

1 Honor.

2 THE COURT: Anything further from the  
3 State?

4 MS. PALMER: No, Your Honor.

5 THE COURT: May this witness be excused?

6 MS. PALMER: Yes, Your Honor.

7 MS. REKOFF: Yes, Your Honor.

8 THE COURT: Thank you, Officer. You may  
9 step down.

10 State, call your next.

11 MS. PALMER: Lance Fisher.

12 THE BAILIFF: This witness has not been  
13 sworn in, Judge.

14 *(Witness sworn.)*

15 THE COURT: Thank you. Have a seat.  
16 You may proceed.

17 MS. PALMER: Thank you, Your Honor.

18 **LANCE FISHER,**

19 having been first duly sworn, testified as follows:

20 **DIRECT EXAMINATION**

21 BY MS. PALMER:

22 Q Could you please introduce yourself to the  
23 jury.

24 A My name is Lance Fisher.

25 Q How are you employed?

1           A       I'm a deputy investigator with the sheriff's  
2 office.

3           Q       Are you a certified peace officer in the state  
4 of Texas?

5           A       Yes, ma'am.

6           Q       How long have you been a certified peace  
7 officer?

8           A       23 years.

9           Q       Those 23 years, have they all been with the  
10 Harris County Sheriff's Office?

11          A       They have.

12          Q       And, of course, we're talking about something  
13 that happened when you were in the homicide division.  
14 Are you still in that division?

15          A       Yes, ma'am.

16          Q       How long have you been in that division?

17          A       A little over three years.

18          Q       So, at the time that this happened, how long  
19 had you been in the homicide division?

20          A       A few months.

21          Q       Before working in the homicide division, can  
22 you tell the jury a little bit about what you did over  
23 at the sheriff's office?

24          A       At the sheriff's office we all start off in the  
25 jail. So, I worked in the jail. I became a member of

1 our emergency response team, which is, basically, our  
2 SWAT team. Then I got transferred to the training  
3 academy as a training instructor, became a firearms  
4 instructor there; then I transferred to our patrol  
5 division and was one of the first members of an  
6 investigative unit assigned to the patrol division  
7 called BARS, which is Burglar Apprehension Response  
8 Squad. From there I transferred to the homicide  
9 division into the assault squad and then to homicide,  
10 investigating murders.

11 Q So, at the time that this happened, we're  
12 talking about December 26, 2010, if you could, tell us  
13 how many years of investigative experience you had at  
14 the sheriff's office at that time.

15 A At the time of this incident?

16 Q Yeah.

17 A Roughly seven or eight years.

18 Q Okay. Now, at the time that this happened --  
19 this happened very early on the morning of  
20 December 26th -- what were your working hours at that  
21 time?

22 A I was actually off on the Christmas holidays.  
23 So, but our murder squad was on call for any calls that  
24 we're required to go to.

25 Q Okay. Can you kind of tell the jury how the

1       sheriff's office homicide division works as far as -- as  
2       far as organization. Because you mentioned murder squad  
3       and I want them to understand that part.

4           A       The homicide division is divided into four  
5       murder squads and each murder squad right now has four  
6       investigators.

7           Q       So, at that time what squad were you in?

8           A       I'm still in the same squad, Squad 4.

9           Q       So, in Squad 4, did you have 4 investigators at  
10       that time?

11          A       At that time, I believe we had five.

12          Q       Okay. So, how is -- I guess your squad got  
13       this holiday season; is that right?

14          A       Yes, ma'am.

15          Q       Okay. So, you were called out to the scene?

16          A       Correct.

17          Q       Did you work with a partner?

18          A       Our squads don't work with partners per se.  
19       Everybody in the squad is on a rotation system; and so,  
20       at that time every fifth scene, I would be responsible  
21       for. And it just so happened I was responsible for this  
22       scene.

23          Q       So, when you say you're responsible for a  
24       scene, is it kind of like a lead detective role?

