

1 LEONORA INOCENCIO

2 Having first been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MS. BUESE:

5 Q. Could you please introduce yourself to the  
6 jury?

7 A. Hi. I'm Leonora Inocencio. I'm a Sergeant  
8 with the Harris County Sheriff's Office. I've been  
9 there 23 years.

10 Q. Where are you currently assigned in the  
11 Sheriff's Department?

12 A. Currently I'm with the Personnel Concerns Unit  
13 which rectifies problematic --

14 MR. HINTON: May I interrupt? She has an  
15 awful soft voice.

16 THE COURT: If you could just move up a  
17 little.

18 Q. Where were you assigned in 2012?

19 A. I was assigned to the Assault Unit, which at  
20 that time I did all assaults.

21 Q. What does the Assault Unit do?

22 A. Assault Unit handles all active types of cases  
23 such as assaults with, aggravated, is mainly with  
24 weapons, vehicles, but it can also be knives too, any  
25 type of assault. It can be just a fight. So I

1 investigated the whole realm of those things.

2 Q. How do you typically become involved in an  
3 investigation, at what stage?

4 A. After the patrolmen have gone to a scene, they  
5 actually file the report. And the way that it worked is  
6 after they completed their report, it takes a couple of  
7 days for the report to actually come up to the  
8 investigative unit where I was assigned and from there  
9 we get the case. And there's lots of cases that come in  
10 every week. So this particular case, I was alerted to  
11 it by the complainant calling me. So --

12 Q. And do you remember who specifically called  
13 you?

14 A. Yes, that would be the complainant's wife,  
15 Ms. Rangel.

16 Q. And when you were contacted, did you eventually  
17 get assigned the case?

18 A. Yes, at that point of contact, because that was  
19 my area, so automatically I was assigned the case.

20 Q. So did you ever make a crash scene on January  
21 5th of 2012?

22 A. No.

23 Q. Is it unusual for you not to make the original  
24 scene?

25 A. Oh, no, not at all.

1 Q. What is your role as a follow-up investigator  
2 in these types of cases?

3 A. As follow-up investigator, it's after their  
4 investigation, the traffic units, the patrolmen, I come  
5 in to basically put all the pieces of the puzzle  
6 together. What was in the original report and what the  
7 witnesses and the complainant had told me. That's what  
8 an investigator does. And in the end, you either file  
9 the charges or not based on that information.

10 Q. And in this case, did you speak to witnesses?

11 A. I did.

12 Q. Without talking about what they said, which  
13 witnesses did you speak to?

14 A. I spoke with the complainant, I spoke with two  
15 of the persons that were on the roadway that actually  
16 witnessed the event. I also spoke with one of the  
17 suspects over the telephone. Did you want me to say  
18 whom or you said no?

19 Q. You can say names, just not what they told you?

20 A. I spoke with suspect Estrada over the phone. I  
21 spoke with suspect Bravo over the phone. And I think  
22 that is it.

23 MS. BUESE: May I approach the witness?

24 THE COURT: You may.

25 Q. (By Ms. Buese) Sergeant, at some point during

1 your investigation, were you able to locate a third  
2 vehicle involved in your assault case?

3 A. A third vehicle.

4 Q. Well, you knew there had been two vehicles  
5 already identified; correct?

6 A. Yes, of course. The third vehicle would be the  
7 van at the end.

8 Q. And when you located it, did you actually take  
9 photographs of it?

10 A. Yes, I did.

11 Q. Looking at what's already been admitted as  
12 State's Exhibit No. 55, 54, 56, 57, and 58, are those  
13 all photographs of that van that you located?

14 A. Yes.

15 Q. And do they fairly and accurately depict the  
16 damage that you saw to that van?

17 A. Absolutely.

18 Q. When you spoke to the complainant, were you  
19 ever able to show him any photo arrays?

20 A. Yes, I did.

21 Q. And can you explain to the jury just a little  
22 bit about what a photo array is?

23 A. Once I had spoken with the complainant, he  
24 gives me the suspects that he believed that were  
25 involved in the accident. And from there, what I do is

1 locate their information in a database that we have  
2 there, would include pictures of them. Then we  
3 strategically place the pictures into a photo array  
4 which would have them placed in any general area. It  
5 doesn't include names or anything like that, just faces,  
6 and then we show that photo array to witnesses.

