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1 You may proceed.

2 MR. SECREST: Thank you, Your Honor.

3 **DIRECT EXAMINATION** (continued.)

4 **BY MR. SECREST:**

5 Q. Mr. Belk, yesterday we heard some testimony
6 about a life insurance policy; do you remember that?

7 A. Yes, sir.

8 Q. Have you had access to information concerning
9 the Melgar life insurance policy?

10 A. Yes, sir.

11 Q. As a homicide detective, would you -- would
12 that be a common practice to look and see whether there
13 is a life insurance policy, who the beneficiary of a
14 life insurance policy is, that kind of thing?

15 A. Yes, sir, that would be something to look at.

16 Q. What factors, with respect to life insurance
17 policy, would be important for you to consider?

18 A. I would look at how long the life insurance
19 policy had been in effect, look at the amount, look at
20 whether there had been any recent changes to that
21 policy. Generally, those kind of things.

22 Q. Let me ask you -- well, what is your
23 understanding of the policies that Jaime Melgar had?
24 Were they connected to his employment?

25 A. Yes, sir.

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1 Q. Let me ask you this: Was there anything in
2 your review of those records, taking in consideration
3 the age of the policy, the type of the policy, the value
4 of the policy, that causes you any concern as possible
5 motive in this case is concerned?

6 A. No, sir.

7 Q. Now, I want to talk a little bit about the
8 injuries, or the lack of injuries in this case. In your
9 view, was this a particularly brutal murder?

10 A. Yes, sir.

11 Q. And, I mean, I think that's somewhat
12 self-evident. But from the perspective of a homicide
13 investigator, for the record, why do you say that?

14 A. Because the sheer number of stab wounds and
15 other injuries to the body, it's clearly obvious that it
16 was a very brutal attack. And especially with the type
17 of weapon used.

18 Q. Does the -- does the number of stab wounds
19 necessarily suggest anything about the perpetrator?

20 A. Yes, sir, sometimes.

21 Q. And what are the various things that one would
22 want to consider?

23 A. The amount of force that was used, the amount
24 of strength that was needed to use such force. The --
25 and in this case with a knife, the number of stab wounds

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1 and number of injuries that were sustained. There are
2 some indicators that you can look at that cause that.

3 Q. Have you seen cases where folks that are on
4 drugs end up being involved in particularly brutal
5 murders?

6 A. Yes, sir.

7 Q. Is there -- what is your opinion as to whether
8 or not there was a significant struggle during the
9 killing of Jaime Melgar?

10 A. My opinion is that there was a significant
11 struggle, and that it all took place right there in the
12 closet.

13 Q. Is there any indication that the struggle with
14 respect to receiving stab wounds took place anywhere
15 else instead of the closet?

16 A. No, sir.

17 Q. Do you have any doubt -- well, let me ask you
18 this: Is it possible there were more than one
19 perpetrator?

20 A. Yes, sir.

21 Q. In fact, is there any evidence at the scene
22 that in your mind would suggest the presence of more
23 than one person?

24 A. Yes, sir.

25 Q. Are there statistics out there with respect to

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1 the percentage of stabbings that are caused by men
2 versus women?

3 A. Yes, sir.

4 Q. And what are those statistics, what do they
5 tell us?

6 MS. BARNETT: That's not relevant to this
7 case.

8 THE COURT: Sustained.

9 Q. (BY MR. SECREST) Is it essential to consider
10 the injuries or lack of injuries with respect to the
11 individual who is on trial?

12 A. Yes, sir.

13 MR. SECREST: May I approach?

14 THE COURT: You may.

15 Q. (BY MR. SECREST) If I'm a perpetrator and
16 you're the victim, that you and I are going to be very,
17 very close to one another?

18 A. No doubt whatsoever.

19 Q. And have you seen evidence that's been offered
20 in this trial that indicates that Jaime Melgar was
21 actively trying to ward off the blows?

22 A. Yes.

23 Q. Tell the members of the jury exactly what that
24 evidence is?

25 A. Jaime Melgar had a number of defensive wounds

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1 on his hands which would indicate he was trying to
2 protect himself or fighting back. With the blood smears
3 on his body, it's a strong indication that they were
4 in -- the two, the assailant and the victim, were in
5 close proximity to each other. When you have, according
6 to the autopsy, at least 50 injuries, not all stab
7 wounds, there's some 30-plus stab wounds, and then
8 another 20-plus other significant blows, there was a
9 prolonged, hand-to-hand, life or death encounter between
10 the assailant and the victim.

11 Q. If based upon the doctor's testimony that
12 there's approximately 50 different, my word, "strikes,"
13 would you consider both the sharp-forced injuries as
14 well as the blunt force trauma --

15 MR. SECREST: May I get in the jury box?

16 MS. BARNETT: You may.

17 Q. (BY MR. SECREST) So we're talking --

18 A. Do you want me to stand up?

19 Q. If you will.

20 THE COURT: Mr. Belk, keep your voice up.

21 Q. (BY MR. SECREST) Okay. So we're in the closet.
22 And so by definition, if I'm the killer, not only am I
23 stabbing you, but at some point in this, you're getting
24 hit elsewhere, are you not, because of the existence of
25 blunt trauma?

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1 A. Yes.

2 Q. What would be your opinion as to how that
3 possibly could have happened?

4 A. Continuously fighting like this back and forth.
5 Arms left and right hitting on top.

6 Q. If we're doing this, if we're doing this dance,
7 if you will, and obviously I'm inflicting these mortal
8 cuts on you, how am I causing blunt trauma with this
9 knife?

10 A. You could be bending down, you could be using
11 the butt of the knife.

12 Q. Okay.

13 A. You could be using your fist. We both fall
14 backwards, and you kick me after we're down. The
15 abrasions and contusions could be from boots or feet.
16 There's a whole host of things, but it's obvious from
17 the crime scene and from the victim's wounds that they
18 were in close contact for a prolonged period of time to
19 take 50 blows.

20 As the victim, I would let you hit me 50
21 times, just not too hard, to see how strenuous it is and
22 how often. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13,
23 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 25, 26,
24 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40,
25 41, 42, 43, 44, 45, 46, 47, 48, 49, 50.

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1 Q. Is there any guarantee -- let me rephrase it --
2 let's catch our breath.

3 Did you see evidence at the scene that
4 suggested that in fact the assailant might have actually
5 been on top of Jaime in the closet?

6 A. Yes, sir.

7 Q. When I say "top," I mean on top of him, so he's
8 on the ground?

9 A. Yes, sir.

10 Q. And because of the sheer number of blows, the
11 force involved, is it utterly essential to closely
12 examine the hands of the suspect?

13 A. Yes, sir.

14 Q. And in examining the hands of Sandra Melgar,
15 did you see anything consistent with her being able to
16 inflict that kind of injury?

17 A. No, sir.

18 Q. And let's be specific: What is it that you're
19 seeing or not seeing?

20 A. I'm seeing that her nails are all intact and
21 not broken. I'm not seeing -- with the handling of a
22 large blade knife where you're using significant force
23 that goes 3- or 4-inch -- or 2- to 3-inches deep,
24 hitting vital organs. You would expect to see bruising
25 from handling the weapon or knife. You would

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1 potentially see cuts from the knife because if you
2 imagine a stab wound, every stab wound gets a react from
3 the blood. And human blood is very slimy, slippery, so
4 it's hard to hold a knife especially when you're in that
5 close contact without the knife slipping and cutting
6 you, or getting a cut from the knife.

7 So it's essential to look at bruising,
8 whether there's cuts, significant injuries, too.
9 Because in my opinion, the assailant's going to have
10 significant injuries because of the close contact,
11 hand-to-hand combat.

12 Q. So specifically, when you look at the
13 photograph of Ms. Melgar's hands -- I'm going to walk
14 you through it -- did you see any indication of any kind
15 of bruising?

16 A. No, sir.

17 Q. When you look at her hands, did you determine
18 whether or not she had fingernails?

19 A. I'm not sure I understood -- did I determine
20 what?

21 Q. When you look at the photographs of Sandra
22 Melgar's hands back on December 24 of 2012, did she have
23 fingernails?

24 A. Yes, sir.

25 Q. Were any of her fingernails broken or cracked

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1 in any way?

2 A. Not that I saw.

3 Q. Would that be utterly inconsistent with her
4 having been involved in that type of physical
5 altercation?

6 A. Yes, sir.

7 Q. Now, she does have -- the top of her left
8 thumb, not her right thumb as Mr. Carrizal indicated,
9 you saw a small scratch or cut?

10 A. It appears to be a scratch.

11 Q. Is that at all consistent -- is that the kind
12 of injury you would expect you would receive in that
13 kind of fight?

14 A. Maybe times a hundred, but, yes, sir. It's not
15 consistent -- the small scratch that was on her hand was
16 not consistent with that sort of encounter and attack.

17 Q. Now, are you aware, or are you not -- let me
18 ask you this: Is it typical that crime scene
19 investigators would take swabs or scrapings, I might
20 say, underneath the fingernail of both the deceased and
21 the suspect?

22 A. Yes, sir. On the deceased, they take
23 clippings. And on any potential suspects, they take
24 scrapings with a tool used underneath the fingernails,
25 and any debris from underneath fingernails is collected

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1 and analyzed.

2 Q. And what are you trying to achieve by
3 collecting and analyzing that type of evidence?

4 A. To see if there is any biological matter under
5 the nails of the victim, and also under the nails of --
6 anyone that you scrape to test that for any type of
7 evidence.

8 Q. In your review of all the laboratory analysis,
9 what did that establish with respect to the scrapings
10 underneath Sandra Melgar's fingers?

11 MS. BARNETT: I object. This is not the
12 witness for that.

13 THE COURT: Rephrase your question.

14 Q. (BY MR. SECREST) As an expert, have you
15 reviewed the DNA reports?

16 A. Yes, sir, I did.

17 Q. Is that part of what you considered in reaching
18 whatever opinions you have considered?

19 A. Yes, sir.

20 Q. Okay. So what was the result of the DNA
21 testing with respect to the analysis of the scrapings
22 underneath Sandra Melgar's fingernails?

23 MS. BARNETT: And my objection would be
24 hearsay.

25 THE COURT: Sustained.

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1 Q. (BY MR. SECREST) Let me show you what has been
2 marked and admitted as Defendant Exhibit 2640. Are you
3 familiar with this photograph?

4 A. Yes, sir.

5 Q. And what is that a photograph of?

6 A. It's a photograph of the inside arm of Sandra
7 Melgar that depicts bruising.

8 MR. SECREST: Your Honor, may I walk it in
9 front of the jury?

10 THE COURT: You may.

11 Q. (BY MR. SECREST) And I believe the jury has
12 seen this before, either here or --

13 Do you have an opinion of how that kind of
14 bruise could have occurred?

15 A. Yes, sir.

16 Q. And what is that?

17 MS. BARNETT: I object to speculation.

18 THE COURT: Sustained.

19 MR. SECREST: May I approach the bench?

20 THE COURT: You may.

21 (Bench conference.)

22 MR. SECREST: It's not speculation. He's
23 an expert, a homicide investigator; he's seen these kind
24 of injuries before and the previous witnesses talked
25 about finger-like -- you can see the finger wound, and

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1 I'm following up on that. She has gone into it, and I
2 want to go into it.

3 MS. BARNETT: He cannot testify.

4 MR. SECREST: It goes to his weight. But
5 obviously I'm not asking Allison the question, I'm
6 asking a homicide investigator who see these types of
7 injuries.

8 Should I lay a little more predicate?

9 THE COURT: Yes, as to the form of the
10 question; it's sustained.

11 So rephrase your question.

12 Q. (BY MR. SECREST) Early on, you testified that
13 you had served in the Internal Affairs Division at the
14 Houston Police Department?

15 A. Yes, sir.

16 Q. Have you seen the kind of wound that is
17 depicted in the photograph, have you seen that kind of
18 injury during the course of your Internal Affairs
19 experience?

20 A. Yes, sir.

21 Q. Let me ask you: As to those cases, where would
22 you see a wound like that?

23 A. On a lot of complainants who have complained of
24 police brutality. When you arrest someone, you handcuff
25 them, you restrain them, oftentimes the person that you

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1 handcuff, you have them get on the ground and search
2 them to make sure they're not armed. And after you
3 handcuff them, it's difficult for an individual who is
4 being restrained with handcuffs, it's difficult for that
5 person to stand up. So typically, police officers will
6 grab under the arm to help them up, and that will leave
7 bruises. And in many of the cases that I investigated
8 while in Internal Affairs, people would complain on
9 police officers and consider bruising like that as
10 police brutality.

11 MR. SECREST: May I approach the witness?

12 THE COURT: You may.

13 MR. SECREST: I'm going to have you come
14 down for a second.

15 THE COURT: Keep your voice up.

16 Q. (BY MR. SECREST) I will pay for dry cleaning,
17 but can I ask you to lie down on the carpet? Lie down
18 with your --

19 THE COURT: Again, ladies and gentlemen,
20 you can stand, if you need to see better.

21 Q. (BY MR. SECREST) So you're saying the hands
22 would be behind and handcuffed?

23 A. Yes, sir.

24 Q. And the officer would have to get you up off
25 the ground; is that what you're saying?

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1 A. Yes, sir.

2 Q. Okay. So is that injury there consistent with
3 being grabbed by the arm from behind?

4 A. Yes, sir.

5 Q. I believe Ms. Rossi from Montgomery County
6 testified that she didn't believe there was a home
7 invasion because of the absence of blood where an
8 intruder might have left it as they left the house; do
9 you remember that testimony?