25          A       Lead investigator, yes, ma'am.

1           Q       So, do you remember what time you got to the  
2 scene?

3           A       I would have to refer to my notes. I don't  
4 really remember the exact time.

5           Q       Would they help you refresh your memory?

6           A       Yes, ma'am.

7           Q       Absolutely.

8           A       Roughly 4:00 a.m.

9           Q       Was the location 22126 Moss Falls Lane?

10          A       Yes, ma'am.

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

12          A       It is.

13          Q       And this was on December 26, 2010?

14          A       Yes, ma'am.

15          Q       When you got to that scene, who all from your  
16 department was there?

17          A       My supervisor at the time Curtis Brown, James  
18 Cassidy was another deputy investigator, and Sergeant  
19 Ron Hunter who is also assigned to Squad 4.

20          Q       And because I want to talk about this a little  
21 bit before we get into the case, if that's okay with  
22 you. I want to talk about this happened and there were  
23 four guys from the sheriff's office there, but there  
24 were also deputies from Harris County Precinct 4 there.

25          A       Correct.

1 Q Right?

2 A Yes, ma'am.

3 Q So, when a homicide happens within Precinct 4  
4 or any of the precincts within Harris County, who is  
5 supposed to respond?

6 A To the initial scene?

7 Q Yes.

8 A The constable's office responds to the initial  
9 scene. They have no investigative branch; and so,  
10 therefore the Sheriff of Harris County takes over the  
11 investigation.

12 Q So, even though this happened in Precinct 4,  
13 the sheriff's office is responsible for investigating  
14 the homicide; is that right?

15 A Yes, ma'am.

16 Q So, you got there, what was the first step you  
17 took in investigating this case?

18 A I usually always meet with the, what we term  
19 as, the reporting deputy. Ideally they should have the  
20 gist of what kind of scene we have, the preliminary  
21 evidence on the scene, and direct us to certain  
22 witnesses. Basically, just tell us why they were called  
23 and what they've seen or heard or done since they got  
24 there.

25 Q And who did you talk to as that reporting

1 deputy?

2 A Deputy Dodson.

3 Q How long did you spend with him, if you  
4 remember?

5 A I don't really recall. Five to ten minutes  
6 maybe.

7 Q After you talked to him, did you talk to  
8 anybody else at the scene?

9 A Other than the members of Squad 4 and my  
10 supervisor, I talked to several members of Precinct 4  
11 for additional information. There was also several  
12 witnesses at the scene that were spoken to.

13 Q Now, the witnesses at the scene, who conducted  
14 those meetings with those witnesses?

15 A Myself and other members of my squad.

16 Q Okay. So, your squad, y'all are all working  
17 together and talking to different witnesses trying to  
18 develop and investigate what happened?

19 A Correct.

20 Q So, how long did you spend at the scene that  
21 night? Approximately?

22 A Hour and a half, two hours.

23 Q So, after you left the scene, what did you do?

24 A I went to the homicide offices located at 601  
25 Lockwood to meet with a person of interest in this case.

1 Q And how did you develop him as a person of  
2 interest?

3 A That's one of the things that Deputy Dodson  
4 told me upon my initial arrival, that there --

5 MS. REKOFF: I object to any hearsay,  
6 Your Honor.

7 THE COURT: Sustained. Sorry. Mid  
8 sneeze.

9 Q (BY MS. PALMER) You can't talk about what  
10 anybody else said so --

11 A Yes, ma'am.

12 Q Did -- after speaking with Deputy Dodson, did  
13 that help you develop a suspect?

14 A Yes.

15 Q And who was that person?

16 A Adolpho Martinez.

17 Q Is his full name Adolpho Anthony Martinez?

18 A Yes, ma'am.

19 Q And do you see him here in the courtroom today?

20 A Yes, ma'am, I do.

21 Q Could you identify him by his location in the  
22 courtroom and the color shirt he's wearing?

23 A He's the young man sitting at the table wearing  
24 a black button-up shirt.

25 MS. PALMER: Your Honor, I ask that the



1 record please reflect that the witness has identified  
2 the defendant.

3 THE COURT: It will.

4 MS. PALMER: May I approach?

5 THE COURT: Yes.

6 Q (BY MS. PALMER) I'm showing you what's been  
7 marked State's 86 through 91. Do you mind taking a look  
8 at those.

