

Guilt Innocence Phase
August 11, 2017

1 THE COURT: And Deputy, you have
2 previously been sworn.

3 You may proceed.

4 **DIRECT EXAMINATION**

5 BY MS. BARNETT:

6 Q. Would you please state your name for the
7 record?

8 A. Jennifer Martinez.

9 Q. And do you go by Deputy Martinez?

10 A. Yes, ma'am.

11 Q. All right. Where do you currently work, ma'am?

12 A. Precinct 4 Constable's Office.

13 Q. How long have you worked for Precinct 4
14 Constable's Office?

15 A. Six and a half years.

16 Q. What did you do before that?

17 A. Worked for a mechanic shop.

18 THE COURT: Please be sure to keep your
19 voice up.

20 Q. (BY MS. BARNETT) Why did you decide go into law
21 enforcement?

22 A. A bunch of cops used to come in and get their
23 vehicles worked on, and I asked them questions and it
24 sounded interesting and I went for it.

25 Q. Do you like your job?

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1 A. Love it.

2 Q. What do you do?

3 A. Patrol.

4 Q. What does that mean exactly?

5 A. From conducting traffic stops to going to
6 different calls -- burglaries, robberies, any type of
7 call that law enforcement is required to take.

8 Q. Do you get training to work at the constable's
9 office?

10 A. Yes, ma'am.

11 Q. What kind of training do you get?

12 A. I mean, you have to have at least 40 hours
13 continuing training a year, so anywhere from crime scene
14 classes to Internet crimes, shooting classes, just all
15 depends, a variety of classes that you can take.

16 Q. When you get called to a scene, like a scene of
17 a burglary, what is it that you try to do?

18 A. Look for certain clues. Is there forced entry,
19 is the place ransacked, clothing -- clothing missing, is
20 a jewelry box disturbed, just look for certain clues,
21 look for fingerprints, blood, any type of DNA that could
22 help locate the identification of a suspect and sort of
23 collect any evidence that you can in order to submit for
24 evidence for -- and submit to get the suspect's
25 information.

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1 Q. And are there divisions within the police
2 department of people that handle crime scenes, like take
3 pictures and take blood samples, things like that?

4 A. Yes, ma'am. The Precinct 4 Constable's Office
5 is a little different than the Sheriff's office. With
6 the Constable's office we actually go out there a lot of
7 times on certain cases. With a typical burglary with
8 the Constable's office, we start from start to finish.
9 We do everything ourselves, we lift the prints, we'll
10 actually have the crime scene photographer take the
11 photographs, but we do all our investigations completely
12 ourselves. The sheriff's office is different. They'll
13 actually go out there, take the initial report and then
14 if there's any other things that need to be
15 investigated, that goes to a robbery or burglary
16 division in continuing their investigation. So our --
17 with ours we do start to finish. If it's a burglary of
18 a motor vehicle or anything, we start it, we finish it,
19 and actually file the charges ourselves.

20 Q. Okay. So, the constable -- Precinct 4 is a
21 separate entity from the sheriff's office?

22 A. Correct.

23 Q. At -- the address of 9538 Kelsey Meadows, is
24 that located in Harris County, Texas?

25 A. Yes, ma'am.

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1 Q. And do you -- does Precinct 4 and the sheriff's
2 office have -- both have jurisdiction over that area?

3 A. Yes.

4 Q. All right. Now, during the course of me
5 talking to you about this case, did I ask you to pull up
6 the number of burglaries that you have investigated
7 since you've been at Precinct 4?

8 A. Yes, ma'am.

9 Q. And how many was that?

10 A. I can't remember exactly. I believe it was
11 around 98, I believe I had told you.

12 Q. Okay. And when we say that you have
13 investigated the 98 burglaries, what does that mean?

14 A. That's burglary of residence. It doesn't
15 include buildings and motor vehicles, just residence --
16 investigated them, went on scene for a report or helped
17 supplement another officer; when an officer needed
18 further evidence, I went over there and conducted a
19 follow-up.

20 Q. So would that be the scenes that you have seen
21 of --

22 A. Yes, ma'am.

23 Q. -- of residences that have been burglarized?

24 A. Yes, ma'am.

25 Q. Okay. Now, you, on December 23, 2012, were you

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1 dispatched to 9538 Kelsey Meadows?

2 A. Yes, ma'am.

3 Q. Do you recall, was it during the day or night
4 or do you know? Do you remember?

5 A. Afternoon.

6 Q. Okay. And when you got there, who was there?

7 A. Several family -- I believe several family
8 members of the resident, the brother-in-law of the
9 victim, the sister-in-law of the victim, and then
10 several nieces or niece and other family members. I'm
11 not sure exactly who all was there.

12 Q. Was the EMT there before you?

13 A. The EMT was there.

14 Q. Do you know how long it was that you arrived
15 after the EMT was there?

16 A. Shortly after.

17 Q. Okay. And what would shortly mean?

18 A. A few minutes.

19 Q. Where -- was the EMT already in the house?

20 A. Yes.

21 Q. And what -- do you remember the -- was it two
22 or three or do you remember how many people were there?

23 A. Three, I believe.

24 Q. Okay. And did you have -- were you able to see
25 the first witness that we had today?

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1 A. Yes, ma'am.

2 Q. Did you recognize that witness?

3 A. Today, did I recognize her from being on the
4 scene?

5 Q. Yeah.

6 A. No, ma'am.

7 Q. So, this was back in 2012?

8 A. Almost five years ago.

9 Q. Do you remember if the person -- so, what was
10 the EMT doing when you came in, if you remember?

11 A. They were standing over the victim and they
12 pronounced him deceased.

13 Q. All right. So when you say victim, we're
14 talking about the --

15 A. Jaime.

16 Q. Jaime Melgar, the man that was in the closet?

17 A. Yes, ma'am.

18 Q. Did you ever see anybody, any dealings with the
19 defendant, the woman that was there?

20 A. I believe the sister-in-law was in the bathroom
21 with Sandra.

22 Q. Okay. All right.

23 A. And after I arrived, she was escorted out or
24 told to leave.

25 Q. The sister or the sister-in-law?

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1 A. Yes. She did end up leaving and go stand
2 outside.

3 Q. Now, when you -- were you with another -- were
4 you alone or with another officer?

5 A. There was other officers that arrived on scene
6 with me that were clearing the residence, making sure
7 the suspects were still not there.

8 Q. Okay. And were there any suspects there?

9 A. No.

10 Q. Okay. So tell us what you saw when you got
11 there.

12 A. EMS on scene. I saw Jaime in the closet,
13 looked like he had phone cords wrapped around his
14 ankles, rope lying on his chest, he had several stab
15 wounds to his abdomen, chest area, looked like his
16 throat was possibly slit. There was two chairs next to
17 the bed. One was like a wooden chair and the other was,
18 like, a medical type chair, had blood on it. There was
19 several items scattered across the bed, like a purse,
20 credit cards, whatnot. The bedroom did have several
21 drawers that were opened, slightly opened, the clothes
22 did not seem hassled or pulled out, or anything. They
23 were neatly folded in there. In the master bedroom --
24 that was the master bedroom -- in the master bathroom
25 there was a cloth chair, several torn cloth pieces on

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1 the floor, the bathtub was halfway full of water with a
2 butcher knife and some clothing in there.

3 Sandra was by the toilet, appeared to be
4 crying, but she did not have tears. She was
5 hyperventilating, I guess really nervous.