10 A. Yes, sir.

11 Q. In your view, does the absence of blood
12 establish that there was no home invasion?

13 A. No, sir, not at all.

14 Q. And please explain your answer.

15 A. The assailant is going to have blood on them
16 whether -- whoever's theory you want to believe, whether
17 the assailant exited the house or cleaned themselves up
18 inside the house. With the scenario that law
19 enforcement is trying to establish, you're going to see
20 traces of that.

21 Q. Speaking of cleaning oneself up in the house,
22 do you recall CSU Officer Carpenter testified that there
23 was no evidence that he could find suggestive of any
24 kind of cleanup effort at the scene; do you recall that?

25 A. Yes, sir.

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1 Q. I want to be a little more specific: As a
2 trained, experienced crime scene investigator and
3 detective, what are you looking at a crime scene to see,
4 whether or not there's some indication that the person
5 who lives there tried to clean it up before you got
6 there?

7 A. You would look for smear patterns, wipe
8 patterns, you would look for the articles that were used
9 to clean up any blood that would be there. A whole host
10 of things that you would look for that were not present
11 in this scene.

12 Q. Now, we heard some testimony about this -- and
13 I'm not convinced I'm pronouncing it right -- but
14 this -- using a reagent, and there's a fluorescence -- I
15 won't spell it for you. And there's, like, a use of
16 fluorescein?

17 A. Yes, sir.

18 Q. What is fluorescein?

19 A. It's a reagent that -- it's a chemical that you
20 apply on a surface to see if you get a presumptive
21 response to indicate potentially that blood was present.

22 Q. Okay. And in fact based upon your review of
23 the file, was any blood found in the bathroom belonging
24 to Jaime?

25 A. There was no blood in the bathroom belonging to

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1 Jaime, other than the knife that is visible in the tub.

2 Q. I think Mr. Carpenter testified he actually
3 did -- I don't know if the jury saw it -- but do you
4 recall Mr. Carpenter at least reporting that he did a
5 video of the fluorescence to see if he could find
6 patterns in everything associated with the use of this
7 reagent?

8 A. Yes, sir.

9 Q. And looking at that video and looking at all
10 the photographs, was there any indication that there was
11 ever an attempt to clean anything up?

12 A. No, sir.

13 Q. Based upon your review of the evidence, does it
14 make any sense to you that Sandra Melgar could have tied
15 herself up?

16 A. No, sir.

17 Q. And why do you say that?

18 A. Based on the statements that were taken on how
19 she was found, and based on her medical condition, and
20 then based on my own experience -- I actually even
21 attempted to tie myself up and had myself tied up,
22 trying to reenact what the probabilities were.

23 Q. Well, let me take you through that. Were you
24 actually able to tie yourself up?

25 A. No was the qualifier.

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1 Q. And what's the qualifier?

2 A. I attempted after Herman Melgar testified to
3 tie myself up with a scarf. I got one of my wife's
4 scarfs that was similar to what was in evidence. And I
5 attempted to tie myself up, and I was unable to do so
6 where I would be able to restrain myself. So I took it
7 a step further and tied a knot in the scarf, put my
8 hands through it, and then started wrapping my wrist as
9 many times as I could, trying to make it right. And so
10 the qualifier, I was able to do that, but I was easily
11 able to get out just by reversing the twist of my arms.

12 I wasn't satisfied with that, so I asked
13 my wife to tie me up with that scarf.

14 Q. Okay.

15 A. And she did.

16 Q. And what was the result?

17 A. I had her do it two different ways: One, with
18 my my wrist together, and one with my arms together.
19 Both times I had to yield, give up, please untie me
20 because it was tight enough I couldn't get out.

21 Q. Do you think it's fair -- can you merely look
22 at the -- is there a kind of fancy police word for this
23 type of thing? Is it a ligature or --

24 A. It can be considered ligature, yes, sir.

25 Q. Can you look at the knots, and pull on them a

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1 little bit and figure out whether or not, in fact, a
2 person would be tied tightly or not; is that fair?

3 A. To a certain extent, yes, sir.

4 Q. But ultimately the true test actually tying
5 yourself up or attempted to?

6 A. I don't know if I -- to be fair, call that a
7 true test.

8 Q. Okay. But in your own words, what would you
9 call it?

10 A. I would look at the knots. And then in close
11 proximity to the time that they were tied, and take into
12 consideration over time, over a 5-year period, those
13 knots can loosen because material, you know, it's
14 pliable, and it's been handled a bunch. So looking at a
15 knot, which I physically looked at the knots about six
16 weeks ago, maybe four weeks ago --

17 Q. Okay.

18 A. -- and they were tied securely.

19 But a better way to look at that would be
20 in close proximity to the time that the knots were made.
21 And then trying to duplicate the process, obviously, is
22 another factor that you should look for, you know, if
23 you can examine the ligatures.

24 Q. Let me ask you this: When you attempted to tie
25 yourself up and ultimately had to have your wife assist

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1 you in that regard, I take it that you don't have lupus,
2 do you?

3 A. No, sir, I don't.

4 Q. Have you had a double hip replacement?

5 A. No, sir.

6 Q. Have you had a broken shoulder?

7 A. No, sir.

8 Q. Are you aware -- and I think Mr. Carrizal
9 testified about it yesterday -- are you aware that a
10 forensic computer analyst looked at the computers at the
11 house?

12 A. Yes, sir.

13 Q. Do you know if they were looking for indication
14 of any kind of searching on the Internet with respect to
15 knots tying up, that kind of thing?

16 A. Yes, sir.

17 Q. Okay. And your understanding is that nothing
18 was found?

19 A. That's correct.

20 Q. This sham -- this use of the sham, place a
21 chair on top of it and then pull the sham under -- under
22 the closet. Do you remember the, I think it was
23 Lieutenant McConnel last Friday at the close of business
24 demonstrated, if you will, his experiment in that
25 regard; do you recall that?

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1 A. Yes, sir.

2 Q. Do you think it would be paramount in order to
3 be fair in that process if you're trying to determine
4 maybe what had happened that you would talk to the
5 witnesses who had personal knowledge as to how they
6 found the chair when they entered the bathroom? That
7 kind of makes sense, does it not?

8 A. Yes, it does.

9 Q. Are you aware of any information from any
10 source that would even suggest that Sandra Melgar had
11 the knowledge, the capacity, to figure out how to put a
12 chair on a sham and then pull it underneath the door?

13 A. I'm aware of no such information.

14 MR. SECREST: Showing you for the record
15 Defense Exhibit 2432.

16 Q. (BY MR. SECREST) State's Exhibit 578 for the
17 record, the actual sham, the actual exhibit that is
18 depicted in Defense Exhibit 2432, do you see that?

19 A. Yes, sir.

20 Q. Now, obviously, this sham has been hanging
21 around since 2012, right?

22 A. Yes, sir.

23 MR. SECREST: Blow it up, please.

24 Q. (BY MR. SECREST) I think there's some
25 suggestion, but I think it's only a theory that perhaps

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1 that tear could have been caused by pulling the sham
2 underneath the door while inside the closet. You heard
3 that testimony?

4 A. Yes, sir.

5 Q. Did you hear Lieutenant McConnel testify,
6 however, when he did the experiment, it didn't tear the
7 sham at all?

8 A. Correct.

9 Q. When you look at the threads over there on the
10 left-hand side of the screen on 2432, do they look
11 pretty old and frayed to you?

12 A. I don't see thin strings. And, I mean, I can
13 make an assumption --

14 MS. BARNETT: Then I would ask that he not
15 speculate.

16 THE COURT: Sustained.

17 Q. (BY MR. SECREST) That's fair enough.

18 So you can't tell us one way or the other
19 whether the tear might have been recently torn or not?

20 A. It's hard to say from a photograph, it's hard
21 to say.

22 Q. Okay.

23 A. From appearance it looks like it's been there
24 for a while because as a pillow -- opening where you
25 would put a pillow in and out. But without seeing it on

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1 the day that it was collected, and just by looking at
2 the photograph, it's really hard to tell.

3 Q. That's fair enough.

4 But that does bring me to another
5 question: The tearing that we -- and I'll get this so
6 you-all can see.

7 The tearing that we see on this exhibit is
8 right in the area which constitutes the little pocket
9 where you would stick the pillow in, right?

10 A. Yes, sir.

11 Q. I mean, if you're going to tear this sham, this
12 is the likely place for it to happen because that's
13 where you manipulate the fabric in order to stuff the
14 pillow in, right?

15 MS. BARNETT: Leading.

16 THE COURT: Sustained.

17 Q. (BY MR. SECREST) Do you have personal knowledge
18 as to whether or not a person could lie down on the
19 carpet -- I won't make you do it since you've already
20 been on the carpet. If I'm lying on the carpet, you
21 checked out whether or not if you lie down on the carpet
22 with your head on the carpet, were you able to see under
23 the door?

24 A. Yes, sir.

25 Q. And, in fact, did you do that in my law office?

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1 A. Yes, sir, I did.

2 Q. When you did that, were you able to see under
3 the door, was there anything on the other side of the
4 door?

5 A. Yes, sir.

6 Q. And what was on the other side of the door?

7 A. Two legs of the chair that you had propped up
8 while I was inside of the room, and blocked me in.

9 Q. We wanted to see whether or not you could be in
10 the closet, look under a door and be able to see the two
11 legs?

12 A. Yes, sir.

13 Q. And you were able to do that?

14 A. Yes, sir.

15 Q. Let me ask you about staging a scene. We've
16 heard from about every witness that had an opinion on
17 that, right?

18 A. Yes, sir.

19 Q. Now it's your turn. So do you have an opinion
20 based upon your experience as a homicide detective, and
21 don't base it solely on that, but your experience when
22 you're investigating close to 500 sexual assaults. Was
23 there anything about the appearance of the Jaime Melgar
24 murder scene that led you to the conclusion that it was
25 staged?

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1 A. No, sir.

2 Q. Now, you obviously heard the State's witnesses
3 who have a starkly different opinion about that, right?

4 A. Yes, sir.

5 Q. What is it about the crime scene that convinced
6 you that it wasn't a staged scene?

7 A. There were a number of things. Do you want me
8 to list them?

9 Q. I wish you would; one at a time.

10 A. The drawers that were opened -- it's not
11 inconsistent with crime scenes that I've been on, cases
12 I've investigated where suspects have rifled through
13 drawers looking for stuff. I've personally investigated
14 capital murders and aggravated sexual assault cases
15 where the defendant used a glitch approach to get into
16 the house and tied the victim up and went through the
17 drawers looking for pantyhose to tie up his victims.
18 And he established a M.O, which we profiled with FBI and
19 psychological profiling and determined he was an
20 organized offender.

21 Q. Let me stop you. That's a new word I haven't
22 heard, a new phrase: "Organized offender." Seemed kind
23 of inconsistent. So what's an organized --

24 MS. BARNETT: Judge, this witness talking
25 about an organized offender in some case that he had in

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1 the past is not relevant to this case.

2 THE COURT: Sustained.

3 MR. SECREST: If I might respond?

4 MS. BARNETT: Just rephrase your question.

5 Q. (BY MR. SECREST) Based upon your experience in
6 the crime scenes that you have seen, have you seen crime
7 scenes consistent with an organized offender?

8 A. Yes, sir.

9 Q. And what are the attributes of an organized
10 offender?

11 A. That you don't have a lot of vandalism or the
12 destroying of property.

13 There are some scenes that I've been on in
14 cases where a drawer may be opened, a hand may be put in
15 there to look or feel around for cash, jewelry, guns,
16 laptop, cell phones. But to suggest because the drawer
17 wasn't pulled out and everything dumped and the clothes
18 pulled out and strewn on the floor is irresponsible at
19 best. To suggest it wasn't -- that it was staged just
20 because clothes are folded in a drawer is absurd.

21 Q. You heard some opinion that the home invaders
22 apparently durably go into a scene, and they take the
23 drawer out of the chest of drawers, and they dump it
24 over. And they go over to the bed, and they get the
25 mattress and flip it over. Has that been your

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1 experience?

2 A. I have seen scenes where offenders have done
3 that.

4 Q. Right.

5 A. Primarily juvenile vandalism. But rarely in --
6 I mean, I have seen some in homicide cases, but rarely.

7 Q. Is it fair to say that each scene is somewhat
8 unique to itself?

9 A. Absolutely.

10 Q. Now, you recall the testimony -- and I believe
11 we heard this from either Sergeant Dousay or maybe
12 Ms. Rossi from Montgomery County about the lack of
13 things knocked over outside the closet that you would
14 expect to see if there was a struggle; do you remember
15 that line of questioning?

16 A. Yes, sir.

17 Q. And I think we've already established -- well,
18 are you in agreement that the murder had to take place
19 in the closet?

20 A. Yes, sir.

21 Q. Did you see any evidence based upon your review
22 of all the crime scene photographs and all of the
23 supplements filed by the investigating officers to
24 suggest -- And for the record, this is the interior of
25 the closet -- did you see any photograph to suggest that

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1 the struggle would have taken place out here in front of
2 the closet?

3 A. No, sir. Most of the struggle took place in
4 the closet.

5 Q. Okay.

6 A. The presence of the blood on the chair outside
7 the closet, there has been testimony that the blood from
8 a cut on Jaime Melgar's hand would have caused an
9 arterial spray of blood onto that. I would -- I would
10 generally disagree with that.

