

1 (Open court, defendant and jury present)

2 THE COURT: Thank you. Please be seated.

3 Welcome back, ladies and gentlemen.

4 Ms. Harvey, if you're ready to proceed.

5 Detective, you can take your seat.

6 MS. HARVEY: Judge, with the permission of  
7 the Court, we'd like to resume publishing the video at  
8 21:46:34.

9 THE COURT: Okay. Permission is granted.

10 (State's Exhibit No. 127 published)

11 **MARIO QUINTANILLA,**

12 having been first duly sworn, testified as follows:

13 **DIRECT EXAMINATION**

14 **CONT'D BY MS. HARVEY:**

15 Q. Detective Quintanilla, if I can just ask you.  
16 You just told her, "We have more evidence to support a  
17 domestic violence could have occurred." To what  
18 evidence are you referring?

19 A. Basically, for him being shot, no forced entry,  
20 supposedly he was heading out the door, yet he didn't  
21 have his keys with him, his wallet was still up, his  
22 cell phone was still being charged.

23 Q. Let me ask it to you this way: Did you have  
24 any evidence to believe that he was perpetrating  
25 domestic violence on her?

1           A.    No, ma'am.

2                               (State's Exhibit No. 127 published)

3           Q.    (By Ms. Harvey) When she says, "How do you know  
4 he didn't leave anything on me," if a sexual assault  
5 defendant, if a rapist, rapes a woman, where is our  
6 evidence collection, our best evidence collection going  
7 to come from?

8           A.    Mainly around the groin area.

9           Q.    And how do we collect that evidence?

10          A.    You go to a sex -- SANE nurse and get an  
11 examination done, which is the rape kit.

12          Q.    And did this defendant allow a rape kit to be  
13 performed on her?

14          A.    No, ma'am.

15                               (State's Exhibit No. 127 published)

16          Q.    (By Ms. Harvey) The .380 that you-all are  
17 talking about, where was that .380 recovered in the  
18 house?

19          A.    It was in the nightstand in her bedroom.

20                               (State's Exhibit No. 127 published)

21          Q.    (By Ms. Harvey) Quintanilla, up to this point  
22 in her story line, was there ever any timeframe that she  
23 has described where the intruder would have had time to  
24 go into the kitchen to get another knife?

25          A.    No, ma'am.

1 (State's Exhibit No. 127 published)

2 Q. (By Ms. Harvey) Quintanilla, I want to ask you  
3 about firing guns inside of a house. Have you ever had  
4 occasion to have to do that?

5 A. Yes, ma'am.

6 Q. When a gun is fired inside of a closed house  
7 where we've got doors shut and windows shut, how much  
8 noise does that make?

9 A. It is very loud.

10 Q. And when we're talking about a revolver, a .45  
11 like the one that was used in this case, how does that  
12 compare with the sound of other guns?

13 A. That's a pretty big caliber. It's a pretty  
14 powerful gun. And being a revolver, it would make a  
15 very loud noise.

16 (State's Exhibit No. 127 published)

17 Q. (By Ms. Harvey) What are you showing her at  
18 this point in the video?

19 A. A picture of the knife on the bed, that big  
20 kitchen knife.

21 Q. So, is that one of the photographs that the  
22 Crime Scene Unit took?

23 A. Yes, ma'am.

24 (State's Exhibit No. 127 published)

25 Q. (By Ms. Harvey) Let me ask you about this.

1 What is it that you're reading from?

2 A. The call slip that's generated in our  
3 communications division.

4 Q. At the time that you began asking her about the  
5 911 call, had you actually listened to the 911 call  
6 itself?

7 A. No, ma'am.

8 Q. Did you listen to it subsequently?

9 A. Yes, ma'am.

10 Q. And is what's on the call slip consistent with  
11 what you actually heard on the 911 call?

12 A. No, ma'am.

13 Q. How do you explain the discrepancy between the  
14 call slip and the 911 call?

15 A. When I listened to the 911 call, it was very  
16 hard to hear the defendant talk. And the dispatcher  
17 understood that her husband was actually attacking her,  
18 which was not true.

19 (State's Exhibit No. 127 published)

20 MS. HARVEY: Judge, that's the relevant  
21 portion of the video. There's some more on the end, but  
22 I don't feel like it's necessary to publish that to the  
23 jury.

24 THE COURT: Okay. You may proceed.

25 Q. (By Ms. Harvey) Then as this video progresses,

1 do you eventually take a buccal swab from her?

2 A. Yes, ma'am.

3 Q. And can you tell the jury what a buccal swab  
4 is?

5 A. A buccal swab, basically, two Q-tips which they  
6 rub inside their cheeks and provide us with the saliva  
7 sample.

8 Q. I am showing you what's been marked as State's  
9 Exhibit 128. Would you take a look at that  
10 (indicating)?

11 A. Yes, ma'am.

12 Q. And how do you recognize it?

13 A. I placed my signature and date when I sealed it  
14 that day and jotted some notes down there.

15 Q. And are these the same buccal swabs that you  
16 took from the defendant on this day?

17 A. Yes, ma'am.

18 Q. And have they been kept in a secured chain of  
19 custody until you brought them to court?

20 A. Yes, ma'am.

21 MS. HARVEY: At this time, State offers  
22 State's Exhibit 128, tenders to opposing counsel.

23 **(State's Exhibit No. 128 Offered)**

24 MR. VARELA: No objection to 128, Your  
25 Honor.

1 THE COURT: State's Exhibit 128 is  
2 admitted.

3 (State's Exhibit No. 128 Admitted)

4 MS. HARVEY: Judge, 128 is a brown  
5 envelope, inside which is a box containing one swab, or  
6 perhaps more than one swab, but it's a sealed white box  
7 containing the buccal swabs.

8 THE COURT: State's Exhibit 128 and its  
9 contents are admitted.

10 Q. (By Ms. Harvey) Now, did you have an  
11 opportunity to review the 911 call that was made in this  
12 case?

13 A. Yes, ma'am.

14 Q. And what is the quality of the recording?

15 A. It's -- the quality is not all that good.

16 Q. Did you then have someone over at the sheriff's  
17 office make a transcript of that call?

18 A. Yes, ma'am.

19 MS. HARVEY: Your Honor, at this time, I  
20 would offer into evidence State's Exhibit 134, which is  
21 the 911 call, State's Exhibit 125 and 126, which are the  
22 transcripts, all of which have been on file.

23 (State's Exhibit No. 125, 126, and 134  
24 Offered)

25 MR. VARELA: No objection to 134, 125, and

1 126. That's 134, 125 and 126.

2 THE COURT: 134 being the actual tape and  
3 125 and 126 being transcripts?

4 MR. VARELA: That's correct.

5 THE COURT: State's Exhibits 125, 126, and  
6 134 are admitted.

7 **(State's Exhibit No. 125, 126, and 134**  
8 **Admitted)**

9 MS. HARVEY: Your Honor, I would ask  
10 permission to publish 134 by playing it and provide the  
11 jury with transcripts that they can follow along.

12 THE COURT: Permission is granted. And do  
13 you have those transcripts available?

14 MS. HARVEY: Yes, ma'am.

15 THE COURT: Please give those to the  
16 bailiff.

17 (State's Exhibit No. 134 published)

18 Q. (By Ms. Harvey) Now, after listening to the 911  
19 call and talking with deputies, did it seem consistent  
20 with the 911 call that the defendant should be  
21 approaching the door from the south side of the house  
22 rather than the bathroom back where the incident took  
23 place?

24 A. Yes, ma'am.

25 Q. It did seem consistent to you?

1           A.    Let's see.  The south side was -- where is the  
2 back bedroom?  That was on the west --

3           Q.    If she came from the area where her bedroom is,  
4 rather than where his bedroom is, did that seem  
5 consistent to you?

6           A.    No, ma'am.

7           Q.    Now, after you had the statement with her, had  
8 done some additional investigation in the case, did you  
9 go out during the execution of the search warrant of her  
10 house?

11          A.    Yes, ma'am.

12          Q.    And at the time that the search warrant was  
13 executed, did you collect some documents from her house?

14          A.    Yes, ma'am.

15          Q.    I'm showing you what I've marked as State's  
16 Exhibits 130, 131, 129, and 133.  All right.  I have  
17 mismarked my exhibits.  Let me fix that.

18          A.    Okay.

19                   (Pause)

20          Q.    (By Ms. Harvey) What I just referred to as  
21 State's Exhibit 129, I'm going to now mark as State's  
22 Exhibit 135 so that we don't have any duplicates.

23                   All right.  So, we've got State's Exhibits  
24 130, 131, 133, and 135.  Are all these documents that  
25 you collected from her house at the time that the search



1 warrant was run (indicating)?

