concerning the events that had  
8 transpired on May 16th? Was it then the decision to  
9 charge him with capital murder?

10 A Yes. Sergeant Wedgeworth had contacted the  
11 district attorney's office and got charges accepted.

12 Q And after the point that the charges were  
13 accepted, was the defendant in custody?

14 A At that point he was in custody, yes.

15 Q The point that the charges were filed?

16 A Yes.

17 Q Other than your phone conversation with  
18 Quanell X the day before, did you have any dealings  
19 with Quanell X while he was at 601 Lockwood after  
20 bringing the defendant to that location?

21 A No, I -- I didn't interview him.

22 Q You didn't interview him, so you didn't know  
23 what he had to say?

24 A Uh-uh.

25 Q I'm sorry, what was --

1           A       Oh, I'm sorry.  No.

2                       MS. DAVIDSON:  I'll pass the witness,  
3 Judge.

4                       THE COURT:  All right.  Thank you.

5                               **CROSS-EXAMINATION**

6 BY MS. LYTLE:

7           Q       Good afternoon, Sergeant Clopton.  My name  
8 is --

9           A       Good afternoon.

10          Q       My name is Heather Lytle and I'm an attorney  
11 representing Theron Owens.  Just a couple of  
12 questions for you.  Just a moment ago you testified  
13 that when you first became involved in this case, it  
14 was because you were told a witness was to come to  
15 the homicide office to give a statement; is that  
16 correct?

17          A       That's correct.

18          Q       Okay.  And you testified that that witness  
19 was Theron Owens, right?

20          A       That's correct.

21          Q       At any time were you informed that Mr. Owens  
22 was, in fact, a suspect to the crime?

23          A       At that particular time, I don't know how  
24 many -- how much of the -- I don't know how much I  
25 knew at that time, because it would have been the



1 initial contact while I'm at home. You know, "Hey,  
2 this is the scene." And I get a briefing of what has  
3 occurred.

4 So, I don't know if that -- if at that  
5 point what I knew concerning Theron. I don't know if  
6 I -- if I knew anything then, or -- or if it was once  
7 I got to the office.

8 Q Okay. And when you arrived at the office,  
9 you testified you got there about 4:00 a.m.; is that  
10 correct?

11 A Yes.

12 Q Okay. And at that point, Mr. Owens was  
13 giving a written statement to Sergeant Wedgeworth; is  
14 that right?

15 A I don't know if he -- when I got there if he  
16 was in the process of already giving a statement or  
17 if it started after I got there. I don't know, but  
18 he did give a statement.

19 Q Okay. So basically your first contact with  
20 the -- with Theron Owens and -- and with the  
21 investigation is when Wedgeworth asks you to sit in  
22 on an interview because Theron Owens has failed a  
23 polygraph; is that correct?

24 A Are -- are you asking --

25 Q Yeah, it's kind of a long question.

1           A       -- my -- my first -- yeah, my first contact  
2 with Theron.

3           Q       Yes?

4           A       Was when I sat in with -- with the interview  
5 with him and Wedgeworth.

6           Q       Okay. But you spoke to Sergeant Wedgeworth  
7 prior to that interview beginning, correct?

8           A       Yes.

9           Q       And at that time Sergeant Wedgeworth told  
10 you that Theron Owens had given a written statement  
11 and that he had failed the polygraph test; is that  
12 right?

13          A       Yes. He had given a statement and he'd  
14 failed a polygraph.

15          Q       Okay. Did you and Sergeant Wedgeworth  
16 discuss how you were going to handle the -- what you  
17 refer to as an interview?

18          A       I'm sure we did. I -- you know, I couldn't  
19 tell you what -- what it was. But I'm sure we  
20 discussed whatever details he has. Whatever his  
21 theory is, whatever ideas I'd have.

22          Q       Okay. And how long have you been with the  
23 homicide office again?

24          A       About seven years.

25          Q       Seven years?

1 A Uh-huh.

2 Q And were you with law enforcement prior to  
3 being with --

4 A Well, I've been with the sheriff's  
5 department for 20 years.

6 Q Twenty years. And in those 20 years, have  
7 you received specific training on interrogation?

8 A Yes.

9 Q So, are those classes that you've gone to,  
10 or --

11 A Yes.

12 Q How many classes would you say you've gone  
13 to on interrogation?

14 A That's hard to say, but a lot.

15 Q Is that something you go to every year?

16 A It depends. I mean, some -- sometimes more  
17 in one year than the next. It just depends on the  
18 scheduling.

19 Q Okay. So, you would say that you're pretty  
20 well-versed in different interrogation tactics; is  
21 that correct?

22 A Yeah, that would be fair.

23 Q Okay. Now, is one -- one of those tactics  
24 to lie to a suspect about evidence that you have,  
25 when you really don't have that evidence?

1 A Is that a tactic that I use? Yes.

2 Q Yes.

3 A Yes.

4 Q Is that a pretty widely accepted practice?

5 A Yes.

6 Q Are you actually taught how to do that  
7 effectively?

8 A I don't know if I would say yes to that. To  
9 some degree, yes.

10 Q Okay. And you're also taught to try to  
11 flush out inconsistencies in statements during  
12 interrogation; is that true?

13 A What do you mean?

14 Q Well, I guess I'm asking you. Are you --  
15 have you been trained in any techniques that are  
16 designed to -- I guess, trap a suspect in a lie?

17 A Well, I guess that's -- that's your choice  
18 of words "trap." But I -- I could agree with that --  
19 yes, we do learn how to pay attention to what a  
20 person is saying. And look for inconsistencies and  
21 then confront that person on inconsistencies.

22 Q As part of -- as part of the strategy asking  
23 similar questions over and over again, to see if you  
24 get different answers?

25 A Yeah, I mean that's perfectly legal. It

1 makes sense in my eyes, as well.

2 Q I'm sorry?

3 A It makes sense in my eyes, as well.

4 Q Okay. Is another strategy that you are  
5 trained in or that you practice, to tell a suspect or  
6 impress upon him the seriousness of the charge?

7 A Again, I mean that's possible.

8 Q Okay. In other words, it wouldn't be  
9 uncommon -- an uncommon practice for you to tell a  
10 suspect, you're going to be charged with capital  
11 murder, and you're going to get the death penalty?

12 A It's not -- it's -- it's within my practice  
13 that if a person can potentially be charged with  
14 whatever they've committed, for me to tell them that,  
15 yes.

16 Q Okay. And what's the purpose of all these  
17 different tactics. It's -- it's to get a confession,  
18 isn't it?

19 A It's to get the truth of whatever that  
20 person has. I mean, you can't -- in my eyes you --  
21 you don't confess to something that you didn't do.  
22 And if you're only telling the truth and that's a  
23 confession, then so be it.

24 Q Well, what happens in the instance when  
25 someone's telling the truth and they're not

1 confessing. Do you keep on interrogating?

2 A Depend on the circumstances, can.

3 Q What would those circumstances be?

4 MS. DAVIDSON: Object to the relevance  
5 for the purpose of this hearing, Judge.

6 THE COURT: That's sustained.

7 Q (By MS. LYTLE) Have you -- okay. I want to go  
8 back a little bit to before the interview of Theron  
9 Owens began on May 17th, 2008.

10 A Before the interview that I was involved in?

11 Q Yes.

12 A Okay.

13 Q It was the time period right before that.  
14 You testified just a moment ago that Mr. Owens was  
15 not in custody at the time that he was at the  
16 homicide office; is that right?

17 A That's correct.

18 Q And your reason for believing that was that  
19 he was not charged with a crime. And for -- you were  
20 still in the investigation process; is that right?

21 A Yes. That's my impression from Sergeant  
22 Wedgeworth, who is in this investigation the lead  
23 investigator.

24 Q And so for those reasons you believed he was  
25 not in custody?

1 A Well, he wasn't in custody.

2 Q Okay. Are you -- did you speak to anyone --  
3 any of the officers who were at the -- at the scene  
4 of the crime, prior -- before you came to the  
5 homicide office?

