

1 THE BAILIFF: This witness has been
2 sworn, Your Honor.

3 THE COURT: Ms. Falk.

4 TODD MILLER,
5 After having been duly sworn, testified as follows:

6 DIRECT EXAMINATION (Jury in)

7 Q. (By Ms. Falk) Good morning, going on
8 afternoon. Can you tell the ladies and gentlemen of
9 the jury your full name?

10 A. My name is Todd Miller.

11 Q. What do you do?

12 A. I'm a Houston Police officer.

13 Q. How long have you been an officer with
14 the Houston Police Department?

15 A. About 30 years.

16 Q. Now, walk me through. I know it's been
17 a long time, but 30 years ago did you go to the
18 police academy?

19 A. I did.

20 Q. What kind of training did you receive in
21 the police academy?

22 A. Your basic running, jumping, learning
23 the law, how to make an arrest, how to fill out
24 forms, things like that.

25 Q. And then once you finish at the police

1 academy, what was your first assignment as a peace
2 officer with HPD?

3 A. I was stationed out at the Beechnut
4 substation, which is southwest patrol. I worked out
5 there for awhile and then was transferred to the
6 west side station where I worked for a few more
7 years, then ultimately transferred to northeast
8 where I finished out my patrol time.

9 Q. Let's talk about your time as a patrol
10 officer. What did your job duties entail when you
11 were assigned patrol?

12 A. Responding to calls for service, 911
13 calls, initiating investigations if I saw something
14 suspicious, traffic enforcement, writing the
15 speeding tickets that we all hate, that sort of
16 thing.

17 Q. When was it that you were assigned to
18 the homicide division?

19 A. In 1992.

20 Q. And, so, you've been with homicide for
21 20 years?

22 A. Twenty years in homicide, yes.

23 Q. As a homicide detective, you clearly
24 handle homicides. What, if any other types of case,
25 may you get assigned to?

1 A. We also are assigned besides the murder
2 investigations, we're also assigned to investigate
3 kidnappings and officer involved shootings and some
4 other high profile investigations, kind of whatever
5 the chief of police or mayor decides they want us to
6 handle.

7 Q. And walk us through how a case gets
8 assigned to you.

9 A. A call comes in from a patrol officer
10 generally who's out on a scene. He's the first
11 responder and he finds out that there's been a
12 homicide and he turns around and contacts our
13 office, the homicide division office, and then
14 whoever is next up on a rotational basis gets
15 assigned to the scene or the investigation.

16 Q. And when you get assigned an
17 investigation, you said that you get called out on a
18 rotational basis. Do you work in pairs or teams or
19 squads?

20 A. We have a squad of ten guys or -- I say
21 guys, ten people, men and women, and then everybody
22 has a partner. So, you have five pairs of
23 investigators that handle different investigations.
24 So, we're assigned to an investigation as a pair,
25 and then everybody is in a squad.

1 Q. Who is currently your partner?

2 A. Officer Mike Miller.

3 Q. And has he been your partner for a long
4 time?

5 A. Yes, he has.

6 Q. How long has Officer Mike Miller been
7 your partner?

8 A. Gosh, probably about four years.

9 Q. Turning back to March of 2011 was
10 Officer Mike Miller, who's also your brother --

11 A. He is.

12 Q. Was he assigned as your partner?

13 A. Yes, he was.

14 Q. Now, when you guys get assigned a case,
15 what's the first thing that you generally do in a
16 homicide investigation?

17 A. In a normal homicide investigation we go
18 out to the scene where the crime occurred and we
19 start from there and move forward.

20 Q. Now, turning directly to your
21 involvement in this case, by all accounts, was it a
22 normal homicide investigation?

23 A. No, it was not.

24 Q. Why is that?

25 A. It's what we call a delayed death. In

1 other words, the incident happened several days
2 before the victim dies or he passed away. So, there
3 was a time lag between the time the incident
4 occurred where -- that caused his death and the time
5 that we got involved.

