

1 MS. THOMAS: No, ma'am.

2 THE COURT: May Sergeant Rodriguez be
3 excused?

4 MS. THOMAS: No objection.

5 MR. GONZALEZ: No objection.

6 THE COURT: All right. Thank you,
7 Sergeant. You are excused.

8 Call your next witness.

9 MS. SPENCE: Sergeant J. C. Padilla.

10 THE BAILIFF: This witness has already been
11 sworn.

12 THE COURT: Good morning.

13 Ms. Spence, you may proceed.

14 MS. SPENCE: Thank you.

15 **J.C. PADILLA,**
16 having been first duly sworn, testified as follows:

17 **DIRECT EXAMINATION**

18 BY MS. SPENCE:

19 Q. Good morning, sir.

20 A. Good morning.

21 Q. Will you, please, introduce yourself to the
22 Court?

23 A. Good morning. My name is J.C. Padilla, and
24 currently I'm a sergeant with the Houston Police
25 Department and have been so for, well, December will

1 mark 19 years as a police officer. I began like
2 everybody does as a uniform patrol officer and then
3 transferred to various other assignments, which include
4 the family violence unit, the adult sex crimes unit, the
5 juvenile sex crimes unit and the homicide division. And
6 currently I'm a supervisor in the narcotics division.

7 Q. Now, Sergeant Padilla, let's go back to June
8 timeframe of 2011, what division were you assigned to at
9 that point?

10 A. During that time I was assigned to the homicide
11 division.

12 Q. And in the homicide division, were you asked to
13 help out Officer Roy Swainson and Sergeant Tom Hanslik
14 on an investigation?

15 A. Yes, ma'am, I was.

16 Q. Were you involved in the actual scene
17 investigation when the case originally came in, in any
18 way?

19 A. No, ma'am, I was not.

20 Q. So, your first involvement in this case began
21 on what day?

22 A. On, it was a Tuesday, June 7th of 2011.

23 Q. And how was it that you became involved?

24 A. The detectives that were assigned to this
25 investigation are part of my -- were part of my squad,

1 and I was a Spanish speaker on that squad, so they
2 requested my assistance.

3 Q. Specifically, was that Officer Swainson?

4 A. Yes, ma'am, it was.

5 Q. And when he approached you, did he give you
6 some sort of a basis of what they had discovered so far?

7 A. Yes, ma'am.

8 Q. Did he give you every last detail, or it was
9 really just kind of a summary?

10 A. It was a summary, a brief summary.

11 Q. Now that day you said was June 7th of 2011,
12 which was a Tuesday; is that correct?

13 A. Yes, ma'am.

14 Q. Who did he ask you to interview on that day?

15 A. He asked me to interview the Defendant, which
16 she was seated in one of our interview rooms. Her name
17 is Elida Herrera-Garcia.

18 Q. Had you ever met Elida Herrera before that day?

19 A. No, ma'am, I did not.

20 Q. Had you been told what her, I guess,
21 relationship was to the deceased child that is involved
22 in this case?

23 A. Yes, ma'am.

24 Q. And what was that relationship that you were
25 given?

1 A. Detective Swainson told me that the child's --
2 that the Defendant had a relationship with the child's
3 mother.

4 Q. But what about her relationship to the child,
5 was she described as the caretaker?

6 A. Yes, ma'am.

7 Q. With the limited information that was in your
8 head at the time, what did you do when you walked into
9 that room?

10 A. I introduced myself to her. I told her that I
11 was asked to assist in this investigation, and I asked
12 her if she would be willing to talk to me, and she said,
13 yes.

14 Q. At that time, do you know how it was that Ms.
15 Herrera got to the homicide division?

16 A. I did not. I did learn that from the
17 investigators, from Detective Swainson, that she was
18 there voluntarily.

19 Q. And do you know who she came to the division
20 that day with?

21 A. Yes.

22 Q. Who is that?

23 A. The child's mother, Maciel.

24 Q. On their own?

25 A. Yes, ma'am.

1 Q. Was she under arrest on June 7th of 2011?

2 A. No, she was not.

3 Q. Was she there voluntarily as far as you know?

4 A. Yes.

5 Q. In interview Room 5, is that a room that has
6 audio and visual recording capabilities?

7 A. Yes, it does.

8 Q. And was your interview with Ms. Herrera audio
9 and videotaped?

10 A. Just audio.

11 Q. Audio?

12 A. Yes, ma'am.

13 MS. SPENCE: Your Honor, may I approach?

14 THE COURT: You may.

15 Q. (BY MS. SPENCE) Let me show you what's been
16 marked as State's Exhibit No. 238, which is a disk.
17 Have you had an opportunity to listen to the contents of
18 238 prior to you testifying?