6 MR. SECREST: Excuse me, Your Honor, can
7 we ask that we not have narrative testimony.

8 THE COURT: Sustained. Question and
9 answer, please.

10 Q. (BY MS. BARNETT) In the bathroom you saw the
11 defendant there. She was crying but didn't have -- you
12 didn't see any tears?

13 A. Yes, ma'am.

14 Q. Was that significant to you?

15 A. Yes, it was.

16 Q. In what way?

17 A. Well, I mean, if I would think that if
18 something tragic like that happened or, you know, had
19 been tied up in a closet and here I am crying, that you
20 would have tears come out of your eyes, but she was
21 panicking and out of breath and everything. All right.
22 I was trying to calm her down to get the story of what
23 had happened.

24 Q. Well, do you know if she was panicking, or do
25 you know if she was acting like she was panicking? Do

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1 you know the difference?

2 A. I don't know. I mean --

3 Q. Okay.

4 A. To me it looked like she was acting like she
5 was panicking, but I don't know. I mean I'm not --

6 Q. Okay. Well --

7 A. -- qualified to say.

8 Q. Of course. But you're there for an
9 investigative purpose, are you not?

10 A. Uh-uh, yes.

11 Q. Okay. So, when you -- so, what kind of call
12 were you dispatched to?

13 A. Female tied up in a closet, one possibly --
14 male possibly dead.

15 Q. So?

16 A. A home invasion-type call is what it was.

17 Q. That's what I am trying -- does that mean to
18 you that somebody else besides those two inhabitants of
19 the home, somebody else invaded the home?

20 A. Correct.

21 Q. So, you're treating this as a burglary, I
22 assume?

23 A. Home invasion, burglary, yes.

24 Q. What was your -- so having investigated the
25 number of burglaries that you have, what did you think

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1 about the house and the state that it was in?

2 A. Well, I just found it odd that the clothes were
3 still folded in the closet -- I mean in the drawers. I
4 mean, the house was unkept but it wasn't -- it just
5 seemed to be that the drawers were slightly open. It
6 didn't look like a typical burglary.

7 Q. All right, one that you had investigated?

8 A. Yes, ma'am.

9 Q. Were there things there that are typically
10 taken in a burglary that were still there?

11 A. Jewelry.

12 Q. Okay. All right. Now, when -- did you find --
13 did you have an opportunity to meet with the defendant?

14 A. Yes.

15 Q. And how? What way? What happened?

16 A. In the bathroom, where she was by the toilet
17 and I asked her what had happened and she said that she
18 didn't remember and then she said that she was taking a
19 bath with her husband, Jaime, and the dogs were barking
20 so he got out of the bathroom to go put the dogs up, and
21 that's the last thing she remembers. That she commonly
22 has blackouts and seizures, and she doesn't remember
23 anything else after that point.

24 Q. Let me slow down for a moment.

25 MS. BARNETT: May I approach the flip

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1 chart?

2 THE COURT: Yes, you may.

3 Q. (BY MS. BARNETT) So, she -- all right. Where
4 were you when, if you remember, when she was telling her
5 story?

6 A. I believe it was in the restroom.

7 Q. Okay. So her first statement was -- to you was
8 that she doesn't remember? Is that --

9 A. Yes.

10 Q. Now, is that in response to a question that you
11 asked?

12 A. I asked her what had happened.

13 Q. Okay. And she just said, I don't remember?

14 A. Yes, ma'am.

15 Q. Okay. Then --

16 A. But she was excited, or you know, freaking out,
17 I guess to -- but she was crying and appeared, you know,
18 basically she was upset.

19 Q. Okay. All right. And --

20 A. That's when I was trying to calm her down and
21 told her she has to remember what happened, any details.

22 Q. And so, what did she come up with after that?

23 A. That's whenever she said the last thing she
24 remembers is her and her husband were in the bathtub
25 taking a bath, the dogs were barking, Jaime got out of

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1 the bathtub to put the dogs away --

2 Q. Hang on. She can't write that fast.

3 The last thing she remembers is what?

4 A. Her and Jaime were taking a bath.

5 Q. Okay.

6 A. The dogs were barking.

7 Q. Okay.

8 A. So, Jaime got out of the bathtub to put the
9 dogs up.

10 Q. Uh-huh.

11 A. And that's the last thing she remembers.

12 Q. That's the last thing she remembers is Jaime
13 getting out of the tub and putting the dogs up. Did --
14 when she said that the dogs were barking, was it your
15 understanding that she could hear the dogs barking?

16 A. Yes.

17 Q. Did she tell you where the dogs were?

18 A. No. I believe they were running around the
19 house. I think that they have a little thing that
20 blocks off the doorway, where they can't go because they
21 were there when we responded on the scene.

22 Q. Were they in the study?

23 A. They may have been in the study. I'm not
24 exactly sure. I just remember hearing the dogs bark.

25 Q. Do you remember how many dogs there were there?

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1 A. I don't remember exactly.

2 Q. Okay. And so, after she tells you that story,
3 what happens after that?

4 A. We bring her in the living room to be evaluated
5 by EMS.

6 Q. And one thing I also want to -- after she tells
7 you that Jaime got out of the tub to put the dogs out,
8 does she make another statement after that? Does she?
9 Does she tell you she doesn't remember anything after
10 that point?

11 MR. SECREST: Well, who's going to testify
12 here, the prosecutor or the witness?

13 THE COURT: What's your legal objection?

14 MR. SECREST: She's leading the witness.

15 THE COURT: Sustained.

16 Q. (BY MS. BARNETT) Did she say -- after she said
17 Jaime got out of the tub to put the dogs up, did she say
18 anything else after that?

19 A. That that's all she remembered.

20 MS. BARNETT: May I approach the witness?

21 THE COURT: Yes, ma'am.

22 Q. (BY MS. BARNETT) Would it help you if I gave
23 you your offense report to refresh your memory?

24 A. That's fine. Well, I said that, and you didn't
25 write it up there.

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1 Q. My fault.

2 A. I did say it several times.

3 Q. Okay. Sorry.

4 THE COURT: All right. One at a time.

5 Q. (BY MS. BARNETT) All right. So, what was the
6 last thing she said to you on this part?

7 A. That that's the last thing she remembers.

8 Q. I'll start paying closer attention.

9 A. It's okay.

10 Q. I think you just testified that she went to a
11 different area in the house?

12 A. Yes, to the living room.

13 Q. Okay. All right. What happened there?

14 A. Oh, let me backtrack. Before she went to the
15 living room, she needed to use the restroom. She
16 complained of having diarrhea. And after that we ended
17 up moving her to the living room, where EMS could
18 evaluate her in a bigger area, where they could tend to
19 her.

20 Q. Now, when she went to the restroom, did you
21 escort her to the bathroom?

22 A. Yes. No. We were already in the restroom
23 right there.

24 Q. All right. Where the toilet was.

25 A. Correct, the first time she was in the

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1 restroom. EMS checked her out, this time in the living
2 room and she ended up needing to use the restroom again
3 and I escorted her the second time to the secondary
4 bathroom in the house and watched her.

5 Q. Were you in there with her?

6 A. Yes, ma'am.

7 Q. And so did she --

8 A. Make sure she didn't wash her hands. She did
9 slightly use water, did not use soap. Very minimal
10 water was used.

11 Q. And you're trying to protect the hands so they
12 don't do anything.

13 A. For any evidence.

14 Q. All right. So -- but when she went -- when she
15 complained of diarrhea and went into the toilet, were
16 you inside the toilet with her?