6 Q. What date did you and Officer Mike
7 Miller get involved in this case?

8 A. March the 26th 2011.

9 Q. And for benefit of the court reporter
10 and the jurors as well, what are the papers that you
11 have in front of you?

12 A. This is the offense report that
13 documents the investigation and then just some notes
14 that I've made, so I don't have to go flipping
15 through all the pages.

16 Q. And you are free to refresh your memory
17 with your report if needed or as needed. We just
18 ask that you don't read directly from it.

19 Now, Officer Miller, you said you
20 were assigned this case on March 26th 2011. You
21 told us that it was a delayed death. What was the
22 decedent or victim's name?

23 A. The victim's name was Jim Andrew Lee.

24 Q. And how did this case come to homicide's
25 attention?

1 A. Mr. Lee was in a hospital, LBJ Hospital,
2 and was under a doctor's care for some injuries and
3 he passed away. And when he passed away, a patrol
4 officer was called to the hospital and the patrol
5 officer conducted the initial investigation, found
6 out that it was a homicide and he did -- then turned
7 around and contacted our office.

8 Q. And, generally speaking, when someone
9 dies at a hospital, homicide doesn't get called
10 every time, right?

11 A. No. If somebody passes away in a
12 hospital and it's natural causes, then the doctor
13 signs the death certificate and homicide doesn't get
14 involved. Only if the death is something related or
15 something -- if the death was caused by some sort of
16 crime or suspicious circumstances.

17 Q. Now, when you get assigned Mr. Lee's
18 case is Officer Mike Miller your partner also?

19 A. Yes.

20 Q. Who's the lead, and who's the secondary
21 on the case?

22 A. Really isn't broken up like that. It's
23 more like 50/50 division of work. We have what's
24 called two sides of the card. One investigator at
25 the primary scene handles interviewing all the

1 witnesses. The other side of the card is the
2 investigator that handles all the physical evidence
3 and dealing with the crime scene unit. So, that's
4 how it's divided up at the scene, and then we both
5 come together after the primary, initial
6 investigation and work together towards the end.

7 Q. And that would be like the two sides of
8 the card, the delegation of duties. That would be
9 in a typical homicide where you've got a crime scene
10 and people out there, right?

11 A. That's correct.

12 Q. In this case when you get the -- you
13 just get assigned the investigation of the deceased,
14 Mr. Lee, what is the first step that you and Officer
15 Mike Miller take?

16 A. Well, the first thing we did was try to
17 find out where the incident occurred, where this
18 attack happened that caused his death some several
19 days earlier. So, the first thing we did was went
20 to the hospital and spoke and found out when he came
21 in the ambulance that brought him in, where they
22 picked him up at, and that's where we started is
23 where he was picked up by the ambulance.

24 Q. So, let me follow up on that. When did
25 Mr. Lee come to the hospital?

1 A. March the 21st 2011.

2 Q. And where was he transported from?

3 Where did y'all go?

4 A. From his house on Glenburnie.

5 Q. Can you tell me what the address is on?

6 A. Yes. It's 446 Glenburnie.

7 Q. Is that in Houston?

8 A. Yes, it is.

9 Q. What part of town is that in?

10 A. Kind of the north side, I guess close to
11 North Line Mall, generally speaking. A little bit
12 further north than that but it's just on the north
13 side of town, right off of I-45 north.

14 Q. Now, when you got to the location what
15 type of location was it?

16 A. It's a single family home, brick home,
17 in a regular neighborhood, homes on both sides of a
18 residential street, typical home with a yard and
19 driveway and children playing around.

20 Q. When you get there, do you go to the
21 front door of that home?

22 A. We did. We had gone to the front door
23 and knocked. Prior to going over there we had made
24 contact with some family members who when there was
25 no answer, we knew they were en route and we waited

1 for them to show up.