7 Q. Do you ever give instructions to witnesses  
8 before you actually show them the photo array?

9 A. I do, and I also provide them with a copy of  
10 instructions that they have to sign off on and read  
11 before they look at the photo array.

12 Q. How many arrays did you show to Steven Rangel  
13 in this case?

14 A. Let's see, it was five.

15 Q. Okay. And looking at State's Exhibit No. 59,  
16 60, 61, 62, and 63, do those appear to be the five  
17 arrays you showed the complainant in this case?

18 A. Yes, that would be correct.

19 Q. And while I'm up here, State's Exhibit No. 74,  
20 does that appear to be a copy of your audio recording of  
21 your interview with this defendant?

22 A. Well, I did do an audio copy, yes. So.

23 Q. Was it saved to the efile file?

24 A. Saved to the efile file of Turron, yes.

25 MS. BUESE: At this time, I offer State's

1 Exhibit No. 59 through 63 as well as 74 and tender to  
2 opposing counsel.

3 THE COURT: Again, what is 74?

4 MS. BUESE: 74 is the defendant's  
5 statement.

6 MR. HINTON: May we approach?

7 (Discussion at the bench.)

8 MR. HINTON: Judge, I have no objection to  
9 59, 60, 61, 62, and 63. I do object to Exhibit 74,  
10 which is the defendant's statements. I object to it as  
11 in violation of the State's hearsay rule, 801, 802, due  
12 to the fact that it contains nothing of an incriminating  
13 nature on it. I believe in the statement he gives a  
14 statement that he was at his mother-in-law's house and  
15 I've ask the Court to look at it. If we tried to  
16 introduce it, the objection would be that it's hearsay.  
17 It's self-serving. Well, the State introduced and our  
18 objection is it's in violation of the hearsay rule.  
19 It's not an exception to the hearsay rule. At the time  
20 it was made it was not an incriminating statement.

21 MS. BUESE: And Judge, it's a statement by  
22 party opponent. It's not required to contain penal  
23 admission. It's not a statement against penal interest.

24 THE COURT: Why is it relevant?

25 MS. GARRETT: On the hearsay rule, as far

1 as the defendant's admission, a statement by party  
2 opponent in a criminal case is not necessarily  
3 incriminating, so it's not just any statement by a party  
4 opponent that would apply.

5 MR. HINTON: Judge, I would ask you this.  
6 If we had offered that into evidence and also it was an  
7 exculpatory statement and the State objected, would you  
8 allow it?

9 MS. BUESE: Again, he's a party opponent  
10 and I believe the case is clear, it doesn't require any  
11 type of admission because it's at the same time against  
12 penal interest. And if you look at the case law, that's  
13 actually what that foot note that gives that impression  
14 in the Penal Code foot notes, if you actually --

15 THE COURT: How long is it?

16 MS. BUESE: It's about ten minutes, if  
17 that. Closer to five.

18 THE COURT: He makes no admission.

19 MS. BUESE: No, he says that he was not  
20 present at all. He denies any --

21 THE COURT: He said he was not present.

22 MS. BUESE: He said he was not present at  
23 all, no involvement whatsoever.

24 MS. GARRETT: Nothing incriminating.

25 THE COURT: The Court is going to allow

1 it.

2 (In the presence and hearing of the jury.)

3 THE COURT: Being no objection, 59 through  
4 63, they are admitted. Being an objection on 74, that's  
5 overruled, and it's also admitted. You may proceed.

6 MS. BUESE: Thank you, Judge.

7 Q. (By Ms. Buese) And Sergeant, if you could, I'm  
8 going to put up the instruction to help you out, what  
9 instructions did you give?

10 MR. HINTON: Judge, for the record, is the  
11 Court overruling the objection to 74?

12 THE COURT: Yes. Let's move along. I  
13 really thought we would be much further along. That  
14 surprises me. I didn't know about that. Let's move  
15 along please.