17 A. In the bathroom, yes, ma'am.

18 Q. And did she have diarrhea?

19 A. Well, she complained of it. I didn't look in
20 the toilet.

21 Q. And that happened on two occasions?

22 A. Three occasions, she went to the restroom.

23 Q. And do you recall how long she was in the
24 restroom?

25 A. The first time it was several minutes and the

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1 second time was a little bit faster. I don't remember
2 how long the third time was.

3 Q. And just to clarify, so the toilet in that
4 bathroom is just the toilet in one room and you can shut
5 the door?

6 A. I can't remember if it had a shower. I
7 remember it had a sink, but I can't remember if it had a
8 shower or not.

9 MS. BARNETT: Your Honor, may I approach
10 the witness?

11 THE COURT: You may.

12 Q. (BY MS. BARNETT) I'm going to show you what's
13 been introduced into evidence as State's Exhibit
14 No. 311. Does that look familiar to you?

15 A. If it had a sink on this side, possibly.

16 Q. Was this in the master bathroom that you were
17 in?

18 A. The first time, yes. The second time, no.

19 Q. Oh, so, you went to a different bathroom?

20 A. Yes.

21 Q. I'm sorry. I apologize. I didn't understand
22 that.

23 Okay. So, you're in the toilet with her
24 when she goes to the -- claims the diarrhea; is that
25 right?

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1 A. Yes.

2 Q. Okay. So, then she goes to the living room?

3 A. Yes.

4 Q. What happens there?

5 A. EMS checks her out. She complains of needing
6 to use the restroom. That's when I escorted her to the
7 secondary bathroom.

8 Q. Okay. Did -- what was -- were you there to
9 interrogate her, or what was your position there?

10 A. I was just there to take the initial report.
11 Any time that there's that extent of a scene or crime,
12 we call for homicide detectives to come out there. So,
13 I'm just there to take the basic report. I came, I saw,
14 write it down, and, you know, just ask preliminary
15 questions, and go into depth. That's what the
16 investigators are there for.

17 Q. Okay. So, you're trying to prevent her from
18 washing her hands so they can collect evidence. Did you
19 also look around the scene?

20 A. Well, I mean, initially yes, I did look around
21 the scene. After that I didn't. I just -- I remained
22 there, but I did not go find anything. That's for
23 homicide to do. I did not want to trample over or
24 tamper with any evidence. That's their job.

25 Q. Did you get --

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1 A. After, she did use the restroom, we did bag her
2 her hands. That's standard procedure.

3 Q. Okay. Did you make any notations about her
4 wrists or her ankles?

5 A. Whenever she was on the couch being checked out
6 by EMS, she did show us -- we asked to see her wrists
7 and her ankles; and there was no markings, no redness,
8 no indentions or anything. She immediately said that
9 she had circulatory issues.

10 Q. All right. Would you have expected or did you
11 know about what her story was about being in the closet
12 and being tied and all that? Did you know anything
13 about that?

14 A. Yes, ma'am.

15 Q. Okay. When did she tell you that part?

16 A. Whenever I seen her in the bathroom.

17 Q. Okay. So, is that in addition to what she's
18 already told you that she doesn't remember anything up
19 to that?

20 A. Yes.

21 Q. Okay. So how did that come about, the second
22 addition to the statement?

23 A. Well, whenever I walked in, it was -- the call
24 was that she was tied up -- she was tied up. Whenever I
25 walked in, she was already free and apparently the

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1 sister-in-law had untied her. I don't remember the
2 conversation about her getting untied and all that.

3 Q. All right. But you knew about it?

4 A. Yes.

5 Q. And that's why you looked at her wrists and her
6 ankles?

7 A. Yes, I do know that --

8 MR. SECREST: Excuse me, asked and
9 answered.

10 THE COURT: Rephrase your question.

11 Q. (BY MS. BARNETT) You asked what?

12 A. Not that I asked. I had seen --

13 MR. SECREST: Excuse me, I would ask that
14 the question be asked before she can answer it.

15 THE COURT: Sustained.

16 Q. (BY MS. BARNETT) Okay. So did you ask any
17 questions about what her story was to anybody?

18 A. I don't remember talking to the sister-in-law
19 about -- I know that the sister-in-law did find her tied
20 up, and she was tied up with a cloth material, like a
21 robe, tie robe, but I don't remember any distinct
22 conversations between me and her.

23 Q. Okay. But that was -- but you did put that in
24 your report that she didn't have markings on her?

25 A. I did put that.

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1 Q. On her wrists?

2 A. Yes. I seen her wrists and her ankles, and she
3 did not have any markings.

4 Q. Okay. Did you ask her about whether or not the
5 doors were locked?

6 A. I did.

7 Q. And what did she say?

8 A. She said that the doors were locked, that she
9 did not put the alarm, but it's common for her not to
10 set her alarm.

11 Q. Did you notice anything, any cleaning materials
12 in there?

13 A. In the kitchen, or back toward the dining room
14 area there was a bucket which smelled like Clorox, a
15 real strong odor, and a mop and then there was little
16 strips of pieces of paper around the whole house and in
17 the living room there was a vacuum cleaner with the
18 shredded paper in the vacuum cleaner.

19 Q. All right. When you said that there was a
20 smell of Clorox, did you -- where did you smell that?

21 A. Coming from the bucket.

22 Q. Okay.

23 A. I was standing maybe two feet away from it and
24 could smell the aroma of Clorox or bleach. I'm assuming
25 it was Clorox, you know, just that smell.

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1 Q. Like a cleaning material-type smell?

2 A. Yes.

3 Q. Could you smell that in other parts of the
4 house or just in the area where the mop and the bucket
5 were?

6 A. It was just in that area.

7 Q. Okay. Did -- did she ever mention her husband
8 during the time that she was with you?

9 A. No. She never once asked how he was doing.

10 Q. Okay. Was it fairly obvious that he was dead?

11 A. Yes.

12 Q. Would that be somebody that you would go to and
13 check their pulse?

14 MR. SECREST: Objection, improper
15 foundation, speculation.

16 THE COURT: Sustained.

17 Q. (BY MS. BARNETT) Did other -- did other
18 detectives arrive on the scene?

19 A. Yes.

20 Q. And do you remember about how many detectives
21 arrived on the scene?

22 A. I don't remember. I know there were several.

23 Q. Okay. Now, how long -- do you recall how long
24 that you stayed at the scene?

25 A. Til the following morning, I believe around

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1 8:00 o'clock that morning or 9:00. I'm not exactly sure
2 but I know early morning hours the following day.

3 Q. All right. And you were there for that length
4 of time to do what additional things?

5 A. To help secure the scene and if the detectives
6 needed any more information, provide them with the
7 information.

8 Q. Okay. Now, do you have an opinion as to the
9 way that the house was and based on your training and
10 experience that there was actually a burglary that took
11 place there?

12 A. It did not look like there was a burglary that
13 took place.

14 Q. Why do you think that?

15 A. There was no forced entry. I guess everything,
16 even though the drawers were open, everything was still
17 folded. It didn't seem like there was any items stolen,
18 like usually TVs, anything that is easily to carry out
19 and easy to, you know, sell, everything was still there.
20 It didn't seem like anything of value was taken.

21 Q. Okay. Is a bicycle something that's valuable
22 to take?

23 A. To the eye of beholder, I guess.

24 Q. All right. Electronics?

25 A. Yes, ma'am.

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1 Q. Jewelry?