2 Q. Can you tell me which family members, if
3 you recall, you spoke with, or was there one contact
4 person for the family that was your main contact?

5 A. It was Mr. Lee's sister and her husband
6 were the primary people that we contacted. Other
7 family members showed up a little bit later. I
8 believe a nephew and some other family members. I
9 don't remember their relationship, but primarily it
10 was -- initially it was the sister and her husband.

11 Q. That's Gwendolyn Lee, right?

12 A. Yes; that's correct, Gwendolyn Lee and
13 her husband.

14 Q. When you got to the house over at 466
15 Glenburnie, how long until somebody met you there?

16 A. Maybe 10, 15 minutes at the most.

17 Q. Who out of the family members arrived
18 there first?

19 A. I'm sorry?

20 Q. Who arrived at the house first to meet
21 with you?

22 A. I believe it was Gwendolyn and her
23 husband.

24 Q. Do you remember what kind of car they
25 were in?

1 A. Not off the top of my head.

2 Q. Do you remember whose car it was?

3 A. The car actually belonged to her, but it
4 had been recovered. She had been letting Jim Lee
5 use the car.

6 Q. At the time of the death?

7 A. At the time, yes. At the time of the
8 attack, the car was in his possession and then she
9 had picked the car up from him or from his house
10 after the attack.

11 Q. Did she bring the car back when she met
12 with you?

13 A. Yes, she did.

14 Q. And were you able to, like, look into
15 it, see if there was anything weird or any evidence
16 possibly?

17 A. Yes, we did.

18 Q. At any point did y'all actually go into
19 the house?

20 A. Yes, we did.

21 Q. How did you get into the house?

22 A. Gwendolyn had a key, and we went in the
23 front door.

24 Q. I don't know that I ever asked this
25 question, but whose house was it?

1 A. Mr. Lee's -- Jim Lee's house. He lived
2 there.

3 THE COURT: Let's proceed in
4 question/answer please.

5 Q. (By Ms. Falk) Did he live in the house?

6 A. Yes, he did.

7 Q. Was there anyone else who lived at the
8 house?

9 A. Not at the time, no. He used to live
10 with his wife, who had passed away.

11 Q. When you went into the house, were there
12 any signs of recent activity? Was there anybody
13 else at the house?

14 A. No, there was nobody else at the house.

15 Q. Did Ms. Lee let you in with a key?

16 A. Yes. She had a key to the front door.

17 Q. Did she show you around the house?

18 A. Yes, more or less. I mean, it's -- it
19 wasn't a very big house. Mostly we looked around
20 ourselves.

21 Q. Were you able to see if you could --
22 were you able to look around and see if there was
23 any evidence?

24 A. Yes, we did.

25 Q. And did you have a crime scene unit come

1 out there as well?

2 A. Yes, I did.

3 Q. Now, tell the jury a little bit about
4 what a crime scene unit does or can do that's
5 different than what you and Officer Mike Miller do.

6 A. A crime scene unit has all the camera
7 and photography equipment that is used to document
8 scenes and take pictures of the scene for -- as
9 evidence. They also have all the tape measures and
10 diagram tools and evidence collection kits and
11 evidence collection markers that they use whenever
12 they're processing a crime scene. They actually
13 handle the more scientific end of it, whereas we
14 handle the interpretation of that evidence from an
15 investigative standpoint, if that makes sense.

16 Q. So, who was -- do you remember the crime
17 scene unit officer's name that made the
18 complainant's house, Mr. Lee's house?

19 A. Yeah. The crime scene unit that came
20 out was Officer Duerer.

21 Q. Does he also work with HPD?

22 A. He does.

23 Q. Was he able to take photos and collect
24 any evidence at the scene?

25 A. Yes, he did.

1 Q. Did you watch him do that and do all his
2 investigation too?

3 A. Yes, I did.

4 Q. Now, based on your training and
5 experience, did you believe that the house, Mr.
6 Lee's house, at 446 Glenburnie was the crime scene
7 so-to-speak?