16 Q. (By Ms. Buese) Sergeant, what, if any,  
17 instruction do you give someone before you show them a  
18 photo array?

19 A. I will tell them that -- you want me to read or  
20 tell you.

21 Q. What do you tell them?

22 A. I tell them they are not obligated to pick  
23 anyone out of it, that the suspect could or could not be  
24 included in the photo array.

25 THE COURT: Those are admitted. The

1 photospreads.

2 MS. BUESE: Yes, Judge.

3 THE COURT: Why are we covering this?

4 MS. BUESE: Judge, I'm asking what  
5 instructions, if any, the complainant would have  
6 received before he actually viewed the photospread and  
7 selected or did not select.

8 THE COURT: They are already admitted.  
9 Let's move along please.

10 MS. BUESE: Yes, Judge.

11 THE COURT: That would be if it was  
12 contested, it would be proper questions, but let's move  
13 along.

14 Q. (By Ms. Buese) Sergeant, did the first photo  
15 array you showed the complainant in this case, Steven  
16 Rangel, did it contain the defendant's photograph?

17 A. No, it did not.

18 Q. How did you select the people to put in this  
19 photo array?

20 A. Well, the very first one that I had chosen --  
21 actually I thought it did because there is two Alexandro  
22 Bravos, so when I put the photo array together, I  
23 believe the suspect was in there because I had not seen  
24 the real suspect yet, so this suspect, the complainant  
25 did not pick him out. He told me he was not located in

1 there. So I had to go back the following day and do  
2 another photo array.

3 Q. And let's go ahead and skip forward to State's  
4 Exhibit No. 63, when you placed the correct Alexandro  
5 Bravo in a photo array, was the complainant able to  
6 identify him?

7 A. Yes, he was.

8 Q. How did he identify him?

9 A. He said he knows him by name and sight and  
10 circled him on the photo array.

11 Q. And the other arrays that have been admitted,  
12 who else did the complainant identify as being involved?

13 A. That would be Cody Evans, Mike Estrada, and  
14 Melissa Peterson or Peters, I believe her name was.

15 Q. Did you ever have an opportunity to speak to  
16 Melissa Peters?

17 A. Unfortunately, no, I went to many hotels and  
18 truck stops looking for her in the area, but I was never  
19 able to locate her. I even telephoned. I found a  
20 number for her parents to no avail. I left messages and  
21 she never returned my call.

22 Q. You said the defendant actually did come in and  
23 give a voluntary statement in this case?

24 A. Yes, he did.

25 Q. Was he under arrest when you spoke to him?

1 A. No.

2 Q. Did he actually walk out after you were done  
3 talking to him?

4 A. He did.

5 MS. BUESE: Permission to publish State's  
6 Exhibit No. 74?

7 THE COURT: You may.

8 MR. HINTON: May we have a continuing  
9 objection?

10 THE COURT: You will have a continuing  
11 objection through anything that relates to No. 74.

12 MR. HINTON: With the same ruling.

13 THE COURT: With the same ruling.

14 (The audio tape, State's Exhibit No. 74,  
15 was played for the jury.)

16 Q. (By Ms. Buese) Sergeant, did the defendant ever  
17 contact you to provide you with that additional  
18 information?

19 A. No, he did not.

20 Q. Did you ever figure out who his mother-in-law  
21 was?

22 A. No.

23 Q. Were you ever able to get any additional  
24 information to verify the alibi he provided in that  
25 statement?

1           A.    No, he gave me nothing.

2                   MR. HINTON:  I object to any post  
3 direction silence.

4                   THE COURT:  Was this after the arrest?

5                   MR. HINTON:  She said did he ever.

6                   MS. BUESE:  I'll rephrase.

7                   THE COURT:  Please rephrase.

8           Q.    (By Ms. Buese) Sergeant, prior to the  
9 defendant's arrest, did he ever provide you with any  
10 additional information that allowed you to verify that  
11 alibi?

