

Guilt Innocence Phase
August 18, 2017

DIRECT EXAMINATION

BY MR. SECREST:

1
2
3 Q. Would you please introduce yourself to the
4 jury, Mr. Belk.

5 A. My full name is John William Belk; B-e-l-k.

6 Q. How old a gentleman are you?

7 A. 59.

8 Q. And are you married?

9 A. I am.

10 Q. And what is your wife's name?

11 A. Debra.

12 Q. And do you have any kids?

13 A. I do.

14 Q. How many?

15 A. Four children, adults. Twins that are 33. The
16 youngest son, who is 29, and a youngest daughter, who is
17 26.

18 Q. Let me ask you, Mr. Belk, tell us a little bit
19 about your educational background?

20 A. I have a Bachelor's Degree in Criminal Justice
21 from the University of Houston, and a Doctorate Juris
22 Prudence Degree from the University of Houston also.
23 And I'm a licensed attorney here in the State of Texas.

24 Q. Let's talk about your lawyering. How long have
25 you been a licensed attorney in the State of Texas, Mr.

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1 Belk?

2 A. I passed the bar and was licensed in May of
3 2003.

4 Q. Before your legal career began, how were you
5 employed?

6 A. I was a Houston police officer, a sergeant.

7 Q. And tell us little bit about that. Let me ask
8 you initially, how long did you serve us in the City of
9 Houston as a police officer?

10 A. I joined the Houston Police Department at 19,
11 and I served 32 years as a certified police officer.

12 Q. Can you take the jury through the various
13 positions you held during your 32 years of service?

14 A. Yes, sir.

15 In October of 1977, I joined Houston
16 Police Academy, 19 years old, right out of high school.
17 Six months of academy training, and then I was sworn in
18 as a police officer in February of 1978. I was assigned
19 to the northeast patrol, 5th Ward, where I worked
20 evening shift patrols. And I worked -- patrolled for
21 four years. Sat for the detective's exam. I scored
22 high enough on the exam to where I was promoted in April
23 of 1983. I was assigned to the Homicide Division, where
24 I remained a permanent assignment from 1983 until my
25 retirement in 2009, with the exception of a five-year

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1 assignment as a undercover police officer in the
2 Proactive Internal Affairs Division where I investigated
3 police corruption.

4 Q. Did you tell us how long you were in the CSU
5 unit as a supervisor?

6 A. No, sir. During my time in the Homicide
7 Division, which spanned almost 22 years, I -- my first
8 assignment was in the Sex Crimes Unit. And for four
9 years I investigated sexual assaults and aggravated
10 sexual assaults that occurred citywide.

11 Then four years into my year in the
12 Homicide Division, I was moved from the Sex Crimes Unit
13 to day-shift murder squad.

14 So in 1987, I began investigating murders,
15 capital murders, kidnappings, aggravated assaults, until
16 -- and I remained on the murder squad until my 20th year
17 on the department, where the chief transferred me to
18 Internal Affairs Division to investigate police
19 corruption.

20 Q. Let me ask you about the training that you
21 received along the way during your service as a police
22 officer. Will you walk us through that?

23 A. Yes, sir. Can I clarify something?

24 Q. Please do.

25 A. After my term, my five-year term in the

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1 Internal Affairs Division, I returned to the Homicide
2 Division and was assigned to that Crime Scene Unit,
3 where I worked for two years. And then from the Crime
4 Scene Unit, I helped start the Cold Case Squad, where we
5 investigated cold cases for 2 1/2 more years. And then
6 I returned to the murder squad through the end of my
7 career.

8 Q. Let me do this before I ask you about your
9 training. For the record, for the benefit of the jury,
10 even today are there times when you're called back or
11 consulted about old cases that you worked on years ago?

12 A. Yes, I am.

13 Q. Now let's talk a little bit about the training
14 that you have received during your police experience.

15 A. As I mentioned, the police academy was a
16 six-month training program to start with. And then
17 police officers are required to do continuing legal
18 education through TCOLE, which is the agency that
19 oversees law enforcement. And there's a minimum of 40
20 hours of training a year. So over the course of my 32
21 years, at least 40 hours of basic law enforcement
22 training. But because -- from 23 years on, my specialty
23 was homicide investigations. I focused more of my
24 additional training on interview and interrogation
25 techniques, crime scene investigations, kidnappings.

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1 And so I took specialty courses like the John Reid
2 *Interview and Interrogation Technique*. I've taken
3 approximately four interview and interrogation technique
4 courses where different agencies would provide the
5 training, and I would attend that training.

6 I've also have been selected and went to a
7 DNA for local law enforcement training by the US Justice
8 Department. And I went through a three-day course,
9 Train a Trainer course, learned how to train other
10 police officers on the observation, preservation, and
11 collection of DNA evidence.

12 And during my two-year stint in the Crime
13 Scene Unit as a supervisor, I also attended training
14 throughout the state on crime scene investigations. The
15 Department of Public Safety had training courses that I
16 went to. And we also had in-house training.

17 I was also a TCLEOSE instructor, which is
18 a certification which I was authorized to train other
19 police officers on homicide investigations, crime scene
20 investigations, evidence collection. Also, I put
21 together and taught kidnapping investigations and police
22 corruption investigations.

23 So I trained throughout the state and
24 other law enforcement agencies on a number of those.

25 Q. So it would be fair to say beyond receiving

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1 that training, you actually have throughout your service
2 been in the position to help train others?

3 A. Yes, sir, I have been.

4 Q. You use the phrase "TCLOESE," and probably many
5 of the folks in this room won't know what that means?
6 Tell us what that means.

7 A. It's the Texas Commission of Law Enforcement --
8 it's changed. Now it's TCOLE, t-c-o-l-e. But it's the
9 Texas Commission of Law Enforcement Officers and
10 Education or something. I'm not sure exactly what
11 exactly what the acronym is. I cannot remember it off
12 the top of my head.

13 Q. I want to ask to you specifically, although
14 this is not a sexual assault case. But I think you said
15 between 1983, 1987, is that when you were investigating
16 sexual assaults?

17 A. Yes, sir.

18 Q. Can you give us a ballpark figure of
19 approximately of how many of those cases did you
20 investigate each year?

21 A. It would be an approximate number. But
22 generally, it was about 120 to 150 cases a year that I
23 was assigned to investigate. And so over the 4 and 1/2
24 years there, approximately 500 sexual assault
25 investigations.

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1 Q. Is a pretty big chunk of those approximately
2 500 sexual assault investigations also have a component
3 of home invasion about them?

4 A. Yes, sir.

5 Q. Let me ask you with respect to actual murder
6 cases: How many murder cases do you think you've
7 investigated during your service as a homicide
8 detective?

9 A. The easy answer is a lot.

10 Q. Okay. Would you be a little more specific for
11 us?

12 A. Over the span of about 18 years, probably an
13 estimate of about 500 murder investigations with a
14 qualification.

15 Q. What's a qualification, Mr. Belk?

16 A. When I helped start the Cold Case Squad in the
17 homicide division, my assignment was to look at old
18 uncleared, unsolved cold cases, homicide cases where the
19 investigate -- because the statute of limitation on
20 murder never expires. A murder case can sit in a file
21 for 20 or 30 years, and the offender is never identified
22 or charged. And so I was assigned to look through all
23 of our uncleared cases, myself and two other detectives,
24 and review the offense reports, review the crime scene
25 photos, review the videos, reviewed --

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1 MS. BARNETT: I think this has become
2 non-responsive to the question.

3 THE COURT: Sustained.

4 Q. (BY MR. SECREST) Well, let me ask you another
5 question then: Have you testified few or many times on
6 behalf of the prosecution in murder cases?