2 A. Yes, ma'am.

3 Q. What did you do with them after you collected  
4 them?

5 A. Basically just sealed them up. I viewed them,  
6 sealed them up, and placed them in the property room.

7 Q. And I'm not marking this as an exhibit, but is  
8 this, in fact, the envelope that they were stored in  
9 (indicating)?

10 A. Yes, ma'am.

11 Q. And do you have specific markings on that  
12 envelope?

13 A. Yes, ma'am. The signature and date.

14 MS. HARVEY: At this time, State offers  
15 into evidence State's Exhibit 130, 131, 133, and 135.

16 **(State's Exhibit No. 130, 131, 133, and 135**  
17 **Offered)**

18 MR. VARELA: Your Honor, this is going to  
19 be the subject of the Court's order in limine. We're  
20 requesting a hearing on this.

21 THE COURT: Okay. All right. Ladies and  
22 gentlemen, we will take our mid-morning break a little  
23 bit early so that I can take this matter up. Please go  
24 with the bailiff and we'll be in recess for about 20  
25 minutes so that you can take a break.

1 (Open court, defendant present, no jury)

2 THE COURT: Let's take a quick break and  
3 then we'll take this up.

4 (Recess)

5 (Open court, defendant present, no jury)

6 MR. VARELA: Exhibit 130 is a will,  
7 purports to be a last will and testament of Henry Joseph  
8 Breaux, the decedent. It was executed on May 13th,  
9 2008. It says in the will that Mr. Breaux leaves all of  
10 his interest to Marcia Dinanno as a primary beneficiary  
11 and to her son -- stepson -- to his stepson -- excuse  
12 me -- Michael James Dinanno, as a -- what do you call  
13 them in probate law -- an alternate designee.

14 There is also Exhibit No. 131, which  
15 appears to be a last will and testament of the  
16 defendant, executed the same date in which she leaves  
17 all of her legacy to Mr. Breaux; and if Mr. Breaux does  
18 not survive her, to her son, Michael James Dinanno. In  
19 other words, they're what we call mirror wills.

20 Exhibit No. 135 is a handwritten letter  
21 about Richard Alderman, the people's lawyer, dated July  
22 1st of -- it appears to be of 2010. It says '10.  
23 July 1st, '10. It talks about -- I'll let you read it.  
24 It talks about financial matters between Mr. Breaux and  
25 Ms. Dinanno.

1                   No. 133 is a Prosperity Bank checking  
2 account in the name of Jacqueline Marcia Dinanno, the  
3 defendant. There is a handwritten sticky note that  
4 somebody wrote that says: No more using my credit card.  
5 I'm scared now. I think I should cancel it.  
6 Apparently, reflecting some concern someone had over  
7 money.

8                   I am assuming these documents are being  
9 used to offer some financial motive on the part of the  
10 defendant to kill the complainant in this case. The  
11 last will and testament, 130 and 131, appear to be --  
12 the first problem we have is authentication of these  
13 documents. There's no proof they are what they say they  
14 are or that the defendant wrote them or otherwise knew  
15 of their existence.

16                   The second problem we have relating to the  
17 will is relevance. Couples have wills. And these wills  
18 appear to be mirror wills between the two of them.  
19 There's nothing extraordinary at all about the wills.  
20 You can look at them, obviously, for yourself and tell  
21 that. If that's the case, then any time a spouse dies,  
22 that would provide a motive for murder of the surviving  
23 spouse.

24                   THE COURT: Well, unlike maybe some cases,  
25 it's pretty clear that he did die and that it was a

1 homicide. The only question being who did the killing.

2 MR. VARELA: Right.

3 THE COURT: So, I would think that any  
4 financial documents found in the house are highly  
5 relevant to establish who might have perpetrated this  
6 murder. So, they're relevant.

7 And as far as authenticity, I would think  
8 that that would go to the weight of their admissibility.  
9 This is a murder case. It's not a probate matter. So,  
10 whether or not they're authentic, I don't really think  
11 really is an issue here, unless it's your position that  
12 they were somehow falsified. And that would go to the  
13 weight of the wills, not the admissibility in a murder  
14 case, I would believe.

15 MR. VARELA: And, finally, Your Honor,  
16 under Rule 403, we would object that the prejudice just  
17 outweighs any probative value they might have.

18 THE COURT: Well, they're definitely  
19 prejudicial. I agree with you. However, I think under  
20 the circumstances of your case, any prejudicial value is  
21 not outweighed by the probative value.

22 MR. VARELA: Exhibit 135 is a handwritten  
23 letter about financial problems. The words "financially  
24 oppressed" appear. There's no authenticity established  
25 for 135.

1 THE COURT: Can I see 135?

2 MR. VARELA: Yes.

3 THE COURT: Actually, let me see all of the  
4 documents.

5 Okay. So, your objections to 130 and 131,  
6 the wills, are overruled.

7 Was there an objection to 133? I guess  
8 these are bank records of the defendant.

9 MR. VARELA: Well, I haven't gotten to  
10 those yet.

11 THE COURT: Okay.

12 MR. VARELA: I want to talk about that  
13 handwritten letter first. My objection, first of all,  
14 is authenticity. And then it's going to be relevancy  
15 and prejudice.

16 THE COURT: Well, again, I think that -- I  
17 don't know of any requirement that items seized from the  
18 defendant's house need to be authenticated. That would  
19 go to the weight of the -- to the evidence, not its  
20 admissibility. Your objection is overruled. And I  
21 don't find it to be unduly prejudicial.

22 MR. VARELA: So, you're admitting the  
23 130 --

24 THE COURT: Well, admitted.

25 MR. VARELA: -- 135.

1                   Then we have 133, Your Honor, which is  
2 some bank records purporting to be in the name of the  
3 defendant. There is also a sticky note attached to the  
4 bank records that says -- yeah, there's a sticky note.  
5 Again, first of all, we're objecting to the authenticity  
6 of the sticky note. There's no providence for that  
7 established either. We don't know who wrote it anymore  
8 than we know who wrote that handwritten letter that was  
9 135. So, same objection for that.

10                   THE COURT: Well, as long as the prosecutor  
11 establishes that that was the way they were found in the  
12 house, then your objection is overruled.

13                   MR. VARELA: And we'd object to the records  
14 as a whole, as well as the sticky note for relevancy  
15 grounds under 401 and 402, prejudice under Rule 403.

16                   THE COURT: Those objections are overruled.

17                   MS. HARVEY: Judge, the State intends to  
18 enter in another set of financial documents that have  
19 been under business records affidavit through a  
20 different witness. Is that something you want to take  
21 up now? Because I think it's all the same. And that  
22 way we don't have to excuse the jury again with that  
23 additional witness.

24                   THE COURT: And, Mr. Varela, do you have  
25 objections to those documents as well?

1 MR. VARELA: I'll have those same  
2 objections. What I'm asking for here with all of these  
3 financial documents, the whole -- any financial  
4 documents or documents that speak to financial matters,  
5 is I think the State should be required to prove a nexus  
6 between the defendant, those documents, and the crime,  
7 to establish some sort of a motive in a hearing outside  
8 the presence of the jury before they're just allowed to  
9 admit them.

10 THE COURT: And it's your position that a  
11 search warrant executed on her residence isn't a  
12 sufficient nexus to these documents and your client?

13 MR. VARELA: No. Let me make myself  
14 clearer, then. What I want the State to have to show is  
15 some -- some kind of -- the documents in and of  
16 themselves are innocent. They don't say: I'm going to  
17 kill my husband and get his money; if I murder my  
18 husband, all my financial worries will be gone. That's  
19 clearly a statement that's a self-contained motive.

20 What I'm trying to show is that -- what I'm  
21 trying to ask the State to show is there's some  
22 connection between a motive on her part to murder her  
23 husband and these documents themselves. And the  
24 documents are innocuous themselves and don't do that.  
25 So, there's no probative value.

1                   THE COURT: Well, again, Mr. Varela, I  
2 think that's an argument you can make to the jury. As  
3 far as a legal basis for denying their admissibility,  
4 that's overruled.

5                   MR. VARELA: So, I am going to have the  
6 same -- I know we don't have a marked exhibit yet as to  
7 the financial documents. Those would be the Prosperity  
8 Bank records?

9                   MS. HARVEY: Yes, sir. I'll mark them as  
10 State's Exhibit 136.

11                   MR. VARELA: We're going to have the same  
12 relevancy and prejudice objections to that set of  
13 documents as we have to the others here.