6 A I don't know. I mean, it's possible.

7 Q Okay. Well, then if you know, were you  
8 aware that Mr. Owens was brought to the homicide  
9 office in the back of a patrol car?

10 A I could have known. I don't know.

11 Q Okay. And were you aware that he had been  
12 handcuffed at the scene and placed in the back of a  
13 patrol car?

14 A I -- I can't say if I knew or not. It's  
15 possible I could have known that.

16 Q So, then you perhaps weren't aware that he  
17 had spent several hours sitting in the back of a  
18 patrol car before being driven to the homicide  
19 office?

20 A I couldn't tell you specific on times, but  
21 that -- that wouldn't be unusual to me.

22 Q Okay. In your 20 years of law enforcement  
23 experience, is -- is it your experience that when a  
24 person has been handcuffed and placed in the back of  
25 a patrol car, that they feel as though they're free

1 to go about their business?

2 MS. DAVIDSON: I think it calls for  
3 speculation, Your Honor.

4 THE COURT: Sustained. As to what they  
5 feel. He knowing what they feel.

6 Q (BY MS. LYTLE) You testified a moment ago  
7 that Mr. Owens was free to leave after he gave a  
8 statement, when you drove him home; is that right?

9 A Say that again?

10 Q You testified a moment ago to Ms. Davidson,  
11 that Mr. Owens was free to leave after giving his  
12 statement. And at that time you drove him home.

13 A Yes.

14 Q Is that correct?

15 So at any time -- so he wasn't  
16 necessarily free to leave before giving a statement?

17 A I don't see how -- how you're interpreting  
18 that. He -- we didn't give him a ride home until we  
19 were finished.

20 Q Okay.

21 A But that does not prevent him from stopping  
22 or leaving.

23 Q Okay. He didn't have a car there; did he?

24 A No. He was brought to -- to the office.

25 Q Right. He didn't have a wallet on him or



1 anything?

2 A I don't know.

3 Q Okay.

4 A That wouldn't prevent him from stop talking  
5 to us. And -- I mean, he could have left and caught  
6 a bus. We wouldn't have been able to stop him. But  
7 of course we would give him a ride home. But he  
8 never did that.

9 Q Okay. Let's talk about that statement then.  
10 Now, you began your part -- well, let me back up --  
11 strike that.

12 You and Sergeant Wedgeworth don't start  
13 the interrogation together in the room, do you?

14 A I don't understand what you mean.

15 MS. DAVIDSON: Just for purposes of the  
16 record, Judge, which statement are we talking about?

17 THE COURT: All right.

18 MS. LYTLE: I'm sorry. I'm talking  
19 about the -- the May 17th statement.

20 MS. DAVIDSON: Thank you.

21 THE COURT: All right.

22 Q (BY MS. LYTLE) So, let me reask the question:  
23 On -- on the morning of May 17th, you arrived at  
24 the -- at the homicide office, and you and Sergeant  
25 Wedgeworth are about to interview Theron Owens, okay.

1 That's the time period I'm talking about.

2 A Okay.

3 Q So, Wedgeworth goes in alone to begin the  
4 interview, correct?

5 A I'm not sure.

6 Q So, you don't recall whether or not you were  
7 sitting in on the entire interview?

8 A I was in there, but you're asking did we  
9 actually walk one after the other in there.

10 Q Yeah, I'm asking if both of you sat in the  
11 12 by 12 room with Theron Owens in the beginning?

12 A Yes.

13 Q Yes?

14 A Yes.

15 Q So, you were there during the entirety of  
16 Sergeant Wedgeworth's questioning?

17 A Well, you first asked me did we walk in at  
18 the same time. I -- I would have to look at it and  
19 see. I can't say we, you know, if we were almost  
20 touching as we walked in in sync.

21 Q Okay. Let me be clear. When the actual  
22 questioning began and the video was turned on, were  
23 you and Sergeant Wedgeworth both in the 12 by 12  
24 interrogation room?

25 A Yes.

1 Q So, then you were present during Sergeant  
2 Wedgeworth's questioning of Mr. Owens?

3 A Yes.

4 Q Were you present for the entirety of his  
5 questioning?

6 A I can't say. I'd have to look at it from  
7 start to finish. I mean, there's occasions when, you  
8 know, I may get up to go check on something. Or  
9 Wedgeworth may get up and -- it's a -- it's a common  
10 practice. So, without watching it from start to  
11 beginning, I can't tell you if either of us ever got  
12 up.

13 Q Okay. According to your recollection  
14 Sergeant Wedgeworth began the questioning, and then  
15 you finished the interview; is that right?

16 A Pretty much, yes.

17 Q Okay. So in other words, Sergeant  
18 Wedgeworth wasn't asking questions and then you were  
19 jumping in and asking questions at the same time,  
20 right?

21 A Pretty much, yes.

22 Q I'm sorry. "Yes," you were asking  
23 questions?

24 A Well, the -- the question that you're asking  
25 me, you're asking me did -- you know, did he complete

1 all of his questionings and didn't ask anymore. And  
2 then I started, and he never interrupted. I can't  
3 say yes to that. But for the most part, yes, he  
4 began with -- with the majority of him talking, and  
5 then I came in and I completed the -- at that point  
6 doing the majority of the questioning. But I can't  
7 say, no, he never threw in a question after that.

8 Q Okay. Is that just probably because it's  
9 been three years and you don't remember?

10 A Yes.

11 Q Okay. So, do you -- do you recall the tone  
12 that Sergeant Wedgeworth was using when he was  
13 questioning Mr. Owens?

14 A Not specifically, but more abrupt than --  
15 than I was.

16 Q Okay. And that was on purpose, wasn't it?

17 MS. DAVIDSON: Objection; calls for  
18 speculation on the part of this witness as to why.

19 THE COURT: Well, you may answer if you  
20 know from personal knowledge. You were there.

21 A I don't know if it was -- that was his  
22 intention or -- I don't know.

23 Q (BY MS. LYTLE) Did you and Sergeant  
24 Wedgeworth agree prior to beginning the interrogation  
25 that he was going to be the, quote, bad cop, and you

1 were going to be the good cop? Anything along those  
2 lines?

3 A No. When we went in to speak with him,  
4 Wedgeworth had already interviewed him. So, no, he  
5 had already gotten information from him and I guess  
6 formed his -- his opinion at that point.

7 Q Did he tell you what that opinion was?

8 A I'm sure he did.

9 Q Do you remember what it is?

10 A I can only speculate that he thought Theron  
11 was responsible for killing his mother and his  
12 grandmother.

13 Q Okay. Did you think Theron was responsible  
14 for killing his mother and his grandmother?

15 A Before I went in?

16 Q Yes.

17 A I can't say. I had my suspicions of -- at  
18 what point that I was a hundred percent convinced, I  
19 can't say when -- when that point was.

20 Q Okay. During a portion of the interrogation  
21 that you're questioning him, you talked to him about  
22 his polygraph results, don't you?

23 A I'm sure.

24 Q And so you talked to him about the fact that  
25 he failed those -- failed that polygraph test?

1 A I'm sure.

2 Q But you didn't tell him that polygraph  
3 results are inadmissible against him, did you?

4 A I'm not required to. If I -- I don't -- I  
5 can't say that I didn't tell him that. I probably  
6 didn't, but I'm not required to.

7 Q Okay. It's your belief that you're not  
8 required to tell that to a -- a suspect?

9 A Yes.

10 Q Okay. You do tell him that he's going to  
11 end up being charged with capital murder, don't you?

12 A I'm not sure in what words I would have  
13 used, but I -- I probably did tell him you can -- you  
14 can be charged with capital murder.

15 Q Do you have -- do you have something that's  
16 been marked State's Exhibit 2A?

17 MS. LYTLE: May I approach, Your Honor.

18 THE COURT: You may.

19 Q (BY MS. LYTLE) Sergeant Clopton, I'm showing  
20 you what's already been marked and admitted as  
21 State's Exhibit 2A. And turning to page 51.

22 Now, this is -- in case you haven't  
23 seen this yet, this is a transcript of the video  
24 statement that we're talking about right now. The  
25 one that was taken on May 17th, 2008.