9 Are these pictures fair and accurate  
10 pictures of the way the defendant looked on the morning  
11 when you met him at Lockwood on December 26, 2010?

12 A Yes, ma'am.

13 MS. PALMER: I'll offer State's 86  
14 through 91.

15 MS. REKOFF: May I have just a minute,  
16 Your Honor?

17 THE COURT: Yes.

18 MS. REKOFF: Your Honor, there's no  
19 objection to the admittance of the Exhibits 86 through  
20 91.

21 THE COURT: 86 through 91 is admitted.

22 Q (BY MS. PALMER) This is State's No. 86. This  
23 is a picture of the defendant, and do you know where  
24 this was taken?

25 A It appears to be the interview room that we

1 ended up interviewing him in.

2 Q Over at Lockwood?

3 A Yes, ma'am.

4 Q Now, before you met with the defendant, did you  
5 know where he had come from?

6 A Yes.

7 Q Where was that?

8 A Houston Northwest Hospital.

9 Q Houston Northwest Hospital. Did you -- before  
10 you met with him, did you check it out, make sure he was  
11 healthy and okay and was a good person that you could  
12 communicate with?

13 A I did, yes, ma'am.

14 Q Did he, when you met with him, have any  
15 injuries?

16 A No. Maybe superficial cuts on his arm, but.

17 Q Okay. And let's look at those. State's  
18 Exhibit No. 86, you didn't see any injuries on his body  
19 from this picture, right?

20 A No, not with the injuries, no, ma'am.

21 Q State's Exhibit 87, this is a picture of the  
22 defendant's hands. Although they're bloody, did you see  
23 any injuries on the top of his hands?

24 A No, ma'am.

25 Q State's Exhibit No. 88, this is the palm and

1 wrists of the defendant. Did you see any injuries  
2 there?

3 A Other than the superficial cuts on his left  
4 wrist, no, ma'am.

5 Q So, nothing other than these superficial cuts  
6 right here?

7 A Yes, ma'am.

8 Q State's Exhibit No. 89 is another picture of  
9 his right hand. Any injuries there?

10 A None observed, no, ma'am.

11 Q And State's Exhibit No. 90 shows the  
12 defendant's face when you met with him. Did he have any  
13 injuries there?

14 A I don't know if I would term them injuries.  
15 There were definitely some imperfections. I don't know  
16 if they were injuries or acne or any other kind of skin  
17 condition.

18 Q So, when you met with the defendant, did he  
19 have any stab wounds?

20 A No.

21 Q Any -- did he smell like alcohol at all when  
22 you met with him?

23 MS. REKOFF: Your Honor, I object to  
24 leading questions.

25 THE COURT: Overruled.

1 A No.

2 Q (BY MS. PALMER) Okay. So, did he seem impaired  
3 when you met with him?

4 A No, ma'am. I believe I indicated in my  
5 supplement that he was lucid and could complete full  
6 sentences, no slurred speech, nothing to indicate any  
7 kind of problems.

8 Q Because if -- I mean, as a homicide detective,  
9 do you routinely meet with defendants or suspects, let  
10 me say?

11 A Yes.

12 Q If somebody was impaired, would you reschedule  
13 an interview with them?

14 A Not necessarily. I guess it would depend on  
15 how impaired I felt like they were.

16 Q Okay. So -- but did you feel that the  
17 defendant was impaired at all?

18 A Not at all, no.

19 Q Do you remember exactly what time you met with  
20 him over at Lockwood?

21 A 7:37, as indicated on my report.

22 Q Okay. Now, who was in the room with you  
23 meeting with the defendant?

24 A Myself and Deputy Investigator James Cassidy.

25 Q James Cassidy, you, and the defendant. Before

1 you spoke with the defendant, did you advise him of his  
2 rights?

3 A Deputy Cassidy did, yes, ma'am.

4 Q Okay. And actually, that's recorded isn't it?

5 A Yes.

6 Q So, all of the rights, his right to remain  
7 silent, his right to an attorney, all of those rights  
8 were read to him by James Cassidy; is that right?