14                   THE COURT: And were those also discovered  
15 with a search warrant?

16                   MS. HARVEY: Those are under business  
17 records affidavit, Your Honor.

18                   THE COURT: They were actually received  
19 from the bank?

20                   MS. HARVEY: Yes, ma'am.

21                   THE COURT: And these being bank records of  
22 either the defendant or the deceased?

23                   MS. HARVEY: Yes, ma'am.

24                   THE COURT: Those objections are overruled.

25                   (Recess)



1 (Open court, defendant present, no jury)

2 THE COURT: Why don't you go ahead and  
3 state that into the record, Joe? Toni is here.

4 MR. VARELA: Okay. I've made some  
5 objections to certain documents outside the presence of  
6 the jury immediately preceding. I just want the record  
7 to be clear that I'm asking the Court for a continuing  
8 objection as to the two last will and testaments; State  
9 Exhibit 136, which is Prosperity Bank records; State  
10 Exhibit 133, which is more Prosperity Bank records; and  
11 the handwritten letter, which I don't remember the  
12 exhibit number. 135. Right.

13 In other words, I've stated my objections  
14 outside the presence of the jury immediately preceding  
15 to right now and I want to make sure that I have a  
16 continuing objection and need not restate my objections.

17 THE COURT: You have a continuing objection  
18 to those objections which you articulated outside the  
19 presence of the jury. Those objections are overruled.  
20 You have a continuing objection. You need not make  
21 those same objections in the presence of the jury. In  
22 the event that you have some other objection, then you  
23 will need to make those. Okay?

24 Can we bring the jury in?

25 (Open court, defendant and jury present)

1 THE COURT: Thank you. Please be seated.  
2 State's Exhibits 130, 131, 133 and 135 are  
3 admitted over objection.

4 You may proceed.

5 **(State's Exhibit No. 130, 131, 133, and 135**  
6 **Admitted)**

7 MS. HARVEY: Thank you, Your Honor.

8 Q. (By Ms. Harvey) Now, Investigator Quintanilla,  
9 State's Exhibits 130 and 131, what are those?

10 A. Those are the last will and testaments of Henry  
11 Joseph Breaux and Marcia Dinanno.

12 Q. And were these recovered from the gun safe at  
13 the defendant's home?

14 A. Yes, ma'am.

15 Q. And in the case of the will of Henry Joe  
16 Breaux, in the event that he were to die, who gets  
17 everything in his estate?

18 A. Marcia Dinanno or his stepson, Michael Dinanno.

19 Q. If we look under disposition of the estate --

20 MS. HARVEY: May I publish this by just  
21 reading it to the jury, Your Honor?

22 THE COURT: You may.

23 MS. HARVEY: Here it reads: I give,  
24 devise, and bequeath all of my estate of whatsoever kind  
25 and wheresoever situated as follows: All property, both

1 real and personal, is bequeathed to my wife, Marcia  
2 Dinanno. If she shall not survive me, I give, devise,  
3 and bequeath all of my estate to my stepson Michael  
4 James Dinanno and his heirs per stirpes. The date of  
5 execution of this document is May 13th of 2008.

6 Q. (By Ms. Harvey) Now, Investigator, is Marcia  
7 Dinanno's will, No. 131, just the mirror image of the  
8 victim's will?

9 A. Yes, ma'am.

10 Q. Executed on the same date, May 13th of 2008?

11 A. Yes, ma'am.

12 Q. And there's even the same witnesses and  
13 everything to the will, right?

14 A. Yes, ma'am.

15 Q. And they were located together?

16 A. Yes, ma'am.

17 Q. Now, State's Exhibit 135, was this located with  
18 Ms. Dinanno's personal papers?

19 A. Yes, ma'am.

20 Q. And was that during the search warrant?

21 A. Yes, ma'am.

22 Q. What -- upon reading State's Exhibit 135, were  
23 you able to discern what it is?

24 A. Yes, ma'am.

25 Q. And what is it?

1           A.    It's a letter she wrote to Richard Alderman,  
2 which is a legal advisor on Channel 13.

3           Q.    And as part of this letter, did she set forth  
4 some of her financial concerns?

5           A.    Yes, ma'am.

6           Q.    On Page 2 of this letter, it notes: Legally  
7 married by statute of Texas. Allow credit card \$200 a  
8 month limit. A few dollars left on counter sometimes.  
9 Obviously, financially oppressed. For what purpose?

10                   And then again at the bottom of Page 2, it  
11 again says: Financially oppressed, concerned. Is that  
12 right?

13           A.    Yes, ma'am.

14           Q.    State's Exhibit 133 is a bundle of papers  
15 that's stapled together. And on the front is the  
16 Prosperity Bank letterhead and logo. But as you flip  
17 through this bundle of papers, was there a yellow sticky  
18 note that drew your attention?

19           A.    Yes, ma'am.

20           Q.    And what about that sticky note drew your  
21 attention?

22           A.    Just what it said. No more --

23           Q.    What does it say?

24           A.    "No more using my credit card. I'm scared now.  
25 I think I should cancel it."

1 Q. At the bottom of the Capital One credit card  
2 statement that that is affixed to, are there also some  
3 notations?

4 A. Yes, ma'am.

5 Q. And based on these notations, did it appear to  
6 you like someone was approving her transactions?

7 A. Yes, ma'am.

8 Q. And who was it who would have been going  
9 through and approving those transactions?

10 MR. VARELA: Objection. Calls for  
11 speculation, Your Honor.

12 THE COURT: Sustained.

13 Q. (By Ms. Harvey) On the document, does -- is  
14 there -- is there a specific notation that someone  
15 okayed the transactions?

16 A. Yes, ma'am.

17 Q. And on the document, who does it say that is?

18 A. Joe.

19 Q. Also, in this bundle of credit card statements  
20 that was located, did it seem that the transactions were  
21 mostly point-of-sale purchases or mostly cash advances?

22 A. Cash advances.

23 Q. And the last thing I want to talk to you about  
24 is the injuries that you observed to the defendant's  
25 arms. Now, would you characterize the injuries as being

1 deep cuts or shallow?

2 A. Shallow cuts.

3 Q. Did they appear to go through very many layers  
4 of skin?

5 A. No, ma'am.

6 Q. Was there anything notable to you about the  
7 spacing of the injuries?

8 A. What we noted about the injuries were they're  
9 all basically the same size, about the same depth, and  
10 evenly spaced apart.

11 MS. HARVEY: Pass the witness.

12 THE COURT: Mr. Varela.

13 MR. VARELA: Thank you, Your Honor.

14 **CROSS-EXAMINATION**

15 **BY MR. VARELA:**

16 Q. Deputy Quintanilla, you were the case agent in  
17 this case, correct?

18 A. Yes, sir.

19 Q. And that's kind of a shorthand for saying that  
20 you were assigned a leadership role, or I guess the  
21 leadership role in this investigation, right?

22 A. Yes, sir.

23 Q. It would have been your responsibility to  
24 direct other people to assist you in the investigation?

25 A. Yes, sir.

1 Q. But bore overall responsibility for collecting  
2 evidence, correct?

3 A. Yes, sir.

4 Q. For interviewing witnesses?

5 A. Yes, sir.

6 Q. And, ultimately, I guess, from a layman's  
7 standpoint, you bore the ultimate responsibility for  
8 apprehending whoever did this, correct?

9 A. Yes, sir.

10 Q. All right. And that's a role that you've been  
11 used to fulfilling in the course of your duties,  
12 correct?

13 A. Yes, sir.

14 Q. All right. Let me show you some pictures,  
15 State's Exhibit 36 through 39. Let's see. I think  
16 that's upside down.

17 State Exhibit No. 36 depicts the kitchen of  
18 the residence at the time you saw it, correct?

19 A. Yes, sir.

20 Q. And you're familiar with that scene?

21 A. Yes, sir.

22 Q. And as part of your investigation, you would  
23 have observed and documented what you found in the  
24 kitchen, correct?

25 A. Yes, sir.

1 Q. Let's go to State Exhibit No. 37. Just to  
2 refresh your memory to that picture, that's also another  
3 view of the kitchen area, correct?

4 A. Yes, sir.

5 Q. State Exhibit No. 38, that would be another --  
6 yet again, another view of that same kitchen area,  
7 correct?

8 A. Yes, sir.

9 Q. Focusing on the kitchen counter where some food  
10 items are laid out --

11 A. Yes, sir.

12 Q. -- and some utensils?

13 And let's look at one last picture, which  
14 is State Exhibit No. 39. That's also a view of the  
15 kitchen area, correct?