8 A. After looking at everything, no, I
9 didn't believe it was the crime scene. Although, to
10 be honest, I'm not sure that we really had developed
11 a real good understanding of what had happened just
12 from looking at the house, but it didn't appear to
13 me to be the location where the incident occurred.

14 Q. There were no signs of a struggle there,
15 no furniture broken on the ground or anything like
16 that?

17 A. Correct. I did not see any signs of a
18 struggle there as far as anything overturned or
19 upset or any kind of forced entry into the house,
20 nothing like that.

21 Q. So, once you and Officer Miller and
22 Officer Duerer, crime scene unit officers, meet with
23 Ms. Lee and go through the house, go through the
24 car, what is the next thing that you guys do in your
25 investigation?

1 A. We had learned where Mr. Lee, where the
2 victim, worked. And so the next logical step for us
3 was to contact his job, somebody from his work,
4 employment, and find out when the last time he was
5 at work and where work was.

6 Q. And where did Mr. Lee -- let me ask you
7 this first. What did Mr. Lee do for a job?

8 MR. DAVIS: I'd object, Your Honor.
9 The answer to that is based on hearsay.

10 THE COURT: That's sustained.

11 Q. (By Ms. Falk) So, you told us just a
12 moment ago you were able to figure out where Mr. Lee
13 had last worked, correct?

14 A. Yes.

15 Q. And, so, what was the address that you
16 went to next?

17 MR. DAVIS: Again, Your Honor,
18 objection to hearsay.

19 THE COURT: Overruled. He can tell
20 us where he went.

21 A. I went to the office building located at
22 5353 West Alabama.

23 Q. (By Ms. Falk) You said it's an office
24 building. Can you describe it for us?

25 A. Yeah. It's a multistory office building

1 made of brown brick located on West Alabama Street,
2 on the south side of the street. It's got a parking
3 area on the ground floor, kind of an indoor parking
4 area. And then also has some other parking levels
5 adjacent to it. And then there's a retail space
6 along the front of it. And there's a nightclub
7 that's located on the ground floor on the east end
8 of it.

9 Q. Do you know what the name of the
10 nightclub is that's there?

11 A. The Roxy, I believe.

12 Q. And what was the technical address you
13 said you went to?

14 A. 5353 West Alabama.

15 Q. And is that in Harris County?

16 A. Yes, it is.

17 Q. And I know that's silly, but is it in
18 Texas?

19 A. Yes, it is.

20 Q. Now, when you arrived at that location
21 did you meet anyone else there?

22 A. Yes, we did.

23 Q. Who did you meet with?

24 A. Met with the Lee -- Frank Hudson and
25 Leon Howard.

1 Q. And who were they?

2 A. Frank Hudson was the victim's
3 supervisor, and Mr. Howard was a coworker.

4 Q. Were they also friends of Mr. Lee?

5 A. Yes.

6 Q. Now, without telling us what they told
7 you, were you -- at the end of your conversation
8 with Mr. Hudson and Mr. Howard, did you begin to do
9 like an observation at 5353 West Alabama?

10 A. Yes, I did.

11 Q. And what, if anything, did you observe
12 with your own eyes that seemed out of the ordinary?

13 A. I observed what looked to be a blood
14 trail leading from the west end of the building into
15 the security office.

16 Q. At that point did you call for another
17 crime scene unit to come?

18 A. I did.

19 Q. Why would you call for a crime scene
20 unit to come over to 5353 West Alabama?

21 A. To take photographs and document the
22 blood trail that I had saw -- that I had seen and
23 also to take samples of the blood from the blood
24 trail.

25 Q. Now, this is the same day that crime

1 scene unit Officer Duerer had been over at the home.
2 So, was it him that came to the commercial property
3 or someone else?

4 A. No. It was later in the day, and
5 Officer Duerer had already gotten off duty. So, it
6 was an evening shift, crime scene officer, Officer
7 Nunez.