19 A. Yes.

20 Q. And does State's Exhibit No. 238 contain the
21 contents of your interview with Ms. Herrera?

22 A. Yes, it does.

23 Q. And is it accurate?

24 A. Yes, it is.

25 MS. SPENCE: Offer into evidence State's

1 Exhibit 238.

2 (State's Exhibit No. 238 offered.)

3 MR. GONZALEZ: I've listened to it, Your
4 Honor, no objections.

5 THE COURT: All right. State's Exhibit
6 No. 238 is admitted without objection.

7 (State's Exhibit No. 238 admitted.)

8 Q. (BY MS. SPENCE) In what language was your
9 interview conducted?

10 A. The interview was conducted in Spanish.

11 Q. And are you a Spanish speaker, fluently?

12 A. Yes, I am.

13 Q. Have you spoken Spanish all your life?

14 A. Yes, I have.

15 Q. Did you have any problems understanding
16 anything that Ms. Herrera said?

17 A. No, ma'am, I did not.

18 Q. And as far as what she told you, did she have
19 any problems understanding what you were saying to her?

20 A. No, she did not.

21 Q. Now, have you had an opportunity to view a
22 written transcript of the conversation between you and
23 Ms. Herrera?

24 A. Yes, I have.

25 Q. And has that transcript been, I guess,

1 conducted by a certified translator?

2 A. Yes, it appears it is.

3 Q. Was it accurate?

4 A. Yes.

5 MS. SPENCE: At this time, Your Honor, I
6 would ask to publish State's Exhibit No. 238 by way of
7 transcript?

8 THE COURT: All right. Any objection?

9 MR. GONZALEZ: No objection.

10 THE COURT: Granted.

11 You have your transcripts, correct?

12 JURORS: Yes.

13 Q. (BY MS. SPENCE) I'm showing you State's
14 Exhibit No. 239, which have been introduced into
15 evidence already, and if you could turn to Statement
16 No. 5.

17 Before we start, what was Elida Herrera's
18 demeanor that day when you met with her?

19 A. Her demeanor during the entire interview
20 process, she just kind of stared off into the distance,
21 no emotions, and there was a lot of silence during my
22 interview with her.

23 Q. And is that reflected when you had actually
24 listened to the actual interview itself?

25 A. At some parts, yes.

1 Q. And had you ever met her before that day?

2 A. No, ma'am.

3 Q. Okay. If you can start off on page 70 with
4 your portion?

5 (Publishing State's Exhibit 239.)

6 Q. (BY MS. SPENCE) So, that interview was about
7 25 minutes long, correct?

8 A. Yes, approximately 25 minutes.

9 Q. And during that interview, we all read it, we
10 didn't hear it, but we all read what the words were that
11 she said to you, who was she blaming mostly?

12 A. She was blaming the four-year-old child.

13 Q. Several times, in fact; is that correct?

14 A. Yes, that's correct.

15 Q. Now, you said several times in this interview
16 that you showed her pictures; is that correct?

17 A. Yes.

18 Q. What pictures were you showing Elida?

19 A. They were various photographs that Detective
20 Swainson had given to me to use during the interview.
21 They depicted the extent of the child's injuries.

22 MS. SPENCE: Your Honor, may I approach the
23 witness?

24 THE COURT: You may.

25 Q. (BY MS. SPENCE) Let me show you some

1 photographs. Out of these photographs, can you select
2 the ones that you can recall showing to her?

3 So, I'm showing you what's already been
4 entered into evidence as State's Exhibit No. 89. And
5 then these other ones here are the ones that you showed
6 her; is that correct?