7 A. Many times.

8 Q. And have you testified on behalf of the
9 prosecution for the Harris County District Attorney's
10 Office before?

11 A. Many times.

12 Q. Have you testified on behalf of the prosecution
13 for cases tried by Ms. Barnett?

14 A. I have.

15 Q. Has she ever hesitated to vouch for your
16 credibility and put you up on the witness stand as a
17 witness?

18 A. Not to my knowledge.

19 Q. A while back, and I don't remember the time
20 that you told me, but was there a time a couple of years
21 ago where you basically received special assignment with
22 respect to going back through several hundred cases that
23 had some DNA problems?

24 A. Yes, sir.

25 Q. And that's about as specific as I can get at

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1 this point. But would you tell us what I'm referring
2 to?

3 A. The Houston Police Department had a serious
4 problem with their DNA lab in the crime lab. And the
5 city leaders decided along with consultation with the
6 Harris County District Attorney's Office to shut down
7 the DNA lab. And I was pulled off -- out of homicide on
8 special assignment to do the post-conviction DNA
9 retesting of over 400 felony cases where DNA technology
10 was used in the conviction of offenders. So I was in
11 charge of a team of crime scene investigators where we
12 went back and found the DNA evidence.

13 MS. BARNETT: Your Honor, may I know what
14 date we're talking about?

15 Q. (BY MR. SECREST) Do you know what date we're
16 talking about?

17 A. From 2000 to 2004.

18 MS. BARNETT: I would object to relevance.

19 THE COURT: Sustained.

20 MR. SECREST: Your Honor, what I'm trying
21 to do is establish his expertise, and this is part of
22 it.

23 THE COURT: Just continue, but keep it
24 limited.

25 MR. SECREST: Thank you so much.

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1 Q. (BY MR. SECREST) So basically during that
2 assignment, can you give us a brief overview of what it
3 was you were tasked to do?

4 A. Yes. To collect the evidence that was either
5 admitted in evidence at trial, or that was collected and
6 tested by the Houston Police Department Crime Lab and
7 the DNA evidence collected and send it to a private lab
8 for retesting to validate the original results that help
9 convict individuals and send them to prison.

10 Q. I asked you a moment ago about how many times
11 you testified on behalf of prosecution as a homicide
12 detective as an expert. Tell the jury how many times
13 you testified on behalf of the Defense?

14 A. Never.

15 Q. So this is your virgin experience?

16 A. Yes.

17 Q. And let's get this out on the table: How much
18 did I pay you in order to secure your services and try
19 to at least compensate you a little bit for your time?

20 A. \$10,000.

21 Q. Now, tell the members of the jury you kept
22 track of how many hours you put into this case?

23 A. I have.

24 Q. And we're going to go over this in a moment to
25 explain exactly what you've done. But can you tell us,

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1 I guess, up until the time you sit it on this witness
2 stand, how many hours have you put in this case?

3 A. 254 as of last night. That's including my time
4 in the courtroom, 254 hours.

5 Q. So what does that come out to be per hour?

6 A. About \$38 an hour.

7 Q. What did you get paid as a lawyer per hour?

8 A. Minimum of \$250 an hour, maximum \$650 an hour.

9 Q. So about 38 bucks an hour?

10 A. Yes.

11 Q. You realize the more hours that you sit here,
12 you're not getting another nickel?

13 A. Doesn't matter. But, yes, sir, I realize it.

14 Q. Obviously, you're familiar with the murder
15 investigation of Sandra Melgar?

16 A. I am.

17 Q. How did you become familiar with the facts --
18 what all had you reviewed? And I'm going to walk you
19 through it because there's quite a few things. But let
20 the jury know basically the process of how you became
21 acquainted with the facts of the case?

22 A. I reviewed the entire Harris County Sheriff's
23 Office offense report. I've reviewed the DNA.

24 Q. Let me go through it just so we don't miss
25 anything. Have you reviewed the offense reports, the

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1 original and through Supplement 62?

2 A. Yes, sir.

3 Q. Have you reviewed all crime photos and videos?

4 A. Yes, sir.

5 Q. Have you reviewed all Harris County Institute
6 of Forensic Science, which again is the morgue, medical
7 examiner, all the autopsies, reports, photos, x-rays,
8 and anthropological report?

9 A. Yes, sir.

10 Q. In this case there were several reported
11 interviews of witnesses conducted by the Harris County
12 Sheriff's Department. Did you listen to and review the
13 recorded interviews of Melanie Essman?

14 A. I did.

15 Q. Herman Melgar?

16 A. I did.

17 Q. Maria Melgar?

18 A. Yes, sir.

19 Q. Monica Melgar?

20 A. Yes, sir.

21 Q. Gerson Compos?

22 A. Yes, sir.

23 Q. The transcript of the translation of Herman and
24 Maria Melgar's interviews?

25 A. Yes, sir.

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1 Q. Interview of Carlos Espinoza?

2 A. Yes, sir.

3 Q. Interview of John Malbro?

4 A. I've listened to the recordings, I haven't
5 interviewed them.

6 Q. Thank you.

7 Have you listened to and watched very
8 carefully the audio/video recording of Sandy Melgar's
9 interrogation conducted by Carrizal and Dousay?

10 A. I have.

11 Q. And have you looked at all the laboratory
12 reports and supplements of the analysis conducted in
13 this case by the Harris County Institute of Forensic
14 Sciences and the Department of Public Safety with
15 respect to DNA testing?

16 A. Yes, sir.

17 Q. Have you looked at the life insurance policy
18 information on Jaime Melgar and Sandra Melgar?

19 A. Yes, sir.

20 Q. Have you looked at the cell phone and computer
21 analysis of the Melgars' computers and phones conducted
22 by the regional laboratory here in Harris County that
23 does that kind of work?

24 A. Yes, sir.

25 Q. Have you looked at the probable cause or DIMS,

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1 d-i-m-s summary prepared by Carrizal?

2 A. Yes.

3 Q. DIMS, do you know what that stands for?

4 A. I don't. It's part of the charging mechanism
5 through the Harris County Clerk's Office and Harris
6 County District Attorney's Office. DIMS is the computer
7 system that all of the charging information is inputted
8 into.

9 Q. Okay. have you looked at the videotape of the
10 fluorescein processing by the Harris County Sheriff's
11 Department?

12 A. Yes, sir.

13 Q. Have you looked at the security footage from
14 the Esmond residence at 9539 Kelsey Meadows Court?

15 A. Yes, sir.

16 Q. Have you looked at the report of examination of
17 Sandy Melgar on December 27, 2012, by Dr. Enrigue
18 Granda?

19 A. Yes, sir.

20 Q. Have you seen the EMS records pertaining to
21 Sandy Melgar?

22 A. Yes, sir.

23 Q. Have you looked at the Harris County Sheriff's
24 Department Regional Firearms Identification Laboratory
25 Report?

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1 A. Yes, sir.

2 Q. Have you looked at the Harris County Sheriff's
3 Department CSU Units Standard Operating Procedures?

4 A. Yes, sir.

5 Q. Have you looked at the Harris County Sheriff's
6 Department Homicide Unit's Standard Operating procedure?

7 A. Yes, sir.

8 Q. Have you looked at the information concerning
9 one Chad Ryan Sullivan?

10 A. Yes, sir.

11 Q. Did I make it explicitly clear to you that you
12 could be privy at any time to anything in my file to
13 review the evidence to become familiar with the facts in
14 this case?