12           A.    He did not.

13           Q.    Sergeant, did you ever get any tips or  
14 information from the crime lab in this case?

15           A.    From the crime lab, no, not at that time.  That  
16 was still in the process when my investigation was going  
17 on.  Except for, I guess, the pictures when I submitted  
18 that to them.

19           Q.    As far as you know, has anything conclusive  
20 come from the crime lab regarding this case?

21           A.    Like I said, that would have been after I had  
22 filed my charges and so the only thing I'm aware of is  
23 that in talking with transportation --

24                   THE COURT:  Without going into any  
25 hearsay.

1 THE WITNESS: Okay.

2 THE COURT: We are talking about specific  
3 evidence.

4 THE WITNESS: No.

5 Q. (By Ms. Buese) And why didn't you feel it was  
6 necessary to wait for any possible results before  
7 presenting the case for charges?

8 A. Because we had him positively identified by the  
9 complainant, and another witness actually, with the  
10 other people there as well in the case, but generally  
11 when you have a complainant that is giving you that type  
12 of information that I had, that put him in the vehicle,  
13 and swore that it was him, identified him from a photo  
14 array, that's what I took my charges with. And besides  
15 that, with the suspect not giving me anything else to go  
16 on to prove --

17 MR. HINTON: I object to any post-arrest  
18 silence under the Texas Constitution.

19 THE COURT: That will be sustained.

20 MR. HINTON: Ask the jury to disregard.

21 THE COURT: Again, please, you need to  
22 post arrest, prior to the arrest.

23 MS. BUESE: I believe we were asking  
24 specifically about her presenting charges and this would  
25 have been prior to his arrest because he could not have

1 been arrested prior to charges being filed.

2 THE COURT: Okay. If that is the exact  
3 language that we used, your objection is overruled. You  
4 may proceed.

5 Q. (By Ms. Buese) You can finish answering the  
6 question, Sergeant.

7 A. Had the defendant actually given me his  
8 mother-in-law's last name and address or a telephone  
9 number, if I was accused of a crime and nothing --

10 MR. HINTON: I object to her --

11 THE COURT: Please, not your own personal  
12 thoughts at all.

13 THE WITNESS: No, sorry.

14 THE COURT: That's not relevant at all  
15 please.

16 THE WITNESS: I wasn't given any  
17 information to follow up with an alibi for him.

18 Q. (By Ms. Buese) Sergeant, based on the  
19 information that you had and the information that had  
20 already been collected in the case, did you feel your  
21 investigation was complete?

22 A. Yes, I did.

23 MR. HINTON: I object to her opinion, what  
24 she felt.

25 THE COURT: Be overruled.

1 Q. (By Ms. Buese) What did you do at that point?

2 A. Well, at that point, I presented the case to  
3 the District Attorney's Office with all the information  
4 that I had and filed charges on the persons involved in  
5 the case.

6 Q. And which persons ended up being charged in  
7 this case?

8 A. Michael Estrada, Alexandro Bravo, and Cody  
9 Evans.

10 Q. And you said Alexandro Bravo and gestured with  
11 your head. So the record is clear, can you please point  
12 to the defendant and identify him by an article of  
13 clothing that he's wearing?

14 A. Yes, he's sitting to the left of the room with  
15 a light colored tie.

16 MS. BUESE: May the record reflect the  
17 witness has identified the defendant?

18 THE COURT: And it will.

19 MS. BUESE: I pass the witness.

20 THE COURT: Mr. Hinton.

21 CROSS EXAMINATION

22 BY MR. HINTON:

23 Q. Sergeant, it's accurate that you filed these  
24 charges before Melissa Peters had ever given a  
25 statement; is that correct?

1 A. Yes, that is correct.

2 Q. Okay. And does the Harris County Sheriff's  
3 Department have what is referred to as a vehicle  
4 processing center?

5 A. Yes, they do.

6 Q. Okay. And at the vehicle processing center,  
7 vehicles can get towed to that location for evidentiary  
8 processing. Would that be fair to say?

9 A. Yes, that is correct.

10 Q. And that processing is done by law enforcement  
11 technicians?

12 A. That is correct.

13 Q. Okay. And they have the vehicle at their  
14 disposal where they can look around in it, they can take  
15 pictures, they can do all types of evidentiary  
16 processing in general. Would that be fair to say?