16 A. Yes, sir.

17 Q. Did you personally take these photographs?

18 A. No, sir.

19 Q. But they were taken at your direction as part  
20 of the investigation, right?

21 A. Yes, sir.

22 Q. Okay. And you actually inspected these kitchen  
23 areas yourself, right?

24 A. Yes, sir.

25 Q. Now, you indicated yesterday, when you were



1   testifying, that you thought the kitchen scene was  
2   staged somehow, correct?

3       A.   Yes, sir.

4       Q.   And you used that word "staged"?

5       A.   Yes, sir.

6       Q.   Let's look at State Exhibit No. 36.  You have a  
7   view of a kitchen counter, correct?

8       A.   Yes, sir.

9       Q.   Kitchen counter appears to be neatly kept?

10      A.   Yes, sir.

11      Q.   It has a -- I guess the prominent feature on it  
12   would be a bowl of shrimp with a paper towel over it,  
13   right?

14      A.   Yes, sir.

15      Q.   And you didn't observe whether the shrimp had  
16   been cooked or was still raw, right?

17      A.   I looked at the shrimp, but I couldn't tell you  
18   if it was cooked or raw.

19      Q.   Do you know how to tell cooked shrimp from raw  
20   shrimp?

21      A.   No.

22      Q.   Okay.  There's nothing particularly  
23   extraordinary about the scene that's encapsulated in  
24   State's Exhibit 36, is there, Deputy Quintanilla?

25      A.   No, sir.

1 Q. If one were cooking -- do you cook?

2 A. Not -- hardly ever.

3 Q. Do you have a wife that cooks?

4 A. Yes, sir.

5 Q. So, the wife does most of the cooking?

6 A. Yes, sir.

7 Q. Well, if -- and you've observed your wife cook  
8 on some occasions, correct?

9 A. Yes, sir.

10 Q. Okay. If your wife were to cook shrimp --

11 MS. HARVEY: Your Honor, I'm going to  
12 object to the relevance of cooking that happens at  
13 Deputy Quintanilla's house.

14 MR. VARELA: Well, he's held himself out as  
15 an expert on whether the kitchen scenes involving  
16 cooking are staged, Your Honor, so I --

17 THE COURT: Overruled.

18 Q. (By Mr. Varela) Has your wife ever cooked  
19 shrimp?

20 A. Yes, sir.

21 Q. If she did that, did you observe her cooking  
22 it?

23 A. I would believe so, yes, sir.

24 Q. Okay. And putting it in a bowl with a paper  
25 towel over it on a kitchen counter, there's nothing

1 particularly extraordinary about that when you're  
2 cooking shrimp, is there?

3 A. Probably not, no.

4 Q. Okay. Let's go on to No. 37. Let's look at  
5 State Exhibit No. 37 for just a minute. That's a wide  
6 angle view of the kitchen and the kitchen counter,  
7 correct?

8 A. Yes, sir.

9 Q. You'll note that there's a couple of plates  
10 laid out and a -- like a saucepan on the stovetop and a  
11 box of some item, correct?

12 A. Yes, sir.

13 Q. That would appear to you to be sort of an  
14 expectable scene when someone is laying out food and  
15 utensils for cooking; is that correct?

16 A. I would assume.

17 Q. Sure. Let's look at 38. 38 is a little closer  
18 view of that same kitchen counter, isn't it?

19 A. Yes, sir.

20 Q. Okay. In 38, we've got a couple of pans on the  
21 stovetop and they appear to contain food items, right?

22 A. Yes, sir.

23 Q. Those food items had or had not been cooked  
24 yet?

25 A. I believe one item hadn't been. Something

1 might have been cooked under the other pan or pot.

2 Q. Okay. What was under the tinfoil was probably  
3 cooked?

4 A. Yes, sir.

5 Q. Do remember what that was?

6 A. It might have been rice, I believe.

7 Q. Okay. And there's a saucepan with something  
8 else in it that's awaiting cooking, correct?

9 A. Yes, sir.

10 Q. Then we've got a couple of plates laid out in  
11 the foreground, right?

12 A. Yes.

13 Q. There's nothing particularly, I guess,  
14 suspicious about the plates, the forks, and the pans  
15 being laid out like that if cooking was occurring; is  
16 that right?

17 A. Normally you would probably place those out  
18 after you finished cooking, but you probably -- some  
19 people might not.

20 Q. Okay. You're saying that it's odd that a  
21 person would put the plates out before they finish  
22 cooking, right?

23 A. I would believe so, yes.

24 Q. But you don't cook much, do you?

25 A. No, sir.

1 Q. Okay. Let's look at 39. In Exhibit No. 39,  
2 we've got a close-up view of the stovetop, correct?

3 A. Yes, sir.

4 Q. To the left we have a plate and what appears to  
5 be a couple of large utensils sitting on the plate,  
6 right?

7 A. Yes, sir.

8 Q. Those appear to be not eating utensils, do  
9 they?

10 A. Correct.

11 Q. Those are like a big strainer spoon, some kind  
12 of thing -- I don't cook, either, so I don't know. But  
13 it appears to be like a cooking utensil, correct?

14 A. Yes, sir.

15 Q. All right. Then we've got on the stove that's  
16 the cooked -- what you think is cooked rice in the pan  
17 on the left with the foil on top?

18 A. Yes, sir.

19 Q. All right. And to the right, there's a  
20 saucepan with something in the bottom. And you don't  
21 think that was cooked yet, correct?

22 A. Yes, sir.

23 Q. All right. And, again, in 39, that's a fairly  
24 normal setup in a kitchen for somebody that's either in  
25 the course of cooking or preparing to cook, correct?

1 A. Yes, sir.

2 Q. Okay. Let's talk about something else. You  
3 talked yesterday about finding some damp clothes in a  
4 bedroom, correct?

5 A. Yes, sir.

6 Q. The clothes you noted appeared to be laying on  
7 the floor in a pattern that suggested a person was  
8 standing up, disrobed, and then stepped out of the  
9 clothes?

10 A. Yes, sir.

11 Q. Did you find that particularly unusual?

12 A. Not unusual.

13 Q. Most people, if they leave their clothes on the  
14 floor, they're going to take the clothes off, leave them  
15 where they fall, and step away from them. Correct?

16 A. Yes, sir.

17 Q. Okay. Let's focus now on the big video  
18 interview. That's the one where we've shown that to the  
19 jury yesterday and then we showed roughly the second  
20 half this morning. Do you remember that?

21 A. Yes, sir.

22 Q. You were there the entire time this video was  
23 displayed to the jury, correct?

24 A. Yes, sir.

25 Q. In fact, you answered some of the prosecutor's

1 questions during the presentation of that video?

2 A. Yes, sir.

3 Q. Okay. So, let's just talk about that. The  
4 total video was about three hours in length, correct?

5 A. Yes, sir.

6 Q. So, there's, basically, at least three hours  
7 depicted on the video that Ms. Dinanno was sitting on  
8 the chair in the little booth?

9 A. Yes, sir.

10 Q. And it's your understanding that by agreement  
11 of the lawyers, some of the portions were excised from  
12 that video?

13 A. Yes, sir.

14 Q. There was some dead time, that sort of thing.  
15 Correct?

16 A. Yes, sir.

17 Q. Let's talk about that room. That is a standard  
18 room to interrogate suspects in, correct?

19 A. Yes, sir.

20 Q. And as a matter of fact, they were built  
21 expressly for that purpose?

22 A. Yes, sir.

23 Q. It's a very small enclosure, right?

24 A. Yes, sir.

25 Q. If you have two policemen and a suspect, they

1 almost touch knee-to-knee, correct?

2 A. If I get close to them, yes, sir, but we have  
3 enough space in between us.

4 Q. You can't sit back and talk like you and I are  
5 doing?

6 A. No, not this distance.

7 Q. Or even across the tables like I might converse  
8 with the prosecutors in the courtroom here, right?

9 A. Right.

10 Q. So, it's a close environment?

11 A. Yes, sir.

12 Q. No windows?

13 A. No windows.

14 Q. It's equipped with audio and video as a matter  
15 of course, correct?

16 A. Yes, sir.

17 Q. All right. Then let's talk about that. The  
18 interview starts at about 9:00 p.m. that night?

19 A. Yes, sir.

20 Q. You had already worked the shift at the rodeo,  
21 correct?

22 A. Yes, sir.

23 Q. What did you do at the rodeo, just briefly?

24 A. Just the park and ride.

25 Q. Park and ride?



1 A. Yes, sir.

2 Q. Working security in the parking lot?

3 A. Yes, sir.

4 Q. Were you out in the sun all day?

5 A. Yes, sir.

6 Q. And then you worked a demanding shift as a case  
7 agent on a complicated homicide, right?

8 A. Yes, sir.

9 Q. It's not unusual for you to work those kind of  
10 long hours as a law enforcement officer, right?

11 A. Exactly.

12 Q. But you'd agree with me that at the end of a  
13 long day like that, it can kind of take something out of  
14 you?