15 A. Yes, sir.

16 Q. When was it that I asked you to review the
17 evidence in this case?

18 A. May of 2015.

19 Q. Did you provide me no guarantee that your
20 assistance, or your opinion, would necessarily benefit
21 me?

22 A. Did I provide you any guarantee, no, sir.

23 Q. Did you basically tell me you would be glad to
24 get involved and look at it, but you would call it the
25 way you see it?

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1 A. Yes, sir.

2 Q. Also, I'm sure it's not lost on our jury: Have
3 you actually been in attendance during this trial during
4 the testimony put on by the State of Texas, which
5 included both the evidence elicited on direct
6 examination and evidence or points hopefully made on
7 cross-examination?

8 A. Yes, sir, I have attended every day through
9 this trial and listened to all of it.

10 Q. Have you also actually examined the physical
11 evidence taken from the scene of the crime?

12 A. I physically looked at and photographed all of
13 the evidence, yes, sir.

14 Q. In fact, we were in the presence of Ms. Barnett
15 when that took place?

16 A. Yes, we were.

17 Q. And so actually were the items of evidence
18 literally taken out of the bags, placed on the table,
19 for us to view, to touch, and to photograph?

20 A. Yes, sir.

21 Q. Had you actually been to the scene of the crime
22 and walked throughout the Melgar residence located at
23 9538 Kelsey Meadows Court?

24 A. Yes, sir.

25 Q. Did you actually go inside the closets that

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1 were located in the master bedroom and master bathroom?

2 A. Yes, sir, I have.

3 Q. I want to talk first about objectivity in
4 police investigation. Can you tell the jury whether or
5 not it's absolutely essential for investigators in
6 conducting a criminal investigation, especially one as
7 serious as murder, to remain neutral, objective, and
8 impartial?

9 A. It's absolutely essential.

10 Q. And why is that?

11 A. Because it's the most serious crime that can be
12 investigated. And you should go into a investigation --
13 into a full field of investigation without putting
14 blinders on. If you put blinders on, you miss other
15 evidence and other leads and other potential offenders.

16 Q. Is it possible to lose your objectivity early
17 on in the investigation, and can that taint the process
18 going forward?

19 A. Yes, sir.

20 Q. How can that happen? I mean, help us a little
21 bit to explain how a simple loss of objectivity early on
22 can ultimately be detrimental to the investigation?

23 A. It comes in all shapes and sizes. But
24 primarily, forming an opinion that -- as an
25 investigator -- as a homicide investigator, forming an

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1 opinion and trying a particular suspect and trying to
2 make everything fit into that theory that you formed.

3 Q. Are you familiar with the -- I think you
4 mentioned, or I mentioned, that you saw the standard
5 operating procedures for the Harris County Sheriff's
6 Department Homicide Division?

7 A. Yes, I am.

8 Q. Are you familiar with the guiding goal, the
9 first goal being, and I quote, "To investigate every
10 case as if it was the only case?"

11 A. Yes, sir, I have. Which is not uncommon
12 throughout the nation. Law enforcement homicide
13 divisions have that --

14 Q. That standard goal?

15 A. Yes, sir.

16 Q. And let me ask you this from the viewpoint of a
17 professional police investigator with extensive
18 experience conducting specifically homicide
19 investigations: Was the murder investigation of Jaime
20 Melgar conducted as if it were the only case?

21 A. No, sir.

22 Q. Did you see any shortcomings in investigating
23 this case?

24 A. Absolutely.

25 Q. Did you see many shortcomings in the

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1 investigation of this case?

2 A. Yes, sir.

3 Q. If you could use a single phrase to describe
4 the investigation of Sandra Melgar for the murder of her
5 husband, Jaime Melgar, what would that single phrase be?

6 A. Unconscionable.

7 Q. Why do you say that?

8 A. The manner and means in which the investigation
9 was conducted, both from the crime scene investigation
10 to neighborhood canvass, to the focus on one suspect and
11 ignoring others, is unconscionable in my personal
12 opinion, based on my years of experience and based on my
13 entire review of this case.

14 Q. Did you see indications that these
15 investigators were trying to make the facts fit their
16 theory?

17 A. Absolutely.

18 Q. And help us there, explain what you mean by
19 that?

20 A. It started off with the point of entry into the
21 house by the -- the obvious signs of the crime was an
22 open garage door, an unlocked door, the entry into the
23 residence, the ransacking of the residence, one victim
24 dead and another victim tied up and secured in a closet.
25 You go with the obvious, then that's your first priority

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1 objective. You go with the obvious, and you collect and
2 memorialize everything you do. But you don't put
3 blinders on. You go full field and look at everything
4 else.

5 Q. Now, had you contacted the Harris County
6 District Attorney's Office nearly hundreds of times in
7 order to get murder charges filed after you finished
8 your investigation?

9 A. Yes, sir.

10 Q. Do you have any doubt that Carrizal was trying
11 to get charges filed when he contacted the D.A.'s Office
12 on 2:20 a.m. on December 24th, and those charges were
13 not accepted?

14 MS. BARNETT: I'm going to ask that
15 counsel not testify for the witness or lead the witness.

16 THE COURT: Sustained.

17 MR. SECREST: Let me rephrase that.

18 Q. (BY MS. SECREST) Have you read Carrizel's
19 offense report regarding the fact that at 2:20 a.m. on
20 the morning of December 24th, he contacted the District
21 Attorney's Office regarding filing the charges?

22 MS. BARNETT: Same objection: Testifying
23 for the witness, and leading the witness.

24 THE COURT: Sustained. Rephrase your
25 question.

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1 Q. (BY MR. SECREST) What is your information
2 concerning whether Carrizal contacted the Harris County
3 District Attorney's Office in an effort to get charges
4 filed?

5 A. Carrizal contacted Tammy Thomas, who was the
6 chief prosecutor in Special Crimes at the time. He
7 called her at 1:00 or 2:00 o'clock in the morning on her
8 cell phone in off hours to get charges filed. You don't
9 update an on-call chief at 2:00 o'clock in the morning
10 on a crime scene; otherwise, they would never go to
11 sleep because there are murders that happen throughout
12 the City of Houston -- throughout Harris County; you
13 don't call the chief of Special Crimes if you're not
14 wanting to get a charge filed on somebody who you had in
15 custody.

16 Q. When you reviewed -- in fact, Carrizel's own
17 offense report did indicate that those charges were not
18 accepted?

19 A. Yes, sir, it did.

20 Q. Is there a phrase that you-all use in law
21 enforcement, POE, or maybe it's only a phrase that I
22 use, point of entry?

23 A. Yes, sir.

24 Q. Point of entry, is it obvious in this case that
25 the point of entry is not the front door?

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1 A. Yes, sir.

2 Q. Same question to the backdoor?

3 A. Yes, sir.

4 Q. Same yes to the windows?

5 A. Yes, sir.

6 Q. What about an open garage door you alluded to a
7 moment ago, but what about an open garage door and
8 interior door that doesn't even lock, was there in your
9 professional view sufficient investigation conducted of
10 that scenario?

11 A. No, sir, there was not sufficient investigative
12 effort to determine -- as a homicide detective, you
13 don't lose your --

14 MS. BARNETT: Objection. Non-responsive.

15 THE COURT: Sustained.

16 Q. (BY MR. SECREST) Why do you believe there
17 wasn't? You can now explain.

18 A. Everything pointed to the garage door open.
19 And to ignore that, you're ignoring common sense.

20 Q. What about the way the investigators handled
21 that issue with Sandra Melgar?

22 A. Can you rephrase that?

23 Q. Sure. And I'm going to go into that in to
24 greater detail later on.

25 But when investigators interrogate Sandra

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1 Melgar concerning whether the garage door was open or
2 not, the juries have heard these recordings over and
3 over again. Do you believe that that aspect of their
4 investigation was truthfully conducted objectively, or
5 did you see any signs that they were trying to point her
6 in a particular direction?