9 A They were read off, what we term, the blue card  
10 provided to us by the District Attorney's Office.

11 Q So, Deputy Cassidy used the blue card, read the  
12 defendant his rights, and you spoke with him?

13 A Yes, ma'am.

14 Q Okay. How long did you talk to him?

15 A Roughly 30 minutes.

16 Q Approximately. I'm sorry?

17 A Roughly 30 minutes.

18 MS. PALMER: May I approach the witness?

19 THE COURT: Yes.

20 Q (BY MS. PALMER) I'm showing you State's Exhibit  
21 98. This is the recorded statement. You were there?

22 A Yes, ma'am.

23 Q And you provided this recording to the District  
24 Attorney's Office; is that right?

25 A Yes, ma'am.

1 Q So, is this a fair and accurate copy of the  
2 recording of the statement with the defendant in this  
3 case?

4 A As far as I can tell, yes, ma'am.

5 MS. PALMER: I'd offer State's Exhibit  
6 98.

7 MS. REKOFF: No objection to State's  
8 Exhibit No. 98.

9 MS. PALMER: And I'd ask to publish?

10 THE COURT: State's Exhibit 98 is  
11 admitted, and you may publish.

12 *(State's Exhibit No. 98 published.)*

13 Q (BY MS. PALMER) I'm going to stop it right  
14 there. Is -- did you ever talk to him again or  
15 interview him again after this interview we just  
16 finished watching?

17 A No formal interview. It was mainly on the ride  
18 to jail.

19 Q Sometimes it's kind of hard to hear what he's  
20 saying; so, I kind of want to go over some things with  
21 you in this interview.

22 A Yes, ma'am.

23 Q First at the beginning, how long does he say  
24 that he had a dating relationship with Cristina?

25 A I believe he said eight months.

1 Q Are you sure it was months?

2 A Let me check. I'm sorry. Eight years.

3 Q So, eight years. And you asked if they had  
4 children together. Do you know his response?

5 A None.

6 Q And he said that -- how long had he been in  
7 Texas?

8 A Six months.

9 Q How long had he been in Texas?

10 A I don't recall. I --

11 Q Okay. If you looked at Supplement No. 19,  
12 would that help you -- page 7, would that help you  
13 refresh your memory?

14 A About a year.

15 Q How long had Cristina been in Texas?

16 A About six months.

17 Q And did the defendant say whether or not he was  
18 employed?

19 A Said he was unemployed.

20 Q And did he tell you what Cristina was doing in  
21 Houston, Texas?

22 A She was here for school, to become a medical  
23 assistant.

24 Q And you asked about whether the defendant and  
25 Cristina consumed alcohol. What did he say?

1           A       That they had that night.

2           Q       And you also asked him about marijuana.   What  
3 did he say then?

4           A       He said he smokes marijuana on occasion.

5           Q       At that point you asked the defendant what had  
6 happened that morning, and what did he tell you?

7           A       That he was in the computer room and he heard  
8 Cristina yell, screaming from the living area.   And he  
9 ran to her, and she was being attacked by a masked male  
10 or a masked person.

11          Q       Did he tell you what the masked person was  
12 wearing?

13          A       A pair of bluejeans and a black sweater and a  
14 mask on his face.

15          Q       And did he tell you what kind of weapon the  
16 masked individual had?

17          A       He was armed with a knife with a white handle.

18          Q       Did you find a knife with a white handle at the  
19 scene?

20          A       It was laying in the living room floor at the  
21 scene.

22          Q       What kind of knife was it?

23          A       A switchblade.

24          Q       At that time was a switchblade legal to carry  
25 in Texas?



1           A       It was not.

2           Q       So, when he said he saw the attacker, did he  
3 tell you what he did?

4           A       He jumped on the attacker's back and tried to  
5 defend Cristina.

6           Q       Did he tell you about Cristina's condition at  
7 that time?

8           A       Other than she was being attacked.

9           Q       And I know there was some talk about C.P.R.  
10 Did you ask him whether he performed C.P.R. on Cristina?

11          A       I believe he offered that he started C.P.R. on  
12 her inside the house.

13          Q       Did you ask the defendant if he had any knives?

14          A       Yes.

15          Q       What did he say?

16          A       None other than kitchen knives.

17          Q       When you're talking to him at this point and  
18 he's telling you this story, did you believe it?

19          A       No.

20          Q       Why not?

21          A       Because the story the defendant was offering  
22 was inconsistent with my investigation, what I had  
23 already learned in my investigation.