2 A. Yes, ma'am.

3 Q. Things like that.

4 Did Sandra, ever, Sandra, the defendant
5 ever point out any items that were stolen?

6 A. No.

7 Q. Did she ever show you or talk about any items
8 that were stolen?

9 A. No.

10 Q. Did she ever look around for items that were
11 stolen?

12 A. No.

13 Q. What was her emotion like?

14 A. Whenever I first arrived she was upset, and
15 after calming her down and with EMS and everything, she
16 calmed down and answered the questions and then she
17 ended up being escorted to the vehicle later on to be
18 transported for further investigation. So I didn't
19 really spend too much time with her after that.

20 MS. BARNETT: Thank you, pass the witness.

21 THE COURT: Cross-examination?

22 MR. SECREST: Thank you, Your Honor.

23 **CROSS-EXAMINATION**

24 BY MR. SECREST:

25 Q. Deputy Martinez, how are you?

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1 A. Fine. How are you doing?

2 Q. I'm swell. Have we ever met before?

3 A. No, sir.

4 Q. Okay. I just have a few questions for you.

5 Let's talk about the essential nature of
6 an offense report. Is it a fact that it's imperative in
7 order to conduct an objective, neutral, comprehensive
8 investigation that you document what you see, what you
9 learn of significance in the offense report?

10 A. Yes, sir.

11 Q. Would you agree with me, too, that it is
12 essential that you write that report as soon after the
13 events as you can while those events are fresh in your
14 mind?

15 A. Yes, sir.

16 Q. In fact is there a requirement that offense
17 reports be timely submitted to the supervisor after you
18 make a crime scene?

19 A. Yes, sir.

20 Q. Okay. Did you do that in this case?

21 A. Yes.

22 Q. Did you prepare any rough notes?

23 A. No.

24 Q. I've seen your typewritten offense report, but
25 obviously you prepared that at some other location?

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1 A. No. That was actually on scene in my patrol
2 vehicle.

3 Q. So you were able to type notes?

4 A. And I completed my report while I was there.

5 Q. So that was done there at the scene?

6 A. Yes, sir.

7 Q. I also saw, didn't you write offense reports
8 for some of the other officers as well?

9 A. I did not write an offense report for them.
10 They write their own. It's supplemented under my case
11 number.

12 Q. Okay. That's why I kept seeing your name.
13 That's fine.

14 So, when you arrived at the scene, you
15 immediately go into the house and you find the deceased
16 and, just for clarity purposes, it's not Jaime. It's
17 Jaime.

18 A. Okay.

19 Q. That's Jaime Melgar and he's dead in the
20 closet, correct?

21 A. Yes, sir.

22 Q. And that's where your attention is initially
23 focused?

24 A. I secure the scene and, yes, I do see him and
25 then I go to Sandra.

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1 Q. Okay. And what leads to you Sandra?

2 A. Checking on the other victim in the house.

3 Q. Okay. And so the other victim of the house is
4 Sandra, and tell us what -- where she is physically
5 located when you first see her.

6 A. By the toilet in the master bathroom.

7 Q. Okay. So, is she by herself or is she with
8 someone else?

9 A. I believe she was with her sister-in-law.

10 Q. Okay. And so, are you basically talking to
11 Sandra prior to the time that the EMS checks her out
12 later in the living room?

13 A. Yes.

14 Q. I want to get our sequence together.

15 So as I understand it, you find Sandra --
16 and this is Sandra Melgar. Do you recall her?

17 A. Yes.

18 Q. You find Sandra Melgar, and she's basically
19 lying down close to the commode in the master bathroom?

20 A. Sitting there, yes, sir.

21 Q. Is she sitting on the commode or sitting on the
22 chair?

23 A. I can't remember exactly. I know she wasn't
24 actually on the toilet, but I believe -- I can't -- I
25 just know that she was close to the toilet.

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1 Q. Was she sitting or was she lying on the floor?
2 A. I believe she was sitting there.
3 Q. Okay.
4 A. She was not lying down.
5 Q. Okay. Have you looked -- do you have a copy of
6 the offense report there?
7 A. Yes, sir.
8 Q. Look at page 5. It's seven pages, is it not?
9 A. Yes, sir.
10 Q. Look at page 5. Let's go to the last
11 paragraph.
12 A. I put lying next to the toilet.
13 Q. In your report, when your memory was fresh,
14 that she was in the master bathroom laying next to the
15 toilet, crying, fair statement?
16 A. If that is what I put.
17 Q. Do you want to retract that, or does that seem
18 to be an accurate reflection of what you saw?
19 A. I just know she was in the bathroom next to the
20 toilet. Honestly, I can't remember lying there or
21 sitting there.
22 Q. All right. That's fair. You would agree with
23 me, though, it's human nature that probably your memory
24 back in 2012 was a little more acute than it is in 2017?
25 A. With something that's not significant, yes.

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1 Q. Okay. But those things that are significant,
2 you write down in your offense report, do you not?

3 A. Yes.

4 Q. And you wrote down that she was laying down
5 next to the toilet crying. No doubt about that?

6 A. Yes.

7 Q. And I've looked through your thing, I've looked
8 through your report. I don't see anything about the
9 absence of tears.

10 A. Our report is to refresh our memory on things.
11 I do remember that she was crying. Like I said, she was
12 upset, but I know I did not see tears.

13 Q. And I know you didn't put it in your report,
14 fair statement?

15 A. That's fair.

16 Q. Okay. Do you find that significant that she,
17 and according to your testimony, your version of events
18 today, do you find it significant that there were no
19 tears?

20 A. That I didn't write it in my report or that she
21 did not have tears?

22 Q. Let me ask the question again. Did you find it
23 significant that when she was crying, according to your
24 version today, that she didn't have tears. Did you find
25 that -- is that a significant event?

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1 A. I feel like it was.

2 Q. Then why didn't you put it in your offense
3 report?

4 A. Looking back, I should have. I was fairly -- I
5 had been an officer for a year and a half. As time goes
6 on, after six and a half years, you know, now on certain
7 cases, you live and learn, I would add that to my
8 report.

9 Q. When did you have the first memory of this
10 alleged no tears when you met with the prosecutors?

11 A. No. That day on scene, I was telling the
12 homicide investigators that she didn't have tears and I
13 found that strange.

14 Q. Were you aware of the fact that homicide
15 investigator's report don't have anything in there
16 documenting that? You can't speak to their report,
17 right?

18 A. Correct.

19 Q. Let me ask you this, that when you saw her
20 there prior to the time that she was assessed by the EMS
21 folks in the living room, what clothing did she have on?

22 A. She had a satin nightgown, top and black
23 pant -- I'm sorry not black, just regular blue jean
24 pants and pink and white socks.

25 Q. Okay. Now, as I understand it, Ms. Barnett has

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1 written down a couple of things as you testified. It
2 seems that initially when you were trying to find out
3 from Ms. Melgar what happened, that she wasn't much help
4 to you, fair statement?

5 A. Fair.

6 Q. And is it fair to say that she wasn't much help
7 because you had to tell her to slow down, you couldn't
8 understand what she was trying to communicate to you,
9 fair statement?

10 A. At first.

11 Q. Okay. I'm saying it changes. I get it, but
12 early on when you first tried to engage her in a
13 conversation, she was very upset, fair statement?

14 A. Yes.

15 Q. And she was talking so fast, you really
16 couldn't understand her, fair statement?

17 A. I don't even know if she was talking fast.

18 Q. You don't --

19 A. I just know that she was upset and it wasn't
20 coming out and she needed to be calmed down before she
21 could think clearly and tell me what happened.