15 A. Yes, sir.

16 Q. And Ms. Dinanno had had a long day, too,  
17 correct?

18 A. Yes, sir.

19 Q. So, everybody, by 9:00 p.m., has already had  
20 kind of a long day, a stressful day?

21 A. Yes, sir.

22 Q. Okay. You asked her a question -- or, I  
23 believe -- no. Yesterday during the interview, the  
24 video presentation process, we stopped the video and the  
25 prosecutor asked you something like: At this point in

1 the video, had Ms. Dinanno said anything indicating the  
2 intruder wanted sex. Do you remember that? And you  
3 said no.

4 A. Exactly.

5 Q. Well, but we know -- at that point we know that  
6 she had said that a person had come into her house and  
7 removed his clothing, correct?

8 A. Yes, sir.

9 Q. So, when a stranger comes into your house and  
10 starts to remove his clothing, one might assume that he  
11 wants some sort of sex, right?

12 A. Yes, sir.

13 Q. And you found it odd that the intruder came  
14 equipped with only a knife, a small knife. Right?

15 A. Yes, sir.

16 Q. Well, some of these people that might do  
17 something like this have sort of a method about them,  
18 don't they?

19 A. I've never worked a serial killer or anything  
20 like that, so I...

21 Q. Or a serial rapist or people like that.

22 A. Yes, sir.

23 Q. Is it unusual -- sometimes criminals that  
24 partake in unusual crimes might think about a method  
25 that they might use to do those things, correct?

1           A.    Yes, sir.

2           Q.    They might not carry around large weapons  
3 because they might not want to get seen or caught with  
4 those weapons, right?

5           A.    Yes, sir.

6           Q.    It's not unheard of for a person to depend on  
7 something he might find and use as a weapon once he gets  
8 in, right?

9           A.    Yes, sir.

10          Q.    At least it's a possibility?

11          A.    Yes, sir.

12          Q.    Right?

13                    There was a couple of discussions about the  
14 fence around the property.  Now, this is a wooden fence,  
15 correct?

16          A.    Yes, sir.

17          Q.    It's an ordinary, like unpainted board fence  
18 about 6 feet high?

19          A.    Yes, sir.

20          Q.    And we talked about how if a person came out  
21 the back door of the house, they would have to either  
22 open a gate or climb over a fence, correct?

23          A.    Yes, sir.

24          Q.    Those were the only two practical ways of  
25 getting out of that backyard assuming that you wanted to

1 go through the back door and then get out of the  
2 backyard, correct?

3 A. Yes, sir.

4 Q. A 6-foot board fence doesn't present an  
5 insurmountable obstacle to an agile man, does it?

6 A. No, sir.

7 Q. You wouldn't even think of using such a fence  
8 for serious security purposes, would you?

9 A. No. More for privacy, probably.

10 Q. Sure. I mean, jails and prisons that you're  
11 familiar with don't have 6-foot board fences for  
12 security, right?

13 A. Yes, sir.

14 Q. Okay. So, a decorative and privacy type fence?

15 A. Yes, sir.

16 Q. So, if a person was moderately agile, they  
17 could have walked through the back door, across the  
18 backyard, and hopped the fence pretty quickly?

19 A. Yes, sir.

20 Q. Could have come in the same way if they wanted  
21 to?

22 A. Yes, sir.

23 Q. All right. Did you inspect the backyard  
24 personally yourself?

25 A. Yes, sir.

1 Q. There's kind of a pedestal next to the fence in  
2 the backyard, right, a Comcast type pedestal?

3 A. You mean from the utility company or --

4 Q. Yeah, something like that.

5 A. I'd have to refresh my memory, but -- I don't  
6 know.

7 Q. You'd have to look at the video to refresh your  
8 memory?

9 A. Yes, sir.

10 Q. Okay. All right. There was also a situation  
11 where it was brought to our attention that Ms. Dinanno  
12 could describe the intruder's clothing better than her  
13 husband's. Remember that?

14 A. Yes, sir.

15 Q. And you think that's kind of odd, right?

16 A. Yes, sir.

17 Q. Well, let's talk about that. You have a wife?

18 A. Yes, sir.

19 Q. How long have you been married to your wife?

20 A. Twenty-two years.

21 Q. Okay. Okay. It's 23 for me.

22 You get to a point where you really don't  
23 look at what your wife is wearing every day as she gets  
24 dressed in the morning, correct?

25 A. If I'm awake, I do. If I'm asleep, no.

1 Q. Can you tell me right now what she's wearing?

2 A. She left before I woke up.

3 Q. Okay. What did she wear yesterday when she  
4 left the house?

5 A. Brown pants and a matching floral blouse.

6 Q. Okay. Do you think the average person notices  
7 things like that so much?

8 A. I would assume they do.

9 Q. Maybe because you're a trained detective, your  
10 eye just focuses on those details, right?

11 MS. HARVEY: Your Honor, asked and  
12 answered.

13 THE COURT: Sustained.

14 Q. (By Mr. Varela) All right. But if a person  
15 confronted you, even for a few minutes in an extremely  
16 traumatic situation, you might focus more on what  
17 they're wearing?

18 A. Ask that again.

19 Q. It might make a greater impression on you, even  
20 in a few-minute period of time, if you're confronted by  
21 a person who's committing trauma on you, correct?

22 A. That's not necessarily a true statement.

23 Q. But it's a possibility, isn't it, that it would  
24 make an indelible impression in your mind?

25 MS. HARVEY: Objection to speculation.

1 THE COURT: Sustained.

2 MR. VARELA: I'll move on, Judge.

3 Q. (By Mr. Varela) Let's talk about the dogs.

4 There's been talk about the dogs. Where were the dogs  
5 when the officers arrived, do you know?

6 A. In the backyard.

7 Q. They were running around in the backyard?

8 A. Yes, sir.

9 Q. How many dogs?

10 A. I believe there was two.

11 Q. There were two dogs. And the dogs were small  
12 dogs?

13 A. Yes, sir.

14 Q. In fact, the biggest of the two dogs was a  
15 small dog, right?

16 A. Yes, sir.

17 Q. So, if an intruder wanted to either come in  
18 through the backyard or cross out through the backyard,  
19 well, he might be concerned about making the dogs bark,  
20 correct?

21 A. Yes, sir.

22 Q. But the dogs were not of the size and strength  
23 that he would be concerned about a serious attack,  
24 right?

25 A. Yes, sir.

1 Q. They were small dogs?

2 A. Yes, sir.

3 Q. So, the dogs wouldn't have presented a physical  
4 obstacle to a determined person who wanted to cross that  
5 backyard and get over the fence, right?

6 A. Yes, sir.

7 Q. All right. We're not talking about pit bulls  
8 and German shepherds and --

9 A. No.

10 Q. Different story there, right?

11 A. Exactly.

12 Q. Okay. All right. Let's talk about evidence of  
13 domestic violence. During the interview that we saw in  
14 the videotape of Ms. Dinanno, you sort of put the idea  
15 out there that, well, maybe this was really in reaction  
16 to domestic violence, right?

17 A. Yes, sir.

18 Q. You wanted to see what she'd say about that?

19 A. Yes, sir.

20 Q. You didn't see any marks on Ms. Dinanno?

21 A. No, sir.

22 Q. No bruises, black eyes, those kinds of things,  
23 correct?

24 A. Correct.

25 Q. In fact, she was emphatic when she told you



1 there was no domestic violence between her and  
2 Mr. Breaux, right?

3 A. Yes, sir.

4 Q. All right. And you also thought it was odd  
5 that Mr. Breaux was purportedly leaving but didn't --  
6 but left his cell phone on the charger, correct?

7 A. And other items.

8 Q. Yeah. Let's talk about the cell phone. That's  
9 kind of an obvious thing, right --

10 A. Yes, sir.

11 Q. -- that you carry with you when you leave your  
12 house.

13 A. Yes, sir.

14 Q. But if you're only making a quick trip to the  
15 store for a can of tomato paste and your phone needs  
16 charging, you might just make that trip and leave your  
17 phone to sit and charge, right?