17 A. Yes.

18 Q. And in this particular case, you took pictures  
19 of the red minivan; did you not?

20 A. That's correct.

21 Q. Okay. And they were taken during the day time;  
22 is that correct?

23 A. Yes.

24 Q. Okay. Have you seen the pictures of the Dodge  
25 Durango that have been, well, that were used in this

1 case?

2 A. Yes.

3 Q. Okay. They are taken at night. Would you  
4 agree?

5 A. No, I believe the pictures that were loaded up  
6 into our ADAM system were on the scene.

7 Q. That was at nighttime, was it not, or do you  
8 think they were taken during the daylight hours?

9 A. I would have to go back and look at my notes.  
10 I just don't recall. No, it was daylight.

11 Q. The pictures that were taken of the Dodge  
12 Durango that you saw were taken during the daylight;  
13 right?

14 A. Yes.

15 Q. Okay. So, you know somebody could look at  
16 those and see that, you know, there would be plenty of  
17 light to take a look at those photos, and you know, tell  
18 whatever those photos would tell; right?

19 A. Yes, sir.

20 Q. Okay. By any chance, do you have access to any  
21 of the photos of the Dodge Durango that were taken  
22 during the daylight?

23 A. Like I said, the photos uploaded into our ADAM  
24 system. Any time law enforcement takes photographs of  
25 an accident or anything like that, which is what I did

1 with mine, uploaded them into our system, and it's been  
2 two and a half years. I remember seeing the pictures.  
3 At what point, I don't recall. I'm sorry.

4 Q. Okay. Do you know who took the photographs  
5 that were taken not at nighttime but that were taken  
6 during the daylight?

7 A. I don't, because I wasn't on that scene.

8 Q. Okay. Now the Durango in this case, it wasn't  
9 taken to the vehicle processing center; was it?

10 A. I don't know that information. I wasn't on the  
11 original scene.

12 Q. Okay. So, as far as whether or not the Durango  
13 had tinted windows, were you aware of that or not?

14 A. Not really.

15 Q. Okay. Did you ever see the Durango?

16 A. Not in person. No, I did not.

17 Q. Okay. But you saw pictures of it; right?

18 A. Yes.

19 Q. That were taken in the daylight; right?

20 A. Uh-huh.

21 Q. Do you know who did the inventory of the  
22 vehicle, the Dodge Durango I'm talking about?

23 A. I do not, sir.

24 Q. Okay. Do you know where the child seat might  
25 be, you know, if somebody wanted to take a look at it

1 that was supposed to have been in the Dodge Durango?

2 A. I do not, sir.

3 Q. Okay. Do you know of any, where there might be  
4 any booster seats that may have been in the Dodge  
5 Durango?

6 A. Not at all. I was not on the original scene.

7 Q. Okay. As far as you know, was the Dodge  
8 Durango that was involved in this collision and what  
9 this case is centered on, was it just towed by a regular  
10 tow vehicle to one of their yards?

11 A. Again, I wasn't on that scene. I don't know  
12 that information without going back and looking at the  
13 full report.

14 Q. Okay. Well, let me ask you this. If I were to  
15 ask who was the lead investigator in this case, you  
16 would answer who?

17 A. The lead investigator would have been myself.

18 Q. Okay. And you are saying you don't know  
19 whether the Dodge Durango was taken to any type of law  
20 enforcement vehicle processing center or not?

21 A. As proper protocol --

22 Q. I ask through the Court, I want to know whether  
23 she knows or not?

24 A. I do not.

25 THE COURT: She does not.

1 MR. HINTON: Judge, I want to ask a few  
2 questions, the answer to which I would argue to the  
3 Court are admissible as an exception to the hearsay  
4 rules solely for the impeachment purposes of the  
5 complaining witness' statement?

6 THE COURT: And you may. Do you have  
7 specific questions that were asked and denied by the  
8 previous witness? You may asked those questions right  
9 now.