24          Q       Now, in the next part of the statement, I want  
25 to go through some things. You said -- I can't remember

1 if it was you or Cassidy said that generally, a good  
2 person -- generally sometimes good people do bad things  
3 and that he was a good man. The defendant was a good  
4 man. Why did you say that to him?

5 A It's an interview technique that I try to gain  
6 their confidence and put them at ease, make it easier to  
7 tell what is human nature they don't want to tell.

8 Q Did you say that to him because you thought he  
9 was a good man?

10 A No. It was an interview technique. I had no  
11 idea whether he was a good man or bad man. I had just  
12 met him that night.

13 Q Also you or Cassidy said in the interview that  
14 people lie all the time and that you understood why he  
15 would be upset. Was that the truth, or was that an  
16 interview technique?

17 A Again, it was an interview technique.

18 Q So, at that point after the defendant told you  
19 this attacker story, what did you say to him?

20 A Verbatim, I don't --

21 Q Not verbatim.

22 A I, basically, told him that his story, for lack  
23 of a better term, didn't hold water. It was  
24 inconsistent with the evidence at the scene, and I  
25 didn't believe him.

1 Q So, at that point, did the defendant tell you  
2 why he did this?

3 A At one point he did, yes, ma'am.

4 Q Okay. And what did he say?

5 A He said that Cristina had called him worthless  
6 and that that angered him and so, he had a few more  
7 drinks and his anger increased to the point where he  
8 went and got a knife.

9 Q Did he say which knife he got?

10 A He said the switchblade out of the computer  
11 room.

12 Q And did he say whether that was his knife or  
13 someone else's knife?

14 A He said it was his.

15 Q And at one point I believe Cassidy asked, Did  
16 she say something else that sparked it? Because the  
17 defendant talks about, She called me worthless, and then  
18 Cassidy asks him, Did she say something else that  
19 sparked it? What did the defendant say?

20 A I don't think I caught that.

21 Q Okay. So, was there any intervening argument  
22 that he talked about other than Cristina calling him  
23 worthless and the attack happening?

24 A No. He gave that as his excuse for the attack,  
25 was that she had called him worthless.

1           Q       Okay.  So, after you met with the defendant and  
2 interviewed him -- this tape is not over actually.  So,  
3 at some point, did you ask Maurice Carpenter to come  
4 into the interview room?

5           A       Yes, ma'am.

6           Q       And what was his purpose?

7           A       Maurice Carpenter is assigned to the Sheriff's  
8 Office Crime Scene Unit and he not only documents and  
9 recovers evidence at the scene, but he also responded to  
10 Lockwood to photograph the defendant.

11          Q       So, the photographs we saw of the defendant  
12 earlier were actually taken by Maurice Carpenter?

13          A       Correct.

14          Q       Now, we saw on the video that you asked the  
15 defendant if he had any contact information for  
16 Cristina's family.  And he -- what did he tell you?

17          A       That they were in his cell phone located at the  
18 scene.

19          Q       Were you able to get that information?

20          A       Yes, ma'am.

21          Q       And did you talk to Cristina's family?

22          A       Yes.

23          Q       And who did you talk to?

24          A       I believe I talked to her sister.

25          Q       And who was that?

1 A I -- Patricia, Patty.

2 Q And when did you talk to her?

3 A It was later on that morning -- afternoon  
4 rather. 1:00 or 2:00 in the afternoon.

5 Q And I need to ask you if in your training and  
6 experience if you know, is a knife a deadly weapon?

7 A It is.

8 Q And did that generally conclude your  
9 investigation into this case after you talked to the  
10 defendant?

11 A Yes, ma'am.

12 MS. PALMER: I pass the witness.

13 THE COURT: Defense.

14 **CROSS-EXAMINATION**

15 MS. REKOFF: Your Honor, I'd like  
16 permission to publish the rest of the video to the jury?

17 THE COURT: Sure.

18 *(Remainder of State's 98 published.)*

19 Q (BY MS. REKOFF) Deputy Fisher, when you got to  
20 the location early that morning, was Mr. Martinez  
21 already gone?