22 Q. So, when she was trying to communicate to you,
23 she was obviously very upset, she wasn't calm, and you
24 really couldn't understand what she was trying to tell
25 you; is that fair?

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1 A. Fair enough.

2 Q. And so initially when she's in that state, you
3 get a little bit of information and you tell her, calm
4 down, calm down. I need to -- you need to -- and you
5 tell her, you need to remember, calm down, and chill
6 out. I don't know if you told her to chill out, but
7 that's basically what you're trying to suggest, correct?

8 A. Yes.

9 Q. And then as she chilled out and you asked her
10 questions, then she was able to provide more information
11 to you, fair statement?

12 A. Once she calmed down, yes.

13 Q. Once she calmed down, she was able to provide
14 more information?

15 A. Yes.

16 Q. I'm going to show you a photograph, but we're
17 having technical difficulties. So I'll come back to
18 that.

19 Okay. So, now, she has to use the
20 restroom as I understand it while she's in the master
21 bedroom -- I mean, master bathroom?

22 A. Yes.

23 Q. Okay. And do you kind of scoop the family,
24 Carmen Maria Melgar, try to get her to leave?

25 A. I believe they had already left at that time.

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1 Q. Or, excuse me --

2 A. When I first got there, I believe they left.

3 Q. Okay. So basically they were told to leave?

4 A. I can't remember.

5 MS. SECREST: Your Honor, if I may
6 interrupt. I can see that the publish is on the correct
7 function. It's actually a photograph showing on this.
8 It's not sending to the televisions.

9 Q. (BY MR. SECREST) While we're holding there,
10 Deputy Martinez, we have to slow the process, how many
11 times have you been to court to testify on behalf of the
12 defendant?

13 A. None. This defendant, correct?

14 Q. No, listen to the question. How many -- how
15 many times have you been to court to testify?

16 A. Twice.

17 Q. Okay. And both times it's for the State?

18 A. Yes.

19 Q. Let me ask you this: When you were at the
20 scene, initially you're with Ms. Melgar in the bathroom
21 area, correct?

22 A. Yes, sir.

23 Q. And then you escort her to the living room?

24 A. Yes.

25 Q. Now, is she then in the process of calming

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1 down, is she becoming more understandable, were you able
2 to comprehend better what it is she is trying to say?

3 A. Yes.

4 Q. Is that fair?

5 A. Yes.

6 Q. And then where do you -- where is she in the
7 living room when this is taking place?

8 A. On the sofa.

9 Q. Okay. And where are the EMS folks?

10 A. In the living room.

11 Q. Okay. Are they basically with you or are they
12 doing something else or what's going on? Are y'all
13 working together?

14 A. They're doing their standard procedure.

15 Q. And what is their standard procedure as you
16 understand it?

17 A. Taking her vitals, making sure her blood
18 pressure is good.

19 Q. Okay. So that's what they're doing?

20 A. Yes.

21 Q. And then there's a period time -- there's a
22 period of time then when you all check, as I understand
23 it, she said she had been tied up, right?

24 A. Yes.

25 Q. It's your understanding that she had been cut

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1 loose?

2 A. Yes.

3 Q. Do you -- did you know what it was that she was
4 tied up with?

5 A. Looked like a robe, a cloth robe, where you tie
6 your -- tie the robe. It's a piece of cloth.

7 Q. Okay. Well, that's what I want to clarify.
8 We're talking about a piece of cloth. We're not talking
9 about wire, correct?

10 A. Correct.

11 Q. We're not talking about some kind of rope that
12 has some kind of graded material. We're not talking
13 about that, are we?

14 A. No.

15 Q. But in any event when you looked at her arms,
16 are you telling us there were no red marks anywhere?
17 That's your memory?

18 A. That I can remember, no.

19 Q. And let me ask you about her ankles. Did you
20 as well as EMS look at her ankles?

21 A. I can't say that I remember looking at -- I
22 don't -- I know for a fact on that day we checked out
23 her wrists. I believe -- I don't remember checking her
24 ankles. I don't remember checking her ankles.

25 Q. Do you remember EMS checking her ankles?

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1 A. I don't remember.

2 Q. So, basically while you're in her -- Sandra's
3 presence, Ms. Melgar's presence and the EMS were there,
4 you don't have any memory of her ankles being checked,
5 fair statement?

6 A. If it's not in my report, no. Fair statement.

7 Q. Okay. And let me ask you this: In any event
8 when Sandy was in the presence of you and when she was
9 in the presence of the EMS folks, she had a black robe
10 and she had, like, a nighty, a pair of blue jeans and a
11 pair of socks?

12 A. Right.

13 Q. Fair statement?

14 A. Uh-huh.

15 Q. Now, are you trying to tell our jury that Sandy
16 Melgar was feigning or faking having diarrhea?

17 A. I never seen -- I didn't look in the toilet, I
18 mean, but she complained of having diarrhea. She did
19 have to go the restroom three times.

20 Q. Okay. But my point is, are you saying that in
21 fact she was faking having to go to potty?

22 A. I don't think she was faking it. I believe she
23 needed to go to the restroom.

24 Q. Okay. And when you took her to the restroom --
25 in fact in your report you used the word allowed -- when

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1 you allowed her to use her own toilet, you made sure
2 that you were in her presence when she did her, quote,
3 unquote, business, right?

4 A. Yes, sir.

5 Q. All right. Now, I want to ask you about this
6 washing the hands. You're not trying to suggest to the
7 jury that she was trying to get evidence off her hands,
8 are you?

9 A. No.

10 Q. What you're trying to tell the jury, if I
11 understand it -- correct me if I get this wrong -- is
12 that proper police procedure is that you want to
13 minimize any kind of activity with the hands to preserve
14 them and so when she naturally went to wash her hands
15 after having a bowel movement, you said, no, no, no, you
16 can't -- don't use water and then she followed what you
17 wanted her to do?

18 A. Yes.

19 Q. Okay. Very little water had been used and no
20 soap. Okay. And so then, shortly thereafter, her hands
21 were bagged?

22 A. Yes, sir.

23 Q. Okay. Now, based upon your experience, I
24 believe it was 98 burglary scenes?

25 A. Something like that.

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1 Q. Over what period of time did this happen?

2 A. Six and a half years.

3 Q. Over six and a half years. How many of those
4 dealt with the actual killing of a human being?

5 A. Zero.

6 Q. And you know just based upon your training at
7 the academy that if you go into someone's home and
8 burglarize it or go into someone's home and rob that
9 person, and in the process thereof you murder that
10 person, what crime is that?

11 A. Homicide.

12 Q. How about capital murder, fair?

13 A. Fair.

14 Q. And capital murder, if you murder somebody in a
15 home invasion robbery and you take out somebody in that
16 house, that's called death penalty case, is it not?

17 A. Yes.

18 Q. Okay. Now, you mentioned that you -- there was
19 no forced entry, right?

20 A. Correct.

21 Q. And where do you get that information from?

22 A. We saw that there was no forced entry and
23 during the investigation whenever I think Deputy
24 Carpenter was taking photographs of the residence, I
25 went around with him while he took photographs of the

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1 doors and windows and everything and saw that for
2 myself.

3 Q. Got it. So we're all on the same page, no
4 forced entry because the front door had not been
5 penetrated, fair statement?