7 A. Yes, that's correct.

8 Q. So, I'm showing you State's Exhibit Nos. 100,
9 90, 95, 91, 92, 97, 96, 105, 94, 104, 103, 102 and 93.
10 Are those the photographs that you were showing her
11 during and perhaps just right before your actual
12 interview that day?

13 A. Yes, that is correct.

14 MS. SPENCE: I offer into evidence the so
15 articulated State's Exhibits.

16 (State's Exhibit Nos. No. 90 through 94,
17 96, 97, 100 and then 102 through 105 offered.)

18 MR. GONZALEZ: No objections, Your Honor.

19 THE COURT: And just so my records are
20 clear, you've offered, it looks like State's Exhibits
21 No. 90 through 94, 96, 97, 100 and then 102 through 105;
22 is that accurate?

23 MS. SPENCE: Yes, Your Honor.

24 THE COURT: All right. The photographs are
25 admitted without objection.

1 (State's Exhibit Nos. No. 90 through 94,
2 96, 97, 100 and then 102 through 105 admitted.)

3 Q. (BY MS. SPENCE) Now, you mentioned that she
4 talked about and you mentioned a smiling one, I'm
5 showing you what's been marked as State's Exhibit
6 No. 89; is that the photograph that you showed her?

7 A. Yes, I did.

8 Q. Is that during that part of the conversation
9 where she was saying she was always smiling. She was a
10 happy child?

11 A. Yes, ma'am.

12 Q. And the stick that you showed her, did you show
13 her a photograph or the actual stick itself?

14 A. I showed her a photograph.

15 Q. And is that the photograph that you showed her?

16 A. Yes, ma'am.

17 Q. And she admitted that she knew about this
18 stick; is that correct?

19 A. Yes.

20 Q. And her explanation was something about moving
21 paint, maybe to stir paint up?

22 A. Yes, that is correct.

23 Q. State's Exhibit 90, is that a photograph that
24 you showed to her of Abby's injuries?

25 A. Yes, ma'am.

1 Q. What was her reaction when she looked at that
2 photograph?

3 A. She would look at it for a couple of seconds
4 and turn away.

5 Q. Any tears?

6 A. No.

7 Q. State's Exhibit No. 95, is that a photograph
8 you showed her?

9 A. Yes, ma'am.

10 Q. Same reaction?

11 A. Correct.

12 Q. Any explanation as to that other than the child
13 was absent-minded?

14 A. Correct.

15 Q. State's Exhibit No. 91, what explanation did
16 she give you for those injuries?

17 A. No explanations.

18 Q. This being Abby's right arm, did she give you
19 any explanation of how that right arm came to be?

20 A. No, she did not.

21 Q. She admitted to seeing the bruises on her
22 hands, correct?

23 A. Correct.

24 Q. Did she give you any explanation that made any
25 sense?

1 A. No, ma'am.

2 Q. Is that a picture, State's Exhibit No. 97, that
3 you showed to her?

4 A. Yes.

5 Q. Did she give you any explanation of how the
6 fingers came to be like that?

7 A. No, ma'am.

8 Q. State's Exhibit No. 96, did you give her an
9 opportunity to view that photograph and explain to you
10 how these injuries came to be?

11 A. Yes, I did.

12 Q. Other than her falling, did she give you any
13 other explanation?

14 A. No specific explanation.

15 Q. That's her right leg, what was her reaction
16 when she saw that photograph?

17 A. She displayed the same reaction as in all the
18 other previous photographs.

19 Q. Now, she talked about her left arm being hurt
20 and falling on a bicycle, and she didn't call the CPS;
21 is that correct?

22 A. That's correct.

23 Q. Or she didn't take the child to the hospital
24 because of the fear of CPS; is that correct?

25 A. Yes, that's correct.

1 Q. Did you see any remorse visibly what you were
2 looking at?

3 A. No, I did not.

4 Q. Any outward emotion of regret, anything like
5 that?

6 A. Only the comment that she made at the end of
7 the interview.

8 Q. Which was what?

9 A. That she felt sad.

10 Q. And when she made that comment she said, she
11 felt sad; "Well, I feel empty. I don't know, I feel
12 empty. I don't know how my life is going to be from now
13 on"; is that correct?