1           A       Okay.

2           Q       And I'm turning to page 51 of that -- of  
3 that transcript. And my question to you -- before we  
4 look exactly at that. My question to you was: You  
5 actually told Mr. Owens during this interrogation,  
6 that he was going to be charged with capital murder.  
7 And then your response was that you weren't sure if  
8 it was in those exact words.

9                         So, looking here on page 51 of  
10 Exhibit 2A, I'd like you to start -- and I'd like you  
11 to read if you would for the Judge, lines 13 -- lines  
12 13 through 21.

13          A       (Witness complies.)

14                         "C. Clopton: You going to wind up  
15 getting charged. And let me explain to you how  
16 this going down.

17                         "What's it going to look like that if  
18 the media is -- was already out there at your house  
19 while all the other officers are out there, so it  
20 has -- it is already on the news that something  
21 happened here. As soon as they catch wind that  
22 you've been charged, how are they going to portray  
23 that story?"

24          Q       Okay. Does that kind of refresh your memory  
25 a little bit?

1 A Yes.

2 Q So, Sergeant Clopton, what was the purpose  
3 of asking him about how -- how the media was going to  
4 portray it, how they were going to get his story out?  
5 What was the purpose of telling him that?

6 A To motivate him to tell me the truth. To  
7 get him to think about other than himself right then.  
8 If he has anybody else in the world that he cares  
9 about, that's going to find out about this. How  
10 would he be portrayed? And does he -- does he want  
11 to do the right thing then, or -- or, you know, deny.

12 Q Okay. So when you say, "To motivate him to  
13 tell the truth," what you mean is to motivate him to  
14 confess to the crime; is that right?

15 A Motivate him to tell the truth.

16 Q Okay. And in your mind the truth was Theron  
17 Owens committed the crime; is that true?

18 A Say that again?

19 Q In your mind the truth was Theron Owens  
20 committed the crime?

21 A I believe -- yeah, I believe he committed  
22 the crime. And if he told me he committed the crime,  
23 that would be a confession.

24 Q Right. If he told you he didn't commit the  
25 crime, then in your mind that would be untruthful?



1           A       Yes.

2           Q       Okay.  And so you -- you tell him, you know,  
3 how's it going to look when the media reports this,  
4 that you've been charged.  How's it going to look  
5 when it looks like you don't care.

6                        Are you saying that because he's not  
7 confessing to the crime, he will appear as though he  
8 doesn't care about the death of his family?

9                        MS. DAVIDSON:  I object to the  
10 relevance of this testimony, Judge.

11                      MS. LYTLE:  Your Honor, this --

12                      THE COURT:  Well, that's overruled at  
13 this point.  I could -- it's overruled.  Go ahead and  
14 ask your questions.

15                      THE WITNESS:  I'm sorry, repeat --

16                      MS. LYTLE:  Reask it?  Of course.

17           Q       (By MS. LYTLE) So, you're telling him, you  
18 know, how is it going to look to the media when  
19 you've been charged.  How is it going to look when  
20 you look like you don't care.  And my question is:  
21 You're telling him that because he's not confessing  
22 he's going to look like he doesn't care about the  
23 death of his family, right?

24           A       Wrong.  I'm telling him that simply to  
25 strike a cord in his conscience to do the right thing

1 and tell me the truth.

2 Q And again, doing the right thing and telling  
3 you the truth means --

4 MS. DAVIDSON: Objection; it's been  
5 asked and answered.

6 THE COURT: Sustained.

7 Q (BY MS. LYTLE) Sergeant Clopton, in all of  
8 this, this kind of line of questioning, this is  
9 really to kind of get -- to get him to realize the  
10 desperate nature of his situation; is that true?

11 A I wouldn't put it that way.

12 Q How would you put it?

13 A To -- to get him to tell me the truth in --  
14 in a -- it's a serious offense.

15 Q Okay. So, to realize the seriousness of the  
16 situation, is what you're trying to do?

17 A Yeah.

18 Q You're trying to get him to -- when you say,  
19 "Motivate him," what kind of tactics -- what kind of  
20 tactics are you using to motivate him to tell you the  
21 truth right now?

22 A What do you mean "right now"?

23 Q I'm sorry. I'm thinking back in -- on  
24 May 17th of 2008. What kind of tactics are you using  
25 to motivate him to tell you the truth?

1           A       At that point from the information that I  
2 had and the inconsistencies that he was telling me.  
3 I believe that he was further involved, and I wanted  
4 him to tell me the truth and that was my -- that was  
5 my motivation to get him to tell the truth. I -- I  
6 thoroughly believed that he was lying to me because  
7 he told me things that just couldn't be true.  
8 Because he told me things in different order, that  
9 it -- it couldn't be true.

10          Q       So, in order to motivate the truth from him,  
11 you tell him he's going to be charged with capital  
12 murder because more than one person was killed; is  
13 that right?

14          A       If I told him that, or if he'd said I told  
15 him that, yeah, I would have told him that and that  
16 would have been true.

17          Q       Okay. You know, I mean, that's what the law  
18 says, right? When more than one person is killed,  
19 it's possibly a capital?

20          A       That makes it capital, yes.

21          Q       I mean, you tell him that the capital murder  
22 carries the death penalty, right?

23          A       I could have. I don't know.

24          Q       And at some point, I mean, Owens starts -- I  
25 mean, he's believing you, isn't he? Because that's

1 why he starts looking scared?

2 MS. DAVIDSON: Objection; calls for  
3 speculation on this witnesses part.

4 THE COURT: That's sustained as to he's  
5 believing you.

6 Q (BY MS. LYTTLE) At any point during this  
7 interview, did Theron Owens look scared to you when  
8 you were talking about the death penalty?

9 A He looked scared throughout.

10 Q Okay. And then -- then you started talking  
11 to him about how a jury is going to perceive this.  
12 And don't you actually tell him that he'll get to go  
13 to Court, but the attorney won't put you on the  
14 stand. So, the only thing the jury will hear is what  
15 happened from the beginning and how you said you  
16 didn't know anything?

17 A That's true.

18 Q And again, that motivated to get him to tell  
19 you something, to make a statement, correct?

20 A No. Those are your words -- to -- for him  
21 to tell me the truth.

22 Q Okay. So, you've kind of painted a  
23 pretty -- pretty serious picture for him. And there  
24 he is walking into court, jury's not going to believe  
25 him, and you give him -- so his way out is to confess

1 to the crime, right?

2 A No, that's not true. Okay. I didn't -- I  
3 don't paint a picture for him. I tell him what I  
4 believe the facts to be at -- at that point. And --  
5 and how it could be perceived. I didn't tell him the  
6 jury wouldn't believe him. Because if I -- if I  
7 believe they won't believe him and -- and if the  
8 facts show that he's -- he's not being truthful, then  
9 they may come to that decision.

10 Q Okay. But you've admitted to me before that  
11 it's perfectly within your right to lie to him about  
12 evidence. You know, lie to him about other facts  
13 that you claim to be true, right?

14 A That's true.

15 Q And there's another tactic that -- that  
16 you've learned, kind of to -- to provide a suspect  
17 with maybe an out -- an explanation for the crime.  
18 Is that -- is that something that you offer to  
19 suspects?

20 A Quite often, I do.

21 Q Okay. And you did that in this case, didn't  
22 you -- offered an explanation?

23 A Yes, I do that. And I probably did that in  
24 this case for a reason.

25 Q Okay. In fact, your -- your explanation is

1 your best defense is, "Hey, I was F'ing drugged up.  
2 It's a cop-out, but it's your best way out of here."  
3 That's what you tell him, right?

4 A Yes. That -- that is a tactic I'll use to  
5 minimize whatever the crime is. Because I know it's  
6 a big jump to admit to being fully responsible for  
7 capital murder. And if I take it step-by-step, you  
8 know, initially with, "I was there when it happened."  
9 And then another step, "Okay, nobody else was there."