11 Q. If in fact as the medical examiner and others
12 have testified, that the actual stabbing took place in
13 the closet, did you see evidence from any source that
14 would indicate a struggle outside the closet?

15 A. No, sir.

16 Q. Let me show you.

17 MR. SECREST: And Your Honor, I'll get you
18 a paper copy of this. It's not in evidence, yet. But I
19 want to show you Defense Exhibit 2414.

20 THE COURT: And are you offering 2414?

21 SPEAKER 2: I am, Your Honor. Thank you.

22 MS. BARNETT: I don't know what 2414 is.

23 MR. SECREST: I got it from her.

24 MS. BARNETT: You didn't get anything from
25 me.

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1 MR. SECREST: I got it from your
2 predecessor.

3 THE COURT: Any objections?

4 MS. BARNETT: No.

5 THE COURT: All right. Defense Exhibit
6 2414 is admitted.

7 MR. SECREST: May I have a second, Judge?

8 THE COURT: Yes.

9 MR. SECREST: Let's go to 2514.

10 THE COURT: Are you offering 2514?

11 MR. SECREST: I am, Your Honor.

12 MS. BARNETT: That's already in evidence
13 with us. I don't object at all.

14 MR. SECREST: Thank you.

15 MS. BARNETT: You're welcome.

16 THE COURT: 2514 is admitted.

17 Q. (BY MR. SECREST) Do you see at the bottom of
18 the screen -- look at the bottom of the screen.

19 A. Yes, sir.

20 Q. Do you see what that brown item is that is in
21 front of the -- looks like the drawer, does it have some
22 material on it? Do you know what that is?

23 A. Yes, sir.

24 Q. What is that?

25 A. It's a pillow.

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1 Q. In fact, do the crime scene photographs
2 document the presence of a pillow between the desk and
3 the closet door?

4 A. Yes, sir, the closet door where Jaime Melgar
5 was murdered.

6 Q. So if this is the closet, the door opened this
7 way?

8 A. Yes, sir.

9 Q. And then the desk would be over here?

10 A. Yes, sir.

11 Q. So before we get to the desk, there's a pillow
12 between the desk and the door?

13 A. Correct.

14 Q. Would that pillow prevent the door from hitting
15 the desk?

16 A. Yes, sir.

17 Q. You see what looks like a candle that's burning
18 on top of a book?

19 A. Yes, sir.

20 Q. Do you recall testimony that either Sandra
21 Melgar or Jaime, but probably Sandy, lit the candle
22 before they got in the hot tub?

23 A. Yes, sir.

24 Q. Now, let's assume that they got in the hot tub
25 anywhere between let's say 10:00 and 12:00. Maybe it

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1 was a tiny bit earlier, maybe it was a little bit later,
2 let's assume in that range. Okay?

3 A. Yes, sir.

4 Q. And then she's found in the closet, something
5 around 4:00 o'clock, 4:30, give or take.

6 A. Yes, sir.

7 Q. So is that about 12, 14, 15 hours
8 approximately?

9 A. Give or take, yes, sir.

10 Q. Did I actually buy that candle for you and give
11 it to you?

12 A. Yes, sir, you did.

13 Q. Then what did I ask you to do with it?

14 A. Burn it for as long -- light it and burn it and
15 leave it burning for as long as it would. So that I
16 knew -- satisfy me that that candle had a long life to
17 it.

18 Q. And how long did that candle burn?

19 A. Twenty-four hours.

20 Q. When we're talking about a staged scenes, there
21 was a line of questions asked by the prosecutor
22 concerning engaging in a home invasion, but not taking
23 the property with you. Do you remember that line of
24 questions?

25 A. Yes, sir.

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1 Q. Is it your experience that sometimes home
2 invaders don't take everything away that they plan to?

3 A. Yes, sir.

4 Q. And have you investigated crime scenes where,
5 in fact, you have seen evidence that was clearly
6 gathered up to be taken, but for some reason never got
7 out of the house.

8 A. Yes, sir.

9 Q. Can you give us a better understanding of that?

10 A. Not sure I understand your question.

11 Q. I'm sure you have seen it, but under what
12 context have you seen it?

13 MS. BARNETT: That's not relevant, the
14 past cases that he has seen that. I object.

15 THE COURT: Sustained as to past cases.

16 MR. SECREST: May I approach the bench?

17 THE COURT: You may.

18 (Bench conference.)

19 MR. SECREST: I believe that I remember
20 Ms. Rossi testified that she had worked on, like, 88
21 prior burglaries. And she offered her opinion based
22 upon her experience that this was staged. What I'm
23 trying to do here is --

24 MS. BARNETT: She's been accredited as a
25 crime scene expert. She's gone to multiple schools. I

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1 can show you her CV. As far as I can tell, he's not an
2 accredited expert court-wise in any way going to crime
3 scene schools or having that experience that she has.
4 And I can give you her CV. I can give it to you right
5 now.

6 MR. SECREST: I don't care about her CV.
7 I care about my witness who was a supervisor of the CSU
8 unit for two and a half years. He certainly has the
9 experience. That goes to his weight.

10 MS. BARNETT: Can I take him on voir dire?

11 THE COURT: I mean, if you want to shore
12 up whether or not -- I think your question is whether or
13 not there are certain scenes where evidence is left at
14 the scene, right?

15 MR. SECREST: Yes, ma'am.

16 THE COURT: And your objection is he is
17 not an expert.

18 MS. BARNETT: Counsel is wanting him to go
19 into past scenes that I think are not relevant to this
20 case. Details are different in cases that he has seen
21 this, that, and the other. Really, it's not fair, and
22 to add not applicable and not relevant to this case. He
23 gave his opinion, yes, he has seen that. Why go back to
24 2005 to such-and-such case. I saw blah, blah, blah. He
25 has already given opinions. Going back to cases that

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1 have nothing to do with this case, and that's not
2 relevant.

3 THE COURT: All right. He can give his
4 interpretation as to this case, but let's restrain it to
5 this case.

6 MR. SECREST: Okay.

7 Q. (BY MR. SECREST) What are some reasons, based
8 upon your experience, why a thief would get out the door
9 and not take his booty with him?

10 A. There's been experiences where the sure fact
11 that a murder occurred.

12 MS. BARNETT: I object to the witness
13 going into past cases and past experiences. I ask that
14 he just answer the question asked.

15 THE COURT: All right. Sustained as to
16 non-responsive.

17 Q. (BY MR. SECREST) What you don't have to --
18 obviously, you're going to be drawing upon your
19 experiences. We all know that. But I'm asking you to
20 just give us a catalog based upon your experience, not
21 specifically referring to any one investigation. But
22 based upon your years of experience, why is it that
23 sometimes that a thief doesn't get out of the house with
24 the booty?

25 A. Sometimes they -- I don't know how to answer

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1 without going back in my memory on cases.

2 Q. You can go back in your memory, but just don't
3 tell us about back in August of 2012, I'll never forget,
4 you don't have to go into that kind of detail.

5 A. Yes, sir. The assailant gets interrupted by
6 some external reason -- phone call, someone walking up.
7 The encounter spooks them where the initial intent is to
8 do one thing, and because of the death, they leave.
9 Could be that they're collecting everything in the
10 garage, and then someone walks by, and he may be
11 recognized going out of the house, and he don't want to
12 be recognized carrying stuff. There can be all kinds of
13 reasons. And it's happened, and I've investigated cases
14 where it's happened.

15 Q. So the bottom line is because property is not
16 removed from the house, does that in any way convince
17 you that there wasn't a home invasion?

18 A. No, sir.

19 Q. Are you aware of evidence with respect to the
20 fact that there was other items taken from the house?

21 MS. BARNETT: Object to leading.

22 THE COURT: Sustained.

23 Q. (BY MR. SECREST) Do you know whether or not
24 there is any evidence which shows that other property
25 was taken from the house?

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1 A. Yes, sir.

2 Q. We've also heard testimony about bicycles and
3 table saws and large televisions, that kind of thing.
4 Is it at all inconsistent with a home invasion having
5 taken place that certain items of the house are never
6 taken from the house?

7 A. Yes, sir.

8 Q. What is your experience with respect to whether
9 home invaders take certain kind of property over others?

10 A. They take property that's readily turned into
11 cash, easily sold on the black market or pawnshops. And
12 small items that they can carry because the larger items
13 you carry, the more restricted you are on how many items
14 you can carry.

15 Q. Is it your experience that an item of
16 particular interest would be cash?

17 A. I didn't understand your last word.

18 Q. Is it your experience that a common piece of
19 property that home invaders would like to get would be
20 cash?

21 A. Cash, yes, sir.

22 Q. Is it your experience that a common piece of
23 property that home invaders would like to take would be
24 opioids?

25 MS. BARNETT: I object to counsel leading

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1 his witness.

2 THE COURT: Sustained.

3 MR. SECREST: That's not a leading
4 question. I'm asking is it his experience, yes or no,
5 Your Honor.

6 THE COURT: That's leading.

7 Sustained.

8 Q. (BY MR. SECREST) Can you give us a small list
9 of items that in your experience in home invasions
10 robbers are particularly interested in?

11 A. Yes, sir.

12 Q. Could you please do that part?

13 A. Cash, credit cards, jewelry, electronics, cell
14 phones, televisions, small items that carry large value
15 that can be sold or pawned -- tools.

16 Q. Now, the fact that -- if I recall, was there
17 some cell phones on the bed of the Melgars' residence?

18 A. Yes, sir.

19 Q. Were they taken?

20 A. No, sir.

21 Q. Does that mean there wasn't a home invasion?

22 A. No, sir.

23 Q. Why not?

24 A. It all dictates on what the home invader wanted
25 to take, what they intended to take, and what they

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1 actually took.

2 Q. Do home invaders, in your experience, pull up
3 in front of a house, and park on the driveway?

4 A. No, sir.

5 Q. Do home invaders, in your experience, park in
6 front of the house?

7 A. Sometimes.

8 Q. Okay. Is that a common situation or uncommon?

9 A. Uncommon.

10 Q. Have you investigated cases where, in fact,
11 home invaders didn't drive up to the scene at all?

12 A. Yes, sir.

13 Q. Do some home invaders actually enter the
14 neighborhood on foot?

15 A. Yes, sir.

16 Q. In your years of investigative experience, have
17 you investigated crimes where a home invader enters the
18 premises and/or assaulted and killed the homeowner with
19 a weapon taken from the premises itself?

20 A. Yes.

21 Q. Is that all that unusual?

22 A. No, sir.

23 Q. In your experience, are you always able to
24 figure out the possible significance of every piece of
25 evidence at the scene?

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1 A. No, sir.

2 Q. Let me show you.

3 MR. SECREST: For the record this is
4 Defense Exhibit 2411.

5 THE COURT: Is this in evidence,
6 Mr. Secrest?

7 MR. SECREST: I believe, it is, Your
8 Honor. If not, I formally offer it into evidence.

9 Q. (BY MR. SECREST) Now, what is that a picture
10 of, Mr. Belk?

11 A. It's a picture of the Cool Whip -- open
12 container of Cool Whip with a strawberry, and a bowl of
13 strawberries next to it, sitting on the tub in the
14 master bedroom.

15 THE COURT: Ms. Barnett, any objections?

16 MS. BARNETT: No.

17 THE COURT: 2411 is admitted.

18 Q. (BY MR. SECREST) And actually if you blow that
19 photograph up, are we able to tell that not only is that
20 Cool Whip, but that is light Cool Whip?

21 A. Yes, sir, it is.

22 Q. Did I purchase for you a tub of delicious light
23 Cool Whip for you to take home?

24 A. Yes, sir.

25 Q. And did I ask you to do anything with it?

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1 A. Yes, sir.

2 Q. What did I ask you to do?

3 A. See if it changes colors or anything over a
4 long period of time.

5 Q. And did you put a strawberry in it?

6 A. Yes, sir, I did.

7 Q. And after -- how long did you let that tub of
8 light Cool Whip sit out?

9 A. I did that the same time I did the candle. And
10 I let them both sit out on my counter in my kitchen for
11 24 hours, and it never changed appearance.

12 Q. How did it taste?

13 A. I did not eat it.

14 Q. Did you -- in your review of all the evidence
15 see evidence consistent with the presence of third
16 parties at the scene? You know what I mean when I say
17 "third parties?"

18 A. Yes, sir.

19 Q. We're not talking about the actual homeowner,
20 Ms. Melgar, or the victim, Jaime Melgar. Is there
21 evidence based upon the investigation that's consistent
22 with the presence of other people in the house?

23 A. Yes, sir.

24 MR. SECREST: I'll pass the witness, Your
25 Honor.

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1 THE COURT: All right.

2 Deputy, do we know if the food is here?

3 Ready for a break?

4 All right. Let's go ahead then and break
5 for lunch. We'll retire the jury for 45 minutes to an
6 hour.

7 (Lunch break taken.)

8 THE COURT: Ms. Barnett, you may proceed.

9 MS. BARNETT: Thank you.

10 **CROSS-EXAMINATION**

11 **BY MS. BARNETT:**

12 Q. Do you recall Herman Melgar testifying?

13 A. Yes, ma'am.

14 Q. And you reviewed the statement that he gave to
15 the police?

16 A. His written statement, yes, ma'am.

17 Q. The tape recorded statement, possibly?

18 A. The written transcript of the tape recorded
19 statement, yes, ma'am.

20 Q. All right. Are there differences in his
21 testimony in regards to the scarf or which article was
22 around the ankles and the wrist?