8 Q. Did Officer Nunez then process the scene
9 as well?

10 A. Yes, he did.

11 Q. When I say process, can you tell the
12 jury what that means?

13 A. Photographing, the blood trail, taking
14 samples, various blood samples throughout the course
15 of the blood trail, which was pretty long, and, you
16 know, documenting the length of it and where it
17 went.

18 Q. After -- did you watch him do all that
19 documentation, that processing?

20 A. Most of it, probably about the first
21 half of it. We did leave to go continue the
22 investigation after he was about halfway done.

23 Q. And processing a larger scene like a
24 commercial scene, it's a time intensive process,
25 right?

1 A. It can take quite awhile, yes.

2 Q. It doesn't take five or ten minutes?

3 A. No, no much longer than that.

4 Q. Now, what was the next step in y'all's
5 investigation after you observed and leave 5353 West
6 Alabama?

7 A. We went back to the office and began
8 doing some research to try to determine if anything
9 else -- if we could find anything else related to
10 that location.

11 Q. So, up until this point, you have a call
12 for what you called a delayed death, right?

13 A. Correct.

14 Q. And we don't really have any leads,
15 right?

16 A. No. We had nothing when we got the case
17 other than just basically a dead body of Mr. Lee.

18 Q. So, what is the next kind of break or
19 step in your case?

20 A. Once we got to the office, we began
21 doing research to try to find out if any other
22 incidents had occurred during the particular
23 timeframe that we were looking at.

24 Q. Let me break it up right there. What
25 timeframe were you talking about?

1 A. March the 21st 2011 at about between
2 6:00 and 6:20 in the morning.

3 Q. How did you have it narrowed down to
4 that particular of a time?

5 A. There was some surveillance video,
6 surveillance video cameras at the office complex at
7 5353 West Alabama.

8 Q. When you went and did your investigation
9 at 5353 West Alabama, you said there were
10 surveillance videos, correct?

11 A. I did.

12 Q. And were you able to observe those
13 surveillance videos?

14 A. Yes, I did.

15 Q. Did they show any sort of, like,
16 altercation or incident?

17 MR. DAVIS: Your Honor, I'd object
18 to him testifying to what's on the surveillance
19 video. They're the best evidence, and his testimony
20 to it is hearsay.

21 THE COURT: Give me a legal
22 objection. That's sustained at this point.

23 Q. (By Ms. Falk) After you viewed the
24 surveillance video you said you then go back to your
25 office and start researching?

1 A. Yes, that's correct.

2 Q. And you also said that you really at
3 that point didn't have any leads, correct?

4 A. That's correct.

5 Q. So, what's the next break in your case,
6 or what's the next step that you take?

7 A. Finding a report, an incident report
8 that a patrol officer had made around the same time
9 as the incident or around the same time that we were
10 looking at that we believed this incident involving
11 Mr. Lee had occurred.

12 Q. And you can't tell us what's in that
13 report because it would be hearsay or what that
14 officer said. But after reviewing that report, did
15 you have in yours and Officer Miller's head a
16 suspect or possible suspect, I guess?

17 A. Yes.

18 Q. And who was that?

19 A. Antone Richie, the defendant in this
20 case.

21 Q. And later on in your investigation did
22 you actually have the chance to identify the
23 defendant, Antone Richie?

24 A. I did.

25 Q. And can you please identify him by

1 pointing at him and telling us an article of his
2 clothing?

3 A. The person sitting to my right wearing
4 the yellow tie.

5 MS. FALK: Your Honor, let the
6 record reflect the witness has identified the
7 defendant in this case.

8 THE COURT: Yes, ma'am.

9 Q. (By Ms. Falk) Now, you read the report.
10 You develop Mr. Richie as a possible suspect. So,
11 what do you and Officer Miller do next?

