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REPORTER'S RECORD

TRIAL COURT CAUSE NO. 1008763-A

EX PARTE)	IN THE DISTRICT COURT
)	
)	
)	HARRIS COUNTY, TEXAS
)	
DAVID MARK TEMPLE)	178TH JUDICIAL DISTRICT

POST-CONVICTION WRIT HEARING

On the 22nd day of December, 2014, the following proceedings came on to be heard in the above-entitled and numbered cause before the Honorable Larry Gist, Judge presiding, held in Houston, Harris County, Texas;

Proceedings reported by computer-aided transcription/stenograph shorthand.

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I N D E X
(POST-CONVICTION WRIT HEARING)

DECEMBER 22, 2014

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1 (Open court, defendant not present, no
2 jury)

3 THE COURT: The defendant is not here.
4 Mr. Schneider said there are some legal issues that we
5 can take up in his absence. Is that agreeable?

6 MR. SCHNEIDER: Yes, Your Honor.

7 THE COURT: Agreeable with you, Mr. Smith?

8 MR. SMITH: Yes, sir.

9 THE COURT: Go ahead.

10 MR. SCHNEIDER: Your Honor, Friday there
11 was a question that came up about a motion that was
12 filed to unseal the Grand Jury testimony. And,
13 apparently, Mr. Smith has never seen that motion. There
14 is an envelope that's sealed in the box with this cause
15 number. I believe it's the motion itself. I'd ask the
16 Court to unseal the envelope for purposes of the record.

17 THE COURT: Do you have any objection to
18 that?

19 MR. SMITH: Because I don't know what's in
20 said seal --

21 THE COURT: Let me unseal it in-camera.
22 And then I need to know, once I know what it is --

23 MR. SCHNEIDER: Then you can tell us
24 whether you want to un -- whether it is relevant or not.

25 THE COURT: Is that okay with you?

1 MR. SMITH: That sounds perfectly fine,
2 Judge.

3 MR. SCHNEIDER: And I will hand you what I
4 believe is the only sealed document in the box that has
5 this cause number on it, except the stuff that's
6 attached to the State's pleadings. So, I think it's the
7 motion that is filed and signed by the Judge.

8 MR. SMITH: What State's pleadings are you
9 referencing?

10 MR. SCHNEIDER: The State's answer to out
11 of time motion --

12 MR. SMITH: Oh, okay.

13 (Pause)

14 (Open court, defendant present)

15 THE COURT: You indicated, Mr. Schneider,
16 you had some legal issues.

17 MR. SMITH: Well, I don't know if y'all
18 were intending on calling Mr. Chin to the witness stand
19 as was indicated last week or not.

20 MS. GOTRO: I think we shuffled some
21 witnesses based on the testimony, so not yet.

22 MR. SMITH: Whenever they do call Mr. Chin,
23 then the State would like to be heard on that matter. I
24 guess we'll wait until that point, not to delay any
25 further.

1 THE COURT: Thank you very much.

2 MR. SCHNEIDER: Anything else you want to
3 bring up?

4 MR. SMITH: Well, there is one more thing,
5 Judge. Over the weekend the State became aware -- and
6 this is sort of the reasoning as to why the State is not
7 going to, I guess, be allowing the Applicant's witnesses
8 excused from the Rule. And I don't want you to think
9 that we're being unreasonable, but over the weekend
10 there was a Facebook post --

11 THE COURT: A what?

12 MR. SMITH: -- Facebook post from
13 Mr. Looney's law Facebook page that specifically talks
14 about his testimony. He said that Paul testified that
15 the number-three person in Harris County District
16 Attorney's Office in 1999 intentionally misrepresented
17 and falsified information concerning alternative suspect
18 information.

19 We released Mr. Looney -- I believe that
20 the record indicates that we had released him because we
21 believed that with him being an officer of the Court
22 that he would realize that even though he's being
23 released to not to share any sort of information as to
24 the substance of his testimony. Apparently, either
25 Mr. Looney or a person from his law office, apparently,

1 disregarded that -- the spirit of the Rule itself.

2 So, from here on out, Your Honor, we just
3 want the Court to be aware that we are not going to be
4 releasing witnesses because we're afraid that there is
5 going to be a violation of the Rule. And as you know,
6 this isn't the first time that a violation of the Rule
7 has sort of -- at least the spirit of the violation of
8 the Rule has occurred in this hearing.

9 THE COURT: Yes, sir. Thank you very much.

10 Who do you call?

11 MR. SCHNEIDER: Kevin Temple.

12 THE COURT: What's the first name?

13 MR. SCHNEIDER: Kevin.

14 Also, Your Honor, there are two exhibits we
15 want to introduce. They're part of the appendix to the
16 record. Defense Exhibits 81 and 82. They're
17 affidavits, one by Patrick Metze and the other one by
18 John Congrey.

19 **(Defense Exhibit No. 81 and 82 Offered)**

20 THE COURT: Any objection?

21 THE BAILIFF: Your Honor, this witness has
22 not been sworn.

23 THE COURT: All right. Thank you.

24 Mr. Temple, could you raise your hand,
25 please?

1 (Witness sworn)

2 THE COURT: Thank, you, sir. Have a seat.

3 MR. SMITH: Your Honor, with respect to
4 Defendant's Exhibits 81 through 82, the State does not
5 have an objection. They've already been included as
6 part of the appendix. I, of course, would just inform
7 Mr. Schneider that if the substance of those affidavits
8 begins to be discussed, we'll have a further objection
9 just because I don't believe that Mr. Schneider is
10 intending to call either Mr. Congrey, which is within
11 Defendant's Exhibit No. 82, or Mr. Metze -- M-e-t-z-e --
12 in Defendant's 81. We believe that if the substance of
13 those affidavits is going to be discussed, then we
14 certainly have a right to cross-examine the individuals
15 as to how they formed their opinions and the underlying
16 information that they reviewed to get to those opinions.

17 THE COURT: All right. But you have no
18 objection to the exhibits themselves?

19 MR. SMITH: With the condition that the
20 substance of those affidavits is not discussed with any
21 other witnesses.

22 THE COURT: All right. 81 and 82 are
23 admitted.

24 (Defense Exhibit No. 81 and 82 Admitted)

25 KEVIN TEMPLE,

1 having been first duly sworn, testified as follows:

2 **DIRECT EXAMINATION**

3 **BY MR. SCHNEIDER:**

4 Q. Would you state your name, please?

5 A. Kevin Temple.

6 Q. And how old are you?

7 A. Forty-three.

8 Q. And where do you live, sir?

9 A. I live in Austin, Texas.

10 Q. Are you married?

11 A. Yes.

12 Q. How long have you been married?

13 A. Eighteen years.

14 Q. What's your relationship to David Temple?

15 A. He is my brother.

16 Q. Now, Mr. Temple, in January 1999 where were you
17 living?

18 A. I was living here in Houston.

19 Q. And were you married at that point?

20 A. Yes, I was.

21 Q. During the course of -- after your
22 sister-in-law was killed on January 11th, 1999, did you
23 have any contact with law enforcement?

24 A. No, not directly.

25 Q. How did you maintain contact with law

1 enforcement?

2 A. Through our attorney, Paul Looney.

3 Q. At some point, did you testify before a Grand
4 Jury?

5 A. Yes, I did.

6 Q. And at some point, did you also write a -- you
7 and your family get together and draft a memo for law
8 enforcement?

9 A. We did.

10 Q. Let me show you Defense Exhibit 12. Do you
11 recognize that document (indicating)?

12 A. Yes.

13 Q. And how did that document come to be created or
14 what is that document?

15 A. It's a statement from the family; my father,
16 myself, my older brother Darrin. We had -- we were
17 asked by our attorney at the time, Paul Looney, to
18 create a statement of information that we knew,
19 information we had heard just through various people in
20 the neighborhood, through neighbors Mike and Peggy
21 Ruggiero. So, we collected information, rumors,
22 speculation at that time, and put it on the document and
23 gave it to Paul Looney, who supposedly was supposed to
24 be giving that to investigators at the time.

25 Q. Okay. And in preparation for testifying today,

1 did you review what I have marked as Defense Exhibit 83?

2 A. This is my Grand Jury statement, yes, I did.

3 MR. SCHNEIDER: I offer Defense Exhibit 83.

4 **(Defense Exhibit No. 83 Offered)**

5 MR. SMITH: The State has no objection.

6 THE COURT: Thank you.

7 83 is admitted.

8 **(Defense Exhibit No. 83 Admitted)**

9 Q. (By Mr. Schneider) Now, how long did it take
10 you to prepare Defense Exhibit -- the letter?

11 A. The letter? I think we -- my father actually
12 wrote it up in the afternoon based on information that
13 we had heard through the neighbors.

14 Q. It's dated February 10th, 1999.

15 A. Okay.

16 Q. Sometime just before that?

17 A. Correct.

18 Q. Back in 1999, were you acting as a private
19 investigator?

20 A. I was an insurance claims investigator, yes.

21 Q. Okay. On Page 5 -- if you will turn to Page 5
22 of the Grand Jury testimony, Line 20.

23 A. Yes.

24 Q. In the Grand Jury back on April 5th, 1999, I
25 believe it's Mr. Wilson that's questioning you about a

1 list of documents -- a list of information that you
2 provided to Ted Wilson --

3 A. Yes.

4 Q. -- or to Mr. Looney?

5 A. Correct, Mr. Looney.

6 Q. And the first thing that he talked about is the
7 three sets of people who were -- saw a speeding white
8 car with two white males leaving a neighborhood around
9 4:30?

10 A. That's correct.

11 Q. And the source of that information was the
12 Ruggierios, correct?

13 A. That's correct, Mike and Peggy Ruggiero.

14 Q. And on top of the page, you confirm that was
15 the Ruggierios that received that information?

16 A. Correct.

17 Q. The other people -- you had no identity of the
18 other two sets of people?

19 A. That's correct, we did not know who the other
20 couples were.

21 Q. Now, you heard -- there were neighbors that
22 heard -- two sets of neighbors heard a gunshot or some
23 sort of loud noise around 4:30?

24 A. That is correct.

25 Q. And you told -- and that came from the

1 Ruggierios, too?

2 A. That is correct.

3 Q. And one was a family behind David and Belinda's
4 house?

5 A. That is correct.

6 Q. And the other was a person named Joe across the
7 street?

8 A. That is correct.

9 Q. Now, do you know a person named Joe Cadena who
10 lived across the street that was interviewed by law
11 enforcement and by Mr. DeGuerin?

12 A. I did not know that.

13 Q. You told law enforcement that David was not
14 home at 4:30?

15 A. I told the Grand Jury. I gave that to
16 Mr. Wilson, yes.

17 Q. Right.

18 And the source was David --

19 A. Yes.

20 Q. -- for that information?

21 A. That is correct.

22 Q. The information about Belinda complaining to
23 Mr. and Mrs. Sanders prior to the death about the
24 conduct of their son, that came from your father and
25 your sister-in-law?

1 A. That is correct. Belinda had told my father
2 and sister-in-law, Lisa Temple.

3 Q. And that pending to an alternative school came
4 from the same source, correct?

5 A. Yes.

6 Q. There is some information about a woman named
7 Stacey Nissley -- or you weren't sure exactly what her
8 last name was --

9 A. Right.

10 Q. -- that talked to your father?

11 A. Correct.

12 Q. And something from Chad Kranau about the
13 behavior of Joe Sanders in school?

14 A. Correct.

15 Q. Then you described -- on Page 13, you described
16 observing Joe Sanders the day after the murder.

17 A. I believe it was two to three days after the
18 murder.

19 Q. Okay. Walking in front of the house, watching
20 what you were doing?

21 A. Correct.

22 Q. And you told the Grand Jury that you thought
23 that was suspicious?

24 A. Correct.

25 Q. Now, on Page 16, you're questioned about

1 Sanders not showing up at school the day of the murder,
2 correct?

3 A. Correct.

4 Q. And that came from Stacey --

5 A. Stacey Nissley. She was a coworker of
6 Belinda's at the school. She had told my father that
7 the kids were not -- that Riley Joe Sanders was not
8 present at school that day.

9 Q. And another teacher told your wife the same
10 thing?

11 A. I believe so.

12 Q. You had heard a rumor that Sanders had been
13 scheduled for a polygraph, correct?

14 A. Yes.

15 Q. Now, on Page 17, Line 7, Mr. Wilson asked
16 you -- you stated you had heard that he had an alibi for
17 the time of the murder?

18 A. That's correct.

19 Q. And then on Line 9 you are asked -- or 8,
20 you're asked: Do you know what the alibi was? And then
21 you explained to the -- what do you explain to the Grand
22 Jury about your knowledge of the alibi and the polygraph
23 test?

24 A. The detectives had told Paul Looney at that
25 time that there was a polygraph and everything checked

1 out and that he had an alibi.

2 Q. So, Mr. Looney, informed you --

3 A. Correct.

4 Q. -- that Riley Joe Sanders had an alibi and had
5 passed a polygraph test?

6 A. That is correct.

7 Q. And did you know whether that information came
8 from Ted Wilson or it came from the detectives?

9 A. I have no idea. I never spoke to the
10 detectives or anybody directly.

11 Q. Well, the detectives came to your house one
12 time before you testified, correct?

13 A. Correct.

14 Q. And you didn't talk to them?

15 A. Correct.

16 Q. So, the only source of this information was
17 Mr. Looney?

18 A. Mr. Looney gave me this information.

19 Q. And did Mr. Wilson -- at the time you said that
20 the detectives informed you that he had an alibi and
21 passed the polygraph, did Mr. Wilson correct you?

22 A. No, he did not.

23 Q. You then talked about the relationship between
24 Joe Cadena and Riley Joe Sanders and the Sanders family?

25 A. Correct.

1 Q. You stated it was strange that none of the
2 neighbors ever remember seeing Cadena outside his house
3 in the afternoon?

4 A. That's correct.

5 Q. And that was a strange observation?

6 A. Correct.

7 Q. Then the remainder of your testimony was about
8 whether or not David owned a 12-gauge shotgun?

9 A. Correct.

10 Q. From April 5th -- now, one other thing. The
11 last page of Defense Exhibit 83 indicates that the --
12 your testimony was transcribed on March 4th, 2004. Can
13 you check the last page, please?

14 A. Excuse me?

15 Q. Check the last page of the exhibit.

16 A. The last page. Yes.

17 Q. So, March 4th, 2004 your testimony was
18 transcribed?

19 A. Correct.

20 Q. From April 5th, 1999 to November 30th, 2004,
21 had you received any information from any source
22 concerning the investigation by law enforcement of Riley
23 Joe Sanders?

24 A. I had no information, no contact.

25 Q. Other than what you were told by Paul Looney in

1 1999?

2 A. Since the Grand Jury, there was no further
3 discussion or information passed along.

4 Q. Did you have under -- learn the name of Cody
5 Towner --

6 A. No.

7 Q. -- from January 11th, 1999 to November 30th,
8 2004?

9 A. I never even heard of those names.

10 Q. What about my Michael Grantom?

11 A. No.

12 Q. Cody Ellis?

13 A. No.

14 Q. Carlos Corro?

15 A. No.

16 Q. From November 4th, 2004 through -- excuse me.
17 November 30th, 2004 through December -- or
18 November 15th, 2007, did you ever hear the name Cody
19 Towner, Michael Grantom, or Cody Ellis?

20 A. None of them.

21 Q. Did you ever learn that Riley Joe Sanders had
22 flunked multiple polygraph tests?

23 A. No.

24 Q. Did you learn it in 2012?

25 A. In 2012, I think there was more information

1 passed on about the polygraph at that time.

2 Q. Did you learn after the trial that Riley Joe
3 Sanders had been interviewed by law enforcement on at
4 least six different days?

5 A. I believe so.

6 Q. Did you learn that Michael Grantom had been
7 interviewed on at least three different occasions and
8 was deceptive on a polygraph concerning his knowledge of
9 Belinda Temple's murder?

10 A. Post trial, yes.

11 Q. 2012?

12 A. Correct.

13 Q. Well, Cody Towner, same thing with Cody Towner?

14 A. Correct.

15 Q. Did you learn that Cody Ellis was the person
16 with Riley Joe Sanders on the afternoon of the murder
17 sometime during trial?

18 A. Not -- yes, in the trial.

19 Q. Did you learn -- when did you learn that Riley
20 Joe Sanders possessed a single shot 12-gauge shotgun
21 with a spent reloaded shell in it?

22 A. Not till post trial.

23 Q. Did you or your family have any information
24 other than what you testified to in front of the Grand
25 Jury in 1999 that Riley Joe Sanders had an alibi and had

1 passed a polygraph test from the time you testified in
2 the Grand Jury to the time your brother David was
3 arrested?

4 A. No, we had no other information.

5 Q. Did you pass the information that you knew,
6 your letter --

7 A. Yes, letter.

8 Q. -- and the information that you testified to
9 from the Grand Jury about the source of that information
10 to Mr. DeGuerin?

11 A. No, I did.

12 Q. What --

13 A. Sorry. The letter was given to Dick DeGuerin,
14 yes.

15 Q. And did you tell him that -- about the
16 information Mr. Looney told you, that he had an alibi
17 and passed the polygraph test?

18 A. That's correct.

19 MR. SCHNEIDER: Pass the witness.

20 THE COURT: Yes, sir.

21 MR. SMITH: Thank you, Your Honor.

22 **CROSS-EXAMINATION**

23 **BY MR. SMITH:**

24 Q. Good morning, Mr. Temple. How are you?

25 A. Good morning.

1 Q. Would you agree with me that cheating on your
2 wife would be a problem in the marriage?

3 A. Correct.

4 Q. Okay. And you were aware -- or when did you
5 become aware that David Temple was having an affair,
6 seeing, sleeping with Heather Temple?

7 A. I was unaware of it until a few days after the
8 murder. I wasn't aware that he had been unfaithful.

9 Q. Okay. And that was -- I said Heather Temple.
10 That is who she is now, but at the time it was Heather
11 Scott.

12 A. Right. I did not know of her name at that
13 time, not till the Grand Jury.

14 Q. All right. So -- but by the time that you
15 testified, I believe on April 5th, 1999, you had been
16 aware that David Temple was having an --

17 A. Unfaithful.

18 Q. Unfaithful.

19 All right. So, this was an issue that was
20 kind of raised in the trial, right? Ms. Siegler kept on
21 using the word "affair," you kept using the word
22 "unfaithful"?

23 A. Yes.

24 Q. So, what is your distinction between having an
25 unfair and being unfaithful in a marriage where you know

1 that unfaithful means that he was --

2 A. I would say an affair is something that's a
3 long-lasting relationship, much more emotional
4 relationship, more severe. Unfaithful -- I did not ask
5 my brother the details of his relationship with Heather.
6 I didn't even know the name until after the Grand Jury.

7 Q. All right. But we've already establish that
8 certainly being unfaithful would be a problem in the
9 marriage?

10 A. Correct.

11 Q. All right.

12 MR. SMITH: May I approach the witness,
13 Judge?

14 THE COURT: Yes.

15 Q. (By Mr. Smith) I think Mr. Schneider just
16 admitted your Grand Jury testimony. Do you have a copy
17 of it up here?

18 A. Yes.

19 Q. All right. Great.

20 So, can you look at Page 23, please, Line
21 14?

22 A. Okay.

23 Q. All right. So, there is a question that is to
24 you, which is: Uh, do you know if David and Belinda
25 were having any problems in their marriage?

1 And what is your response?

2 A. No, I do not know.

3 Q. No, not that I know of, no. Correct?

4 A. Correct.

5 Q. All right. But we have already established
6 that you were aware that he was having problems in his
7 marriage, correct?

8 A. I was aware that he had essentially been
9 unfaithful.

10 Q. Which you've already agreed is a problem in the
11 marriage?

12 A. Correct.

13 Q. So, you were not being truthful to the Grand
14 Jury at that point, were you?

15 A. I was stating what I knew at that time.

16 Q. Then the next question: Do you know if David
17 was having an affair? And your response is?

18 A. No, I do not.

19 Q. No, I do not --

20 A. Not to my --

21 Q. --- to my knowledge. No, I do not.

22 A. Correct.

23 Q. All right. And that's -- again, you're making
24 a specific -- or I guess an intentional distinction to
25 the Grand Jury between affair and unfaithful, correct?

1 A. Correct.

2 Q. Without actually informing the Grand Jury that
3 you're making that distinction?

4 A. Correct.

5 Q. So, you're parsing words without them having
6 any sort of knowledge that you are parsing words?

7 A. Excuse me. Repeat that.

8 Q. Well, you are making a distinction between
9 affair and unfaithful, but you're not informing the
10 Grand Jury of such distinction, correct?

11 A. I told them that he had been unfaithful.

12 Q. All right. But not an affair?

13 A. Correct, not at that time.

14 Q. Is there a reason why you didn't inform the
15 Grand Jury that --

16 A. No, absolutely not.

17 Q. Excuse me, Mr. Temple. I'm not trying to cut
18 you off. It's just the lady in front of you has to take
19 both of us.

20 A. Sure.

21 Q. Okay. So, let me finish my question and I'll
22 let you finish your answer. Okay?

23 All right. So, why did you not inform the
24 Grand Jury that you were aware that your brother had
25 been unfaithful whenever there was a question about an

1 affair?

2 A. During the time of the Grand Jury, I gave
3 information I knew. I did not ask my brother any
4 questions. I did not know the severity, again, of him
5 being unfaithful or an affair. I never asked any
6 questions about that.

7 Q. Okay. Well, but you were certainly aware of,
8 by the time that you testified during the trial, that
9 this unfaithful, not serious relationship became a
10 serious relationship because your brother ended up
11 marrying Heather Scott --

12 A. That is correct.

13 Q. -- right?

14 A. Yes.

15 Q. He married Heather Scott to become Heather
16 Temple in between 1999 and whenever he is arrested in
17 2004?

18 A. Correct.

19 Q. So, then you became aware that this fling or
20 this not serious relationship actually was something
21 more?

22 A. Correct.

23 MR. SMITH: If I can just have a moment,
24 Judge?

25 THE COURT: Yes, sir.

1 (Pause)

2 Q. (By Mr. Smith) All right. Do you recall during
3 your trial testimony -- so not the Grand Jury testimony
4 back in 1999, but your trial testimony in 2007 --

5 A. Okay.

6 Q. All right? Are you with me as to --

7 A. Yes.

8 Q. -- we're now talking about your trial
9 testimony?

10 And do you recall when Ms. Siegler asked
11 you to both carry the television and a shotgun at the
12 same time?

13 A. Yes.

14 Q. All right. And you recall that you were unable
15 to do so, correct?

16 A. Correct.

17 Q. So, which means that if there was a person who
18 broke into the house or broke into a house with a
19 12-gauge shotgun, they at least would have needed an
20 additional person --

21 A. Yes.

22 Q. -- to do both, correct?

23 A. Correct.

24 Q. All right. How many conversations did you have
25 with Mr. Looney regarding Joe Sanders?

1 A. Regarding Joe Sanders?

2 Q. Yes, the neighborhood boy.

3 A. I do not remember specifically how many.

4 Probably one or two.

5 Q. Okay. Well, let me ask you this. Whenever you
6 testified in 2007, you still had a very firm belief that
7 Joe Sanders was a better individual to have committed
8 this offense other than your brother, correct?

9 A. I wouldn't say that. I didn't know anything
10 about Riley Joe Sanders. Everything I knew of was
11 that -- were rumors and speculations through people,
12 indirect conversations with the neighbors. So, I didn't
13 know anything about Riley Joe Sanders.

14 MR. SMITH: All right. May I approach?

15 Q. (By Mr. Smith) I'm sorry. I didn't mean to cut
16 you off. Sorry about that.

17 A. Okay.

18 Q. I'm showing you your trial testimony, Page 150
19 of your trial testimony. And if you could look at Lines
20 14 through 18. I will give you an opportunity to review
21 that (indicating).

22 A. Okay.

23 Q. All right. So, again, this is talking about
24 how you had developed scenarios involving the next-door
25 neighbor and his gang of kids, about who was in the

1 neighborhood that day, didn't you?

2 And you said: That's correct.

3 A. Correct.

4 Q. All right. So, you had at least developed
5 scenarios, and, in fact -- I don't know if this has been
6 established. Are you the author of Defense No. 12?

7 A. I'm a coauthor. My father actually wrote it.
8 I provided information that I had, again, heard through
9 speculation.

10 Q. All right. So, I just want to make sure this
11 is clear. You and your dad created Defendant's Exhibit
12 No. 12?

13 A. Correct.

14 Q. All right. So, Darrin didn't have anything to
15 do with it?

16 A. Darrin may have had some -- I don't believe so.

17 Q. All right. Thank you. We have been trying to
18 figure that out. I appreciate that.

19 And you would agree with me that whenever
20 we are looking at Defendant's Exhibit No. 12, you know,
21 there is a lot of information that you provided in this
22 letter that you believe points to Joe Sanders as being a
23 person who at least needs to be looked into?