23 A. Yes, ma'am.

24 Q. What does he say -- what does he tell the
25 police officer the day this happened?

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1 A. That Sandra Melgar was tied up with a purple
2 belt-looking cord, and that was on her wrist, and that
3 the scarf was tied up around her ankles.

4 Q. And the opposite of that is what he testified
5 to, right?

6 A. Yes, ma'am.

7 Q. Okay. So do you recall also in his statement
8 to the police that when he saw the chair that was
9 underneath the knob of the bathroom, the chair was
10 askew, wasn't it?

11 A. I didn't -- no, ma'am, that's not what I
12 recall.

13 Q. Would it refresh your recollection if I showed
14 you the transcript?

15 A. Yes, ma'am.

16 MS. BARNETT: May I approach the witness?

17 THE COURT: You may.

18 MR. SECREST: What page are you on,
19 Ms. Barnett?

20 MS. BARNETT: 23.

21 Q. (BY MS. BARNETT) Does that refresh your
22 recollection?

23 A. Yes.

24 Q. And what now do you recall about what he said
25 about the chair?

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1 A. That he did not say the chair was askew.

2 Q. But he say that it was not straight up, right?

3 A. He said it was at an angle, which I took to
4 mean the chair wasn't on all four legs at the time, it
5 was angled underneath the knob.

6 Q. But it also could mean that it was at an angle
7 underneath the knob?

8 A. I don't believe so. My opinion --

9 Q. I didn't ask you what your opinion was. What
10 I'm asking you is he could also mean that it was
11 sideways, correct?

12 A. No, ma'am, that's not how I read it.

13 Q. Well, again, that's not what I'm asking you.
14 What I'm asking you is he could mean that it was
15 sideways, couldn't he?

16 MR. SECREST: Objection to this witness --

17 THE COURT: What's your legal objection,
18 sir?

19 MR. SECREST: Conjecture, speculation.

20 MS. BARNETT: All right. That's
21 sustained.

22 Q. (BY MS. BARNETT) Also, part of his testimony to
23 the police was that when he first came into the house,
24 he heard someone yelling, "help, help," right?

25 A. Yes, ma'am.

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1 Q. And when he got to the bathroom door and saw
2 the chair underneath the knob and pulled it away and
3 opened the door, right?

4 A. Correct.

5 Q. And Sandra Melgar, he tried -- he went down to
6 address her issues, and she said, "Get some scissors,"
7 didn't she?

8 A. I believe his testimony was after he couldn't
9 untie the knot.

10 Q. Agree --

11 A. She said, "Get some scissors," or told him
12 where some scissors were located in the house.

13 Q. All right. And that was his testimony. But in
14 his transcript, he said that he went down to her, saw
15 the knot, and she told him to get the scissors in the
16 bathroom. She gave him a location of where the scissors
17 were, right?

18 A. Correct.

19 Q. Now, you wouldn't expect Mr. Melgar to inspect
20 the knot to see if this was tied appropriately, or
21 really did something that prevented her from getting out
22 of it, would you?

23 MR. SECREST: Objection. Speculation.

24 THE COURT: Sustained.

25 Q. (BY MS. BARNETT) I mean, he's not a detective,

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1 true?

2 A. Not sure I understand your last question. Say
3 it again.

4 Q. Well, Herman Melgar is not a detective, is he?

5 A. No, he's not.

6 Q. And he's certainly not there trying to
7 determine what happened as far as if she's faking or
8 not, is he?

9 MR. SECREST: Objection. Asking this
10 witness to opine about someone else's intention.
11 Speculation.

12 THE COURT: Sustained as to speculation.
13 No speaking objections.

14 Q. (BY MS. BARNETT) So wouldn't you think a family
15 member that comes into a home expecting to eat dinner
16 there is going to be terrified by what they see?

17 A. Yes, ma'am.

18 Q. They see Jaime Melgar stabbed multiple times,
19 dead, and his wife tied up in the closet, right?

20 A. Yes, ma'am.

21 Q. You wouldn't think he would spend any time
22 trying to figure out how she was tied up, would you?

23 A. No.

24 Q. I mean, he's just trying to get her out of it?

25 A. Absolutely.

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1 Q. As quick as possible?

2 A. Sure.

3 Q. And as soon as he cuts the ties off of her
4 ankles and her wrists, that evidence is forever gone,
5 isn't it?

6 A. Not at all. It's right there on the ground.

7 Q. Well, what I mean is as far as how it was tied
8 and how tight it was around her wrists, true?

9 A. Had he been unable to untie the knots?

10 Q. And that's not what I asked you, is it?

11 A. It is. That's exactly what you asked me, and
12 I'm trying to answer your question.

13 Q. Well, listen to my question then, please.

14 MR. SECREST: Objection. She's arguing
15 with the witness.

16 THE COURT: Don't argue with the witness.

17 Q. (BY MR. SECREST) When he is trying to get rid
18 of the wrist scarf and the purple cloth on her wrist, he
19 cuts it and alters the evidence, doesn't he?

20 A. It changes the way the ligatures are on the
21 arms. Obviously, common sense says you can't leave the
22 arms in the ligatures, so it has to be altered at some
23 point.

24 Q. So the answer to my question would then be yes?

25 A. Whether the ligature was altered?

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1 Q. Correct?

2 A. Yes, it was cut.

3 Q. Thank you, sir.

4 A. You're welcome.

5 MS. BARNETT: May I approach the witness?

6 THE COURT: You may.

7 Q. (BY MS. BARNETT) So 571 and 572, these are what
8 Herman Melgar said were around her wrist; is that right?

9 A. 571 and 572 are a combination of the entire
10 ligature?

11 Q. That's correct.

12 A. Yes.

13 Q. And would you say this is stretchy-type cloth?

14 A. Yes.

15 Q. And what we have here is 570. This was what
16 was around her ankles, right?

17 A. That's what the testimony was, yes, ma'am.

18 Q. And that's what you believe what Herman Melgar
19 saw when he was there with her, wasn't it?

20 A. I believe based on the interview at closest to
21 the time that he removed what was on her ankles, but he
22 testified differently in court.

23 Q. Okay. Well, you were the investigator for the
24 Defense on this case; what do you think?

25 MR. SECREST: Objection. Mischaracterizes

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1 his testimony. Your Honor, he's not an investigator for
2 the Defense.

3 THE COURT: Restate your question.

4 Q. (BY MR. SECREST) Which would be the closest in
5 memory for him: The day it happened or five years
6 later?

7 A. The day it happened.

8 Q. So, again, is this what you believe was around
9 Sandra Melgar's ankles based on Herman Melgar's
10 testimony?

11 A. Yes, ma'am.

12 Q. Thank you.

13 A. Can I clarify that?

14 Q. Of course.

15 A. Based on Herman Melgar's testimony, he
16 testified different based on what he said in his
17 interview on December 23rd, I believe it was on her
18 ankles.

19 Q. I believe we're saying the same thing. The
20 thing that he saw that day that he told the officers
21 about was the blue scarf was around her ankles?

22 A. Yes, ma'am.

23 Q. So he was mistaken when he testified yesterday?

24 A. Yes, ma'am.

25 Q. As was his wife also, correct?

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1 A. Yes, ma'am.

2 Q. And how many number of things did she testify
3 to that you viewed as incorrect?

4 A. That's different than originally stated in the
5 original interviews. Primarily specifically about the
6 ligatures, I believe she testified that both the cloth
7 and the purple -- State's Exhibit 572 and 573 and other
8 State's Exhibits, the scarf, that they were both around
9 both the ankles and the wrist. And I wasn't sure if I
10 totally followed that, but it was different than what
11 she originally said.

12 Q. And there's no evidence at all that both of her
13 wrists and ankles had two different type of ligatures;
14 there's no evidence of that at all, is there?

15 A. No, ma'am.

16 Q. And where do you think she got the idea that
17 Sandra Melgar had a bruise across her entire forehead,
18 down her eye, and across her whole cheek, where did she
19 get that from?

20 MR. SECREST: Speculation, Your Honor.

21 THE COURT: Sustained.

22 Q. (BY MS. BARNETT) Had you ever heard that
23 before?

24 A. No, ma'am.

25 Q. And you heard her testify to that?

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1 A. I did.

2 Q. Did you ask her about that later?

3 A. I did not.

4 Q. Do you know if Sandra Melgar told her she was
5 beaten up?

6 A. I do not.

7 Q. But it's possible?

8 MR. SECREST: Objection to what's
9 possible, Your Honor. Conjecture.

10 THE COURT: Sustained.

11 Q. (BY MS. BARNETT) Could -- could Ms. -- her
12 sister-in-law told her -- could have told her she was
13 beaten up or hit; is that possible?

14 MR. SECREST: Conjecture, same question.

15 THE COURT: Sustained as to speculation.

16 Q. (BY MS. BARNETT) Okay. One of the things I
17 want to address is you have to believe -- in order for
18 this to be a home invasion, the garage door has to be
19 open, right?

20 A. I think that's a good likelihood, yes, ma'am.

21 Q. Well, if both garage doors are down, how does
22 this happen?

23 A. I don't know. I mean, that could have been a
24 point of exit where he opened the garage door to exit.
25 But you would think he would open the easier one to

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1 exit, the one behind the car.

2 Q. Well, let's hear it. If the garage doors are
3 both closed, how do they enter the house?

4 A. Don't know.

5 Q. Okay. You don't have any evidence that
6 somebody has a key?

7 A. No, ma'am.

8 Q. You don't have any evidence that there's forced
9 entry?

10 A. No, ma'am.

11 Q. All the windows are shut, the doors are locked,
12 all of that is in place, right?

13 A. Other than the garage door open.

14 Q. Other than what?

15 A. The garage door open.

16 Q. So we're going to have to assume that the
17 garage door being open is the way they came in, right?

18 A. Yes, ma'am.

19 Q. This is in fact if you believe the defendant's
20 story, correct?

21 A. No, ma'am.

22 Q. Okay. Tell us what you mean by that.

23 A. If you believe the witnesses that testified
24 when they drove to the house, Herman Melgar, Maria
25 Melgar, and their children, that the garage door was

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1 open when they came.

2 Q. No, I'm not doubting that the garage door was
3 open. I'm just doubting the story of the defendant that
4 she was not the one that opened it.

5 MR. SECREST: Objection. That's improper,
6 and I ask that you instruct the jury to disregard
7 Counsel's comment about what she doubts.

8 THE COURT: And your legal objection is?

9 MR. SECREST: I think it's an improper
10 comment by the prosecutor as to the credibility or
11 intention of another person. She can't go there.

12 THE COURT: Sustained.

13 Rephrase your question.

14 MR. SECREST: Would you instruct the jury
15 to disregard?

16 THE COURT: Ladies and gentlemen, please
17 disregard the last question by the prosecutor.

18 Q. (BY MS. BARNETT) Well, it's a contested issue,
19 isn't it?

20 A. Yes, ma'am.

21 Q. Obviously, we're prosecuting her for murder,
22 and she's hired defense counsel, she's defending
23 herself, right?

24 A. Yes, ma'am.

25 Q. And she has given a statement saying a lot of

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1 things in the statement about what happened, things she
2 remembered; is that true?

3 A. Yes, ma'am.

4 Q. So in part -- let's talk about the statement.
5 So do you believe that she changed her story in some
6 places?

7 A. I do not.

8 Q. You don't?

9 MS. BARNETT: May I approach the diagram?

10 THE COURT: You may.

11 Q. (BY MS. BARNETT) Let's talk about the issue of
12 whether or not the dogs were barking, and whether or not
13 she heard it; do you recall that?

14 A. I do.

15 Q. Do you think she changed her story in any way
16 about that?

17 A. I do not.

18 Q. The officers asked her several times about the
19 dogs barking, did they not?

20 A. They did.

21 Q. And on State's Exhibit No. 675, she says that
22 the dogs were barking a lot, right?

23 A. Yes.

24 Q. She said the dogs were barking too much?

25 A. Yes.

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1 Q. She said they were moving the dogs because when
2 the dogs get too loud the neighbors complain, right?

3 A. Yes.

4 Q. And she could hear the dogs barking because
5 they are right outside the window, right?

6 A. Yes.

7 Q. And that Jaime goes outside to get the dogs
8 because they are too loud, right?

9 A. Yes.

10 Q. And then she hears the dogs -- she hears the
11 dogs because they are outside, right?

12 A. Yes.

13 Q. And then she says she doesn't remember hearing
14 the dogs, her husband told her? You don't see that as a
15 change?

16 A. The No. 7, the last one, yes. But as far as
17 consistency, 1 through 6, no.

18 Q. Well, my question was: Did she change her
19 story? And she did.

20 A. On No. 4 where she said she can hear the dogs
21 barking?

22 Q. She can hear the dogs barking.

23 A. No, she said she doesn't remember hearing the
24 dog barking; that's a change.

25 Q. Her husband told her?

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1 A. Correct.

2 Q. Her husband told her the dogs were barking?

3 A. Right.

4 Q. That means when she says the dogs were barking
5 a lot, her husband was telling her that, I guess, when
6 they were in the Jacuzzi together, right?

7 A. Yes.

8 Q. Hey, hun, the dogs are barking a lot?

9 A. That's an assumption, yes.

10 Q. Okay. Do you remember her changing the time
11 that she was waiting for Jaime to come back from getting
12 the dogs?