14 A. Yes, that's correct.

15 Q. Now, Sergeant Padilla, when you conducted that
16 interview with her on June 7th, had you had the benefit
17 of speaking to Juana Sandoval, Angel Sandoval, two
18 people that she mentioned in her conversation?

19 A. No, I did not.

20 Q. So, all you were going on is what she told you
21 as to her version of why CPS might have been called or
22 who CPS might have been called by, correct?

23 A. Yes, that's correct.

24 Q. After you conducted the interview with Ms.
25 Herrera, did you do anything else on this case?

1 A. No, I did not.

2 Q. Well, did you go out with Sergeant Hanslik to
3 interview another witness sometime -- some months later?

4 A. Yes, that is correct.

5 Q. Do you remember that witness being Sylvia
6 Sandoval?

7 A. Yes, I do.

8 Q. And why were you asked to do that?

9 A. She was another witness that only spoke
10 Spanish, and so Sergeant Hanslik needed my assistance in
11 interviewing her.

12 Q. Was that conversation recorded as well?

13 A. Yes, it was.

14 Q. And that was sometime like in November? No --
15 yeah, in November of 2011, correct?

16 A. Yes, ma'am, November 9th, 2011.

17 Q. Did you participate in the arrest of Ms. Elida
18 Herrera as well as Maciel Sandoval?

19 A. Yes, I did.

20 Q. You had told us earlier that Maciel Sandoval
21 had accompanied Ms. Herrera on that day, June 7th,
22 correct?

23 A. Yes, correct.

24 Q. Are you aware that Officer Swainson interviewed
25 Maciel on that same date?

1 A. Yes.

2 Q. And are you aware of anything that Ms. Maciel
3 Sandoval told Officer Swainson as to how Abby received
4 any of these injuries?

5 MR. GONZALEZ: Objection as to relevance,
6 Your Honor.

7 THE COURT: Overruled as to that question.

8 Q. (BY MS. SPENCE) Are you aware of any
9 explanation or not?

10 A. I wasn't aware.

11 MS. SPENCE: Pass the witness.

12 THE COURT: Mr. Gonzalez.

13 MR. GONZALEZ: Thank you.

14 **CROSS-EXAMINATION**

15 BY MR. GONZALEZ:

16 Q. Sergeant Padilla, how are you doing?

17 A. Good, sir.

18 Q. Now, you and I have known each other for a long
19 time?

20 A. Yes, sir.

21 Q. You're a very pleasant guy?

22 A. Yes.

23 Q. Now, Sergeant Padilla, could you tell me why --
24 well, I'm very familiar with the interview rooms at HPD,
25 and a lot of them have video recording. Could you

1 explain why this wasn't recorded on video?

2 A. Yes, sir, I made the decision. I had my
3 handheld recorder, digital recorder, and I felt that I
4 could easily use that to capture our conversation
5 together.

6 Q. But would you agree with me that if you do a
7 video recording, the jury could actually see the
8 demeanor and the reaction and the emotion? Wouldn't
9 that lend a truer picture as to the conversation?

10 A. I would agree on part of that, yes. They could
11 see the actual demeanor, but not the true demeanor of
12 the Defendant.

13 Q. Now, Sergeant Padilla, you were there at the
14 request of somebody to interview Elida Herrera; is that
15 correct?

16 A. Yes, sir.

17 Q. And I know you speak Spanish very well. Well,
18 you mentioned way at the beginning of the interview that
19 we all listened to today that you had been talking to
20 her about some other things before you went to the
21 official interview; do you recall that?

22 A. Yes, sir.

23 Q. Okay. Is it kind of like a preliminary thing
24 that you try to establish some points before you start
25 the video recorder, or why wasn't that conversation

1 recorded?

2 A. In my experience, witnesses or suspects that we
3 interview in our office, they're very nervous; and, you
4 know, the goal when we meet somebody, especially on a
5 severe case like this, you try to establish rapport and
6 sometimes that takes a little while to gain their trust
7 and gain their confidence to talk about something like
8 this.

9 Q. Well, you just used a term "severe"; it was a
10 pretty severe case, right?

11 A. Yes, sir.

12 Q. Well, in a severe case wouldn't you think that
13 maybe a video recording interview would be -- would lend
14 the listener or viewer of that video a better
15 opportunity to establish what was happening during the
16 interview?