22 A Yes, ma'am.

23 Q Okay. So, what you did is you talked to  
24 everybody and you gathered your information. And at any  
25 time while you were gathering information and talking to

1 the officers about what happened, did anyone ever tell  
2 you that Mr. Martinez had tried to run from his home?

3 A No, ma'am.

4 Q Did anyone ever tell you that Mr. Martinez had  
5 tried to fight with the police officers when they got  
6 there?

7 A No, ma'am.

8 Q In fact, didn't you receive information when  
9 the police officers went into the home, that  
10 Mr. Martinez appeared to be dazed and confused and  
11 that's why the paramedics were called out to his home?

12 A I don't recall dazed or confused.

13 Q You don't recall that?

14 A No, ma'am.

15 Q Now, did you walk through the crime scene?

16 A Yes.

17 Q And when you walked into Tony's house, before  
18 you walked in, did you notice there were vehicles parked  
19 outside the home?

20 A Yes.

21 Q Did you ever receive information from anyone  
22 that Mr. Martinez had tried to jump in one of his  
23 vehicles and drive away?

24 A No, ma'am.

25 Q In fact, at the time that you got to

1 Mr. Martinez's home, had he already signed the voluntary  
2 consent form?

3 A No.

4 Q Had you had that information?

5 A No, ma'am, he had not at that time.

6 Q But he did sign it when he was asked, correct,  
7 sir?

8 A Yes, ma'am.

9 Q And so, as far as you know, Mr. Martinez  
10 cooperated completely with everything that the police  
11 asked him to do that day, right?

12 A Other than tell the truth, yes, ma'am.

13 Q Well, he did tell the truth, he just didn't  
14 tell it first, right, sir?

15 A Correct.

16 Q Now -- and I'd like for you to listen to my  
17 question and if you're confused, I'll repeat it. But  
18 I'd like you to answer the question that I ask you. So,  
19 if I'm confusing you, let me know. Okay?

20 A I will let you know.

21 Q When you walked through the crime scene, tell  
22 the members of the jury what that crime scene looked  
23 like. What did the house look like?

24 A It was very bloody. There was two knives  
25 laying on the floor. It appeared that there was a

1 substantial altercation inside the house.

2 Q And let's talk about those knives first. You  
3 testified on direct that it was illegal to carry a  
4 switchblade at that time in the state of Texas, correct?

5 A Switchblade at that time was considered a  
6 prohibited weapon, yes, ma'am.

7 Q But you weren't prohibited from having it at  
8 your home, correct, sir?

9 A Correct.

10 Q So, Mr. Martinez wasn't carrying a switchblade  
11 this morning, was he? Outside in public?

12 A This morning?

13 Q The morning that this happened, he wasn't out  
14 in public, right?

15 A No.

16 Q He had the switchblade in his home where he was  
17 legally allowed to have the switchblade, correct, sir?

18 A Yes, ma'am.

19 Q Now, can you tell the members of the jury which  
20 one of those knives were used in the killing?

21 A There's no way to know which of the knives. I  
22 don't have that kind of knowledge, no.

23 Q But Mr. Martinez did tell you that it was the  
24 switchblade that was used, correct, sir?

25 A He did tell us that, yes, ma'am.



1           Q       So, you never received any information from  
2 anybody during your investigation that two knives were  
3 used to stab Cristina Garcia, did you, sir?

4           A       Both knives were at the location, both knives  
5 had blood on them.

6           Q       And I would like for you to listen to my  
7 question. And my question is: You never received  
8 information or any proof whatsoever that two knives were  
9 used to stab Cristina Garcia? It's yes or no; did you  
10 receive that information?

11          A       I did not.

12          Q       At the hospital Tony was asked to sign a  
13 voluntary consent form and he signed it, correct?

14          A       Yes.

15          Q       And that information was brought back to you,  
16 right?

17          A       Correct.

18          Q       And then he was asked if he would give a  
19 statement to the police about what happened, correct?

20          A       He was brought to our location, to our offices,  
21 and asked if he would cooperate, yes.

22          Q       And he did, right?

23          A       Yes, ma'am.

24          Q       Okay. Did you run his criminal history before  
25 you went in and interviewed him?

1           A       Yes.

2           Q       And what did you learn when you ran that  
3 criminal history?

4           A       Defendant had no criminal history.

5           Q       And did you run the address where this crime  
6 had taken place to see if any other domestic calls had  
7 been made at this location?