13 A. Yes.

14 Q. And that's a change, isn't it?

15 A. Yes.

16 Q. It's a big change, right?

17 A. It's a change in time, but she also clarified
18 that time.

19 Q. Did I ask you that, sir?

20 A. You asked me if it changed.

21 Q. Right. And the answer is, yes, it did.

22 A. With an explanation.

23 Q. Well, the point I'm trying to make is in the
24 very beginning when she says she's waiting on Jaime to
25 come back to bring the dogs back, she is waiting 15 to

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1 20 minutes for him to come back. I guess that's when
2 Jim is being stabbed multiple times, right?

3 A. You can guess that. I don't know.

4 Q. Well, okay. Well, she doesn't hear anything,
5 and Jaime never comes back, so she's waiting 15 to 20
6 minutes, according to her, waiting for Jaime to come
7 back, and he doesn't, right?

8 A. Correct.

9 Q. And we know that she's 20 feet away from where
10 Jaime ends up dieing, right?

11 A. Correct.

12 Q. And she can see that closet from her viewpoint,
13 can't she?

14 A. You can see that closet with a reflection in
15 the mirror.

16 Q. Are you saying that you can't sit in the tub
17 and turn where she was and turn and see the entry to the
18 master bedroom and to the master closet; is that what
19 you're saying?

20 A. Yes.

21 Q. Have you been to the house?

22 A. I have.

23 MS. BARNETT: May I approach the witness?

24 THE COURT: You may.

25 Q. (BY MS. BARNETT) I'm going to show you, sir,

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1 for identification purposes State's Exhibit 730. If I
2 represent to you that that's the house at 9538 Kelsey
3 Meadows, would you agree with me that that looks like
4 the same setup?

5 A. Yes.

6 Q. And does it appear to you that someone sitting
7 in a Jacuzzi tub where she was can see both doors?

8 A. Yes.

9 MS. BARNETT: We would offer into evidence
10 State's Exhibit 730, and let the record reflect I'm
11 tendering to opposing counsel.

12 THE COURT: Any objection?

13 MR. SECREST: No objection.

14 THE COURT: State's Exhibit 730 is
15 admitted, and you may publish.

16 MS. BARNETT: May I walk it in front of
17 the jury?

18 THE COURT: You may.

19 Q. (BY MS. BARNETT) So that would have been her
20 viewpoint while her husband is getting stabbed multiple
21 times, and she can't hear it, right?

22 A. I disagree, no.

23 Q. Let's talk about what she said about she could
24 see Herman moving the chair, right?

25 A. Yes.

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1 Q. Okay. So what is your understanding of how she
2 was positioned in the closet?

3 A. On the floor with her head close to the door,
4 and her -- and her ligatures showing.

5 Q. So let's just pretend like this is the closet
6 door right here. And how was her -- how was she facing?
7 Is she facing this way, is she facing toward it? So she
8 says her arms are tied behind her back, and her ankles
9 are also tied, and she's on the floor, and her head is
10 facing which way?

11 A. Closest to the door.

12 Q. So it's facing the door?

13 A. That's my understanding, yes.

14 Q. So her head is pointing away from the door, but
15 her eyes are focused on the door; is that right?

16 A. I don't think that was ever established.

17 Q. Well, do you know?

18 A. Whether her eyes were facing under the door, I
19 don't know.

20 Q. Well, didn't you give a demonstration of how
21 you went to your house and looked under the door?

22 A. Yes.

23 Q. Okay. So how are you facing your door when you
24 did that experiment?

25 A. I turned my head to where I can look under the

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1 threshold of the door to see the chair -- see the two
2 legs of the chair.

3 Q. So that would mean that your face is towards
4 the door, right?

5 A. Yes. I mean, I could turn my head either way.
6 But, yes, I looked underneath the door.

7 Q. So you did the experiment so that your face was
8 facing the door, true?

9 A. Yes.

10 Q. And do you know if that's where her face was?

11 A. I do not.

12 Q. But in order for her to be able to see the
13 chair being moved, it would have to be her face was
14 facing the door, true?

15 A. At some point if she saw underneath the door,
16 she would have to turn her face and her eyes looking
17 under the door to see the chair.

18 Q. And she was asked to describe where she was and
19 what her position was in when she was in the closet,
20 right?

21 A. Yes.

22 Q. And do you recall that part of her story?

23 A. Yes, I recall what she said.

24 Q. Okay. And what did she say?

25 A. She said that she was tied up on the floor with

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1 her hands tied behind her back and her ankles tied
2 behind her back.

3 Q. And where does she say that she was facing?

4 A. To be clear, I'm confused. I'm not sure what
5 she said versus what Herman said, Herman Melgar. You
6 would have to show me that to refresh my memory.

7 Q. Would it refresh your memory if I said she said
8 she was facing the shoe rack?

9 A. No.

10 Q. That wouldn't refresh your memory?

11 A. No.

12 MS. BARNETT: May I approach the witness?

13 THE COURT: You may.

14 Q. (BY MS. BARNETT) Just to save some time, I'm
15 going to show you a copy of the transcript, page 46 of
16 57. Let me just -- just read this part, please.

17 Does that refresh your recollection?

18 A. It does.

19 Q. Where does she say she's facing?

20 A. The shoe rack.

21 Q. Well, first of all, she said the closet door is
22 open, doesn't she?

23 A. Yes.

24 Q. So when the detectives ask her right on the
25 money, "Was the closet door open," she says, "Yes?"

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1 A. Yes.

2 Q. But that doesn't fit with the story then,
3 right, because she would have seen attackers, true?

4 A. True.

5 Q. So then after they asked her, "Your closet door
6 open," she said she doesn't know, right?

7 A. Correct.

8 Q. And in order to not know the door is open, you
9 wouldn't be facing it, would you?

10 A. Just depends.

11 Q. What does it depend on?

12 A. In your peripheral vision, your sense of being
13 closed up in the closet would depend on a lot of things.

14 Q. Oh, but she has got joint pain, right, she
15 can't move that well.

16 A. True.

17 Q. So she wouldn't be able to do that, would she?

18 A. Again, it just depends.

19 Q. Well, based on everything that you've read,
20 she's complained about having lupus. And I'm not saying
21 she doesn't have lupus; I'm sure she does. But the
22 symptoms that she has told you about are that she can't
23 move, right? And she said multiple times in her
24 statement that in her closet she couldn't move?

25 A. Is that a question?

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1 Q. Yes.

2 A. You would have to take literally that she
3 didn't move the whole time she was tied up. That
4 doesn't mean she wasn't moving around trying to get
5 comfortable. If she's tied up and she stayed in there
6 as long as she did, I'm sure she moved at some point
7 somehow.

8 Q. I don't mean moving like that. She's not going
9 to move her whole head around, right?

10 A. I don't know that.

11 Q. Well, let's just look at the shoe rack, if we
12 can. All right. So we see the closet door here, yes?

13 A. Yes.

14 Q. Now, that is a shoe rack, right?

15 A. Correct.

16 Q. And this is also some shoes on the rack?

17 A. Correct.

18 Q. This is directly behind. The door is here, and
19 this is directly in front of it, right, or behind it,
20 actually.

21 A. Yeah, behind it, yeah.

22 Q. So in order for her to be looking at these
23 shoes, she couldn't see whether the door was open or
24 not, right?

25 A. If she looked at that shoe rack the entire time

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1 she was in the closet, right.

2 Q. Well, that's what we're talking about, aren't
3 we? She was saying that she couldn't see -- "I remember
4 I couldn't move, and my head hurt." Do you remember
5 reading that?

6 A. I do.

7 Q. "I couldn't move, and my head hurt." Which
8 indicates that she's telling the truth that she couldn't
9 move, right?

10 A. Yes.

11 Q. So if she's looking at the shoe rack, she's not
12 going to be looking at the door, correct?

13 A. Just depends.

14 Q. On what? What does it depend on?

15 A. If you take the entire 14 hours, 12 to 14 hours
16 she's in the closet, I don't fault her for that, I fault
17 the detectives for not fully clarifying --

18 MS. BARNETT: Objection. That's
19 non-responsive.

20 THE COURT: Sustained.

21 Q. (BY MR. SECREST) Please let me know if there's
22 anything in the transcript that you ever find that
23 indicates that she moves. Okay? Would you do that for
24 me?

25 A. Okay.

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1 Q. Let's talk about -- how many times did you say
2 that she was stabbed -- excuse me, Jaime Melgar was
3 stabbed?

4 A. 30 to 31 times.

5 Q. Are you aware that that's not what the medical
6 examiner said?

7 A. She said there was as many as 50 injuries, but
8 the blunt force stab wounds where the skin is broken, it
9 was 30 to 31.

10 Q. Would it surprise you to learn that there were
11 13 stab wounds?

12 A. In the torso.

13 Q. No, total -- total, 13 stab wounds?

14 A. Clarify what you mean by stab wounds, and I'll
15 answer that question as honest as I can.

16 Q. Well, I'm just relying on what the medical
17 examiner said. And the medical examiner said there were
18 13 stab wounds. Would you dispute that?

19 A. No.

20 Q. So some of the wounds were not caused by the
21 knife, right?

22 A. We don't know that, but probably.

23 Q. Okay. Well, you were here during the medical
24 examiner's testimony, were you not?

25 A. I was.

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1 Q. So in the demonstration that you and the
2 Defense counsel did, I think, he tried to stab you, I
3 think in the last 50th -- the 50th time was when you
4 fell down, right?

5 A. Yes.

6 Q. But the evidence doesn't support that, does it?

7 A. I believe it does. As far as what you mean,
8 the falling down? I'm not sure I follow your question.

9 Q. Well, we have one blood spot over here, right?

10 A. Correct.

11 Q. We have another blood spot here?

12 A. Correct.

13 Q. And a third one here, right?

14 A. Correct.

15 Q. So that indicates possibly three times that
16 Jaime may have hit the wall on separate occasions, true?

17 A. That doesn't definitively indicate that. It
18 indicates someone hit the wall three times.

19 Q. So you think that they may have exchanged
20 places or something?

21 A. I'll answer that question, if you want me to.

22 MR. SECREST: She asked the question, I
23 would ask that she let the witness answer the question,
24 Your Honor.

25 THE COURT: I'm not sure what the question

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1 was. What was the last question?

2 MS. BARNETT: I don't remember either.

3 MR. SECREST: Can we have the court
4 reporter read it back, please?

5 COURT REPORTER: Q: "So you think they
6 may have exchanged places or something how?"

7 MS. BARNETT: Right.

8 THE COURT: What is your answer to that,
9 sir?

10 THE WITNESS: No.

11 Q. (BY MS. BARNETT) Exactly.

12 So Jaime is in the closet, and 2 feet,
13 nobody is going to come back behind him and hit their
14 bloody head against the wall. It's him, right?

15 A. No, ma'am.

16 Q. Well, who is it?

17 A. I think it can also possibly be the blood --
18 the bloodstain on the wall where Deputy Rizzo {phonetic}
19 talked about hair impressions coming down the side.
20 Could have been the attacker falling down along with Mr.
21 Melgar, and his head hitting there, and Mr. Melgar's
22 head hitting the back of the shelf, and the back of the
23 wall, and then sliding down the wall.

24 Q. Who is Deputy Rizzo?

25 A. The blood spatter expert from Montgomery

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1 County, whatever her name is. What's her name?

2 Q. Rossi.

3 A. Rossi.

4 Q. Another spot back here, right?

5 A. Can you back it out some?

6 Q. Yeah.

7 A. This spot right here, I believe the possibility
8 exists that the attacker had blood on him, whether it's
9 Jaime Melgar's or his own, and capable here, and when
10 Jaime hit the wall here and came down, possibility.

11 Q. I guess, your theory is then that Jaime Melgar
12 is in the space right here getting stabbed, and that
13 both of them fell against the wall; is that what you're
14 testifying to?

15 A. I believe Jaime Melgar possibly fell back, and
16 the attacker possibly fell on top of him during the
17 attack.

18 Q. And where do you get that from?

19 A. Just my interpretation of the blood spatter on
20 the wall and the entirety of the attack that took place
21 right there in the closet.

22 Q. Okay. When -- what kind of training -- what --
23 when did you leave the police department?

24 A. 2009.

25 Q. Okay. Did you go -- did you do any blood

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1 spatter training while you were a police officer?

2 A. I did.

3 Q. What kind of blood spatter training did you do?

4 A. We had two detectives, Hofmeister and Welch
5 {phonetic}, who the department sent to be trained on
6 blood spatter evidence. And they came back and taught
7 multiple classes. And I attended each one of those
8 classes over a 10-year span.

9 Q. Do you know how many classes you went to?

10 A. As many as two, possibly three specifically for
11 blood spatter. But almost every homicide investigation
12 seminar or course that I've taken or that any homicide
13 detective takes, there's always a segment of course
14 material, and it's something on homicide scenes. You
15 see blood every day on the scenes you go out to. And
16 those scenes talk to you. I don't mean --

17 Q. I'm sorry, sir. Excuse me. So basically two
18 police officers went to a blood spatter compendium and
19 came back and taught you; is that what it is?

20 A. Put together training material and taught the
21 entire gigs, yes, ma'am.

22 Q. Are you a court qualified expert in blood
23 spatter?

24 A. No.

25 Q. Are you a court qualified expert in latent

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1 print examining?

2 A. No.

3 Q. Are you a court qualified expert in crime scene
4 reconstruction?

5 A. No.

6 Q. Are you a court qualified expert in shooting
7 incident reconstruction?

8 A. No.

9 Q. Would you have 11 specialized trainings that
10 you can account for, 11?

11 A. Specialized trainings in law enforcement and
12 homicide investigations.

13 Q. On blood stains?

14 A. No.

15 Q. Would you have seven classes on latent
16 fingerprints?

17 A. No.

18 Q. What about --

19 A. Can I qualify that? Again, not specifically to
20 latent prints -- exclusively, I mean, to latent prints.
21 But latent prints is another one of those segments in
22 any homicide investigation school that is taught on.