12 A. We contacted the patrol officer and
13 interviewed him that made the report that led us to
14 the defendant.

15 Q. Okay. And, again, you can't tell us
16 what all he told you, but after you interview
17 Officer Gabler, which is the patrol officer, what do
18 you do next?

19 A. After we did that, then we went to the
20 District Attorney's Office where we obtained a
21 warrant for the arrest of Antone Richie for the
22 charge of murder and had that presented to a judge.

23 Q. Let me walk you through that a little
24 bit. You said that you came to the District
25 Attorney's Office, right?

1 A. That's correct.

2 Q. Do you remember who you met with?

3 A. Whoever the DA on duty at intake was.

4 We just went to the regular intake desk.

5 Q. It was not me, right?

6 A. It was not you.

7 Q. It was just whoever was assigned to
8 handle homicides at that time when they came
9 through?

10 A. It was, yes.

11 Q. Once you get the charges of murder
12 accepted on Mr. Richie, you said you got a warrant
13 at that point?

14 A. That's correct.

15 Q. And what's the next step in your
16 investigation?

17 A. We presented the warrant to a judge who
18 reviewed it and signed it. And after that, the
19 warrant and wanted information, including a
20 photograph of Antone Richie, was distributed to all
21 the police stations and also to the news media
22 outlets.

23 Q. Now, why would you distribute the want
24 information or warrant information and a photo to
25 different police stations?

1 A. So that the patrol officers that were
2 working out on the street would be able to see and
3 know that he was wanted if they happened to see him
4 during the course of their duties on patrol, that
5 they would know that he was wanted and be able to
6 arrest him.

7 Q. And why would you distribute his want
8 information and his photo to different media outlets
9 or news outlets?

10 A. Once again, for much the same reason.
11 If somebody knows or somebody knew the defendant and
12 knew where he was at, they would be able to pick up
13 the phone and either call the police department and
14 say this man who's wanted on TV is over here at this
15 address, or they could call Crime Stoppers and make
16 a phone call and collect the reward for turning him
17 in.

18 Q. At some point were you able to actually
19 locate the defendant?

20 A. Yes.

21 Q. Was it you personally or someone else
22 with HPD?

23 A. No. It was some other police officers
24 with HPD and other agencies that went and made the
25 arrest.

1 Q. And how were you notified that he had
2 been arrested?

3 A. They -- the officers that were involved
4 in the arrest contacted me and my partner and told
5 us that he was under arrest.

6 Q. So, what did you do when you got the
7 call that Mr. Richie had been picked up on the
8 murder warrant?

9 A. Made arrangements to have him
10 transported to the homicide division, which is at
11 1200 Travis on the sixth floor, and then I drove
12 down there and met the officers there. The arrest
13 occurred on a weekend. So, I was not at work when
14 it occurred.

15 Q. Even though you were not at work, you
16 then come over to 1200 Travis?

17 A. Yes, I did.

18 Q. That's where the homicide department and
19 your office is located, right?

20 A. That's correct.

21 Q. Do you also have interview rooms within
22 1200 Travis, within the homicide division?

23 A. Yes.

24 Q. Tell me what these interview rooms look
25 like.

1 A. The interview room is an interior
2 office. There's no windows except for a skinny
3 window in the door. It's got bluish green carpet,
4 pretty much the same carpet that's in here, just a
5 more green color. There's a table and three chairs
6 in the interview room, chairs just like the one I'm
7 sitting in. The walls are acoustical tile.

8 Q. Why are they acoustical tile?

9 A. To cut down on the echo, is what they
10 told me. I don't know if it actually works or not,
11 but that's the reason.

12 Q. Do you guys typically record the
13 interviews that are done in that room?

14 A. Yes.

15 Q. Now, what roughly time of day is it that
16 you meet with Mr. Richie in your offices in the
17 interview room?

18 A. It's -- I'd say early afternoon. I
19 didn't write down the actual time and I'm not sure
20 if the time is on the statement or not but I want to
21 say it was sometime in the early afternoon.