10 So, yes, I do give them an out and then  
11 try to show that out can be true as well, because of  
12 what you said. And just admit -- admit until he's  
13 told the truth.

14 Q When you tell him that, he actually offered  
15 to take a drug test but you don't let him, right?

16 A That's probably true.

17 Q Okay. You used the word "minimize" just a  
18 minute ago, talking about minimizing the crime.  
19 Maybe to make it less scary for the defendant. You  
20 know, give them something to -- to minimize the  
21 seriousness. Did that -- did I have your testimony  
22 correct?

23 A No. I say to minimize -- to give that  
24 person a way to start acknowledging their -- their  
25 involvement without taking the whole leap of saying,

1 "Okay. Yes, I did it."

2 Q Okay. So, by "minimize," you meant kind of  
3 breaking it down into smaller pieces, step-by-step?

4 A Yes.

5 Q Okay. But you also use the tactic of  
6 minimizing the consequences to the defendant or the  
7 suspect, don't you?

8 A It's possible.

9 Q Okay. So, it's possible that you would have  
10 told Mr. Owens that you're willing to work with him,  
11 that it could be minimized to put him in the best  
12 light so he won't go to prison for the rest of his  
13 life?

14 A I'd -- I'd have to read all that to see what  
15 the -- the context is.

16 Q Okay. And at some point, you --  
17 Owens starts -- he's believing. He starts telling  
18 you, "I believe you. I believe you're here to help  
19 me," doesn't he?

20 A I don't -- I don't know what he believed.

21 Q No. I'm asking you what he said to you. At  
22 some point during that interrogation, he says to you,  
23 "I believe you -- I believe that you're here to help  
24 me"?

25 A Again, I'd have to see what that context

1 was.

2 Q So, you don't recall him saying that?

3 A I'm not saying that he didn't, but I'd have  
4 to see the whole context.

5 Q So, you also -- you don't recall telling him  
6 that you will work with him to minimize. To keep him  
7 from going to prison for the rest of his life.

8 A Again, without knowing the whole context.  
9 If you just say a couple of words, it could be --  
10 mean something different. Depends on what -- what  
11 it's perceived from and what the response to it is.

12 Q Okay. I'm just asking if you recall saying  
13 those words?

14 A That's not what you asked me though.

15 Q No? Okay. Do you recall saying those  
16 words?

17 A No. I could have.

18 Q Okay.

19 MS. LYTLE: May I approach, Your Honor.

20 THE COURT: You may.

21 Q (By MS. SWALLERS) Again, Sergeant Clopton, I  
22 am showing you State's Exhibit 2A. Again this is the  
23 transcript of the May 17th, 2008 interrogation that  
24 we've been talking about. And I am turning to page  
25 75. I want you to start on line 22, where it begins



1 with the words, "I am," and then read it to page 76,  
2 line 2.

3 A Line what begin?

4 Q I'm sorry, page 75 line 22, beginning with  
5 the word, "I am."

6 A (Witness complies.)

7 I mean, that's what I said a minute  
8 ago. Why can't I start at the beginning of what I  
9 was saying?

10 Q Okay. And that's fair. Then start at line  
11 20?

12 A "C. Clopton: If you want to get this out  
13 there -- if you want to get this out that there's a  
14 reason that you got pushed in the corner and whatever  
15 the reason is, okay? I am willing to work with that  
16 with you to make this as -- I can't get out of -- I  
17 can't get you out of trouble, nor would I want to,  
18 but it could be minimized, to put you in the best  
19 light, so that at least you have some kind of life,  
20 if you don't end up going to prison for the rest of  
21 your life."

22 Q Okay. So, does that refresh your memory  
23 about the context of the conversation I was asking  
24 you about?

25 A Yes.

1 Q Okay. So, would you agree with me that  
2 those statements were designed to minimize the  
3 consequences of a capital murder charge?

4 A No. It was -- that was in the context of me  
5 telling him that I wanted him to tell me the truth.  
6 And if he can -- if I'm offering him the way out  
7 that, you know, maybe it wasn't as serious as it was.  
8 Because I don't know what his exact motivation to do  
9 it was. So, if it's something less than just an  
10 outright uncaring murder.

11 If there's some kind of reason, that  
12 would -- he would look differently than just this  
13 murderer. Rather than something happened, whether it  
14 be they did something else to you, or whatever the  
15 case is -- you were on drugs. I offered that out,  
16 just to get them started in telling me the truth  
17 of -- of what actually happened.

18 And if -- instead of me telling me,  
19 "Hey, I think you could go to prison the rest of your  
20 life, and there's nothing else to it." I would  
21 minimize it, you know, maybe you could have some life  
22 left if you put yourself in the best light by giving  
23 what happened.

24 That there's a reason that you did this  
25 rather than, "I just don't -- I don't love them

1 anymore and I killed them." If there's some kind of  
2 reason, get that out there.

3 Q Okay. During all -- during this interview  
4 did you or the Harris County Sheriff's Office, have  
5 enough factual evidence to hold him or arrest him?

6 A At -- at -- at what point? After --

7 Q At this time that you're having this  
8 conversation with him on May 17th, in the early  
9 morning of May 17th, 2008.

10 A I don't know if I knew all of the facts at  
11 that point. But Sergeant Wedgeworth hadn't spoken  
12 with the district attorney's office to see if there  
13 was enough evidence or not.

14 Q Okay. Was it your understanding from your  
15 conversations with Sergeant Wedgeworth that Sergeant  
16 Wedgeworth believed that there was enough evidence  
17 for him to commit the crime?

18 I'd like to strike that --

19 MS. DAVIDSON: Objection.

20 MS. LYTLE: -- before you object. I  
21 figure I'll get it -- get there a different way.

22 Yeah, we'll come back to that.

23 Q (BY MS. LYTLE) After all of this, Owens  
24 doesn't -- he doesn't give you a confession, does he?

25 A He doesn't tell me the truth.

1 Q Okay. My question to you, it's a "yes" or  
2 "no." He doesn't confess to the crime, does he?

3 A He does not tell me the truth.

4 Q I can keep asking. It's "yes" or "no." He  
5 doesn't confess to the crime at that time?

6 A No. He doesn't say he's responsible for the  
7 murder.

8 Q Okay. And is it your testimony that  
9 during -- well, let me back up.

10 How long was this interview?

11 A I don't recall.

12 Q Couple of hours, maybe?

13 A I don't recall.

14 Q Okay. It was definitely, you know -- I  
15 mean, it was longer than a few minutes?

16 A Yes.

17 Q Okay. Would you be surprised if I told you  
18 it was at least two hours?

19 A No, I wouldn't.

20 Q Okay. And you maintain that during this  
21 entire two-hour period that Theron Owens was free to  
22 leave and end the interview at any time?

23 A Yes.

24 Q Okay. Doesn't he say to you a couple of  
25 times, "Just charge me and let me make my phone

1 call." Doesn't he say that a couple of times?

2 A I don't recall. He could have, but we -- we  
3 didn't charge him. He hadn't been charged.

4 Q Okay. But do you recall him specifically  
5 saying to you, "Just charge me and let me make my  
6 phone call"?

7 A He could have, but that's just not the way  
8 it works.

9 Q You don't recall. You don't recall  
10 specifically?

11 A Not specifically. I mean, are you saying he  
12 said that to me or he said it in the room?

13 Q That he said it to you.

14 A Did he direct it to Wedgeworth, or did he  
15 direct it to me?

16 Q I -- I believe that he said it to you.

17 MS. LYTLE: May I approach, Your Honor.

18 THE COURT: You may.

19 Q (BY MS. LYTLE) Okay. Sergeant Clopton, we  
20 are back on State's Exhibit 2A. And we're looking at  
21 page 115. And I would like you to read lines 19 to  
22 24.

23 A (Witness complies.)

24 Q Well, let me back up for a second.

25 Actually, I want to start at line 17

1 because that -- that begins with your question and  
2 then Theron's answer.

3 A Okay. With no offense to you, but if you're  
4 choosing where I'm going to read, I can't tell you if  
5 he's directing that to me. Is -- is it a direct  
6 answer to me or it's Wedgeworth, without -- without  
7 me going -- going back some to see if, you know, the  
8 volleying is between me and Theron to let you know if  
9 he's saying it specifically to me.