7 MS. BARNETT: Well --

8 A. It was not investigated objectively. They were
9 definitely trying to --

10 MS. BARNETT: That's been asked and
11 answered about his opinion about the officers'
12 objectivity.

13 MR. SECREST: Let me --

14 THE COURT: Rephrase.

15 Q. (BY MR. SECREST) Let me ask another question:
16 Did it seem apparent to you based upon your review,
17 again, of the offense report and your review of the
18 audio/video interrogation, was it apparent to you that
19 the investigators basically blew off the fact that the
20 interior door did not lock?

21 A. Yes, sir, they did.

22 Q. And why do you say that?

23 A. Based on the questions and answers, you know,
24 it was obvious to me, plus the lack of collecting any
25 physical evidence into the interior door and

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1 photographing it like they did the windows, front door,
2 backdoor. Either it was an oversight, or incompetence,
3 or intentionally ignoring a key piece of entry into the
4 house -- key piece of evidence.

5 Q. Well, based upon what we see in the
6 interrogation, were the investigators on-notice from
7 Sandra Melgar herself that the interior door either
8 wasn't locked or even didn't lock?

9 A. Yes, sir.

10 Q. Did you ever see any indication after they were
11 on notice of that that they circled back to the crime
12 scene and looked to see whether or not what Ms. Melgar
13 said in that respect was accurate or inaccurate?

14 A. There was no indication that they did try to
15 follow up on any of that.

16 Q. Do you recall not only the testimony in court,
17 but do you recall listening to the interview conducted
18 by Sergeant Dousay of Marissa Melgar, do you recall
19 that?

20 A. I do.

21 Q. Do you recall that Sergeant Dousay asked
22 Marissa whether the door was unlocked, speaking of the
23 interior door, in which she indicated to them that she
24 didn't know.

25 A. Yes, sir, she did.

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1 Q. And did she indicate that she didn't know
2 whether the interior door --

3 MS. BARNETT: Judge, I'm going to object
4 to Counsel testifying for the witness and leading.

5 THE COURT: Sustained. Don't lead your
6 witness.

7 MR. SECREST: Thank you, Your Honor.

8 Q. (BY MR. SECREST) Do you know whether or not
9 Marissa Melgar had even gone into the garage with her
10 dad?

11 A. She said she did not.

12 Q. Okay. And she told -- and did she tell then
13 Dousay that she didn't know anything about it?

14 MS. BARNETT: Objection, leading.

15 THE COURT: Sustained.

16 Please don't lead your witness.

17 Q. (BY MR. SECREST) Later on in the investigation
18 in the questioning of Marissa Melgar by Dousay, did he
19 ever go back to that subject?

20 A. Yes, sir.

21 Q. Okay. Do you recall what he did in that
22 regard?

23 A. He made a leading suggestion that the door was
24 locked -- the door was closed or locked, something to
25 that effect.

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1 Q. And had she only a moment before said that she
2 didn't know?

3 A. Yes, sir.

4 Q. Do you recall whether or not Sergeant Dousay
5 told Marissa that he was going to speak to her dad about
6 it?

7 MS. BARNETT: Objection. Leading.

8 THE COURT: Sustained.

9 MS. SECREST: I said, "Do you recall
10 whether or not?"

11 THE COURT: All right. Okay.

12 MR. SECREST: I'll rephrase.

13 Q. (BY MR. SECREST) Do you recall whether or not
14 Sergeant Dousay stated to Marissa Melgar that he would
15 ask her dad that question?

16 A. Yes, sir.

17 Q. Have you reviewed the interview of Herman
18 Melgar that was conducted by the Harris County Sheriff's
19 Department?

20 MS. BARNETT: Asked and answered.

21 THE COURT: Sustained.

22 Q. (BY MR. SECREST) In reviewing that, are you
23 aware as to whether or not Herman Melgar was ever asked
24 about whether or not the interior door was unlocked?

25 A. Herman Melgar was never asked whether the

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1 interior door was locked or not.

2 Q. Did you -- in your review of the information,
3 specifically the Harris County Sheriff's Department
4 offense reports, did you find any indication that Dousay
5 or Carrizal ever communicated to Carpenter the fact that
6 the doors might be -- the interior door might not have
7 been locked or didn't work?

8 A. No, sir.

9 Q. Based on the evidence in this case, was there
10 ever any indication the garage door was up?

11 A. Yes, sir.

12 Q. Is there other viable hypothesis as to how a
13 home invader could have entered the residence?

14 A. I'm sure that you could come you up with
15 something. Whether they had a key, and locked it, and
16 then locked it back or something.

17 Q. Let's not assume anything like that.

18 But is it -- are there other manners and
19 means of opening up a garage door?

20 A. Absolutely.

21 Q. Did the -- based upon your review of the
22 offense report, do you believe that the investigators
23 adequately considered other ways that the garage door
24 could have been open besides breaking it down?

25 A. Can you ask that question again?

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1 Q. Yeah, that was pretty poorly phrased.

2 Based upon your review of the
3 investigation, do you believe that the investigators
4 adequately considered whether there were other ways that
5 the garage door could have been opened besides being
6 forcibly entered?

7 A. No, sir, they did not consider other
8 alternative ways the garage door could be open.

9 Q. What about the possibility of home invaders
10 having access to a remote control?

11 A. They did not consider that.

12 Q. Are you aware whether or not thieves,
13 criminals, have access to remote control devices that
14 can, in fact, open a garage door?

15 A. Older models, yes, sir. The technology has
16 been advanced to where the possibility of getting a
17 standard remote to open newer garage doors, it's less --
18 the technology is not available. But older model garage
19 door openers, there are some electronic instruments that
20 will scan a garage door and activate the remote just by
21 going through a four-number series. So there are
22 devices that can -- and thieves scoping neighborhoods,
23 and trying to open a garage door in certain situations
24 with a remote they brought with them.

25 Q. Are you aware of criminals getting into parked

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1 vehicles in front of the driveway, in front of the house
2 in order to have access to a remote control device
3 inside the vehicle?

4 A. Yes. There's a tool called a Slim Jim, in
5 certain vehicles you can slide it inside the window and
6 unlock the door. Most people keep their garage door
7 opener on their sun visor and have access to the garage
8 by pushing a button.

9 Q. I want to ask you about various items at the
10 scene that were either tested or not tested. So this
11 next series of questions is going to focus you to the
12 CSU aspect of the case, crime scene unit aspect?

13 A. Yes, sir.

14 Q. Do you believe there's items in the house that
15 were improperly examined and/or were not examined at
16 all?

17 A. Absolutely.

18 Q. Can you walk us through some of those?

19 A. Yes, sir.

20 Q. Let's talk about the actual swabbing for DNA.

21 Before you go there, briefly, would you
22 explain to the jury what you would normally do in a
23 homicide investigation, especially where there's
24 indication of home invasion, what surfaces, what items
25 would you want to check for DNA?

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1 A. Yes, sir. You would start with the point of
2 entry, and then as you go throughout the residence, you
3 look for items that a potential home invader would have
4 touched or handled. And then you would go to the
5 obvious pieces of evidence of the crime. And you could
6 either collect the item and have it tested later in a
7 lab, or you can use DNA collection kits, which are
8 essentially Q-tips swabs, in collecting small samples.

9 Q. Based upon the reports filed in this case, was
10 there some effort made to swab some of the drawer --
11 dresser drawer knobs of the drawers that had been pulled
12 out?