8           A       I did not do that, no, ma'am.

9           Q       That wasn't part of your investigation?

10          A       No, ma'am.

11          Q       Did you ever learn during your investigation  
12 that the police had ever been called out to this  
13 location concerning Cristina and Tony in the past?

14          A       I never made inquiry.

15          Q       And if the police would have been called out to  
16 that location, there would be documentation to support  
17 that, correct, sir?

18          A       Not necessarily, no.

19          Q       So, are you telling me in Harris County that if  
20 a 9-1-1 call comes in and police respond, that they  
21 don't have to file just the normal form that says --  
22 even if they don't arrest anyone -- I followed up on  
23 this 9-1-1 call, I appeared at this location and no one  
24 was arrested. You don't have those procedures here in  
25 Harris County?

1           A        You asked me if a report would have been  
2 generated and no, on a 9-1-1 hangup call, a report is  
3 not generated unless there's something substantiating  
4 the 9-1-1 call, unless there's something going on.

5           Q        Sir, who said 9-1-1 hangup call? That wasn't  
6 my question. My question was: Were there ever any  
7 calls that were received from that location where  
8 officers went out and investigated and made a report of  
9 it?

10          A        And my answer, again, is I never made that  
11 inquiry.

12          Q        You didn't make that inquiry because he had no  
13 criminal history so you knew he never had done anything  
14 up to this point that involved police, correct, sir?

15          A        That's not correct, no.

16          Q        If you thought you would have found something,  
17 you surely would have conducted a thorough  
18 reinvestigation and looked into that, wouldn't you, sir?

19          A        I feel I did conduct a thorough investigation.  
20 I just never made an inquiry about past calls because  
21 it's been my training that you can't always rely on past  
22 calls. You can't make your mind up before you get to a  
23 call or what kind of calls have been there what's  
24 happening on that date. That would be wrong.

25          Q        Are you telling me, sir, that in your training

1 and experience that you were never taught that when  
2 you're investigating a murder case where it's happened  
3 between a couple, a -- two people that live together  
4 where you think one person has killed the other, that  
5 you haven't been taught that it's a good interviewing  
6 technique to look back and see if any other prior calls  
7 have been made to that address?

8 A I didn't feel it was pertinent on this one, no,  
9 ma'am.

10 Q Now, when you interviewed Tony, he volunteered  
11 to have a statement taken; and in the beginning he tells  
12 you something that wasn't true, right, sir?

13 A Correct.

14 Q How many times have you interviewed people in  
15 your career?

16 A Roughly thousands.

17 Q How many times have people lied to you in the  
18 beginning?

19 A A good majority.

20 Q And there are lots of people that stick with  
21 those lies throughout the whole interview, correct, sir?

22 A Often, yes, ma'am.

23 Q And sometimes people end up telling you the  
24 truth, right?

25 A That's my goal.

1           Q       Now, you told the jury that that interviewing  
2       technique that you used where you said you had been  
3       doing this a long time, generally people fall into two  
4       categories: One, the person that doesn't really care  
5       and they do bad things all the time; No. 2: The person  
6       that's generally a good person and just did a bad thing  
7       on this one day because they were provoked. Remember  
8       that language that you spoke on the interview and you  
9       said was an interview technique?

10          A       Yes, ma'am.

11          Q       Well, you used it because there's element of  
12       truth to that, correct, sir?

13          A       There are parts that are true, yes, ma'am.

14          Q       And tell them what the parts are true.  
15       Generally speaking, there are people that are bad and  
16       they don't cooperate and they don't tell the truth and  
17       they just go on and do what they want to do no matter  
18       what, right, sir?

19          A       That is true.

20          Q       And then there's the opposite: The good person  
21       that's been arrested for the first time that's done  
22       something really bad and after you speak to them, they  
23       go ahead and tell you the truth, right?