10 Q Okay. Let's do this, why don't you read to  
11 yourself. Don't read it out loud, on page 115, lines  
12 17 through 24.

13 A (Witness complies.)

14 Okay.

15 Q Okay. So, based on what you just read to  
16 yourself, is it fair to say that -- that this portion  
17 of the interview, on page 115, is an exchange between  
18 you and Theron Owens?

19 A Yes.

20 Q Okay. And based on what you've just read,  
21 would you agree with me that Theron Owens tells you,  
22 "Just go ahead and charge me and let me make my phone  
23 call"?

24 A Yes, he says that to me.

25 Q What did you think when he said that?

1 MS. DAVIDSON: Objection to relevance.

2 MS. LYTLE: Your Honor, it goes to  
3 this -- this witness's state of mind as he's  
4 interrogating my client.

5 MS. DAVIDSON: Well, what he thought  
6 when he makes that statement is not relevant to  
7 whether or not these statements are admissible.

8 MS. LYTLE: If it goes to Sergeant  
9 Clopton's understanding of whether or not Mr. Owens  
10 reasonably believed that he was free to leave, it  
11 certainly does matter.

12 MS. DAVIDSON: They took him home  
13 afterward, so...

14 THE COURT: That's -- objection  
15 sustained.

16 (Discussion off the record.)

17 Q (By MS. LYTLE) Okay. So, when this interview  
18 finishes, Sergeant Clopton, you and Deputy Pool drive  
19 Mr. Owens home; is that correct?

20 A Yes.

21 Q Did you have any conversations with  
22 Mr. Owens while you were in the car?

23 A Don't know. Could have.

24 Q You don't recall specifically?

25 A I don't recall specifically.

1 Q So, you testified a moment ago that the next  
2 time you saw Theron Owens was on May 19th; is that  
3 correct?

4 A Yes.

5 Q Okay. And that is when you and Sergeant  
6 Wedgeworth went to Mr. Owens' residence, right?

7 A Yes.

8 Q You testified earlier that you don't know  
9 the exact purpose for going there, but you knew that  
10 you were going there to speak to Theron Owens; is  
11 that your testimony?

12 A I said I -- I don't recall what the reason  
13 was. At that time I -- I probably did know why we  
14 were going there. I can't imagine that I wouldn't  
15 have said -- asked, you know, what -- what are we  
16 going to go there for.

17 But I can't recall specifically what  
18 the purpose was or what was going to be asked or  
19 seen. I don't -- don't recall.

20 Q Okay. So, when you said earlier you knew  
21 you were going there to speak to Theron, that was  
22 maybe a misstatement?

23 A No. I wouldn't say that because, I mean,  
24 just thinking back, I wouldn't -- I can't see who  
25 else we would have went to see at the house. I -- I



1 don't know.

2 Q Okay. While you were there, Sergeant  
3 Wedgeworth continued -- is it fair to say that he  
4 continued some of his interrogation tactics from a  
5 couple days before?

6 A I wouldn't -- I wouldn't say that. He did  
7 talk with him.

8 Q He told him he should do the right thing and  
9 come in and give a confession, right?

10 A I believe so, yes. Something along that  
11 line.

12 Q And he told him, "You know we have all kinds  
13 of evidence against you"?

14 A He could have. That would be common.

15 Q Told him, "We've got these gray sweatpants  
16 with blood on them"?

17 A Again, I know that we had that. At what  
18 point, I don't recall. And he could have told him  
19 that.

20 Q Isn't that consistent with the line of  
21 questioning that Sergeant Wedgeworth was giving Owens  
22 during the May 17th interview?

23 A You mean like reminding him there's evidence  
24 against him?

25 Q Yes.

1 A Yeah.

2 Q And using those reminders to try to get him  
3 to come in and give a confession?

4 A Come in and tell the truth.

5 Q Okay. You and I will have to disagree to  
6 disagree with the definition of tell the truth.

7 So, later that day on May 19th you  
8 testified you got a telephone call from Quanell X,  
9 correct?

10 A Yes, ma'am.

11 Q And you said he might have called your cell  
12 phone. Is it possible that Quanell X has your cell  
13 phone number?

14 A It's quite possible.

15 Q How would that be possible. Are you  
16 friends?

17 A By no means am I friends with Quanell X.

18 Q Okay. So, have you given him your cell  
19 phone number?

20 A I've -- I've called him from my cell phone  
21 number. So, he would have gotten it that way. I  
22 know that he has called me on my cell phone in the  
23 past. But I don't -- I don't think I ever wrote my  
24 number down for him.

25 Q You said that you've called him. Under what

1 circumstances would you have called him?

2 A On other -- other cases where he was doing  
3 the same.

4 Q Right. I mean, we can -- we can agree that  
5 Quanell X has on many occasions turned in suspects or  
6 gotten people to confess, right? We can agree that  
7 that's happened on more than one occasion?

8 A That's true.

9 Q And you testified that you've actually been  
10 involved with three, maybe four of those incidents?

11 A No. I said that he has done that three or  
12 four times that I'm aware of. Not me personally.

13 Q Okay. So -- but you have had -- you have  
14 worked with him personally on another case, similar  
15 to this, where Quanell X --

16 A I've -- I've never worked with him --  
17 Quanell X.

18 Q Okay. You just testified that you called  
19 him, so I'm trying to understand.

20 A Well, that's -- that's not working with him.

21 Q Okay. Would that be just -- what would be  
22 the purpose of a phone call from you to Quanell X?

23 A No different than any other witness that  
24 I've talked to. I'm not working with them either.  
25 But if I need to make contact with them, that's what

1 I do. That doesn't make them -- me working with  
2 them.

3 Q Okay. During that May 19th, 2008 phone  
4 call, is it fair to say that you and Quanell X  
5 exchanged some information about Mr. Owens, or about  
6 the case?

7 A I don't recall exactly what I told him, or  
8 what he said to me. But I do know that I did tell  
9 him that Theron Owens was our suspect.

10 Q Okay. You testified just a minute ago that  
11 Quanell X asked you -- well, let me back up. That he  
12 called and said, "Theron Owens called me. He's  
13 telling me you guys are harassing him."

14 So, he's just calling to let -- just to  
15 let you know that he is now involved; is that fair?

16 A No. The impression that I got was that he  
17 was calling because the information he got from  
18 Theron was that we were busy harassing him and not  
19 looking for the real killer. And he was inquiring  
20 like, "Hey, is something going on, or are y'all just  
21 harassing this man"?

22 Q Okay. But you testified a minute ago that  
23 Quanell asked you if there were any concerns.  
24 What -- what concerns?

25 A I don't know what his concerns would have

1 been other than he said that he had -- was planning  
2 on speaking with him, you know, if there was --  
3 should I be scared of this guy or not. I don't know.

4 Q Okay. And you told him that you had your  
5 suspicions about Theron Owens; is that true?

6 A Again, I don't know the exact words that I  
7 told him, but I did tell him that Theron Owens was  
8 our suspect.

9 Q You told him that you were -- that Owens was  
10 your only suspect; isn't that right?

11 A That's probably correct. He was our only  
12 suspect.

13 Q Okay. And Quannell X responded to you, that  
14 he was going to meet with Owens. And then he told  
15 you that if Owens made any admissions he would call  
16 you back; is that true?

17 A That he would contact me, yes.

18 Q Okay. But it's your testimony that that  
19 was -- that no other information was exchanged about  
20 the case or about Mr. Owens?

21 A That's not my testimony. I said I -- I  
22 can't recall the exact words that were exchanged  
23 between me and him at that point. But he -- I did  
24 tell him that Theron Owens was our only suspect. And  
25 he told me that he planned on meeting him, and if he

1 made any admissions to a crime that he would contact  
2 me. Which I -- I would expect him to do. If he gets  
3 knowledge of somebody admitting to a crime, that he  
4 would report it to me.

