

Guilt Innocence Phase
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1 THE COURT: 724 is your next one.

2 MS. BARNETT: Thank you.

3 THE COURT: You may proceed.

4 **DIRECT EXAMINATION**

5 BY MS. BARNETT:

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

8 A. Yes. My name is Celestina Rossi.

9 Q. All right. Is it okay if I call you Cele?

10 A. You can, yes, ma'am.

11 Q. All right. Where -- how are you employed?

12 A. I'm the senior crime investigator with the
13 Montgomery County Sheriff's Office in Conroe, Texas.

14 Q. And how long have you been with the Sheriff's
15 Office in Montgomery County, Texas?

16 A. October 4 will be 20 years, which that position
17 has been served. I came to Montgomery County as a
18 telecommunications operator. From there I went to the
19 police academy. I worked in the jail for nine short
20 months before going to patrol. I was a patrol officer
21 in south Montgomery County, which is Spring, The
22 Woodlands, eastern Magnolia before promoting to the
23 crime lab in the summer of 2002.

24 Q. Have you ever worked in any other law
25 enforcement job?

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1 A. I have.

2 Q. And what is that?

3 A. My law enforcement career started in 1995 at
4 the Trinity Police Department, which is east of
5 Huntsville and southwest of Lufkin, if you're familiar
6 with the east Texas area. I worked at Trinity Police
7 Department for a year before taking a position at the
8 Trinity County Sheriff's Office. I worked -- at Trinity
9 PD I was their dispatcher and at Trinity County I was
10 their dispatcher and their jailer and I worked there
11 until moving to Conroe in '97.

12 Q. Are you a certified peace officer?

13 A. I am. I hold a master peace officer's license
14 through the State of Texas.

15 Q. How long have you been a crime scene
16 investigator?

17 A. This summer was 15 years.

18 Q. Can you tell us about your experience and your
19 training?

20 A. Yes. So my formal experience comes from
21 Wyoming. I'm a Wyoming native, and I have an
22 associate's degree in business administration. My
23 forensic career started when I came into the crime lab
24 and that has been a continuous process since starting
25 there. We continue to receive education. Formally

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1 through the crime lab I have received my Forensic
2 Investigator 2 certificate from Texas A&M University
3 through the Texas engineering extension service and I
4 also completed a five-year mentorship program through
5 the Bevel, Gardner and Associates in bloodstain pattern
6 and analysis under Tom Bevel, who is a bloodstain
7 expert.

8 Q. We'll get to Tom Bevel later, but have you
9 addressed your formal education?

10 A. Yes, ma'am.

11 Q. Okay. What -- do you -- do you teach any
12 classes on forensic sciences?

13 A. I do. I teach a series of classes through the
14 Texas A&M engineering extension service. I have taught
15 for them since 2009. I teach a 40-hour bloodstain
16 pattern analysis course. I teach an 80-hour forensic
17 technician course, which is a two-part course. One week
18 is crime scene investigation. The next week is latent
19 print processing. I helped develop and teach a class
20 that we refer to as PEVC, which is processing evidence
21 of violent crimes. I teach the forensic tech classes,
22 stand alone classes also as just a 40-hour crime scene
23 and 40-hour latent print processing. I'm an adjunct
24 assistant lecturer at Texas A&M University where I teach
25 two mini-mester courses to the forensics college

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1 students. So I teach a 40-hour crime scene
2 investigation course and a 40-hour latent print
3 processing course as part of their degree program. I
4 also teach at Sam Houston State University. I have a
5 summer program where I teach forensic teachers. So in
6 the summer they come and they take a series of classes
7 on forensic science so they can take that
8 experimentation and that real-life experience back to
9 their classrooms, where they teach forensics around the
10 State of Texas.

11 Q. And forensic science is kind of a big term.
12 What does that mean exactly?

13 A. So forensic science is a term where you deal
14 with, with evidence. So you can have like an accountant
15 and then you can have a forensic accountant, which deals
16 with the -- the law enforcement side or the
17 investigative side of that. Say when we have an
18 odontologist, like a dentist. We have never used a
19 odontologist unless there's bite mark evidence. So
20 forensic just relates it to law enforcement or any kind
21 of investigation.

22 Q. Are you a member of any organizations related
23 to forensic sciences?

24 A. I am.

25 Q. What would that be?

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1 A. I am a member of the International Association
2 for Identification, which is the parent body that deals
3 with how we do forensic science. Texas has a state
4 division, so the Texas division of the International
5 Association for Identification. I am a member of the
6 International Association of Bloodstain Pattern
7 Analysts, a member of the Association for Crime Scene
8 Reconstruction. I am on the operations committee for
9 the Southeast Texas Applied Forensics Science facility,
10 which is, the acronym for that is STAFS, which is the
11 body farm up in Huntsville. I'm also part of the
12 Organization of Scientific Area Committees, which is
13 part of National Institute of Science and Technology.

14 Q. And there are benefits for being in those
15 organizations?

16 A. Yes, ma'am.

17 Q. What are some of the benefits to you?

18 A. So those organizations are restricted to
19 forensic analysts or forensic scientists aid in not only
20 being a part of research, research opportunities,
21 research, current research trends. But it also has a, a
22 way to, like, collaborate with other forensic scientists
23 wherever they're planning. That's it. It also provides
24 a training avenue so that every year, attending these
25 conferences, you're also getting that training, that

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1 training tracked.

2 Q. Have you authored or published any articles as
3 forensic sciences?

4 A. I have.

5 Q. Can you tell us about that?

6 A. Sure. So in 2002 I was a co-publisher,
7 co-author in a paper with Ross Gardener and Michael
8 Maloney on how to document impact patterns dealing with
9 bloodstains for offsite evaluation. So it's kind of a
10 key to practice yours so that when they're at a crime
11 scene how to document bloodstains so that an expert
12 could look at those pictures and documentation and
13 provide some kind of opinion or analysis.

14 Also in 2012 as part of my mentorship
15 program, I conducted research and then published a paper
16 on the clotting kinds of blood and as it relates to
17 saliva, which is a clotting factor, if it has any
18 clotting, then it's called tissue factor. And so that
19 was published in 2012.

20 I co-authored a chapter in the Police
21 Forensic Science book for the Zhejiang Police College in
22 Hangzou, China. Myself and Ross Gardner wrote the
23 chapter as it relates to bloodstain pattern analysis.

24 I -- in 2015, I did research on cadaver
25 back spatter pattern production. So the first time in a

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1 morgue that a human cadaver has been used to do
2 bloodstain pattern analysis with the -- in regards to
3 back spatter. That paper was submitted to the American
4 Academy of Forensic Science. It came back with
5 revisions. It has recently been resubmitted. So we're
6 waiting on that for publication; and earlier this year I
7 published an article with one of our Montgomery County
8 prosecutors in reference to stage crime scenes.

9 Q. Have you gotten any honors or awards?

10 A. I have. In 2009 I received the sheriff award
11 and that was awarded to me by Sheriff Tommy Gage for the
12 design, development, and implementation of a dedicated
13 facility to do crime scene reconstruction and bloodstain
14 pattern analysis; and I believe it was 2013, I received
15 an award by the Texas A&M Engineering Extension Service.
16 I was the first adjunct ever to awarded that award.

17 In 2016, I received an Association award
18 from the Texas Division of International Association for
19 Identification. I've been secretary of that
20 organization since 2006. And so I was acknowledged for
21 my work with the association, where I am still currently
22 the secretary of that division.

23 And then earlier this summer I was awarded
24 the Texas Forensic Science Excellence award, and that
25 was for my research and publication on cadaver back

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1 splatter.

2 Q. Okay. So what is OSAC?

3 A. So OSAC is part of the National Institute of
4 Science and Technology, and they are a subsidiary of
5 NIST and so OSAC stands for the Organization of
6 Scientific Area Committees; and what that is, it deals
7 with the forensic science realm, and it deals with all
8 forensic sciences in developing best practices for
9 forensic science protocols and procedures, so that --
10 and written documentation so that forensic scientists
11 can follow it to ensure that what we're doing as
12 forensic scientists is not only repeatable but reliable.

13 Q. And are you part of a subcommittee at OSAC?

14 A. I am.

15 Q. And what do you do there?

16 A. So I'm on the technology and terminology
17 subtask group, which is part of the bloodstain
18 subcommittee and with that subtask group we are looking
19 at the -- right now we have -- the bloodstain community
20 has 39 terms. We look at terms to make sure they're not
21 only are they scientifically valid but could they be
22 better explained and also coming up with a standard
23 methodology that other bloodstain analysts can follow to
24 make sure that the way that we do bloodstain pattern
25 analysis in Texas is the same as they're doing it in

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1 California and it's the same as they're doing it in New
2 Zealand.

3 Q. You said that there were thirty-something
4 different terms?

5 A. Correct.

6 Q. How many did you say?

7 A. Thirty-nine.

8 Q. Thirty-nine different terms, and what are
9 you -- what are you talking about when you, you're
10 talking about 39 different terms?

11 A. So to the terminology as it relates to the
12 discipline of bloodstain pattern analysis.

13 Q. All right. Let's just talk about that. What
14 is bloodstain pattern analysis?

15 A. Okay. So in simplistic terms, bloodstain
16 analysis is the study of bloodstains both at crime
17 scenes and on physical evidence.

18 MS. BARNETT: May I have moment, Your
19 Honor?

20 THE COURT: You may.

21 Q. (BY MS. BARNETT) Okay. And so when you're
22 talking about different terms, are there different terms
23 for the way the blood as you see it in a pattern exists?

24 A. Yes.

25 Q. Okay. Is there a kind of a theory that talks

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1 about bloodstain pattern analysis?

2 A. Yes, ma'am.

3 Q. What do you mean by that? What kind of theory
4 would you have, or what does that mean?

5 A. So blood as a fluid responds to pressure, both
6 internal and external in a repeatable fashion, which
7 makes it, doing the bloodstain pattern analysis, any
8 reconstructive efforts possible.

9 Q. Is there a methodology or scientific part of
10 that that helps you?

11 A. Sure. And just to kind of follow up with that,
12 with the theory it has three principles, which deals
13 with the stain shape versus retro correlations, the
14 pattern of stains, so the individual characteristics
15 that deal, that blood stains produce. So we're going to
16 look at those individual characteristics. For example
17 on splatter stains, you know, what do those stains look
18 like? So are they circular or elliptical and that's
19 going to deal with their shape; and then the third
20 principle with the theory is what we call PABS but
21 that's physically altered bloodstains, which not only
22 deals with the environment, temperature change,
23 clotting, drying time of blood, but also deals with any
24 kind of altered stain that could happen after the blood
25 staining event occurred.

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1 Q. Is there a methodology or scientific theory
2 that goes with this?

3 A. There is.

4 Q. What -- can you explain that for us, please?

5 A. Yes. So the methodology that we employ and
6 it's sort of the same if I'm looking -- if I'm the one
7 that attends the crime scene or if I'm providing
8 analysis based off of pictures and evidence. So the
9 methodology when I'm at the scene is that I'm going to
10 respond to the scene. I'm going to assess all the
11 patterns. I'm going to identify, if I can, specific
12 patterns. I'm going to look at those patterns and see
13 if I can identify motion or any kind of directionality.
14 Okay. I'm going to then going see if I can correlate
15 any of those patterns with any other evidence at the
16 scene that -- to see if they're related or if I can
17 include or exclude them as being part of a particular
18 pattern. I'm going to take the scene mechanics so if
19 we're depending on what kind of scene we're dealing with
20 that caused the bloodshed, whether it's by firearm or
21 by, you know, a sharp instrument or by a blunt force
22 instrument and so we're going to evaluate that. All of
23 that is going to be identified and photographed. And
24 then we're going to collect all the data so we need
25 to -- even though we have bloodstains we need to make

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1 sure we know who the bloodstain belongs to you, so that
2 all has to analyzed and when all that information comes
3 back we're going to render a report and then after the
4 report is rendered we have a peer view process that we
5 go through before that report is ever published to -- in
6 our computer system or to the State or to the defense.

7 Q. Okay. And in a bloodstain pattern analysis,
8 are you looking for a certain set is of circumstances?

9 A. No. We are just trying to identify patterns,
10 the mechanism that caused those patterns, and hopefully
11 we are able to exclude any other possibility except --
12 you know, and sometimes we can -- we can narrow down
13 what our opinion is and sometimes, you know, as with
14 bloodstain scenes you can't answer every question.

15 Q. Is -- are there -- have you had occasions where
16 there's been a story told about how something happened
17 and the blood evidence tells a different story?

18 A. Absolutely.

19 Q. Does that happen often or not often?

20 A. More often than we think.

21 Q. Okay. Have you been qualified previously as an
22 expert in this field?

23 A. I have.

24 Q. And have you testified as an expert in this
25 field?

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1 A. I have.

2 Q. And on few or many occasions?

3 A. On many occasions.

4 Q. Have you testified in places outside of
5 Montgomery County, where you work?

6 A. Yes, I have.

7 Q. Where all have you testified?

8 A. So I have testified in Fort Bend County as
9 their expert in bloodstains. Work in Montgomery County,
10 I was the expert for the US Attorney's office up in
11 Dallas for the US Attorney. I was also an expert for
12 the Alabama -- the county escapes me, but it's in Bay
13 Minette and so I was their crime scene reconstructionist
14 and bloodstain analyst in Baldwin County, Alabama --

15 Q. All right.

16 A. -- for the state.

17 Q. Okay. And how did you get connected into this
18 case?

19 A. I received a voice mail message from the
20 prosecutor. I had been referred by our pathologist
21 Dr. Hayden or Dr. Pinneri and --

22 MR. SECREST: Objection, asked and
23 answered, how did she get contacted.

24 THE COURT: Sustained. Next question.

25 Q. (BY MS. BARNETT) And what did I ask you to do?

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1 A. You asked if I could look at some photographs
2 and assist you with the interpretation of the
3 bloodstains.

4 Q. And did you do that?

5 A. I did.

6 Q. What materials did you require in order to do
7 that?

8 A. I was asked what documentation I needed and so
9 it was a two-part -- actually it became multiple parts,
10 but --

11 MR. SECREST: Objection to the narrative
12 portion of her testimony.

13 THE COURT: Sustained. Keep it to
14 question and answer.

15 MS. BARNETT: Yes, Your Honor.

16 Q. (BY MS. BARNETT) As an expert can you tell us
17 what -- what all the documentation that you require and
18 that you got?

19 A. So I first received all the photographs, the
20 scene photographs, the scene video, the autopsy photos
21 on a thumb drive that the prosecutor brought to me.

22 Q. Was there a certain way that you wanted the
23 evidence presented to you?

24 A. Yes, ma'am.

25 Q. Okay. And what way was that?

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1 A. So I wanted to acclimate myself with the like I
2 would do other crime scenes and I would look at all the
3 photographs, scene video, and the autopsy photos before
4 I looked at any police reports, any autopsy reports, or
5 DNA reports and so --

6 Q. Sorry. Go ahead.

7 Did you -- did you know who took the scene
8 photographs?

9 A. I didn't. I just had them all on a thumb
10 drive.

11 Q. Do you know Maurice Carpenter?

12 A. I do.

13 Q. How do you know him?

14 A. He was a student in a class that I taught.

15 Q. All right. So after you looked at the scene
16 photographs -- did you say that was the only thing you
17 required at first?

18 A. I asked for only the scene photographs and --
19 or just all the photographs first.

20 Q. Okay. And after you looked at the scene
21 photographs, what did you want after that?

22 A. After that I asked for all the police reports,
23 the DNA report, and the autopsy report.

24 Q. And were you provided those?

25 A. I was.

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1 Q. And did you require anything after that, if you
2 recall?

3 A. I don't recall but I think the autopsy report
4 was the last report that I received.

5 Q. Okay. Now, what did you do with all that
6 information?

7 A. So after reviewing all the documents, then I
8 rendered my bloodstain report.

9 Q. Okay. And did you provide that with us today?

10 A. I did.

11 Q. All right. Let's -- let's let me --

12 MS. BARNETT: May I approach the witness,
13 Your Honor.

14 THE COURT: You may.

15 Q. (BY MS. BARNETT) I'm going show you what's been
16 marked as State's Exhibit No. 724. Would you take a
17 look at that and tell me whether you can identify it or
18 not.

19 A. I can.

20 Q. And how can you?

21 A. That is a page from the -- our bloodstain book
22 that we teach during the documentation or the
23 experimentation process which shows the -- all the
24 angles of impact of sustains going -- ranging from
25 10-degrees all the way to 90-degrees.

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1 Q. All right. And is that something that you
2 provided to me today?