18 A. These days, I don't think anybody leaves their  
19 cell phone behind.

20 Q. Well, you're a policeman, right?

21 A. Yes, sir.

22 Q. You're on-call 24 hours a day?

23 A. Yes, sir.

24 Q. Your cell phone is your link to the police  
25 department and a lot of other people, right?

1 A. Yes, sir.

2 Q. But the average guy who's off work might not  
3 think about that, right?

4 A. I wouldn't say that would be a correct  
5 statement.

6 Q. But you really don't know what is in  
7 Mr. Breaux's mind when he leaves the cell phone, do you?

8 A. No, sir.

9 Q. Okay. At least you'd allow for the possibility  
10 that that's consistent with a quick trip to the store  
11 for one item, right?

12 A. Yes, sir.

13 Q. All right. There was some confusion, was there  
14 not, between the call slip and the actual content of the  
15 911 call, right?

16 A. Yes, sir.

17 Q. Now, a call slip is a piece of paper that does  
18 what?

19 A. It prints out what was generated during the  
20 call in our dispatch center.

21 Q. And that's what they tell the policeman on his  
22 way to the scene, right?

23 A. Yes, sir.

24 Q. I mean, it's not part of an official report or  
25 that sort of thing, right?

1           A.    Exactly.

2           Q.    It's just what the police department believes  
3 they're going to send their officer to?

4           A.    Yes, sir.

5           Q.    And there was some confusion between the 911  
6 and that call slip as we talked about, right?

7           A.    Yes, sir.

8           Q.    And once you listened to the 911 tape, it's  
9 kind of hard to hear, correct, the first call?

10          A.    Yes, sir.

11          Q.    But it's -- there's no doubt in your mind that  
12 she's telling the dispatcher:  Someone just shot my  
13 husband.  Right?

14          A.    Yes, sir.

15          Q.    In other words, nothing on the 911 tape, having  
16 heard it, leads you to believe that she said:  I shot my  
17 husband or my husband tried to rape me.  Those things  
18 were just wrong, correct?

19          A.    Yes, sir.

20          Q.    All right.  So, that might have created some  
21 initial confusion in somebody's mind, right?

22          A.    Yes, sir.

23          Q.    But subsequent investigation would have cleared  
24 that up?

25          A.    Yes, sir.

1 Q. Talking about cooperation. You have, I guess,  
2 investigated any number of people on suspicion of  
3 homicide, right?

4 A. Yes, sir.

5 Q. How many homicide suspects do you think you've  
6 dealt with? Not necessarily in interview rooms, but  
7 overall face-to-face over the years?

8 A. Hundreds.

9 Q. Hundreds of homicide suspects, correct?

10 A. Yes, sir.

11 Q. All right. And they, I guess, give you varying  
12 degrees of cooperation, right?

13 A. Yes, sir.

14 Q. Some of them will tell you: I ain't saying  
15 nothing. Correct?

16 A. Yes, sir.

17 Q. Take me to jail if you think I'm guilty.

18 A. Yes, sir.

19 Q. Or I want to talk to a lawyer before I talk to  
20 you. Correct?

21 A. Yes, sir.

22 Q. And that response -- both of those responses  
23 are perfectly permissible, right?

24 A. Yes, sir.

25 Q. There's no requirement under the law that

1 anybody talk to a policeman?

2 A. Yes, sir.

3 Q. And you-all are forbidden by law from trying to  
4 coerce a person into talking?

5 A. Yes, sir.

6 Q. And you don't do that, do you?

7 A. No, sir.

8 Q. Okay. So some people cooperate to a greater  
9 extent, right?

10 MS. HARVEY: Your Honor, I'm going to  
11 object to the cooperation of others in homicide  
12 investigations.

13 THE COURT: Overruled.

14 Q. (By Mr. Varela) Some people cooperate to a  
15 greater extent in investigations, right?

16 A. Yes, sir.

17 Q. They tell you things?

18 A. Yes, sir.

19 Q. They show you things?

20 A. Yes, sir.

21 Q. Some people even, like, reenact scenes, that  
22 kind of thing, correct?

23 A. Yes, sir.

24 Q. So, Ms. Dinanno cooperated with this  
25 investigation in several ways, right?

1 A. Yes, sir.

2 Q. And that included cooperating at your personal  
3 request, right?

4 A. Yes, sir.

5 Q. And at the request of certain other officers  
6 working under your direction, right?

7 A. Yes, sir.

8 Q. That would have included she signed a consent  
9 to search the house?

10 A. Yes, sir.

11 Q. Now, a person who owns a home and lives there  
12 is under no obligation to consent to a search by law  
13 enforcement, correct?

14 A. Yes, sir.

15 Q. They can say: I don't think so. I think I'll  
16 make you get a warrant, right?

17 A. Yes, sir.

18 Q. And that's perfectly permissible. You have a  
19 right as an American to do that, right?

20 A. Yes, sir.

21 Q. Now, later on there was a search warrant,  
22 correct?

23 A. Yes, sir.

24 Q. You-all obtained that out of an abundance of  
25 caution, right?

1           A.    To develop more.

2           Q.    Right.  She never came in and said:  I revoke  
3 my consent to search, you can't go in there anymore?

4           A.    Yes, sir.

5           Q.    She gave you -- well, she gave Detective  
6 Reynolds, Mark Reynolds, a pretty detailed audio  
7 statement at the hospital, right?

8           A.    Yes, sir.

9           Q.    She was under no obligation to do that,  
10 correct?

11          A.    She was asked and she provided it, yes, sir.

12          Q.    Oh, sure.

13                    But Detective Reynolds asked:  Would you  
14 please give me a statement, in essence.  Correct?

15          A.    Yes, sir.

16          Q.    She was under no obligation to give any  
17 statement there?

18          A.    Yes, sir.

19          Q.    But she, nevertheless, gave you a -- what, at  
20 least a 20-minute statement?

21          A.    I believe so.

22          Q.    When I say "you," I mean the investigation.

23          A.    Yes, sir.

24          Q.    All right.  And the person of Detective  
25 Reynolds, right?

1           A.    Yes, sir.

2           Q.    Then she sat down later on and gave you a what,  
3 almost a two-hour -- what -- hour and 50-minute,  
4 roughly, videotaped interview, correct?

5           A.    Yes, sir.

6           Q.    When I say hour and 50 minutes, that's the  
7 length of the content, the actual important content,  
8 correct?

9           A.    Yes, sir.

10          Q.    She actually sat in the little room for a lot  
11 longer period of time as we discussed earlier?

12          A.    Yes, sir.

13          Q.    She was still under no obligation to talk to  
14 you-all, right?

15          A.    Yes, sir.

16          Q.    Or give any kind of recorded statement?

17          A.    Exactly.

18          Q.    Okay.  And let's talk about one last area of  
19 cooperation.  At the hospital, she, I guess, did partial  
20 cooperation with the sexual assault examiner nurse,  
21 right?

22          A.    I was under the impression, yes, sir.

23          Q.    She didn't give a complete cooperation, but a  
24 partial?

25          A.    Yes, sir.



1 Q. Lastly, I want to talk about certain documents.  
2 Let's talk about the wills. You found a couple of made  
3 out and signed wills in the home, correct?

4 A. Yes, sir.

5 Q. And they were executed in May of 2008?

6 A. Yes, sir.

7 Q. Which is how long before this shooting  
8 happened?

9 A. Three years.

10 Q. Three years before.

11 You don't know about the existence of any  
12 other wills, whether or not any other wills might have  
13 existed between the two of them prior to the 2008 wills,  
14 right?

15 A. Correct.

16 Q. There may have been wills, there may not; you  
17 just don't know?

18 A. Yes, sir.

19 Q. All right. It is not uncommon for people to  
20 make wills out in the state of Texas, right?

21 A. Yes, sir.

22 Q. In fact, you've done that, haven't you?

23 A. No, I haven't.

24 Q. You have not made out a will?

25 A. No.

1 Q. Okay. And you read the wills, right?

2 A. Yes, sir.

3 Q. There's nothing particularly unusual about  
4 them?

5 A. No, sir.

6 Q. The woman leaves everything to the man, the man  
7 leaves everything to the woman if somebody dies first,  
8 then the son and the stepson, correct?

9 A. Yes.

10 Q. That's kind of a normal state of affairs?

11 A. Yes, sir.

12 Q. All right. Let's see. We've got State Exhibit  
13 135, which is a letter about a lawyer, correct?

14 A. Yes, sir.

15 Q. You don't -- you indicated on direct  
16 examination that you thought "she" -- meaning  
17 Ms. Dinanno -- wrote it, correct? You said it's a  
18 letter she wrote. Do you remember that?