6 A. Yes.

7 Q. The back door had not been penetrated, fair
8 statement?

9 A. Yes.

10 Q. None of the windows had been penetrated, right?

11 A. Yes.

12 Q. What about the garage door, was it open or
13 closed when you arrived at that location in the
14 afternoon hours of December 23, 2012?

15 A. I believe it was open.

16 Q. Okay. And tell our jury about the inspection
17 that you conducted of the interior door of the garage
18 that leads into the house.

19 A. I can't remember.

20 Q. So it wasn't of any consequence to you?

21 A. What's your question again?

22 Q. The interior door of the residence wasn't of
23 any consequence to you?

24 A. There was no forced entries, so.

25 Q. So no forced entry into what?

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1 A. Any and all doors were secured or all the doors
2 didn't have forced entry.

3 Q. Let's be clear here. What doors are you
4 talking about?

5 It's an easy question: What door are you
6 talking, are you talking about front door, right?

7 A. Front door, back door. Like I said, I went
8 around with him. I mean, I can't remember, the side --
9 whatever door that you're claiming, I can't remember
10 that door.

11 Q. Okay. So, when you're saying there was no
12 forced entry, that's based upon the examination of the
13 front door, the back door and the windows, right?

14 A. That's fair.

15 Q. Fair. I want to be fair with you.

16 Look here for the record -- for the record
17 what exhibit might this be?

18 MS. SECREST: This is Exhibit 1944.

19 Q. (BY MR. SECREST) 1944. So, this is a
20 photograph. Can you tell that that's Sandra Melgar --

21 A. Yes, sir.

22 Q. -- Deputy Martinez?

23 A. Yes, sir.

24 Q. And can you tell that she's got bags on her
25 hands?

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1 A. Yes, sir.

2 Q. And who would have put the bags on her hands,
3 do you recall that? I know there's a lot of folks out
4 there.

5 A. I know another officer and I can't remember
6 which one.

7 Q. Okay. So, is this an accurate depiction of the
8 way that you saw her that evening or that afternoon?
9 You saw her with the bags on her hands, but you saw a
10 robe and it looks, if you look like right between the
11 robe, it looks like some red material, kind of like a
12 nighty?

13 A. From the picture, yes, it does look like --

14 Q. I'm sorry. I didn't mean to step on your
15 answer.

16 A. It does look like what she was wearing from
17 that night.

18 Q. Okay. And just to be clear, a pair of blue
19 jeans?

20 A. Yes.

21 Q. And then a pair of socks?

22 A. Yes.

23 Q. Okay. Let me show you what has previously been
24 admitted as Defense Exhibit 2637, and it's kind of
25 washed out.

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1 MR. SECREST: May I approach the witness,
2 Your Honor?

3 THE COURT: You may. 2637.

4 MR. SECREST: I want to use this
5 photograph. I'm going to approach the witness, Your
6 Honor, if that's fine.

7 THE COURT: You may.

8 Q. (BY MR. SECREST) Again, for the record, Defense
9 Exhibit 2637. I represent to you this is a photograph
10 taken by the crime scene unit on December 23 or 24 of
11 2012.

12 A. Uh-huh.

13 Q. Do you see the red marks here in the area of
14 the wrists?

15 A. I see her hand red by her knuckles, red
16 pigment, kind of looks like her other hand, too.

17 Q. You see over here, this red mark that I'm
18 pointing to?

19 A. I mean, just looks like she has rosacea.

20 Q. Okay. But this would be a fair depiction of
21 the way that her hand appeared when you saw it on
22 December 23, 2012?

23 A. I can't say that that's what I seen exactly. I
24 just know that there wasn't any red marks, like it
25 didn't look -- to me, if somebody was tied up hard,

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1 struggling, trying to get out.

2 Q. Right, right. Again, but you don't know what
3 she was tied up with, do you?

4 A. Cloth.

5 MR. SECREST: May I walk past the jury?

6 THE COURT: You may.

7 Q. (BY MR. SECREST) And again it's your memory is
8 that you don't recall whether you looked at the ankles,
9 right?

10 A. Right.

11 Q. Let me ask you this: Based on your experience
12 in going to burglary locations, although not home
13 invasion, capital murder locations, you said that it
14 didn't appear that anything was missing; is that what
15 you're saying?

16 A. Yes, sir.

17 Q. Well, let me -- I want you to be fair with me.
18 I'm sure you will be. You obviously had never been in
19 that home before, correct?

20 A. Correct.

21 Q. And you've never been back, right?

22 A. Correct.

23 Q. So, isn't it charitable for me to say that you
24 wouldn't have a clue what may be missing from that
25 house?

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1 A. Correct.

2 Q. Now, I understand that there were several
3 television sets that were taken, right?

4 A. Yes, sir.

5 Q. Do you remember a lot of them were old school
6 televisions?

7 A. I can't remember.

8 Q. You remember a lot of them were about this
9 wide?

10 A. I'm not sure.

11 Q. Okay. Do you know whether or not there was any
12 money found in the purses or in the wallets of Sandy and
13 Jaime Melgar?

14 A. I did not go through their personal belongings.

15 Q. Now, I want to be clear here. Your
16 understanding is that the family finds Sandy Melgar tied
17 up in the closet, correct?

18 A. Yes.

19 Q. Your understanding is that moments later 911 is
20 called and here comes the troops, right?

21 A. Yes.

22 Q. And EMS arrives first?

23 A. Yes.

24 Q. Now, are you the first law enforcement officer
25 on the scene?

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1 A. Yes, sir.

2 Q. Okay. And then you immediately get out of your
3 patrol vehicle, go in the house. First thing you do is
4 you check on the deceased, fair statement?

5 A. Me and another unit, two of us, but yes.

6 Q. And who is the other individual?

7 A. I believe the other unit is Steve Dennis.

8 Q. Steve Dennis. I've seen the name.

9 A. Correct.

10 Q. And in fact, if you know, was Deputy Dennis the
11 deputy that transferred Mrs. Melgar down to Lockwood?

12 A. Yes, that's the same one.

13 THE COURT: Ma'am, wait until he finishes
14 his question before you answer.

15 Q. (BY MR. SECREST) Deputy Dennis took Sandy
16 Melgar down to Lockwood?

17 A. Yes.

18 Q. And Deputy Dennis brought her back later on,
19 after the detectives were finished with her?

20 A. Yes.

21 Q. Is that fair?

22 A. Yes.

23 Q. Okay. In fact, were you back at the scene at
24 that time or --

25 A. I never left. I stayed.

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1 Q. You stayed there the whole time?

2 A. Yes, sir.

3 Q. Okay. So, were you the -- were you there after
4 Ms. Melgar was brought back to the scene?

5 A. Yes.

6 Q. And I'll come back to that in a second.

7 But so, you and Deputy Dennis immediately
8 go in the house, you go to the body of Jaime Melgar,
9 correct?

10 A. Yes.

11 Q. And then within seconds you find Sandy Melgar,
12 looks like she's lying on the bathroom floor, close to
13 the toilet, crying?

14 A. Yes.

15 Q. Then you-all take Sandra Melgar, escort her, if
16 you will, to the living room so then she can be attended
17 to by the EMS folks?

18 A. Yes.

19 Q. And then Sandy Melgar is either in the presence
20 of the EMS folks or she's being escorted by you to the
21 commode a couple of times and then she's in the commode
22 with you close by, and then you bring her back to the
23 EMS, right?

24 A. Yes.

25 Q. And then shortly thereafter she's bagged,

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1 right?