5 Q And why would you expect him to do that?

6 A Because that's the right thing to do, if  
7 he's made aware of -- of a crime. He's not -- he's  
8 not an attorney, so he -- he's just a witness. And  
9 if he gains knowledge of that -- of a crime, he needs  
10 to come forth with that.

11 Q And because Quanell X is routinely in the  
12 business of bringing in suspects and getting  
13 confessions, isn't he?

14 A That's your words. Quanell is into a lot of  
15 things, as far as I know. But he has in the past  
16 convinced, by whatever means, suspects or defendants  
17 to turn themselves in. Some have been suspects, some  
18 have been defendants.

19 Q Is it true that Quanell X told you Mr. Owens  
20 told him that Owens used to be a police officer in  
21 New Orleans?

22 A That's true.

23 Q So, did -- did that exchange of information  
24 occur in that May 19th telephone conversation, or did  
25 you speak with him again at a later date?

1 A No. He had to have told me that then.

2 Q Okay.

3 A But it was -- it was later that I -- I found  
4 out that that was true.

5 Q Okay. And you testified that -- that as far  
6 as you know, the next call from Quannell X to the  
7 Harris County Sheriff's office regarding Mr. Owens  
8 was to Lieutenant Denholm the next day; is that  
9 correct?

10 A I said, the next call that I'm aware of came  
11 to Lieutenant Denholm on that day. If he called  
12 Lieutenant Denholm before that, I don't know.

13 Q Right. So, just as far as you know, the  
14 next call went to Lieutenant Denholm on May 20th --  
15 on the morning of May 20th?

16 A Yes. And I -- I don't mean to butt heads  
17 with you, but the way you word it, it gets me to say  
18 more than what is -- what is accurate.

19 Q Okay.

20 THE COURT: Counsel, if you would mark  
21 your spots. We're going to take a break, 15 minutes  
22 and resume.

23 Officer, you may take a break.

24 THE WITNESS: Thank you.

25 (Recess taken.)

1 (Open court; defendant present.)

2 THE COURT: Both sides ready?

3 MS. DAVIDSON: Yes, sir.

4 MS. LYTLE: Yes, Your Honor.

5 THE COURT: You may proceed.

6 MS. LYTLE: Thank you, Your Honor.

7 Q (BY MS. LYTLE) Sergeant Clopton, I'm going to  
8 try to wrap this up as quickly as I can, but I'm not  
9 going to promise there's only a few more questions.  
10 But that never ends up being true.

11 We were -- before the break we were  
12 talking about your involvement with Quanell X in this  
13 case. It's your testimony that Lieutenant Denholm  
14 received a telephone call from Quanell X, on -- late  
15 in the morning of May 20th, 2008; is that correct?

16 A Yes.

17 Q Okay. And what was your understanding of  
18 the -- of that conversation?

19 A That Quanell told Theron that he was going  
20 to meet with and he wanted to tell him the truth --  
21 or Theron wanted to meet with Quanell, and that he  
22 was going to tell him the truth.

23 Q Okay. And then -- then Quanell X agreed  
24 with Lieutenant Denholm that if Theron Owens --

25 MS. DAVIDSON: Judge, I'm going to



1 object. That calls for hearsay on the part of the  
2 witness.

3 THE COURT: Sustained.

4 Q (BY MS. LYTTLE) Do you have your -- your  
5 offense report there to refresh your memory?

6 A Yes.

7 Q In front of you? Based on your offense  
8 report is it fair to say that your understanding was  
9 that if Quanell agreed to contact this -- the --

10 MS. DAVIDSON: Judge, I'm just --  
11 again, I'm going to object. It's still based on  
12 hearsay.

13 THE COURT: Sustained.

14 Q (BY MS. LYTTLE) Are you aware of the existence  
15 of an agreement between Lieutenant Denholm and  
16 Quanell X to bring Theron Owens into the station  
17 following a confession?

18 MS. DAVIDSON: Again, hearsay, Judge.

19 MS. LYTTLE: Your Honor, I'm asking him  
20 if he's aware of an agreement. I'm not asking about  
21 any statements or conversation.

22 THE COURT: But you said "to bring."  
23 You're saying what the agreement was. You need to  
24 ask -- that's sustained. You can ask if there was  
25 such an agreement about working relationships, but

1 not about what was said specifically?

2 Q (BY MS. LYTLE) Okay. Sergeant Clopton, are  
3 you aware of any agreements between Quaneil X and  
4 Lieutenant Denholm?

5 A No agreements.

6 Q No, you're not aware of any, or, no, there  
7 weren't any?

8 A I don't know of any agreements at all.

9 Q But it's possible that there was one that  
10 you're not aware of?

11 MS. DAVIDSON: Judge, I'm going to  
12 object. That calls for speculation on his part now.

13 THE COURT: Sustained.

14 Q (BY MS. LYTLE) So, it's your testimony that  
15 you don't know if there was or was not?

16 A I have no idea if there was any agreement.

17 Q Okay. And all of these things we've been  
18 talking about, beginning with the May 17th interview,  
19 and all of the actions taken on -- by you, were  
20 designed to -- to get out at the truth; is that  
21 correct?

22 A All of my actions from when to when, are  
23 designed to get him to tell the truth.

24 Q Beginning with --

25 A All of my actions, from the time that the

1 investigation started until the end, was to find out  
2 the facts of what happened, whether that be from the  
3 suspect himself or any other evidence that can be  
4 revealed.

5 Q Okay. We talked earlier about interrogation  
6 techniques and the other things that are designed to  
7 elicit the truth; is that what you said?

8 A I didn't say a word. But, yes, it's  
9 designed to get the truth.

10 Q Get the truth. And in this case you believe  
11 the truth to be that Theron Owens killed his mother  
12 and his grandmother?

13 A Yes, I believe that.

14 Q Did you think that Quanell X's involvement  
15 would help you get to the truth?

16 MS. DAVIDSON: I object to the  
17 relevance of what he thought Quanell X's involvement  
18 would be.

19 MS. LYTLE: Your Honor, this goes to  
20 the possibility --

21 THE COURT: That's overruled. Go  
22 ahead. You may ask the question.

23 A In the back of my mind, did I think that if  
24 Quanell was told the truth of what happened that  
25 maybe Theron would then come and tell me the truth?

1 That would be true.

2 Q (By MS. LYTLE) Okay. Did you think that  
3 Mr. Owens was more likely to come and tell you the  
4 truth if Quanell X was involved?

5 MS. DAVIDSON: That's not relevant,  
6 Judge. None of these statements are admissible.

7 THE COURT: That's sustained.

8 Q (BY MS. LYTLE) Okay. So let's turn to  
9 May 20th, 2008. You testified previously that that  
10 is the day that Quanell X and Theron Owens came to  
11 the homicide office together, correct?

12 A Yes.

13 Q And you testified that your understanding of  
14 the purpose of their being there was that Theron  
15 Owens wanted to tell you the truth?

16 A My impression before they got there is that  
17 Theron Owens made admissions to Quanell X and that  
18 Theron Owens was going to come into the office and  
19 tell us the truth. Which would have been different  
20 from what he'd told us previously. And that  
21 Quanell X would be treated as a witness and asked to  
22 give a statement on whatever he was told.

23 Q And when on May 20th were you informed as --  
24 about what Quanell X's statement was going to be?

25 A I didn't know what his statement was going

1 to be.

2 Q So, at no time on May the 20th were you told  
3 what his -- Quanell X's statement was going to be?

4 A What it was, or what it was going to be?

5 Q Yes, what it was?

6 A I don't know at what point I -- I found out  
7 what it was. You mean after he gave it? I don't  
8 know at what point I knew what his statement was.

9 Q Okay. So, then after -- so, then it's fair  
10 to say that after Quanell X gave his statement, you  
11 were -- you were aware that he was advising your  
12 office that Theron Owens had confessed to the crime?

13 A Again, I don't know at -- at what point.  
14 But at some point after Quanell gave a statement, I  
15 knew what his statement was.