24 A. Correct.

25 Q. All right. And, I mean, I think you sort of

1 have -- one, two, three, four, five, six, seven,
2 eight -- approximately 15 different assertions in there
3 that you believe need to be investigated and looked
4 into?

5 A. Correct.

6 Q. All right. And then at the very end, you or
7 your father together as authors, indicate that these
8 details build more than just a set of circumstances in
9 our minds. In fact, it allows for the first time to
10 actually form a scenario and follow it all the way
11 through to completion.

12 A. Correct.

13 Q. All right. So, whenever you are talking to
14 Mr. Looney, isn't it true that you are actually still
15 informing him: Hey, you need to look into Joe Sanders?

16 A. Correct.

17 Q. You need to investigate Joe Sanders?

18 A. Correct.

19 Q. Same thing with Mr. DeGuerin whenever he gets
20 on the case?

21 A. Correct.

22 Q. All right. I mean, y'all are saying: Look
23 into Joe, look at this neighborhood boy?

24 A. I told -- I remember Paul Looney. When I gave
25 this information, this statement, I told -- yes, I told

1 Paul this needs to go to the detectives. I do not
2 recall saying it to Mr. DeGuerin in 2004.

3 Q. All right. So, how many conversations do you
4 recall having with Mr. DeGuerin about Joe Sanders?

5 A. I do not recall.

6 Q. All right. So, you're saying "I don't recall"
7 as you just do not remember?

8 A. I don't remember.

9 Q. All right. So, you could have had, you
10 couldn't have --

11 A. Yes.

12 Q. -- but based upon passage of now about a
13 decade, you just don't remember?

14 A. I do not remember, correct.

15 Q. All right. I'm not trying to be -- I'm trying
16 to be specific because there's a difference between I
17 don't recall because it did not happen, versus I just
18 don't remember anymore.

19 A. I do not remember.

20 Q. All right. Thank you.

21 What did you look at to refresh your
22 recollection before testifying here today?

23 A. What did I use? I looked at the Grand Jury
24 statement.

25 Q. Just the Grand Jury testimony?

1 A. I looked briefly at the -- my trial testimony
2 as well.

3 Q. All right.

4 A. Yes.

5 Q. What about Defendant's Exhibit No. 12?

6 A. The statement?

7 Q. Yes.

8 A. No, I did not. It's been over a decade since I
9 looked at that.

10 Q. All right. So, nothing else, just your Grand
11 Jury testimony and your trial testimony?

12 A. Correct.

13 Q. All right. What are you aware of -- I'm
14 assuming that you and your brother talked about
15 alternative suspects in this case, other people who
16 could have done it?

17 A. Sure.

18 Q. All right. So, I want to know what sort of
19 conversations did you have with David Temple as to who
20 he believed did it?

21 MR. SCHNEIDER: Your Honor, may we have a
22 timeframe? Pretrial, during trial, post trial?

23 THE COURT: Rephrase that.

24 MR. SMITH: Sure, Judge.

25 Q. (By Mr. Smith) Let's do 1999 up until the point

1 that he's arrested in 2004 to begin with.

2 A. I do not remember specifically what scenarios I
3 had discussed with him or any details that he gave me.

4 Q. Okay. So, are you stating -- I guess, do you
5 have any recollection as to your brother, David Temple,
6 stating that he believed Joe Sanders was a person --

7 A. I remember speaking to David one time about
8 what I thought potentially was Riley Joe Sanders. I
9 just remember that David said he did not know.

10 Q. Okay. Did not know or did not -- I'm trying to
11 make sure I understand this. Is he saying he did not
12 know if Joe Sanders did it or did not know and did not
13 believe that Joe Sanders did it?

14 A. That he did not know if Joe Sanders did it.

15 Q. All right. Same question but with respect to
16 2004 whenever he becomes arrested up to 2007 whenever
17 the trial occurs. What sort of conversation did you
18 have with David Temple with regard to Joe Sanders?

19 A. I do not remember having a specific
20 conversation with David during that time. From the time
21 he was arrested to trial, I did not speak to David about
22 possible scenarios.

23 MR. SMITH: Pass the witness, Your Honor.

24 THE COURT: Thank you, sir.

25 MR. SCHNEIDER: May I have his testimony,

1 please?

2 MR. SMITH: Yeah.

3 REDIRECT EXAMINATION

4 BY MR. SCHNEIDER:

5 Q. You were shown Volume 23 of the record by the
6 State, and they showed you redirect by Mr. DeGuerin.
7 Remember he asked you questions about Page 150?

8 A. Yes.

9 Q. What's the last question on the bottom of Page
10 150?

11 A. In the years that have passed since all of this
12 happened, I do continue to wonder who it could be.

13 Q. Now Ms. Siegler objected to that question,
14 correct?

15 A. I don't see where --

16 Q. The bottom of the page.

17 A. Yeah, she did object.

18 Q. And then Mr. DeGuerin continued to try to ask
19 you questions about that same subject; is that correct?

20 A. Correct.

21 Q. And Ms. Siegler objected?

22 A. Correct.

23 Q. And those objections were sustained?

24 A. Correct.

25 Q. And so, during the trial, Ms. Siegler -- every

1 chance that Mr. DeGuerin tried to ask you questions
2 about alternative suspects or what you knew about
3 alternative suspects, Ms. Siegler objected to those
4 questions?

5 A. Correct.

6 Q. And prohibited you -- and the Judge sustained
7 the objections because what you knew at that time was
8 based upon other people had told you?

9 A. That is correct.

10 Q. And you were speculating about what other
11 people had told you?

12 A. That's correct.

13 Q. Now, this document, this letter dated February
14 10th, had you, your brother, and your father attempted
15 to communicate to law enforcement about what neighbors
16 had told you?

17 A. This is how we communicated that, by giving
18 that directly to Paul Looney, but not directly to a
19 detective.

20 Q. Well, prior to that, did your father try to
21 talk to a detective at the house, back in January?

22 A. I do not remember.

23 Q. Do you remember if Darrin tried to communicate?

24 A. No.

25 Q. Did you try and talk to law enforcement?

1 A. No.

2 Q. So, if your father tried to talk -- did it
3 appear that law enforcement was interested in what your
4 family had to say about what the rumors were?

5 A. Absolutely not.

6 Q. And when you told the Grand Jury about the
7 alibi and the passed polygraph tests -- let me show you
8 what I've marked as Defense Exhibits 84, 85, 86, and 87.
9 Have you ever seen those before (indicating)?

10 A. No.

11 MR. SCHNEIDER: I offer 84 through 87.

12 **(Defense Exhibit No. 84 through 87 Offered)**

13 MR. SMITH: State has no objection.

14 THE COURT: Thank you. 84 through 87 are
15 admitted.

16 **(Defense Exhibit No. 84 through 87**

17 **Admitted)**

18 Q. (By Mr. Schneider) Defense Exhibit 84. Have
19 you ever seen the polygraph test report from Michael
20 Grantom showing deception?

21 A. I did not.

22 Q. Did you know that Michael Grantom reported to
23 law enforcement that he was in a car leaving the
24 neighborhood, the area around Linda and David Temple's
25 house around 4:30 on the afternoon of the murder?

1 A. I did not know that.

2 Q. And that he was found to be deceptive about do
3 you know who killed Belinda Temple?

4 A. I did not know that.

5 Q. Did you know that Riley Joe Sanders, on January
6 29th, 1999, was determined to be deceptive on a
7 polygraph test?

8 A. I did not know that.

9 Q. And the questions that he was found to be
10 deceptive on were: Did you shoot Belinda Temple?

11 No.

12 Do you know for sure who shot Belinda
13 Temple?

14 No.

15 Did you tell the complete truth in the
16 statement that you gave on -- to the question did you
17 shoot any shotgun on January 11th, 1999?

18 Did you go into the Temple house on January
19 11th?

20 That those questions were found to be
21 deceptive, did you know that?

22 A. I did not.

23 Q. So, when Paul Looney informed you that law
24 enforcement told him he had passed a polygraph test,
25 whoever gave that information to Paul Looney lied to

1 Paul Looney?

2 A. I would assume that.

3 Q. What about the policy test on February 5th,
4 2000 -- in 1999, Defense Exhibit 86, were you aware of
5 that policy test on Riley Joe Sanders?

6 A. No.

7 Q. Did you - were you aware that the same type of
8 questions concerning his involvement in the death of
9 Belinda Temple were the questions that were Riley Joe
10 Sanders flunked?

11 A. I was not aware of that.

12 Q. So, again, whoever gave that information to
13 Paul Looney that you conveyed to the Grand Jury lied to
14 Mr. Looney?

15 A. Yes.

16 Q. Cody Towner was found deceptive on March 12th,
17 1999. Have you ever heard that name prior to -- prior
18 to David being arrested on November 30th, 2004?

19 A. No.

20 Q. Did you know at the time that you testified for
21 the Grand Jury that he was found to be deceptive on the
22 questions: Do you know for sure who shot Belinda
23 Temple; are you deliberately withholding any information
24 concerning Ms. Temple's death?

25 A. I was not aware of that.

1 Q. Were you aware of his name being involved with
2 a person who left the area around Belinda Temple's house
3 on the afternoon of January 11th, 1999?

4 A. I was not.

5 Q. If three people entered Belinda Temple's house,
6 could one carry a shotgun and two move a TV set?

7 A. Yes.

8 MR. SCHNEIDER: Can I have one moment, Your
9 Honor?

10 THE COURT: Yes.

11 (Pause)

12 Q. (By Mr. Schneider) We have two polygraph test
13 reports, correct, concerning Riley Joe Sanders?

14 A. Correct.

15 Q. If Defense Exhibit 4 indicates that three were
16 taken, then we're missing one of the reports, aren't we?

17 A. Correct.

18 Q. If the third polygraph test shows deception on
19 the same type of questions or is reported that he
20 flunked on everything, would the person who gave that
21 information to Mr. Looney that he passed the polygraph
22 have lied a third time?

23 A. Correct.

24 Q. Now, would your thoughts about Mr. Sanders and
25 Mr. Towner and Mr. Grantom be different if you had known

1 about the results of those tests?

2 A. If I knew about the polygraphs?

3 Q. Correct.

4 A. Yes.

5 Q. Why were the polygraph tests significant to
6 you?

7 A. It shows they were deceptive, and consistent.

8 Q. And the fact that Mr. Sanders -- you were told
9 Mr. Sanders passed the polygraph test, what does that
10 mean to you in terms of your thought processes on
11 Sanders being a suspect?

12 A. Correct.

13 Q. What --

14 A. It changes. Obviously, it eliminated him at
15 that time of being a suspect.

16 Q. So, from 1999 till you found out about the
17 polygraph test, in your mind, because you were told that
18 law enforcement had cleared Sanders by polygraph, he was
19 not a serious suspect --

20 A. That is correct.

21 Q. -- in your mind, and everything else was just
22 rumors?

23 A. That is correct.

24 Q. And you conveyed that information to
25 Mr. DeGuerin?

1 A. Correct.

2 Q. As much information as you had?

3 A. Yeah.

4 MR. SCHNEIDER: Pass the witness.

5 MR. SMITH: A few more questions, Judge.

6 **RECROSS-EXAMINATION**

7 **BY MR. SMITH:**

8 Q. Mr. Temple, were you present on February 20th,
9 2005? This was the public statement that your family
10 had made at Belinda Temple's gravestone.

11 A. Yes.

12 Q. All right. So, were you also present when
13 Darrin Temple and your father and Mr. DeGuerin went on a
14 TV program called "Nancy Grace"?

15 A. Yes.

16 Q. All right. So, you were aware of that
17 occurring and you were present for it, correct?

18 A. Yes.

19 Q. All right.

20 MR. SMITH: May I approach the witness,
21 Judge?

22 THE COURT: Yes.

23 Q. (By Mr. Smith) I'm showing you what's marked as
24 State's Exhibit No. 33. And I know you haven't had an
25 opportunity to review this, but you would agree with me

1 it says "Nancy Grace" here (indicating)?

2 A. Correct.

3 Q. February 20th, 2005 (indicating).

4 A. Correct.

5 Q. All right. And if you look here, she's talking
6 to the Lucases, correct?

7 A. Uh-huh.

8 Q. And you know who Tom and Carol Lucas are?

9 A. I do.

10 Q. And that's Belinda's parents?

11 A. Yes.

12 Q. And we have Kenneth Temple, correct, starting,
13 it looks like, on Page 3?

14 A. Correct.

15 Q. That's your father of course, right?

16 A. Yes.

17 Q. All right. And then there is mentioning of
18 Darrin Temple, your brother, correct, on Page 5?

19 A. Yes.

20 Q. And then we now have Dick DeGuerin being
21 mentioned, correct?

22 A. Yes.

23 Q. All right. But I want to focus your
24 attention -- well, so you recognize that this is
25 certainly dealing with -- this is coming from CNN.com

1 transcripts, correct?

2 A. Yes.

3 Q. All right.

4 MR. SMITH: At this time, the State would
5 offer State's Exhibit No. 33.

6 **(State's Exhibit No. 33 Offered)**

7 MR. SCHNEIDER: May I have a moment, Your
8 Honor? I have never seen this before.

9 (Pause)

10 MR. SCHNEIDER: No objection, Your Honor.

11 THE COURT: 33 is admitted.

12 **(State's Exhibit No. 33 Admitted)**

13 Q. (By Mr. Smith) All right. I'm going to focus
14 your attention to Page 10. All right? Well, first I'm
15 going to show you Page 9 because we have two Temples, we
16 have both your dad and your brother, but here in the
17 middle of Page 9, there's a paragraph that says: Right
18 now --

19 MR. SCHNEIDER: I object to him questioning
20 Mr. Temple about anything anyone else might have said as
21 a prior inconsistent statement.

22 THE COURT: Overruled.

23 Q. (By Mr. Smith) All right. So, right now in the
24 middle of Page 9, it talks about: With us now is David
25 Temple's brother, Darrin. Correct?

1 A. Correct.

2 Q. All right. So, now let's look at Page 10, now
3 that we have established that the Temple on Page 10 is
4 Darrin Temple.

5 A. Right.

6 Q. All right. If you can look where that blue
7 mark is, where it says "Grace," and then it says "Okay."
8 Do you see that (indicating)?

9 A. Yes.

10 Q. All right. So, if you could read "Grace,"
11 "Temple," "Grace," "Temple," those four paragraphs.

12 A. Starting here (indicating)?

13 Q. Yes.

14 A. Okay.

15 Q. You can read it yourself.

16 A. Okay.

17 Q. Just so you know where I'm coming from.

18 A. (Witness complies).

19 Okay.

20 Q. All right. So, Ms. Grace is asking Darrin
21 Temple about David Temple, your brother, taking a
22 polygraph, correct?

23 A. Correct.

24 Q. And Darrin Temple says: No, because we can't
25 allow them in court. And he further says: You can't

1 win on a polygraph. If he takes it, they're going to
2 find something wrong. And because you can't -- it's not
3 important. Correct?

4 A. That's correct.

5 Q. All right. And then the next question by
6 Ms. Grace is: Well, what if he passed, wouldn't that be
7 great? And your brother further says: You can't admit
8 it in court. So, what is the benefit of having it if
9 you can't put it in court? His attorney at the time
10 said: Do not take a polygraph, and that's what we did.

11 A. That's correct.

12 Q. All right. So, basically, that establishes
13 that David Temple was given an opportunity to take a
14 polygraph, correct?

15 A. I do not know that he was given an opportunity.

16 Q. Okay. Well, at least indicates that he was
17 given an opportunity, but Mr. Looney told him not to
18 take it?

19 A. Correct.

20 Q. All right. And then it appears at least your
21 brother believes that there is no benefit of him taking
22 it, correct?

23 A. Correct.

24 Q. Because it's not admissible in court?

25 A. That's correct.

1 Q. All right.

2 MR. SMITH: Pass the witness.

3 **REDIRECT EXAMINATION**

4 **BY MR. SCHNEIDER:**

5 Q. That same statement on Page 5 and Page 6, does
6 your mother tell Nancy Grace that Mr. DeGuerin has asked
7 for evidence but none has been provided?

8 A. It does state that.

9 Q. On Page 6, do they make the same type of
10 reference that we haven't gotten the tests?

11 A. It does.

12 Q. On Page 7, does your brother make a reference
13 that the arrest of your brother on November 30th, 2004,
14 was right after the conviction of Scott Peterson for
15 murdering his wife, Lucy {sic}?

16 A. It does.

17 Q. And Scott Peterson, was that a high-profile
18 murder case tried in California?

19 A. It was.

20 Q. Where a pregnant woman was murdered?

21 A. Correct.

22 MR. SCHNEIDER: Pass the witness.

23 MR. SMITH: State has no further questions,
24 Judge.

25 THE COURT: Can he be excused? Not from

1 the Rule, but from court?

2 MR. SMITH: He may be excused from court,
3 but not the Rule, yes.

4 MR. SCHNEIDER: Your Honor, he is going to
5 be leaving town and won't be available this week or he
6 won't be back --

7 THE COURT: That's fine.

8 MR. SMITH: If I intend to recall him, I'll
9 put Stanley on notice and give Mr. Temple advance notice
10 as well, Judge.

11 THE COURT: All right. Thank you,
12 Mr. Temple.

13 Ma'am?

14 MS. GOTRO: No. I was just waiting.

15 THE COURT: I have unsealed the document
16 that I have and it contains -- and I would like to see
17 if either of you object to this. One item is the Grand
18 Jury testimony of the detective, Mark Schmidt, on
19 March 31st of 1999. The second is a report from
20 Hendricks Polygraph regarding Daniel Glasscock, August
21 10th, 2012. There is a video statement of Daniel
22 Glasscock May 29th, 2012.

23 What do you call these things?

24 MR. SCHNEIDER: DVD. That is the
25 attachments to the out-of-the-time motion for new trial.

1 So, there is still a sealed document with the motion
2 that Mr. Leitner agreed to somewhere floating around the
3 clerk's office.

4 THE COURT: Let me go forward with this,
5 please.

6 Next is an oral and video deposition of
7 Daniel Glasscock May 29th, 2012. And finally, the
8 transcript of the interview with Daniel Glasscock
9 July 16th, conducted by Steve Clappart, July 16th, of
10 2012.

11 It would seem to me in view of what I have
12 heard that these are all relevant and I'll be glad to
13 give them to both of you, unless one of you objects and
14 tells me why.

15 MR. SMITH: We don't have any objection as
16 to the unsealing it. I think we both probably have
17 copies of everything that you just listed out, Judge. I
18 think we're both aware of that. The only thing that I
19 have an issue with or a concern with is the polygraph
20 report of Daniel Glasscock. Just because, again, we're
21 dealing with the confidentiality issue of it. So, I
22 don't I guess --

23 MR. SCHNEIDER: It's already in evidence.

24 MR. SMITH: The polygraph report?

25 MR. SCHNEIDER: Yes.

1 MR. SMITH: Well, then it doesn't really
2 matter at this point.

3 THE COURT: Do any of you want copies of
4 this?

5 MR. SCHNEIDER: I think it's all in
6 evidence already, Your Honor, or it's all been attached
7 to the writ itself.

8 THE COURT: Then if it's okay with both of
9 you, I will reseal it and put it back in the clerk's
10 file.

11 MR. SMITH: I think that's probably the
12 best thing for the Court to --

13 THE COURT: Is that okay, Mr. Schneider?

14 MR. SCHNEIDER: That's fine, Your Honor.

15 And, Your Honor, I'm going to tender to
16 Mr. Smith a copy of a motion that was filed and so we
17 can see if we can find the envelope with the sealed
18 document in it.

19 THE COURT: Could I ask you to reseal this
20 or put it in another envelope? Thank you very much.

21 THE CLERK: Yes.

22 THE COURT: You ready for the next witness?

23 MS. GOTRO: The issue is -- one, the motion
24 that Mr. Schneider is referencing, an agreed motion
25 about that Grand Jury testimony where the district

1 attorney's office had agreed in writing with
2 Mr. Schneider that those Grand Jury transcripts contain
3 Brady information. And so, Mr. Schneider had requested
4 that the Court locate those documents because it's
5 already -- if this district attorney's office has
6 conceded in one filing that those items are, in fact,
7 Brady, then they should be prohibited from contesting
8 that fact in this hearing. Does that make sense, Judge?

9 THE COURT: Yeah, it does.

10 MR. SMITH: Uh-huh.

11 MS. GOTRO: So, I believe that was the
12 catalyst for trying to locate that document. And
13 certainly -- our next witness is Ms. Siegler, and that
14 will be relevant to certainly our examination, Judge.

15 MR. SMITH: And I would just like to put on
16 the record that the agreed motion specifically states on
17 Page 2, the first full paragraph: The State and Temple
18 agrees that the Grand Jury investigation of the death of
19 Belinda Temple in 1999 contains possible Brady material.

20 So, therefore, the State has not conceded
21 that there is any Brady material. And we still don't
22 believe that we should be estopped or prohibited from
23 asserting whether or not this information is both
24 favorable as well as material. Because as you know --
25 as you are aware of, Judge, it's actually a three-step

1 process in Brady. First, whether or not the evidence
2 was favorable; the second, whether the evidence was
3 disclosed or otherwise available to the defense through
4 reasonable investigation; and then third, whether or not
5 it is actually material to the issue.

6 THE COURT: Okay. Can I ask you what that
7 has reference to? Grand Jury testimony of what?

8 MR. SCHNEIDER: In this case.

9 THE COURT: Well, of course, but --

10 MR. SMITH: Specifically, Judge, it
11 references Riley Joe Sanders and -- and that's all -- I
12 mean it talks about: It appears from the trial record
13 that a Grand Jury investigation was conducted before the
14 209th District Court Grand Jury into the death of
15 Belinda Temple. Members of the Temple family testified,
16 Riley Joe Sanders testified on April 21st, 1999 before
17 the 209th District Court Grand Jury. The Grand Jury
18 testimony of Riley Joe Sanders was released to Temple.

19 MS. GOTRO: If I might, Judge --

20 THE COURT: Sure.

21 MS. GOTRO: -- what the motion states, an
22 issue that Mr. Leitner interlineated and initialed. And
23 so for us to get exactly what it was the State had
24 agreed to, that's why we can find the document, but it
25 is that: Temple and the State have been jointly

1 investigating newly-discovered evidence. In conjunction
2 with the newly-discovered evidence, the State released
3 the entire offense report. Within the offense report
4 are statements of a number of associates of Riley Joe
5 Sanders, III. Specifically Towner, Grantom. Those kids
6 that we have been talking about.

7 The oral and written statements contained
8 in the offense reports of these individuals are
9 inconsistent with the trial testimony of Riley Joe
10 Sanders, III. And so, to the extent that all of that
11 evidence in the Grand Jury was inconsistent with the
12 testimony that was elicited by Ms. Siegler from
13 Mr. Sanders, that's the issue that we're arguing about.

14 THE COURT: Don't you have all of that?

15 MR. SMITH: They do.

16 MR. SCHNEIDER: We're looking at this
17 motion that was agreed to by the State. The State made
18 it relevant on Friday during the questioning of
19 Mr. Leitner. And so, the fact that there's an agreement
20 that there are inconsistent statements contained in the
21 offense report that would have impeached Riley Joe
22 Sanders' trial testimony is a statement that is agreed
23 to by the State that that exists, and that agreement
24 should be binding on the State in these proceedings if
25 the original document can be filed.

1 MR. SMITH: And the State would assert
2 that's ridiculous based upon Mr. Leitner's own testimony
3 where I believe he said that he didn't even look at any
4 of the Grand Jury testimony. So, for him to make any
5 sort of statement as to Joe Sanders providing any sort
6 of inconsistent statement as his Grand Jury testimony
7 has no factual basis whatsoever.

8 MR. SCHNEIDER: The motion refers to
9 statements in the offense report.

10 MR. SMITH: Yes, but it says: The oral and
11 written statements contained in the offense report of
12 these individuals are consistent with the trial
13 testimony of Riley Joe Sanders --

14 MR. SCHNEIDER: Are inconsistent.

15 MR. SMITH: Inconsistent.

16 But Leitner said that he never reviewed any
17 of the trial testimony or reviewed any of the other
18 offense reports, which means there is no factual
19 foundation for Mr. Leitner to make any sort of assertion
20 on that. And, if anything, it just shows that another
21 issue that we have been pressing throughout this, which
22 is, I believe, you know, the lack of preparation by
23 Mr. Leitner.