22 Q. When you meet with him, what's the first
23 thing that you do when you have contact with him?

24 A. I ask the defendant if he knew,
25 understood what he was -- what he had been arrested

1 for.

2 Q. And then what happens next, or what's
3 the next step in your interview with him?

4 A. After that I read the defendant his
5 rights off of a blue card, his Miranda warning, if
6 you will.

7 Q. Tell us a little bit about what -- we
8 all use the term blue card a lot. Can you tell the
9 jury what a blue card is?

10 A. A blue card is a card the District
11 Attorney's Office provides to patrol officers and on
12 the card are the Miranda rights and we use the card
13 to read the rights off to the defendant whenever
14 we're doing an interview.

15 Q. Okay. And do you carry those blue cards
16 with you?

17 A. Yes.

18 Q. And when you say that you read the
19 rights from the blue card, did you read those
20 verbatim to Mr. Richie?

21 A. Yes, I did.

22 Q. Are those what we all sometimes know
23 from TV, all of his Miranda warnings?

24 A. Yes, that's what we call them, Miranda
25 warnings or Miranda rights.

1 Q. After you read the Miranda warnings or
2 Miranda rights, does the defendant agree to waive
3 them?

4 A. Yes, he did.

5 Q. And what happens next? Don't walk us
6 through the conversation but just what happens next?

7 A. After he waived his rights, then we
8 talked briefly about this case.

9 Q. Was that a recorded statement or an
10 unrecorded statement?

11 A. Unrecorded.

12 Q. What does the law say about having to
13 have a recorded or unrecorded if somebody is in
14 custody, just generally, not as like a legal expert?

15 A. I don't understand your question.

16 Q. Well, let me take it back because it was
17 a horrible question. Let me ask you, what did you
18 do next?

19 A. After the brief conversation I had with
20 the defendant, I asked if he wanted to make a formal
21 recorded statement.

22 Q. What did he say?

23 A. He said that he would.

24 Q. So, what did you do at that point?

25 A. I got my recorder and made sure that it

1 was working properly and then began the recording by
2 punching the record button.

3 Q. Now, once it's recorded, do you then
4 Mirandize Mr. Richie again?

5 A. Yes, I did.

6 Q. And that way the Miranda warnings are
7 recorded, correct?

8 A. That is correct.

9 Q. Do you read them aloud from the blue
10 card verbatim again?

11 A. Yes, I did.

12 Q. Does he agree to waive those rights?

13 A. Yes.

14 Q. Does he then speak with you?

15 A. Yes, he did.

16 MS. FALK: Your Honor, may I
17 approach the witness?

18 THE COURT: Yes, ma'am.

19 MS. FALK: Judge, may we approach?

20 THE COURT: Approach the bench.

21 MS. FALK: Yes, Your Honor.

22 (Conference at the bench, on the
23 record)

24 MS. FALK: Mr. Davis and I agreed
25 to redact a portion of the statement that is clearly

1 inadmissible. So, at this time I'm going to offer
2 State's 4 and I'm going to offer State's 5 but I'm
3 going to introduce State's 4, which is the
4 un-redacted for the Court and record and only offer
5 into evidence State's 5, which is the redacted copy.

6 MR. DAVIS: My suggestion, Judge,
7 is I had a problem with this in another case where
8 they got it mixed up. I don't see any reason to
9 even have the un-redacted copy anywhere around.

10 MS. FALK: I don't have a problem.

11 MR. DAVIS: The redacted copy, just
12 the redacted copy.

13 MS. FALK: I've got stickies all
14 over it. So, I do not have a problem with that.

15 THE COURT: Okay.

16 (Conference concluded)

17 MS. FALK: Your Honor, may I
18 approach the witness?

19 THE COURT: Yes, ma'am.

20 Q. (By Ms. Falk) Now, Officer Miller, I'm
21 showing you what I've premarked as State's Exhibit
22 5. Have you -- is this a fair and accurate and
23 complete recording of your statement?