17 A. It just depends.

18 Q. And then you also mentioned, Sergeant Padilla,
19 that I guess you had a handheld recorder or your phone;
20 or how did you record it?

21 A. It was a handheld recorder.

22 Q. I assume it's not very big. It's pretty small?

23 A. Yes.

24 Q. Back in the old days, they were pretty big
25 pieces of equipment. But in this situation, when you

1 were trying to get Ms. Herrera at ease, the conversation
2 before the interview, you could have easily recorded
3 that also, right?

4 A. Yes.

5 Q. But you chose not to?

6 A. That's correct.

7 Q. Now, as far as the -- when you were asked on
8 direct the showing of these pictures, during the
9 interview that is recorded and that was transcribed,
10 will you agree with me that there's no mention of you
11 showing her any pictures during that recorded interview?

12 A. Can you repeat your question, again?

13 Q. Okay. Maybe the easiest way is, on the
14 interview, the transcribed interview that you have in
15 front of you that was read to the jury, could you point
16 out during that interview where you showed her some
17 pictures and her response to those pictures? And you
18 can take your time, I'm not trying to rush you.

19 A. Looking at the transcription?

20 Q. Yes, sir.

21 A. Page 80, where I'm showing her the photo of the
22 child where she's smiling.

23 Q. Okay. Now, that's a photo of the picture I
24 think you just showed to the jury where she's smiling.
25 How about the other ones of the hand, the leg and all

1 those others that the Prosecutor just showed you a
2 little while ago, where do you mention those pictures in
3 your interview that's transcribed?

4 A. They're not mentioned.

5 Q. Well, you just testified that you showed her
6 those pictures and she would stare away, when did that
7 occur?

8 A. It occurred during the entire process during
9 the interview. Initially, when I was speaking to the
10 Defendant, I would show them to her one by one; and then
11 after a while, I just laid them out on the table. The
12 interview room consisted of a table and several chairs.
13 So, there was plenty of room for me to use and to place
14 the photos there while we were speaking about the
15 incident.

16 Q. Now, Sergeant Padilla, when you were asked
17 about her demeanor and you said that she would -- she
18 kind of, like, stared off into the distance, could that
19 also be interpreted as still being in shock?

20 A. I'm not sure I understand that question.

21 Q. Well, tell me, in your opinion, what is someone
22 who is in shock, what type of demeanor do they have?

23 A. Just depends on the situation.

24 Q. Would you agree with me that when someone sees
25 maybe a terrible accident that they're speechless?

1 MS. SPENCE: I'm going to object to
2 speculation.

3 THE COURT: You may answer if you know.

4 A. Depending on the accident.

5 Q. (BY MR. GONZALEZ) But that's possible, right?

6 A. Yes.

7 Q. Now, in the transcript -- well, a little while
8 ago the Prosecutor asked you about when she saw those
9 fingers, you said, your response was that she gave no
10 explanation as to how those fingers came to be that way.
11 Where is that question, or where is that response in the
12 interview?

13 A. It's not.

14 Q. And why wouldn't it be?

15 A. Because everything that we talked about prior
16 to the audio recorded statement is not there.

17 Q. Well, why wouldn't it be? You recall doing an
18 interview and you go in and you meet her, like you said,
19 you basically talked to her a little bit before the
20 interview and then you turned on the audio, why wouldn't
21 all your conversation be on that audio?

22 A. A lot of times or this time, it was just
23 probably because I forgot to ask that question.

24 Q. So, in other words -- in other words, some of
25 those questions that you were asked by the Prosecutor

1 you might have forgotten to ask her during the
2 interview?

3 A. During the audio recorded.

4 Q. It might be that you had forgotten to ask her
5 even when the recording was off; is that correct?

6 A. No, I did remember asking her.

7 Q. Now, as far as -- is it correct that every
8 police officer who does something with a case has to
9 write their portion of the offense report, right?

10 A. It depends on the situation.

11 Q. Okay. And so and basically the offense report,
12 writing the offense report is important so that you can
13 remember distinct things and specific things for in the
14 future you have to go to trial or for some other
15 hearing; is that correct?