16 Q Okay.

17 THE COURT: You knew who Theron Owens'  
18 statement was, or you knew what Quanell X's statement  
19 was after Quanell X gave a written statement?

20 THE WITNESS: After Quanell X gave his  
21 statement, I knew at some point what the contents of  
22 Quanell's statement was.

23 THE COURT: Okay.

24 Q (BY MS. LYTTLE) Did you believe that Theron  
25 Owens was there to confess to the crime when he

1 arrived with Quanell X?

2 A Yes.

3 Q And you testified earlier that you, Sergeant  
4 Wedgeworth, and Theron Owens were sitting in the  
5 same, or a similar interview room, all three  
6 together, right before this May 20th statement began?

7 A Again, as I said before, I don't -- I don't  
8 know how it exactly began, but somebody had to start  
9 the video. I don't know if we walked in at the exact  
10 same time, but for the duration of his statement we  
11 were both in there, yes.

12 Q Okay. Now, you heard -- you heard Sergeant  
13 Wedgeworth read Theron Owens his Miranda rights?

14 A Yes.

15 Q And you also heard Theron Owens invoke his  
16 right to counsel?

17 A I heard him say he wanted an attorney to  
18 be -- to sit with him as he told us the truth.

19 Q Okay.

20 A And he said, "I committed the crime. I did  
21 these -- I'm guilty of these crimes." Something  
22 along that line.

23 Q And he did say unequivocally, I want an  
24 attorney present when I give my statement?

25 A He unequivocally said, "I want to have an

1 attorney to sit with me while I tell y'all the  
2 truth."

3 Q Okay. And you testified -- just testified  
4 earlier, that after he made that statement, that you  
5 didn't ask him anymore questions until he  
6 specifically said, "I want to talk to you without a  
7 lawyer." Is that right?

8 A I didn't ask him any questions concerning  
9 his involvement in this crime. You know, I could  
10 have said, "Do you want to go to the bathroom?" That  
11 would be a question.

12 Q Okay.

13 A I can't say whether I asked him that or not,  
14 but I did not ask him any questions concerning the  
15 investigation.

16 Q Okay. Did you at any point, did you make  
17 any statements to him regarding his involvement in  
18 the crime?

19 A I'd -- I'd have to see that from beginning  
20 to end, you know, if -- if I commented to something  
21 he said, like -- I -- I don't know. I'd have to see  
22 it.

23 Q Did you hear Sergeant Wedgeworth ask him any  
24 questions after Theron Owens asked for an attorney,  
25 and before he said, "I'm willing to talk to you

1 without one"?

2 THE COURT REPORTER: I'm willing to  
3 talk to you about what?

4 MS. LYTLE: -- and before he said, "I'm  
5 willing to talk to you without one."

6 THE COURT REPORTER: Thank you.

7 MS. LYTLE: You're welcome.

8 A I recall him asking him did he have his own  
9 attorney, or do you have an attorney.

10 Q (By MS. LYTLE) Okay. Do you recall any other  
11 statements made by Sergeant Wedgeworth to Theron  
12 Owens after he had asked for a lawyer?

13 A Yes. I recall him offering to let him look  
14 in the phone book for an attorney.

15 Q Do you recall anything else?

16 A He told him he had spoken with -- Wedgeworth  
17 told him -- Theron, that he had spoken with his  
18 lieutenant.

19 Q Anything else that you remember?

20 A Theron said he couldn't afford -- that he  
21 didn't have any money, he wanted a court-appointed  
22 attorney. Sergeant Wedgeworth told him, "You haven't  
23 been charged with anything so one can't be appointed  
24 to you." Something along that line.

25 Q Do you recall Sergeant Wedgeworth saying, if



1 you talk to Sergeant Clopton here, you know, that's  
2 between the two of you. But it's something that  
3 you're going to have to do on your own. Do you -- do  
4 you recall Sergeant Wedgeworth saying that?

5 A I don't recall.

6 Q Okay. Do you recall Sergeant Wedgeworth  
7 saying to Theron Owens, "I can tell you right now, if  
8 I was an attorney I would tell you not to talk"?

9 A I don't recall. Sounds familiar.

10 Q Okay. And then do you recall Sergeant  
11 Wedgeworth saying to Theron Owens, "It's up to you.  
12 If you want to cleanse your soul, you know, tell the  
13 truth, put everything out there, then I would say,  
14 you know, tell Craig Clopton or whatever"?

15 A That sounds familiar. That's quite possible  
16 or prominent.

17 Q Okay. And at some point after that  
18 exchange, Theron Owens asked if Quanell X is  
19 available; is that right?

20 A Again, I don't know the context. If that  
21 was said before or after. But he did ask for -- or  
22 he did ask can he talk to Quanell X. And when he  
23 asked that, that was right after he told him, "I  
24 don't know what to tell you."

25 Q Were you in the room when Quanell X came in

1 and spoke with Mr. Owens?

2 A No, I wasn't.

3 Q Were you able to listen in on their  
4 conversation at all?

5 A As I recall, they were whispering. The  
6 videotape was going the whole time, so if they had  
7 talked normally like we had been talking you could  
8 hear it, but -- but we couldn't.

9 Q Okay. So it's possible, just so I'm clear  
10 about these interview rooms. Is it possible to view  
11 the videotape from outside the room, so that you know  
12 what's going on inside the room?

13 A Yes, there's monitors in the next room.

14 Q Okay.

15 THE COURT: To actually view or to  
16 actually hear?

17 THE WITNESS: You can. You can view it  
18 and hear it?

19 THE COURT: Okay. Thank you.

20 Q (BY MS. LYTTLE) You can view it and hear it in  
21 real time as the conversation inside the room is  
22 taking place?

23 A Yes, it's real time.

24 Q And were you watching the video monitor  
25 while Quaneil X was in the room with Theron Owens?

1           A       I can't say specifically. But the -- the  
2 way it's set up, I mean, you could -- you could see  
3 it but again we couldn't hear. So, it was -- really  
4 didn't pay attention to it because it was, you know,  
5 you could tell he was talking to him as if we were  
6 listening at the door. Because they -- they were  
7 close. So, we didn't pay attention to it.

8           Q       Okay. One more thing. Back up just a  
9 little bit. Before -- before Quanell X is allowed to  
10 come into the room, do you recall Sergeant Wedgeworth  
11 saying to Owens, "I don't know what you told him, but  
12 I'm sure you told him you killed your mother and your  
13 grandmother." Do you recall him saying that?

14          A       No.

15          Q       You don't? So, you don't recall then Theron  
16 Owens' response being, "Yes"?

17          A       No. I don't -- I don't recall the context  
18 of that.

19          Q       Okay. Is it common practice during an  
20 interview or -- or an interrogation, to allow non-law  
21 enforcement personnel, or a non-attorney to come in  
22 and speak with a suspect?

23          A       It's very common. We let witnesses,  
24 brothers, sisters, girlfriends, especially  
25 girlfriends, speak to them. Because they -- they may

1 say something to jog their conscience to -- to do the  
2 right thing and tell the truth. It is quite common.  
3 Nothing wrong with it.

4 Q And again, that -- that's a common practice  
5 to allow the officers to elicit some responses?

6 A It's -- it's common for me. I've done that  
7 several times and it's usually at the -- at the  
8 request of the witness, or the suspect, or defendant.

9 Q Okay. You were the -- you were the person  
10 who actually took the statement from Theron Owens on  
11 May 20th, 2008; is that right?

12 A Which -- which part are you speaking of?

13 Q I'm sorry. The -- after Theron Owens speaks  
14 with Quanell X, you were then advised that Theron  
15 Owens wants to speak with you; is that correct?

16 A Yes. Quanell said that Theron made it clear  
17 to him that he wanted to speak with me and not  
18 Wedgeworth.

19 Q Okay. So at that point, you and only you,  
20 go back into the interview room with Mr. Owens; is  
21 that correct?