10 MR. HINTON: Officer, so I don't have you  
11 at a disadvantage, may I approach the witness?

12 THE COURT: You may.

13 Q. (By Mr. Hinton) Could you use this document to  
14 refresh your memory, and take your time, just when  
15 you're through reading it, not out loud, but to  
16 yourself, just let me know.

17 A. All right. Did you want me to read the  
18 highlighted part only or the full document.

19 Q. Pardon me. I just want you to read the  
20 highlighted part.

21 THE COURT: Just read the highlighted.

22 A. Highlighted or the full document.

23 Q. Just read it to yourself. Not the full  
24 document, to yourself.

25 THE COURT: Which part, the highlighted

1 part or all of it?

2 Q. (By Mr. Hinton) Just the highlighted part?

3 A. Okay.

4 Q. Okay. Now, would you agree that the  
5 highlighted part that you used, does that refresh your  
6 memory?

7 A. Well, yeah. What do you mean refresh my  
8 memory?

9 Q. Well, let me ask you this. Is that highlighted  
10 part a section of a sworn statement that you made?

11 MS. BUESE: Judge, may we approach real  
12 quick.

13 THE COURT: It should be a lot easier than  
14 this. Does this reflect your questioning of certain  
15 witnesses in this case?

16 THE WITNESS: Yes, it does.

17 THE COURT: Okay. Let's go from there.

18 Q. (By Mr. Hinton) You made a sworn statement and  
19 that highlighted part is a part of the sworn statement  
20 that you made when you filed these charges; isn't that  
21 correct?

22 A. Well, these are, this is complainant Rangel's  
23 information.

24 Q. Sergeant, would you refer to the first page and  
25 under there where it says probable cause, would you

1 agree that you are the affiant making the statement?

2 A. Yes.

3 Q. Okay. Now to get back to the question I had  
4 previously asked you, the part that's highlighted is  
5 part of your sworn statement; is it not?

6 A. Yes.

7 Q. Okay. Now, did Steven Rangel tell you that  
8 vehicles continued to follow him and as he neared Dale  
9 Dell Street in Harris County, Texas, the van rear ended  
10 the complainant's vehicle?

11 A. Yes, that's what he put in his statement.

12 Q. And that's what you swore to that he said;  
13 right?

14 A. Yes, sir.

15 Q. Okay. Did complainant Rangel tell you that as  
16 they traveled further down the street, the van rear  
17 ended complainant's, Rangel's, vehicle a second time?

18 A. Yes.

19 Q. Now, if you would refer to your police report,  
20 do you have your report with you?

21 A. I do.

22 Q. And if I may take this back from you. Thank  
23 you.

24 A. Yes, sir.

25 Q. And I have a copy that is noted the supplement

1 No. 6. And my pages that I'm going to ask you about are  
2 pages 1 and pages 2 of 3. At the bottom of page 1 of 3  
3 and at the top of page 2 of 3, once again this is  
4 supplement 6?

5 A. Yes, I have it.

6 Q. Okay. Now, did Steven Rangel tell you that as  
7 Steven neared Dale Dell, they were following him again,  
8 and the van bumped in the rear?

9 A. Yes.

10 Q. As they neared Dale Dell; right?

11 A. Yes, sir.

12 Q. Are you familiar with --

13 MS. BUESE: Judge, I'm going to object.  
14 This is improper impeachment. He's impeaching with  
15 notes from a statement that is a summary of someone  
16 else's statement at this point.

17 THE COURT: That will be overruled. These  
18 were statements by the witness to this witness. You may  
19 proceed.

20 Q. (By Mr. Hinton) Yes, sir. And did he tell you  
21 that as he got on to the feeder of I-10, the van bumped  
22 him again?

23 A. Yes.

24 Q. Okay. Now, I don't need you to refer to that  
25 document anymore for these next questions and these are

1 not impeachment questions, Judge. At least they are not  
2 exceptions to the hearsay rule. Are you familiar with  
3 Market Street and Dale Dell?

4 A. Not enough to like sit here and tell you  
5 exactly where are the proximities. I have been on those  
6 streets before. Yes, I'm familiar with them, but to say  
7 where they coincide and things, no.