3 A. It is.

4 MS. BARNETT: Your Honor, we would offer
5 into evidence State's Exhibit No. 724. Let the record
6 reflect that I'm tendering to opposing counsel.

7 THE COURT: It will.

8 MR. SECREST: No objection to 724.

9 THE COURT: 724 is admitted and you may
10 publish.

11 MS. BARNETT: Thank you.

12 Q. (BY MS. BARNETT) What does this show us, or
13 where should I start on this?

14 A. So let's start on the bottom right hand corner.
15 Yes, ma'am.

16 Q. Is that it?

17 A. Yes, ma'am.

18 Q. Tell us what this is.

19 A. So that is a 90-degree drop.

20 Q. Go ahead.

21 A. The way that we see 90-degree drops is that is
22 a blood drop that just falls straight to the surface, so
23 the best analogy for that is that if you cut your finger
24 and you're trying to get to the kitchen sink or the
25 bathroom sink to put water on it and it drops on the

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1 floor or drops on your counter, when it falls straight
2 down, you get that nice sun-looking drop.

3 Q. All right. And let's move to left of that.
4 Let's call that Drop Number 2.

5 A. Okay. So as we -- and I can probably save time
6 as we progress along the bottom up and then up to where
7 that dirty long skinny stain is.

8 Q. This one?

9 A. Yes, ma'am.

10 Q. Okay.

11 A. So depending on the angle that the drop hits
12 the surface is going to determine what that stain looks
13 like. So if we go to the two extremes, one being the
14 sun-looking stain, the passive drop that falls straight
15 to the surface to the really long and skinny stain that
16 very elliptical stain, so we talk circles and ellipses
17 we talk about bloodstains, but when we get to those very
18 elliptical stains, same analogy when you cut your finger
19 and you're walking and get too close to the wall and
20 that stain drops and hits the wall, that is at
21 10 degrees. So instead of it being flat on the ground,
22 it's straight up and that bloodstain strikes that it
23 stretches that stain out, creating a very elliptical
24 stain.

25 Q. So can you tell us basically if you see this

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1 type of bloodstain, number one versus the last one, the
2 skinny one, what does that tell you about what's
3 happening if the person is bleeding if it does tell you
4 anything?

5 A. There's a lot more to that on explaining and
6 that's where the stain shape and retro correlation comes
7 in with the -- with the theory, but there's a
8 mathematical equation that you can use that will tell
9 what that angle of impact is. So with angles of impact
10 if we have a pattern of stains, a radiating pattern,
11 pattern of stains, we can measure all those stains.
12 They will give us an angle. So say we went to the
13 middle of this exhibit and we had say, measured, say,
14 40-degrees or 30 degrees at that angle we can, in a
15 three-dimensional space, we can tell you where our the
16 blood force was at the time the injury occurred
17 depending on what our -- so if it's on our head, we can
18 say, you know, if this stain is from the head then the
19 head was approximately this at this point in
20 three-dimensional space. So that's angles and
21 directionality aids us in. When it comes to just a drip
22 trail, you know, we can just tell where the blood is
23 going or, you know, if it's on a surface at what angle
24 is the surface.

25 Q. Did you find different blood patterns in this

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1 case?

2 A. I did.

3 Q. How many different blood patterns did you find?

4 A. A lot.

5 Q. Okay. Did you -- you provided me with a video
6 of three different type of patterns, did you not?

7 A. I did.

8 Q. And can you explain what those are?

9 A. Sure. So the -- when we start getting in into
10 patterns or pattern identification, if you don't have
11 background in bloodstains, sometimes it -- it's a lot of
12 information. Bloodstain speaks its own language, and so
13 being able to understand that language, that's why we
14 have a 40-hour class on just familiarization. So we
15 deal with three types of linear spatter when we're
16 dealing with bloodstains. So there's three types of
17 linear spatter. We have the drip trail, so our finger's
18 cut, we're trying to walk to the sink that leaves trail
19 of blood on a surface. Okay?

20 We can have a cast-off pattern, which my
21 hand is bloody, I move my hand and I see linear spatter
22 that was caused from the blood that was on my hand
23 that's being cast-off around it onto a surface and so
24 that's going to be linear in orientation.

25 And then we also have projected pattern,

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1 which is blood under pressure, like from our carotid or
2 our jugular, or even in the veins and vessels in the
3 back of our hands or ankles. We have veins and vessels
4 all through our body. Any time those are breached, it
5 can cause a projected pattern and so that is also linear
6 to curved liner. That pattern looks different because
7 we're dealing with a volume issue.

8 Q. Do you think it would aid the jury in
9 understanding your testimony if they would be allowed to
10 see those three videos?

11 A. It would, very much so.

12 Q. And how long -- how long are the videos?

13 A. They are several seconds in length.

14 MS. BARNETT: Your Honor, may I be allowed
15 to show the videos?

16 MR. SECREST: May we approach the bench?

17 THE COURT: You may.

18 Are they in evidence?

19 MS. BARNETT: They're not in evidence.

20 It's just used for demonstrative purposes. It's just a
21 closeup of how blood drops. There's no people in it,
22 and one is like a shadow of a hand and shows cast-off.
23 It's not any people. It's just a short couple of
24 seconds, two or three seconds showing the different
25 types of blood.

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1 MR. SECREST: I was under the impression
2 that 39.14 required all that kind of information be made
3 known to me. Apparently she's written a report, and
4 I've never received a copy of the report. So now we're
5 in the midst of testimony from a specialized witness and
6 I haven't seen anything from this person. I guess I
7 could ask for a continuance but I'm not going to do it,
8 but I would ask that the report be tendered to me so I
9 can be reading it during the direct examination and I
10 think we probably ought to retire the jurors so at least
11 I could be able to view the video before they do since
12 I've never had the opportunity to review it yet.

13 THE COURT: Let's take jury out so we can
14 do that.

15 MS. BARNETT: Okay.

16 MR. SECREST: Thanks.

17 THE COURT: Ladies and gentlemen, we've
18 got a couple of procedural matters, so we're going to
19 excuse you for a few minutes while we take care of it.

20 Please retire the jury.

21 THE BAILIFF: All rise for the jury.

22 (Jury leaves courtroom)

23 THE COURT: What number are you planning
24 to number that report?

25 MS. BARNETT: 725.

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1 THE COURT: And then what about, you said,
2 the three videos?

3 MS. BARNETT: Let me show you. They're on
4 a thumb drive. Can I just play them now?

5 THE COURT: So that's going to be No. 726?

6 MS. BARNETT: Yes, but there's other
7 material on this, so I need to take that off, but I will
8 name that 726.

9 THE COURT: All right.

10 Ready to proceed?

11 MR. SECREST: Yes, Your Honor. Thank you.

12 THE COURT: Bring in the jury.

13 (Jury enters courtroom)

14 THE COURT: All right. Please be seated.
15 State, you may proceed.

16 MS. BARNETT: Your Honor, we would offer
17 into evidence State's Exhibit 725, which is Ms. Rossi's
18 report and State's Exhibit 727, which is her C.V.

19 MR. SECREST: No objection to either
20 exhibit, Your Honor.

21 THE COURT: You said 725 and 727?

22 MS. BARNETT: Yes, ma'am.

23 THE COURT: Those are both admitted and
24 you may publish.

25 MS. BARNETT: Also I'm also offering 726,

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1 which is the three videos.

2 THE COURT: All right. Any objections?

3 MR. SECREST: No, Your Honor.

4 THE COURT: 726 is admitted and you may
5 publish.

6 Q. (BY MS. BARNETT) Tell us what this is.

7 A. This is a term referred to as cessation
8 cast-off. So when an object comes to an abrupt stop,
9 the bloody object casts off the blood and so the abrupt
10 stop of the object's motion causes the cessation
11 cast-off. So if you can see that blood that is going
12 down from that, that cardboard to, that would be the
13 cessation cast-off.

14 Q. So what is this?

15 A. So this is cast-off from a tire iron. So the
16 tire iron is bloody, and seems to be swung from right to
17 left and you will see the blood is swiped and then it
18 will land on the target. So this is that linear spatter
19 that I was talking about, when the blood strikes the
20 target, it has that linear orientation. It looks like a
21 line of blood drops.

22 Q. So the first one that you showed us as a stop
23 and the blood dropped from there, this is a side to side
24 for lack of a better word?

25 A. Correct. And the tire iron, if it would have

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1 hit, it would have struck something, like say, a post or
2 a beam, so we would have two patterns created by that
3 movement. We would have the cast-off that's coming off
4 of the edge of the -- the end of the tire iron, but then
5 when it hits an abrupt prop, like a beam or a door
6 frame, then what we would see beyond that would be
7 cessation cast-off, because we would see blood that was
8 flung into the surface in the front and then we would
9 see blood that was almost 90-degrees to the side.

10 Q. And what is this?

11 A. So this is a syringe --

12 Q. Sorry. Go ahead.

13 A. This is a syringe that is filled with about 3
14 to 5-millimeters of blood and it's projected onto the
15 surface in front and so it's still in a linear to curved
16 linear orientation, but because it replicates blood
17 under pressure, like from a vein or an artery, when it
18 hits the surface, because there's a volume issue, the --
19 we don't see those perfect stains anymore. What we
20 would see if we looked at that after the video would
21 have played out, because there's so much volume, you
22 would have flow patterns associated with those stains.
23 So we would have the stains, but then we would have flow
24 that came out of the stains because we're dealing with a
25 volume issue with an arterial projection.

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1 Q. All right. So they look circular now.

2 A. Correct. And in flight bloodstains are
3 circular.

4 Q. So what happened? What do we see happening?

5 A. So blood in flight is going to oscillate. So,
6 it kind of has this weeble wobble. It's really trying
7 to hold its stain shape and so as it's traveling, it's
8 oscillating, but it's trying to remain a spherical
9 shape. When it hits a target because the, depending on
10 what angle it hits the target, so if it hits straight in
11 front, those stains are going to be circular, but if it
12 moves through, through the surface, so anything as it
13 strikes at an angle, we're going to get more elliptical.
14 So the further from the initiating point, the more
15 elliptical those stains are going to be become. With
16 the projected pattern, if you remember what the other
17 video looked like, those stains are just little bitty
18 drops. So, a projected pattern it, as I said, it's a
19 volume issue and so the blood can't stay in that same
20 perimeter and so you have blood that will flow out and
21 that's how we can generally differentiate projected
22 patterns or any kind of ulterior breach from another
23 linear mechanism like cast-off.

24 Q. Let me show you what's been offered into
25 evidence as State's Exhibit No. 709. Have you seen that

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1 photograph before?

2 A. I have.

3 Q. And is that photograph important to -- in
4 looking at this case and making an opinion about the
5 case?

6 A. It is.

7 Q. In what way?

8 A. In that when I reviewed Dr. Pinerri's autopsy
9 report, because of bloodstains that they identified in
10 the scene, I was looking for specific injury in, in the
11 autopsy report and this injury is consistent with what I
12 was looking for.

13 Q. Okay. And why is this injury important?

14 A. If you will zoom in into to the injury, you can
15 see the veins and vessels that are inside that thumb and
16 can you see where those veins and vessels have been cut
17 and so that's the severing of the veins and arteries
18 inside the hand.

19 Q. Does that wound that we see in 709 come to bear
20 or it is relevant in regards to State's Exhibit No. 281?

21 A. It is.

22 Q. How so?

23 A. So on the front side of the chair on the seat
24 back, you will see a series of ellipses in a curved
25 linear orientation and then you have flow pattern that

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1 is coming from the bottom of those ellipses.

2 Q. Can we zoom in anywhere?

3 A. Yes, if you could zoom in to, like, the center
4 of the, of the chair.

5 Q. You can touch the screen and it will mark on
6 it.

7 A. So when I'm looking for ellipses, I'm looking
8 for -- how do I clear it?

9 Q. Bottom left.

10 A. Okay. So I'm just going to draw a thumb mark.
11 So we see an ellipsis here.

12 Q. And tell us what an ellipse is again.

13 A. That's that more elongated stain, sun-shaped
14 stains, but the more elongated stains.

15 And then we have an ellipse here and
16 there's one ellipse here. There's another photograph
17 that's in close proximity to where these are -- this is
18 taken that you have a better visual of what those
19 ellipses look like.

20 Q. State's Exhibit 282. Is that it?

21 A. Yes, ma'am. So here's a little better
22 photograph where you can see those individual ellipses.

23 Q. Okay. All right. And what does that tell you
24 about those specific bloodstains?

25 A. So the pattern has that linear to curved linear

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1 orientation. It shows that we are dealing with a volume
2 issue because we have flow that's coming out of the
3 bottom of those stains, which telling us that that is a
4 some kind of projected pattern.

5 Q. All right. What about the in stain 283, that's
6 running down the front of the chair. What does that
7 tell you?

8 A. Correct. And so those are the flow patterns
9 that I was talking about. It's that when the volume
10 can't stay within the confines of the perimeter of the
11 stain, then gravity takes hold of those stains and so
12 then the rest of the blood flows down.

13 Q. All right. And are you able through your
14 background able to tell -- let me just back up for a
15 second -- you have reviewed the offense report, you've
16 looked at the pictures, you've looked at everybody's
17 statements, and you've seen it, I take it, the scene
18 diagram?

19 A. I have.

20 Q. And do you have an opinion as to where a person
21 would have been in relation to where the chair was as
22 shown in the diagrams and the pictures to cause this
23 kind of blood flow?

24 A. Yes.

25 MS. BARNETT: Your Honor, I would ask that

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1 the chair and bench be brought in. I'm going to mark
2 them in as mark as evidence and have them brought in.

3 THE COURT: All right.

4 MS. BARNETT: I'm going to mark the chair
5 as State's Exhibit 728 and the bench as State's Exhibit
6 729.

7 THE COURT: Any objections?

8 MR. SECREST: No objection to the
9 admissibility, Your Honor.

10 THE COURT: State's Exhibit 728 and 729
11 are admitted.

12 Q. (BY MS. BARNETT) Now, can you -- did I ask you
13 to take a look at or did you take a look at State's
14 Exhibit No. 1 in learning about the placement of where
15 these should be?

16 A. Yes, ma'am, I did.

17 Q. And did you do that?

18 A. I did.

19 Q. Okay. First, before we do that, I'm going to
20 ask you to look at 728, and does this look the same
21 today as it did in the pictures reflecting what it
22 looked like back then?

23 A. No, it does not.

24 Q. Why not?

25 A. The stains, the ellipses that we just talked

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1 about, that I pointed out on the, on the projector,
2 they're harder today to visualize than what they were on
3 that photograph.

4 Q. All right. You can still see some patterns,
5 though, can you not?

6 A. Yes, you can see the spatter stains and you can
7 see the flow pattern.

8 Q. Now, did you and I come here this morning and
9 try to mark out an area that would closely resemble the
10 area where the chair was in relation to the closet?

11 A. We did.

12 Q. Okay. And can -- do you need to put tape on it
13 now or is it sufficient what we've done?

14 A. I think to -- for the jury to better visualize
15 the spacial constraints of the scene in the diagram, I
16 think that that can be done quickly. However, I think
17 we need to -- I would -- I think it would aid the jury
18 if we put a better job --

19 Q. Put the blue tape down?

20 A. Yes, ma'am.

21 Q. Do you have the blue tape with you?

22 A. I do.

23 MS. BARNETT: May the witness get the
24 tape?

25 THE COURT: Yes.

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1 Q. (BY MS. BARNETT) All right. Okay. So what are
2 we trying to replicate here?

3 A. So this area is a good area that we can
4 visualize the closet, the wall on the closet, the
5 doorway and opening that goes into the closet, as well
6 as putting the right side of the bed and the footboard
7 of the bed.

8 Q. Okay. All right. So where do you -- where do
9 you want to place the chair?

10 A. If we could get the bed taped in --

11 Q. Okay.

12 A. -- and the wall taped in, and then we'll place
13 the chair and the stool.

14 Q. Go ahead.

15 THE COURT: Please proceed.

16 (Witness demonstrates.)

17 Q. (BY MS. BARNETT) Okay. You've got it drawn
18 out?

19 A. Yes, ma'am.

20 Q. All right. Can you explain to the jury what
21 you've done here?

22 THE WITNESS: Judge, may I use the diagram
23 to demonstrate to the jury?

24 THE COURT: You may.

25 Q. (BY MS. BARNETT) And let me set it up.

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1 THE COURT: Keep it question and answer.

2 MS. BARNETT: Yes, ma'am.

3 Q. (BY MS. BARNETT) All right. So let's put
4 State's Exhibit No. 1 up here.

5 What have you done? What have you tried
6 to do?

7 A. So for me it's easier if we turn the diagram so
8 that this wall right here from this point to the doorway
9 is 3-foot, 3.08. So for demonstration purposes the
10 length of the table is the 3-foot and it's about
11 6-inches. So, we just need to come in a little closer.
12 But that -- for the reconstruction it's not imperative
13 to this reconstruction. So at the doorway and then we
14 have a 2-foot opening to the door, which from here to
15 the opening is 2-foot.