2 A. Yes.

3 Q. And then after EMS is finished with her, then
4 that's when basically Sandy Melgar and the rest of the
5 family are escorted out of the house and placed into
6 individual patrol cars in order to be interviewed.

7 A. The family members, whenever we first arrived
8 on scene, the family members were all escort -- they
9 were all -- once we got there, they left.

10 Q. Yes, ma'am.

11 A. And that's whenever the other officers
12 separated the scene and put them in the patrol vehicles.

13 Q. Okay. But as far as the point I'm trying to
14 make, if Sandra Melgar is sitting in the living room,
15 she's not wandering around the house, is she?

16 A. No.

17 Q. She's sitting in the living room in your
18 company or the company of EMS, her hands are bagged and
19 then shortly thereafter, when the EMS are finished with
20 her, then she's taken to the patrol car and put in the
21 backseat?

22 A. Yes, sir.

23 Q. And then she stays -- do you have a, just a
24 ballpark time as to when she would have been placed in
25 the patrol car? What time did you arrive?

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1 A. I believe I got there around 4:50, late 4:00,
2 close to 5:00.

3 Q. Close to 5:00. Would it be fair to say by 6:00
4 o'clock she is in the patrol car?

5 A. Fair to say.

6 Q. Okay. So if that's fair to say, then that
7 means that Deputy Dennis didn't even leave the scene to
8 take her to Lockwood til 9:00 o'clock, right?

9 A. Yes, sir.

10 Q. So she sat parked in the backseat of a patrol
11 car seat for three hours?

12 A. Yes, sir.

13 Q. Okay. So, I want to ask you this: If Sandy
14 Melgar was found tied up in a closet and was rescued by
15 her family members and untied and then shortly
16 thereafter EMS arrives, then you and Deputy Dennis
17 arrive, and then from that point either she's on the
18 commode or she's in the living room in your company or
19 the company of the EMS and then her hands are bagged and
20 around 6:00 o'clock she's put in a patrol car, how is
21 she able to tell you what is missing from her house?
22 How would she have a clue?

23 A. You're right. It's not like I asked her to go
24 around looking and see what she was missing with either.
25 We had something bigger to deal with --

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1 Q. I understand.

2 A. -- at that time.

3 Q. I understand, but Ms. Barnett wanted to ask you
4 about, you know, items that were stolen and this was the
5 question: Did she ever point out any items that were
6 stolen? Is that fair? How in the world would she know
7 what was stolen? Would you agree with me?

8 A. I agree.

9 Q. You're not trying to tell the jury that nothing
10 was stolen, are you?

11 A. No.

12 Q. Let me ask you this, and I saw it in your
13 report, too: During the interview Sandra never asked
14 about Jaime. That's what you included in your report,
15 and that's what you testified to?

16 A. Yes, sir.

17 Q. Why in the world would she ask about Jaime when
18 she already knew he had been slaughtered in the closet
19 because she had crawled over to where his body was and
20 wept uncontrollably with her sister-in-law, Carmen,
21 prior to the arrival of you and EMS?

22 MS. BARNETT: And I object to that. It's
23 assuming facts not in evidence.

24 THE COURT: Sustained.

25 MS. BARNETT: And argumentative. I ask

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1 that the jury be instructed to disregard that question.

2 THE COURT: Ladies and gentlemen, please
3 disregard the last question.

4 Q. (BY MR. SECREST) So let me ask you another
5 question: Do you know that in fact before you arrived
6 at the home that Sandy Melgar in fact had already found
7 out and experienced the tragedy of seeing her husband
8 stabbed in the closet? Do you know that?

9 A. No.

10 Q. You're not trying to leave any kind of, like,
11 false impressions, are you, about that?

12 A. No. I was under the impression whenever I got
13 there, she had just been removed from this closet in the
14 master bathroom. I had no clue that she already went in
15 that. So that was my question, why did she not ever ask
16 how he was doing.

17 Q. So, if -- so, in light of the fact that she had
18 seen her husband before you arrived, that answers that
19 question, doesn't it?

20 A. Fair to say.

21 MR. SECREST: Pass the witness.

22 **REDIRECT EXAMINATION**

23 BY MS. BARNETT:

24 Q. Did she say anything about him?

25 A. No.

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1 Q. I mean, so her husband -- so, according to the
2 defense story is --

3 MR. SECREST: Objection to that sidebar,
4 the defense story.

5 THE COURT: Sustained.

6 Next question.

7 Q. (BY MS. BARNETT) So, if she's pretending like
8 somebody burglarized the house and killed her husband
9 that she was madly in love with for 32 years. And she's
10 sees him brutally stabbed in their closet, did she say
11 anything to you about that?

12 A. No. I saw no emotion on that.

13 Q. So, she expressed no emotion about the fact --

14 MR. SECREST: Objection to the prosecutor
15 testifying. She's leading her witness.

16 THE COURT: Sustained.

17 Q. (BY MS. BARNETT) So she may not have asked
18 about his condition, but did she ask any questions about
19 him at all?

20 A. No.

21 Q. Did she say anything at all about him?

22 A. Nothing.

23 Q. Did she express any emotions about him?

24 A. No.

25 Q. As to the question about whether or not the

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1 area around her ankles and wrists, if your report shows
2 that you made notes that there were no signs of injury
3 or redness around her ankles or her wrists, would you
4 have looked at both her ankles and her wrists?

5 A. Yes. If that's what my report says, and I did
6 look at her ankles and wrists. But I can -- I'm -- from
7 memory and not looking at my report, I can say I do
8 remember her wrists off the top of my head.

9 Q. Okay. Do you have your report in front of you?

10 A. Yes.

11 Q. Please look at page 6 of 7 on the 4th
12 paragraph.

13 A. "Areas around ankles and wrists where she
14 showed me she was tied up did not have any injuries or
15 redness."

16 Q. Okay. So, does that refresh your memory about
17 her ankles?

18 A. I mean, do I remember ankles today? No, I
19 don't remember ankles. I remember hands but I just
20 don't remember ankles, but if I wrote in my report that
21 day that I didn't see redness, then I didn't see
22 redness.

23 Q. Okay. Because you testified earlier that you
24 sat in your patrol car at the scene, typing up this
25 report.

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1 A. Correct.

2 Q. But this was in the same day and perhaps within
3 hours of the witness --

4 MR. SECREST: Object to the leading nature
5 of the question.

6 THE COURT: Sustained.

7 Q. (BY MS. BARNETT) And specifically you don't
8 talk about the hands or the arms. You talk about the
9 wrists.

10 A. Yes.

11 Q. And the ankles?

12 A. Yes.

13 Q. As to the items being stolen, you've talked
14 about whether or not any items had been stolen. You've
15 talked about how many burglaries that you have
16 investigated, and I assume or maybe I shouldn't assume,
17 but are there obvious things that are stolen in a
18 burglary?

19 A. Yes, TV or the jewelry boxes or you can see the
20 drawers open, full of jewelry in there, at a glance. Of
21 course, you're not going to know everything that's
22 stolen because you don't live there.

23 Q. Of course, but there were -- there weren't any
24 times that she made any statement to you about anything
25 that was noticeably missing?

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1 MR. SECREST: Objection to the leading
2 nature of the question.

3 THE COURT: Sustained.

4 Q. (BY MS. BARNETT) Did she make -- what
5 statements did she make to you about anything that was
6 noticeably missing?