13 A. Yes, sir.

14 Q. Was there however any effort made to swab all
15 of the drawers?

16 A. Not adequately.

17 Q. Explain why you say that?

18 A. The drawers that are open on the dressers
19 throughout the house, one swab was used on one dresser
20 drawer and submitted, as opposed to a dresser drawer
21 collecting 25 samples, various samples throughout on
22 each one of these drawers where a potential suspect
23 would potentially touch because your skin cells, the
24 touch cells, epithelial cells can slough off. And DNA
25 technology has advanced where you can potentially

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1 collect touch DNA on almost any surface if you collect
2 it properly.

3 Q. What about -- what specifically addressed you
4 to -- do you recall seeing photographs? I'm not going
5 to take you through them, it's too much time, and the
6 jury has already seen it. But we have photographs of
7 the purse, wallet, billfold, that kind of thing, on the
8 bed. Did you see any indication that there was ever any
9 DNA testing of those items?

10 A. There was not.

11 Q. And was that a good thing or a bad thing?

12 A. Incompetent, that's a bad thing.

13 Q. And why is that?

14 A. Because that's an obvious clue that someone
15 ransacked through the purse and the wallet. Cash was
16 missing. A competent crime scene investigator would
17 have swabbed the smooth plastic surfaces of the credit
18 cards. They should have collected all of that and
19 tested it, and it was not done.

20 Q. You heard a lot about this mop in the bucket
21 out in the dining room area. Should that have been
22 handled differently in your professional opinion?

23 A. Absolutely.

24 Q. So tell us what should have been done with
25 respect to any analysis on the mop and the bucket?

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1 A. Because of its presence, a competent crime
2 scene investigator should have collected a sample of the
3 solution that was in the bucket and then discard that,
4 let the bucket air dry, let the mop air dry, and then
5 collect that either for examination later at the crime
6 lab -- especially the mop; that should have been
7 collected and tested in a lab. And cut off small pieces
8 of the sponge mop and run it through DNA technology to
9 see if there's blood. And you can also use the scan
10 electron microscope to see if there was a cleaning
11 solution. The simple smelling -- and not smelling
12 anything in the bucket, and then discarding it because
13 it's not worth analyzing was incompetent at best.

14 Q. On the other hand, have you ever seen a crime
15 scene where the resident of the home committed the
16 murder and was going to clean up the crime scene, but
17 they left the bucket and the mop out for the
18 investigators to see when they walked through the front
19 door?

20 A. I've been to a lot of crime scenes, so I cannot
21 say never, but it's possible.

22 Q. Is that kind of unusual, though? Do you think
23 if I'm going to mop up a crime scene, is it likely I'm
24 going to leave a bucket and mop out for the detectives
25 to find?

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1 MS. BARNETT: Object to speculation.

2 THE COURT: Sustained.

3 Q. (BY MR. SECREST) Okay. You're talking about
4 the testing of the mop. What about sponges or squeegees
5 or even a bar of soap in showers or on the sinks?

6 A. Same thing. It's easily collectable to be
7 tested. It was not collected or tested.

8 Q. Ms. Barnett yesterday asked a question, I
9 think, of Carrizal, and I quote, "Have you ever known a
10 home invader to take a shower?" Do you remember that?

11 A. Yes, sir.

12 Q. If Sandy Melgar murdered Jaime Melgar -- I'll
13 go into a little more detail in a moment -- she would
14 have blood all over her, would she not?

15 A. You would think so, yes, sir.

16 Q. If she had blood all over her, and obviously
17 she wasn't found with any blood on her, then it stands
18 to reason that she would have had to take a shower or a
19 bath?

20 A. Yes, sir.

21 Q. So if you're truly a conscientious
22 investigator, would you not want to carefully examine
23 all tubs and all showers to see whether there was any
24 evidence of someone trying to wash blood off their body?

25 A. Yes, sir.

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1 Q. Okay. In your view -- well, first of all, was
2 there any evidence from any source to indicate that
3 there was any blood from anyone, especially Jaime
4 Melgar, in the shower?

5 A. No, sir.

6 Q. In fact, was there any blood of Jaime Melgar in
7 the hot tub?

8 A. No, sir. Well, let me qualify that.

9 Q. Please.

10 A. There was a knife in the hot tub that tested
11 positive for blood.

12 Q. Okay. And that's a fair statement.

13 We're all assuming, are we not, that that
14 knife that is not in evidence -- not my \$3 plastic
15 knife -- but the knife that's in evidence, that's the
16 murder weapon?

17 A. Yes, sir.

18 Q. So that, no doubt, had Jaime Melgar's blood on
19 it?

20 A. Yes, it did.

21 Q. Except for that, is there any other indication
22 of the presence of Jaime Melgar's blood anywhere in the
23 bathroom?

24 A. No, sir.

25 Q. You recall the photograph -- let me ask you

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1 this: Was there a photograph offered in evidence of the
2 interior drum of the washing machine?

3 A. There's a photograph of that. I don't recall
4 if it was admitted in evidence.

5 Q. Fair enough. But in your review, I believe, it
6 is, but I've been wrong more than once. But in your
7 review of the crime scene photographs, they took a
8 picture of the interior of the washing machine, did they
9 not?

10 A. Yes, sir, they did.

11 Q. Would it stand to reason that it's conceivable
12 a murderer might want to wash the clothes?

13 MS. BARNETT: Objection. Leading.

14 THE COURT: Sustained.

15 Q. (BY MR. SECREST) Do you have an opinion whether
16 or not the murderer might -- assuming the murderer was
17 in the house, might want to wash bloody clothing?

18 A. Just depends on who the murderer would be --

19 Q. Fair enough.

20 A. -- and whether that was something that was done
21 to cover up the crime scene.

22 Q. Okay. Let me ask you this: Is it possible
23 that someone may want to wash bloody clothes in order to
24 hide evidence?

25 A. Yes, sir.

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1 Q. So would it stand to reason that part of the
2 conscientious investigation would include trying to
3 determine whether or not any dirty clothes with blood
4 had been washed?

5 A. Yes, sir.

6 Q. Was there any kind of testing conducted of the
7 interior drum of the washing machine, to your knowledge?

8 A. There was not.

9 Q. With respect to the other sinks in the house --
10 first of all, do you recall a photograph -- and it may
11 or may not be in evidence, but I think it is -- but the
12 jury heard testimony about a hallway bathroom kind of
13 between the master bedroom and one of the guest
14 bedrooms, but there was another bathroom with a tub; do
15 you remember that?

16 A. Yes, sir.

17 Q. Is there any indication that that tub, or those
18 sinks, were tested in any way?

19 A. No, sir.

20 Q. If you had been on the crime scene, would that
21 have been a logical thing for you to look for?

22 MS. BARNETT: Objection. That's
23 speculation on his part. It's also something that is
24 not in the purview of this witness.

25 Q. (BY MR. SECREST) Let me rephrase --

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1 THE COURT: Rephrase.

2 Q. (BY MR. SECREST) -- based upon your experience
3 as a homicide investigator involved in about 500 murder
4 investigations, do you have an opinion whether or not it
5 would have been reasonable to look at those tubs and
6 look at the sinks and to do any kind of fluorescein
7 testing on those surfaces?

8 A. In this case, since one of the working theories
9 was that Sandra Melgar was the assailant, that should
10 have been done.

11 Q. You said "one of the working theories was that
12 Sandra Melgar was the assailant." Have you ever heard
13 of any other theory?

14 A. No, sir. I mean, the theory of there being a
15 home invasion with one or more suspects coming in was a
16 theory, but it was never really investigated.