16 Q. And do you have a green marker showing that?

17 A. Yes. I have a green marker that shows not only
18 the door opening but then the door being in the open
19 position as seen in the crime scene photographs.

20 THE COURT: Can everyone in the jury see?

21 MR. SECREST: I'll get out of their way.

22 Q. (BY MS. BARNETT) Go ahead.

23 A. The distance from the wall to the bed is
24 3-foot, about 3-foot and 6-inches, the .05. So that is
25 what's measured out here at 3-foot, and I measured to

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1 the corner of the table just for spacial constraints.

2 Q. All right. So this green line right here
3 represents the bed?

4 A. Correct. And the bed is 7-foot, 10-inches
5 long, which is the distance from the corner to the foot
6 of the bed; and then I just taped to where we got the
7 exhibits.

8 Q. All right. Now, is the way that the chair and
9 the bench are here in the front of the jury, that's not
10 the way they were?

11 A. Correct.

12 Q. Could you please place those the way they are
13 represented in the pictures in the diagram?

14 A. Yes, ma'am.

15 Q. Okay.

16 A. So the diagram -- the chair in the photograph
17 is close to the bed. The photograph shows that the
18 chair is scanted slightly; however, in the diagram the
19 chair is symmetrical.

20 Q. What does scanted mean?

21 A. Turned slightly.

22 But the chair back is 6-foot or it's
23 5-foot .05 inches, which is the distance to the piece of
24 tape that I previously put on the floor.

25 And then the stool is oriented towards the

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1 staining to the back, the bottom left side, and the back
2 of the stool is 6-foot .09-inches. So it's in this
3 location here, also slightly scanted.

4 Q. Okay. And is there anything else on the scene
5 here that the jury would need to see?

6 A. Not for demonstrative purposes, no, ma'am, no.

7 Q. Okay.

8 THE COURT: Go ahead and take your seat.

9 Q. (BY MS. BARNETT) And on the screen is another
10 picture of how the chair was in relation to the closet
11 and additionally showing the closet door is open?

12 A. Correct, yes, ma'am.

13 Q. And that's what you show here with your green
14 line?

15 A. Yes, ma'am.

16 Q. Okay. Now, so when you -- when we're talking
17 about that stain on the chair, in the front of the chair
18 that we saw pictures of, what kind of stain is that?

19 A. That is a projected pattern.

20 Q. Okay. And when you looked at the autopsy
21 photographs are you able to tell or do you have an
22 opinion about which injury, if any did that would have
23 caused a pattern?

24 A. I do.

25 Q. And what is that?

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1 A. That is the photograph that was previously
2 shown, was identified by Dr. Pinneri as incised wound
3 number 9, and it's the wound to the right thumb area of
4 the hand.

5 Q. Okay. So where would Jaime Melgar have been
6 standing in order for him to get that wound and for it
7 to project blood onto the chair?

8 A. So there's two things that we're looking at.
9 Not only are we looking at the pattern on the chair, but
10 was also have to look at what the pattern is on the
11 ground and so the only place that we see dripped blood
12 is right there at the threshold of the closet, closet
13 door area. We see it just outside of, of that closet,
14 but it's right there at that threshold.

15 Q. Okay.

16 A. And so what's projected out also is going to be
17 falling down, which is what we see at that threshold.
18 So I know that he is no further out of the closet. So
19 at the closet, but when that hand is opened up, it has
20 to be in perpendicular to the chair back.

21 Q. Okay. So, and I don't understand exactly what
22 you mean by his hand being perpendicular. How is it --
23 how -- how should I shape my hand? Is it open?

24 THE WITNESS: Judge, can I step down and
25 position her hand?

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1 THE COURT: You may. Just keep your voice
2 up.

3 THE WITNESS: Yes, ma'am.

4 A. So as you're -- as you have your hand oriented
5 then we would have a projected pattern on the ceiling.

6 Q. (BY MS. BARNETT) Okay.

7 A. So it has to be to turned and it has to be --
8 the veins and vessels of your lacerated thumb have to be
9 facing toward the chair.

10 Q. And am I standing in the proper position for
11 where Jaime would have been to have that happen?

12 A. You could or you could be here with your arm
13 extended.

14 Q. Okay.

15 A. But your confines of where you can be is
16 limited based upon this 2-foot opening between the door
17 and the dripping at the threshold.

18 Q. Okay.

19 A. So if you imagine an invisible line down here
20 on the floor, you only see drip stains here at this
21 threshold, which means your hand is not out here.

22 Q. Okay.

23 A. But absolutely it can be here. It can be back
24 here, but it has to be oriented so that the veins and
25 vessels in your thumb are striking the back of the

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1 chair.

2 Q. All right. So where can I escape? How can I
3 escape from this? So this is the side of the closet
4 here?

5 A. Well, now you have inside the closet.

6 Q. Okay.

7 A. You just have a door frame. You have a door
8 frame here and you have a door frame right here.

9 Q. All right.

10 A. Okay, but the closet is a lot bigger than --
11 because there's a filing cabinet here and there's
12 clothes on -- hanging on both racks, okay? And then
13 there's an opening over here, but this door is open, so
14 you're not coming this way.

15 Q. As it appears in the photograph, that's going
16 to block him from going to his right.

17 A. Correct.

18 Q. Because he can't go to his right. He can't --
19 he's going to run into the bed if he goes straight
20 ahead.

21 MR. SECREST: Objection to leading.

22 THE COURT: Sustained.

23 Q. (BY MS. BARNETT) And if he's standing here and
24 he's getting stabbed, where might the stabber be?

25 A. Well, and that space is limited also because

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1 you can't block the bloodshed that goes to the chair.
2 So I think this is an explainable position. You have
3 room to stand here, and I think that this is an
4 explainable position as you have room to stand here, but
5 I know that you have to be at least capable of -- of
6 projecting onto the chair so that limits where I can be.

7 Q. Because it would go onto you?

8 A. Correct.

9 Q. All right. So you're either where you're
10 standing now or maybe on the other side of the chair?

11 A. Yes, ma'am.

12 Q. Okay. Let's pretend like it's possible that
13 I'm starting to get stabbed and I know that there's a
14 gun behind me. So would it be reasonable to think that
15 I would turn around and get the gun?

16 A. Sure.

17 Q. Okay. So I turn around and get the gun. What
18 happens after that?

19 A. Then you're exposing your back and if I have a
20 knife, now I have the opportunity to stab you in the
21 back.

22 Q. And have you looked at the autopsy photos?

23 A. I have.

24 Q. Are there any stab wounds to the back?

25 A. No, there's not.

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1 Q. All right. Go ahead and take a seat.

2 A. Thank you.

3 Q. In your -- in your evaluation of all the photos
4 in the house, did you see any bloodstains in the
5 kitchen?

6 A. I did not.

7 Q. Did you see any bloodstains or patterns in the
8 dining room?

9 A. I did not.

10 Q. In the study?

11 A. No, ma'am.

12 Q. In the extra bedroom?

13 A. No, ma'am.

14 Q. In the master bath?

15 A. I saw photographs that were taken that appear
16 to be using with a chemical enhancement, either lumenal
17 or BLUESTAR, which is the chemo-luminescent chemical
18 that -- fluorescent or chemo-luminescent --
19 chemo-luminescent blood and so I saw detection that that
20 chemical was having a reaction on the side of the tub
21 and on the sink.

22 Q. Okay. And thank you for that, and I should
23 have known to not ask that question to a forensic
24 person, but the type of blood that you see in the closet
25 and the chair, did see that anywhere else in the house?

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1 A. No, ma'am.

2 Q. So let's move on to the other types of stains
3 that you saw, and basically they're all confined to the
4 closet, are they not?

5 A. Yes, ma'am.

6 Q. Okay. What types of stains -- what else did
7 you see in the closet?

8 A. There was lots of staining in closet.

9 Q. Good point.

10 Let's take a look at 382. Generally
11 speaking what do you see there?

12 A. For me I see the decedent, Jaime Melgar. I
13 also see a small transfer stain that has one flow coming
14 out of that transfer stain and that's going to be on the
15 far left of photograph and then behind Jaime's head I
16 see a larger bloodstain that is categorizes as a swipe
17 pattern, which by definition is something bloody coming
18 into contact with something non-bloody that shows
19 relative motion between the two -- two events. So we
20 see motion going from left to right, which is the
21 position that we see him in.

22 Q. Do you have an opinion as to whether or not the
23 body of Jaime Melgar was manipulated in any kind of way?

24 A. I do.

25 Q. And what is your opinion?

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1 A. He has got injuries to -- obviously to his neck
2 and center chest, but the staining on his right arm, his
3 shoulder, his upper arm, his abdomen, torso area, that
4 is -- that is a secondary event. So either something
5 bloody is coming into contact with him, he is being --
6 something bloody is touching him. Now that could be
7 him, okay, or that could be something -- somebody with
8 blood on their hands, then touching his upper torso and
9 body because he doesn't have staining that is not a
10 pattern that's consistent with just regular passive
11 bleeding and so that is some kind of manipulation, so
12 like a secondary event.

13 Q. All right. When you say, secondary event, what
14 do you mean?

15 A. Meaning what I just explained, that the stains
16 or that the injury does not cause that stain. That
17 comes from a secondary event, meaning that either after
18 Mr. Melgar's hands were bloody, then he either touches
19 himself or someone that is bloody is touching him,
20 transferring that blood onto areas that are unstained.

21 Q. Now, if you -- let's take the second
22 hypothesis, that somebody that's bloody or somebody is
23 touching him and either gets bloody or another person,
24 they're bloody themselves, would you expect to find
25 blood elsewhere in the house if that person has blood on

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1 them?

2 A. Absolutely.

3 Q. And of course I think we've already discussed,
4 you didn't find that in the pictures. They don't show
5 it?

6 A. Correct.

7 Q. You said, absolutely. Do you feel strongly
8 about that?

9 A. I do, yes, ma'am.

10 Q. And tell me why.

11 A. So as I testified earlier this morning, I
12 instruct a 40-hour basic bloodstain pattern analysis
13 course in which we have 11 activities where the forensic
14 student goes through a series of creating patterns. So
15 they create impact patterns, they create trajected
16 patterns, they create transfer patterns, they create
17 wipes and swipes; and so not only demonstrating to the
18 student how to conduct the activity, but watching them.
19 When your hands are bloody because of the viscosity of
20 blood, anything that you touch or move or pick up will
21 leave that transfer of blood and so you would expect
22 with as many swipes and wipes that are on Mr. Melgar
23 that you would then see that we had either -- even if
24 the offender was wearing gloves -- you should see gloved
25 impressions or if they're not wearing gloves, we should

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1 see finger impressions, of which we don't.

2 Q. Let me show you 364 and ask you to take a look
3 at those. What is that?

4 A. So in the carpet and of course they're not as
5 big of drops as what we see if, you know, on a tile or a
6 wood floor, but we still see that linear or curved
7 linear orientation on the carpet, which can then either
8 be caused by just a trail of dripped blood or by that
9 projected pattern and being on to the floor.

10 Q. Let's look at 372 and take a look at this stain
11 right here, 372.

12 A. Yes, ma'am.

13 Q. What kind of stain is that?

14 A. So that is a transfer pattern, which is
15 something bloody coming into contact with something
16 non-bloody.

17 Q. And there's -- I'm trying to find a better
18 picture because there are two transfer patterns
19 side-by-side, aren't there?

20 A. Correct, yes, ma'am.

21 THE COURT: Ms. Barnett, which exhibit is
22 that on the screen?

23 MS. BARNETT: That is 372.

24 THE COURT: Okay. Which pattern are you
25 talking about?

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1 MS. BARNETT: The one on the left.

2 Q. (BY MS. BARNETT) Okay. And I'm going to show
3 you State's Exhibit 384. What kind of pattern do you
4 see here?

5 A. So that is a swipe pattern because we see
6 motion. So the difference between transfer patterns and
7 swipe patterns is the transfer pattern is just something
8 bloody coming into contact with something non-bloody,
9 okay, and a swipe pattern is something bloody coming
10 into contact with something non-bloody, but then
11 there's -- there's motion.

12 Q. Okay. So there's -- there's nothing that --
13 there's no -- is that the -- it's not continuous between
14 the swipe on the left -- I'm sorry -- the bloodstain on
15 the left and the bloodstain on the right. What's your
16 opinion about why that is?

17 A. So that is there's two events, so -- and if you
18 zoom in to the pattern on the left, you can see that
19 there are aspects of that stain that you can see hair
20 transfer within that stain. There's also a wipe that
21 goes through that pattern which looks like a cursive L,
22 I guess, kind of oriented from, say, 8:00 o'clock to
23 2:00 o'clock with a little hook at the end.

24 Q. Are you speaking of this?

25 A. I am.

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1 Q. Okay.

2 A. So the transfer pattern has to be there first
3 and then a secondary event occurs where something wipes
4 through that stain and causes that.

5 Also at about -- from about a 4:00 o'clock
6 until about 5:00 o'clock you see those striations in the
7 pattern, and so that's consistent with hair transfer.

8 Q. Okay. And striations, are you talking about --
9 what are you talking about?

10 A. So you have -- I can point. So we have
11 striations that are consistent with being caused by
12 hair.

13 Q. Okay. You showed me a picture -- and I can't
14 seem to find it right now, but 385 had something to do
15 with the hanger on the left.

16 A. Correct.

17 Q. And what -- what did you think was important
18 about the hanger on the left?

19 A. So because of that wipe that goes through the
20 pattern, okay, so now we have a sequencing event again,
21 where the transfer stain is on the wall and then that,
22 that wipe goes through the pattern and on the hanger
23 there is a photograph that you can zoom in to the back
24 part of that hanger, so if it was -- if the hanger was
25 upright as it's oriented now, with the hook going

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1 clockwise, so if you straighten that out, the -- there
2 on the bottom of that -- so how it's oriented on the
3 bottom, you will see that that is bloody. So, my
4 opinion is that the transfer stain is there and then a
5 secondary event happens where that hanger goes against
6 the wall and creates that wipe through the stain and
7 then we see it in its final resting position, which for
8 a lack of a better term, cattywompus to how it's
9 supposed to be, but the bottom side of that hanger is
10 bloody, which would lead to believe -- would lead me to
11 believe that that is the cause of the wipe through the
12 stain.

13 Q. Can you tell in various pictures whether or not
14 Jaime was standing or sitting or leaning during any of
15 these?

16 A. Sure, yes, ma'am.

17 Q. How can you tell?

18 A. So there's a photograph and you can probably
19 see it in this picture if you'll zoom out. So there is
20 a -- right above him on the closet rod and the shelf,
21 so -- yes, ma'am -- okay. So in this area of the shelf
22 and this area of the closet rod, we have transfer
23 staining and then below, if you will raise the picture
24 up just a fraction of an inch -- we have directional
25 stains. So when we looked at those ellipses, you can

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1 tell which way the stains are traveling. So these
2 stains are traveling in a downward direction and there's
3 are other stains beyond this photograph and so in order
4 to get those stains traveling in a downward direction
5 with the transfer stain on the rod and transfer stain on
6 the shelf, that's where the cessation cast-off comes in
7 or, where something bloody makes contact, comes to an
8 abrupt stop, causing that blood to the cessation
9 cast-off. So then we get that downward directionality
10 which means that he's got to be in at least some --
11 some -- somewhat of an erect position, where his head
12 makes contact because on the back side of him, that's
13 the only place that's bloody is his hair, as we see
14 evidence of the transfer stains on the closet wall. And
15 so that leads to believe that his head came into contact
16 with the closet rod and a shelf, causing the cessation
17 cast-off.

18 Q. And I do have the pictures of that -- of the
19 autopsy. Well, I'll have to go get those in a minute.

20 Okay. So where he is when you're talking
21 about those stains, is it the back of the closet?

22 A. Correct. And so the -- earlier this morning I
23 measured out that the closet is 4 feet deep; however,
24 that shelf and the rod that is attached, that is usually
25 a -- like a 1 by 12 or -- and so at 12-inches is going

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1 to be where that blue tape, so that is at 4-foot from
2 the edge of the closet and then the next blue tape is
3 12-inches.