24 THE COURT: Okay. But he did, apparently,
25 sign that agreement.

1 MR. SCHNEIDER: Yes, Your Honor.

2 THE COURT: Is it not my responsibility to
3 determine whether there is or is not inferences to
4 things, whether he agreed or doesn't agree?

5 MR. SMITH: Absolutely.

6 MR. SCHNEIDER: Yes, Your Honor.

7 THE COURT: So, is there any prohibition to
8 review -- for that evidence to be put on?

9 MR. SCHNEIDER: No, Your Honor.

10 MR. SMITH: No. That's exactly our point,
11 Judge. It is up to you, the factfinder, to make the
12 determination as to whether or not it is favorable and
13 then to make the determination as to whether it was
14 material.

15 THE COURT: Thank, you, sir.

16 MR. SCHNEIDER: But we would like to ask if
17 the prosecutor could find the original document.

18 THE COURT: Yes, of course.

19 MR. SCHNEIDER: It's been sealed somewhere
20 in the clerk's office.

21 THE COURT: All right.

22 MR. SCHNEIDER: See if there is any other
23 record from the Temple case and that it be brought
24 upstairs.

25 THE COURT: I will ask them to look and

1 help you through that.

2 MR. SCHNEIDER: Thank you, Your Honor.

3 THE COURT: Are you ready for the next
4 witness?

5 MS. GOTRO: Well, there's one other issue
6 that's been brought to my attention.

7 (At the Bench, outside the hearing of the
8 audience)

9 MS. GOTRO: Based on some of the testimony
10 that we've heard thus far, there is a question about
11 whether or not Ms. Siegler's disclosing details in an
12 ongoing investigation might have violated some Penal
13 Code provision. And so, I don't know if Ms. Siegler
14 needs to be advised about that or how that particular --
15 how that works, but I just want to bring that to the
16 Court's attention before we begin our examination of her
17 in the interest of full disclosure.

18 THE COURT: What is the statute?

19 MR. SCHNEIDER: 39.06 of the Penal Code
20 provides -- makes it a criminal offense for someone to
21 release to anyone or seek information from anyone of an
22 ongoing criminal investigation that is privileged under
23 the Government Code, Section 5.22 -- I think it's 106 of
24 the Government Code. It prohibits disclosure of -- if I
25 can get the exact section. I have it right here.

1 It says that ongoing criminal
2 investigations through the completion of the appeal
3 are -- cannot be disclosed without authorization.

4 THE COURT: If it was disclosed, that's
5 already happened.

6 MR. SCHNEIDER: If it was disclosed to
7 someone who's not in law enforcement, who doesn't have
8 the permission to disclose it, then that would be a
9 violation of 39.06.

10 THE COURT: All right. But if that
11 happened, it's already happened.

12 MR. SCHNEIDER: Well --

13 THE COURT: What do you want me to admonish
14 her about?

15 MS. GOTRO: That it's a criminal act --

16 MR. SCHNEIDER: We took testimony from
17 Murray Newman that the details of the Glasscock
18 interview, Ms. Siegler gave to him when she was not a
19 member of the district attorney's office and not part of
20 the investigation. That means that someone disclosed
21 the information of the Glasscock investigation to her
22 when she was not authorized to receive that information,
23 and which would make it a violation of 39.06 of the
24 Penal Code. And she might be subject to --

25 MS. GOTRO: There might be one other

1 offense that has to do with prohibiting the execution of
2 a capias. Mr. Beers hasn't testified yet, Your Honor,
3 but we believe that might also be an issue. And, again,
4 I don't want to put the witness on the stand and us have
5 to do this with the press here, and etcetera. I don't
6 know if she needs to be admonished about that, or what,
7 but this is my due diligence, Mr. Smith.

8 THE COURT: Do you have a suggestion?

9 MR. SMITH: My suggestion would be is I
10 need to review these provisional codes, and I think then
11 Ms. Siegler would need an opportunity to review these
12 specific provisions, and then --

13 MS. GOTRO: We requested that she be here
14 at 11:00 today because we thought the first witness was
15 going to be longer. So, she may not even be here right
16 now, but she will be here very shortly.

17 THE COURT: Okay. Would you show her those
18 provisions?

19 MR. SMITH: I will get someone to run them
20 off and --

21 THE COURT: Before she testifies, we'll
22 reconvene on this issue and then you tell me what y'all
23 think I need to do, if anything.

24 MR. SMITH: Thank you, Judge.

25 MS. GOTRO: Fantastic.

1 THE COURT: We'll stand in recess till
2 about 11:15. Does that sound okay?

3 MR. SMITH: Thank you, Judge.

4 MS. GOTRO: Sounds good.

5 THE COURT: We'll recess till 11:15.

6 (Recess)

7 (At the Bench, outside the hearing of the
8 audience)

9 MS. GOTRO: We had an ongoing issue that
10 the district attorney's office was collecting some
11 e-mails. I spoke with Mr. Smith. Brian Rose is
12 currently collecting the remainder of those e-mails.
13 And so, depending on the contents of those, Ms. Siegler
14 might have to be recalled at sometime later in the
15 hearing. I just wanted to bring that to the Court's
16 attention.

17 MR. SMITH: That's no problem.

18 THE COURT: Also, I need to tell you that
19 the clerk has said -- whatever y'all are looking for,
20 it's here in this file. They have looked for all of
21 that and it's what's here.

22 MR. SCHNEIDER: Okay.

23 THE COURT: Just so y'all know that.

24 MR. SMITH: The other issue that we just
25 wanted to put on is during the time that you allowed us

1 to review the stuff, Judge, regarding 39.06, 552.108, we
2 have reviewed those two provisions with Ms. Siegler and
3 we've reviewed them ourselves, and Ms. Siegler is going
4 to testify.

5 THE COURT: Thank you very much.

6 MS. GOTRO: Fantastic.

7 (Open court, defendant present)

8 THE COURT: Y'all ready?

9 MS. GOTRO: Yes.

10 THE COURT: Who do you call next?

11 MR. SCHNEIDER: Ms. Siegler.

12 THE COURT: Ms. Siegler, is an officer of
13 the Court. Does the State waive oath for Ms. Siegler?

14 MR. CHIN: Yes, sir, Judge.

15 THE COURT: Defense?

16 MS. GOTRO: Sir?

17 THE COURT: Do you waive the oath? She's
18 an officer of the Court.

19 MS. GOTRO: Yes, sir.

20 THE COURT: All right. Go ahead with your
21 questions.

22 MS. GOTRO: Thank you.

23 **KELLY SIEGLER,**

24 having been first duly sworn, testified as follows:

25 **DIRECT EXAMINATION**

1 **BY MS. GOTRO:**

2 Q. Good morning, Ms. Siegler.

3 A. Good morning.

4 Q. How are you today?

5 A. I'm okay. How are you?

6 Q. I'm all right.

7 Do you recognize the man who is seated to
8 my left?

9 A. Sure do.

10 Q. David Temple?

11 A. Yes, ma'am.

12 Q. Ms. Siegler, I will ask you: As you sit here
13 today, are you as convinced that David Temple -- as
14 convinced of David Temple's guilt today as you were the
15 day that you prosecuted him?

16 A. Absolutely.

17 Q. That's based on the evidence that you reviewed
18 before you made the decision to prosecute him?

19 A. It's based on everything that I know about the
20 case.

21 Q. Were you aware that in 2012 that some new
22 evidence had come forward that might question the
23 propriety of David's conviction?

24 A. I was aware that there was an allegedly new
25 witness. It didn't cause any questions in my mind.

1 Q. How did you become aware of that witness?

2 A. The very first phone call -- I don't remember
3 who made the first phone call. I remember that I heard
4 that Dick claimed to have a new witness and I didn't
5 know what the witness said for a couple of days. And
6 then, you know, my phone was ringing off the wall. And
7 I eventually heard the story about what Mr. Glasscock
8 claimed that he knew.

9 Q. May I ask you who was ringing your phone off
10 the wall?

11 A. A lot of people.

12 Q. Any members of the district attorney's office?

13 A. No, ma'am. They were too afraid to call me
14 back then because they worked for Pat Lykos.

15 Q. Any members of the sheriff's department?

16 A. Yes.

17 Q. Do you remember who?

18 A. Dean Holtke.

19 Q. Anyone else?

20 A. No. Just Dean.

21 Q. So, then it's fair to say that Dean Holtke
22 became aware of this information before you did?

23 A. Yes, yes.

24 Q. Was Dean Holtke the person that -- I guess who
25 explained the contents of the statement to you?

1 A. No. At first he didn't know either. I think
2 we all were just sort of hearing things, but nobody knew
3 for sure what this new witness supposedly said. And
4 that again, you know, everybody was trying to pretend
5 that Riley Joe Sanders was the person who really
6 murdered Belinda Temple. And that was the reason why
7 Dean called me.

8 Q. Because Riley Joe Sanders was being implicated
9 again?

10 A. Again, yes.

11 Q. And you have always -- am I correct in saying
12 that you have always believed that Riley Joe Sanders had
13 nothing to do with Belinda Temple's murder?

14 A. Me and 14 jurors.

15 Q. Now, those 14 jurors, I think you and I can
16 both agree they didn't get to see all of the evidence
17 that you got to see; is that right?

18 A. They pretty much did.

19 Q. But there was a lot of evidence that wasn't
20 admissible but that you had access to, right?

21 A. They pretty much saw it all. And Riley Joe
22 Sanders testified, remember?

23 Q. Oh, he did, he did; but my question is about
24 what the jury saw versus what you got to see. We can
25 agree that polygraph examinations aren't admissible,

1 right?

2 A. Yes.

3 Q. Okay. And that that jury did not get to hear
4 anything about those polygraph exams?

5 A. But that jury is not stupid. And Dick objected
6 so many times about the polygraph and brought it up.
7 I'm pretty sure they figured it out.

8 Q. I'm just trying to establish that you got to
9 see some things that, perhaps, the jury didn't get to
10 see.

11 A. I'm sure there was something that I saw they
12 didn't, yes, but it wasn't much.

13 Q. So, without knowing the contents of this new
14 witness' statement, you were still convinced that David
15 Temple was guilty of murdering Belinda Temple?

16 A. I will be until the day I die.

17 Q. So, you're saying that there is no new evidence
18 that could ever come forward that would ever change your
19 mind about David Temple's guilt?

20 A. I doubt that could happen.

21 Q. You told us that Dean Holtke was the person
22 that had alerted you. Was he still working with the
23 sheriff's department at that time?

24 A. Yes.

25 Q. Do you know how he was involved in the

1 investigation?

2 A. You mean initially?

3 Q. I'm sorry. The 2012, I guess, investigation of
4 this new statement that Mr. DeGuerin had brought
5 forward.

6 A. I think he was still in Homicide, but I'm not
7 even sure about that. I knew he was still with the
8 sheriff's department.

9 Q. Do you know what, if any, role he was playing
10 in the investigation of the statement that Dick DeGuerin
11 brought forward?

12 A. No, not initially.

13 Q. Did you eventually come to find out?

14 A. I know that when they figured out more about
15 the statement, Dean was initially assigned to work on
16 that with somebody else, but I don't remember who his
17 partner was. And then Dick DeGuerin went to Adrian
18 Garcia to try and have Dean fired and Dean was pulled
19 off of that investigation.

20 Q. Do you know why Mr. DeGuerin did that?

21 A. Because he didn't want Dean Holtke on the case,
22 just like he didn't want me working on the case.

23 Q. Are you aware of any specific reason -- or any
24 reason why Dick specifically didn't want Dean involved
25 in the investigation?

1 A. Probably because Dean knows everything about
2 the case. Dick doesn't want me on the case, he didn't
3 want Dean on the case, he didn't want Judge Shaver on
4 the case. He wants everybody off of the case that has
5 all the right information from way back then.

6 Q. So, other than Dean Holtke with the sheriff's
7 department, were you aware of anybody else that was
8 investigating this new claim?

9 A. Stephen Clappart.

10 Q. And he was working with the district attorney's
11 office at this time; is that right?

12 A. Yes.

13 Q. Did you speak with Mr. Clappart at all during
14 that timeframe, that -- and just for the record's sake,
15 I'm speaking about from, let's say, June until September
16 of 2012.

17 A. Yes, I did.

18 Q. What did you talk with Mr. Clappart about?

19 A. I was at home one day and I got a call from a
20 755-number on my cell phone and I picked it up and
21 answered it and it was Stephen Clappart. He called me
22 from the D.A.'s office and he called to say that -- do
23 you want to hear what he said?

24 Q. Yes, ma'am.

25 A. He said: Kelly, I'm so sorry, I know that

1 David Temple is guilty. I'm in the middle of this mess
2 because Jim Leitner is the first assistant and he's
3 pressuring me to do this, and John Denholm is my
4 lifelong friend, and I don't know what to do. He said:
5 I was there with you in Special Crimes when you worked
6 on Temple. I'm one of the people that helped assign ATF
7 that lead to one of the shotguns that we didn't have
8 before.

9 I think he even told me that he either
10 picked up Riley Joe Sanders from the airport when he
11 voluntarily came to Texas to testify or drove him back.
12 And then he started crying. And he said: You've been
13 my friend, you brought me to Special Crimes, you
14 supported me my whole career, and I'm sorry, but I need
15 my job. And he cried. And I said: Okay, Steve, you do
16 what you need to do. And that's when we hung up the
17 phone and I haven't talked to him since.

18 Q. Did it strike you as odd that he was
19 apologizing to you, Ms. Siegler?

20 A. No. He should have been ashamed.

21 Q. Why?

22 A. Because what he was doing and what he did was
23 wrong, and he knows it.

24 Q. By investigating the claim that Dick had
25 brought to the D.A.'s office, that was wrong?

1 A. By pretending like a witness who acted like he
2 had information that had nothing to do with the murder
3 case did and making it into a capital murder probable
4 cause warrant when it didn't come close to meeting the
5 elements. Stephen Clappart was a homicide cop with HPD
6 for years. I don't know what he was forgetting or what
7 he was doing in the middle of all of that, except that
8 he told me he was feeling pressured by Jim Leitner.

9 Q. The truth is he was actually following Jim
10 Leitner's direct instructions?

11 A. Yes, ma'am, he was.

12 Q. You said that he should have been ashamed of
13 what he was doing. And I'm going to -- I apologize, but
14 if you could speak a little more slowly for me, and I'll
15 try to do the same thing for you.

16 But when you said he should have been
17 ashamed of what he was doing, investigating this Daniel
18 Glasscock, is that the piece that he --

19 A. As I understand it, Daniel Glasscock's story
20 was that he overheard a conversation where Riley Joe
21 Sanders talked about shooting a dog and putting the dog
22 in a closet. Number one, our dog wasn't shot. And,
23 number two, where in the heck is Belinda Temple in the
24 middle of that story that he says he overheard? If
25 that's the closest you can get to trying to undermine a

1 conviction on one of the most high-profile, difficult
2 cases ever tried in this courthouse, as a cop, as a law
3 enforcement officer, he should have done the right thing
4 and said: This has nothing to do with the case. It
5 doesn't meet the elements, what's going on here. That
6 was his obligation to do.

7 Q. But so -- and I'm going to back up just a
8 little bit. The piece that he should have been ashamed
9 of was questioning --

10 A. He should have stood up to Jim Leitner.

11 Q. And told him what?

12 A. This doesn't even come close to a witness with
13 true information having to do with what David Temple
14 did.

15 Q. Okay. Do you think that Mr. Clappart had any
16 obligation at all to attempt to either corroborate or
17 debunk what it was Glasscock was saying?

18 A. Yes, yes, absolutely. He had to check it out,
19 that's his job, and I told him that. Steve, do what you
20 need to do, follow through on whatever you need to
21 follow through, that's what you're supposed to do, but
22 when you follow through with it and at the end of your
23 investigation your conclusion it doesn't come close to
24 having anything to do with this case, stand up to Jim
25 Leitner and say that.

1 Q. Okay. So, when you spoke to Jim -- excuse me.
2 When you spoke to Steve Clappart, had he concluded his,
3 I guess, investigation?

4 A. He told me he was sorry, he told me that he
5 knew David Temple was guilty. That seems pretty
6 conclusionary in my mind.

7 Q. But did you actually know if he finished all of
8 the things he needed to do to investigate the veracity
9 of Mr. Glasscock's statement?

10 A. I did not get into all of that with him, no.

11 Q. But we can agree that if he had not done that
12 yet, that if he had not finished his investigation yet,
13 then he hadn't done his job yet?

14 A. Well, he still had his mind made up that David
15 Temple was guilty. And I would think that if he had any
16 doubt in his mind because the investigation was
17 completed, he wouldn't feel that way.

18 Q. Well, but can we also agree that whatever is in
19 his mind is irrelevant to what his obligations are in
20 the district attorney's office?

21 A. We can agree that he's always obligated to look
22 anything that comes up. That is his job, yes, ma'am.

23 Q. Okay. All right. And so, if, in fact, he had
24 not finished his investigation, corroborating, debunking
25 Daniel Glasscock's statement, then maybe he didn't have

1 anything to be ashamed of. Can we agree to that?

2 A. Not really because he told me he still believed
3 that David Temple was guilty.

4 Q. But his belief has no -- well, I will ask you:
5 Can you agree -- can we agree that Steve Clappart's
6 subjective belief has nothing to do with his job
7 responsibilities in the district attorney's office?

8 A. Like I said, his job obligation is always to
9 follow through with anything that comes up, to check it
10 out, and see what there is at the end of the story.

11 Q. Irrespective of what his personal belief of the
12 ultimate conclusion is?

13 A. Sometimes, yes.

14 Q. Well, isn't that the hallmark of an objective
15 investigation, Ms. Siegler?

16 A. I think I said that three times.

17 Q. My bad. I don't mean to repeat, but I might do
18 that a couple of times during this examination.

19 But as far as investigating any -- any
20 items, isn't the hallmark of a good investigation to
21 withhold judgment until the investigation is complete?

22 A. Yes, ma'am.

23 Q. Because when law enforcement starts an
24 investigation with a preconceived idea, can we agree
25 that that could comprise the -- that can comprise the

1 investigation?

2 A. Yes.

3 Q. You mentioned that -- do you recall
4 approximately when it was Mr. Clappart -- excuse me --
5 Mr. Holtke told you about the contents of Daniel
6 Glasscock's statement?

7 A. No, no. I know that the first thing that I
8 knew was that they were trying to claim Riley Joe
9 Sanders again. And that was the reason Dean called me.
10 The details of what Glasscock really said was sometime
11 after that, maybe in a couple of weeks or maybe in a
12 couple of months, but I don't remember when. I know it
13 was all the summer of 2012.

14 Q. Fair enough.

15 But am I correct in saying that it was Dean
16 Holtke that first brought this to your attention, that
17 this investigation of this new statement was going on at
18 the D.A.'s office?

19 A. Yes.

20 MS. GOTRO: May I approach the witness,
21 Judge?

22 THE COURT: Yes.

23 Q. (By Ms. Gotro) Ms. Siegler, Johnny Bonds -- I
24 will confess, I'm a fan of your television show and I've
25 seen him on your show many, many, many times. How do

1 you know Johnny Bonds?

2 A. He started working at the D.A.'s office in
3 1989. I was the number two in County Court 7 and he was
4 the brand-new investigator. He came to work there and
5 we were all like: Oh, my God, the cop who won't quit at
6 the D.A.'s office. That was many years ago.

7 Q. So, that was his nickname, the cop that
8 wouldn't quick?

9 A. That's name of the book.

10 Q. I didn't know there was a book.

11 A. You have not read the book?

12 Q. I have not read the book.

13 A. You've got to read the book.

14 Q. Okay. And it's about Johnny Bond?

15 A. Yes, ma'am.

16 Q. So, did you work with Johnny Bond as an
17 investigator when you at the district attorney's office?

18 A. Yes.

19 Q. In what capacity?

20 A. Well, I was the number two or a chief in County
21 Court 7. And then different times throughout the time
22 at the D.A.'s office we would sometimes be in the same
23 court. And then at the end, I was in Special Crimes and
24 he was in Special Crimes.

25 Q. Did Johnny Bonds do any investigation on the

1 Temple case at all?

2 A. He did. He wasn't the main person, but pretty
3 much every investigator in Special Crimes played some
4 part at some point in all those years of this
5 investigation.

6 Q. Now, do you know John Denholm?

7 A. Yes.

8 Q. How do you know John Denholm?

9 A. From the sheriff's department. I met him
10 probably when I went to felony court and started working
11 on murder cases.

12 Q. And was he -- he wasn't -- he was at the
13 sheriff's department at this time, right?

14 A. He always was.

15 Q. Okay. Did you ever -- did you have some
16 communication with John Denholm about this 2012
17 investigation of the new statement?

18 A. I was getting on a plane from Seattle and I got
19 a text from John Denholm, who I hadn't talked to in a
20 while. And the text said: Something new has come up
21 with David Temple, or something like that. And the
22 plane was about to take off, so I didn't answer him
23 back. And then by the time I got home and I kind of
24 heard what was going on, I didn't see any reason to call
25 John Denholm and talk to him about it.

1 Q. So, John Denholm is texting you. Did you-all
2 have a personal relationship?

3 A. Uh-huh, we were friends.

4 Q. And did that -- you left the district
5 attorney's office, I guess, early 2008?

6 A. May 2008.

7 Q. And from May 2008, did you remain in contact
8 with John Denholm?

9 A. Yeah, a little bit. I mean, he would call
10 every once in a while to tell me about some trial that
11 he won or something like that.

12 MS. GOTRO: I'm sorry, Judge. May I
13 approach, please?

14 THE COURT: Yes.

15 Q. (By Ms. Gotro) Ms. Siegler, I'm going to show
16 you what's been marked and admitted as Defense No. 79.
17 And it's an e-mail report that starts on the back page
18 and works its way to the front. If you could take a
19 minute and --

20 A. Start up here (indicating)?

21 Q. I think it works -- this is the first one and
22 then last one would be on the front page.

23 A. (Witness complies).

24 Q. Ms. Siegler, what is the date of that first
25 e-mail from Johnny Bonds -- well, first of all, are you

1 Texas -- Blessingtexasgirl, is that your e-mail address?

2 A. Yes, one of them.

3 Q. Is that the first e-mail from John Denholm to
4 you, what is the date of that?

5 A. Well, the first one from Johnny Bond to me --
6 is that the one you mean?

7 Q. Yes. I apologize. Yes, ma'am.

8 A. What is the date of that one?

9 Q. Yes, ma'am.

10 A. July 22nd, 2012.

11 Q. Okay. And on July 22nd, 2012 Johnny Bonds
12 tells you that he's heard something about an
13 investigation? Yes?

14 A. Yes.

15 Q. Okay. How does he describe that investigation
16 on July 22nd, 2012?

17 A. What's in the e-mail?

18 Q. Yes, ma'am.

19 A. He says that supposedly Baldwin Chin has
20 approached Lykos to allow him to ask for Temple's
21 conviction to be set aside by admitting error, had
22 something to do with the convict who supposedly
23 overheard the conversation where some unknown convict
24 admitted doing the murder. Also, John Denholm has
25 jumped on DeGuerin's bandwagon because he thinks Temple

1 is innocent. Picked this up at Thursday's lunch.
2 Thought you would want to know. I don't know if any of
3 it is fact. And the rest is personal stuff.

4 Q. Do you know what Thursday's lunch he was
5 referring to?

6 A. Yes.

7 Q. What was that?

8 A. When Johnny left the office -- and I think he
9 left around the time that I did in 2008 -- he set up
10 this deal where on the third Thursday of every month,
11 all the people that we were friends with and who Pat
12 Lykos fired would meet at Kelly's Diner on the Gulf
13 Friday for lunch. So, it was one of those lunches. And
14 I didn't make that one, but Ted did and Craig Goodhart
15 might have. I don't know, but I'm pretty sure John
16 Denholm did.

17 Q. And when you say "Ted," do you mean Ted Wilson?

18 A. Yes.

19 Q. Was he still at the district attorney's office
20 back in July of 2008?

21 A. '8 or '12?

22 Q. I'm sorry. '12.

23 A. Oh, no. We were all gone.

24 Q. Okay. What about Craig Goodhart, was he at the
25 D.A.'s office?

1 A. Lykos fired him, too.

2 Q. Now, am I correct in saying Ted Wilson is
3 married to Roe Wilson; is that right?

4 A. Yes.

5 Q. And Roe Wilson, do you know what position she
6 held at the D.A.'s office in 2012?

7 A. Either the head of post conviction writ, the
8 head of appellate, or -- they have different titles up
9 there. She was the boss in the appellate division.