24 A. Yes.

25 Q. And you said that it was done on an

1 audio recorder; is that correct?

2 A. Yes, that's correct.

3 Q. Did you listen to the statement
4 afterwards to make sure that it had been recorded in
5 it's entirety?

6 A. I did.

7 Q. At some point do you then summarize the
8 statement to put it into your report?

9 A. Very briefly, but yes.

10 MS. FALK: Your Honor, at this time
11 State would offer State's 5.

12 MR. DAVIS: No objection, Your
13 Honor.

14 THE COURT: State's 5 is admitted
15 without objection.

16 Q. (By Ms. Falk) The defendant agrees to
17 waive his Miranda warnings and then gives a
18 statement; is that correct?

19 A. That's correct.

20 Q. That statement is what's on that CD,
21 State's Exhibit 5; correct?

22 A. That's correct.

23 MS. FALK: Your Honor, at this time
24 I'd request permission to publish State's Exhibit 5.

25 THE COURT: How long is State's

1 Exhibit 5?

2 MS. FALK: Ten minutes.

3 THE COURT: Deputy Culberson, would
4 you assist?

5 MS. FALK: Judge, I don't have it
6 cued up and ready to go. I apologize. Your Honor,
7 I've prepared a transcript, and at this time we'd
8 ask those to be published to the jury.

9 THE COURT: Has defense seen the
10 transcript?

11 MR. DAVIS: I have, Your Honor. I
12 don't have any objection to it.

13 THE COURT: Okay.

14 MS. FALK: Judge, would you like me
15 to start?

16 THE COURT: Go ahead.

17 (State's Exhibit No. 5 played for
18 jury)

19 Q. (By Ms. Falk) Officer Miller, is that
20 the complete --

21 THE COURT: Excuse me. Before we
22 proceed, let me go ahead and send the jury to lunch.

23 MS. FALK: Sure.

24 THE COURT: Ladies and gentlemen,
25 we're going to recess for lunch. Before I excuse

1 you, I must continue to give you instructions and
2 admonitions.

3 You're not to discuss this case
4 among yourselves or permit anyone to discuss it with
5 you. If anyone attempts to do so, please notify the
6 deputies, and they will notify the Court. As I
7 indicated to you yesterday, the deputies will take
8 you to lunch as a group, and we will resume with
9 this case once you return from lunch.

10 THE BAILIFF: All rise.

11 (Jury out)

12 THE COURT: Be seated, please.

13 This case is in recess for one hour.

14 (Lunch recess)

15 THE COURT: Before we continue
16 with Officer Miller, if the State's going to call
17 another officer on the motion to suppress, let's go
18 ahead and hear that while the jury's out, if that's
19 agreeable with both sides.

20 MS. FALK: Yes, Judge.

21 MR. DAVIS: That's fine, Your
22 Honor.

23 THE COURT: Go ahead and call your
24 witness.

25 MS. FALK: The State calls Officer

1 J. Saucedo.

2 THE BAILIFF: He has not been
3 sworn, Your Honor.

4 THE COURT: Sir, stand where you
5 are, and raise your right hand to be sworn.

6 (Witness sworn)

7 THE COURT: Ms. Falk.

8 JESUS SAUCEDO,
9 After having been duly sworn, testified as follows:

10 DIRECT EXAMINATION (Jury out)

11 Q. (By Ms. Falk) Officer Saucedo, can you
12 tell us your full name, please?

13 A. Jesus Saucedo.

14 Q. Who do you work for?

15 A. HPD, Houston Police Department.

16 Q. How long have you worked for the Houston
17 Police Department?

18 A. Going on 12 years in November.

19 Q. If you can let me finish my question
20 completely so Ms. Julie can take it down before you
21 answer. So, how many years have you worked there?

22 A. Twelve years.

23 Q. What's your current assignment within
24 the Houston Police Department?

25 A. I work patrol, 18 district.