19 A. Yes, sir.

20 Q. You don't know that she wrote it of your own  
21 personal knowledge, do you?

22 A. No, but I believe it was her letter.

23 Q. Since it was found in the house, you think it  
24 was hers?

25 A. Yes, sir.

1 Q. But you don't know of your personal knowledge  
2 that she wrote it?

3 A. Exactly.

4 Q. Okay. Same with the sticky note on Exhibit  
5 133. That's a little sticky note that we talked about?

6 A. Yes.

7 Q. You don't know who wrote that, either, do you?

8 A. No, sir.

9 Q. All right. Let's talk about the house. You  
10 and other officers did a thorough search of the house?

11 A. Yes, sir.

12 Q. Seized certain documents?

13 A. Yes, sir.

14 Q. Did you ever seize any documents that  
15 referenced what you would consider an extremely large  
16 sum of money?

17 A. I don't -- I do not recall.

18 Q. You don't know if you seized any documents that  
19 would have referenced like hundreds of thousands or  
20 millions of dollars, correct?

21 A. Well, we seized some records. I placed them in  
22 property, but I didn't read them. I know there was some  
23 of Mr. Henry's financial statements in there.

24 Q. Okay. Let's talk about -- let's talk about the  
25 house itself. We've seen some pictures of that house

1 admitted into evidence, correct?

2 A. Yes, sir.

3 Q. It appears to be -- I don't know what you'd  
4 call it. Kind of a normal suburban house for this area  
5 of the country, right?

6 A. Yes, sir.

7 Q. You're familiar with all parts of Harris  
8 County, right?

9 A. Yes, sir.

10 Q. There are rich people in places like River Oaks  
11 that live in extremely large and expensive houses,  
12 right?

13 A. Yes, sir.

14 Q. And then there are poor people that live in  
15 sub-standard type houses?

16 A. Yes, sir.

17 Q. This appeared to be kind of in the middle,  
18 right?

19 A. Yes, sir.

20 Q. Kind of a normal size house and yard for a  
21 working-class type of person?

22 A. Yes, sir.

23 Q. Now, when you went in the house, you kind of  
24 observed the interior contents of the house, right?

25 A. Yes, sir.

1 Q. You didn't see a whole lot of extremely  
2 valuable items or things that you might suspect were  
3 extremely valuable, right?

4 A. Exactly.

5 Q. It just appeared that these people weren't  
6 super rich, right?

7 A. Yes, sir.

8 Q. Weren't super poor?

9 A. Yes, sir.

10 Q. They were just kind of like working-class  
11 people, right?

12 A. Yes, sir.

13 MR. VARELA: May I have a moment, Your  
14 Honor?

15 THE COURT: Yes, you may.

16 Q. (By Mr. Varela) You've had a chance to examine  
17 people's financial records before, correct?

18 A. On occasion, yes, sir.

19 Q. And that's in the course of your  
20 investigations?

21 A. Yes, sir.

22 Q. There's nothing particularly suspicious in and  
23 of itself about, let's say, a cash advance on a credit  
24 card or debit card, right?

25 A. No, sir.

1 Q. Sometimes people, if they need cash, just get  
2 cash out of the bank, right?

3 A. Yes, sir.

4 MR. VARELA: Okay. Pass the witness.

5 **REDIRECT EXAMINATION**

6 **BY MS. HARVEY:**

7 Q. We talked about the house being staged and the  
8 scene being staged. What is the -- and it wasn't  
9 completely consistent, but what was the earliest time  
10 that Ms. Dinanno told you that she had started cooking?

11 A. About 1:30.

12 Q. And the dinner that she was making, did that  
13 look like it was being prepared by scratch or out of the  
14 box?

15 A. Because there was a box there and some of it  
16 from scratch. Yes, ma'am.

17 Q. So, when we say from scratch, what are we  
18 talking about, white rice?

19 A. Yes, ma'am.

20 Q. Okay. And there's shrimp, correct?

21 A. Yes, ma'am.

22 Q. But the bulk of the meal is going to be made  
23 out of that Zatarain's box, right?

24 A. Yes, ma'am.

25 Q. Did 1:30 to 3:00 or 3:30 seem like an unusual

1 amount of time to be making dinner out of a box?

2 MR. VARELA: I'm going to object, Your  
3 Honor. He's already said he's not a cooking expert.

4 THE COURT: Sustained.

5 Q. (By Ms. Harvey) Let's talk about the -- oh,  
6 there's wine on the table, right?

7 A. Yes, ma'am.

8 Q. White wine or red wine?

9 A. I don't remember, but I believe it was white.

10 Q. Do you drink wine?

11 A. No, ma'am.

12 Q. What temperature was that wine when you got  
13 there?

14 A. It was room temperature.

15 Q. Let's talk for a second about the damp clothes.  
16 You said that they looked like they had been -- like  
17 someone had slipped off their britches and stepped out  
18 of them, right?

19 A. Yes, ma'am.

20 Q. Did that seem consistent with the story that  
21 Ms. Dinanno was telling you?

22 A. No, ma'am.

23 Q. Why not?

24 A. What Ms. Dinanno had -- I was getting  
25 information and I had been informed that she had --

1 MR. VARELA: Objection to hearsay, Your  
2 Honor.

3 THE COURT: Hearsay as to Ms. Dinanno's  
4 statement?

5 MR. VARELA: The question called for  
6 hearsay. He said he was informed. The question calls  
7 for hearsay.

8 THE COURT: You can testify as to what she  
9 told you.

10 THE WITNESS: Okay.

11 THE COURT: The objection is overruled.

12 Q. (By Ms. Harvey) Based on what she told you.

13 A. She told me that all the clothing had been  
14 thrown in the tub and she grabbed all the clothing,  
15 wrapped it all up, placed it on her husband's head, took  
16 it to the bedroom and dropped it there. And that was  
17 not consistent. The clothing wasn't balled up like she  
18 said. It looked like she had literally just stepped out  
19 of her clothing. And I made sure that they took a  
20 picture of that.

21 Q. Let's talk about -- Mr. Varela asked you about  
22 is it unusual for someone to use what's available at the  
23 scene in order to commit their crime. So, if we --  
24 according to her story, the intruder breaks in with a  
25 little knife, right?



1 A. Yes, ma'am.

2 Q. And he finds a gun?

3 A. Yes, ma'am.

4 Q. Where would he have found that gun?

5 A. Under the bed.

6 Q. And in the timing of her story, how fast would  
7 he have had to find that gun?

8 A. He'd have to have been in there pretty quick  
9 and shoot him pretty quick.

10 Q. And according to the timing of her story, where  
11 would the victim have been at the time that the intruder  
12 is coming in through the back door?

13 A. He should have been near the front door.

14 Q. And when you say "front door" --

15 A. To the residence. Further away from the back  
16 bedroom, according to her statement, as he was leaving  
17 out.

18 Q. As -- oh, we're talking -- you think the victim  
19 should have been -- he should have been on his way out  
20 the door to the truck?

21 A. Yes, ma'am.

22 Q. Okay. But when the victim goes back into that  
23 back bedroom, where would the intruder have been?

24 A. He had to have been outside.

25 Q. So, when the intruder breaks in, how much time

1 does he have in between seeing Mr. Breaux to find that  
2 gun and shoot him?

3 MR. VARELA: Objection. This is all  
4 speculation, Your Honor.

5 THE COURT: Sustained.

6 Q. (By Ms. Harvey) In addition to finding the gun  
7 under the bed, you also find a knife in the bedroom,  
8 right?

9 A. Yes, ma'am.

10 Q. Is there any point in the defendant's story  
11 where our intruder would have found time to go into the  
12 kitchen, find a knife in the lower kitchen cabinet  
13 that's closed?

14 MR. VARELA: Same objection, Your Honor.

15 THE COURT: Overruled.

16 A. Can you state that again?

17 Q. (By Ms. Harvey) According to the defendant's  
18 story, was there any time in which the intruder could  
19 have come out the bedroom, gone into the kitchen, found  
20 that knife in a lower kitchen cabinet that was closed in  
21 order to get it back there on the bed?

22 A. No, he wouldn't have had enough time, according  
23 to her statement.

24 Q. Mr. Varela asked you about the wooden fence  
25 and talked about -- you said that -- that an agile

1 person can scale a 6-foot fence. Is that right?

2 A. Yes, ma'am.

3 Q. How does being in your socks affect that  
4 equation?

5 A. It would -- you wouldn't get the same grip. It  
6 would probably slow you down slightly, but I'm pretty  
7 sure you could jump the fence.

8 Q. And then once you jump the fence, what was on  
9 the -- well, on either side of the fence, for that  
10 matter. What was on the ground on either side of the  
11 fence where the socks would have landed?

12 A. A lot of just debris, leaves, dried grass. It  
13 was March. I mean, everything was still dry and a lot  
14 of dirt back there, I guess, from the dogs where they  
15 leave the -- their trails.