23 Q. I'm talking about a class just specifically
24 specializing in latent fingerprints? No?

25 A. I've attended it.

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1 Q. You've attended some.

2 A. Yes, I was a supervisor in the crime scene
3 unit, so I sponsored them so that the officers that
4 worked for me would have training two years in a row.

5 Q. Okay. And are you a member of any professional
6 memberships regarding International Associations of
7 identification?

8 A. I was when I was a supervisor in the crime
9 scene unit, and --

10 Q. That's not my question, what was in the past.
11 Are you ---

12 A. Right now --

13 MR. SECREST: Excuse me, Your Honor. May
14 the witness continue to answer the question and not be
15 cut off?

16 THE COURT: Don't talk over each other.
17 Re-ask your question.

18 Q. (BY MS. BARNETT) I'm asking you today, today as
19 you sit here, are you a member of the International
20 Association for Identification?

21 A. No, ma'am.

22 Q. Are you a member of the Texas Division of
23 International Association for Identification?

24 A. No, ma'am.

25 Q. Are you a member of the Association for Crime

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1 Scene Reconstruction?

2 A. No, ma'am.

3 Q. Were you ever a member of the Association for
4 Crime Scene Reconstruction?

5 A. No.

6 Q. So you couldn't have been a board member or a
7 president?

8 A. I could not. Did not want to be.

9 Q. And I didn't ask you that question, sir.

10 Are you a member of the International
11 Association of Bloodstain Pattern Analysis?

12 A. No.

13 Q. Okay. Are you member of the Southeast Texas
14 Forensic Science Facility?

15 A. I am not a member, no.

16 Q. What about National Institute of Standards and
17 Technology?

18 A. No.

19 Q. Organization of Scientific Area Committee?

20 A. I am not a current member, no.

21 Q. Bloodstain Pattern Analysis Task Group?

22 A. No.

23 Q. BPA Conclusions Sub-task Group Chair?

24 A. No.

25 Q. Let me ask you to --

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1 MS. BARNETT: May I approach the witness?

2 THE COURT: You may.

3 Q. (BY MS. BARNETT) This is State's Exhibit 727,
4 the CV of Celestina Rossi. Take a look at these two
5 pages of training, and tell me how many of those you've
6 been to, sir?

7 A. None of these specific courses.

8 Q. How many of those courses are there that she's
9 listed?

10 A. I didn't count them, but I will if you want me
11 to.

12 Q. Please.

13 A. Twenty-four.

14 Q. That's just on one page. Flip the page,
15 please.

16 A. Forty-nine. I didn't look at the second page.

17 Q. Please, please.

18 A. I did not attend any of these courses either.

19 Q. And back to the autopsy report, so you agree
20 with me that -- or do you agree with me that the medical
21 examiner testified that there were 13 stab wounds?

22 MR. SECREST: Asked and answered.

23 THE COURT: Sustained.

24 Q. (BY MS. BARNETT) Some of what she talked about
25 included bruising on the back of the head. That

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1 accounts for some of it, doesn't it?

2 A. Yes.

3 Q. And also some incised wounds, right?

4 A. Yes.

5 Q. And what's the definition of incised wounds?

6 A. They're wounds that are not particularly --
7 incised is the cutting of the skin.

8 Q. And so it means it's long. It's longer than it
9 is deeper; that's what it means, right?

10 A. Yes.

11 MS. BARNETT: May I approach the evidence?

12 THE COURT: You may.

13 Q. (BY MS. BARNETT) What was the deepest wound,
14 deepest stab wound, sir; do you recall?

15 A. I think it was 3 and a 1/4 inches.

16 Q. It was 3 inches.

17 A. I don't dispute that.

18 Q. How long do you think that knife is?

19 A. 6-inch, the blade.

20 Q. So according to the way the blade is -- and by
21 the way, let me just back up for a second: You talked
22 about when you're handling the knife, and you might get
23 your fingers bloody. What is this part of the knife
24 called?

25 A. The hilt.

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1 Q. Can it also be called a guard?

2 A. Yes.

3 Q. And part of the reason that this is here is to
4 protect your fingers from sliding, right?

5 A. True.

6 Q. So you would think that if your hand was bloody
7 and maybe slippery, this guard, or the hilt as you call
8 it, is something that would stop that?

9 A. That's what it is designed for, yes.

10 Q. Exactly.

11 And so also, using only 3 inches of a
12 6-inch knife, do you agree that that's a superficial
13 wound or superficial -- not superficial, it's not a full
14 plunge knife wound, right?

15 A. Correct, but it's definitely not superficial.

16 Q. Aren't stabbings known to be crimes that are
17 personal?

18 A. Yes.

19 Q. So when you find somebody who is stabbed to
20 death, such as this, one of the things that you would
21 look to as a police officer is thinking, number one,
22 that it's kind of a personal crime, right?

23 A. Close contact, yes.

24 Q. And what do we mean by a "personal crime," that
25 it looks personal, what does that mean?

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1 A. I'm not sure if your definition of personal and
2 my definition of personal are the same.

3 Q. Well, they may not be. What's your definition?

4 A. That it's the, I guess, person-to-person, up
5 close and personal. You can't stab someone if you're
6 not close to them.

7 Q. All right.

8 A. But it doesn't mean relational personal.

9 Q. I understand. But part of being able to get
10 close to somebody may be because it's someone that they
11 know, right?

12 A. That's a possibility, yeah.

13 Q. And certainly that's what we have here, if, in
14 fact, Sandra Melgar is the person who did the stabbing,
15 true?

16 A. Yes, ma'am.

17 Q. So it's certainly -- and let me just ask you
18 this: You're not saying that it's impossible that
19 Sandra Melgar killed Jaime Melgar, right, you're not
20 saying that that's impossible?

21 A. It's not my testimony, no, ma'am.

22 Q. So certainly it is possible that she committed
23 that crime?

24 A. Certainly.

25 Q. Okay. When you interviewed the witnesses -- or

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1 who did you interview? Let's just back up a minute.

2 Who did you interview?

3 A. In regards to who did I talk to regarding this
4 case?

5 Q. Yes, witnesses -- witnesses or potential
6 witnesses?

7 A. The only one is the defendant, Sandra Melgar,
8 that I personally talked to.

9 Q. Okay. So --

10 A. I take that back. Also, Elizabeth Melgar.

11 Q. And what was the purpose of interviewing
12 Elizabeth and Sandra Melgar?

13 A. My request.

14 Q. Okay. And why?

15 A. Because I want to satisfy in my mind. I made a
16 list of things when -- when Ms. -- when the Defense
17 asked me to look at this case, I read it, and then I
18 said, I would like to do this. And I wanted to go to
19 the crime scene, and I wanted to talk to Sandra Melgar,
20 and there was a number of things I wanted to do, so I
21 did that.

22 Q. I think I was trying to figure out how many
23 people you interviewed, and why you interviewed them.
24 Why did you interview Elizabeth and Sandra?

25 A. I didn't interview them, but I talked to them.

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1 Q. Okay. Did you interview any witnesses?

2 A. Interview, no.

3 Q. You are critical of some other people not being
4 interviewed, right?

5 A. Yes.

6 Q. And certainly would you think it would be
7 significant if you found someone that might have
8 committed the crime, right?

9 A. Yes.

10 Q. You would have brought that to the D.A.'s
11 attention, wouldn't you?

12 A. Yes.

13 Q. And certainly, I guess, in your mind possibly
14 that there's somebody else out there that committed this
15 crime?

16 A. Absolutely.

17 Q. But you didn't do anything to try to find that
18 out, did you?

19 A. I did plenty to try to find that out.

20 Q. Like what?

21 A. Like what did I do?

22 Q. Yeah.

23 A. I looked at Chad Sullivan extensively. I
24 looked at his background, looked at his home records.

25 Q. Did you look him in the eye?

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1 A. No.

2 Q. Did you interview him?

3 A. No. I'm not a police officer, ma'am. I no
4 longer do that.

5 Q. Do you have to be a police officer to talk to
6 somebody?

7 A. Do not.

8 Q. Okay. So what else did you do?

9 A. I went through everything that the Defense had,
10 I looked at, and I read, and I reviewed. And I met with
11 prosecutors here at the D.A.'s Office who had this case
12 before you, and told them everything that I saw, and --

13 Q. And we still --

14 A. -- told them what my opinion was.

15 Q. And we still went forward, didn't we?

16 A. Surprisingly, yes.

17 Q. Really?

18 A. Yes.

19 Q. All right. What else did you do?

20 A. I did my own little demonstrations to satisfy
21 my own mind with the ligatures, with the Cool Whip.

22 Q. All right. Let's talk about the ligatures.

23 Okay. So you agree with me that Herman
24 Melgar probably didn't have the opportunity to look at
25 the knot really closely, right?

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1 A. Other than the short period of time that he was
2 there trying to untie him.

3 Q. Right?

4 A. Yes, I agree.

5 Q. And he's not trying to determine what kind of
6 knot it is, he's just trying to get it off of her, true?

7 A. Yes.

8 Q. So you did this demonstration, so will I.

9 Let me show you this scarf here. Tie it.
10 Does it appear to be approximately the same size?

11 A. Yes.

12 Q. So let's pretend like Sandra Melgar does not
13 have her chair, and she's just in her closet tying
14 herself up. If you're going to look at that, you're not
15 going to know if this is a legitimate tie or not, are
16 you?

17 A. It could appear -- I mean, you wouldn't know
18 either way.

19 Q. Exactly. If I'm screaming and crying, are you
20 going to look at this as if I've done it myself, or you
21 just going to try to get it off of me?

22 A. I'm going to try to get it off of you.

23 Q. And you can walk around with this, can't you,
24 like I'm doing?

25 A. Depends on how tight it was.

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1 Q. Yeah. And you can take it off.

2 All right. Let's look at this. Does this
3 appear to be about the same size?

4 A. It does.

5 Q. Does that look like a legitimate knot to you?

6 A. It does.

7 Q. And would you question anybody that had a knot
8 like this?

9 A. Would I question, absolutely. I would ask them
10 a whole bunch of questions about it.

11 Q. I guess -- and that was an improper question.
12 I'm sorry.

13 So I'm lying down crying, asking for help,
14 and my hands are like this tied behind my back. Would
15 you question the authenticity of this knot?

16 A. Before I cut it off of you, probably not.

17 Q. You might, if I'm crying, inspect the knot?

18 A. Probably not.

19 Q. So you might. There's a part of you that maybe
20 would stop and question the authenticity of the knot
21 before you cut it off if I was screaming and crying?

22 A. You've known me for 15 years. I am full of
23 questions, and I would be asking you questions as I'm
24 cutting it off of you. So probably is a qualifier.

25 Q. All right. So I've had this on my wrist for

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1 how long, would you guess?

2 A. A minute.

3 Q. I'm going to take it off because it's really
4 tight. And this isn't stretchy. Do I have marks on my
5 wrist?

6 A. You have light marks, yes, that will fade in
7 any minute.

8 Q. But that was on my wrist for 30 seconds, right?

9 A. Right.

10 Q. Would you say that this material is not as
11 stretchy as the other material?

12 A. No.

13 Q. You wouldn't say that?

14 A. No.

15 Q. All right. Can you do this to that one? Let's
16 see.

17 A. Yes.

18 Q. They the same?

19 A. They are not.

20 Q. One of the things you have to -- that has to be
21 is the fact that she had a seizure, right? That's
22 something that has to happen in order for this work;
23 like she blacked out, right?

24 A. Not necessarily, no, ma'am.

25 Q. Well, that's her story, right?

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1 A. She also said she thought she was hit in the
2 head.

3 Q. Well, she didn't say at first -- the first
4 statement that she gave, right?

5 A. She said she thought she might have -- or she
6 thought she had blacked out or had a seizure, something
7 to that affect.

8 Q. Exactly, which is what I'm asking you, that she
9 had a seizure?

10 A. Yes.

11 Q. Or thought she had a seizure?

12 A. Yes.

13 Q. In order for this story to work, she either has
14 to be blacked out or have some kind of problem for 12 to
15 15 hours, true?

16 A. No, not true.

17 Q. Okay. Well, let's just start from the
18 beginning. She says she had a seizure?

19 A. Yes.

20 Q. Or blacked out, and says she has a seizure?

21 A. Yes.

22 Q. And she gets the seizure story different
23 variations through the rest of her statements to various
24 people, doesn't she?

25 A. Yes.

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1 Q. Okay. Would you think that somebody who had a
2 seizure which prevented you from seeing your husband
3 being killed, they would have had seizures or complained
4 about seizures?

5 A. Yes.

6 Q. And certainly she says in her statement that
7 she has had seizures, and that she's been having them,
8 right?

9 A. Yes.

10 Q. Do you recall what she said?

11 A. She had a seizure disorder, and she's had one
12 within the last month, or more frequently over the last
13 month, something like that.

14 Q. She's had at least one a month, right?

15 A. Right.

16 Q. And would you think that she would go to a
17 doctor about that?

18 MR. SECREST: Objection. That's
19 speculation.

20 THE COURT: Sustained.

21 Q. (BY MS. BARNETT) Do you know if she went to a
22 doctor about that?

23 A. I know she went to five or six different
24 doctors.

25 Q. Okay. And what doctor did she go to that

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1 specifically took care of her seizures?