8 Q. So would it be fair to say that besides not  
9 making the scene at the intersection of the feeder road  
10 of Interstate Highway 10 and Beltway 8 where the  
11 incident, the collision happened, besides not making  
12 that scene, you also did not make the preliminary scene  
13 where, that took place on Market Street near Dale Dell;  
14 is that correct?

15 A. That's correct.

16 Q. Do you know who might have, if anybody, made  
17 that scene?

18 A. The second scene? You mean the second one?

19 Q. I'm sorry. The one at --

20 A. Dale Dell.

21 Q. Market Street and Dale Dell?

22 A. No, just the complainant and the witnesses  
23 would have been there.

24 Q. So as far as you know, there weren't any law  
25 enforcement officers that went to investigate that

1 scene?

2 A. That I'm not sure of because I do recall some  
3 of the deputies they had followed a liquid line from one  
4 of the vehicles, like from the brakes, so they found a  
5 truck.

6 MR. HINTON: I object if she's basing this  
7 on hearsay.

8 THE COURT: What other officers are  
9 telling you. That will be sustained. Let's move along.

10 Q. (By Mr. Hinton) Yes, sir. And as far as you're  
11 concerned, you didn't go to that location of Market  
12 Street and Dale Dell as the lead investigator and take  
13 any pictures or anything like that; is that right?

14 A. No, sir, I did not.

15 Q. All right.

16 MR. HINTON: I pass the witness.

17 THE COURT: Ms. Buese.

18 MS. BUESE: Briefly, Judge.

19 REDIRECT EXAMINATION

20 BY MS. BUESE:

21 Q. Sergeant Inocencio, did you interview the  
22 complainant once or twice in this case?

23 A. Well, the first time I took his statement from  
24 him at the hospital, that's his statement. Then he did  
25 come in to do the photo array.

1 Q. Altogether, how much time do you think you  
2 spent talking to the complainant?

3 A. The day he was in the hospital, I was probably  
4 there, I don't recall how long the recorded statement  
5 was, but generally that's like 20 minutes or so and I  
6 spent time with him before and after as well.

7 Q. So altogether probably over 30 minutes talking  
8 to the complainant?

9 A. Yes.

10 Q. Were all 30 minutes between you and the  
11 complainant written out word for word?

12 A. Not in my offense report, no, but that's the  
13 statement I took from the audio.

14 Q. You took the audio?

15 A. Yes, I did.

16 Q. Both of them?

17 A. Well, the second one would have been when he  
18 came in for the photo array.

19 Q. If you had two loaded up, where would that be?

20 A. I only had one audio from the complainant.

21 Q. Which would have better information regarding  
22 your, your conversation with the complainant?

23 MR. HINTON: I object. That's a question  
24 that the jury may have to answer as to how good the  
25 information is.

1                   THE COURT:  Be specific as to what type of  
2 information, rather than just --

3           Q.  (By Ms. Buese) Sergeant, if someone wanted to  
4 know what words came out of the complainant's mouth,  
5 would they have a better chance with the offense summary  
6 statement or listening to the recording of the  
7 complainant?

8           A.  The recording is word for word.  My report is a  
9 synopsis.

10          Q.  If you would look at State's Exhibit No. 8  
11 here.  Do these appear to be the scene photographs from  
12 this case?

13          A.  Yes.

14          Q.  So, having looked at them for the first time in  
15 two years, does this refresh your recollection about  
16 whether or not these were day time or nighttime  
17 photographs?

18          A.  Yes.

19          Q.  Are they, in fact, day time or nighttime  
20 photographs?

21          A.  They appear to be nighttime.

22          Q.  Again, did you take any of those photographs?

23          A.  No, I did not.

24          Q.  And why did you not make the original scene, I  
25 guess, scene 1 or scene No. 2, Market Street and Dale

1 Dell?

2 A. I would not have made scene 1 because that's  
3 the patrolman's job. We don't get called out to those  
4 types of scenes unless you work like in homicide and  
5 that's a totally different area, but I didn't get called  
6 out to the scene. The case, as I said before, gets  
7 assigned to each investigator. That's when my part  
8 comes into play.