17 Q. Okay. So if your theory is Sandra Melgar
18 killed her husband, and literally stabbed him 31 times
19 and, literally struck him, my word, "beat him," the
20 medical examiner may or may not go with that. But you
21 have that many kind of strikes, that many kind of
22 actions, investigators would conclude that she's the
23 culprit, so wouldn't you want to find any blood or any
24 bloody clothes?

25 A. Yes, sir.

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1 Q. Do you think there was truly a type of
2 investigation done at the scene that adequately ever
3 answered that question?

4 MS. BARNETT: Objection. Asked and
5 answered.

6 THE COURT: Sustained.

7 A. No, there was not --

8 THE COURT: Sir, I sustained that. So
9 next question.

10 MR. SECREST: Sorry, Your Honor.

11 Q. (BY MR. SECREST) If Sandy Melgar -- is there
12 any doubt that the murderer would have gotten blood all
13 over their person?

14 A. No, sir.

15 Q. If Sandy Melgar was the murderer, then would
16 she have had to have gotten blood all over her clothes?

17 A. Absolutely.

18 Q. And since she was not found wearing bloody
19 clothes, then by definition, she would have had to take
20 them off?

21 A. Yes, sir.

22 Q. If she was wearing bloody clothes, and if she
23 took off those bloody clothes, would that physical act
24 of removing the bloody clothes cause transfer pattern
25 stains of blood?

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1 A. Yes, sir.

2 Q. Why is that?

3 A. The mere fact that if you had blood on clothes,
4 you would take them off. Unless you put something down
5 to collect those, but you still would have to discard
6 it. From the examination that was done in the trash
7 cans, there was no indication that that was ever done.

8 Q. We heard some testimony about that bloody safe
9 handle. What is your opinion as to the way that was
10 conducted?

11 A. Gross negligence, incompetence, not a -- at
12 least get a DNA swab of the blood that was on the
13 handle. It's unheard of. I'm dumbfounded of why it was
14 never done.

15 Q. Does the location of the safe next to the body
16 even amplify your concerns about that?

17 A. Absolutely.

18 Q. I'm going to show you a photograph, Mr. Belk.

19 MR. SECREST: Your Honor, this has not
20 been offered previously. I will give the Court a copy
21 for the record.

22 Defense Exhibit 2109.

23 Q. (BY MR. SECREST) Do you recall -- for the
24 record, 2109, do you see that cord that is coming out of
25 the wall that's dangling?

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1 A. Yes, sir. It's an input/output electronic
2 cord.

3 Q. And you recall as well -- the jury has seen it
4 before -- we have a photograph of a small table; as you
5 walk into the bedroom, right on the left is a small
6 table. And there's kind of a rabbit-eared looking
7 contraption?

8 A. Yes, sir.

9 Q. Do you recall that there's a cable extending to
10 that table?

11 A. Yes, sir.

12 Q. Is it -- is it possible to -- or would you ever
13 want to swab the end of the cable for any reason?

14 A. Because it appears that something was removed
15 from the second -- the left-hand shelf underneath the
16 TV, that would be a logical location to collect evidence
17 is on the cord itself, the electronic cord.

18 Q. And would that answer also apply to the cord
19 that extends from the homemade TV antenna in the bedroom
20 toward that table?

21 A. Yes, sir.

22 Q. Okay. You mentioned a moment ago, and I want
23 to go into it in a little more detail, this canvassing,
24 canvassing the crime scene. Why is it essential to
25 canvass the neighborhood in an investigation of this

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1 nature?

2 A. To try and find witnesses who could possibly
3 have relevant information -- activity outside the home.
4 In every homicide investigation, that's one of the
5 standard things to do as a neighborhood canvass where
6 you systemically go house-to-house to verify the people
7 that live there and interview them to find out if they
8 saw anything out of the ordinary in the neighborhood
9 during the relevant time period of your investigation.

10 Q. Did you hear Mr. Carrizal testify under oath
11 yesterday that every house on the block was canvassed?

12 A. Yes, sir, I did.

13 Q. Is that true, or not true?

14 A. It's not true.

15 Q. Why do you tell the jury that that statement by
16 Mr. Carrizal under oath was not true?

17 A. First of all, there was no documentation to a
18 thorough neighborhood canvass. There is an indication
19 that some of the neighbors were interviewed, and they
20 were primarily looking for video cameras on the outside
21 of the home. But there was not an adequate neighborhood
22 canvass where they -- just on this street, Kelsey
23 Meadows alone, there's only 22 homes on both sides of
24 the street. Someone should have gone to every one of
25 those homes and talked to each potential witness to see

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1 if they saw potential home invaders, you know, a
2 suspicious vehicle in the neighborhood or a suspicious
3 person.

4 After the body was discovered and law
5 enforcement was there, that's an essential part of any
6 crime -- any homicide investigation is neighborhood
7 canvass. And what they did was totally inadequate.

8 Q. Did you see in the Harris County Sheriff's
9 Department offense report any indication that certain
10 homes were canvassed, but no one was at home?

11 A. Yes, sir.

12 Q. Did you see any indication that thereafter they
13 went back at a later time and tried to catch those folks
14 to see if they were now at home?

15 A. They did not. There was not additional
16 follow-up.

17 Q. Is that something that you're critical of?

18 A. Absolutely.

19 Q. Tell us about that. If you canvass the
20 neighborhood, and if you go to a specific house and no
21 one is there, is it standard police procedure to go back
22 at a later date?

23 A. Absolutely. Or leave a business card and have
24 the resident call you so he can schedule a time to come
25 out and talk to them.

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1 Q. Did you see much objective evidence that
2 establishes that either Mr. Carrizal or Sergeant Dousay,
3 the four days that Dousay actually worked on the case,
4 actively explored the possibility of other suspects?

5 A. They did not.

6 Q. Speaking of leaving a business card, you were
7 in court yesterday, were you not, when Mr. Carrizal
8 testified?

9 A. Yes, sir.

10 Q. And do you recall him testifying that when he
11 went to knock on Ryan -- Chad Ryan Sullivan's door, and
12 Mr. Sullivan didn't answer, the second time he left a
13 business card?

14 A. Yes, sir.

15 Q. Was it absolutely incumbent in your view for
16 either Sergeant Dousay or Mr. Carrizal to follow up on
17 Chad Ryan Sullivan?

18 A. Absolutely.

19 Q. And why is that?

20 A. First of all, it was a clue that they received
21 from Channel 13 News. People who are there at the
22 scene, they recognized he was acting strange. And I'm
23 sure they recognized it's very common, especially on
24 homicides, for the offender to come back and watch what
25 law enforcement is doing, and they had the name.

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1 Carrizal ran his criminal history, which
2 would have sent red flags high in the air. And he also
3 ran Leads Online that shows the pawn history, every item
4 that he pawned going back a number -- a series of time
5 frame. And you could see that he pawned a lot of items
6 which is an indication that it was a criminal.

7 Q. Let me ask you: With a history of pawning
8 kitchen knives, Gear of War games, used Xboxes, multiple
9 15-inch televisions, multiple pieces of jewelry,
10 multiple radar detectors, deserve a closer inspection by
11 an objective investigator?

12 A. It was absolutely essential, and it wasn't
13 done.

14 Q. All right. Let's talk about the interrogation
15 of Sandra Melgar for just a few minutes. Again, have
16 you studied the audio/videotape of the questioning of
17 Sandy by Carrizal and Sergeant Dousay that the jury has
18 seen?