16 A. Yes, sir.

17 Q. Did you bring your portion of the offense
18 report of the detailed offense report that you did in
19 this portion of what you had, your role in this case?

20 A. Yes, sir.

21 Q. And you have it in front of you?

22 A. Yes.

23 MR. GONZALEZ: May I approach, Your Honor?

24 THE COURT: You may.

25 Q. (BY MR. GONZALEZ) Well, let me ask you a

1 question before I -- so I don't waste your time. But,
2 basically, you wrote on there, the offense report, that
3 you asked her about those cuts and those legs and
4 everything that you wrote into the offense report; is
5 that correct?

6 A. No, I did not.

7 Q. Sir?

8 A. No, I did not.

9 Q. So, basically then, you remember from two years
10 ago, two and a half years ago the specifics about what
11 you asked Ms. Herrera?

12 A. Yes, sir, I do.

13 Q. Now, about how many, how many cases a year do
14 you handle, Sergeant Padilla?

15 A. Anywhere between 10, 12, 10, 14.

16 Q. But when we're talking about 10, 12, 14, we're
17 talking about big cases, right?

18 A. Yes, sir.

19 Q. With a lot of detail and a lot of
20 investigation; is that correct?

21 A. Yes, sir.

22 Q. Some of these homicide cases take boxes and
23 boxes and boxes of information; is that correct?

24 A. Yes, sir.

25 Q. A lot of the investigation. A lot of

1 interviewing the witnesses and so forth?

2 A. Yes, sir.

3 Q. Now, let me ask you about and -- about how many
4 interviews do you think you've done in all these years
5 you've been with homicide?

6 A. Hundreds.

7 Q. A bunch of them probably, what, about 500,
8 something like that?

9 A. I'm not sure of the exact amount.

10 Q. But a bunch of them?

11 A. Yes.

12 Q. Where did you learn how to do an interview?

13 A. I took basic and advanced interview classes
14 that dealt with interviewing and interrogation.

15 Q. And, basically, would it be a kind of class
16 that most investigators go to to learn the technique,
17 the fine art of interviewing?

18 A. Yes, sir.

19 Q. And so in those classes you're taught how to do
20 certain things to try to get information, certain
21 information out of the interviewee; is that correct?

22 A. Yes, sir.

23 Q. Sometimes it involves making things up, would
24 you agree?

25 A. Yes, sir.

1 Q. And sometimes it would involve actually telling
2 lies to the interviewee to try to get them to give you
3 the information that you're looking for, would you
4 agree?

5 A. Yes, sir.

6 Q. Well, when you interview a person, why couldn't
7 the technique be, like, you introduce yourself, ask them
8 what happened?

9 A. Yes, and that's exactly what I did here in this
10 incidence.

11 MR. GONZALEZ: I'll pass the witness, Your
12 Honor.

13 THE COURT: All right. Thank you, Mr.
14 Gonzalez.

15 Anything further?

16 MS. SPENCE: Yes, Your Honor.

17 THE COURT: All right.

18 **REDIRECT EXAMINATION**

19 BY MS. SPENCE:

20 Q. Look at page 78 towards the bottom, I guess
21 it's the -- where you say, "Okay, okay, Elida, I've
22 showed you several photos of the girl, right?" You
23 remember that?

24 A. Yes, ma'am.

25 Q. It's here in the transcript, which is on the

1 statement. And then right after that she says, right.
2 And then your next statement to her is, "I showed you
3 many photos of the bruises she had on her body." Are
4 those the photographs that you picked out as to the
5 photographs you showed her?

6 A. Yes, ma'am.

7 Q. And you said you had them out on the table.
8 Was that during the interview, or was that in the
9 preinterview stages or both?

10 A. Both.

11 Q. Were they there as you were talking to her
12 during the interview, or was it prior to the interview,
13 the recorded interview or what?

14 A. Both interviews that I conducted with her, they
15 were all displayed there in front of us.

16 Q. So, when I asked you the question, what
17 response did she have to the broken up fingers, broken
18 fingernails and the injuries to her fingers, you didn't
19 specifically ask what happened to her fingers. But,
20 basically, the pictures are out there. She has an
21 opportunity to look at them, and you're asking her what
22 about this? How did she get these injuries? And I
23 think you specifically asked that; is that correct?