10 Q. And so, after Johnny e-mails you, do you -- is
11 it an e-mail or a text message that you send to John
12 Denholm?

13 A. Well, the text message to Denholm came before
14 that, I thought. Yeah, that was a text message.

15 Q. So, the text message, does that come after you
16 get the e-mail from Johnny Bonds? And they should be
17 date-stamped and time-stamped.

18 A. July 22nd. Ask me the question again. Did the
19 text message from Denholm come before or after Johnny's
20 e-mail?

21 Q. Well, in looking at the exhibit, it appears
22 that you get the e-mail from Johnny and then the next
23 communication is a text message or some communication
24 from you to John Denholm saying: Is this true.

25 A. I think it was the other way around. I think

1 that by the time Johnny told me all of this, I already
2 knew about it. What he learned at lunch, I had already
3 heard about.

4 Q. Okay. But at some point you asked John
5 Denholm: Is that true. Is that communication --

6 A. Yes, yes.

7 Q. And what was Mr. Denholm's response?

8 A. Is that where it says: Well, if you know all
9 of that, why are you even asking?

10 Q. No, ma'am.

11 A. Oh. His answer is: Partially... A witness
12 has come forward, (conscience got him), and it's not
13 anyone currently incarcerated, nor is it in any way
14 related to the supposed convict informant.

15 Q. Okay. Now, that convict informant that Denholm
16 references --

17 A. That's going to be Michael David. And I think
18 we all thought it was Michael David repeat all over
19 again.

20 Q. Right. But the fact that Mr. Denholm is using
21 that language, is it fair to say he had seen -- that the
22 Bond e-mail was actually forward to him and --

23 A. Yes, that would make sense.

24 Q. Okay. And then what is your response to
25 Mr. Denholm?

1 A. "That witness has his own issues. Dick is
2 trying to make one last run at Leitner before he's gone.
3 And I can't believe neither you or Clappart bothered to
4 talk to me or Goodhart."

5 Q. And how does Mr. Denholm respond?

6 A. "Well, if you know all that, why are you even
7 asking?"

8 Q. He has a dry sense of humor, doesn't he?

9 A. That's one way to put it.

10 Q. When you said that witness has his own issues,
11 Ms. Siegler, what were you referring to?

12 A. I think at this time I still thought we were
13 talking about Michael David.

14 Q. Okay. And then you make another statement
15 about: I can't believe you guys would do this without
16 talking to me or --

17 A. Craig Goodhart.

18 Q. What did you mean by that?

19 A. In this entire universe, once upon a time I
20 knew those boxes like the back of my hand. No one knew
21 this case more than me or Craig Goodhart. And for John
22 Denholm to jump in the middle of all of it and not even
23 pick up the phone and say: Hey, Kelly, what do you
24 think about blah, blah, blah, I didn't understand that.

25 Q. Now, is that out of a -- would you expect that

1 out of a professional courtesy or out of some sort of
2 protocol within the district attorney's office?

3 A. Nothing to do with the D.A.'s office when
4 talking about Denholm. He was with the sheriff's
5 department.

6 Q. Okay. But with respect to Clappart, I mean --

7 A. I wasn't talking to Clappart. Clappart called
8 me the one time when he started crying and that was it.

9 Q. So, you are talking about Denholm being with
10 the sheriff's department. You felt like he had an
11 obligation to contact you and/or --

12 A. Not an obligation. He wasn't obligated to do
13 anything. At that point, he was a defense lawyer and I
14 was away from the D.A.'s office. It wasn't a
15 professional obligation. It was just after all of that
16 and all of this in this room for a six-week trial, how
17 could he not pick up the phone and ask me about it or
18 say anything and just jump on this bandwagon. I was a
19 little surprised.

20 Q. Ms. Siegler, can we agree that Dick DeGuerin
21 has been very vocal about the idea that you convicted an
22 innocent man when you got the conviction for David
23 Temple?

24 A. He said that about Dror Goldberg, too.

25 Q. Right. But specifically, we can agree that he

1 has been very vocal about his belief that you convicted
2 an innocent man?

3 A. Yes, we can agree on that.

4 Q. All right. By the time, I guess, July of 2012,
5 do you recall if Dick had made some other allegations
6 about you specifically withholding evidence from him?

7 A. Well, he had Judge Shaver conduct a hearing in
8 the middle of the campaign for D.A. in January where we
9 went over lots of little things that he said I did
10 improperly then, too. And I was called down here in the
11 middle of a campaign with all the cameras shining
12 through the windows. Dick did that, too.

13 Q. So, then we can agree he has made some pretty
14 serious allegations that you have hidden evidence from
15 the defense; by this point, that was an allegation that
16 he had made?

17 A. It started before that because he filed the
18 only grievance against me I've had filed in my career
19 where he tried to get me kick of the case. So, it
20 started even earlier.

21 Q. Actually, that was Sean Buckley that filed the
22 grievance, yes?

23 A. Sean Buckley who later went to work for Dick
24 and pretended like he was representing Michael David for
25 free, when the whole time Dick was the puppeteer behind

1 it. Sean Buckley was doing what Dick told him to do,
2 and Dick gave him a job as soon as he could when I left
3 the office and this case was over with. I understand
4 Sean Buckley doesn't work for him anymore.

5 Q. Ms. Siegler, can you please slow down a little
6 bit. I'm a little hard of hearing.

7 A. I always talk too fast. Ask Mary Ann.

8 Q. And so, you said Sean Buckley was pretending to
9 be representing Michael David for free?

10 A. Yes.

11 Q. So, you think he didn't -- did you have
12 evidence that he didn't represent Michael David?

13 A. Oh, no. He represented him and he did
14 represent him for free because Dick told him to.

15 Q. Okay. And so, I'm going to back up for just a
16 little bit. By the time this Glasscock statement had
17 come forward, there had been filings in the court
18 accusing you and Mr. Goodhart of hiding evidence?

19 A. Yes.

20 Q. Yes.

21 Can you think -- does it make sense to
22 involve a former prosecutor who is no longer with the
23 office in this new investigation given those types of
24 allegations? I mean to you, doesn't that raise the
25 appearance of impropriety?

1 A. Not at all.

2 Q. So, you think -- you think it's -- you think
3 there is nothing improper about the prosecutor who's
4 just been accused, who has been accused many times of
5 hiding evidence, of involving that prosecutor in the
6 investigation of new evidence?

7 A. I think if you don't involve me in anything
8 that ever happens on David Temple, you are doing a
9 serious disservice to the case, to the conviction, to
10 David Temple and to the Temple family. You have to
11 involve me. I'm part of it. Whether you want me to be
12 or not, however much Dick doesn't want me to be, I'm
13 part of this case. You can't not involve me. If
14 Baldwin and Andrew didn't involve me, they wouldn't be
15 doing their job.

16 Q. What if the investigation is about you?

17 A. I'm sorry?

18 Q. What if the investigation is about you?

19 A. Only all the allegations that Dick has made.

20 Q. Right. And so, does it make sense to involve
21 the target of an investigation in that investigation?

22 A. You have to. It's kind of like you have to
23 involve David Temple in the middle of his own murder
24 case.

25 Q. Okay. So, if I follow that logic, though, then

1 you would be alerting David Temple to every development
2 that comes across in your investigation. Are you saying
3 that that's a good idea?

4 A. I don't understand the question.

5 Q. Okay. Well, my point is, Ms. Siegler, you were
6 the target of the defense's allegations. Can we agree
7 to that?

8 A. Yes.

9 Q. And specifically that you had hidden evidence
10 from the defense. Can we agree to that?

11 A. Well, it started way earlier than that, though.
12 That's what I'm saying.

13 Q. Right. But at this point, specifically you had
14 been accused of hiding evidence?

15 A. Among other things, yes.

16 Q. Okay. And so, can we agree, at least from a
17 defense perspective, you were the target of this post
18 conviction -- or at least a target of this post
19 conviction investigation?

20 A. We can agree on that.

21 Q. Okay. And so, from just a strict law
22 enforcement mentality, when you are investigating a
23 target, is it a good idea or a bad idea to inform that
24 target blow-by-blow of the investigation, or do you want
25 to keep some of that maybe -- would law enforcement

1 maybe want to keep some of that to themselves?

2 A. I still don't understand your question, but
3 mostly I still think that you have to involve me. You
4 have to eventually come around to asking Kelly: So,
5 what about this, what about that. You can't leave me
6 out of it. I wish you could have. I would love to be
7 left out of this now, but I'm never going to be left out
8 of this.

9 Q. Okay. So, if I'm hearing you correctly, law
10 enforcement should have involved you in this
11 investigation of this newly-discovered evidence, yes?

12 A. Yes.

13 Q. Okay. Were you also involved in the
14 investigation of whether or not the allegation that you
15 had hidden evidence from the defense?

16 A. Which one?

17 Q. Pick one and start with that one.

18 A. Well, you want to start with Michael David?
19 That was the basis -- one of the basis of the grievance.

20 Q. Okay. Actually, let's start with the Grand
21 Jury testimony. Can we start with that one?

22 A. Okay.

23 Q. When exactly were you handed the -- or did you
24 become involved with the David Temple case?

25 A. It was in the late summer or early fall of

1 2004.

2 Q. And how did you become involved with the case?

3 A. Tom Lucas, who is Belinda Temple's father, was
4 a very vocal victim. He called the sheriff's
5 department. He called Ted Wilson all the time
6 complaining. I had nothing to do with the case. And
7 one day right after Scott Peterson was convicted in
8 California -- you remember that case?

9 Q. Uh-huh.

10 A. -- Tom Lucas sent an e-mail to Chuck Rosenthal,
11 who was the D.A. at the time. And it said something
12 like: Mr. Rosenthal, prosecutors in California can get
13 a conviction when they can't even find the body. How
14 come your office can't do anything when David Temple
15 murdered my daughter and granddaughter. Chuck forwarded
16 that e-mail to me. I was in Major Offenders, Special
17 Crimes, and said: Do you have any idea what he is
18 talking about? Because Chuck didn't even know what the
19 Temple case was.

20 Q. Ms. Siegler, did you?

21 A. I knew the name. I knew the name. And I knew
22 that it was an unsolved case from Katy that Donna Goode
23 and Ted Wilson were handling and had been handling since
24 the beginning. That's all I knew.

25 Q. So, had you -- you were working at the district

1 attorney's office back in 1999; is that correct?

2 A. Yes.

3 Q. Did you -- and back in 1999, whenever Donna
4 Goode and Ted Wilson were, I guess, the prosecutors on
5 this case, did you have any contact or discussion with
6 them at all about that initial investigation?

7 A. No.

8 Q. So, let's fast-forward to summer, fall of 2004.
9 Chuck Rosenthal sends you this e-mail and says --

10 A. Who is he talking about? Chuck didn't know the
11 name at all. And I wrote back: That's the case about
12 the coach who allegedly shot his wife and unborn baby
13 daughter in Katy. That was about all I knew, too, then.

14 Q. Okay. And did you request the file at that
15 point?

16 A. No. Chuck said: Will you look into it? And,
17 honestly, I was kind of in a bind because it was Donna's
18 case. It was Donna's case more than it was Ted's case.
19 That was my understanding. And so, Donna was over me in
20 hierarchy at the D.A.'s office. And so, I told Donna
21 what was going on. And at that time, she had maybe two
22 boxes, I think two boxes in her office. And she said:
23 Kelly, I thought many times about asking you to look at
24 this case just to see what you think about it because
25 I've always been on the verge of wanting to file it,

1 but I never knew if I had enough. And I wanted to ask
2 you to look at it, but I never have. Great. Will you
3 look at it, take it.

4 Q. Okay. So, back in 2004 when Donna gave you
5 those two boxes, do you remember what was in the boxes?

6 A. I could probably put it together. It would be
7 the basic stuff. It would be that -- the original
8 offense reports. It would be all the Grand Jury stuff
9 because Ted and Donna did all the Grand Jury stuff back
10 then. I remember the Paul Looney correspondence being
11 in there, the pictures were in there. The beginning of
12 the FBI GSR stuff was in there. The basic things were
13 in there back then.

14 Q. And when you say "the Grand Jury stuff," what
15 was that?

16 A. All of the witnesses that Ted and Donna brought
17 before the Grand Jury.

18 Q. So, the transcripts of their testimony?

19 A. Yes.

20 Q. And subpoenas, I guess?

21 A. Yes.

22 Q. Okay. And then when you said the original
23 offense report, you held up your fingers and made -- you
24 indicated like a stack of papers.

25 A. I think it was about this big (indicating).

1 Q. And for the record, can you guesstimate that
2 for me, inches wide?

3 A. Two.

4 Q. All right. And how long did it take you to go
5 through those boxes?

6 A. I took those boxes home one weekend and spent
7 the whole weekend reading. Because my girls were gone
8 at the deer lease. And then came back to work that
9 Monday and went into Craig Goodhart's office and said:
10 Craig, I'm not going to tell you what I think about this
11 case. You read it. And when you get all through
12 reading it, let's talk. And he did. And it took him
13 about a week-and-a-half before he got finished and then
14 we talked.

15 Q. And why did you choose Craig Goodhart?

16 A. Because I greatly respected his opinion on if
17 there was enough evidence to file the charge.

18 Q. And I guess at some point Craig got back to
19 you?

20 A. Yes.

21 Q. And what happened next?

22 A. He walked in my office one morning and said:
23 I'd file it today. And I said: That's what I think.
24 And we started making our to-do lists and moving
25 forward.

1 Q. When you said: I'd file it today, I'm assuming
2 you meant against David Temple?

3 A. Yes, ma'am.

4 Q. Okay. When you reviewed that box that Donna
5 Goode gave you, were there any other individuals in the
6 contents of that box that had been, I guess,
7 investigated by law enforcement?

8 A. Well, I'm assuming that you are making the jump
9 to the Katy boys, as I call them.

10 Q. No. I'm just asking if there was any -- at
11 that point, the boxes -- what you have described, it
12 seems to be an abbreviated version of maybe what existed
13 at that point?

14 A. No. I will admit to you that since then I
15 probably read about 500 offense reports. So, I could
16 have the number in thickness wrong in my head. I could
17 look at it and tell you if it's all there, but I could
18 have that wrong. I remember thinking it was a big
19 offense report back then, but these days I'm reading
20 ones that are like this (indicating). So, by comparison
21 it wasn't all that big.

22 Q. Sure.

23 But in that first -- in that first review
24 of, I guess, those two boxes, did you see where any
25 person, any other person had been spoken to,

1 investigated, looked into by law enforcement?

2 A. As extensively as David Temple, you mean?

3 Q. No.

4 A. You mean at all?

5 Q. Well, let me say this. There was some witness
6 statements in those boxes, right?

7 A. Yes.

8 Q. Okay. And, typically, for a witness statement,
9 how many times would you expect law enforcement to talk
10 to a witness, just a fact witness on a case?

11 A. One or two.

12 Q. All right. Did you see any folks -- was there
13 any evidence in that box of individuals that had been
14 spoken to more than just those two times?

15 A. Yes.

16 Q. Okay. And who were those folks, do you recall?

17 A. The Katy boys.

18 Q. And by "the Katy boys," do you remember any
19 names?

20 A. Riley Joe Sanders, Cody Ellis, Grantom. Is his
21 first name Cody? There's two Cody's, but I don't
22 remember if --

23 Q. Cody Towner.

24 A. Cody Towner. And then there's a Grantom.

25 Q. Michael Grantom?

1 A. Yes. Corro.

2 Q. Does Carlos Corro sound --

3 A. That's it.

4 And the Hetherington name because of the
5 burglary. I think that's all the Katy boys that I can
6 think of right now.

7 Q. Casey Goosby?

8 A. Yes, yes.

9 Q. You mentioned the Hetherington burglary.

10 A. Uh-huh.

11 Q. The offense report outlining that Hetherington
12 burglary, that was in the box as well?

13 A. Yes.

14 Q. Okay. Other than those folks, was there
15 anybody -- was there any other evidence in those two
16 boxes that you got from Donna Goode where law
17 enforcement spoke to somebody more than twice?

18 A. Mr. Cain was in there. I think they talked to
19 him and/or his wife, but I don't remember for sure if it
20 was -- I think it was twice. More than once.

21 Q. Now, Mr. Cain is -- he was deceased or died
22 shortly around 2004; is that right?

23 A. By the time I was on it, he was dead. But back
24 then, they interviewed him.

25 Q. Anybody else?

1 A. Not that I can think of.

2 Q. Now, the Grand Jury testimony -- the Grand Jury
3 testimony, did you -- when you reviewed those two boxes
4 that weekend, did you have a chance to read through the
5 Grand Jury testimony?

6 A. Yes.

7 Q. Okay. Can you tell us who all -- if you
8 recall, who all's testimony you read through?

9 A. All people that testified at Grand Jury.

10 Q. So, the -- if I were to say Riley Joe Sanders,
11 Cody Ellis, Cody Towner, Michael Grantom, are those --
12 does that ring a bell? Did you read that Grand Jury
13 testimony?

14 A. Yes.

15 Q. Okay. And then the Temples, the Temple family,
16 did you read their testimony?

17 A. Yes.

18 Q. Quentin Harlan?

19 A. Yes.

20 Q. And after you read all of that evidence, you
21 gave the box to --

22 A. Craig.

23 Q. -- Craig Goodhart. He reads the box and said:
24 Let's file. Yes?

25 A. Yes.

1 Q. Okay. So, what happened next? What did you do
2 next?

3 A. There was still a lot to do. We needed to go
4 find everybody again. When you work on a cold case, you
5 can't rely on what they said once upon a time. You have
6 to see if they're still alive, where they are, and you
7 have to see what they remember today. It doesn't do any
8 good if they don't remember anything today. So, we had
9 to find everybody and talk to them all over again to see
10 what we had.

11 Q. And in locating everyone, did you rely on the
12 offense report, I guess, to find those witnesses?

13 A. At the beginning point. I think we used TLO
14 and Accurent.

15 Q. Well, to first identify who the witnesses are.

16 A. Oh, yes.

17 Q. Did you have any difficulty locating anyone?

18 A. There was one of the Katy boys that was kind of
19 hard to find, but it wasn't Riley Joe Sanders. I don't
20 remember which one it was. One of them was harder to
21 find than the rest, but none of them were impossible to
22 find.

23 Q. Did you -- so whenever you do that, do you, the
24 prosecutor, go back and interview those folks or is that
25 something your investigator does?

1 A. It depends on the case. It depends on the
2 witness. For those particular guys, I think Johnny
3 helped me find them. A lot of times, though, Johnny
4 would go get the guys at the other end of the hall in
5 Special Crimes to do their computer search to find them,
6 and then depending on who was available, they would hop
7 in the car and drive out to Katy and try to find them.
8 It kind of depended.

9 Q. Do you have any specific recollection of
10 interviewing any witnesses yourself?

11 A. Yeah.

12 Q. Who?

13 A. I don't remember who was which, but I remember
14 going up to some houses in Katy and knocking on the door
15 and the boys were home or the parents were home or they
16 were going to come home and we waited around until they
17 got home to talk to them.

18 Q. This would have been specifically these Katy
19 boys that you mentioned?

20 A. Yes.

21 Q. Anybody else that you have specific
22 recollection of talking to yourself?

23 A. Well, I talked to all of them myself. I didn't
24 let anybody else interview them for me.

25 Q. Okay. Is that just your standard practice?

1 A. Oh, yeah. I'm not going to rely on what
2 somebody else tells me they say. I want to hear with my
3 own ears.

4 Q. Now, I'm going to switch gears for just a
5 second. In 2004, how long had you been prosecuting for
6 the Harris County District Attorney's office?

7 A. I came to work here in 1986 as an intern.

8 Q. So, maybe 15 years, 14 years?

9 A. Yeah.

10 Q. Okay. And in 2004, I guess the fall of 2004,
11 you said you were in Special Crimes?

12 A. Uh-huh.

13 Q. And what is Special Crimes within the D.A.'s
14 office?

15 A. It's a specialized division where it's divided
16 into different categories. You have identity theft, you
17 have white collar, you have drugs, and you have major
18 offenders, which is where I started out.

19 Q. And were you handling, I guess, cold cases
20 while you were in the Major Offenders?

21 A. I went there in '99. The job description was
22 to handle drug cases, murder cases. You were on-call
23 for the cops to call you 24 hours a day. And you were
24 also to do cold cases. It wasn't the main job, but it
25 pretty much turned into mostly all I did.

1 Q. Is that because it was something you liked
2 or --

3 A. Oh, my God, I love it.

4 Q. What do you love about it?

5 A. It's challenging. It's like a puzzle. It's
6 like, you know, the cases everybody gives up on. And
7 they shouldn't because there are a lot of them out there
8 that are already solved and you've got to take your time
9 and put it together and figure it out.

10 Q. Sort of like what you do on the television
11 program?

12 A. Just like it.

13 MR. CHIN: Objection to relevance, Judge.

14 THE COURT: Overruled.

15 Q. (By Ms. Gotro) I'm sorry. Can you repeat that?

16 A. Just like it.

17 Q. I guess you kind of got your dream job now,
18 don't you?

19 MR. CHIN: Objection again. Relevance,
20 Judge.

21 THE COURT: Overruled.

22 A. I never thought I would leave here. I thought
23 I had the best job in the world here. Major Offenders
24 was awesome. Working with those guys was incredible.
25 And then I ran for D.A., which didn't quite turn out,

1 and I had to quit, and never knew that this would happen
2 and it has.

3 Q. So, I'm asking -- you said you had to quit,
4 Ms. Siegler. Why did you have to quit?

5 A. I really don't think Pat Lykos would let me
6 stay.

7 Q. So, instead of waiting around for that to
8 happen, you left the office?

9 A. Yes.

10 Q. So, were you the chief of Special Crimes or
11 the --

12 A. When I went there in '99, I was probably the
13 low man on the totem pole. I replaced either Donna
14 Goode or Mike Anderson. And then I was there for six
15 years. Eventually got promoted to the boss of Major
16 Offenders. And then when I left, I was bureau chief of
17 Special Crimes.

18 Q. Did you have -- in addition to your own
19 caseload of prosecuting cases, what sort of
20 administrative functions did you do for the office? Did
21 you do any training for the baby lawyers?

22 A. I was in charge of the mentor program. It was
23 my job to supervise -- when I was the boss of Major
24 Offenders, I was in charge of supervising the lawyers
25 and the investigators and secretaries in that division.

1 At some point during the handling of the David Temple
2 case, I got promoted to division chief and moved to the
3 Misdemeanor Division. And I was actually in the
4 Misdemeanor Division when the case went to trial, I
5 think.

6 Q. Did you ever do any -- I heard a lot of talk
7 about baby prosecutors schooling. Did you ever do any
8 training for the younger prosecutors in the D.A.'s
9 office on trial skills or anything else?

10 A. Yes.

11 Q. Okay. What types? What kind of training did
12 you pick up?

13 A. Well, I was -- when you are the head of
14 misdemeanor division, you're also in charge of CLE. So,
15 it was my job at that point to put together a CLE at
16 least once a month, to get the speaker, to get it
17 approved, to do all of that. So, I did that. I gave
18 some of the talks. I taught at baby prosecutor school.
19 And I was also in charge of the mentor program, which
20 was putting every single prosecutor in the office,
21 partnered with a senior prosecutor in the office, and
22 actually having the senior sit with the junior in trial
23 and try and help them to learn to be better trial
24 lawyers.

25 Q. So, the CLEs that you would put together, is

1 that part of what you were trying to do to teach these
2 baby prosecutors how to be better trial lawyers?

3 A. Yes.

4 Q. Okay. Brady evidence. Was that part of the
5 training that you would put together for those baby
6 lawyers?

7 A. I don't know if I ever did a specific one, but
8 it was always part of it. You know, whether you went to
9 baby prosecutor school in Austin or prosecutor school
10 that happens every fall, it was always part of it.

11 Q. And when I say Brady evidence, we're talking
12 about Brady vs. Maryland, yes?

13 A. Yes.

14 Q. Okay. And with respect to a prosecutor,
15 you-all have particular duties with respect to Brady
16 evidence. Can we agree to that?

17 A. Yes, ma'am.

18 Q. And so, what is your understanding of what
19 encompasses Brady evidence? What is Brady evidence,
20 Ms. Siegler?

21 A. Evidence that is exculpatory to the defendant
22 and inconsistent with guilt, or also possibly
23 impeachment evidence or mitigating in punishment.

24 Q. Inconsistent with his guilt, impeachment
25 evidence, and what was the other one?

1 A. Mitigates punishment.

2 Q. With respect to the younger prosecutor in the
3 office, how -- as far as you're concerned or to your
4 knowledge, how are they trained to handle potential
5 Brady evidence?