4 Q. All right. So this -- this tape right here
5 that my finger is on would be where the wall is
6 essentially?

7 A. Correct, that's 4-foot.

8 Q. And then the clothes would take up between this
9 first tape and second tape?

10 A. Yes. That's, that's 12-inches.

11 Q. So essentially he's in two and -- 2 feet of
12 space to the left and to the right?

13 A. Well, from the door to that first 12-inches
14 would be three feet.

15 Q. And 2 feet wide?

16 A. In the door frame, yes, ma'am.

17 Q. Okay. So there's really no place for him to
18 go.

19 A. He's in a very tight, confined area.

20 Q. Let's talk about home staging, can you -- and I
21 am not talking about, like, for real estate purposes,
22 but when you stage a crime scene, do you have experience
23 with that?

24 A. I do.

25 Q. And what kind of experience do you have with

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1 staging a crime or the investigation of staging a crime?

2 A. So that began as my first day as a street
3 police officer, where the district that I worked, I
4 worked the 2:00 to 10:00 shift and we responded to
5 anywhere from 10 the 16 calls per shift. I rode as a
6 single unit and so whatever call dropped is what we
7 would respond to.

8 And so going into crime scenes as a patrol
9 officer we get to see those scenes before EMS gets
10 there, before fire gets there, before the detectives get
11 there, and the crime scene people get there and so you
12 walk in, and depending on what the nature of the, the
13 scene was, whether it's a home burglary or a car
14 burglary or a bank robbery or a home invasion, you know,
15 family violence, family violence in progress, as you
16 walk in, you get to see what those scenes look like.
17 And that just builds your, as I refer to it, your mental
18 Rolodex, how scenes look, which as you respond to the
19 next home burglary or the next family violence in
20 progress and you walk in and something seems awry, like
21 the hair on the back of your neck stands up and you know
22 that it isn't what it appears based on all these other
23 thousands of calls that you've responded to, okay, and
24 so immediately that's when you start saying, okay, I
25 know what this looks like, but this doesn't look like

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1 that. Okay. Fast forward to being a crime scene
2 investigator, now you have to look at scenes that we've
3 already had first responders in the scene. So we've had
4 patrol officers and then we've had EMS in there, we've
5 had fire department in there, we've had other support
6 folks in there; and so even then you can look at it and
7 say, none of this is making sense.

8 Q. What -- and okay -- and when you looked at all
9 the things that you looked at in this case, did you have
10 a sense of whether or not it made sense to you?

11 A. I did.

12 Q. And what was your opinion?

13 A. I -- it appeared that what I would expect to
14 see with a house that was occupied by two people that
15 was essentially home invaded, that is not what we
16 typically see on home invasions.

17 Q. Okay. Tell us why. Why -- what did you see in
18 the pictures or any of the documents that you looked at
19 that made you think that?

20 A. Okay. So I -- after I reviewed the entire
21 case, it didn't appear that any of the doors had been
22 kicked. It didn't appear that any glass had been
23 broken. It didn't appear that there was any signs of a
24 disturbance and so with the demonstration that was given
25 between Ms. Barnett and I that there is a chair, there

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1 is a stool, there is a nightstand at end of the bed with
2 things on top of it, a candle and all of those things
3 upright and in place and with home invasions or any kind
4 of assault, okay, there are two people that are
5 fighting, at least two people, the offender and the
6 victim. And so we don't see where the chair has been
7 turned over or the stool has been turned over or
8 anything on the nightstand has been bumped. We see
9 where the drawers are open and we have items that are
10 scattered around, but the whole point of a home invasion
11 is to have some kind of benefit, whether it's drugs,
12 whether it's weapons, whether it's money, whether it's
13 jewelry, something -- offenders go there for something,
14 and there isn't a report of any large amount of either
15 drugs, money, guns, jewelery missing from the home.

16 The second --

17 MR. SECREST: Excuse me, Your Honor, I've
18 been pretty tolerant. I object to the narrative
19 testimony.

20 THE COURT: Sustained.

21 Q. (BY MS. BARNETT) Are there -- what are some
22 other factors that looked at? I mean, continue, why are
23 the other things that -- why -- what are all of the
24 things that you looked at in trying to -- that gives you
25 your opinion that this was staged?

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1 A. And I was almost done explaining that in that
2 we don't see where, where that occurred.

3 Then with the injuries that were sustained
4 to the victim, for the defender to leave the residence,
5 then we're going to have these transfer bloodstains or
6 if the offender is in with the victim in the closet,
7 there is blood on the floor, but we don't see any
8 footwear leaving the bedroom or through the house.
9 There is no transfer stains on the back of the doors to
10 leave. So that, that leads me to believe that
11 everything stayed right there in that bedroom.

12 Q. Would you have expected -- you've already
13 talked about you would expect to see bloody footprints
14 or some bloody transfers. So you would expect a person
15 who did this to have blood on them, right?

16 A. Absolutely.

17 Q. Okay. And would you think that it would be a
18 lot of blood?

19 A. Yes, based on the photographs of Mr. Melgar.

20 Q. Okay. On their hands?

21 A. Yes.

22 Q. On their body?

23 A. Yes.

24 Q. And possibly having stepped on, on blood
25 leaving footprints or shoe prints?

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1 A. If they were in the closet on top of that
2 blood, yes.

3 Q. Has it been your experience that home invaders
4 take a shower in the home that they've invaded to clean
5 themselves off?

6 A. I have never had that at a scene, no.

7 Q. Have you -- is it your experience that if they
8 did take a shower to clean themselves off they then
9 would squeegee the inside of the shower with a squeegee
10 to keep that clean?

11 A. No, ma'am.

12 Q. Never heard of that?

13 A. No, ma'am.

14 Q. What's your experience about do home invaders
15 come in and take their time with stuff?

16 A. I -- I think the circumstance is probably going
17 to be dependent upon the neutralization of the threat,
18 and so I'm probably not qualified to testify on how long
19 home invaders would stay in the house.

20 Q. Okay. And that was probably a very poor
21 question on my part.

22 So you've got one person taken care of and
23 you've got another person, right?

24 A. Yes, ma'am.

25 Q. So in order -- let me back up a minute.

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1 When Jaime Melgar is stabbed to death, we
2 find him lying on the ground with a red cord around his
3 torso and a telephone cord around his ankles?

4 A. Yes.

5 Q. Do you -- do you have an opinion as to whether
6 or not that telephone cord and the red cord were on him
7 before he was stabbed or after he was stabbed or can you
8 tell?

9 A. It appears that he is already, and I don't know
10 that you can -- I think you can kind of see in this
11 photograph. There is another photograph where you can
12 see that the dry cleaner, the plastic dry cleaner bag is
13 actually tied up into to the telephone cord and so --

14 Q. State's 397?

15 A. Yes, ma'am. Thank you.

16 And so he is already down and on top of
17 that bag at the time that his feet are tied. So that's
18 a sequencing issue that that's under him at the time
19 that he is tied up.

20 Q. So does this fit in with a staging idea?

21 A. It does.

22 Q. Staging the crime?

23 A. Yes, ma'am.

24 Q. And does it do -- and the bloodstain in 396
25 that is above the cord, is that a transfer stain?

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1 A. That is and that is consistent with fingers.

2 Q. Okay. And meaning -- what does that mean
3 exactly?

4 A. That you have bloody fingers that come into
5 contact with lower ankles.

6 Q. And would it be your experience that -- that
7 someone that, that stabbed Jaime so many times and puts
8 31 types of stabbings or pokings or assaults on him
9 would take the time to tie his feet up after he died?

10 A. Can you ask me that question.

11 Q. Yeah. Has it been your experience in law
12 enforcement that if someone, a home invader comes in and
13 brutally murders a man, are they going take the time to
14 find a telephone cord and tie a loose tie around his
15 ankles?

16 A. Well, in looking at the telephone cord --

17 MR. SECREST: Offer yes or no, Your Honor.

18 THE COURT: Sustained.

19 Q. (BY MS. BARNETT) Does that -- is that
20 consistent with someone robbing the home or invading the
21 home, home invaders to kill the person, brutally murder
22 them, and then try and find a telephone cord to tie
23 their ankles with? Does that make sense?

24 A. No, it does not make sense.

25 Q. State's Exhibit 383, what about that cord?

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1 What's your opinion on that?

2 A. It appears that it's only wrapped around his
3 torso.

4 Q. All right. And how would you -- and it's not
5 connected underneath the body, so how would you -- what
6 would you have to do in order to get the cord underneath
7 the arms?

8 A. You would have to grab him by his arms and pull
9 him forward so that you can tuck the cord in behind him.

10 Q. That is -- do you see any bloodstain patterns
11 that suggest that that may have happened?

12 A. Yes.

13 Q. In what so?

14 A. So there is transfer staining on his lower
15 arms, as well finger marks on his upper biceps, and
16 there is also transfer stains on his outer bicep.

17 Q. So is that something that you would think would
18 be the normal state of business of a home invader to
19 brutally stab a man, search around the house for a cord
20 to put over his chest?

21 A. I have never seen that.

22 Q. Does that -- is that something that you think
23 might be a staging part of this house?

24 A. I do.

25 THE COURT: All right. Ladies and

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1 gentlemen, we're going to go ahead and take our morning
2 break. We'll be in recess for 30 minutes.

3 (Recess taken)

4 THE COURT: State, you may proceed.

5 Q. (BY MS. BARNETT) And one of the things I forgot
6 to ask you in your experience and background is whether
7 or not you've held any positions with the Association of
8 Crime Scene Reconstruction?

9 A. I have.

10 Q. And what was that?

11 A. So I was the president last year and this year
12 I'm the chairman of the board.

13 Q. What do you do as the president of the
14 Association of Crime Scene Reconstruction?

15 A. So the Association for Crime Scene
16 Reconstruction also has a yearly training conference
17 that we put on to provide training to other crime scene
18 reconstructionists, to present research and kind of
19 research in the crime scene reconstruction field and as
20 well as provide being a liaison to crime scene other
21 reconstructionists. Another class I teach, I teach a
22 crime scene reconstruction level 2 class with Ross
23 Gardner, who is also with Bevel, Gardner and Associates.

24 Q. All right. Okay. Now, one of the things that
25 I want to talk to you about is the safe that was located

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1 in the closet where Jaime Melgar was found. Do you
2 recall that?

3 A. I do.

4 MS. BARNETT: Your Honor, may I approach
5 the witness?

6 THE COURT: You may.

7 Q. (BY MS. BARNETT) Actually let me just show it
8 to you on the overhead.

9 A. Yes, ma'am.

10 Q. I'm going to show you what's been introduced
11 into evidence as State's Exhibit 446. Do you recognize
12 this?

13 A. I do.

14 Q. Okay. What is this?

15 A. It's the handle -- or it's a gray safe.

16 Q. I'm going to enlarge this and have you take
17 look at the handle.

18 Have you looked at a picture like this
19 before?

20 A. I have.

21 Q. Now, can you tell us whether or not there is
22 some type of -- is there any, any information that you
23 can see from the safe that tells you whether or not
24 there is a print there?

25 A. Latent print?

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1 Q. Yeah, any kind of print.

2 A. Well, you have a -- there is a bloodstain
3 there, but it is not a latent print.

4 Q. All right. And how -- tell me why say that.
5 Why is that your opinion?

6 A. Because the pattern that's on the handle to the
7 safe is a swipe pattern, which is something bloody
8 coming into contact with something non-bloody and you
9 see relative movement, but there is no friction ridges.
10 There's no friction identifications --

11 Q. No way --

12 A. -- involved in that frame.

13 Q. No way to get a printout of that?

14 A. No, ma'am.

15 Q. I'm going to show you State's Exhibit 272, the
16 bench. Is there any type of discernable pattern there?

17 A. Yes, ma'am.

18 Q. Or anything that comes to your attention, what
19 is that?

20 A. Yes. So there are several things going on with
21 this bench. There are what appears to be the outlines
22 of circular stains. There are --

23 Q. Let me enlarge it. Go ahead.

24 A. So we see outlines of circular stains on the
25 bench. There is also swipes on the bench, as well

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1 probably some wiping, which is the blood is there and
2 something wipes through it. On the bottom right side of
3 the bench that we can no longer see, there's also
4 swiping down there also, but with the exception of the
5 stains in the bottom left corner, the rest of the top of
6 the stool is free of any stains, which between the chair
7 and the bench would be considered a void pattern.

8 Q. What do you mean by that, the void pattern?

9 A. We can't see the entirety of the bench, but if
10 we had a line, everything on the top right of the bench
11 is free of staining, which means that we have staining
12 and then we have stains on the bench that you can
13 visualize that we're missing part of the stain, so that
14 means that something else was on bench that is no longer
15 there.

16 Q. Do you still -- from the time that has gone by
17 from 2012 to 2017, you've had an opportunity to look at
18 the bench. Is there evidence still of that on the bench
19 today?

20 A. Yes.

21 MS. BARNETT: Your Honor, may I approach
22 the witness?

23 THE COURT: You may.

24 Q. (BY MS. BARNETT) I'm going to show you what has
25 been introduced as 729. Can you show us what you're

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1 talking about?

2 A. Yes.

3 THE WITNESS: May I step down?

4 THE COURT: Yes.

5 A. So if you will please turn it.

6 Q. (BY MS. BARNETT) How do you want me to turn it?

7 A. So that the stains are there.

8 So we have you can see the top side of
9 circles, but then we have something that we have stains
10 on the bench that something wipes through and then we
11 also have these swipes, so something bloody comes into
12 contact with the side of the bench side over here.
13 Okay. So we've got something bloody that is now
14 manipulating this bench, but from here across is all of
15 this void of any stain. We have, in the photographs you
16 can see that we have spines. So the little, like,
17 sunbeams that are coming off of the stains, these spines
18 are coming down, which means we have to have staining
19 somewhere else in order to have the spines, but we don't
20 see the parent stain that would cause the spining. So
21 that leads me to believe that there is something on top
22 of this bench and whatever it was, is gone and it was
23 never either located or it wasn't recognized or wasn't
24 attributed back to the rest of this pattern.

25 Q. And would you expect that piece to no longer

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1 have blood on it?

2 A. Yes, ma'am.

3 Q. Okay. Thank you.

4 As far as you know, was any material
5 found, like some piece of cloth or a washcloth or a
6 blouse or anything else that was found at the scene that
7 had blood on it?

8 A. Yes.

9 Q. As far as you know. What is that?

10 A. There is a shirt that was a white blouse that
11 was in the bottom of the jacuzzi tub that reacted to
12 fluorescein, which is a blood stain enhancement
13 chemical.

14 Q. Okay. I agree and aside from that, the blouse
15 and the things that were found in the tub, was there any
16 other piece of material or anything else in the kitchen,
17 anything in the bedroom that could have been on top of
18 that stool with blood on it? Was any of that recovered
19 ever?

20 A. Not that I saw, no.

21 Q. Okay. Let's talk about the garage doors. So
22 in your experience through your many years of police
23 work, can you tell us your opinion about a home invader
24 and what type of exit usually they would use in leaving
25 a house?

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1 A. Usually the exit is at the place of least --
2 the entrance and exit are the place of least detection.
3 So if there is a back door, if there's back windows, if
4 there's a side door, that would be a more opportune
5 location to enter and exit as opposed through the front
6 door.

7 Q. All right. And what about the front door
8 versus a garage door with a motor going and a light
9 coming on? What's your opinion about that?

10 A. If I'm given the two options, the door of least
11 detection, which would be -- if the front door didn't
12 have a motion light on it, that a would be the better
13 option than the garage door that comes up and makes
14 noise and the light pops on.

15 Q. Certainly that would attract attention,
16 wouldn't it?

17 MR. SECREST: Objection to the constant
18 leading by the prosecutor.

19 THE COURT: Sustained.

20 Q. (BY MS. BARNETT) Would a garage door that makes
21 noise and a light comes on attract attention at the
22 middle of the night?

23 A. It could.

24 Q. You understand that the story is that Miss --

25 MR. SECREST: Objection to the

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1 characterization of the story.

2 THE COURT: Rephrase.

3 Q. (BY MS. BARNETT) Through your investigation and
4 looking at the offense report and all the pictures and
5 everything that you did in preparation for this case,
6 you understand what the defense is, right?

7 A. I --

8 Q. Let me ask that question again. In the sense
9 of how Ms. Melgar is found, let's just talk about that.
10 Are you with me on that?

11 A. Yes, ma'am.

12 Q. So would you expect someone that committed this
13 crime, I think I've already asked you this, have blood
14 on them?

15 A. Yes.

16 Q. Would you expect that some of that blood would
17 be transferred to Ms. Melgar?

18 A. I would.

19 Q. If in fact there was a burglary?

20 A. Absolutely.

21 Q. She was found with her hands tied behind her
22 back, would you expect there to be blood on that side?

23 A. Sure.

24 Q. Would you expect there to be blood on the scarf
25 that was around her ankles?

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1 A. Possibly, yes.