24 A. Yes, ma'am.

25 Q. That last question on bottom of 78, page 78,

1 what is that question you asked her?

2 A. "What- what do you say about that?"

3 Q. And you're referring to the photos, the many
4 photos of the bruises she had on her body, correct?

5 A. Yes, ma'am.

6 Q. And her answer is what?

7 A. I can read her response?

8 Q. Yes.

9 A. "Well, nothing, the girl fell frequently and
10 since we were afraid to take her to the hospital, well,
11 those bruises accumulated, for the life of me, I don't
12 know; but the girl fell frequently or hit herself or she
13 would get on top of a chair; sometimes she was always
14 very absent-minded, if she saw the door, she would pass
15 it and she would hit herself?"

16 Q. Blaming the kid, right?

17 A. Yes, ma'am.

18 Q. Look at page 80, 1, 2, 3, 4, 5, 6, 7 little
19 compartments up from the bottom. You asked the
20 question: "Because of all the bruises that she had; and
21 the analysis are still pending. Elida, if," and what
22 does she say?

23 A. "Well, I didn't know that the bruises, well,
24 could produce death or something."

25 Q. So, she's telling you she didn't know that

1 those little bruises could kill somebody, right?

2 A. That is correct.

3 Q. Were you trying to trick Elida Herrera that day
4 when you talked to her?

5 A. No, ma'am.

6 Q. Is your conversation of your interview with her
7 on these pages?

8 A. Yes, ma'am.

9 Q. And what exactly did you -- were you trying to
10 do when you went into the room with Elida Herrera with
11 these photographs?

12 A. I was trying to get her to tell me what
13 happened, have an explanation.

14 Q. And what did she tell you?

15 A. Don't know.

16 MS. SPENCE: Pass the witness.

17 THE COURT: Thank you, Ms. Spence.
18 Anything further?

19 MR. GONZALEZ: I'll pass the witness.

20 THE COURT: All right. May Sergeant
21 Padilla be excused?

22 MR. GONZALEZ: Yes.

23 THE COURT: Thank you, Sergeant Padilla.
24 You are excused.

25 Ladies and gentlemen, we are going to take

1 a brief recess at this time. Please step back to the
2 jury room, we'll resume testimony shortly.

3 THE BAILIFF: Rise for the jury.

4 (Jury exits courtroom.)

5 THE COURT: I need the record to reflect
6 that State's Exhibits 91 and 95 were also admitted.

7 We are on the record outside the presence
8 of the jury. Ms. Spence offered multiple photographs
9 into evidence with the last witness. I referred to
10 those items by number. I apparently failed to include
11 State's Exhibit No. 91 and State's Exhibit No. 95, which
12 were both admitted without objection.

13 (State's Exhibit Nos. 91 and 95 admitted.)

14 (Open court, Defendant present.)

15 THE COURT: All right.

16 THE BAILIFF: Judge, this witness has not
17 been sworn.

18 THE COURT: All right. Why don't we wait
19 until the jury comes in?

20 THE BAILIFF: Rise for the jury.

21 (Jury enters courtroom.)

22 THE COURT: Be seated, please.

23 And, Ms. Torres, if you'll stand and raise
24 your right hand to be sworn.

25 (Witness sworn.)

1 THE COURT: You may be seated.

2 THE WITNESS: Thank you.

3 Ms. Thomas, you may proceed.

4 MS. THOMAS: Thank you.

5 **NELLY TORRES,**

6 having been first duly sworn, testified as follows:

7 **DIRECT EXAMINATION**

8 BY MS. THOMAS:

9 Q. Good morning, ma'am. Will you, please, state
10 your full name for the jury?

11 A. Yes, ma'am. Good morning, my name is Nelly
12 Torres.

13 Q. Ms. Torres, do you work currently?

14 A. Yes, ma'am, I do.

15 Q. Where do you work now?

16 A. HISD Police Department.

17 Q. Do you have kids?

18 A. I do.

19 Q. How many?

20 A. Three.

21 Q. Back in May, June of 2011, did you work
22 somewhere else?

23 A. Yes, I did.

24 Q. Tell us where you worked?

25 A. Clifton Middle School for HISD.