2 A. I don't recall the name of the doctor.

3 Q. Would that be important?

4 A. For me to recall, I'm not sure if that would be
5 important or not.

6 Q. In order for her story to make sense, you would
7 think if she was having seizures, and they were more
8 frequent, she would go to a doctor about them, right?

9 A. Yes.

10 Q. And do you know if she went to a doctor about
11 them?

12 A. I know she was under a doctor's care for
13 seizure disorder.

14 Q. And that's going to be Dr. Noin, isn't it?

15 A. That's one of the doctors that I remember, yes.

16 Q. So in March of '08, no seizure, she's stable?
17 Do you agree with that?

18 A. According to your chart, I say I agree with
19 what you wrote on your chart, yes.

20 Q. And if this comes straight from the medical
21 records and is in evidence, you wouldn't doubt that,
22 would you?

23 A. No, ma'am.

24 Q. Okay. March 11th, she's stable, no seizures.
25 March 20th of '08, she's stable, no seizures. September

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1 of '08, stable, no seizures. Has not had a seizure,
2 that's July of '09. So we don't have any seizures in
3 '08, so far in '09, no seizures. In August, the doctor
4 can't even reach her, can't reach the patient. You
5 don't disagree with that, do you?

6 A. No.

7 Q. In March of '10, no seizures. October, no
8 seizures. And then here we are right before the murder,
9 July of 2012, no seizures. And then the next time, she
10 doesn't go to the doctor in between July and April of
11 the next. But April the next year, has not had any
12 seizure episodes.

13 Wow. What does that mean?

14 MR. SECREST: Objection to "wow." I ask
15 that you rein the prosecutor in and cut out the
16 theatrics.

17 THE COURT: What's your legal objection?

18 MR. SECREST: I object to the
19 unprofessional conduct in the presence of the jury.

20 THE COURT: Sustained as to sidebar.

21 Q. (BY MS. BARNETT) Would you think that she would
22 have gone to a seizure doctor if she had had a seizure
23 which resulted in her not seeing her husband stabbed?

24 A. Yes.

25 Q. But yet we don't have any evidence that she

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1 went to the doctor, any seizure doctor, I guess, right?

2 A. That's quite a few appointments you've listed
3 down there, so I know she's been going to see a doctor.

4 Q. Right. But she hasn't reported any seizures?

5 A. But she's being treated for seizure disorder.

6 Q. Well, it's her primary care physician, it's not
7 a seizure doctor. I don't know who her seizure doctor
8 is. And apparently you don't either; is that right?

9 A. I do not.

10 Q. So I know at least her primary physician asked
11 about it. And apparently she hasn't had any when she
12 goes to her primary physician, right?

13 A. According to those records, yes.

14 Q. Do you know, though, that she goes to the
15 doctor -- she finds another doctor, Leonard Hershkowitz;
16 do you know who that is?

17 A. I don't recall all the doctors that your -- I
18 don't recall his name.

19 Q. Okay. Well, he's one of the Defense listed
20 experts that he's said he's going to use in his case in
21 chief, I guess, at some time in his case, and you don't
22 know anything about him?

23 A. No.

24 Q. Well, do you know that whether or not she had
25 seen him?

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1 A. I don't know.

2 Q. Do you know whether or not she had a doctor in
3 College Station?

4 A. I do not.

5 Q. Do you know whether or not she reported to a
6 Barbara Pierce that she has had perhaps 20 or 30
7 seizures in her lifetime?

8 A. Do I know? No.

9 Q. I mean -- okay. So if she's had 20 to 30
10 seizures in her lifetime, that's about one a year if
11 it's starting at age 19, right?

12 A. Yes.

13 Q. So if she has generally one seizure a year in
14 her lifetime and then starts getting them once a month,
15 wouldn't you think that would be something she would go
16 to the doctor about?

17 A. Perhaps, yes.

18 Q. Or maybe that's not true? Is that a
19 possibility?

20 A. That she didn't go to the doctor?

21 Q. No, that she's not telling the truth about her
22 seizures. That's a possibility, isn't it?

23 A. It's a possibility.

24 Q. Are you saying that you have to buy insurance
25 pretty close to killing someone in order to make that a

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1 motive?

2 A. No.

3 Q. So you can have insurance for a long time and
4 then decide to kill someone and benefit from the money,
5 right?

6 A. Sure.

7 Q. In this case, she had a policy -- and she had
8 more than one policies, right?

9 A. I remember seeing two policies -- or two
10 indications of two insurance policies.

11 Q. Which is more than one, isn't it?

12 A. Yeah, it's two.

13 Q. So the one from Minnesota is -- do you remember
14 how much she stands to gain on that one?

15 A. I remember the amounts of two policies. I'm
16 not sure which one was Minnesota and which one wasn't.

17 Q. Well, it was close to \$500,000, wasn't it?

18 A. One policy was 100,000, and the other one was
19 233,000. But there was double indemnity --

20 Q. Right.

21 A. -- clause in there.

22 Q. And if it is in fact found to be double
23 indemnity, that would be close to the \$500,000 mark?

24 A. Depends on what the double indemnity was.
25 Accidental death, it's covered, yes.

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1 Q. So did she make a claim for that insurance?

2 A. I know the claim was denied. I don't know if
3 she made it or not.

4 Q. In February -- February 5th of 2013, she made a
5 claim. Did you not know that?

6 A. I knew that the insurance adjustors contacted
7 Detective Carrizal, and he told them she was a suspect,
8 so they did not cover it.

9 Q. Right. So through the course of this, do you
10 agree that her story has changed on various things?

11 A. I disagree with that; I do not agree with it.

12 Q. Okay. do you agree that she sometimes when
13 asked a question doesn't answer the question?

14 A. No.

15 Q. You don't agree with that?

16 A. No.

17 Q. So when the detectives asked her: "Was the
18 garage door closed last night?" And she says, "Well, I
19 was walking in," that doesn't necessarily answer yes or
20 no if the garage door was closed that night, right?

21 A. It absolutely answers that question. It's
22 saying I don't know whether it was closed or not, I
23 walked inside the house.

24 Q. But she didn't say, I don't know?

25 A. Semantics. Okay. She didn't say, I walked in

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1 the house; but later, she said, I don't know.

2 Q. All right. She -- so what I'm getting at is
3 she adds to her story about what happened that night,
4 doesn't she?

5 A. Can you rephrase? I'm not sure I follow your
6 question.

7 Q. Well, her first story is: "I got in the
8 Jacuzzi, he got out. I blacked out, I don't remember
9 anything after that," right?

10 A. Yes.

11 Q. And then the second story is: I got out, and
12 then I went to the closet, and then I blacked out, and I
13 don't remember anything else, right?

14 A. That's generally what she said, but you're
15 saying story like there's a difference there.

16 Q. Right, there is a difference.

17 A. I don't see it that way.

18 Q. And a third story, got out, went to the
19 bathroom -- excuse me -- went to the closet, put on some
20 clothes and some lotion, and then she blacked out.

21 A. Correct.

22 Q. And then there was the story of she went to the
23 closet, put on some clothes, put on some lotion, and
24 blacked out, but came to and saw a female wearing a red
25 blouse and a black scarf peering at her. That was

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1 another addition to the story, right?

2 A. Not exactly.

3 Q. Do you remember her saying that she saw a
4 female wearing a red blouse and a black scarf looking at
5 her?

6 A. Looking at the person tying her up, I remember
7 that.

8 Q. So the person with the red blouse and the black
9 scarf was looking at the person tying her up?

10 A. Yes.

11 Q. Did she also give a story that she was down on
12 the floor of the closet, and someone's knee was in her
13 back, and she was being tied up?

14 A. Can you show me what you're referring to
15 because I don't recall that.

16 Q. Well, it's just a notation in the file that the
17 defendant's attorney, Nick Oweyssi said that --

18 MR. SECREST: Objection to her reading a
19 file. I would ask that that document be shown to the
20 witness to see if that refreshes his recollection as
21 opposed to counsel reading from a file, a document that
22 I've never seen.

23 THE COURT: That's sustained as to reading
24 a document not in evidence.

25 MS. BARNETT: May I approach the witness?

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1 THE COURT: You may.

2 A. Okay.

3 Q. (BY MS. BARNETT) Does that refresh your
4 recollection?

5 A. It does.

6 Q. And so there's a new addition to the
7 defendant's story that she now says she was on the floor
8 of the closet, someone's knee was in her back, and she
9 was being tied up?

10 A. Yes.

11 Q. Okay. And she saw the female, but couldn't see
12 who was tying her up?

13 A. Yes.

14 Q. Okay. So how -- how would that work with
15 somebody's knee in her back, tying her hands behind her
16 back?

17 A. Yes.

18 Q. Are there any more additions to the story?

19 A. Not that I'm aware.

20 Q. But you interviewed her. And so if there were
21 additions to the story, we would know, wouldn't we?

22 A. I never said I interviewed her.

23 Q. I'm sorry. I guess, did you speak with her
24 about the case?

25 A. Yes.

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1 Q. And speaking to her about the case, if she had
2 any additions to the story, we would certainly know
3 about it, wouldn't we?

4 A. Yes.

5 Q. But there's nothing new to report?

6 A. That I'm aware of.

7 Q. That you're aware of.

8 You were paid \$10,000?

9 A. I was.

10 Q. For this?

11 A. Yes, ma'am.

12 Q. Do you know how much Ms. Rossi charged us?

13 A. I do not.

14 Q. Nothing?

15 A. She's a peace officer. She's getting paid --
16 she's a peace officer in Montgomery County getting paid.
17 I never got paid for expert witness testimony or
18 anything as a peace officer because that was my job,
19 that was my salary.

20 Q. You don't need to be defensive, sir.

21 A. No, I'm just saying.

22 MR. SECREST: Objection to the sidebar.

23 THE COURT: Sustained.

24 Q. (BY MS. BARNETT) She's not testifying for
25 Montgomery County. Montgomery County employees are not

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1 Harris County, true?

2 A. Yes.

3 Q. She didn't get paid a cent to do all the work
4 that she did on this case.

5 A. Okay.

6 Q. And she knows more than you do about blood
7 spatter and about crime scenes, doesn't she?

8 MR. SECREST: Objection. She's arguing
9 with the witness, and she's making statements.

10 THE COURT: Sustained as to argumentative.
11 Rephrase.

12 Q. (BY MS. BARNETT) She has more recent training,
13 doesn't she?

14 A. Yes.

15 Q. She has more training, doesn't she?

16 A. As far as blood spatter, yes.

17 Q. And the other things that are on her CV that
18 you looked at, true?

19 A. Yes.

20 MS. BARNETT: Pass the witness.

21 THE COURT: Any redirect?

22 **REDIRECT EXAMINATION**

23 **BY MR. SECREST:**

24 Q. Mr. Belk, with respect to Ms. Rossi from
25 Montgomery County, are we at all disputing that she has

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1 training and is an expert in blood spatter?

2 A. Not at all.

3 Q. Are we contesting anything about that?

4 A. No.

5 Q. In fact, are we in agreement as to that part of
6 her testimony based on her expertise that based upon one
7 of the wounds to Mr. Melgar's right hand, that blood
8 would spray from the closet, hitting the chair that was
9 placed between the closet and the bed?

10 A. I don't dispute that testimony.

11 Q. And would that establish the assailant
12 therefore would have gotten blood on him?

13 A. Correct.

14 Q. Let me ask you about the hot tub. Is it your
15 understanding during the interview of Sandra Melgar that
16 she stated that the entire time that she was in the hot
17 tub for two hours, that she never moved from this exact
18 position?

19 A. Not at all.

20 Q. Regarding being on the ground on the carpet
21 inside the closet, during her interrogation, did Sandra
22 Melgar say that she could not move the entire time she
23 was in the closet?

24 A. She did not.

25 Q. Is it your understanding that she would have

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1 been in the closet 12 to 14 hours?

2 MS. BARNETT: Leading.

3 THE COURT: Sustained.

4 Q. (BY MR. SECREST) How long was she in the
5 closet, Mr. Belk?

6 A. 12 to 14 hours.

7 Q. Did she state when she was being interrogated
8 that she was a mummy, and at no time for 12 to 14 hours,
9 she didn't move?

10 A. No, sir.

11 Q. Was she ever asked whether she was able to look
12 to her left or to her right?

13 A. No, sir, she was not asked any questions like
14 that.

15 Q. Was she ever asked whether she could or could
16 not see under the door?

17 A. No, sir.

18 Q. Was she ever asked whether she was on her
19 stomach or on her back?

20 A. No, sir.

21 Q. Was she asked where her head was in relation to
22 the door of the closet?

23 A. No, sir.

24 Q. Is it your understanding that there are at
25 least two shoes racks in that closet?

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1 A. Yes.

2 Q. Is one of the shoe racks, if you were walking
3 into the closet, is one of the shoe racks to your right?

4 A. Yes, sir.

5 Q. And another shoe rack to your left?

6 A. I don't recall to the left. I thought it was
7 at the back of the wall. There's two shoe racks in the
8 closet.

9 Q. Do you recall when you go in the closet to the
10 left, there's a chest of drawers?

11 A. Yes.

12 Q. Was there a shoe rack in that general area?

13 A. Yes.

14 Q. So it may be a poorly phrased question: Based
15 upon her questioning, did she indicate that there were
16 shoe racks on both sides?

17 A. Yes.

18 Q. Did the investigators ever at any time seek to
19 have her clarify exactly where she recalls she was in
20 the closet?