16 Q. Now, inside the house around that dog kennel,  
17 in the entryway of the master bedroom that led out into  
18 the backyard, or anywhere leading towards the closet,  
19 did you-all also see any level of leaves, debris, dried  
20 grass that would have been drug in?

21 A. No, ma'am.

22 Q. Did you pay particular attention to the top of  
23 the fence line to see if there was any disturbance along  
24 the top of the fence?

25 A. Yes, ma'am. I actually joined the Crime Scene

1 Unit and made sure that I pointed out that he take  
2 pictures and video of the fence and how all the vines  
3 and weeds that were growing that were not disturbed.  
4 And also we did the same with the wooden fence door. We  
5 weren't even able to open that.

6 Q. With respect to the 911 call, when she calls,  
7 she's specific that my husband has just been shot,  
8 correct?

9 A. Yes, ma'am.

10 Q. Did that later seem inconsistent with questions  
11 that she asked you regarding the method of her husband's  
12 injuries?

13 A. Yes, ma'am.

14 Q. And how did that seem inconsistent to you?

15 A. Well, she had already advised our dispatch that  
16 her husband had been shot and killed.

17 Q. And then hours later, what kinds of questions  
18 is she asking you?

19 A. She was still telling us that is he alive,  
20 what's going on with him, even though we already knew  
21 that she knew he had been shot and killed.

22 Q. Did she at one point say: I don't know whether  
23 he was shot or stabbed?

24 A. Yes, ma'am.

25 Q. And had she ever mentioned at any point earlier

1 that she thought he might have been stabbed?

2 A. No, ma'am.

3 Q. In the course of your employment as a -- you  
4 know, I think we used to use the word detective and now  
5 we use investigator.

6 A. Yes, ma'am.

7 Q. But in the course of your employment as an  
8 investigator, you have dealt with a number of people who  
9 have shown you different levels of cooperation?

10 A. Yes, ma'am.

11 Q. Of all those who cooperate, do all of them tell  
12 you the truth?

13 A. No, ma'am.

14 Q. The letter that was -- I think we're calling it  
15 a letter. It looks like notes from a -- exchanged with  
16 Richard Alderman, the Channel 13 people's lawyer. What  
17 is it about the content of that letter that makes you  
18 believe that it was written by this defendant and not  
19 someone else?

20 A. Just the way it was worded, I guess. And him  
21 being the breadwinner and she's actually being supported  
22 by him.

23 Q. And then again with respect to the sticky note  
24 on Exhibit 133 -- this is actually the bottom of the  
25 next page, but they're all to the same account. In

1 whose name is this account?

2 A. Marcia Dinanno.

3 Q. So, when the author of the sticky note writes:  
4 No more using my credit card, who does that lead you to  
5 believe the author of the sticky note is?

6 A. Marcia Dinanno.

7 MS. HARVEY: Pass the witness, Your Honor.

8 THE COURT: Mr. Varela.

9 MR. VARELA: Yes.

10 **RECROSS-EXAMINATION**

11 **BY MR. VARELA:**

12 Q. Let's just hit a couple of points. You talked  
13 about how that you assumed from -- well, let me back up.  
14 You sort of recreated this scenario in your mind,  
15 correct?

16 A. No, sir.

17 Q. In other words, you've talked about a timetable  
18 that would have had to have occurred if certain items of  
19 evidence were present, right?

20 A. Yes, sir.

21 Q. And certain representations that were made to  
22 you were true?

23 A. Yes, sir.

24 Q. And you thought that through kind of creating a  
25 scenario in your mind, right?

1           A.    Just putting everything that we had together,  
2 yes, sir.

3           Q.    One of the things you assumed was that the gun  
4 was, in fact, under the bed.  Right?

5           A.    Yes, sir.

6           Q.    Because it was represented to you that that's  
7 where it was normally kept?

8           A.    Yes, sir.

9           Q.    But we don't know on the night of this -- or  
10 the afternoon of this incident that the gun was, in  
11 fact, kept under the bed, do we?

12          A.    Well, the only thing that led us -- led me to  
13 believe that is the only disturbed section of the bed  
14 was where that bed cover was flipped up.  That was the  
15 only disturbed section of the bed.

16          Q.    And if that was flipped up to where someone  
17 retrieved the gun, you don't know who would have flipped  
18 that up, correct?

19          A.    Exactly.

20          Q.    You don't know when that could have been done?

21          A.    Yes, sir.

22          Q.    Mr. Breaux could have flipped that up,  
23 retrieved the gun for some other reason, left it laying  
24 there, and then it could have been found later, right?

25          A.    Yes, sir.

1 Q. We just -- believing it's under the bed when  
2 all of this occurs is kind of an assumption, isn't it?

3 A. Yes, sir.

4 Q. All right. Let's talk about documents. I have  
5 one more question about documents. In your search for  
6 documents, you didn't find any obvious documents that  
7 would have talked about major financial problems, did  
8 you? There were no foreclosure notices, IRS liens,  
9 those kind of papers, correct?

10 A. Correct.

11 Q. All right. Let's talk about the video. As the  
12 video plays, as the, I guess, minutes and hours roll by,  
13 people start kind of losing their patience in there,  
14 don't they?

15 A. Yes, sir.

16 Q. You were pretty calm throughout, weren't you?

17 A. Yes, sir.

18 Q. But I believe it was Deputy Brown that was with  
19 you?

20 A. Yes, sir.

21 Q. He kind of started losing his temper a little  
22 bit towards the end, right?

23 A. Yes, sir.

24 Q. And, of course, Ms. Dinanno starts sort of  
25 losing her temper as well, right?



1           A.    Yes, sir.

2           Q.    In fact, didn't Deputy Brown say:  If I had any  
3 Excedrin, I'd take some myself.  Remember that?

4           A.    Well, I think it was aspirin, but, yeah.

5           Q.    Aspirin, yeah.  Right?

6                        Okay.  So, I guess, things become kind of  
7 more confrontational, less productive, and more  
8 emotional towards of the end of that interview than  
9 towards the beginning, right?

10          A.    I would assume that, yes.  Most of the time,  
11 the interviews do escalate.

12          Q.    Yeah.  And this one kind of did, too, in a way,  
13 didn't it?

14          A.    Yes, sir.

15          Q.    Except you managed to maintain your calm,  
16 right?

17          A.    Yes, sir.

18          Q.    All right.  And to a certain extent, some of  
19 that is to be expected given the stressful situation,  
20 lateness of the hour, and the length of the time spent  
21 in that little room, right?

22          A.    Yes, sir.

23          Q.    Okay.  One more question.  Let's talk about  
24 shooting.  You indicated that a gun fired in a house  
25 makes a very loud sound.

1 A. Yes, sir.

2 Q. And you know this because you have fired a gun  
3 before, a handgun in a house, right?

4 A. Yes, sir.

5 Q. It's really -- it's absolutely deafening, isn't  
6 it?

7 A. Yes, sir.

8 Q. Painful, even?

9 A. Depends on how near you are, yes, sir.

10 Q. But if it's -- it's just an extremely loud,  
11 traumatic event, right?

12 A. Yes, sir.

13 Q. But a gun fired in a house is comparatively  
14 muffled when heard from outside, right?

15 A. If you're outside the house?

16 Q. Right.

17 A. Yes, sir.

18 Q. Have you heard shots fired inside buildings  
19 from outside?

20 A. Yes, sir.

21 Q. And that would be even more likely to be true  
22 if you fired a gun in sort of a room within a room,  
23 correct? By that I mean, like the closet situation,  
24 where you have a bathroom and a closet within the  
25 bathroom. Right?

1           A.    I think it would still be pretty loud.

2           Q.    Outside the house?

3           A.    Inside the house.

4           Q.    Okay.  The smaller the room, the louder the  
5 sound, right?

6           A.    Yes, sir.

7           Q.    In fact, if -- I guess asking you to speculate  
8 if you fired a gun in that little interview room, it  
9 would be just terribly loud, right?

10          A.    Yes, sir.

11          Q.    But if you're inside, let's say, the house on  
12 Cypress that we're talking about here, right, inside the  
13 closet, inside the bathroom, inside the house, if you're  
14 outside the house, that would be a comparatively muffled  
15 shot, right?

16          A.    Yes, sir.

17          Q.    And from a distance away from the house, you  
18 might not even hear it at all?

19          A.    Yes, sir.

20                   MR. VARELA:  Pass the witness.

21                   MS. HARVEY:  No further questions, Judge.

22                   THE COURT:  May this witness be excused?

23                   MS. HARVEY:  Yes, Your Honor.

24                   THE COURT:  Thank you, sir.  You may step  
25 down and you're excused.