6 A. It's a learning process. And sitting here
7 today compared to when I was at the office, I think that
8 that learning process is -- it's kind of hard to refine
9 and narrow and keep on track. I think the best way to
10 make it work is to have someone supervise you who
11 understands Brady completely and who teaches you what
12 they know.

13 Q. So -- if I understand you correctly, so if a
14 prosecutor has a question about whether or not a piece
15 of evidence is Brady, they have someone with more
16 experience that they can talk to about it?

17 A. That would be great.

18 Q. Well, if you are the boss of a section, though,
19 who would the boss of a section to talk to about those
20 types of questions?

21 A. Well, when I was in Major Offenders, my boss
22 was Ted Wilson.

23 Q. Okay. So, then you would have gone to Ted
24 Wilson with any questions you would have?

25 A. I did all the time.

1 Q. Okay. Where did Ted Wilson go, do you know?

2 A. That man doesn't need any advice. He knows
3 everything.

4 Q. Fair enough.

5 So, in the cold case -- in your cold case
6 investigations, am I correct in saying that those cases
7 are largely based on circumstantial evidence?

8 A. Pretty much always.

9 Q. Okay. And why do you think that is?

10 A. Because if you had DNA or a confession or a
11 bunch of witnesses, those cases are filed early on and
12 routinely. It's only the ones that don't have all of
13 that easy evidence that become cold.

14 Q. So, these are the difficult -- the difficult
15 cases, right?

16 A. You would be good at them.

17 Q. I would be good at them?

18 A. Yes.

19 Q. Well, thank you for that. I appreciate that.

20 Have you had an opportunity to look over
21 either your opening or closing statements in the Temple
22 case, Ms. Siegler?

23 A. No, I haven't. I think I can remember my
24 closing. I remember preparing for the opening, but I
25 haven't actually read it, if that's what you mean.

1 Q. Well, do you remember one of your themes for
2 the case was that the truth is in the details?

3 A. Oh, yeah.

4 Q. Okay. How did you arrive at that theme for
5 this particular case?

6 A. I use it on other cases because it's always
7 true in circumstantial cases. It's always the little
8 things and the little details and the little pieces that
9 normally get glossed over. It's not real challenging to
10 try a slam-dunk capital murder that happened last week,
11 but when you're trying a cold case, it's all those
12 little bitty things. And you have to pay attention to
13 them and you have to make the jury understand why
14 they're important and why you're bothering to kill two
15 hours on Wednesday afternoon to make one little point.
16 And it's not until final argument that you are able to
17 do that.

18 Q. As a defense attorney, I would imagine that
19 those cases are -- well, I will just ask you: In your
20 circumstantial cases, the ones that you've prosecuted,
21 have you ever lost one?

22 A. No. You mean in this job?

23 Q. At the Harris County District Attorney's
24 office, yes, ma'am.

25 A. No.

1 Q. No. That is an impressive record.

2 Do you -- what do you attribute that to,
3 not having lost one of those cases?

4 A. The cases are the cases. The facts were always
5 there, the evidence was always there. It just takes
6 preparation and attention to detail. There's nothing
7 special about it. Just somebody that pays attention to
8 the little things. That's all it is.

9 Q. In defending a case like that, when there is no
10 direct evidence, wouldn't you expect that the defense
11 just to refute each one those little pieces of evidence
12 that you are stringing together?

13 A. Yes.

14 Q. And if you've never lost one of those cases, I
15 guess it's safe to say that the defense -- the defense
16 was never able to successfully attack those details,
17 were they?

18 A. I think they attacked it plenty. I just think
19 that the truth won out in the end.

20 Q. All right. So, in the fall of -- or excuse me.
21 Towards the end of the year in 2004, at some point do
22 you make a decision to file charges against Mr. Temple?

23 A. Yes.

24 Q. Okay. And tell us what you did exactly, if you
25 can recall.

1 A. I remember that it was revolving around
2 Thanksgiving and that the actual arrest happened Monday
3 or Tuesday after Thanksgiving in 2004. I remember I
4 typed up the P.C. It took me about a day-and-a-half.
5 And then Craig read it over. And Mr. Temple was
6 arrested. None of us had any grand ideas that he was
7 going to talk or say anything when he was arrested. And
8 then it just proceeded from there.

9 Q. Okay. When you say you typed up the P.C. for
10 the arrest warrant, what do you mean by that?

11 A. The putting together of the story, the initial
12 story of the probable cause.

13 Q. Okay. And after you -- and this is from a
14 procedural perspective. Once you put together that
15 probable cause, you lawyers, you finished typing it up,
16 where does it go from there?

17 A. You bring it to a judge to sign it.

18 Q. Okay. And then after the judge signs it, where
19 does it go?

20 A. It goes to the clerk's office where a warrant
21 is issued and then they can go arrest them.

22 Q. And so, after you typed up your P.C., got the
23 judge to sign the warrant, do you know who effectuated
24 the arrest on Mr. Temple?

25 A. Dean and Mark Schmidt, I think.

1 Q. Did you ever see, I guess, an affidavit for
2 arrest that was executed by Danny Billingsley?

3 A. That was the P.C. I typed that up.

4 Q. Okay. And so, you typed it up, but, I guess,
5 Mr. Billingsley signed it?

6 A. He was the affiant.

7 Q. All right. And the contents of that affidavit,
8 was that something that you explained to Mr. Billingsley
9 or had he participated in the investigation?

10 A. He was like the overseer, like the narrator of
11 the story. You can pick anybody to be your of affiant.
12 We just picked him because he at that time was the most
13 senior of all of the guys involved in the case.

14 Q. And where was Mr. Billingsley working at that
15 time?

16 A. He was in Homicide.

17 Q. And so, when David Temple was arrested, do you
18 know where he was when he was arrested?

19 A. I know we were trying to arrest David Temple
20 and talk to Heather at the same time. He might have
21 been on one of those two. I don't remember.

22 Q. Why were you trying to talk to Heather?

23 A. Because we wanted to catch her by surprise and
24 ask her what she thought about it all when she heard
25 that David Temple was arrested.

1 Q. When you say "catch her by surprise," why is
2 that element of surprise important to what you were
3 trying to accomplish?

4 A. Because we wanted to hear what she had to say.

5 Q. But why is the element of surprise important to
6 that?

7 A. Well, we wanted to hear if -- because we had
8 heard rumors that their marriage was in trouble. And if
9 it was in trouble, there is always the hope that when he
10 is arrested she can say what she's always believed.

11 Q. When you had gone through the two boxes that
12 Ms. Goode had given you, did you see any -- and just for
13 record, we're talking about Heather Scott Temple?

14 A. Yes, ma'am.

15 Q. Okay. When you had gone through the two boxes
16 that Donna Goode had given, did you see any statement
17 from Ms. Temple back then?

18 A. Yes.

19 Q. Did you see any polygraph exams that Ms. Temple
20 had done?

21 A. Oh, I don't remember if she did a polygraph. I
22 don't remember.

23 Q. Okay. Did you see any polygraphs of anybody
24 else in that box --

25 A. Yes.

1 Q. -- that you first reviewed, yes?

2 A. Yes.

3 Q. All right. And do you recall who that was?

4 A. The Katy boys.

5 Q. Okay. And I believe we've agreed that
6 polygraph examinations, those aren't admissible in
7 court?

8 A. Correct.

9 Q. But when a person sits down and does a
10 polygraph exam, they're basically engaging in question
11 and answer with someone from law enforcement. Is that
12 an accurate statement?

13 A. Well, you ask five questions and they can only
14 answer "yes" or "no." So, I wouldn't call that tit for
15 tat. You ask five questions and they get to say "yes"
16 or "no," and those responses to the yes-or-no's are the
17 clues to the test.

18 Q. Okay. And without even getting into the
19 results, though, who -- these particular lie detectors,
20 these polygraphs, do you remember who administered them?

21 A. I know they used Ernie Holsey all the time back
22 then, but I don't know if they used him for these.

23 Q. When a person submits to a polygraph, is the
24 person conducting the test considered an agent of law
25 enforcement? Is Mr. Holsey acting as an agent of law

1 enforcement at that point?

2 A. Yes.

3 Q. And when he is done with his examination, is it
4 fair to say the district attorney's office gets both the
5 questions and the answers as well as Mr. Holsey's
6 interpretation?

7 A. Well, they can get them if they ask for them.
8 Routinely, they just go to the law enforcement agency
9 and then we get them later.

10 Q. Okay. But, again, Mr. Holtke is acting as an
11 agent of law enforcement?

12 A. Yes.

13 Q. All right. When we talked about Brady evidence
14 earlier -- and I'm going to ask you for your opinion on
15 this -- if you have in that question and answer between
16 the individual and the person administering the
17 polygraph, if you have question and answer that is
18 inconsistent with some trial testimony, in your opinion
19 is that Brady evidence? Is that impeachment evidence
20 that should be turned over?

21 A. Well, first, are we agreeing on what a
22 polygraph is, where you go in and sit down and the
23 polygrapher goes through: These are the questions I'm
24 going to ask you, and you know what's going to be asked
25 of you, and then he asks the five questions and you just

1 simply answer "yes" or "no"?

2 Q. Yes, ma'am.

3 A. So, now ask me again.

4 Q. Okay. So, you've got the subject going in,
5 they're asked questions to which they give answers, yes?

6 A. Right.

7 Q. Okay. If the subject later testifies at trial
8 and gives an answer at trial that is inconsistent with
9 those questions and answers that were given by the
10 polygrapher -- are you with me so far?

11 A. Right.

12 Q. -- in your opinion, does that question and
13 answer from the polygraph test then become Brady
14 evidence?

15 MR. CHIN: Objection. That calls for a
16 legal conclusion, Judge.

17 THE COURT: Sustained.

18 You can answer. Go ahead.

19 Q. (By Ms. Gotro) In your opinion.

20 A. I think it would depend. It sounds like yes,
21 but it would depend.

22 Q. Okay. So, in as much as the polygraph test
23 itself it is not admissible at trial, in your opinion
24 the question and answer may still become Brady if it is
25 inconsistent with something a witness says?

1 A. Well, the problem with these polygraph exams,
2 though, was that every time Riley Joe Sanders came down
3 to be polygraphed, he was stoned.

4 Q. Right.

5 A. So, when Dick kept trying to get the results
6 admitted before the jury, you know, they're not
7 admissible, but the reason he couldn't pass the test was
8 because he smoked dope before every test. He was 16
9 years old. So, what a 16-year-old dope-smoking kid
10 might say to a polygrapher because he's high, you know,
11 I'm not going to definitively say that there is
12 something bad and horribly wrong and deceitful about
13 what he might say when he testifies to the jury.

14 Q. Okay. And I will confess I don't know the
15 affects of dope smoking on a polygraph exam.

16 A. They can't say if they're valid or not just
17 because they've admitted to smoking dope or taking a
18 Xanax or whatever it is. They're not going to give you
19 a ruling on the test.

20 Q. Fair enough. And I wasn't even referring to --
21 I wasn't even referring to anyone in particular.

22 A. Okay.

23 Q. I was simply asking: In your opinion, if that
24 question and answer format, if a subject gives an answer
25 in that question and answer format that is inconsistent

1 with their later trial testimony, if in your opinion
2 that should be discoverable to the defense as a prior
3 inconsistent statement?

4 A. Yes.

5 Q. Okay. Now, you said something about Dick
6 wanting polygraph exams?

7 A. He kept asking Judge Shaver to let the jury
8 hear that Riley Joe Sanders failed three polygraphs.

9 Q. And that was denied?

10 A. Over and over again.

11 Q. Do you have any clue, any idea, did Dick say to
12 you why he wanted the jury to hear this? What was his
13 legal argument for letting the jury hear about these
14 polygraph exams?

15 A. Well, you have to remember that Dick never
16 thought Riley Joe Sanders was going to testify at trial.
17 He had no idea that Riley Joe Sanders was on standby,
18 ready, willing, able, and eager to come into this
19 courtroom and be cross-examined by Dick DeGuerin in
20 front of 12 jurors -- I'm sorry -- 14 jurors, and once
21 again say: I'm not the person who killed Belinda
22 Temple. When he walked in the courtroom, Dick was
23 stunned. He never saw it coming.

24 Q. So, are you saying that Dick never tried to
25 call Riley Joe Sanders as a witness?

1 A. Did Dick try to call Riley Joe Sanders as a
2 witness --

3 Q. If you remember.

4 A. He did not. He did not. I'm sure at some
5 point Dick had Ralph try to find him.

6 Q. Where was Riley Joe Sanders living at that
7 time?

8 A. I think he was in Arkansas.

9 Q. And correct me if I'm wrong, but Riley Joe
10 Sanders was, I guess, the State's rebuttal witness, your
11 final witness?

12 A. Final witness.

13 Q. Did Riley Joe Sanders, to the best of your
14 recollection -- you were -- you directed him, did you
15 not?

16 A. Yes.

17 Q. Okay. The testimony that Riley Joe Sanders
18 gave in trial, to your recollection, was it consistent
19 or inconsistent with his Grand Jury testimony?

20 A. Consistent.

21 Q. Okay. And given the way you prepare your
22 cases, is it safe to assume that you had gone over
23 Mr. Sanders' Grand Jury testimony prior to putting him
24 on the stand?

25 A. I let him read it. Remember, he came in from

1 out of state. So, he came in the day he testified and I
2 think he flew back out the same day or the following
3 day.

4 Q. So, you let him read the Grand Jury testimony
5 and that -- was that just to refresh his memory?

6 A. Yes.

7 Q. My question was: But though in prepping to put
8 him on the stand, did you yourself read his Grand Jury
9 testimony?

10 A. Oh, yes.

11 Q. Was that something that you had tendered to
12 Judge Shaver as part of the, I guess, sealed -- didn't
13 Mr. DeGuerin ask that you do that?

14 A. Well, Judge Shaver read all of the Grand Jury
15 testimony before we ever even set the case -- I mean, it
16 was set for trial once and it got reset. So, Judge
17 Shaver read all the Grand Jury testimony in round one
18 before we went to -- before the case got reset the first
19 time.

20 Q. And so, I guess if there had been anything
21 inconsistent between Riley Joe Sanders' trial testimony
22 and his Grand Jury testimony, there were at least two
23 folks in the courtroom, officers of the court, that
24 would have known that; is that right?

25 A. Riley Joe Sanders probably did get some of the

1 back and forth with hanging out with the boys in the car
2 and going to the store and all of that -- I mean, I
3 don't know if all of that was exactly the way he said it
4 to the Grand Jury. You know, when we went to get
5 cigarettes, when I rode shotgun, and all of that stuff,
6 he might have gotten some of that wrong. I don't
7 remember all those details.

8 Q. Okay. Did Riley Joe Sanders read anything else
9 prior to his testimony to refresh his memory?

10 A. His statements.

11 Q. And when you say "his statements" -- and
12 there's a lot of confusion about this -- what exactly
13 are you referring to?

14 A. I can picture like a typed statement about a
15 page long, and maybe there were two of those.

16 Q. One or two of those typed statements?

17 A. Yeah, I think there were only one or two.

18 Q. And then what about any other statements?

19 A. Not that I remember.

20 Q. But can you and I agree that not every
21 statement that witnesses make are actually committed to
22 a typed written statement that is then signed by that
23 witness?

24 A. Yes.

25 Q. And often witnesses will make statements to

1 cops and those statements are then documented in offense
2 reports?

3 A. Yes.

4 Q. Okay. Did Riley Joe Sanders get to read any of
5 the statements that he had given to law enforcement?

6 A. You mean other than written ones?

7 Q. Yes, ma'am.

8 A. I don't think he gave any except those that
9 were written.

10 Q. All right.

11 A. I mean, remember that he was 16 and it was a
12 little adversarial when they were talking to him and his
13 parents knew about it. And eventually they said: He's
14 talked to y'all enough, we are not going to do this
15 anymore. So, I don't think it was like they could pick
16 up the phone and call Riley Joe and ask him questions.

17 Q. If there had been -- and I know it's been a
18 long time ago, but if there had been oral statements
19 made by Riley Joe Sanders to law enforcement, would you
20 have let him look over that as well, those offense
21 reports?

22 A. Probably not.

23 Q. No? Why not?

24 A. Because you would have to read a whole offense
25 report to find it. It's not like it's tagged or set out

1 and has its own section.

2 Q. But you could have found it and tagged it.

3 A. That's why I'm thinking there weren't any.

4 Q. Okay. Because you don't have any recollection
5 of tagging it and showing it to him?

6 A. Right.

7 Q. In preparing for trial, you told us that you
8 read the two boxes that Donna Goode gave you. Did you
9 discover any other boxes with the respect to the Temple
10 investigation?

11 A. You mean that somebody else had?

12 Q. Anywhere in the district attorney's office.

13 A. Well, it turned into, by the time I was through
14 with it, seven boxes; six, seven or eight boxes. All
15 those ones with that same "David Mark Temple" in the
16 same writing, those are all my boxes.

17 Q. Now, are these boxes that you filled or is it
18 evidence that you just found within the district
19 attorney's office and then collected in these boxes?

20 A. It's -- nothing new came up. It just
21 accumulated as time went by and we prepared for trial.
22 The GSR stuff went in there, the voir dire is in there,
23 my questions are in there, my final argument's in there,
24 the pictures are in there. You know, it just got
25 bigger.

1 MS. GOTRO: May I approach, Judge?

2 THE COURT: Yes.

3 Q. (By Ms. Gotro) Ms. Siegler, I'm going to show
4 you what's been marked and admitted as Exhibits 33, 29,
5 31, 32. If I said differently, 29, 30 -- excuse me --
6 29, 31, 32, 33. And if you will look at the first
7 couple of pages -- yeah, the first pages -- and tell me
8 if you recognize exactly what those are (indicating).

9 A. Yes.

10 Q. Okay. And what are those, Ms. Siegler?

11 A. These are the supplements of the offense
12 report, I'm assuming, divided by detectives.

13 Q. Okay. When you described for us earlier,
14 looking through the boxes that Ms. Goode had given you,
15 you said about 2 inches of paper, if you stack those
16 four exhibits up, does that appear to be what it was you
17 reviewed?

18 A. I mean, I remember all four of these guys
19 having what I assume was all their supplements.

20 Q. Okay. And when you say "these four guys," can
21 you tell who those four guys are?

22 A. Tracy Shipley, Chuck Leithner, Dean Holtke, and
23 Mark Schmidt.

24 Q. Okay. In fairness, Tracy Shipley is a gal,
25 yes?

1 A. Yes. She's like one of the guys.

2 Q. I understand.

3 Did you find any other offense reports
4 other than the ones generated by those four individuals?

5 A. Yes.

6 Q. Okay. Where were they?

7 A. Well, there is also a supplement that belongs
8 to Steve Wichkoski. I think there's another I.D.
9 supplement from the CSU.

10 Q. I'm sorry, what kind of supplement?

11 A. From the I.D. Division. Somebody would have
12 helped Dean Holtke and that person would have written a
13 supplement. I don't remember who it was anymore.
14 That's all I can think of off the top of my head.

15 Q. Were those offense reports, though, included in
16 the boxes?

17 A. Yes.

18 Q. Okay. Ms. Siegler, at some point did you come
19 to find out that there were some 1400 pages worth of
20 offense reports in this case?

21 A. 1400 pages?

22 Q. Yes, ma'am.

23 A. I don't know how many pages that is. I mean --
24 how many is this?

25 Q. About 200, 2 or 300.

1 A. I don't remember it being that big. It could
2 have been. Like I said, I've read a lot since then, but
3 I don't remember it being that big.

4 Q. And just so we're clear, did you uncover, find,
5 use, review any other offense reports other than the
6 ones that were given to you in the two boxes that Donna
7 Goode provided you?

8 A. Well, eventually I accumulated -- whatever's in
9 those boxes is what I put together. I think there might
10 have been a Katy report in there. There might have been
11 some calls for service run in there. There is some
12 supplements have to do with all the areas they searched
13 for shotguns as time went by in there. I don't know
14 whose name those went under. So, there were other
15 things, yes.

16 Q. Okay. Now, while we're still in that original
17 box, do you remember reading offense reports where the
18 sheriff's department did an initial canvass of all of
19 the neighbors in Ms. Temple's neighborhood?

20 A. Yes.

21 Q. Do you remember who was conducting that
22 canvass?

23 A. I think that's when -- you see, there was a
24 squad that made this case and they just divided up
25 duties. So, who on the squad did that, I don't

1 remember.

2 Q. Do you remember the name of the squad?

3 A. No. I don't remember how they divided it up
4 back then.

5 Q. Okay. If I told you it was the Violent Youth
6 Offender Unit, does that ring a bell?

7 A. No. That's not who it was assigned to. They
8 might have been helping out at some point because there
9 weren't enough squad members, but it wasn't assigned to
10 them.

11 Q. Okay. Well, again, I'm just referring to the
12 initial canvass. Does that ring a bell?

13 A. Not really.

14 MS. GOTRO: Your Honor, may I approach the
15 witness?

16 THE COURT: Yes.

17 Q. (By Ms. Gotro) Ms. Siegler, I'm going to hand
18 you what's already been marked and admitted several
19 pages from the record. They're Bate's stamped 83, 84,
20 85, 6, 7, and 8. And just the front page of that
21 offense report. And on the front page of that offense
22 report, can you tell us, I guess, the name of the unit?

23 A. It says entered by Deputy E.M. Jones, but I
24 don't know if that means that's the deputy that did this
25 or the one that typed it up. I'm not sure.

1 Q. But at the very top of the document, where it
2 says the division --

3 A. Right.

4 Q. -- what's the name of the division that was
5 compiling this offense report?

6 A. Homicide/Youth Violent Offender Unit.

7 Q. Okay. Do you remember seeing any offense
8 reports like that in the boxes that Donna Goode had
9 given you?

10 A. I remember seeing the canvass of the
11 neighborhood. I remember -- because I remember all
12 these houses on Kenlake Drive and the other streets out
13 there.

14 Q. Do you remember all those individuals with whom
15 all these officers had spoken in graphic detail about
16 what they did or did not see on that particular
17 afternoon?

18 A. Yes.

19 Q. Okay. Do you recall if this particular unit
20 was using a standardized set of questions as they were
21 interviewing these folks?

22 A. I don't remember.

23 Q. But just so we're clear, that initial canvass,
24 if you were to conceptualize where the Temple home was,
25 can you and I agree that that initial canvass

1 interviewed virtually every person that was home that
2 lived on the street surrounding the Temple home?

3 A. Well, they lived on a "T," so it was this
4 street and this street (indicating).

5 Q. Okay.

6 A. Yes.

7 Q. So, how would you describe that initial
8 canvass, Ms. Siegler?

9 A. They went knocking on all of the doors trying
10 to see if anybody heard anything.

11 Q. Do you remember if they were asking questions
12 other than: Did you hear anything?

13 A. I remember the focus on: Did you hear a dog
14 barking?

15 Q. Anything else?

16 A. That's all I can think of.

17 Q. "Where is the closest park?" Does that sound
18 familiar?

19 A. Yeah.

20 Q. Okay. Why would a question like that have been
21 relevant in this initial canvass?

22 A. Because David Temple claimed to have taken Evan
23 to a park.

24 Q. "Did you see any strange cars in the
25 neighborhood?"

1 A. That was a question.

2 Q. Okay. And why would that be relevant?

3 A. Because if it was a random burglary, you'd see
4 a strange car.

5 Q. Do you remember if they had uncovered any
6 witnesses that saw strange cars in the neighborhood that
7 day?

8 A. Yes.

9 Q. "Did anybody hear a noise like a gunshot?"
10 That's obvious, right, because Belinda Temple had been
11 shot with a gun?

12 A. The little boys did.

13 Q. When you say "the little boys," you're
14 referring to the Roberts?

15 A. Yes.

16 Q. Weren't there also some witnesses that
17 described hearing something that sounded like a backfire
18 of a car?

19 A. Yes.

20 Q. "Where is the closest body of water?"

21 A. I remember that question.

22 Q. Why was that question important?

23 A. Because we were trying to figure out where he
24 took the shotgun.

25 Q. When you say "he," you mean Mr. Temple?

1 A. Yes, ma'am.

2 Q. "Did you see any people walking in the
3 neighborhood between 2:00 and 4:00 p.m.?" Why is that
4 timeframe relevant?

5 A. Because that's the crucial timeframe.

6 Q. Explain to me what you mean by that, "that's
7 the crucial timeframe."

8 A. Well, we know it was sometime -- you know, you
9 use the broadest timeframe at first that you have to try
10 and narrow the window. And we know it was sometime
11 around the time school was getting out until 911 was
12 called.

13 Q. And when you say around the time school was
14 getting out, are you referring to Belinda Temple's
15 school or --

16 A. All of them. I think it was like 3:00.

17 Q. "Do you know the complainant?" Obviously, you
18 want to know if these folks have any specific knowledge
19 of Belinda Temple herself, right?