21 A. No, sir.

22 Q. Regarding the autopsy report --

23 MR. SECREST: May I approach the witness?

24 THE COURT: You may.

25 Q. (BY MR. SECREST) If you look at the pathologic

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1 diagnosis, does Dr. Paneri indicate the number of
2 sharp-force injuries?

3 A. Yes.

4 Q. How many are there?

5 A. Thirty-one.

6 Q. Is that what we were talking about on your
7 direct examination?

8 A. Yes.

9 Q. Do sharp-force injuries come in two flavors?

10 A. Yes.

11 Q. One are stab wounds, correct?

12 A. Correct.

13 Q. Which mean that they penetrate --

14 MS. BARNETT: May I ask that counsel not
15 testify for his --

16 THE COURT: That's sustained. No leading.

17 Q. (BY MR. SECREST) Let me rephrase. What is a
18 sharp force injury? What is a stab wound, incised
19 wound?

20 A. A stab wound would be where the tip of the
21 blade enters into the body, and an incise wound would be
22 where the edge of the blade cuts the body.

23 Q. So when you add up all the sharp-forced
24 injuries, how many does the doctor indicate that she saw
25 on his body?

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1 A. Thirty-one.

2 Q. When we did our little experiment, and I don't
3 plan on doing that one again, when I'm -- in fact, when
4 we did the experiment, did I stab you?

5 A. No, sir, you never stabbed me.

6 Q. Okay. What I'm saying is did I move my arm
7 like I was going to stab you?

8 A. Yes, sir.

9 Q. And also kind of slash you?

10 A. Yes, sir.

11 Q. When one thrusts forward, does that produce a
12 stab wound?

13 A. Generally, yes, sir.

14 Q. And if one slices like that, can that in all
15 probability produce an incised sharp-forced injury?

16 A. Yes, sir.

17 Q. Okay. So as far as the knife either going in
18 or across the body, we're still talking 31, aren't we?

19 A. Yes, sir.

20 Q. Now, also, Ms. Barnett didn't ask you about the
21 other kind of injuries --

22 MS. BARNETT: Objection. I believe I did,
23 and I object to the sidebar.

24 THE COURT: Sustained on the sidebar, and
25 what is your other legal objection?

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1 MS. BARNETT: I don't know, but I am sure
2 there is one there.

3 THE COURT: Ask your next question.

4 Q. (BY MR. SECREST) The doctor documents the
5 presence of blunt force injuries as well, does she not?

6 A. Yes, sir.

7 Q. And did I, when she was on cross-examination,
8 ask her if she could tell us approximately how many
9 blows, strikes that Jaime Melgar experienced during that
10 altercation?

11 A. Yes, sir.

12 Q. What did she say?

13 A. Paraphrasing, approximately 50 injuries.

14 Q. And also when we were doing our little
15 experiment, did I move my arms as if I was hitting you
16 on the head?

17 MS. BARNETT: Judge, I object. Everyone
18 within a 10-mile radius saw that. So I object that this
19 has been asked and answered, and the jury has seen it.
20 The best evidence is what they did.

21 THE COURT: Sustained as to the asked and
22 answered.

23 MR. SECREST: What I'm trying to do, Your
24 Honor, is address what she --

25 THE COURT: I understand. Ask your next

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1 question.

2 MR. SECREST: So when you -- did you count
3 each time that I either tried to stab you, slice you, or
4 hit you?

5 MS. BARNETT: Whether he counted or not is
6 not relevant.

7 THE COURT: Ask your next question.

8 Q. (BY MR. SECREST) Did you count -- did you keep
9 count? Is that what you were trying to keep score of
10 every time that I moved my body?

11 MS. BARNETT: Judge, I asked -- this has
12 been asked and answered.

13 THE COURT: Sustained.

14 Q. (BY MR. SECREST) Let's talk about this little
15 presentation the prosecutor did for us. Can you tell
16 our jury that the way that Ms. Barnett tied herself up
17 was any way similar to the way that Herman and Maria
18 found Sandy Melgar?

19 MS. BARNETT: Objection. That would call
20 for speculation.

21 THE COURT: Sustained.

22 Q. (BY MR. SECREST) Is this knot tied similarly to
23 other knots that we see in State's Exhibit 570, 571,
24 572, do we have a clue?

25 A. No, sir.

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1 Q. And in fact --

2 MS. BARNETT: Is that the answer that, no,
3 it's not similar, or we don't have a clue?

4 THE COURT: Ask -- re-ask your question or
5 ask your next question.

6 Q. (BY MR. SECREST) When Ms. Barnett tied herself
7 up, is there any proof that the way she tied herself up
8 accurately portrays the way that Sandy Melgar actually
9 was tied up?

10 MS. BARNETT: And again that would be
11 speculation.

12 THE COURT: Sustained.

13 Q. (BY MR. SECREST) Did the prosecution tie
14 herself up the way that Herman Melgar described seeing
15 Sandy Melgar tied up?

16 MS. BARNETT: And I object to that. This
17 is the witnesses that testified that Herman probably
18 didn't pay attention. So I guess I'm arguing and
19 objecting to speculation.

20 THE COURT: The witness can testify if he
21 knows. Overruled.

22 Q. (BY MR. SECREST) Do you recall whether -- let
23 me clarify for you. Ms. Barnett when she tied herself
24 up, did she have her hands like this behind her back?

25 A. Yes, sir.

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1 Q. Is that the way that Herman Melgar testified
2 that he saw Sandy Melgar when he found her in the closet
3 yelling for help?

4 A. I've heard so much, I'm not sure if it was
5 Herman or Maria Melgar that indicated the arms were
6 behind the back like this. One indicated like this, so
7 I can't answer that question.

8 Q. Fair enough. Is it fair to say -- to say that
9 one of those two folks --

10 A. Yes, sir.

11 Q. -- whether it's Herman or it's Maria, described
12 Sandy Melgar's arms being tied differently than
13 Ms. Barnett has exhibited for the jury?

14 MS. BARNETT: And of course that's
15 leading.

16 THE COURT: Sustained.

17 Q. (BY MR. SECREST) What is the difference, if
18 any, between the way that Ms. Barnett has demonstrated
19 herself being tied up and the way that Herman and Maria
20 described finding Sandy Melgar? Is there any difference
21 between the two?

22 A. Yes.

23 Q. Would you be very clear as to what the
24 difference is?

25 A. Both witnesses said she was tied up very tight,

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1 and they couldn't untie her. And they tried, and had to
2 get scissors to cut her free. And the demonstration
3 that the prosecutor provided was herself -- tying
4 herself up, and not letting someone else tie her up to
5 see the counter to that argument.

6 Q. I can't do it.

7 MR. SECREST: Allison, would you come over
8 here for a second, please?

9 MS. SECREST: Sure.

10 Q. (BY MR. SECREST) Did one of the witnesses
11 testify that they found Sandy Melgar tied up in her --
12 her wrist and arms were in that position?

13 A. Yes, sir.

14 Q. Is that, for the record, different from the way
15 Ms. Barnett showed the jury?

16 A. Yes, sir.

17 MR. SECREST: May I approach the witness?

18 THE COURT: You may.

19 Q. (BY MR. SECREST) Let me show you what's been
20 marked and previously admitted into evidence as 2642,
21 2643, 1960, 1959, and 1958. Take a look at that, if you
22 would.

23 A. Yes, sir.

24 Q. Are you familiar with all those photographs?

25 A. Yes.

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1 Q. And again is it your understanding these are
2 photographs taken by the crime scene unit at the scene,
3 of Sandy Melgar's arms?

4 A. Yes.

5 Q. Do you see anything -- any marks on her arms
6 that are consistent with the way that either Herman
7 Melgar or Maria described Sandy Melgar's arms as opposed
8 to the way Ms. Barnett tied herself up?

9 A. Yes.

10 Q. What is the difference?

11 A. The ligature marks are higher on the arms, not
12 just restricted to the wrist.

13 Q. Let's talk about Chad Ryan Sullivan.

14 MR. SECREST: May I approach the witness,
15 Your Honor?

16 THE COURT: You may.

17 Q. (BY MR. SECREST) What investigation did you do
18 as far as trying to understand who the person Chad Ryan
19 Sullivan is in this matter?

20 A. All of this stuff I did?

21 Q. Yes, sir. And all of the stuff you reviewed
22 regarding Chad Ryan Sullivan.

23 A. I ran his criminal history through the Texas
24 Department of Public Safety and got a list of his
25 convictions. I reviewed the Leads Online, which is a

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1 computer -- or a company that gathers information about
2 all the pawns, all the items that Chad Sullivan has
3 pawned at different pawnshops throughout the state over
4 the course of two years. And I requested pictures of
5 Chad Sullivan. And I've filed open records requests to
6 various law enforcement agencies to obtain copies of the
7 arrest reports of Chad Sullivan and close relationship
8 to this offense. I've driven out to the neighborhood
9 and walked from the former Melgars' residence, 9538
10 Kelsey Meadows, and went to the end of the street across
11 the greenway, and to his street, and walked to his
12 house, and I saw how easy it was to walk from point A to
13 point B and back.

14 Q. How long did it take you to walk point A to
15 point B?

16 A. Two to three minutes.

17 Q. Regarding Chad Ryan Sullivan, did you obtain
18 any information as to him bonding out of jail just two
19 days before the murder?

20 A. I did.

21 Q. And what did you find out in that regard?

22 A. That he was arrested for stealing an item from
23 Home Depot, and stayed in jail for a short period of
24 time, less than a day, and bonded out on December 20th,
25 2012, 2 days before the murder of Jaime Melgar.

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1 Q. Did you dig a little deeper and try to find out
2 what the incident was that caused his arrest that put
3 him in jail just before he bonded out?

4 MS. BARNETT: Judge, I object to the
5 criminal history and Mr. Sullivan's story.

6 THE COURT: Sustained.

7 MR. SECREST: Can I approach the bench?

8 THE COURT: You may.

9 (Bench conference.)

10 MR. SECREST: She opened that right up.
11 She said, "What investigation --

12 THE COURT: Be quiet.

13 MR. SECREST: "What investigation did you
14 conduct?" And now we get to tell them what
15 investigation he conducted. You're letting her go into,
16 and then I can't present a defense to it. So is she --
17 she's said, "What investigation did you conduct, and now
18 --

19 THE COURT: Mr. Secrest, could you
20 whisper, please?

21 MR. SECREST: Sure, Judge, sorry.

22 THE COURT: I'm sustaining it to any
23 extrinsic evidence regarding that individual.

24 MR. SECREST: Then how will I ever answer
25 her question about, "Did you do any investigation?"

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1 He's now explaining the investigation he did, but you're
2 not going to let me go there.

3 MS. BARNETT: I --

4 MR. SECREST: Let me finish, Colleen.

5 THE COURT: I'm going to send them to
6 break.

7 MR. SECREST: That would be fine.

8 THE COURT: We're going to take a
9 10-minute break.

10 (Break taken.)

11 MS. BARNETT: All right. So I looked at
12 the direct, and you asked about him several times on
13 that individual in your direct. And her specific cross
14 questions were: "Did you interview him?" He said
15 something to the nature of, I'm not a police officer.

16 MR. SECREST: Right.

17 THE COURT: And then she said, "Did you
18 look into his eyes, and did you tell anyone in the
19 D.A.'s Office?" And he said, "I told your
20 predecessors."

21 And so now from what I understand, Mr.
22 Secrest, you're wanting to ask the specifics of why he
23 was in jail two days prior to the murder; is that right?

24 And what is your objection to that?

25 MS. BARNETT: Relevance.

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1 THE COURT: That's sustained.

2 MR. SECREST: I want to make a bill.

3 THE COURT: Okay.

4 MR. SECREST: You want to do it now or
5 later?

6 THE COURT: We'll do it before we leave.

7 MR. SECREST: I'll do it at your leisure.
8 We don't have to do it today, but before the trial is
9 over.

10 THE COURT: Okay. And then before we
11 forget, there are three exhibits you have not admitted.

12 MR. SECREST: Okay. That's fine.

13 (Jury present.)

14 Q. (BY MR. SECREST) Mr. Belk, at any time during
15 the interrogation of Sandy Melgar, was she ever asked if
16 the doors to the bathroom while she and Jaime were in
17 the bathtub were open or closed?

18 A. No, sir.

19 Q. Was that issue ever broached with her?

20 A. No, sir, it was not.

21 Q. Do you know whether the doors were open or
22 closed?

23 A. No, sir.

24 Q. Was there anything about your testimony here
25 under oath that's based in any part on the fact that you

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1 received \$10,000 from me to work well over 200 hours?

2 A. No, sir, not at all.

3 Q. Would you in any way come up with an opinion or
4 expressive view of money?

5 A. Absolutely not.

6 MR. SECREST: Pass the witness.

7 THE COURT: All right. Any re-cross?

8 MS. BARNETT: I don't have any more
9 questions for this witness.

10 THE COURT: May this witness be excused?

11 MR. SECREST: He may, Your Honor.

12 THE COURT: Defense, call your next
13 witness.

14 MS. SECREST: Your Honor, Defense calls
15 Ms. Rocio Rieb

16 **DIRECT EXAMINATION**

17 **BY MS. SECREST:**

18 Q. Good afternoon, Rocio, how are you?

19 A. Good. Thank you.

20 Q. Will you please state your name for the record;
21 and for the court reporter, spell your last name?

22 A. Yes. My name is Rocio, and my last name is
23 Rieb, R-i-e-b, B as in boy.

24 Q. Rocio, where are you from?

25 A. I'm from Mexico City.