2 Q. Would you expect there to be blood on the door
3 leading into her closet?

4 A. Yes.

5 Q. Would you expect there to be blood on the
6 handle of the door or more blood on the chair that
7 supposedly was in her closet?

8 A. Yes, and that is all assuming that the person
9 that killed Jaime Melgar is the same person that was
10 dealing with Sandra Melgar.

11 Q. All right. Now --

12 A. So that's assuming that this is all done by one
13 individual.

14 Q. And is there anything that you have found in
15 any of the materials that you've seen that there is
16 anything indicating that there was more than one person?

17 A. No, ma'am.

18 Q. We talked about staging, but I want you just to
19 take a look at State's Exhibit 146. Does that appear to
20 be staged to you in your opinion?

21 A. That is one of the identifiers that look like a
22 scene has been staged.

23 Q. And what do you mean by identifier?

24 A. Because the drawers are -- and I have never
25 visited the Melgar residence before this offense, so I

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1 don't know how they kept their bedrooms and drawers;
2 however, in the cases that I have, the scenes that I
3 have been to and the offenses that I have worked, when
4 the drawers are pulled open but yet nothing is pulled
5 out and, and nothing is on the floor and nothing appears
6 to be moved around the drawer, that looks like a sign of
7 staging.

8 Q. In state's Exhibit 242 when items remain
9 upright in the drawers?

10 A. They could, but again, this says that the
11 drawer is open, and something was being looked for but
12 nothing was turned over. Everything is stacked nicely.
13 So usually what you see is either the drawer is pulled
14 out and the contents are dumped or the items are raked
15 to try see what's underneath them. So, like, your top
16 drawer, your sock drawer, either someone is reaching
17 underneath there looking for what you have hidden t the
18 bottom of your socks or you just pull that so that you
19 could get to credit cards or jewelry or whatever it is
20 you keep under your socks.

21 MS. BARNETT: May I approach the witness?

22 THE COURT: You may.

23 Q. (BY MS. BARNETT) I'm going to show you what's
24 been introduced into evidence as State's Exhibit 571 and
25 572. Would you take a look at that and tell me -- if

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1 this was -- if I told you that the evidence were to show
2 that this was what was around Sandra Melgar's wrists at
3 the time she was in her closet, can you tell me whether
4 or not this would be something that would limit you from
5 being able to untie yourself?

6 MR. SECREST: Objection, she laid no
7 predicate whatsoever for this witness to apply to that.

8 THE COURT: Sustained and rephrase your
9 question.

10 Q. (BY MS. BARNETT) Take a look at the material.
11 I would like for you to take look at the material on
12 State's Exhibits 571 and 572, just if you would just
13 hold it.

14 So does this look -- is the material
15 stretchy?

16 A. Very much so.

17 Q. So it gives way?

18 A. Yes, ma'am.

19 Q. If someone were to have their wrists bound in
20 this type of material, would you think that it would
21 be -- could you get out of it, in your opinion?

22 MR. SECREST: Objection. She still hasn't
23 laid a proper predicate.

24 THE COURT: Sustained as to leading, but
25 rephrase your question.

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1 Q. (BY MS. BARNETT) I would like for you to take
2 look at this material and in a hypothetical, suppose
3 that someone has their wrists wrapped in these two
4 pieces of cloth that -- with circles on each side, do
5 you think or do you have an opinion as to whether or not
6 you would be able to get out of this?

7 A. I do.

8 Q. And what's your opinion?

9 A. That they would just fall off.

10 Q. And why do you think that?

11 A. Because the holes are so large and this knot
12 isn't even tied tightly, where just by pulling on it a
13 little bit, it already pulled to where it almost seems
14 like I could wear it like a belt.

15 Q. Thank you.

16 MS. BARNETT: Pass the witness.

17 THE COURT: Cross examination? You may
18 proceed.

19 **CROSS-EXAMINATION**

20 BY MR. SECREST:

21 Q. Ms. Rossi, where you been?

22 A. Sir?

23 Q. Where you been?

24 A. Where have I been?

25 Q. Yes, ma'am. This murder took place on December

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1 22, 23, 2012, and you're first called into the case,
2 what, like 15 days ago?

3 A. I believe it was a month ago now, sir.

4 Q. Oh, 30 days ago. So you were contacted first
5 time 30 days ago after this case had been pending over
6 four and a half years?

7 A. Yes, sir.

8 Q. Okay. Would you -- I noticed during your
9 testimony that you had a habit of looking at the jury.

10 A. Yes, sir.

11 Q. Is that what you learned at the academy?

12 A. In the police academy?

13 Q. Yes.

14 A. I don't believe I learned that in the police
15 academy, but I have learned that -- to look at the
16 jurors.

17 Q. And you testified in several courts, I
18 understand by your direct examination?

19 A. Yes, sir.

20 Q. And tell our jury how many times you testified
21 on behalf of the defense?

22 A. I was a State's witness for the State of
23 Alabama against Stephen Nodine.

24 Q. Excuse me, Ms. Rossi, you haven't answered my
25 question. I asked you, would you tell the jury how many

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1 times you testified on behalf of the defense?

2 A. Which I was going answer that.

3 Q. I want to you qualify for me, how many times?

4 A. I became a defense expert for the State of
5 Alabama against Stephen Nodine.

6 Q. You became a defense expert for the State of
7 Alabama?

8 A. No, sir. I started out as a State expert for
9 the State of Alabama, and then I became a defense expert
10 for the exoneration of Stephen Nodine.

11 Q. Okay. So how many times do you think you've
12 testified before?

13 A. Numerous times, sir.

14 Q. Give me a ballpark. I'm not going to hold you
15 to it. Ten times?

16 A. I would say more than 25 times.

17 Q. More than 25 times, and how many times have you
18 testified for the defense?

19 A. I feel like I testified for the defense --

20 Q. You didn't answer my question, Ms. Rossi. How
21 many times have you been called to testify for the
22 defense?

23 A. Once.

24 Q. Okay. Because this is what you do, is it not?
25 You come into court and you offer your quote, unquote

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1 expert testimony on behalf of the prosecution, correct?

2 A. Because I work for the State, sir.

3 Q. Yes, you do. So noted and so the record is
4 clear, what investigators on this case did you speak
5 with about their investigation?

6 A. I have not spoke with anybody.

7 Q. When -- tell the jury when you actually went to
8 the scene of the crime, like never?

9 A. I have not -- I asked to go to the scene. That
10 opportunity was not provided to me, so I have not been
11 to scene of this crime.

12 Q. The opportunity wasn't provided to you because
13 you first got involved in this case after the case had
14 been set for trial approximately 30 days ago, correct?

15 A. Yes, sir.

16 Q. And in fact the report that is offered into
17 evidence, you know for a fact the first time I saw it
18 was today, right?

19 A. I was made aware of it, yes, sir.

20 Q. Well, let's talk about some of your findings.
21 First of all, did you rely pretty heavily on the
22 forensic validity of DNA testing?

23 A. Can you explain, rely heavily, meaning?

24 Q. Well, there's all kinds of evidence, is there
25 not? All kinds of evidence.

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1 A. Yes, sir.

2 Q. Right and some's a lot more valid than others,
3 right?

4 A. I think all evidence is valid, sir.

5 Q. Work with me here. There is some evidence that
6 has scientific --

7 MS. BARNETT: Object to the side bar.

8 THE COURT: Sustained. No side bar.

9 MS. BARNETT: Ask the jury to be
10 instructed to disregard that.

11 THE COURT: Please proceed.

12 MR. SECREST: Thank you, Your Honor.

13 Q. (BY MR. SECREST) There's certain types of
14 evidence that has met the rigorous standard of
15 scientific validation, correct?

16 A. Sure, yes, sir.

17 Q. I mean you understand what I'm asking you here?

18 A. I believe so, yes, sir.

19 Q. Okay. So DNA evidence that's kind of top of
20 the food chain, is it not?

21 A. It's a scientific evidence that has quantified
22 numbers, yes, sir.

23 Q. Well, it's based upon your experience, DNA
24 evidence has been absolutely validated and it has been
25 accepted in courts of law and has been the subject of

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1 rigorous peer review in acceptance in the scientific
2 community --

3 A. Yes, sir.

4 Q. Fair statement?

5 A. Yes, sir.

6 Q. Okay. Analysis of knots not there, right?

7 A. Correct.

8 Q. Not the same animal, correct?

9 A. Absolutely.

10 Q. And when you tell the jury about staging of a
11 scene there is no, no, board or entity that has ever
12 validated any kind of studies, any kind of testimony
13 about alleged staging of a scene. That is based on your
14 opinion and your opinion alone, correct?

15 A. I disagree with you, sir.

16 Q. Well, tell me why I'm wrong.

17 A. Okay. Because there is a publication on staged
18 crime scenes that has substantial case law in the back
19 of that book that identifies all the cases where crime
20 scene staging has been upheld by the court system.

21 Q. Not at all -- we're not even on the same page.
22 I'm not talking about the fact that one can come into
23 court and offer testimony. You've done it today, right?

24 A. Yes, sir.

25 Q. I'm asking for peer-reviewed studies validating

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1 testimony and evidence regarding alleged staging. Tell
2 us about peer-reviewed evidence in this area, because it
3 doesn't exist.

4 A. Crime scene staging is an aspect to scene
5 investigation, crime scene reconstruction. So it's part
6 of the scene investigation that can be testified to.

7 Q. Do you think it's possible that experienced law
8 enforcement investigators might come to a different
9 conclusion about whether a scene is staged or not?

10 A. Can you rephrase that question, the first part
11 of your question, sir, please?

12 Q. Do you think that seasoned homicide
13 investigators could look at a scene and they might
14 disagree with your opinion that the scene was allegedly
15 staged?

16 A. Sure, I think that's possible.

17 Q. Sure, because people have different opinions
18 and what you're offering is merely your opinion based
19 upon looking at some photographs?

20 A. I disagree with you on that, sir.

21 Q. Because you weren't at the scene, correct?

22 A. That is correct.

23 Q. All right. Have you -- you haven't talked to
24 any of the CSU investigators, correct?

25 A. I have not.

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1 Q. Let me ask you: Are you saying that every home
2 invasion is the same?

3 A. That is not what I testified to.

4 Q. That's what I'm trying to clarify, that's not
5 what you're saying, right?

6 A. Correct.

7 Q. Okay. And so in this situation you're saying
8 that in your opinion doesn't look like it was a home
9 invasion, burglary, robbery, to you.

10 A. Correct.

11 Q. And that's based upon certain factors that you
12 told our jury about, correct?

13 A. It is.

14 Q. It's based upon the fact there was no breaking
15 and entering, right?

16 A. Right.

17 Q. Is that important to your analysis?

18 A. That is a --

19 Q. That's an easy question. Is it important to
20 your analysis or not?

21 A. All facts are important to my analysis.

22 Q. Is it important to your analysis?

23 A. Absolutely.

24 Q. Okay. Is it important to your analysis there's
25 no broken windows?

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1 A. Absolutely.

2 Q. Is it important to your analysis that in fact
3 there's no breached front door or back door?

4 A. Sure.

5 Q. Okay. And I believe also part of your
6 testimony is based upon the fact that nothing is taken,
7 right?

8 A. I don't believe I testified to that either
9 because I think that there was allegedly some things
10 taken.

11 Q. Well, I believe in fact what you testified to
12 Ms. Rossi, was when the prosecutor was asking you why
13 you thought that it had been staged and you said that
14 there was no report of drugs, or jewelery, or TV or
15 anything taken?

16 A. I think the term that I used was substantial
17 value.

18 Q. The jury will recall.

19 A. With the examples of guns, money, drugs.

20 Q. Okay. You're not saying, though, that there
21 was no report made as to in fact the stealing of
22 property on December 22 and 23, 2012?

23 A. Correct, I did not say that.

24 Q. Okay. Because you know in fact that there was
25 drugs reported stolen, correct?

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1 A. Drugs as in prescription pills?

2 Q. Yes.

3 A. Yes.

4 Q. Jewellery?

5 A. Yes.

6 Q. And what's the basis of your answer to that?

7 What's your basis of knowledge? How do you know the
8 jewellery was taken?

9 A. That there were and I would have to -- I have
10 the offense report. I recall prescription pills and
11 that there were -- that the jewellery box was open, but I
12 don't recall seeing exactly what piece of jewellery. I
13 know that there was a wedding ring that was located in
14 the kitchen, but it was not taken.

15 Q. No one has ever suggested that a wedding ring
16 was stolen. Do you really understand the evidence in
17 this case? Do you recall know in fact what has been
18 stolen? Yes or no?

19 A. I know that things were reported stolen. I
20 can't give you a itemized list of what those things are.

21 Q. So that would be somewhat consistent with the
22 fact that somebody took property out of the house,
23 right?

24 A. And I'm not refuting that, sir.

25 Q. Okay. And do you know that there was a TV set

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1 reported stolen?

2 A. Sure.

3 Q. Okay. So also you know that in fact there's
4 evidence that a garage door was open, which would have
5 allowed home invaders to enter the premises? Are you
6 aware of that?

7 A. I'm aware that there was is issue with the
8 garage door, yes, sir.

9 Q. Okay. Well, not issue, there's evidence that
10 the garage door was open. Ultimately the jury is going
11 to have to resolve it, but are you aware of the fact
12 there's evidence that the garage door was open?

13 A. When the witnesses got to the house or when the
14 next door neighbor? Because I believe that there was a
15 witness that said the garage door was closed, but when
16 the witnesses got to the house the next day when they
17 discovered the Melgars, the garage door was open.

18 Q. Were you aware that in fact not only are there
19 witnesses who found the garage door open when they
20 arrived, at premises, but in fact reports had been
21 received that the garage door was open substantially
22 earlier than that. Were you aware of that?

23 A. I'm aware that there is conflicting information
24 that at one point the garage door was closed and then
25 the garage door was open.

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1 Q. Okay. And where is the basis of the
2 conflicting information about the garage door being
3 closed? Where does that come from?

4 A. I don't know. I don't understand what you're
5 saying about conflicting. I just --

6 Q. I'm using your word. You said there was
7 conflicting information. Educate us.

8 A. That the neighbor said that the garage door was
9 closed and that the family members that arrived home,
10 when they got there -- or when they came there, the
11 garage door was open. So at some point the garage door
12 was open.

13 Q. Okay. What neighbor said that the garage door
14 was closed?

15 A. In reading the reports they -- I thought that I
16 read that the garage door -- like earlier in that
17 evening, the garage door was closed.

18 Q. You thought that you read?

19 A. I'm pretty sure that I understand that the
20 garage door was closed.

21 Q. From the neighbor?

22 A. From the witness statements that were included
23 in the report.

24 Q. Okay. I'm going to have you look at that
25 during the break and we'll come back so we don't waste

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1 the jury's time for now; is that fair?

2 A. Sure.

3 Q. Okay. I appreciate it. So are you saying in
4 this case there was one intruder?

5 A. I'm not saying that.

6 Q. Could there have been more than one --

7 A. Sure.

8 Q. -- actually?

9 At least you were candid enough to admit
10 that you couldn't really testify to how long intruders
11 might have been in the house, right?

12 A. Sure.

13 Q. They might have been there a long time, they
14 might have got in and got out, right? Right?

15 A. I'm not qualified to say how long people stay
16 in houses.

17 Q. You're certainly qualified to give an opinion
18 about a lot of things and with respect to any alleged
19 staging of a home invasion, the truth of the matter is
20 it's merely an opinion and in fact you could be wrong
21 about that; fair statement?

22 A. It is my opinion that the scene is staged.

23 Q. And in truth and fact you could be wrong about
24 that?

25 A. Given the totality of the scene, my opinion is

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1 that the scene was staged.

2 Q. So you're telling me that you're infallible and
3 you could not be wrong?

4 A. That' is all I'm saying, sir.

5 Q. So I'm asking you, can you at least acknowledge
6 the fact that because it's merely an opinion, you in
7 fact could be wrong?

8 A. In the realm of all possibilities that's a
9 possibility.

10 Q. Thank you.

11 Now, regarding the blood spatter testimony
12 that you gave us, if I understand basically about here,
13 I would be in the -- toward the back of the closet?

14 A. Yes, sir.

15 Q. Okay. And you don't have any question, do you,
16 that the stabbing of Jaime Melgar took place pretty much
17 in this location, right?

18 A. Sure.

19 Q. Because as you pointed out there's not blood
20 anywhere else in the house, right?

21 A. There is -- there was detection of blood in the
22 master bathroom. I've not seen any spatter stains or
23 any pattern stains anywhere other than the closet.

24 Q. Thank you for going there because let me ask
25 you about the detection of possible blood in the

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1 bathroom. You're referencing some fluorescein testing
2 that you read about, about testing the sinks and the
3 tub. Is that what you're talking about, where there's
4 some fluorescents?