19 A. Yes, sir.

20 Q. Are you familiar with what -- well, I believe,
21 Sergeant Dousay spoke about the Reid interrogation
22 technique?

23 A. Yes, sir.

24 Q. Basically, what is that?

25 A. John Reid is a former law enforcement, Boston,

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1 I believe, a former homicide detective. He established
2 a course that's recognized throughout the nation. There
3 are techniques that you use for interviewing people, and
4 techniques you can use for interrogating individuals,
5 looking for signs of potential deception. Also, that
6 course gives you examples of open-ended questions to ask
7 to elicit information. It's one of many courses that
8 are available to law enforcement that give suggestions
9 on how to conduct interviews and interrogations.

10 Q. Let me ask you: You -- you've listened to the
11 questioning by law enforcement of the Melgar family
12 members that were separated and put in the squad car?

13 A. Yes, sir.

14 Q. If you compare that type of questioning to the
15 kind of questioning that Sandy Melgar experienced at the
16 homicide division, are there stark differences between
17 the two?

18 A. Yes, there are.

19 Q. In what way?

20 A. The interviews of all the other family members
21 were open-ended questions: Tell me what happened, what
22 you saw, what you know. The interview of Sandra
23 Melgar -- I hesitate to call it an interview because it
24 wasn't. It was leading questions from both detectives.
25 What I saw was an agenda.

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1 Q. Is it essential to -- even if you planned to
2 interrogate someone, is it essential to interview them
3 first?

4 A. Absolutely.

5 Q. And explain to the jury, if you will, the
6 distinction between the two.

7 A. All the interview is communication between law
8 enforcement and a potential witness, or a victim, or a
9 suspect. You want to get as much information from them
10 in your own words that you can. And memorialize that
11 interview by asking open-ended questions to explain what
12 they know to develop a baseline that if you do decide
13 you're going to interrogate them, you go back and you
14 drill down specifics of what they originally said,
15 compare that with the evidence that you may have at the
16 scene.

17 It was -- the interview/interrogation of
18 Sandra Melgar was, in my opinion, a very poor way to
19 collect information from her.

20 Q. How many people do you think you've
21 interrogated in an interrogation room?

22 A. It's kind of hard to say exact, but I would say
23 well over a hundred.

24 Q. Do you-all intentionally keep that room cold?

25 A. Yes, sir.

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1 Q. And why do you intentionally keep the room
2 cold?

3 MS. BARNETT: Whether HPD keeps their room
4 cold or not, that has nothing to do with the Sheriff's
5 Office in their room.

6 THE COURT: State your objection.

7 MS. BARNETT: Relevance.

8 THE COURT: Sustained.

9 Q. (BY MR. SECREST) Well, let me ask you this: In
10 the literature, is there a discussion about trying to
11 keep a room cold during the course of interrogation?

12 MS. BARNETT: And that's not relevant as
13 to this case.

14 THE COURT: Sustained.

15 Q. (BY MR. SECREST) Now, you mentioned a moment
16 ago leading questions. Is it appropriate in some
17 circumstances for interrogators to use leading
18 questions?

19 A. Yes, sir.

20 Q. But when you use a leading question as opposed
21 to utilizing an open-ended type of questioning, how is
22 that going to affect the answer that you get?

23 A. You're getting an answer that you're seeking,
24 but you're not getting -- you potentially could get some
25 clarification if -- I'm not sure I totally understand

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1 your question. But you're not going to get the
2 information -- you're going to -- if they acknowledge,
3 yeah, that's accurate, then, I guess, it would be
4 effective, but you're not going to get the information
5 --

6 Q. Let me rephrase it.

7 If you ask a leading question, by
8 definition are you suggesting an answer?

9 A. Absolutely.

10 Q. So if you're really trying to be objective and
11 trying to acquire information, would you want to
12 basically ask open-ended questions?

13 A. Absolutely.

14 MS. BARNETT: And I would object that
15 these are leading questions.

16 THE COURT: Sustained.

17 Q. (BY MR. SECREST) Why would you ask -- why would
18 you want to use an open-ended question?

19 A. To gather as much information from the person
20 and lock them on what they said so that you can then
21 later challenge the information they said in the
22 open-end -- response to open-ended question.

23 Q. And did you see in the Sandy Melgar
24 interrogation that early on they broached the subject --
25 they being Dousay and Carrizal -- broached the subject

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1 of the garage door?

2 MS. BARNETT: Objection. Those are
3 leading questions.

4 THE COURT: Sustained.

5 Q. (BY MR. SECREST) What is your memory as to
6 whether or not the subject of the garage door ever came
7 up?

8 A. It came up three or four times during the
9 course of the interview slash interrogation.

10 Q. And what is your memory as to the first time
11 when it came up? Was it early on in the process or
12 later?

13 A. Early on.

14 Q. Okay. And with respect -- do you remember the
15 interrogation piece that has been before the jury
16 several times and on page 8, generally speaking?

17 A. Yes, sir.

18 Q. Let me ask you this: If you're truly trying to
19 determine whether or not Sandy Melgar knew whether or
20 not the garage door was open or closed after the car was
21 driven in, would you ask a leading question, or would
22 you ask an open-ended question to try to acquire that
23 information?

24 MS. BARNETT: Objection as to speculation
25 as to what the officers were thinking when they asked

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1 these questions.

2 THE COURT: Sustained.

3 Q. (BY MR. SECREST) I'm not asking what the
4 officer is thinking, I'm asking based upon your
5 experience, if --

6 THE COURT: Rephrase your question.

7 MR. SECREST: Thank you, Your Honor.

8 Q. (BY MR. SECREST) If you're trying to determine
9 something as essential as whether or not the garage door
10 was up or not, if you really wanted to acquire that
11 information, would you try to acquire it by using
12 open-ended question or a leading question?

13 A. Open-ended questions.

14 Q. Based upon the questioning that you have seen
15 and reviewed with respect to the garage door, did the
16 officers ask an open-ended question, or did they ask a
17 leading question?

18 MS. BARNETT: Asked and answered.

19 THE COURT: Sustained.

20 MR. SECREST: So is there an agreement
21 that that was a leading question?

22 THE COURT: I believe her objection was
23 "asked and answered," and I sustained it.

24 Q. (BY MR. SECREST) Did you see the phenomenon of
25 Officer Dousay when he asked a leading question when he

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1 would ask two questions at once?

2 A. Yes.

3 Q. Would it be appropriate, based upon your
4 experience, if you're trying to objectively obtain
5 information, that you would ask two questions at once
6 and then get an answer that followed the asking of those
7 two questions?

8 A. Wouldn't know what the answer -- which question
9 it was an answer to.

10 Q. If you recall truly trying to conduct an
11 objective investigation relative to very important
12 facts, would it be appropriate to suggest the answer to
13 the person you're asking the question of?

14 A. I'm not sure I understand or I followed your
15 question.

16 Q. If you're truly trying to drill down and
17 understand essential facts, would it be appropriate to
18 use a leading question as opposed to an open-ended
19 question?

20 MS. BARNETT: Asked and answered.

21 THE COURT: Sustained.

22 Q. (BY MR. SECREST) Did you see indications
23 throughout the interrogation of the officers cutting
24 Sandy off?

25 A. Yes, sir.

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1 Q. And we heard a lot of testimony about
2 mannerisms that the officers contend that they saw that
3 meant something to them. Do you remember that line of
4 testimony?

5 A. Yes, sir.

6 Q. Did you see anything based upon an experienced
7 interrogator with respect to Sandy's mannerisms that in
8 any way suggested that she was not being truthful?

9 A. No, sir.

10 Q. You heard testimony about signs of deception.
11 Remember that?

12 A. Yes, sir, I do.

13 Q. Did you see signs of deception in the officers'
14 interrogation of Sandy Melgar?

15 A. Only on the part of the detectives that were
16 conducting the interrogation.

17 Q. Did you notice whether or not she held her hand
18 up to her head at any time during the -- during the
19 interrogation?