20 A. Right.

21 Q. "Do you know the complainant's family?" Why
22 was that important?

23 A. I don't know if they meant the Temples or the
24 Lucases with that question.

25 Q. Would you describe it as a bad question then?

1 A. It's kind of vague.

2 Q. "Have you ever seen their dog?"

3 A. Well, that dog was pretty known in the
4 neighborhood. So, I think they were trying to find
5 everybody they could that might have known Shaka.

6 Q. And what kind of information about Shaka were
7 you -- do you think law enforcement was trying to
8 uncover at that point?

9 A. Where Shaka was when the murder happened, why
10 there was no barking.

11 Q. Were you able to determine, based on the
12 witnesses -- I guess the witness statements that you
13 review initially -- now, mind you, we're still in the --
14 I'm still talking about what you got out of Donna
15 Goode's box. Okay?

16 A. Well, remember, I'm not real clear on what all
17 was just in Donna's box. I mean, all of this was
18 Donna's. Okay?

19 Q. Uh-huh. So, is it fair to say that what was in
20 Donna Goode's box versus -- might be mingled up with
21 what you later discovered in your investigation?

22 A. Oh, yeah.

23 Q. Fair enough.

24 So, were you able to determine where Shaka
25 generally spend his time.

1 A. Yes.

2 Q. Where did Shaka spend his time?

3 A. In the back yard and also inside the house.

4 Q. Any particular part of the house?

5 A. I don't think we focused on that.

6 Q. Okay. Any time in the garage?

7 A. I don't remember hearing anything about Shaka
8 being in the garage until the trial itself.

9 Q. And from whom did you hear that?

10 A. From Dick DeGuerin.

11 Q. Dick didn't testify though, did he?

12 A. He gave an opening statement.

13 Q. Was he able -- was he able to produce any
14 witnesses, though, other than David Temple that said
15 that Shaka had spent time in the garage?

16 A. Besides David Temple?

17 Q. Yes, ma'am.

18 A. I don't remember. I don't think so.

19 Q. Then you don't recall any witnesses that said
20 Shaka spent time in the garage either, do you?

21 A. Not that I can remember right now.

22 Q. Do you remember when you found out that Dick
23 DeGuerin had become Mr. Temple's counsel?

24 A. Yes.

25 Q. Can you tell us about that?

1 A. We assumed that his lawyer would be Paul Looney
2 because Paul represented him throughout the grand jury
3 process. And so, the day that he was arrested -- was it
4 Monday or Tuesday?

5 Q. I'm afraid I don't recall, Ms. Siegler.

6 A. Monday or Tuesday when he was arrested, he was
7 taken into custody, he made bond pretty quickly. And I
8 think it was only maybe two or three days later that he
9 hired Dick.

10 Q. And so, how were you alerted that Dick had been
11 hired on the case?

12 A. I don't know if I found out in court or if he
13 called or Barbara called. I don't remember.

14 Q. Did that make you happy or did that make you
15 not happy, Ms. Siegler?

16 A. Neither. Dick is one of the best lawyers I've
17 ever seen. And the smartest thing David Temple could
18 have done was to hire Dick DeGuerin.

19 Q. How many cases had you tried with Dick prior to
20 the Temple case?

21 A. Prior to the Temple case, if you included his
22 firm, three. Just Dick, two.

23 Q. And he has never beat you in trial, right?

24 A. He's not supposed to if they are guilty,
25 though, Casie.

1 Q. Good point, Ms. Siegler.

2 And I want to ask you: Who makes the
3 ultimate -- whose decision is it to file charges against
4 a person, a citizen in Harris County, Texas?

5 A. A prosecutor's.

6 Q. And at the time you chose to -- at the time
7 you, after talking to Craig Goodhart, decided to file
8 charges against David Temple, did you have to talk to
9 anybody other than Craig Goodhart in order to file those
10 charges?

11 A. Well, Ted was in the middle. He was my boss
12 then. And we were always going to respect what Donna
13 had to say because it was her case for five years. So,
14 it was a group discussion. Ultimately, it was my
15 decision.

16 Q. So, you didn't have to get anybody's quote,
17 unquote, permission to file that arrest warrant?

18 A. Just like for any other case, no.

19 Q. At the time John Denholm was still working for
20 the sheriff's department, right?

21 A. Yes.

22 Q. Can you think of a set of circumstances where
23 John Denholm could say to you, Kelly Siegler: You are
24 prosecuting the wrong person, I think you need to
25 prosecute someone else?

1 A. I think if y'all know John Denholm enough to
2 know that he'll anything, he is not shy about voicing
3 his opinion. And if he every thought that, he sure
4 would have told me.

5 Q. But if you disagreed with him -- imagine that
6 John Denholm actually thought that. If you disagreed
7 with him, can you tell us what authority, if any, John
8 Denholm has to make you, Kelly Siegler, prosecute or not
9 prosecute someone?

10 A. I think that I would greatly respect a
11 detective with the sheriff's department's opinion that
12 someone was not guilty before I filed what basically is
13 a capital murder on him. John Denholm never said that.

14 Q. But under my hypothetical, imagine you didn't
15 agree with him.

16 A. Okay.

17 Q. That you respectively disagreed with him. What
18 authority, if any, would someone like John Denholm have
19 to tell you, a prosecutor, who to prosecute and who not
20 to prosecute?

21 A. He would have no authority, but as John Denholm
22 would tell you, because he worked in civil rights and
23 IAD, he called Bert Graham all of the time bitching and
24 complaining about charges. He was always going to jump
25 on the phone and give his opinion.

1 Q. And he never bitched or complained about the
2 David Temple case up until -- well, did he ever bitch
3 and complain about the David Temple case?

4 A. He did not.

5 Q. And at some point didn't you use John Denholm
6 to do a mock trial with you in preparation for this?

7 A. I'm so excited to talk about that, you have no
8 idea.

9 Q. I'm going to take that as a "yes."

10 A. That's a yes.

11 Q. That's a yes.

12 Before we get into the meat of that,
13 Ms. Siegler, can you tell me, was that right here in
14 this courtroom, this ceremonial courtroom?

15 A. No. I think it was in another courtroom
16 because I think I remember the jury being over there
17 (indicating).

18 Q. Okay. Who all participated in that mock trial,
19 if you recall?

20 A. Well, we did a mock opening and we did a mock
21 cross. We didn't do a mock trial. My focus was cross
22 so that the detectives could have a good idea of what
23 it's like to be cross-examined by Dick DeGuerin, because
24 none of them had ever been. And I had been through it
25 three times and I wanted them to have a sense of it.

1 And we did a mock opening because I appreciated that
2 this is going to be the longest opening statements I
3 would ever need to give and I wanted to get it right.

4 And so, I got ten prosecutors, who wouldn't
5 be hesitant to tell me if I sucked, to be on the jury.
6 And I did my opening statement and they told me it
7 sucked.

8 Q. Okay.

9 A. And I changed every bit of it. So, that was
10 the beginning of the mock trial. It was an opening.

11 Q. Well, I'm going to stop you. When you say you
12 got ten prosecutors that weren't afraid to tell if you
13 sucked --

14 A. Yes.

15 Q. -- who were those prosecutor?

16 A. Denise, Lucy, Kaylynn.

17 Q. Sorry. A little bit slower and first and last
18 names.

19 A. Denise Bradley, now a judge. Kaylynn Williford
20 I think, Lance Long, John Brewer, Craig Goodhart was
21 here, but he might have been sitting by me. Caroline
22 Dozier, I think. It was all pretty senior prosecutors
23 because I wasn't going to ask somebody in misdemeanor.
24 They wouldn't tell me.

25 Q. They wouldn't tell you that you sucked?

1 A. They wouldn't tell me, no. They're not going
2 to say: God, that's awful. So, it had to be people
3 that would tell me or what was the point. And they did.

4 Q. Any other prosecutors that you can think of
5 that participated in any capacity in that mock trial?

6 A. No, no. And they were just on the jury.

7 Q. Okay. And I'm sorry I keep calling it a mock
8 trial. You did two specific things, the opening and the
9 cross?

10 A. That's it.

11 Q. Okay. Any other -- who from law enforcement
12 was present when that -- when you did those things?

13 A. Dean Holtke was here, I think. I think Mark
14 Schmidt was here. During the opening -- I don't know if
15 they came for the opening because that was about me
16 getting it right. For the mock cross, they were all
17 here. Because that was supposed to be a practice run to
18 show them how Dick DeGuerin does cross-examination.
19 That's what it was supposed to be.

20 Q. And you selected John -- you asked John Denholm
21 to help you with that?

22 A. Well, it was very difficult because I wanted to
23 find a prosecutor who could be like Dick is. And have
24 you ever seen Dick cross-examine?

25 Q. I've read a lot of the records, but I have not

1 seen him live in person.

2 A. He is fantastic. And until you've seen it and
3 you've undergone it and had to endure it, you don't
4 appreciate how good he is. There is no one better.
5 Okay? So, the detectives were already nervous. It was
6 a big trial. They were really nervous because it was
7 Dick and I wanted to give them a little bit of practice
8 and preparation for it. And I didn't want to do it.
9 And I couldn't think of a prosecutor who could be like
10 Dick is. Do you understand what I'm saying when I say
11 "be like Dick is"?

12 Q. Well, correct me if I'm wrong, but John Denholm
13 is actually --

14 A. A law student.

15 Q. He was a supervisor, too, wasn't he?

16 A. At some point in there, he became their
17 supervisor. I don't remember if he was yet. He had his
18 leg hurt and he was going to law school. He wasn't a
19 lawyer yet. So, it was right in the middle of all of
20 that.

21 Q. Okay. And so, there is a little bit of an
22 intimidation factor, maybe, if your supervisor is
23 cross-examining you?

24 A. But I wanted that because Dick is very
25 intimidating and I needed somebody who wasn't going

1 to -- who wasn't going to be shy about coming down on
2 them with the questioning. And that's why I picked John
3 Denholm.

4 Q. Did he deliver?

5 A. No. It turned into the John Denholm show and
6 all how he was a lawyer and they were just stupid cop
7 shows. And every question he asked, looking back -- and
8 I even told him that that day. Every question he asked
9 was objectionable and Dick would never have asked those
10 questions because they were stupid. But he just wanted
11 to show off because he was a lawyer and they were just
12 cops. And it was not good. I don't want to call it a
13 fiasco, but it didn't make the point.

14 Q. Okay. I want to back up to your opening. You
15 said that you had some concerns about your opening
16 statement and you wanted to make sure you got it right.

17 A. Yeah. Okay. Because it's a circumstantial
18 case and it's a lot of little pieces. And so, I wanted
19 to figure out how to address the little pieces in a way
20 to not bore the jury and not talk too long, but make
21 them understand it's a compelling case. And I never
22 believe in an opening and putting it all in the opening,
23 but enough. And so, I wrote an opening and I even
24 practiced it and timed it and did all of that. And I
25 gave it to the prosecutors. And it lasted an hour,

1 which is way too long, but I didn't know how to do it
2 any shorter. When I got through, they all -- especially
3 Jonathan Brewer and Denise told me how bad it was. And
4 they were right. And I changed every bit of it based on
5 what all they told me.

6 Q. So, based -- so, this circumstantial evidence
7 case, what pieces of the puzzle in your opinion were the
8 most important to you proving your case?

9 A. There were probably like seven things. And I
10 think the problem that I had was what order to put them
11 in and how to segway through from one to the next in
12 opening statement. So, it was more of the transition
13 than it was the arguments themselves. Does that make
14 sense?

15 Q. Absolutely. And I won't even ask you to put
16 them in order for me, but if you could identify for us
17 today what those seven or so pieces were that in your
18 mine, your opinion, were critical to proving your case.

19 A. The dog, the lack of anything being stolen. We
20 never -- we never mentioned the GSR because at that
21 time, we didn't know it wasn't going to be admitted.
22 Judge Shaver did not let that into evidence, so I didn't
23 bring that up in opening. The motive, the way their
24 marriage was crumbling. The timeline. Because the
25 timeline, as you know, your issue with your case, you

1 deal with. And the issue in this case was always going
2 to be the timeline. No one is going to get around that
3 fact. It is what it is. So, the timeline was the part
4 to try and understand -- that was the most difficult to
5 make it make sense, you know, in an opening statement.

6 I think I left out Buck Bindeman on purpose
7 in the opening statement and saved him. I don't even
8 know if you talked about Buck Bindeman this entire
9 hearing, but he is the most important witness in the
10 case. And I left him out in opening to save him for the
11 trial and to save him for final argument.

12 Q. And he is the most -- why was he the most
13 important witness in your opinion?

14 A. Because he is the one that caught David Temple
15 off the route he claimed to be on at the time he claimed
16 to be somewhere else, because that's when he went and
17 got rid of the shotgun.

18 Q. Now, when you say that was when he went and got
19 rid of the shotgun, that's your theory?

20 A. Yes, ma'am.

21 Q. Okay. Any other pieces of the puzzle that you
22 believe were critical to you proving your case?

23 A. In opening statements?

24 Q. Yeah, those seven things that --

25 A. No. Because at that point, I had no idea that

1 the whole Temple family was going to testify and that
2 David Temple was going to testify. So, I think I kept
3 it to those points.

4 Q. Was the issue about, I guess, the pregnant
5 woman still having on her shoes when she got home, when
6 she's allegedly supposed to be resting, was that an
7 issue, one of the details that you thought?

8 A. It was a detail, yes. Whether it was one of
9 the highlights in opening, I can't remember.

10 Q. I want to back up to this the timeline piece.
11 As a defense attorney, certainly, if there is an ugly
12 fact, you've got to embrace it, you've got to put it out
13 there first. I've never prosecuted, and so I don't know
14 the answer to this question. Does it work the same way
15 for you when you are prosecuting a case?

16 A. When you have an issue -- a contentious
17 issue --

18 Q. Or an ugly issue.

19 A. -- or the weakness of your case? Yeah. I
20 mean, you're a prosecutor. You can't hide from the
21 facts. The facts are the facts. You either deal with
22 it or you look like a liar as a prosecutor.

23 Q. And so, if I understand you correctly, the
24 issue in this case for you that was going to be
25 problematic was the timeline?

1 A. Yes.

2 Q. And what was problematic about the timeline?

3 A. David Temple did an almost perfect job of
4 alibiing himself, almost.

5 Q. And when you say "almost perfect job," are you
6 talking about managing to get on that Brookshire
7 Brothers' video by 3:32 --

8 A. Yes, ma'am.

9 Q. -- p.m.?

10 A. Uh-huh.

11 Q. What else did he do to establish that
12 perfect -- almost perfect alibi?

13 A. Home Depot.

14 Q. Anything else?

15 A. He did a pretty good job on the 911 tape.

16 Q. But you believe that he was faking it on that
17 911 tape?

18 A. The position that I had with Craig was you
19 don't want to, as a prosecutor, make an argument hard
20 that he is faking in case there are one or two jurors
21 that don't think that he is. You kind of let it speak
22 for itself.

23 Q. But you definitely had your own opinion about
24 that?

25 A. I thought he did a pretty good job. I have

1 heard worse. I have heard worse.

2 Q. Is there anything else?

3 A. Well, I think the whole timeline -- the whole
4 beautifully constructed timeline falls apart because of
5 Buck Bindeman.

6 Q. Because Buck Bindeman puts him someplace he
7 wasn't supposed to be?

8 A. Coming from the wrong direction.

9 Q. Do you know how long after Belinda Temple's
10 death Buck Bindeman spoke with law enforcement?

11 A. I think it was within the month. No. It was
12 sooner than that because he saw it happen on the news
13 when -- because he's from Katy. He went to high school
14 with David Temple. I think they were in the same
15 Spanish class. He saw it on the news that Belinda had
16 been killed and he said to his brother-in-law or wife or
17 somebody in the house: I saw David Temple. I just saw
18 him. And that's what lead to eventually the sheriff's
19 department going to interview him because he told
20 someone else: I just saw David Temple, I don't know if
21 it was that very day or the following day. And that got
22 out. And finally the sheriff's department retraced that
23 rumor and found Buck Bindeman.

24 Q. And so, based on the known facts, right, that
25 David Temple is at Brookshire Brothers at 3:32 p.m.,

1 your theory in the case was that Belinda Temple had been
2 murdered around 4:00 p.m.; is that right?

3 A. Now, say that again.

4 Q. I said: Your theory of the case was that
5 Belinda Temple -- David had to have murdered Belinda
6 Temple around 4:00 p.m. if he was going to do that and
7 then get cleaned up and get to where he needed to be by
8 the time he was at that Brookshire Brothers?

9 A. Yes.

10 Q. Were you able to locate any direct evidence
11 that put both Belinda and David in the home at 4:00
12 p.m.?

13 A. Well, there was the tupperware in the fridge
14 that she got from his dad.

15 Q. Okay.

16 A. There was the note about the aspirin, the
17 Tylenol, about Evan's fever that day. That's all I can
18 remember right now.

19 Q. But there were no witnesses that put David and
20 Belinda in the house at 4:00 p.m., no eyewitnesses?

21 A. Correct, no, not at all.

22 MS. GOTRO: Judge, can we approach the
23 bench?

24 THE COURT: Yes, ma'am.

25 (At the Bench, outside the hearing of the

1 audience)

2 MS. GOTRO: Judge, I see that it's a
3 quarter to 1:00 and I have to use the bathroom very
4 badly. Would it be a good time to take a break for
5 lunch or something?

6 THE COURT: Yeah, about half an hour.
7 Okay?

8 MS. GOTRO: Perfect for me.

9 (Open court, defendant present)

10 THE COURT: We'll be in recess till 1:30.
11 Court is adjourned till 1:30.

12 THE BAILIFF: All rise.

13 (Lunch recess)

14 (Open court, defendant present)

15 THE COURT: Ms. Gotro.

16 MS. GOTRO: Thank, you, sir.

17 Q. (By Ms. Gotro) You got it?

18 A. Yeah. I made it lower.

19 Q. I think before we took our lunch break,
20 Ms. Siegler, I had asked you what evidence you had that
21 put David Temple at home -- David and Belinda both at
22 home at 4:00 p.m. Correct me if I'm wrong. You said
23 David's testimony at trial? Yes, ma'am?

24 A. Yes.

25 Q. And then I believe -- hadn't he also given a

1 written statement?

2 A. Yes. And I forgot that.

3 Q. And then you said there was a note with some
4 Tupperware -- a note about Evans' medicine?

5 A. Yeah, but that could have been written that
6 morning. So, that wasn't definitive. The Tupperware
7 more so.

8 Q. Okay. Why was the Tupperware definitive?

9 A. Well, it showed that Belinda got home because
10 she stopped off at Mr. Temple's house and got the
11 go-food in the Tupperware that night.

12 Q. Okay. And I didn't hear the first part. I'm
13 sorry. It would have been what?

14 A. Say that again.

15 Q. I didn't hear the first part --

16 A. It shows that she stopped off at Mr. Charles
17 Temple's house to get the go-food that she brought home
18 that day.

19 Q. Was there any other evidence that you had seen
20 in your review of witness statements or even in your own
21 investigation that would have corroborated that David
22 and Belinda Temple were both home at 4:00 p.m.?

23 A. In addition to what we've already talked about?

24 Q. Yes, ma'am.

25 A. I don't think so.

1 Q. And so, at least with this Tupperware, Kenneth
2 Temple had told you-all that Belinda had stopped by his
3 place to pick up that food?

4 A. Yes.

5 Q. Okay. Now, Kenneth Temple had also given a
6 statement that said that Belinda left his home around
7 4:55. Do you remember that? I'm sorry. Excuse me.
8 3:55. Do you remember that?

9 A. Yes.

10 Q. Okay. And I think he also testified before the
11 Grand Jury that -- he gave a similar statement to the
12 Grand Jury. Do you recall that?

13 A. Yes.

14 Q. Can we agree that if Belinda Temple had, in
15 fact, left his place at 3:55, that she would have had to
16 have been home after 4:00 p.m.?

17 A. Ask me that again.

18 Q. If Charles Temple's statement about Belinda
19 having left his home at 3:55 was correct, then that
20 would have put Belinda Temple home closer to 4:10?

21 A. You know, I don't remember the exact minutes
22 anymore. Definitely, I think, ten minutes, twelve
23 minutes, something like that, the drive from Mr.
24 Temple's house to Belinda Temple's house.

25 Q. And am I correct in saying that law enforcement

1 actually made that drive from Charles Temple's home to
2 Belinda Temple's home several times to figure out how
3 long that trip itself would take?

4 A. We all made that drive many times.

5 Q. What, if anything, about Charles Temple's
6 statement lead you to believe it wasn't credible?

7 A. At the time I believed that he was a credible
8 witness, if that's your question. What he said to the
9 Grand Jury in his statement about the time, I mean,
10 there was no reason for him to be sure about the time.
11 He gave a time, like any witness would give a time. It
12 wasn't the same time that David Temple gave, which I
13 think was the more right time.

14 Q. Okay. What was it about David Temple's
15 statement that she had gotten home at 3:45 that made you
16 believe his statement was more accurate?

17 A. He was there.

18 Q. At home?

19 A. David Temple was there.

20 Q. Okay. Can we agree that Charles Temple was
21 home whenever Belinda Temple departed his house?

22 A. I don't see any great -- when you work on a
23 cold case, there has got to be a significance with the
24 event to help you remember it. And him kissing -- and
25 Mr. Temple kissing Belinda bye as he gives her go-food

1 to go on home to her sick child doesn't necessarily mean
2 he's going to look at the clock and know for sure she
3 left his house. On the other hand, David Temple would
4 know exactly what time everything happened that
5 afternoon.

6 Q. Okay. Well, let me back up for a second. If
7 David Temple was on the video at 3:32 at Brookshire
8 Brothers -- excuse me -- 4:32 at Brookshire Brothers, he
9 would have had to have left his home no later than 4:20
10 in order to get there?

11 A. Right.

12 Q. Right.

13 Okay. So, if we follow David Temple's
14 statement, that would have given him approximately 40
15 minutes to commit this murder, clean up, and get out of
16 there?

17 A. Thirty-five.

18 Q. But if we were to follow David's -- excuse
19 me -- Mr. Temple's statement, how much time would that
20 have left David to commit the crime?

21 A. Twenty -- fifteen minutes.

22 Q. Fifteen minutes?

23 A. At best.

24 Q. At best.

25 And do you recall during Detective

1 Schmidt's testimony before the Grand Jury, he said that
2 if that timeline is correct, makes it less likely that
3 David could have committed this crime.

4 A. No. What Mark Schmidt said in the Grand Jury
5 testimony was: If you buy Mr. Temple's timeline, this
6 is a scenario we're talking about. Mark Schmidt did not
7 buy that timeline. And neither did we when we presented
8 it to the jury.

9 Q. Well, then I will just ask you: Did Mark
10 Schmidt make any statement of opinion about the
11 likelihood of David Temple's guilt if Charles Temple's
12 timeline was correct?

13 A. I don't remember. If you are referring
14 specifically to Mark's Grand Jury testimony if he said a
15 statement like that, I don't remember. I know that he
16 presented a scenario to the Grand Jury. We have two
17 different scenarios going on here. If you buy
18 Mr. Kenneth Temple, it's this. If you buy David
19 Temple's own words, it's this. And that's how he
20 testified to the Grand Jury, as I recall it.

21 Q. And didn't he have David -- excuse me. Didn't
22 he have Belinda arriving home as late as 4:10?

23 A. Who is "he"?

24 Q. Mr. Schmidt.

25 A. Ask me again.

1 Q. Didn't Mr. Schmidt's testimony -- didn't he
2 have her arriving at home -- Belinda Temple arriving at
3 home as late as 4:10 p.m.?

4 A. If you buy Mr. Temple Sr.'s testimony.

5 Q. Well, right.

6 A. They even told the Grand Jury: If you buy
7 Daddy Temple, it's this. If you buy David Temple's own
8 words, it's this. Mark never tried to push one or the
9 other. He said both.

10 Q. Well, Ms. Siegler, I'm not saying that he did.
11 I'm just trying to establish what possible timeframes
12 there were that were presented in front of the Grand
13 Jury as possibilities. Okay?

14 A. Okay.

15 Q. And if I understand correctly, one of those
16 possibilities had Belinda Temple arriving home as late
17 as 4:10 p.m.?

18 A. True.

19 Q. Okay. And under that scenario, the likelihood
20 that David Temple could have committed this crime
21 decreases significantly, does it not?

22 A. Yes.

23 Q. Okay. If we can back up for just a second.
24 When you and I are talking about Brady evidence, you had
25 described four items that would fall under this Brady

1 evidence. Do you remember that?