24          A       Oftentimes that happens, yes, ma'am.

25          Q       What category did Mr. Martinez fall into? Was

1 he the good person that did something bad and after you  
2 talked to him and explained he understood, he told you  
3 the truth, right, sir?

4 A I think Mr. Martinez, if you're asking my  
5 opinion, was the kind of person that falls into the  
6 category when you can tell a lie up to the point where  
7 it's provable that you're lying. So, to save your own  
8 skin, you tell the truth.

9 Q It was after, right after, you spoke to him  
10 about a good person doing something bad and telling him  
11 you understood you get angry too and you do things,  
12 that's when he told you the truth, correct, sir? Right  
13 after that?

14 A And after I pointed out that there could  
15 possibly be --

16 Q Yes or no, sir: Right after that? Yes or no?

17 A I wouldn't say right after that, no.

18 Q Now, he inquired about Cristina several times,  
19 correct, sir?

20 A Yes, ma'am.

21 Q And the officer that was with you -- is it  
22 Deputy Cassidy?

23 A Yes, ma'am.

24 Q He kept explaining to Tony that he knew that he  
25 was remorseful and he was upset and he was concerned

1 about Cristina, did you hear that?

2 A Yes, ma'am.

3 Q Was that a crock of crap, too? Was that just  
4 another interview technique?

5 A I wouldn't label it as a crock of crap. It  
6 would be an interview technique, yes, ma'am.

7 Q And the reason why you were able to use that  
8 interview technique is because he was asking about her  
9 and he was showing signs of remorse, correct, sir?

10 A He was asking about her, yes, ma'am.

11 Q But you didn't tell her that -- you didn't tell  
12 him that she was dead until after the interview was  
13 over, right?

14 A That's absolutely correct.

15 Q And when you told him that she was dead, he had  
16 the appropriate reaction that a remorseful person would  
17 have, correct, sir?

18 A He had an appropriate reaction for many people  
19 that have been arrested for murder, yes, ma'am. I'm not  
20 about to assume why he was so upset. Could have very  
21 well been that he got caught.

22 Q You saw him upset, visibly upset, correct?

23 A Yes.

24 Q And you saw him visibly shaking, correct?

25 A Yes, ma'am.

1 Q And you saw tears rolling out of his eyes,  
2 correct, sir?

3 A He was crying, yes, ma'am.

4 Q Have you seen people fake crying in the past?

5 A Yes.

6 Q They don't have tears that run down their face,  
7 do they, sir?

8 A Some do, yes, ma'am.

9 Q There's nothing Mr. Martinez could have done  
10 right, according to what you're testifying here today,  
11 right? On that day?

12 A That's not correct, no.

13 Q Really?

14 A Really. He could have called the police right  
15 from the beginning and said what he did instead of  
16 trying to cover it up.

17 Q When the police got there, they took him to the  
18 hospital. He didn't ask to go to the hospital. Your  
19 department determined that he needed to go to the  
20 hospital. Are you aware of that?

21 A Yes, ma'am, but I'm also aware --

22 Q And when he went to the hospital, he was asked  
23 if he would come and give a statement; and immediately  
24 after being released from the hospital, where did he go?

25 A To our office.



1 Q He went to give a statement.

2 A Correct.

3 Q He wasn't under arrest at that time, was he,  
4 sir?

5 A No.

6 Q He could have left. He could have said, No,  
7 let me call my lawyer, I'll see you in the morning.

8 Right, sir?

9 A Yes, ma'am.

10 Q But he didn't. He got in the car with the  
11 police officers and he went to the station and he  
12 answered all of your questions, correct, sir?

13 A He provided answers, yes, ma'am.

14 MS. REKOFF: Pass the witness.

15 THE COURT: State?

16 MS. PALMER: Nothing further.

17 THE COURT: May this witness be excused?

18 MS. PALMER: Yes, Your Honor.

19 THE COURT: You may step down. Thank  
20 you.

21 You guys need a break? Yes? All right.  
22 Let's take a 15-minute stretch break for the afternoon.

23 THE BAILIFF: All rise for the jury.

24 *(Jury out)*

25 *(Brief break)*