20 A. The first hour, she kept her hand on her head
21 the entire time, the entire hour. She was holding her
22 head with the left hand, and her right hand,
23 occasionally when she looked up, she was wiping her
24 face.

25 Q. What does that suggest to you?

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1 A. One, that her head hurt; and two, she was
2 crying.

3 Q. Did you discern anything, or pick up
4 anything -- we heard some testimony about this: Did you
5 pick up anything in the inflection of Sandy's voice that
6 in any way caused you to believe that she was being
7 evasive or anything?

8 A. No, sir, none whatsoever.

9 Q. Did you ever hear during the entirety of the
10 time she was in there, were they ever asked -- asked her
11 if she needed to go to the restroom?

12 A. No, sir. She was never asked during the times
13 the recordings were on.

14 Q. Do you remember hearing Sandy indicate that she
15 needed to call her daughter, let her daughter know what
16 had happened to her daddy?

17 A. Yes, sir, I did.

18 Q. And you were in court yesterday when I asked
19 the officer about -- actually, I think I asked Sergeant
20 Dousay about that. Do you believe it was appropriate
21 for them not to have let Sandy make that call?

22 A. No, sir. She was a victim first, and a
23 survivor of a homicide victim. And her request to
24 contact family members should have been honored, should
25 have been embraced. If they were wanting to gather

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1 information, that would have been an ideal time to
2 gather it while she was talking to her daughter. But
3 they ignored the fact that she was a victim of a serious
4 crime.

5 Q. Did it appear to you that the investigators
6 ever took into consideration the fact that Sandy had
7 been traumatized?

8 A. No, sir.

9 Q. I asked several questions about the way in
10 which the investigators physically positioned their body
11 in the room.

12 A. Yes, sir.

13 Q. Based upon your experience, do they always put
14 the subject of the interrogation in a corner?

15 A. It depends on how the room is situated with the
16 camera. But the subject of the interview is always at
17 the center of the camera in the room. And generally,
18 it's in the corner because that's where, you know, the
19 camera is going to be pointing.

20 Q. Is it typical if there's more than one
21 investigator that they'll flank the defendant?

22 A. Absolutely.

23 Q. Did you notice at any time during the
24 investigation whether or not either of the officers got
25 a little bit closer to Sandy during the questioning?

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1 A. Yes, sir.

2 Q. And why would one do that?

3 A. That's a technique in interrogation where to
4 heighten the anxiety of the person that you're
5 interrogating, to close in on their safe space. And
6 both detectives at different times moved their chairs up
7 closer to her. Whether it was intentional or whether it
8 was inadvertent, but they did it.

9 Q. Do you think based upon your review of the
10 interrogation that Sandy ever actually confirmed that
11 she knew Jaime had closed the garage door?

12 A. No, sir.

13 Q. Let me ask you: That business at the end of
14 the tape where Carrizal says, "Help me, help me, Sandy,
15 Sandy, help me." He does it over and over again. I
16 think I counted 21 times. In your opinion, did that
17 really serve any purpose furthering the investigation?

18 A. No, sir.

19 Q. Was it in your opinion basically something to
20 taunt her?

21 A. Yes, sir, it was.

22 Q. I want to talk momentarily about the
23 relationship of the parties. Would you agree that
24 another huge issue in this case is the relationship that
25 Sandy and Jaime Melgar enjoyed or didn't enjoy?

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1 A. Yes, sir. It was an important part that should
2 have been investigated.

3 Q. And since the investigators raised the specter
4 or the abusive relationship, is that something you
5 believe should have been drilled down into?

6 A. Yes, sir.

7 Q. Did you see, based upon your exhaustive review
8 of all the memorandum, in all the interviews did you see
9 really much of anything that was conducted in that
10 regard by these investigators?

11 A. Did not.

12 Q. Did the investigators, while they are speaking
13 to either Elizabeth Melgar or speaking to Sandra Melgar,
14 do they make statements such as, "You're going to see a
15 lot of us?" Do you remember that statement?

16 A. Yes, sir, they did make those statements.

17 Q. And did they make statements that, "We're going
18 to talk to everybody in the neighborhood?"

19 A. Yes, they made those statements.

20 Q. "And we're going to talk to everybody in your
21 family?"

22 A. Yes, sir, they made those statements.

23 Q. But they didn't follow through on that?

24 A. They did not.

25 Q. What should have been done, in the very least,

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1 to get to the bottom to determine whether or not Sandy
2 and Jaime Melgar had a loving, caring, special
3 relationship or whether they were in some kind of
4 abusive relationship? What was required on the behalf
5 of the investigators to do?

6 MS. BARNETT: I'm going to object to
7 speculation as to the relationship between the husband
8 and wife.

9 MS. SECREST: I'm not asking him --

10 THE COURT: Just rephrase. It's two-part,
11 so rephrase the question.

12 Q. (BY MR. SECREST) With respect to trying -- not
13 asking you about Jaime and Sandy's relationship, but
14 since that issue is broached by the investigators at the
15 very minimum, what should they have done to explore that
16 issue and put it to bed, regardless of how it cut?

17 A. First, you would look at -- I would look at any
18 calls for service to the residence where one -- either
19 one of -- anyone within the household called for law
20 enforcement assistance or called for medical assistance.
21 And then I would follow up on those type of calls.

22 Secondly, I would interview children,
23 sisters, brothers, parents, grandparents, cousins,
24 neighbors, co-workers, fulfilled to find out -- that's
25 an essential part of my investigation to find out if

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1 anyone knows of any discourse between the couple. I
2 would look at cell phone records to see the frequent
3 number of calls, how often they communicate, how
4 often -- the husband may have a particular friend that
5 he talks to. Look at text messages, I would look at the
6 wife's text messages and phone calls and identify the
7 phone numbers that they call most often, and then go
8 find that person and talk to them, and ask them
9 open-ended questions; what do you know about them?

10 There's a whole host of things you can do
11 to -- in a homicide investigation, the more information
12 you have on everybody involved, the more thorough your
13 investigation is. And it's unlimited. You can go so
14 many different directions. And you should, at the very
15 minimum, interview close family members.

16 Q. Did you ever see, based upon your review of the
17 entirety of the Harris County Sheriff's Department
18 reports, did you ever see any evidence, commission of
19 any act of violence by Sandy against Jim, or Jim against
20 Sandy?

21 A. I did not.

22 Q. Did you ever see any evidence from any source
23 that pointed towards Sandy Melgar having the capacity to
24 brutally murder her husband, did you see it anywhere?

25 A. No, sir.

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1 Q. Did you see any evidence from any source that
2 tended to show that Sandy had the desire to hurt, much
3 less murder her husband?

4 A. No, sir.

5 THE COURT: Mr. Secrest, I think it's a
6 good time to take our morning break. We'll be on break
7 until 11:45.

8 THE BAILIFF: All rise for the jury.

9 (Break taken.)

10 THE COURT: Ladies and gentlemen, due to
11 some scheduling issues, I am allowing Defense to call a
12 witness out of order.

13 MS. SECREST: Your Honor, I call to the
14 witness stand Mr. Julian Ramirez.

15 THE COURT: All right. Defense, you may
16 proceed.

17 MR. SECREST: Thank you, Your Honor.

18 **JULIAN RAMIREZ,**
19 having been first duly sworn, testified as follows:

20 **DIRECT EXAMINATION**

21 **BY MR. SECREST:**

22 Q. Good morning, Mr. Ramirez.

23 A. Morning, sir.

24 Q. Would you please state your name and spell it
25 for our court reporter?