9 The reason I didn't make the other two scenes is  
10 I'm not a traffic investigator. To go there, there and  
11 look for anything that wasn't, would not have helped me  
12 in my investigation, I didn't feel necessary.

13 Q. Did anybody request an accident investigator to  
14 go to those scenes when you learned about them?

15 A. No.

16 Q. Why not?

17 A. Because the vehicles had been towed from the  
18 scene, so I can't imagine how that would have helped my  
19 investigation. There would be nothing there.

20 MS. BUESE: I pass the witness.

21 MR. HINTON: I have no further questions  
22 of this witness.

23 THE COURT: May the Sergeant be excused?

24 MR. HINTON: Yes.

25 THE COURT: Thank you, Sergeant. You are

1 now excused. Ms. Buese.

2 MS. BUESE: At this time, the State rests.

3 THE COURT: Mr. Hinton.

4 MR. HINTON: Judge, I had asked that  
5 Officer Tarrance not be excused and I will call him for  
6 impeachment purposes only.

7 THE COURT: Who is that?

8 MR. HINTON: K. E. Tarrance.

9 MS. BUESE: Judge, may we approach.

10 THE COURT: You may.

11 (Discussion at the bench.)

12 MS. BUESE: I believe subject to the  
13 Court's instructions, he appeared here on Friday and he  
14 is not here. I don't believe he is currently here. I  
15 didn't think anybody needed to be here today.

16 THE COURT: No one excused him.

17 MR. HINTON: We asked that he not be  
18 excused; right?

19 MS. GARRETT: Right.

20 MS. BUESE: I just don't think he's  
21 physically here.

22 THE COURT: Give him a call.

23 (In the presence and hearing of the jury.)

24 THE COURT: I'm going to excuse you to go  
25 over to the deliberation room just for about five or ten

1 minutes, but will have you come back for further  
2 instructions. Just a few moments please. Don't talk  
3 about the case.

4 (Out of the presence and hearing of the  
5 jury.)

6 THE COURT: What questions and answers are  
7 you looking for?

8 MR. HINTON: Did the complainant tell  
9 Officer Tarrance, he stated Cody was a passenger in the  
10 van and at least two white or Hispanic males were in  
11 each vehicle. And if I read the answer, he said a black  
12 Chevy pickup, a maroon or red colored van followed him.  
13 He said Cody was the passenger in the van. At least two  
14 white or Hispanic males were in each vehicle.

15 MS. BUESE: I would want to follow up with  
16 questions where the complainant was. When he gave that  
17 statement, was he under medication.

18 THE COURT: We will wait for Tarrance to  
19 get here.

20 MS. BUESE: Just so you're aware, I'm  
21 talking with Alan Curry in the back.

22 (Discussion off the record.)

23 (Short recess.)

24 THE COURT: Officer, come on up. Deputy,  
25 have a seat again please. Okay, Jon, let's bring out

1 the jury.

2 (In the presence and hearing of the jury.)

3 THE COURT: Please have a seat. For the  
4 record, before we start, you are the same Deputy  
5 Tarrance who testified earlier in the trial; are you  
6 not?

7 THE WITNESS: Yes, sir.

8 THE COURT: And you understand you are  
9 still under oath?

10 THE WITNESS: Yes, sir.

11 THE COURT: Ladies and gentlemen, the  
12 State has rested its case. The Defense has called  
13 Deputy Tarrance at this time. You may proceed.

14 KENNETH TARRANCE

15 Having been previously sworn, testified as follows:

16 CROSS EXAMINATION CONTINUED

17 BY MR. HINTON:

18 Q. Deputy Tarrance, after you were finished with  
19 your investigation at the intersection, did you have an  
20 occasion to go to Hermann Hospital in an attempt to talk  
21 with Steven Rangel?

22 A. Yes, sir.

23 MR. HINTON: Judge, I would, the next  
24 couple of questions I would offer for impeachment  
25 purposes only as an exception to the hearsay rule.