22 A Yes.

23 Q Okay. And you -- and then you read  
24 Mr. Owens' Miranda rights to him, correct?

25 A That's correct.

1 Q And again, you tell him that if he can't  
2 afford an attorney one will be appointed, right?

3 A I read that right to him, yes.

4 Q But we've already discovered that an -- an  
5 attorney is not going to be appointed to him at this  
6 time?

7 A That is a right that he has. That -- that  
8 doesn't say you have the right not to -- you have the  
9 right to not speak with me, or you can get an  
10 attorney before you speak with me. If not, you can  
11 get one appointed.

12 And it gets appointed through a court,  
13 not -- not through me. And he hasn't been charged,  
14 so we can't -- we don't appoint them. And it's not  
15 at the point where he would be appointed one. He  
16 hasn't been charged with anything.

17 Q Why not? At that point, when he -- when  
18 Theron Owens came into the station with Quanell X,  
19 Quanell X has advised Harris County Sheriff's office  
20 that Theron Owens has admitted to the crime. Why not  
21 seek a warrant or arrest him at that point based on  
22 Quanell X's information?

23 A That's the decisions we make on -- on our  
24 investigation, how we proceed. If we want to gather  
25 more information, or do we feel we can go and speak

1 with the district attorney's office at that point.  
2 We make those decisions.

3 Q Because if you had arrested him at that  
4 point, and charged him, then Theron Owens could have  
5 been appointed an attorney?

6 MS. DAVIDSON: It's not relevant to  
7 this hearing, Judge.

8 MS. LYTLE: Your Honor, it is relevant  
9 to --

10 THE COURT: Well, is that a question --  
11 is that a question? It seemed like a statement to  
12 me.

13 MS. LYTLE: I'll rephrase it, Your  
14 Honor.

15 THE COURT: All right.

16 Q (BY MS. LYTLE) Is it your understanding that  
17 if you had arrested and charged Theron Owens at that  
18 time --

19 A At what time?

20 Q At the time that he came to the station with  
21 Quanell X?

22 A Before he gave a statement, or as soon as he  
23 showed up.

24 Q Before he gave -- before Theron Owens made a  
25 statement?

1           A       Okay.  What?

2           Q       Is it your understanding that if you had  
3 arrested him at that point, then he would have been  
4 permitted an appointed attorney?

5           A       I can't say that we had enough to arrest him  
6 at that point, if we wanted to.

7           Q       You had Quanell X's statement, right?

8           A       That's not true.  They arrived at the same  
9 time.

10          Q       Okay.  Now, let's talk about after you've  
11 read Mr. Owens' his -- his rights, he agrees to waive  
12 those rights and speak to you; is that right?

13          A       That's correct.

14          Q       And during this confession, are you and  
15 Mr. Owens discussing anything that you had discussed  
16 previously on May 17th, 2008?

17          A       I don't know how to answer that.  I don't  
18 understand that question.

19          Q       I mean, did -- I mean, while you were taking  
20 the statement from Mr. Owens on May 20th, do you  
21 reference any information that was given in the  
22 earlier statement on May 17th, 2008?

23          A       I still don't understand what you mean.  Did  
24 I reference something that I said to him or something  
25 he said to me, or --

1 Q Either one?

2 A It's the same investigation. I would assume  
3 so.

4 Q Okay. For example, do you remind him about  
5 any facts that he told you in the May 17th interview?

6 A I would suspect that I would.

7 Q Okay. And to the best of your recollection,  
8 does Mr. Owens remind you of anything that you said  
9 in the May 17th, 2008 interview?

10 A I don't know. It's possible.

11 Q Do you recall him bringing up to you --  
12 remember you telling me that I will talk to a judge  
13 and see if they will go lenient?

14 A I don't recall.

15 Q Do you remember him asking you about any  
16 promises of -- of leniency?

17 A No, I don't recall that.

18 Q And Owens tells you during his statement  
19 that --

20 A Can -- can I go back and ask -- and clarify  
21 what you asked me?

22 Q Sure.

23 A You said, did he ask me would I speak to the  
24 judge and ask for leniency?

25 Q I think my question was confusing. So, let



1 me clarify my question to you.

2 A Okay.

3 Q Do you remember Theron -- on May 20th,  
4 Theron Owens telling you anything resembling, Hey,  
5 you remember what you told me before, about you  
6 talking to the Judge and then being lenient? Do you  
7 remember him making any statement to you like that?

8 A I don't remember that. And I wouldn't have  
9 told him I'd -- I'd ask somebody to be lenient  
10 towards him.

11 Q You remember you testified earlier that one  
12 of the things that you had told Mr. Owens on May 17th  
13 was that his best defense is that he was drugged out.  
14 You remember we talked about that a few minutes ago,  
15 right?

16 A I may have suggested that to him as a way  
17 out, as I described earlier, for him to begin to get  
18 the truth out.

19 Q Okay. And then, in fact, on May 20th  
20 Mr. Owens tells you that something came over him, he  
21 was battling his addiction. He essentially tells you  
22 that drugs made him do it; is that right?

23 A Something along that line, that his  
24 conscience was bothering him and he's just coming to  
25 terms with it.

1 Q So, essentially he -- he took the way out  
2 that you offered it, didn't he?

3 A No, no. He -- he told me everything. He  
4 did not say that it had anything to do with him being  
5 drug induced. As a matter of fact, when he even  
6 suggested that I clarified, were you on drugs at the  
7 time that this happened. Had you -- had you done  
8 drugs that day, and when was the last time that you  
9 had done drugs before that. I don't recall the exact  
10 time, but it was a substantial amount of time.

11 MS. LYTLE: Pass the witness, Your  
12 Honor.

13 THE COURT: All right.

14 **REDIRECT EXAMINATION**

15 BY MS. DAVIDSON:

16 Q Just -- Sergeant Clopton, just so the  
17 record's clear, Quanell X, when he came to the  
18 station at 601 Lockwood on that day, was giving his  
19 statement about what the defendant told him, at the  
20 same time you had the defendant in an interview room,  
21 correct?

22 A Yes. It was my understanding that he told  
23 Lieutenant Denholm, that he was coming to the office  
24 because Theron made admissions to him --

25 Q Wait a minute -- my question is: Quanell X

1 was being interviewed by a detective about what the  
2 defendant told him at the same time y'all had the  
3 defendant in the interview room?

4 A That's correct.

5 Q Correct. And so it wasn't after he told you  
6 what had occurred, before you discovered what  
7 Quaneil X told the detective?

8 A That's correct.

9 MS. DAVIDSON: I don't have anything  
10 further, Judge.

11 THE COURT: All right. Anything else?

12 MS. LYTLE: Nothing further for this  
13 witness, Your Honor.

14 THE COURT: All right. Thank you, sir.  
15 Thank you, ma'am. Now, you're free to go at this  
16 time.

17 THE WITNESS: Thank you.

18 THE COURT: Thank you. And Sergeant  
19 Clopton, the lawyers will be in contact if they need  
20 you for anything. Check with Ms. Davidson.

21 THE WITNESS: Thank you.

22 THE COURT: What says the State?

23 MS. DAVIDSON: State will call  
24 Quaneil X.

25 THE COURT: All right. Quaneil X.

1 (Discussion off the record.)

2 Good afternoon, sir.

3 THE WITNESS: Afternoon, Judge.

4 THE COURT: Raise your right hand,  
5 please.

6 (Witness sworn.)

7 THE WITNESS: Yes, sir.

8 THE COURT: All right. Feel free to  
9 adjust the chair and microphone. And if one of the  
10 lawyers stands up while you're answering a question,  
11 go ahead and stop your answer. I'll talk to them,  
12 then I'll talk to you. You just answer as directly  
13 as you can.

14 You may proceed, Counsel.

15 MS. DAVIDSON: Thank you, Your Honor.

16 **QUANELL X FARRAKHAN,**

17 having been first duly sworn, testified as follows:

18 **DIRECT EXAMINATION**

19 BY MS. DAVIDSON:

20 Q Can you state your name, please.

21 A Quanell X Farrakhan.

22 Q And for the purposes of our court reporter,  
23 would you spell your first name and your last name?

24 A Quanell, Q-U-A-N-E-L-L, Farrakhan,  
25 F-A-R-R-A-K-H-A-N.