2 A. I think so.

3 Q. Okay. What is your understanding -- or I
4 should say: What was your understanding when you were
5 at the district attorney's office about a prosecution's
6 obligation to turn Brady evidence over to the defense?
7 And when I say "your obligation," the timeliness of it.
8 When -- at what point is a prosecutor obligated to turn
9 Brady evidence over to the defense?

10 A. As soon as you can.

11 Q. And when you say "as soon as you can," can you
12 elaborate on that? I mean, do you have -- as soon as
13 you can, as soon as you discover it, what?

14 A. As soon as you discover it. As soon as
15 possible.

16 Q. Now, when Paul Looney -- did you have any
17 communication with Paul Looney on this case before Dick
18 DeGuerin took over?

19 A. Maybe -- I think a little bit because I think
20 initially, for just a little bit, Paul thought he was
21 still going to be David Temple's lawyer.

22 Q. Was it -- did Paul Looney communicate to you
23 his belief that Riley Joe Sanders had an airtight alibi
24 for the time that Belinda Temple was murdered?

25 A. I never talked to Paul Looney in detail about

1 the facts of the case. It would have been what court
2 are we in, I'm representing him. Nothing more detailed
3 than that. That was with Ted and Donna.

4 Q. Were you aware that Ted Wilson had informed
5 Paul Looney that Riley Joe Sanders had an airtight alibi
6 and had been excluded as a suspect in this case?

7 A. I was not involved with the investigation when
8 Ted and Donna handled it back in '99 and 2000.

9 Q. Right. But you did tell us that you discussed
10 the case with Ted and Donna when you picked the case up
11 in 2004?

12 A. Right.

13 Q. In those discussions, did you at any point
14 become aware that Ted Wilson had told Paul Looney back
15 in 1999 that Riley Joe Sanders had been excluded as a
16 possible suspect for Belinda's murder because he had an
17 airtight alibi?

18 A. Number one, I don't believe Ted said that. And
19 number two, if he did, I was never aware of it.

20 Q. You told us earlier that you reviewed the Grand
21 Jury testimony before you filed charges against David
22 Temple.

23 A. Yes.

24 Q. Okay. In that Grand Jury testimony, do you
25 remember reviewing Kevin Temple's Grand Jury testimony?

1 A. Yes.

2 Q. Do you recall Mr. Temple saying to the Grand
3 Jury that they had been told that Riley Joe Sanders had
4 an alibi?

5 A. No, I don't remember that. I knew that one of
6 the brothers knew about Riley Joe, the neighbor, but I
7 don't remember which brother or what he said.

8 Q. Well, it's probably fair to say the whole
9 Temple family knew about Riley Joe Sanders as the
10 neighbor. Would you say that?

11 A. Probably, yes.

12 Q. In your review of Donna Goode's --

13 MS. GOTRO: May I approach the witness,
14 Judge?

15 THE COURT: Yes, ma'am.

16 Q. (By Ms. Gotro) In your review of Donna Goode's
17 file, did you come across a letter that had been written
18 by the Temple family and submitted to law enforcement --

19 A. I think so.

20 Q. -- kind of outlining some rumors that they had
21 heard about Riley Joe Sanders?

22 A. Drafted by the brother, who was also the P.I.,
23 right?

24 Q. The brother that was -- I believe he worked for
25 an insurance company.

1 A. No. One of them was a private eye at one
2 point.

3 Q. Okay.

4 A. I think he's the one that drafted that letter.

5 Q. Okay. Can we agree that that letter outlines
6 some concerns about Riley Joe Sanders?

7 A. I think so, yes.

8 Q. And if I can get through these exhibits, I'm
9 happy to show it to you.

10 And so, you're saying that in reviewing the
11 Grand Jury testimony you don't remember seeing Kevin
12 Temple discuss the fact that they all believed that
13 David Temple -- excuse me -- that Riley Joe Sanders had
14 an airtight alibi.

15 A. I don't remember that point, no.

16 Q. Do you have any idea -- and if you don't, you
17 can say that, but do you have any idea where he could
18 have gotten that kind of information?

19 A. This was the biggest thing to hit Katy, Texas
20 in a long, long time. Everybody in town was talking
21 about nothing else. So, I'm pretty sure the Temple
22 family heard lots and lots of rumors.

23 Q. Rumors including that Riley Joe Sanders had an
24 airtight alibi?

25 A. That wouldn't surprise me.

1 Q. And so, did you ever discuss that idea with Ted
2 Wilson, that he had told Paul Looney, or anyone else,
3 that Riley Joe Sanders had an airtight alibi?

4 A. No --

5 MR. CHIN: Well, I'll object. That assumes
6 facts that are not specifically before the Court. It's
7 a mischaracterization of what was said.

8 THE COURT: How so, please?

9 MR. CHIN: Well, I think the question
10 presupposes that Ted Wilson actually said that, when
11 Mr. Wilson has not had an opportunity to address that
12 fact.

13 THE COURT: Sustained. If you'd stick with
14 Mr. Looney's version.

15 Q. (By Ms. Gotro) While Mr. Temple -- excuse me.
16 While Mr. Schneider locates that, just so that I'm
17 clear, did you ever have a conversation, you yourself
18 have a conversation with Ted Wilson about Ted telling
19 anybody that Riley Joe Sanders had an airtight alibi?

20 A. I don't ever remember the phrase "airtight
21 alibi" being used to described Riley Joe Sanders or
22 anybody else.

23 Q. What about just "alibi" for Riley Joe Sanders?

24 A. No. I think that the discussion was always
25 just he was just at home asleep when everything

1 happened. He had just gotten home around the time that
2 everything happened.

3 Q. Okay.

4 MS. GOTRO: May I approach, Judge?

5 THE COURT: Yes, ma'am.

6 Q. (By Ms. Gotro) Ms. Siegler, I'm going to show
7 you what's already been admitted. It's Bate's stamped
8 2308, and it is the Grand Jury testimony of Kevin Ray
9 Temple. And this question and answer, if you could read
10 that out loud for us, please (indicating).

11 A. Page 17, question: Okay. It says he had an
12 alibi. Do you know what that alibi was?

13 Answer: Huh-uh. That's what the
14 detectives had told us, that he had an alibi. That's
15 not coming from us. We had -- the detectives had told
16 us that Joe Sanders had an alibi, that everything went
17 well with the polygraph or stuff like that to us. Oh,
18 no. He did say that, that Joe Sanders had an alibi and
19 that he had taken the polygraph. That's all we know.

20 Q. Okay. And does Mr. Temple report that he had
21 been informed that Riley Joe did well on that polygraph?

22 A. "Everything went well with the polygraph." So,
23 this is Kevin Temple telling the Grand Jury that he got
24 that information from the detectives, not from Ted.

25 Q. Okay. Did you ever have any conversation with

1 any of the detectives involved in this investigation
2 about what they were telling the Temple family?

3 A. I remember that early on -- if Kevin is the one
4 that used to be a private eye, he was like the lead in
5 all of this for the family. He is the one that
6 communicated when it was time to come get Evan's
7 medicine out of the house. And when they tried to pull
8 the move with the bicycle, Kevin Temple was the one that
9 was instrumental in trying to sneak that bike off the
10 ceiling. So, Kevin Temple was the main family spokesman
11 back then. And in talking to him, that would be
12 consistent with what I remember.

13 Q. Okay. And then I will ask the question just --
14 again just to be clear. Did you ever talk to any of the
15 detectives involved in this investigation about them
16 informing the Temple family that Riley Joe Sanders had
17 an alibi?

18 A. No.

19 Q. Okay. Or that Riley Joe Sanders had done well
20 on a polygraph test?

21 A. Well, "done well," I mean, we couldn't say he
22 passed it because he was smoking dope when he took the
23 test.

24 Q. Fair enough, but I'm just asking you if you had
25 a conversation with any of the detectives involved in

1 this investigation about them informing the Temple
2 family that Riley Joe Sanders had done well on his
3 polygraph?

4 A. I don't think so.

5 Q. Fair enough. Thank you.

6 Do you remember that Riley Joe Sanders had
7 taken three different polygraphs?

8 A. Yes.

9 Q. All right. And he failed all three or
10 showed --

11 A. Inconclusive. Inconclusive.

12 Q. Do you attribute that to his marijuana smoking?

13 A. I think that when you admit to smoking drugs or
14 taken pills, they can't make a ruling, they can't make a
15 finding one way or the other. It invalidates the test.

16 Q. Isn't it true that law enforcement went back to
17 try to get a fourth test from Mr. Sanders?

18 A. Yes, and that was when the parents said that's
19 enough.

20 Q. To your knowledge, Ms. Siegler, did they hire a
21 lawyer?

22 A. They said at that fourth attempt: That's
23 enough, we're going to hire a lawyer. But if there was
24 one hired, I never saw a name.

25 Q. From that point forward, did Riley Joe Sanders

1 cooperate with law enforcement -- in that initial
2 investigation in 1999, did he cooperate with law
3 enforcement anymore?

4 A. Well, at that point when they said for round
5 four of the polygraph: We're not going to do this
6 again, he's 16 years old, we're going to hire a lawyer,
7 from what I recall, it stopped, their dealings with
8 Riley Joe Sanders. At that point, he had already
9 testified to the Grand Jury, already given three
10 statements. And it wasn't until I got involved in 2004
11 and '5 when I picked up the phone and called him that he
12 was ever recontacted again. So, in the interim, there
13 was no attempt to contact. And when I called them for
14 the first time out of the blue cold, he immediately
15 agreed to cooperate and come down this date and testify.

16 Q. Okay. But in 1999, it's fair to say that his
17 parents cut off cooperation with law enforcement when
18 they attempted to get a fourth polygraph from him?

19 A. Yes.

20 Q. Okay. I'm going to show you Page 2328 Bate's
21 stamp of the record, which is the last page of Mr. Kevin
22 Temple's testimony. Can you tell us the date that that
23 testimony was transcribed, Ms. Siegler?

24 A. March 4th, 2004.

25 Q. Okay. Now, based on your experience at the

1 district attorney's office, as a prosecutor if you
2 wanted to get Grand Jury testimony and that Grand Jury
3 testimony had not been transcribed yet, how would you go
4 about doing that?

5 A. There were three court reporters assigned to
6 the D.A.'s office whose job it was to be on-call for
7 Grand Jury. Dan was one of them. I would first have to
8 figure out which one took the testimony on any given
9 day, call him up and say: I need that testimony, and
10 wait for him to get it done.

11 Q. Okay. So, am I correct in saying that the
12 testimony isn't transcribed on the spot, is it?

13 A. No. It's not even transcribed timely. And
14 there is lots of testimony that never gets transcribed
15 until and unless we asked for it.

16 Q. And that's just a good use of resources, isn't
17 it?

18 A. Well, yeah. It's just the county. You know
19 how it goes. They're not going to volunteer to
20 transcribe it if nobody ever asks for it.

21 Q. Can you give me the date again that Kevin
22 Temple's Grand Jury testimony was transcribed?

23 A. March 4th, 2004.

24 Q. You said March 4th, 2004?

25 A. Yes, ma'am.

1 Q. Okay. Do you have any idea who requested his
2 Grand Jury testimony to be transcribed?

3 A. No. I would assume it would be Donna, but I'm
4 not sure.

5 Q. Because March 4th was before, I guess, you had
6 gotten involved with the Temple case?

7 A. Yeah. Because I don't think the Scott Peterson
8 phone call happened until the summer.

9 Q. Fair enough. Thank you.

10 Now, I apologize for the bulky book, but I
11 don't want to get them out of order. Starting with -- I
12 guess it's Bate's stamped Page 1320. Is that the Grand
13 Jury testimony of Charles Temple, Jr.?

14 A. Yes.

15 Q. Do you understand that to be David Temple's
16 father?

17 A. Yes.

18 Q. Will you turn to the certification page and
19 tell me when that was transcribed, please?

20 A. It goes from 26 and jumps to 14. Is it
21 supposed to?

22 Q. I have no idea.

23 A. Does it go all the way -- is this all him right
24 here (indicating)?

25 Q. Yes, ma'am.

1 A. Okay. Do you know the pages did that?

2 Q. Mr. Schneider's been managing the records.

3 A. That would explain it.

4 Q. It might be before that one. Well, I will just
5 ask you: Do you have any specific recollection of
6 requesting Charles Temple's testimony to be transcribed?

7 A. I think that -- I think that we wanted to make
8 sure, whether it was from Dan or the other two court
9 reporters, that the list of witnesses matched up to the
10 transcripts that we had. And I don't know if in the
11 very beginning they did or we had to get a couple, but I
12 remember that most of them were there.

13 Q. It's on the same page. Would that be April 5th
14 of --

15 A. 1999. So, they got some fast.

16 Q. Okay. Was it transcribed on that date or is
17 that just the date that he gave the testimony?

18 A. Oh, I don't know. Good point.

19 MR. CHIN: Judge, may I approach to view?

20 THE COURT: Most certainly.

21 MR. CHIN: Thank you.

22 Q. (By Ms. Gotro) It appears to be the same page.
23 So, it's possible they requested the transcription on
24 that same date?

25 A. No.

1 Q. That would be the 28th day of what?

2 A. February, 2005.

3 Q. So, this would have been after David Temple was
4 arrested?

5 A. Yes.

6 Q. Okay. But before he was indicted?

7 A. He was indicted in February. I don't remember
8 what day.

9 Q. All right. So, February 28th of 2005; is that
10 right?

11 A. And who was that again?

12 Q. That would have been Daddy Temple, Charles.
13 Daddy Temple, does that sound right?

14 A. I don't know. I'd rather look at ours instead
15 of this. Do you have -- is it still --

16 MS. GOTRO: Chin, can you accommodate her?

17 THE WITNESS: Is it divided up by Grand
18 Jury?

19 MR. SMITH: This is my copy, but I can get
20 the one that --

21 MS. GOTRO: Mr. Smith, bring them all to
22 her, please.

23 A. This is Mr. Temple. It says again
24 February 28th, 2005.

25 Q. (By Ms. Gotro) February 28th, 2005.

1 And who's the next Grand Jury testimony
2 that you have?

3 A. Who is the next one?

4 Q. Yes, ma'am.

5 A. Who did you put in front of me? Who do you
6 want me to have next?

7 Q. Mr. Smith put that in front of you.

8 MR. CHIN: I think this is Charles.

9 A. Okay. So the next one up is this one, Heather
10 Scott.

11 Q. (By Ms. Gotro) Okay. Can you tell me the date
12 that Ms. Scott's testimony was transcribed? And just
13 for the record, Heather Scott became Heather Scott
14 Temple, yes?

15 A. Yes.

16 3-7-2005.

17 Q. And who is next?

18 A. Quentin Harlan, 4-7 -- no, no. 3-7-2005.

19 Q. I'm sorry. Repeat that for me.

20 A. Quentin Harlan is 3-7-2005.

21 Q. Okay. And who's next?

22 A. Tammy Harlan.

23 Q. And that was Quentin Harlan's wife, right?

24 A. Yes.

25 Q. And when was that transcribed?

1 A. March 3rd, 2005.

2 Q. And who is next?

3 A. Darren Temple, 12-28-2004.

4 Q. You said 2004?

5 A. Yes, ma'am.

6 Q. Okay. And who's next?

7 A. Are we going to the other notebook?

8 Q. Yes, ma'am.

9 A. Mark Schmidt. 3-31 -- no. 3-3-05.

10 Q. Any other testimony?

11 A. I'm sorry?

12 Q. Is there anybody else?

13 A. There are two Mark Schmidts.

14 Q. Okay.

15 A. And the other one is also 3-3-05. And then
16 there's Cody Towner in this notebook.

17 Q. And when was Mr. Towner's testimony
18 transcribed?

19 A. 2-28-05.

20 Q. Do you have Cody Ellis and Riley Joe Sanders up
21 there?

22 A. I have Stacey Nissley and Peggy Ruggiero and
23 Michael Ruggiero.

24 Q. Okay. Tell me when those folks had theirs
25 transcribed.

1 A. Stacey Nissley is 1-18-05. Peggy Ruggiero is
2 1-14-05. Michael Ruggiero is 12-29-04. And Michael
3 Grantom is 3-3-05.

4 Q. Okay. Give me just one second. Michael
5 Grantom was what?

6 A. 3-3-05.

7 Q. Anybody else?

8 A. Not that I have in front of me.

9 Q. Okay. So, Riley Joe Sanders. You remember
10 reading his Grand Jury testimony, do you not?

11 A. Yes.

12 Q. All right. And do you recall if that was in
13 the box that Donna Goode had given you?

14 A. It was.

15 Q. Okay. Mr. Smith is going to locate that for
16 you.

17 Now, you were -- in your review of the
18 offense reports --

19 MR. CHIN: I'm sorry. I'm going to give
20 this to her.

21 Q. (By Ms. Gotro) In your review of the offense
22 report, Ms. Siegler, you were able to determine that
23 Riley Joe Sanders and Cody Ellis had been together on
24 the afternoon that Belinda Temple was murdered?

25 A. Yes.

1 Q. Okay. And it's true to say you were also able
2 to determine that Michael Grantom, Cody Towner, and
3 Riley Joe Sanders had spent some time together on the
4 afternoon that Belinda Temple was murdered?

5 A. Yes.

6 Q. Okay. Can you tell me when Mr. Sanders' Grand
7 Jury testimony was transcribed?

8 A. 12-6-04.

9 Q. December 6th of 2004?

10 A. Yes, ma'am.

11 Q. Okay. And Cody Towner, you said that he was on
12 February 28th of 2005. Does that sound right?

13 A. Yes.

14 Q. You told us earlier that in reviewing Riley Joe
15 Sanders' Grand Jury testimony and his trial testimony
16 there was some details that he may not have been -- he
17 might not have been completely accurate on.

18 A. Right.

19 Q. Do you remember what those details were?

20 A. It had to do with leaving school, smoking dope,
21 going to the store, and trying to buy dope.

22 Q. Okay. And Riley Joe Sanders lived right next
23 door to Belinda Temple?

24 A. Yes.

25 Q. At any point did you review any of Riley Joe

1 Sanders' statements that had him at home at the time --
2 at his home next to Belinda Temple at the time that you
3 believed Belinda Temple was murdered?

4 A. Well, I think that was the whole confusing
5 thing. This is just my opinion trying to figure it out.
6 It seems to me like that day he left school early. He
7 went home, he ate some chilli, he smoked some dope, and
8 then he went to go buy more dope with those boys, and
9 they argued over who was going to ride shotgun and who
10 was going to drive home. And it seemed to me like he
11 got home right around the time everything happened. I
12 never could figure out in my own mind if it was right
13 before or right after. But the way that he came -- his
14 house is situated in a way to where David Temple could
15 have driven out of the garage and not even passed in
16 front of his house necessarily. So, I never knew in my
17 own head if he was already home or was just getting home
18 when everything happened.

19 Q. Did you ever review any statements by Riley Joe
20 Sanders where he indicates that he saw David Temple
21 driving away from the Temple residence on that
22 afternoon?

23 A. In the blue truck.

24 Q. Yes, ma'am.

25 A. Yes, I remember seeing that.

1 Q. Do you recall what time of day that would have
2 been?

3 A. He didn't know -- it's during this time I'm
4 talking about, right in the crucial time, but he didn't
5 for sure, so we didn't try to push that or go there.

6 Q. If you look back to the original investigation,
7 Riley Joe Sanders obviously was interviewed by law
8 enforcement, yes?

9 A. Yes.

10 Q. Michael Grantom, he was interviewed by law
11 enforcement?

12 A. Yes.

13 Q. And so was Cody Towner, right?

14 A. Yes.

15 Q. Was law enforcement ever able to corroborate
16 these three boys' story? I mean, did they ever get a
17 straight story from these three guys at any point?

18 A. Well, you're talking about 16-year-old boys
19 that were smoking dope. It was pretty corroborated. I
20 mean, they weren't nailing down the details, but they
21 were kids. And there was nothing glaringly inconsistent
22 in any of their stories. They weren't trying to lie,
23 they weren't trying to hide. They didn't want to get in
24 trouble with their parents. They didn't want to get in
25 trouble for skipping school.

1 Q. I'm going to stop you there just for a second.
2 You said there was nothing glaringly wrong with their
3 statements.

4 A. Well, they were smoking dope. They were
5 smoking dope and they didn't want to admit that at
6 first.

7 Q. We can concede Riley Joe was high before he
8 took his polygraph exam. I won't quibble with you over
9 that, but my question was --

10 A. Well, he was high that afternoon. They smoked
11 dope the afternoon Belinda was murdered.

12 Q. So, is it your belief that if they're high,
13 they can't tell the truth?

14 A. No. It's my belief that when you're a
15 16-year-old kid and you're smoking dope, you're going to
16 mess up on some details of what you had been doing that
17 afternoon.

18 Q. Okay. Well, my question was, though, in all of
19 the interviews that law enforcement conducted with these
20 three boys, with Michael Grantom, Riley Joe Sanders, and
21 Cody Towner, was law enforcement ever able to get a
22 straight story from the three of them where all of the
23 facts appeared to be the same?

24 A. I believe it was pretty straight of a story.
25 They were 16-year-old kids and they cooperated and they

1 answered the questions and they testified to the Grand
2 Jury and they didn't lawyer up and they took a
3 polygraph, one even took a polygraph three times,
4 admitted to smoking dope. It was their teacher that got
5 murdered and they did all they could to try and help.
6 And that's what I believe.

7 Q. But we agree that at least with Riley Joe
8 Sanders, he cooperated until he decided to stop
9 cooperating, yes?

10 A. He's polygraphed three times. If I was -- if
11 he was my kid, I wouldn't let them polygraph him the
12 first time.

13 Q. Why not?

14 A. But his parents did.

15 Q. Why not?

16 A. Because they cared about Belinda Temple and
17 wanted her case to be solved.

18 Q. Let me re-ask the question. You said if you
19 were the parent, you wouldn't have let them polygraph
20 the kid the first time. Your 16-year-old?

21 A. Yes. Polygraph is a joke. We all know that.
22 Cops believe in them. Lawyers don't.

23 Q. So, as a district attorney you never used a
24 polygraph as an investigative tool?

25 A. No, ma'am.

1 Q. Okay.

2 A. Wait. As an investigative tool?

3 Q. Yes.

4 A. Yes. Do I believe in their veracity? No.

5 Q. Okay. So, help me out here. You said that
6 polygraphs are a joke, but you do use them as an
7 investigative tool?

8 A. Yeah. Because the clue is when you go ask a
9 potential suspect: Will you take a polygraph, and he
10 goes "no," there is a clue. Why not? If you've got
11 nothing to hide like Riley Joe Sanders, you take it one,
12 two, and three times. And he did.

13 Q. You know who Chuck Leithner is, right?

14 A. Yes.

15 Q. All right. You are aware that Charles Leithner
16 was the first law enforcement to interview David Temple
17 on the night of Belinda Temple's murder?

18 A. Yes, ma'am.

19 Q. Do you remember seeing Charles Leithner in his
20 report where he tells David Temple: I can't exclude you
21 as a suspect because number one, you won't take a lie
22 detector test; and, number two, you're not clearing up
23 your inconsistencies?

24 A. I remember that.

25 Q. Okay. So, we changed gears over to Riley Joe

1 Sanders. Okay?

2 A. Okay.

3 Q. Did he ever clean up his inconsistencies in the
4 statement that he gave law enforcement?

5 A. When he testified to the jury in David Temple's
6 trial.

7 Q. Okay. We have not gotten to the trial. Let's
8 just talk about all the statements that he gave law
9 enforcement, period. Did he ever clean up any of his
10 inconsistencies to law enforcement?

11 A. Are you calling the Grand Jury law enforcement?

12 Q. Sure.

13 A. I think he did.

14 Q. Okay. So, it's your belief that what he told
15 the Grand Jury was actually the truth?

16 A. I think all of them had most of the truth and
17 all of them also had a little bit of a dope-smoking
18 issue. And the I don't want to tell my parents I
19 skipped school and I smoke dope issue. He was 16.

20 Q. I understand that he's 16, but you and I can
21 both agree that 16-year-olds know the difference between
22 the truth and a lie?

23 A. Yes, ma'am.

24 Q. Okay. So, my question is this: Did you
25 believe that the final version of events that Riley Joe

1 Sanders told that Grand Jury, was that the truth? Was
2 that -- did he finally sober up, quit smoking dope, and
3 finally speak the truth to that Grand Jury?

4 A. Are we talking about which part? The fact that
5 he had nothing to do with Belinda Temple's murder or the
6 part that he was smoking dope and went to the store that
7 afternoon and didn't know what time he got home?