5 A. There's chemiluminescence on the sink and the
6 tub.

7 Q. Right. Okay. I heard a lot of reports you
8 read. Did you read the May 14, 2016 DNA report from the
9 Harris County Institute of Forensic Science? Did you
10 read that one?

11 A. Can I refer to my --

12 Q. You can refer to anything you need to. I want
13 to be fair with you.

14 A. I have an amended laboratory report --

15 Q. Right.

16 A. -- dated 5/24 of 2016.

17 Q. Okay. So tell us, isn't it a fact -- first of
18 all let's talk a little bit about this I call it
19 fluorescein. Am I anywhere close?

20 A. Fluorescein?

21 Q. Yeah.

22 A. Okay.

23 Q. Not bad for a country lawyer. It's okay?

24 A. Yes, sir.

25 Q. We know that sometimes if you apply that

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1 substance, then it might have a, a reaction that
2 presumptively may be blood but doesn't have to be. May
3 not be blood, right?

4 A. Yes, sir.

5 Q. Because we have what is known as false
6 positive, do you not?

7 A. To be sure because you were motioning to the
8 jury that the area was at the sink.

9 Q. Yes.

10 A. Okay. So the sink and side of the tub, that is
11 not fluorescein.

12 Q. Okay.

13 A. That is chemiluminescent, either lumenal or
14 BLUESTAR.

15 Q. BLUESTAR?

16 A. Yes, sir.

17 Q. Very well, but basically you're using that in
18 an effort to discern whether or not there may be blood
19 present, right?

20 A. Yes, sir.

21 Q. And also using one as opposed to the other so
22 you don't denigrate any possible DNA that might be
23 there, right?

24 A. Yes.

25 Q. Okay. So, there was a positive reaction in

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1 these three locations. And for the record, I'm pointing
2 to the south sink, the tub, the bathtub, and jacuzzi,
3 and the north sink. That's your understanding?

4 A. Yes, sir.

5 Q. You also understand, do you not, that that
6 could be reacting to a number of things, not necessarily
7 blood?

8 A. Sure.

9 Q. Could be reacting to human urine?

10 A. I've never known BLUESTAR to react to urine.
11 I've known --

12 Q. Now -- I didn't mean to cut you off. Go ahead.

13 A. And there are false positives with both lumenal
14 and BLUESTAR. I've never known urine to be one of those
15 unless you have blood in your urine.

16 Q. How about animal urine?

17 A. I don't know that I've seen that, sir.

18 Q. How about different cleaning compounds that are
19 very common in a household?

20 A. Yes, sir.

21 Q. Like what?

22 A. Like bleach and some kind of, like, different
23 cleansers with bleach that is a -- provides a strong
24 reaction with those chemicals.

25 Q. You understand, do you not, that in fact

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1 there's been no evidence at all that there had been any
2 type of cleaning activity there, as far as somebody
3 trying to swipe down a crime scene? Do you understand
4 that?

5 A. Can you ask me that question again?

6 Q. Sure. Sometimes when you look at this -- using
7 these reagents you can try to discern whether or not
8 somebody might have been trying to get rid of blood and
9 you can see obvious signs of cleaning of a surface,
10 right?

11 A. Sure.

12 Q. Are you aware that in fact in this case there
13 is indication that there was that type of activity going
14 on?

15 A. Well, there is a bucket with a mop.

16 Q. Not talking about that. Be fair with me, would
17 you?

18 MS. BARNETT: I object to the
19 argumentative nature of what this question is from the
20 defense attorney.

21 THE COURT: Sustained and rephrase.

22 MR. SECREST: And I would ask that you
23 instruct the witness to answer the question. I'm asking
24 her about sinks and now we're in the dining room talking
25 about buckets.

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1 THE COURT: All right. Ma'am, make sure
2 to listen to his questions carefully and answer only his
3 questions.

4 THE WITNESS: Yes, ma'am, but he asked me
5 if there was signs at the scene.

6 THE COURT: Ma'am, just wait for the next
7 question.

8 THE WITNESS: Yes, ma'am.

9 THE COURT: Please proceed.

10 Q. (BY MR. SECREST) You understand the question,
11 fair enough?

12 A. Yes, sir, but the way that you asked it was, is
13 there signs in the scene that would be signs of
14 cleaning.

15 Q. Let's go there. You just want to go to the
16 bucket and mop, right?

17 A. No, sir. You just asked me were there signs in
18 the scene that would be part of cleaning.

19 Q. Are you saying there is any evidence in this
20 case that the bucket and mop was used to eradicate
21 evidence? Are you telling our jury that? Yes or no, is
22 that what you're saying?

23 A. No, sir, but to my knowledge the -- where the
24 bucket was located, wasn't processed with BLUESTAR or
25 lumenal.

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1 Q. So in fact what you're saying is there is no
2 evidence at all that there was any kind of blood or
3 anything associated with that mop bucket or the mop
4 because it hasn't been analyzed. So we can't
5 conjunction our way there, can we?

6 A. That's fair, yes, sir.

7 Q. Okay. But we don't have to conjunction this
8 part: When you get to the south sink and the bathtub,
9 and the north sink, you know that ultimately based upon
10 the DNA analysis -- well, let me stop before I get to
11 the punch line.

12 Would you expect if this truly was
13 associated with a crime scene, what you would expect to
14 find is the victim's blood, right?

15 A. Sure or somebody's blood.

16 Q. Isn't that fair?

17 A. Yes.

18 Q. Because I get to use my toy knife again.

19 MR. SECREST: If I may approach the
20 witness?

21 THE COURT: You may.

22 Q. (BY MR. SECREST) If I were to stab you as
23 savagely as that poor man was stabbed, no doubt I'm
24 going to get blood on me, right?

25 A. Yes, sir.

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1 Q. And the blood I'm going to get on me is the
2 victim's blood, right?

3 A. Yes, sir.

4 Q. Okay. And I might get my blood on me, assuming
5 I cut myself, right?

6 A. Yes, sir.

7 Q. Okay. So if I get the victim's blood on me and
8 then I go into the bathroom, we would expect that very
9 well could be the victim's blood in this location
10 consistent with me trying to wash it off, right?

11 A. You could have that, yes, sir.

12 Q. Right. And you know for a fact that based upon
13 what you reviewed, the DNA analysis in this case does
14 not show that any of Jaime Melgar's blood is here?

15 A. Correct.

16 Q. Fair statement?

17 A. Yes, sir.

18 Q. And you also know that in fact any are reaction
19 by these very reagents might well not have anything to
20 do with what we're in here in here in court today about,
21 right?

22 A. Sure, yes, sir.

23 Q. Because if I live in that house and I have
24 saliva out of my mouth, then that could in fact be a DNA
25 sample that ultimately is picked up, right? DNA is

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1 going to be saliva, going to be semen. It doesn't have
2 to be blood, right?

3 A. Correct, absolutely.

4 Q. Okay. So in fact to be fair, not only does the
5 DNA show that Jaime Melgar's blood is not anywhere to be
6 found on those sinks, we can't even say that in fact the
7 DNA that is found is even associated with blood, right?

8 A. I believe that to be true. I can check the
9 report. I don't know if they detected blood, but I will
10 take your word that they did not.

11 Q. Would you take my word that in fact -- the jury
12 will have this -- that the in the report in fact they
13 did no serology testing of certain items including the
14 sinks. So we don't have a confirmatory test that in
15 fact whatever lit up these sinks is blood. Does that
16 make sense?

17 A. Yes, sir, it does.

18 Q. But whatever lit up these sinks, we know based
19 upon DNA is not the blood of the victim, right?

20 A. Correct.

21 Q. So I'm going to put myself back in the closet
22 and I'm stabbed 31 times, you understand that not only
23 stabbed 31 times, but that he is brutalized. He's hit
24 about the head and he's hit about the face. At least
25 50, 50 plus injuries he sustains. You understand that?

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1 A. I do.

2 Q. So would you mind joining me down here for a
3 moment?

4 MR. SECREST: May the witness step down?

5 THE COURT: You may.

6 A. Okay.

7 Q. (BY MR. SECREST) Where do you think he's
8 standing when he gets brutalized and savagely stabbed?
9 Somewhere like where I am?

10 A. Can I touch you?

11 Q. You can.

12 A. You need to be at least here.

13 Q. Right.

14 A. Okay. And you need to be in this door frame.

15 Q. Want me to get toward you?

16 A. You can't -- any closer to me than here.

17 Q. Because of this.

18 A. Because of this. So, this, this is mobile.
19 You can't be out here. So you're in a pretty confined
20 area.

21 Q. Okay. So pretty much you think I'm there. You
22 can hold it. Go ahead. So when I'm stabbed pretty much
23 is that where you are?

24 A. Well, I don't know that I'm here, but I have
25 to, when you receive this wound.

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1 Q. All right.

2 A. Right, this hand has to be in this area --

3 Q. Right.

4 A. -- so that not only does it project to the
5 chair.

6 Q. Uh-huh.

7 A. Okay. But you have spatter stains that go
8 through the chair and you see those stains --

9 Q. Right.

10 A. -- on the, the side of the bed.

11 Q. Okay.

12 A. Okay. So I can do that and I'm left handed.

13 So that makes everything awkward, but if I'm
14 right-handed --

15 Q. Right.

16 A. -- and receive this --

17 Q. Right.

18 A. -- cut. This cut this has to be at least close
19 enough to an end, in the proper trajectory that we get
20 that stain over here on the bed -- I mean on the chair,
21 but I can also be here to inflict this because now I'm
22 not blocking it here.

23 Q. I accept that, but where do you have to be in
24 order to inflict the other multiple stab wounds,
25 sharp-forced injuries that I sustained?

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1 A. So you have to be -- we have to be somewhere in
2 here together.

3 Q. Would you assume we would actually be, give or
4 take, this close?

5 A. Absolutely.

6 Q. Which means that by definition, what type of
7 pattern did you say that you saw on the chair?

8 A. It's a projected pattern.

9 Q. And that's under pressure?

10 A. That is veinous breach.

11 Q. Yes, ma'am.

12 A. -- or an artery and so because it's projected
13 means that you have blood pressure happen, which is
14 causing the blood to eject.

15 Q. And it's going to eject in a straight line?

16 A. It's going to --

17 Q. Until it hits something?

18 A. And you saw the video, it's linear, curved
19 linear so you see the spatters that are also in the air.
20 So they don't shoot straight out.

21 Q. Okay.

22 A. They are, depending on their size.

23 Q. Right.

24 A. That they're linear to curved linear.

25 Q. Okay. So tell me about you being the murderer,

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1 what kind of blood do you have on you with all this
2 projected blood spray, my word. I know it's not
3 scientific. Are you getting blood on you?

4 A. Well, depends on what you're doing. So --

5 Q. Well, what am I doing? I'm fighting, aren't I?
6 I'm trying to resist you because I've got all these
7 defensive wounds?

8 A. Sir, well, that doesn't -- I'm not saying that,
9 that -- because I don't know when you did this.

10 Q. Right.

11 A. Right? So I don't know whether this is first.

12 Q. Or last.

13 A. Fifteenth or 29th.

14 Q. Right.

15 A. So I don't know when this comes.

16 Q. Right.

17 A. I know this has to be close to here.

18 Q. Right.

19 A. Okay. And that after I slice you, you could do
20 this, which is going to cut that off.

21 Q. Okay.

22 A. So you're not projecting anymore.

23 Q. Okay.

24 A. So at one point this is open, you get cut, you
25 project and then you can close your hand.

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1 Q. I can close or probably try to close.

2 A. Absolutely.

3 Q. But the bottom line is you're telling our jury,
4 if I understand you is you can't say in what order these
5 injuries took place?

6 A. Absolutely not.

7 Q. But you can say based upon the type of injuries
8 and based upon the blood that you saw the killer would
9 have gotten blood on him, right?

10 A. Well, I believe that the killer got blood on
11 him just because of all of the swiping, wiping, and
12 transfer stains on the decedent.

13 Q. Do you believe that the killer wore gloves?
14 Did he have gloves or not?

15 A. I have no opinion as to that.

16 Q. So which means he could have had gloves on or
17 didn't have gloves on?

18 A. Sure.

19 Q. Thank you, have a seat.

20 So you feel comfortable in telling the
21 jury that the killer had blood on him, right?

22 A. Yes, sir.

23 Q. And clearly would have blood on his hands,
24 right?

25 A. Yes, sir.

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1 Q. Probably arms, what do you think?

2 A. Possibly, yes, sir.

3 Q. Okay. And certainly on the shirt, front of the
4 body?

5 A. Possibly, yes, sir.

6 Q. If they're stabbing like this or something,
7 facing the target, probably blood, this part of the
8 body?

9 A. I would assume that they should have blood on
10 the front of them.

11 Q. Okay. But you saw no indication that there
12 was -- there's really not a lot blood on the ground,
13 though, is there?

14 A. There's quite a bit of blood when the decedent
15 is moved out of the closet and you have photographs of
16 the bottom of the closet as well as the clothing that is
17 in and around --

18 Q. Right.

19 A. -- the victim. There is a white terry cloth,
20 either a robe or a towel that has quite a bit of
21 staining on it.

22 Q. Right.

23 A. And so there is a lot of spatter staining in
24 the closet. We're not seeing, like, large volumes of --

25 Q. Pools.

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1 A. -- saturation stains, but there is a lot of
2 spatter stain, yes, sir.

3 Q. Right. So what you're saying is once you
4 remove the body of the deceased and he's been lying
5 there for some time underneath his body there's quite a
6 bit of blood. You saw that.

7 A. There is. And that's what saturation stain --

8 Q. Right. But I don't see a lot of pooled blood
9 or anything like that, certainly not in the area of
10 where the killer would have been. I saw basically back
11 here, where he would have been after he lied down?

12 A. Actually there's a lot of dripped blood that is
13 in the closet that goes towards that safe. There's drip
14 stains, linear stains that are on the blue jacket.

15 Q. Right.

16 A. There is a saturation stain inside the brown
17 jacket.

18 Q. Right.

19 A. There are linear stains that are on that white
20 towel. So you have quite a bit of dripped blood that
21 goes through the closet and is on top of some of the
22 other articles in the closet.

23 Q. Let me show you for the record Defense Exhibit
24 2292.

25 MR. SECREST: That may not be in evidence,

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1 Your Honor.

2 THE COURT: No, it's not.

3 Q. (BY MR. SECREST) I won't show very many, but
4 there's about half a dozen of these. So I'm offering
5 Defense Exhibit 2292.

6 MS. BARNETT: No objection.

7 THE COURT: 2292 is admitted.

8 Q. (BY MR. SECREST) Ms. Rossi, this is a
9 photograph, is it not that is showing the area right by
10 the white stool and the chair and the carpet right there
11 and then maybe that's the terry cloth bath towel that
12 you were speaking about?

13 A. Yes, sir.

14 Q. And let's go to 22 -- just a second.

15 MR. SECREST: Enlarge that a little bit,
16 if you would. A little more.

17 Q. (BY MR. SECREST) Look over there on the
18 right-hand side. It's very faint, but does that look
19 like maybe a foot or a shoe print impression in the
20 carpet?

21 A. I can't see where you're referring to, sir.

22 Q. Look over here, kind of over here.

23 A. Yes, sir.

24 Q. Does that look like what that might be?

25 A. You're not saying that's a bloody footprint?

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1 Q. No. I'm saying it looks like some kind of a
2 footprint or shoe print in the carpet. I'm not saying
3 it's bloody at all. Is it possible?

4 A. Yes, sir.

5 Q. Did you see any blood on the carpet?

6 MR. SECREST: Allison, zoom back in if you
7 would. Zoom out. Yes.

8 Q. (BY MR. SECREST) So again, basically where that
9 looks like a doorstep thing is on the right, do you see
10 any blood around that little piece of plastic by that
11 protruding leg of the stool, any blood in that area?

12 A. There is what appears to be drip stains on the
13 carpet between the two legs of the chair that is --

14 Q. Okay.

15 A. -- consistent with the flow pattern that we see
16 on the back of that cushion.

17 Q. Yeah.

18 A. So that running off the seat back on to the
19 seat cushion.

20 Q. Yeah.

21 A. And then down on to the carpet.

22 Q. But that's not in the walkway area of this
23 frame, is it?

24 A. No, sir, and I think that that -- can I?

25 Q. Sure.

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1 A. I think that that is associated to that volume
2 that when I explained like projected pattern. So we
3 have flow that runs down. It drips down onto that seat
4 bottom and then it runs down onto the carpet.

5 Q. So you think that's a place there, it's kind of
6 like the law of gravity? It hit the chair and then it
7 flows down?