7 A. Nothing.

8 Q. What statements did she make to you about
9 anything that was missing?

10 A. Nothing.

11 Q. Did she even look for anything that was
12 missing?

13 A. No.

14 Q. Where did the idea come from that this was a
15 burglary?

16 A. I guess the under -- when it's a home invasion,
17 that somebody is there for a certain reason, either a
18 burglary or intent to hurt them.

19 Q. Did it come from her, the burglary part?

20 A. I'm not sure.

21 MS. BARNETT: Pass the witness.

22 **RECROSS-EXAMINATION**

23 BY MR. SECREST:

24 Q. You're not trying to tell the jury that no
25 jewelry wasn't taken in this case, are you?

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1 A. No, I'm not sure what was stolen, if there was
2 anything stolen.

3 Q. You know that, in fact, that over 20 pieces of
4 jewelry were found in a backpack close to the garage
5 door two days later by detectives that came back to the
6 scene?

7 A. I overheard that earlier.

8 Q. Where were you when you overheard that?

9 A. In the waiting room. Well, I didn't hear -- I
10 only heard about the backpack. I did not hear about any
11 items that were stolen. I just heard about a backpack.

12 Q. And who did you hear that from?

13 A. Two gentlemen that were in there.

14 Q. What might those two gentlemen's names be?

15 A. Well, and the Defense attorney went in there
16 and said --

17 Q. The defense attorney?

18 A. Yes, sir.

19 Q. I'm the Defense attorney.

20 A. I'm sorry, the Prosecutor, I'm sorry.

21 Q. Who are we talking about?

22 A. Colleen went in there and just had mentioned
23 about a backpack that was discovered and spoke with them
24 and that's all I know about a backpack.

25 Q. When did that take place?

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1 A. About an hour or so ago.

2 Q. So to be clear here, about an hour or so ago
3 you were in the witness room with two other deputies or
4 law enforcement folks?

5 A. Yes, sir.

6 Q. And the prosecutor went into the room and they
7 were all together and she was telling you about that?

8 A. She asked him them certain questions.

9 Q. Okay. But she asked that question in the
10 presence of everybody?

11 A. She asked him that.

12 Q. Okay. In your presence?

13 A. I was there.

14 Q. Okay. I'm trying to understand, is it fair to
15 suggest that Sandra Melgar at any time had any fair
16 opportunity to look for anything that may have been
17 stolen?

18 A. Not at that time, no.

19 Q. That's not fair, is it?

20 A. No.

21 Q. In the condition she was in, we're not talking
22 about whether there's a bicycle that had been stolen,
23 whether there's a microwave gone, correct?

24 A. Correct.

25 Q. Now, also I didn't see anything in your offense

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1 report to reflect what you just testified to now under
2 oath that you think that she wasn't, what, sincere, that
3 this was, what, just a facade? Is that what you're
4 trying to tell the jury?

5 MS. BARNETT: This has been asked and
6 answered.

7 MR. SECREST: No. I haven't gone into it
8 all.

9 THE COURT: Overruled. You may ask the
10 question.

11 Q. (BY MR. SECREST) You can answer the question.

12 A. Repeat it.

13 Q. Sure. Is that I didn't see anything in your
14 offense report and I looked at it real carefully where
15 you said anything about your belief that Sandra Melgar
16 wasn't, you know, being sincere or was acting or any of
17 that.

18 A. Whenever I wrote that she did not ask her
19 husband or ask how he was doing, that's what I meant by
20 that.

21 Q. That's what you meant by that. So, if we take
22 out the reference that she didn't ask how her husband
23 was doing when she already knew he had been killed, we
24 take that reference out, then you retract your testimony
25 about her -- her appearance or her facade or?

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1 A. No, because my report is to jog my memory on
2 what happened that day.

3 Q. Right. Right. And once we jog your memory and
4 once you're on notice that she already knew that her
5 husband was killed, you wouldn't expect that now she's
6 going to ask questions about that at all, are you, fair
7 statement?

8 A. No, that's not fair.

9 Q. Tell me why it's not fair.

10 A. I mean, if somebody, I would assume or think if
11 someone's husband was tragically killed, they'd be more
12 upset, want to know, you know, is there anything else
13 she could do. You know, she's now past emotions towards
14 the husband, asked about her husband, even though she
15 knew he was already dead. Still, there's some -- I
16 mean, there was not one question, not a tear for her
17 husband; and I just find that to be strange.

18 Q. Do you find that strange that that happens, if
19 in fact that's accurate, to a woman that's been
20 described in EMS documents as being absolutely
21 hysterical, absolutely inconsolable, that's exactly how
22 she was that day; or do you disagree with that?

23 A. At the beginning she was a little bit
24 hysterical and after we got her to calm down, she didn't
25 take but a few minutes, then she was calm, cool, and

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1 collected.

2 Q. She was just calm and cool and just talking
3 about what's on TV?

4 A. Well, when we asked her a question, she
5 answered the question. There was no emotion.

6 Q. That's because she was being cooperative with
7 you?

8 A. Correct.

9 Q. You've never been around this woman.

10 A. No.

11 Q. Have you ever experienced a tragedy of having a
12 loved one slaughtered in their own house?

13 A. No, not --

14 Q. So, you wouldn't know how somebody would
15 respond. You wouldn't know how somebody responded --

16 A. I did not --

17 THE COURT: Ma'am, let him finish the
18 question. Please re-ask that question.

19 Q. (BY MR. SECREST) I'm asking you, not what
20 you've seen driving a patrol vehicle. I'm asking you,
21 you don't have any personal experience where you can
22 tell the jury how it is that she should have behaved or
23 reacted or responded in the situation that she was in?

24 A. Personal experience, no.

25 Q. And let me ask you this: Were you aware that

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1 she had literally defecated in her underwear?

2 A. No.

3 Q. Were you aware that she was in the closet for a
4 number of hours, 12, 14 hours?

5 A. Yes.

6 Q. Are you aware that she had seizure disorder?

7 A. She had mentioned that she had had --

8 Q. Do you understand --

9 A. -- seizures.

10 Q. I'm sorry. Do you understand anything about
11 her medical history?

12 A. No. She said she had medical history, but.

13 Q. Are you trying to help the State in this case?

14 A. No, sir.

15 Q. The reality is your -- your little world of
16 information is pretty limited, isn't it?

17 A. Yes, sir.

18 Q. You came to the scene, you found Sandy Melgar
19 crying on the floor, correct?

20 A. Yes.

21 MS. BARNETT: I think that's been asked
22 and answered a couple of times.

23 THE COURT: Sustained.

24 Q. (BY MR. SECREST) And so ultimately you're in
25 her presence for what, an hour?

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1 A. Yes, sir.

2 Q. Okay. And after the EMS attends to her, then
3 she's out of your presence?

4 A. Yes.

5 Q. And so because she didn't ask about where
6 things are stolen or because she didn't ask about Jaime
7 when she already knew he was murdered; and somehow she's
8 not responding naturally, when you don't even know
9 anything about the woman; is that fair?

10 MS. BARNETT: Objection, asked and
11 answered.

12 THE COURT: Sustained.

13 MR. SECREST: No further questions.

14 THE COURT: May this witness be excused?

15 MS. BARNETT: Couple more questions,
16 Judge.

17 THE COURT: You've already done redirect.
18 May this witness be excused?

19 MS. BARNETT: Yes.

20 MR. SECREST: I'd ask that the witness
21 remain on call.

22 THE COURT: Ma'am, just make sure -- I
23 take it that they have your cell phone number? Just
24 make sure that you keep that close. All right. Thank
25 you.