8 A. Yes, sir.

9 Q. Okay. Let's go the 2294.

10 MR. SECREST: I will offer 2291 into
11 evidence, Your Honor.

12 THE COURT: 2291, is that the one that's
13 on the screen? All right. It's admitted.

14 MR. SECREST: 2294, I'd offer that into
15 evidence, Your Honor.

16 MS. BARNETT: No objection.

17 THE COURT: It's admitted.

18 MR. SECREST: Thank you, Your Honor.

19 2226, Allison.

20 Q. (BY MR. SECREST) This is a shot from the
21 threshold from the front of the door into the bedroom.
22 Can you kind of see what we're looking at here?

23 A. Yes, sir.

24 Q. Okay. So basically you would walk from the
25 hallway and then you would enter the bedroom through

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1 that open door. And then that brown structure toward
2 the right-hand side of the frame, that's part of the
3 bed, is it not; and then you turn right and the closet
4 is right over there; is that accurate?

5 A. The brown structure right here, sir?

6 Q. Yes.

7 A. That appears to be drawers.

8 Q. On the right-hand side?

9 A. Oh, I'm on your left-hand side. Sorry, sir.

10 Q. That's okay. That's fine. That's fine.

11 Maybe we can do it this way, get it to
12 where everybody can see. So when you enter the bedroom,
13 what we're seeing there, that's the bedroom door, which
14 would be right here, right?

15 A. Yes, sir.

16 Q. So you come in, you turn right, and you go just
17 a few feet and that is where Jaime Melgar's body is,
18 correct?

19 A. Yes, sir.

20 Q. so just a few feet, if you will, from the area
21 of the chair and the stool to that threshold of the
22 door, right?

23 A. Yes, sir.

24 Q. Did you see any blood in that area?

25 A. No, sir.

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1 Q. Let's go to 2230, I believe, Defense Exhibit
2 2230.

3 MR. SECREST: Your Honor, I don't believe
4 it's in evidence I would formally offer it.

5 THE COURT: Any objections?

6 MS. BARNETT: No, Your Honor.

7 THE COURT: 2230 is admitted.

8 Q. (BY MR. SECREST) Now, that's another shot and
9 that's a shot basically from the bathroom area looking
10 toward the door; is that what that is?

11 A. Yes, sir.

12 Q. Okay. Let me show you what's been marked as
13 2221.

14 MR. SECREST: I'll move that into evidence
15 as well, Your Honor.

16 THE COURT: Any objection?

17 MS. BARNETT: No objection.

18 THE COURT: Admitted.

19 Q. (BY MR. SECREST) Do you see what that is,
20 Ms. Rossi. Do you recognize that photograph?

21 A. Yes, sir.

22 Q. Would it be fair to say that the door to the
23 master bedroom is out here. In fact that's the
24 doorknob, correct?

25 A. Yes, sir.

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1 Q. And then basically this is a shot from the
2 threshold of the doorway to the bedroom going all the
3 way to the bathroom. Do you see that?

4 A. Yes, sir.

5 Q. Are you aware of any blood whatsoever found on
6 the carpet between the bed and going to the bathroom?

7 A. Not to my knowledge, sir.

8 Q. Okay. If I step in blood, then I very well may
9 get it on the bottom of my foot?

10 A. Sure.

11 Q. On my shoe?

12 A. Yes, sir.

13 Q. And if I don't have any shoes on, I will get on
14 the bottom of my foot, right?

15 A. Absolutely.

16 Q. And I've in fact done this before, when you
17 walk, it's pretty easy to leave a blood impression from
18 the bottom of your foot if you have blood on the bottom
19 of your foot?

20 A. Sure.

21 Q. But you don't see any blood left by a shoe at
22 the crime scene, do you?

23 A. You don't.

24 Q. Okay. So the killer had to go somewhere,
25 correct?

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1 A. Sure, yes, sir.

2 Q. Person that murdered Jaime Melgar had to go
3 somewhere, and you're telling our jury that there's no
4 way that person could have walked out of the house? Is
5 that what you're telling us?

6 A. No, sir. That's not what said.

7 Q. I'm glad because the truth is when you get to
8 the threshold of that door, are you aware that's the
9 only carpet in the house? Are you aware that once you
10 get out of the master bedroom, you hit some hardwoods
11 and then there's some tile; and that's basically the
12 flooring of the house?

13 A. Okay.

14 Q. Okay. So if I'm the killer, I could well have
15 stabbed to death Jaime Melgar and I could have walked
16 out of that room and not left any blood on my feet and I
17 could have walked out of the house; fair statement?

18 A. Without leaving footprints as long as you were
19 not in the closet on top of that blood.

20 Q. That's right.

21 A. Yes.

22 Q. So it's certainly possible, though, as the
23 killer, I could have been in there and I could have
24 murdered him and I could have in fact have not gotten
25 blood on my bottom of my feet and I could have walked

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1 out of the house, right?

2 A. Sure.

3 Q. And I think what you're saying, and please
4 correct me if I'm wrong, that you think -- or that you
5 didn't see any signs that there was any blood, like, on
6 the doorknob or an exit point of the house, right,
7 because you would assume the killer had blood on their
8 hands and touched that; and you didn't see that, right?

9 A. And I think I also testified that there was
10 nothing on the door frame, there was nothing on the
11 doors -- I'm not saying that they had to open the door
12 with the handle, but they didn't touch any of the door
13 frames or any of the doors.

14 Q. Of course, you wouldn't have to touch any of
15 the door frames or the doors if there was more than one
16 person in there, right? If you and I were home
17 invaders, and I stabbed to death Jaime Melgar 31 times
18 in total, 50 blows, we'd get out of the house without me
19 touching anything because you opened the door for me,
20 can't you?

21 A. That's a possibility, yes, sir.

22 Q. We certainly can't -- we can't exclude that,
23 can we?

24 A. No, sir.

25 MR. SECREST: May I approach the witness?

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1 THE COURT: You may.

2 MR. SECREST: Thank you.

3 Q. (BY MR. SECREST) I want to just show you an
4 article styled, The Fluorescein Method of Blood
5 Detection by Ricardo Tomboc, C.L.P.E., what is that?

6 A. A certified latent print examiner.

7 Q. What's a C.S.C.S.A.?

8 A. Certified senior crime scene analyst.

9 Q. And a forensic specialist two?

10 A. I have no idea what that is.

11 Q. Well, he is from San Bernadino Police
12 Department.

13 Would you look at that, read that to
14 yourself and see if that refreshes your recollection at
15 all?

16 A. Yes, sir.

17 Q. Okay. Thank you.

18 So is it a fair statement to say that in
19 fact urine and animal urine can precipitate and form a
20 false positive reaction?

21 A. Sure.

22 Q. You with me on that?

23 A. Yes, based on the article.

24 Q. Seems legit, does it not?

25 A. It does, absolutely.

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1 Q. So, I want to come back to this for a second.
2 For the record State's Exhibit 3, we know a couple of
3 things. We know that in fact these positive reactions
4 are not Jaime Melgar's blood, right?

5 A. Yes, sir.

6 Q. And we also know they could in fact have
7 nothing to do with this crime scene because it could be
8 reacting to some crud that was already there, right?

9 A. Sure.

10 Q. And you just come around to agreeing that
11 either urine or animal urine could perhaps cause a false
12 positive reaction, okay?

13 A. Yes, sir.

14 Q. Are you aware of any evidence establishing any
15 of the victim's blood, Jaime Melgar's blood in the
16 bathroom?

17 A. Am I aware of any of Jaime Melgar's blood.

18 Q. Being found in the bathroom?

19 A. Not that -- I could double check, but I don't
20 recall any being found in the bathroom.

21 Q. That seems to be a fair statement, doesn't it?

22 A. Yes, sir.

23 Q. And I'm going to show you how fair I'm going to
24 be. In fact his blood was found on the point of the
25 knife, right?

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1 A. Correct.

2 Q. And that wasn't a trick question. When I asked
3 it, that's fair. The blood is found on the knife. The
4 knife is in tub?

5 A. Yes, sir.

6 Q. And you testified about a white blouse that was
7 found in the tub, remember that?

8 A. Yes.

9 Q. You said something -- and what was your
10 testimony about what was supposedly found on that white
11 blouse?

12 A. I believe I testified that it was -- that it
13 reacted -- it was processed and reacted to the
14 fluorescein.

15 Q. Okay. Same question, but when we go to the
16 amended DNA report of May 14, 2016, in fact there is no
17 indication at all that the positive florescence had
18 anything to do with blood.

19 A. Correct. That is correct.

20 Q. So whatever it was reacting to it wasn't blood,
21 fair?

22 A. Fair.

23 Q. I may have asked this, and I never want to ask
24 the same question twice, but did you find any evidence
25 anywhere in the house and I know you didn't personally

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1 go there, but based upon the photographs, any evidence
2 consistent with someone taking off a pair of gloves in
3 the house, a pair of bloody gloves, any transfer of
4 blood when you take off the gloves?

5 A. No, sir.

6 Q. All right. And I want to ask you about that
7 dynamic. Tell us based upon your experience, especially
8 with respect to blood spatter. Everybody in America
9 wants to say splatter, don't they?

10 A. They do, sir, yes.

11 Q. My niece does, but I corrected her.

12 A. Thank you for doing that.

13 Okay. So blood spatter.

14 MR. SECREST: Your Honor, may I get some
15 gloves for men.

16 THE WITNESS: Those are my gloves, sir.

17 Q. (BY MR. SECREST) Is it common for home
18 invaders, people that brutalize other folks, murder
19 other folks, pretty common that they wear gloves?

20 A. Yes, sir. That's not just for home invaders.
21 That's for lots of criminals.

22 Q. Right and based upon your experience, what kind
23 of gloves do they aware?

24 A. Depends. I've seen those kind of gloves, I've
25 seen gardening gloves. I've seen --

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1 Q. Fair enough. Fair enough. But it's certainly
2 not uncommon for a criminal, which includes a home
3 invader to use this kind of glove, right?

4 A. Correct.

5 Q. You've seen that based upon your experience?

6 A. I have.

7 Q. So I'm a home invader -- well, let me change
8 that around. I'm Sandy Melgar. Sorry Sandy, I've got
9 blood all over me, right? What's the dynamic involved
10 when I take that glove off?

11 A. You're going to create that cast-off pattern.

12 Q. Cast-off, pretty common we can expect that more
13 times than not, probably?

14 A. With taking off?

15 Q. Removing a glove. I guess it depends upon how
16 fast you removed, it how big or small the glove was,
17 that kind of thing, how wet the glove was?

18 A. Sure. All those are factors, and there are --
19 there is a way that you can remove gloves off without
20 slinging biological off.

21 Q. And how do you do that?

22 A. By grabbing the insides and then turning them
23 into each other.

24 Q. Okay. All right. Does that take some level of
25 sophistication? You think somebody might think about

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1 how they're going to take it off or maybe somebody that
2 has taken a glove off before?

3 A. Possibly.

4 Q. Possibly? But as a general proposition, when
5 you take off a glove, what was that word you used again?
6 What's the spatter terminology?

7 A. Cast-off.

8 Q. Cast-off. And so when this glove is cast off,
9 where you would expect it to go?

10 A. Wherever you took the gloves off.

11 Q. Well, I mean when I take it off, is it going to
12 propel over here and a little bit going to go flying?
13 Are we talking about just going to stay pretty much on
14 the glove itself, or does it depend?

15 A. Can I explain that in narrative form, sir?

16 Q. Please.

17 A. So depending on there's lot of circumstance --
18 or a lot of hypotheticals going to into that analogy.

19 Q. Yes, ma'am.

20 A. So if the gloves are soaked, okay, which the --
21 by design, latex gloves are not designed to soak up
22 blood, so anything that's going to be on the gloves is
23 going to just be on the surface.

24 Q. Okay.

25 A. But say that there is lots blood on the surface

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1 of the gloves.

2 Q. Okay.

3 A. The blood is wet and depending on how you take
4 that off, you can cause a spattering event, which if
5 you're in the closet could then be on the items that we
6 see in the closet.

7 Q. Right.

8 A. There is no indication that there is spatter
9 anywhere else, so it's not done over bed or the -- it
10 has had enough time to not dry.

11 Q. Right.

12 A. But it's not dripping wet, so taking off them
13 will cause a spattering event; or you could take them
14 off in the trash and then the spatter could be in the
15 trash.

16 Q. Could be in the trash?

17 A. It can -- but it all hinges on how much blood
18 is still on the surface of the glove.

19 Q. Where --

20 THE COURT: Mr. Secrest, we're going to
21 stop right there. Your food is here. I think it's a
22 good time to take break and we will stay in recess until
23 you're finished and let us know.

24 (Luncheon recess)

25 THE COURT: Please be seated.

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1 Defense you may proceed.

2 MR. SECREST: Thank you, Your Honor.

3 Q. (BY MR. SECREST) Ms. Rossi, how was your lunch?

4 A. It was fine. Thank you.

5 Q. Did you talk about the case with the
6 prosecutor?

7 A. I did.

8 Q. What did you talk about? Talk about your
9 testimony?

10 A. No. We talked about just any of the things
11 that we missed. So I don't know if that would be
12 considered talking about my testimony.

13 Q. Let me talk to you about something I may have
14 missed.

15 A. Sure.

16 Q. Did you say something about a hair transfer in
17 the blood?

18 A. Yes, sir.

19 Q. Tell me what you were saying about that again,
20 please.

21 A. That looking at the pattern you can tell that
22 there is hair transfer in that pattern based on how that
23 looks.

24 Q. So that would be hair transfer from the victim
25 or hair transfer from the murder or both or you don't

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1 know?

2 A. Based on where the victim is located, it's most
3 likely it's from the victim.

4 Q. Okay. Are hairs important, potential important
5 part of a conscientious thorough examination of a crime
6 scene?

7 A. They can be.

8 Q. And if you're aware that hairs are present on
9 particular items associated with a crime scene, would
10 that be something you would want to preserve?

11 A. Sure, yes, sir.

12 Q. Okay. Would that be something you would want
13 to perhaps analyze?

14 A. Sure.

15 Q. And tell the jury why that relatively could
16 potentially be informative evidence?

17 A. Okay. Because hairs and fibers are considered
18 trace evidence and they're easily lost; and so by
19 movement within a crime scene or, you know, by the
20 ceiling fans kicking on or the HVAC, potential of moving
21 that or losing that, that runs a you risk. And so when
22 you see hairs and fibers it's best to collect them so
23 that you don't end up losing them.

24 Q. Is it certainly your experience that in a
25 violent attack that it's certainly possible that hair

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1 from an assailant can be left at the scene?

2 A. Sure.

3 Q. And is it also a fact that depending upon the
4 particular hair sample, some hair samples are capable of
5 being examined for the presence of DNA?

6 A. Yes, sir.

7 Q. Now, I think where we left off just before
8 lunch, you said that you could -- we were talking about
9 gloves and the transfer of blood that could be
10 associated with checking -- transfer of blood could be
11 associated with removing the glove?

12 A. Yes, sir.

13 Q. And you said that you didn't see any evidence
14 of that at the scene, correct?

15 A. And that was probably a misstatement other than
16 because what we're going to see by doing that if we --
17 that's going to create spatter stains.

18 Q. Okay.

19 A. And if that is done in the closet --

20 Q. Right.

21 A. -- then we are going to have spatter stains on
22 top of already spatter stains. So differentiating, hay,
23 these came from the gloves and these came from the drip
24 trail, it's going to be hard to differentiate. But I
25 didn't -- what I meant to say is I didn't see any other

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1 spatter stains other than the closet.

2 Q. Okay. And so if I were the killer and I took
3 off my gloves in the closet, I could take it off and if
4 I left a spatter stain that you couldn't probably
5 distinguish that action from the actual mechanism
6 involved in the murder, is that what you're you saying?

7 A. From the other spatter stains that are in the
8 closet, yes, sir.

9 Q. So there I've got a glove. What am I going to
10 do with the glove?

11 A. You can put it in your pocket.

12 Q. I can put it in my pocket and I could take from
13 the crime scene, could I not?

14 A. You could.

15 Q. And you said something about you could also
16 remove it, maybe to remove it in such a way inside a
17 trash can where whatever spray, my word, whatever
18 transfer that took place would be in the trash can
19 itself?

20 A. Sure.

21 Q. Right?

22 A. Yes.

23 Q. Was there any evidence at this crime scene as
24 far as anyone taking off a pair of gloves?

25 A. I didn't see anything like that, sir.

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1 Q. Let me ask you about this garage door business.
2 I think Ms. Barnett asked you a question about, I guess,
3 points of exit after a home invasion. Do you remember
4 that line of questioning?

5 A. Yes, sir.

6 Q. And she asked you about a garage door and I
7 think she, in her hypothetical, she said something about
8 a motor running and the light on, probably not a smart
9 place for a home invader to exit the property from,
10 right?

11 A. I don't know if she stated a smart place for
12 the home invader to exit from. I think the question
13 that she asked me was, with the use of a garage door and
14 a garage door opening then the light would come and then
15 it would make noise.

16 Q. Right. But I'm trying to understand why, why
17 the garage door has to come open with the motor running
18 when the garage door is already open.

19 A. Correct.

20 Q. Okay. Are you also aware of the fact that at
21 least most garage door mechanisms are such that when you
22 open the garage door, the light comes on but it doesn't
23 stay on, does it?

24 A. Correct and with my garage door opener, as soon
25 as I trip the, the guide --

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1 Q. Right.

2 A. -- then the light will come back on. So it
3 will go off, but if I walk passed the threshold.

4 Q. Right.

5 A. With the sensors.

6 Q. Okay.

7 A. Then the light kicks back on.

8 Q. So it can kick on if you exit. It could also
9 automatically kick off just by the passage of time?

10 A. Sure, yes, sir.

11 Q. And so then if a killer who entered the house
12 through an open garage door then a light wouldn't have
13 to be on and when they left thereafter, the light
14 wouldn't be on, right?

15 A. Until they crossed that threshold, yes, sir.

16 Q. Assuming that light, that particular garage
17 door has that mechanism and when it automatically opens
18 up, turn on the light?

19 A. Yes, of course.

20 Q. Okay. Have you ever tried to close your garage
21 door and hit the wrong button?

22 A. I only have one button, sir.

23 Q. Okay. So okay. You never had a contraption
24 that has two buttons?

25 A. I seen them, but I've never --

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1 Q. Do you think it's possible that people trying
2 to close a garage door hit the wrong button? That's not
3 too hard to swallow, is it?

4 A. What other button?

5 Q. You have two buttons, one for the left and one
6 for the right.

7 A. Got it.

8 Q. And in closing the door you're trying to close
9 you accidentally engage the other button?

10 A. Absolutely.

11 Q. Certainly possible, right?

12 A. Yes, sir.

13 Q. Now, you know this being in law enforcement and
14 based upon all your experience, it's a rather
15 frightening but common practice that some burglars, home
16 invader types have access to garage door openers that
17 can trip a garage door even though they don't live
18 there, right?

19 A. I have -- I've heard of that.

20 Q. Right? And isn't it your understanding that
21 with respect to the more -- the newer technology that's
22 pretty hard to do but older doors were pretty
23 susceptible to that of my word, hijacking?

24 A. Again, I'm not --

25 Q. But you've heard of that, have you not?

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1 A. Yes, sir, I have.

2 Q. You testified that your review of the evidence
3 showed no blood on the cloth or on the scarf. Do you
4 remember that line of questioning, that the killer, in
5 tying up Sandy Melgar, you would expect that you would
6 find the killer's blood or maybe Jaime Melgar's blood on
7 the ties, right? Bloody hands trying to tie somebody up
8 is going to leave blood; is that what you're trying to
9 tell us?

10 A. That was a question asked of me by Mr. Barnett.

11 Q. Right.

12 A. In that under the hypothetical if there was one
13 person.

14 Q. Right.

15 A. And that one person is the one that killed
16 Jaime Melgar, would I then expect to see blood on the
17 ligatures used to tie up Ms. Melgar.

18 Q. Probably common sense, you probably would
19 expect to see that, right?

20 A. Correct.

21 Q. Except if you have more than one person, that
22 theory kind of goes down the drain, doesn't it?

23 A. Sure.

24 Q. And also what if Sandy Melgar is hit in the
25 head, knocked unconscious prior to the time that he is

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1 murdered? Certainly there would be no blood from Jaime
2 Melgar on that person's hand because he hasn't
3 perpetrated the deed yet, right?

4 A. Correct.

5 Q. Now, I want to ask you about this business
6 about trying to tie yourself up. First of all tell our
7 jury did you try to tie yourself up with this stuff?

8 A. I didn't because it was already attached to the
9 board.

10 Q. Tell us who attached it to the board.

11 A. I would assume that was done before I came to
12 court today, sir.

13 Q. Ms. Barnett attached it to board, right?

14 A. I would assume so, yes, sir.

15 Q. You're not trying to suggest to the jury that
16 that is how in fact the ties were found at the murder
17 scene, are you?

18 A. I was told that it was fracture-matched back
19 together and that was how -- it was found in pieces at
20 the scene.

21 Q. It was found in pieces at the scene, but in
22 fact -- well, let me ask you this: It was found in
23 pieces at the scene and then after -- years later then
24 there's an effort made to try to match the various
25 pieces back together and then put it on a board for us

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1 to see, right?

2 A. Sure, yes, sir.

3 Q. That certainly doesn't indicate, however, Sandy
4 Melgar was tied up in the late hours of December 22 and
5 the early morning hours of December 23, 2012, does it?

6 A. Not necessarily.

7 Q. Okay. So this business about there were these
8 two big loops, you're not trying to suggest to the jury
9 are you, that Sandy Melgar merely had her hands in two
10 big loops, are you?

11 A. No, sir. I was just asked if --

12 Q. I mean, the reality is, of course, you don't
13 have any personal knowledge. Let's start with that,
14 right?

15 A. Correct.

16 Q. And you think you want to be fair and really
17 objective. Who would you want to talk to about that to
18 really understand how it was when it was first observed?
19 Who would you want to talk to?

20 A. I didn't have a question about the ligatures.
21 Because my role --

22 Q. Excuse me. You didn't have a question about
23 the ligatures? What did you just say? I want to make
24 sure I heard it.

25 You didn't have a question about what?

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1 A. I wasn't asked to assess the crime scene. I
2 was asked to look at the bloodstain patterns and provide
3 an opinion. Ms. Barnett is the one that asked my
4 opinion about the ligatures. So in assessing this
5 scene, the, the questions about the ligatures or if
6 Ms. Melgar could or couldn't be tied up or how that
7 tying up occurred, that was not my role in this
8 investigation, sir.

9 Q. So have opinion, will travel. You just throw
10 something at you and then you give us opinion based upon
11 your experience as a crime scene investigator? Is that
12 the way it works?

13 A. I answered the question the prosecutor asked
14 me, sir.

15 Q. Well, that you did, but let's talk your
16 answers.

17 A. Okay.

18 Q. First of all I read your report that I just got
19 today; and I understand it only addresses bloodstain
20 analysis, right?

21 A. Yes, sir.

22 Q. And at the very bottom of it you all have this
23 boilerplate language. Let me read it.

24 The protocol of Montgomery County
25 Sheriff's Office crime laboratory is that all reports

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1 will undergo a technical review process by another crime
2 scene investigator. Laboratory review will then be
3 conducted with additional CSIs and a crime lab
4 supervisor. Any expert report generated will be
5 peer-reviewed and will be conducted by a recognized
6 expert in the specific forensic discipline.

7 Did I read that correctly?

8 A. Yes, sir.

9 Q. I don't find a syllable about anything to do
10 with tying knots, being able to tie yourself up. That's
11 not in this report, is it?

12 A. No, sir.

13 Q. And the reason it's not is because it has not
14 undergone a technical review process. We can agree with
15 that?

16 A. Again, that was not what I was asked to give an
17 opinion on.

18 Q. Just answer the question, I would appreciate
19 it. Your testimony -- you might not have been asked
20 about it a month ago, but you were asked about it today
21 in this court in front of this jury, were you not?

22 A. I was.

23 Q. Okay. So did that undergo a technical review
24 process by another crime scene investigator, yes or no?

25 MS. BARNETT: Judge, that was not a

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1 scientific experiment. It was asking her opinion about
2 a knot as a witness.

3 MR. SECREST: Object to speaking objection
4 and --

5 THE COURT: Sustained.

6 MR. SECREST: To cross-examination, Your
7 Honor.

8 THE COURT: All right. What is your legal
9 objection, Ms. Barnett?

10 MS. BARNETT: That this is an
11 inappropriate witness. It's outside the scheme of her
12 testimony as an expert on crime scenes.

13 THE COURT: All right. Overruled.

14 Q. (BY MR. SECREST) A laboratory review will then
15 be conducted with additional CSIs and a crime lab
16 supervisor. So we never had any laboratory review with
17 additional CSIs, with the crime scene investigators and
18 crime lab supervisor, none of your testimony in that
19 respect was vetted to those folks, was it?

20 MS. BARNETT: Your Honor, I object. This
21 has nothing to do with science. It's tying a knot and
22 whether or not --

23 THE COURT: Ms. Barnett, what is your
24 legal objection?

25 MS. BARNETT: That's it is not relevant.

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1 THE COURT: All right. That's overruled.

2 MR. SECREST: Thank you.

3 MS. BARNETT: Then I would object that
4 this is not the proper witness for that, and I would
5 object that it's -- she's being asked to form an opinion
6 of something that's not science and she's not testifying
7 about.

8 THE COURT: All right. That's overruled.
9 This is cross-examination.

10 MR. SECREST: Thank you.

11 Q. (BY MR. SECREST) It's not science, is it, yes
12 or no? Yes or no?

13 A. I'm confused on what question.

14 Q. Tying knots, is that science or not?

15 A. That is not my science, no, sir.

16 Q. So you've offered an opinion before this jury
17 in a murder trial about something that you're not an
18 expert on, correct?

19 A. Well, I have knowledge of knots. I've tied
20 knots.

21 Q. Are you an expert?

22 A. I'm not expert in knot tying.

23 Q. Does any expert report generated will be
24 peer-reviewed and will be conducted by a recognized
25 expert in the specific forensic discipline.

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1 Are you a recognized expert in the
2 specific forensic discipline, if there is such a thing
3 for knot tying?

4 A. I'm not.

5 Q. If you really wanted to be fair, wouldn't --
6 well, let me ask you this: Tell the jury who you
7 actually spoke with who had personal knowledge regarding
8 the manner in which Sandy Melgar was tied up in the
9 evening hours of December 22 and during the day of
10 December 23, 2012, anybody in the world that had any
11 personal knowledge about that, who did you speak with?

12 A. I did not speak to anyone. I was given this
13 binder of reports that I read that had witness
14 statements that stated that she was tied up behind her
15 back, both her arms and her legs.

16 Q. In fact you know, do you not, that the person
17 who found her tied up, is Jaime Melgar's brother
18 himself, Herman Melgar, correct?

19 A. Yes.

20 Q. And are you aware that he has been very clear
21 and unequivocal about this, that she was tied up --

22 MS. BARNETT: I object to counsel asking a
23 question regarding testimony that's not been entered
24 into trial.

25 THE COURT: Sustained.

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1 MR. SECREST: She's allegedly read the
2 reports. She's read the interviews.

3 THE COURT: That's sustained, Mr. Secrest.
4 Ask your next question.

5 MR. SECREST: I want clarification. I
6 can't ask her about her basis of knowledge of what she
7 reviewed to testify?

8 THE COURT: Would you approach the bench?

9 MR. SECREST: Yes, Your Honor.

10 THE COURT: Rephrase your question because
11 you're asking her about something someone else said. So
12 that's sustained.

13 MR. SECREST: Okay.

14 Q. (BY MR. SECREST) Did you receive evidence of
15 statements made by individuals at the scene who have
16 personal knowledge concerning how Sandy Melgar was tied
17 up? Did you review that?

18 A. Yes, sir, I did.

19 Q. So you have -- you have knowledge -- and did
20 Ms. Barnett -- what was the purpose of giving you the
21 files? She wanted you to review it?

22 A. I asked her for all the reports --

23 Q. Right.

24 A. -- in this case.

25 Q. Okay. And so you wanted to review all the

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1 reports to have some understanding of what the -- at
2 least the reported facts are based upon the
3 investigation, right?

4 A. Well, it came as one document and so it
5 wasn't -- I received one PDF of this entire file that
6 had all of the offense reports written in the case and
7 so I'm not familiar with the Harris County reporting
8 system. By the looks of it, it appears to be similar to
9 what we use in Montgomery County. We use Spillman,
10 which all reports are in there. You can generate a
11 report which will print every, every file attachment
12 that is part of that case number; and so I assume that
13 the file that I got just had every statement,
14 supplement --

15 Q. Okay.

16 A. -- written in this case.

17 Q. Okay. That's fine.

18 And did you then take it upon yourself to
19 review all of that or did you just kind of cherrypick?

20 A. No, sir. I went through -- I put it in this
21 binder. I hole-punched it and I put in this binder and
22 went through it page by page.

23 Q. So do you recall reading a transcript and
24 interview conducted by the Harris County Sheriff's
25 Department at the scene literally within an hour or two

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1 of the time the police arrived there where they
2 interviewed Herman Melgar outside the presence of
3 everybody and asked him questions concerning how he
4 found Sandy Melgar? Do you recall that?

5 A. Not specifically. I believe that she was found
6 with her hands behind her back.

7 Q. Are you aware that she was found with her hands
8 behind her back tied so tightly that they could not be
9 untied? Are you aware of that?

10 A. I don't recall reading that. I remember that
11 her hands were behind her back.

12 Q. So if someone who was actually there, someone
13 who was actually on their knees trying to untie her from
14 being tied up, would you think that person would have a
15 little bit better understanding of how tight she was
16 tied up than you, giving us an opinion based on no more
17 than merely looking at the red material that was tied
18 around her? That's not a big reach, is it?

19 A. Sure. I answered the question that was posed
20 to me in reference to the, the piece of fabric that I
21 saw.

22 Q. Bottom line is the best person to ask that
23 question would be the person who had attempted to untie
24 her?

25 A. Sure.

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1 MR. SECREST: I pass the witness, Your
2 Honor.

3 THE COURT: Okay. Redirect?

4 **REDIRECT EXAMINATION**

5 BY MS. BARNETT:

6 Q. If you -- if you have two independent garage
7 doors and you open the garage door to go in and you hit
8 the wrong button, that just means the other garage door
9 goes up?

10 A. I would assume so, yes, ma'am.

11 Q. So both doors are open then?

12 A. Given that analogy, yes.

13 Q. In light of all the analogy the defense
14 attorney has given you, in light of the
15 cross-examination, does that change your mind about your
16 opinion in this case?

17 A. No, it does not.

18 Q. In any way?

19 A. No, ma'am.

20 Q. Does it give you any doubt about what your
21 opinion is in this case?

22 A. It does not.

23 MS. BARNETT: Pass the witness.

24 **RECROSS-EXAMINATION**

25 BY MR. SECREST:

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1 Q. Ms. Rossi, I am not at all surprised that I can
2 do nothing to change your opinion.

3 MS. BARNETT: Objection to argumentative.

4 THE COURT: Sustained.

5 MR. SECREST: No further questions.

6 THE COURT: May this witness be excused?

7 MS. BARNETT: Yes, Your Honor.

8 MR. SECREST: I'd ask that she remain on
9 call.

10 THE COURT: Just make sure that you keep
11 your phone close by.

12 THE WITNESS: Am I free to return to
13 Montgomery County?

14 THE COURT: If you will step out, we'll
15 take a break at 3:15 and one of the lawyers will call
16 you then.

17 MS. BARNETT: She's not free to go right
18 now?

19 THE COURT: He's placed her on call. Just
20 remain in the back until the break.

21 THE WITNESS: Yes, ma'am.

22 THE COURT: Thank you.

23 State, call your next witness.

24 MS. BARNETT: Judge, the last thing that
25 we have is the Defense and the State have agreed that

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1 the complainant in State's Exhibit 678 known as Jaime
2 Melgar is in fact Jaime Melgar, named the complainant in
3 Cause No. 1435566.

4 THE COURT: It will.

5 MS. BARNETT: Is that the agreement?

6 MR. SECREST: Yes, it is.

7 MS. BARNETT: With that, the State rests.

8 THE COURT: State of Texas rests.

9 What says the Defense?

10 MR. SECREST: I have a motion outside the
11 presence of the jury.

12 THE COURT: All right. Ladies and
13 gentlemen, we will excuse you for a few minutes so we
14 can do this procedural manner and we will see you in few
15 minutes.

16 THE BAILIFF: All rise for the jury.

17 (Jury leaves courtroom)

18 **MOTION FOR DIRECTED VERDICT**

19 MR. SECREST: Thank you, Your Honor. May
20 I bring Sandra Melgar by and through her attorneys of
21 records, George McCall Secrest and also Allison Secrest.
22 We respectfully urge the Court to enter a directed
23 verdict of not guilty. I've only been doing this 40
24 years. I've never seen a case of less evidence. You
25 get beyond the hysterics and the theories, the State