8 Q. Well, you bring up a good question. When we
9 were talking about your theory of the case, you
10 specifically mentioned that the timeline was going to be
11 important. Right?

12 A. Right.

13 Q. Okay. So, what time he got home, what time
14 Riley Joe Sanders arrived at his home, that would
15 certainly bare some investigation if he is home at the
16 time that Belinda Temple was murdered?

17 A. Heck, yeah. I could have had a witness.

18 Q. Okay. So, when I ask you about your opinion of
19 his testimony before the Grand Jury, I mean all of it.
20 I mean the time he got home, where he was going, and who
21 he was with. Did you believe he was telling the truth
22 in the Grand Jury?

23 A. For the most part, yes.

24 Q. Okay. What parts did you feel he wasn't
25 telling the truth on?

1 A. I don't remember if they hit him hard on how
2 much he smoked dope and why did he not tell his parents
3 he skipped school that day and why did he skip school
4 that day. I mean, he got interviewed on the news the
5 night it happen. He was upset about his teacher being
6 murdered. And he lied to the newsman and said that he
7 was at school that whole day when he wasn't. And that's
8 how he ended up getting busted.

9 Q. If we take out the dope smoking and the school
10 skipping and we talk about the other facts --

11 A. Okay.

12 Q. -- do you believe, is it your opinion, that the
13 testimony Riley Joe Sanders gave the Grand Jury was the
14 truth?

15 A. Yes.

16 Q. That you finally got to the truth, yes?

17 A. Yes.

18 Q. Okay. I have Cody Ellis' name on this white
19 board. Did Cody Ellis ever testify before the Grand
20 Jury?

21 A. I can't remember.

22 Q. Okay. If I told you he did not, would you have
23 any reason to disagree with that?

24 A. No.

25 Q. All right. And your -- after you got the case,

1 at any point did it -- did you talk to Cody Ellis?

2 A. I think I did.

3 Q. Okay. Would that be reflected in your notes?

4 A. Yes.

5 Q. If you looked at those notes, would it help you
6 refresh your memory?

7 A. Yes.

8 Q. Okay.

9 MS. GOTRO: Your Honor, may I ask that the
10 State produce Ms. Siegler's work product so that she can
11 look at her notes to refresh her memory?

12 MR. SMITH: It might be more --

13 THE WITNESS: Judge, can I look quicker?
14 It will be faster, I think. Is that okay?

15 THE COURT: Sure.

16 (Pause)

17 A. I don't know where it's going to be in here,
18 Ms. Gotro.

19 MS. GOTRO: May I ask if the State has seen
20 Ms. Siegler's work product at all?

21 MR. SMITH: I've gone through the box and
22 what I prepared for the summary. So I'm trying to do
23 that.

24 MS. GOTRO: Okay.

25 A. I don't know. You want to ask me the question

1 again?

2 Q. (By Ms. Gotro) I was just asking if you had
3 made a decision to interview Cody Ellis. Do you
4 remember if during your investigation after you got the
5 case if you interviewed Cody Ellis?

6 A. We tried to interview all of the Katy boys. I
7 remember there was one that was harder to find than the
8 others, and I don't remember which one that was. And I
9 think ultimately we found him, too.

10 Q. Okay. And if you had your notes, you could
11 probably give us more details on that?

12 A. Yeah, but I don't know where they are right
13 now. I'll look for them when y'all aren't working if
14 you want me to.

15 Q. Fair enough. Fair enough.

16 But if we back up to the -- if we back up
17 to the Grand Jury testimony, the dates that you
18 provided in -- Riley Joe Sanders, his testimony was
19 transcribed -- his Grand Jury testimony was transcribed
20 on 12-6-2004. David Temple had already been arrested at
21 this point?

22 A. Correct.

23 Q. Okay. So I guess the first time that you
24 looked at Donna Goode's box, is it fair to say Sanders'
25 testimony -- Grand Jury testimony hadn't been in there?

1 A. I guess not, if that date is accurate.

2 Q. And I've got Michael Grantom's testimony
3 transcribed in March of '05, and then Cody Towner in
4 February of '05. Can we assume that neither one of
5 those boys' testimony was in Donna Goode's box?

6 A. Correct.

7 Q. Did you discuss their testimony with Donna
8 Goode at any point?

9 A. And Ted and Mark Schmidt.

10 Q. The Grand Jury testimony?

11 A. Yes.

12 Q. Okay. So, you knew the substance of it?

13 A. Yes.

14 Q. So, if I look back over the dates of this Grand
15 Jury testimony, do you see any one of them that would
16 have been transcribed before you got the file,
17 Ms. Siegler?

18 A. Kevin Temple, and that's it on that page.

19 Q. Okay. Just Kevin Temple. And that was March
20 4th of 2004?

21 A. Yes.

22 Q. All right. You talked about polygraph
23 examinations. And when we were talking about polygraph
24 examinations, you said that Riley Joe Sanders was
25 smoking dope and that was the reason that he didn't do

1 well on the polygraph exam.

2 A. Well, I don't if he did well or not. You'd
3 have to rule it an inconclusive.

4 Q. In your experience, Ms. Siegler, a polygraph
5 examiner, won't he or she ask the subject whether or not
6 they're on any kind of drugs at the time the test is
7 administered?

8 A. Yes.

9 Q. To your knowledge, did Riley Joe Sanders answer
10 that question honestly?

11 A. He did.

12 Q. So, all three times that he was examined, he
13 told the examiner that he was high?

14 A. He told them he had smoked marijuana before he
15 showed up for the test.

16 Q. Okay. And the polygraph examiner administered
17 the test anyway?

18 A. Yep.

19 Q. Even though a person who is high, that is going
20 to comprise the results?

21 A. That's what it looked like to me.

22 Q. Okay. And what's your understanding of the
23 results of each one of those tests for Riley Joe?

24 A. I think they were all inconclusive.

25 Q. Would it surprise you to know that they were

1 actually all deceptive?

2 A. No, it doesn't surprise me.

3 Q. Okay. What about with Cody Towner, were you
4 aware if he had taken a lie detector?

5 A. I know at least one of the other boys did.
6 Which one it was, I don't remember.

7 Q. Okay. Michael Grantom?

8 A. I don't remember.

9 Q. So, you don't have any specific knowledge of
10 those two boys taking polygraph exams that also showed
11 they were being deceptive?

12 A. I don't remember. I'm not arguing with you.
13 That could be true.

14 Q. And, again, if you had your notes, you could
15 probably be better prepared for your testimony?

16 A. Yeah.

17 Q. Fair.

18 In going through, I guess, the boxes
19 that -- well, I'm going to stop right there for a
20 second.

21 So, Dick gets hired on the case. And at
22 some point, he filed a motion for an examining trial,
23 didn't he?

24 A. He did.

25 Q. Now, tell us what affect that had back in 2005

1 when a defense lawyer files a motion for examining
2 trial.

3 A. The file becomes closed to you.

4 Q. Okay. What does that mean exactly,
5 Ms. Siegler? You said "the file becomes closed to you."

6 A. Well, instead of being able to easily look at
7 the file and look at the offense report and take your
8 notes and do whatever you need to at your leisure when
9 you feel like it, the file becomes closed because you
10 are having to undergo an examining trial.

11 Q. And am I correct in saying that the Harris
12 County District Attorney's policy at that time was if
13 there is an examining trial filed, motion for examining
14 trial, the file gets closed?

15 A. Right.

16 Q. And you told us earlier that you'd worked with
17 Dick DeGuerin in the past. So, can we assume that he
18 was familiar with that policy?

19 A. He used to be a prosecutor. He knows the
20 policy.

21 Q. So, when he filed that motion for examining
22 trial, he knew full well that you were going to close
23 that file to him?

24 A. If you read my affidavit, I put in there that
25 when Dick did that in the 178th, I said: Why are you

1 asking for an examining trial if you know I'm going to
2 close the file to you, and he said: Don't tell me how
3 to do my job.

4 Q. That was a foolish mistake on his part, wasn't
5 it?

6 A. You need to ask Dick that.

7 Q. Well, I will ask your opinion. Do you think
8 that you could be prepared if you were a defense
9 attorney, Ms. Siegler, to try a case of this magnitude
10 without ever having put your eyeballs on an offense
11 report?

12 MR. CHIN: Calls for speculation.

13 THE COURT: Overruled, sir.

14 A. Dick DeGuerin is the best lawyer I've ever
15 seen. He could try anything. He could be prepared for
16 anything. That wasn't the mistake he made. It's the
17 reason for this hearing. The mistake that he made is
18 that he relied upon and believed what David Temple and
19 the Temple family had to tell him about Heather and
20 their affair and the events of that day and --

21 Q. Ms. Siegler, I'm going to interrupt you and
22 I'll ask you my question one more time.

23 A. Okay.

24 Q. And that is this: If you were a defense
25 attorney, could you prepare for a case of this

1 magnitude -- would you be able to prepare for a case of
2 this magnitude without ever having put your eyeballs on
3 an offense report?

4 A. Yes, you could be prepared. It wouldn't be
5 nearly as easy.

6 Q. You specifically, you think you could prepare
7 without ever seeing an offense report?

8 A. I wouldn't want to. I wouldn't have filed a
9 motion for an examining trial. I would have wanted to
10 see the offense report. Dick made that decision.

11 Q. Right. And, basically, deprived himself of an
12 opportunity to see some 1400 pages of offense report?

13 A. He pretty much saw it anyway.

14 Q. He what do you mean by that?

15 A. What I just said, he pretty much saw it all
16 anyway.

17 Q. What does "pretty much saw it all anyway" mean?

18 A. Well, specifically what do you want to know if
19 he got to see? Because my opinion is he got to see
20 almost everything he wanted to see and everything the
21 law entitles him to see.

22 Q. Okay. Well, from the moment that David Temple
23 was arrested until the day you-all showed up to trial
24 and announced ready -- okay -- that's the timeframe I'm
25 talking about -- what offense reports did Dick DeGuerin

1 see in that timeframe?

2 A. Well, when David Temple was arrested the Monday
3 after Thanksgiving 2004, you had a week left of that
4 month, you had all the month of December, and you had
5 all the month of January up until he asked for the
6 examining trial where he could have seen whatever he
7 wanted to. He made the call to ask for an examining
8 trial, which caused the file to be closed. I did not.

9 Q. But, Ms. Siegler, you said he pretty much saw
10 them all anyway. And what I'm asking: Between the date
11 that David Temple was arrested or the date that Dick
12 DeGuerin signed onto the case until the day you-all
13 showed up and announced ready for trial and began your
14 jury picking, what offense reports did Dick DeGuerin
15 see?

16 A. Well, first of all, he sent Matt and Ralph and
17 Neal to do his discovery. He didn't do it. So, when
18 his guys would come to my office, I would give them all
19 the discovery they were entitled to. Piece-by-piece,
20 day-by-day, very slowly and very miserably they got what
21 they were entitled to have.

22 Q. All right. And, again, I'm not trying to be
23 difficult here. And we'll talk about what Matt saw and
24 what Ralph saw, but my question to you is: What offense
25 reports, if any, did Dick DeGuerin see between the time

1 he got hired on the case and the time you guys started
2 jury selection?

3 A. It was different pieces and parts of the
4 offense report. He never sat down with the whole thing.

5 Q. Okay. So, you don't remember what parts of the
6 offense he saw?

7 A. I would have to look at it to tell you.

8 Q. Ms. Siegler, did you -- did Dick DeGuerin
9 actually come to your office and put offense reports in
10 his hand and read through them?

11 A. I don't remember him coming hardly ever. If
12 he did, it was just a couple of times. It was usually
13 Matt and Ralph and Neal, and I think Todd, too.

14 Q. And when those fellows would come to your
15 office, would you give them the offense report to
16 actually go through or did you read it to them?

17 A. I read it to them.

18 Q. Okay. What was the rationale for reading to
19 these lawyers as opposed to just letting them read those
20 portions you thought they needed to see?

21 A. Because we would on a given day address what we
22 were going to do. For example, today we're going to go
23 through all of the oral statements or written statements
24 or any statement ever given by David Temple. That's
25 what we did on that day. And I would read it to them.

1 Or if it was easy to show them, I would show it to them.
2 And we would do that one day. Another day we would do,
3 you know, whatever somebody else did. We would go
4 through it piece-by-piece. It was very slow. It was
5 very miserable.

6 Q. And so, are you telling us that you did
7 actually let them read offense reports?

8 A. Little pieces of it. Little -- like paragraphs
9 at a time. Never the whole thing at once.

10 Q. Okay. So, then my question is: Why wouldn't
11 you just let them read the offense report?

12 A. Because he asked for an examining trial and the
13 file became closed to him. At that point, we reverted
14 to the hard rules.

15 Q. I'm sorry?

16 A. At that point, we reverted to the hard rules.
17 Instead of him just reading it all like he could have
18 and like he had in every other case I handled with him,
19 he asked for an examining trial and the file became
20 closed. So, you couldn't do it the easy way.

21 Q. And when you say "the hard rules," what are the
22 hard rules, Ms. Siegler?

23 A. Where you go through it piece-by-piece,
24 paragraph-by-paragraph.

25 Q. Do you mean when you read to a defense attorney

1 piece-by-piece?

2 A. Yeah. It was miserable.

3 Q. Okay. Where in the district attorney's policy
4 and procedure manual is it written that you shall close
5 the file when the defense attorney asks for an examining
6 trial?

7 A. It's in that old handbook from the Johnny
8 Holmes days that we all were given when we started at
9 the office. It has a little binder thing on the side.
10 And I don't remember what that thing is called, but I
11 used to know the name of it. It's in there.

12 Q. But Chuck Rosenthal was the elected D.A. at the
13 time this case was going on, yes?

14 A. Policy was still the same. It never changed.

15 Q. So, you're saying there was a written policy
16 somewhere in the district attorney's office that said
17 that an assistant district shall close their files to
18 defense attorneys when and if they request an examining
19 trial?

20 A. I don't know if it used the word "shall," but
21 it did say: Upon examining trial being requested, the
22 file becomes closed.

23 Q. Okay. And at this time, you were head of which
24 division was it? The Special Crimes?

25 A. Major Offenders.

1 Q. Major Offenders.

2 Did you have any discretion at all as the
3 head of Major Offenders to open your file?

4 A. Yes.

5 Q. But you chose not to?

6 A. I chose not to.

7 Q. Can you explain that decision to us, please?

8 A. My very prolific detailed experience in long,
9 arduous trials with Ralph Warren and Dick DeGuerin. Do
10 you know who Ralph Warren is?

11 Q. That would be Dick DeGuerin's investigator?

12 A. Yes, ma'am.

13 Q. Okay. And so, your experience with Dick
14 DeGuerin and Ralph Warren, based on that experience you
15 chose not to open your file?

16 A. The file became closed when he asked for an
17 examining trial. I didn't change that once he asked for
18 the examining trial, that's correct.

19 Q. Because of your past experience in dealing with
20 Ralph Warren and Dick DeGuerin?

21 A. Yes, ma'am.

22 Q. Okay. And what about your past experience with
23 them -- what about your past experience with them chose
24 you to not open the file back up in this case?

25 A. I don't trust them.

1 Q. Okay. Why?

2 A. Because I have seen what they do.

3 Q. What do they do?

4 A. Anything they can to win.

5 Q. When you say "anything they can to win," can
6 you -- are you talking about stealing things out of the
7 file? I mean, what are you specifically talking about?

8 A. Misleading witnesses, misrepresenting facts,
9 tricking people into saying things. What they did with
10 Glasscock in this very case --

11 Q. Well, hang on. We're not --

12 A. I know we're not there yet.

13 Q. -- there yet.

14 Misleading witnesses, tricking witnesses
15 into saying things.

16 A. Misrepresenting the facts.

17 Q. And so, correct me if I'm wrong, if you were to
18 open your file to them, is it your belief they would
19 have just done what they've always done, which is to
20 mislead witnesses, trick witnesses, and misrepresent the
21 facts?

22 A. I don't know what they would have done.

23 Q. But it was a risk you weren't willing to take?

24 A. Not based on my experience, no, ma'am.

25 Q. With Dick and Ralph Warren?

1 A. Correct.

2 Q. Okay. So, you told us that there was a written
3 policy about closing the file in the event of a request
4 for an examining trial, and that you had some discretion
5 whether or not to open it, but you chose not to?

6 A. Correct.

7 Q. Okay. What affect, if any, do all of those
8 things have on your obligation to disclose information
9 that you believe to be Brady?

10 A. None.

11 Q. None.

12 Okay. And so, you've told us that you
13 believe inconsistent statements to fall under the rules
14 of Brady, yes?

15 A. Correct.

16 Q. Inconsistent statements of whom?

17 A. Material witnesses.

18 Q. What about -- well, tell us your understanding
19 of material witness.

20 A. Well, I think if you get called to testify at
21 trial, you are pretty material.

22 Q. So, any testifying witness, can we agree, that
23 if the State possesses impeachment evidence that that
24 would constitute Brady evidence that should be tendered
25 to the defense?

1 A. Yes.

2 MS. GOTRO: Just one second, please.

3 (Pause)

4 Q. (By Ms. Gotro) When we say prior -- scratch
5 that.

6 When we talk about impeachment evidence,
7 what can constitute impeachment evidence? What's your
8 understanding of what that evidence consists of -- can
9 consist of?

10 A. Something that's relevant and inconsistent.

11 Q. Okay. So, if a witness makes a prior written
12 statement, could that be use as impeachment evidence?

13 A. Yes.

14 Q. Okay. What about an oral statement to somebody
15 in law enforcement that's -- yeah. An oral statement to
16 someone in law enforcement, is that considered
17 impeachment evidence?

18 A. If it's inconsistent, yes.

19 Q. Okay. Does it matter which -- who calls the
20 witness?

21 A. No.

22 Q. Does it matter if it's a State witness or a
23 defense witness?

24 A. No.

25 Q. Just so that I'm clear, if the State possesses

1 any evidence of an inconsistent statement by a witness
2 that's considered Brady information?

3 A. Not any evidence. If I call the shirt green
4 instead of orange, I don't think that necessarily means
5 it's Brady. It depends on what the inconsistency is.

6 Q. Okay. Well, let's put it in the confines of
7 this trial. This is a circumstantial evidence case,
8 yes?

9 A. Yes.

10 Q. Okay. And you told us earlier that the truth
11 is in the details. That's how you have to prove these
12 cases, right?

13 A. True.

14 Q. And so, if you were focusing on a particular
15 circumstantial fact, for the purposes of Brady any
16 information in your possession that contradicts that
17 fact, would you consider it Brady?

18 A. It depends on what the inconsistency is. Even
19 if we were talking about Riley Joe Sanders and if he had
20 inconsistencies -- if the day he fell asleep on the
21 couch he said he was wearing blue jeans and now he says
22 he's wearing black jeans, I don't call that Brady, but
23 it is an inconsistency and he did testify at trial.

24 Q. That's a good distinction. Let's talk about
25 Riley Joe Sanders for just a second. When you -- at the

1 time that you -- I guess during that period from arrest
2 until you guys started trial, what was your
3 understanding of what Dick's defensive theory of this
4 case was?

5 A. Well, the first thing he told the paper the day
6 he got hired was that David Temple was innocent. Any
7 more detail than that, he did not -- Dick is not the
8 kind of guy that talks over his defense with you. Some
9 lawyers, do. Not Dick.

10 Q. But he made -- he sent a lot of written
11 requests to your office. Is that fair to say?

12 A. Yeah, but the written requests were always, you
13 know, standard Dick. They were very thorough, they were
14 right on, he knew exactly what to make sure we were
15 doing appropriately. He was trying to get all of the
16 paperwork that he could. So, what he was requesting was
17 simply thorough. It wasn't any kind of hint of what his
18 defense was going to be.

19 Q. Do you have any specific recollection of
20 Mr. DeGuerin asking you for evidence of alternate
21 suspects?

22 A. At some point, yeah.

23 Q. Investigating alternate suspects. At some
24 point he asked for that?

25 A. I don't know if he called it those words.

1 Q. What did he call it? Again, if you had your
2 notes, would this at all help --

3 A. Well, I'm agreeing with you that he was always
4 looking for the Katy boys.

5 Q. Okay. So, then do you recall him asking you
6 for any evidence that law enforcement had investigated
7 those Katy boys?

8 A. Somewhere in there, yes.

9 Q. Okay. And do you recall turning anything over
10 to him about law enforcement's attention to these boys?

11 A. Yes.

12 Q. Okay. What did you turn over, if you recall?

13 A. He saw their statements, but I don't remember
14 exactly when that was.

15 Q. Oral statements or written statements?

16 A. It wouldn't have been oral because I don't
17 remember them giving an oral. It would have been
18 written.

19 Q. Okay. Do you remember Riley Joe Sanders being
20 interviewed by members of law enforcement?

21 A. And he gave a written statement? I remember
22 that.

23 Q. No, no. My question is: Do you remember him
24 just being interviewed orally by members of law
25 enforcement?

1 A. No.

2 Q. Okay. So, if I told you he had been
3 interviewed like upwards of nine times by law
4 enforcement, you have no specific recollection of that?

5 A. Well, I know they went to his house a bunch of
6 times, but did they sit him down for a specific real
7 interview? I don't remember. I don't know.

8 Q. Well, you say "a specific real interview."
9 What is a real interview?

10 A. When you sit him down and type down or write
11 down or record what it is they are telling you.

12 Q. When you first started -- when you first took
13 the stand this morning, I asked you if you were aware of
14 a canvass conducted by the sheriff's department right
15 after Belinda was killed.

16 A. Right.

17 Q. Okay. And you said you had seen those offense
18 reports. Correct me if I'm wrong, but members of the
19 sheriff's department basically went to door-to-door,
20 knocked on the door, asked a series question of these
21 folks, and then moved on down house to house to house.
22 Is that about right?

23 A. Yes.

24 Q. Okay. Is that a real interview in your mind?

25 A. It's a real canvass.

1 Q. Is it a real interview in your mind?

2 A. You don't have to do an interview when you
3 canvass if they don't know anything.

4 Q. How would you describe statements obtained
5 from -- word -- words obtained from law enforcement
6 during that canvass? Is that a statement from the
7 witness?

8 A. Yes.

9 Q. Okay. What would you describe that interaction
10 as?

11 A. What you described it as, an oral interview.

12 Q. All right. So, you've got an oral interview.
13 You said this thing about real interview and -- and I
14 understand there is some confusion because often times
15 law enforcement will try and get a written statement
16 after they do the oral interview.

17 A. Right.

18 Q. But you and I can both agree they don't always
19 get that written statement?

20 A. Right.

21 Q. And often what's left is that officer's
22 memorialization of the conversation in an offense
23 report?

24 A. True.

25 Q. Okay. And so, when I'm asking you about

1 statements --

2 A. Like that.

3 Q. -- like that, like to sit down and write out a
4 long statement, I'm referring to all of them.

5 A. Okay.

6 Q. Okay?

7 Do you remember what you turned over to
8 Dick DeGuerin -- I think that had been my last
9 question -- as far as the alternate suspect was
10 concerned?

11 A. I know the written statements, but I don't
12 remember when that happened.

13 Q. Okay. Do you document, just as a matter of
14 course, in your file what evidence you turn over to the
15 defense?

16 A. No. Because I always thought I could remember
17 what it was. I should have done a better job at doing
18 that.

19 Q. So, you don't have any --

20 A. Log? I wish I did.

21 Q. No. Fact confirmation sheets where you sent
22 things?

23 A. No, no. Because they came to my office. So,
24 nothing hardly got faxed anyway.

25 Q. No. What you sent out.

1 A. Oh. I would make notes sometimes of sending
2 things out.

3 Q. Again, would that be in your work product that
4 we haven't been able to locate yet?

5 A. Yes.

6 MS. GOTRO: Have we been able to locate
7 that?

8 MR. SMITH: Not the work product, but the
9 discovery.

10 MS. GOTRO: Okay. Can we have Ms. Siegler
11 take a moment to look at that, Judge.

12 THE COURT: Sure.

13 (Pause)

14 THE COURT: Ready?

15 THE WITNESS: Yes, sir.

16 Q. (By Ms. Gotro) When you were going through that
17 file, did you see any handwritten notes from back when
18 you were prepping this case for trial?

19 A. Yes.

20 Q. Okay. Can you tell us what you recall turning
21 over to Mr. DeGuerin?

22 A. I didn't write it all down, but I can say that
23 I did document David Temple's written statement was
24 turned over on July 22nd, '05. His oral unrecorded
25 statements were done on two different days, July 21st

1 and 22nd. It's kind of divided up like that. The
2 subpoenas are checked off.

3 Q. What subpoenas?

4 A. The main subpoena was checked off, but I didn't
5 put a date.

6 Q. I'm sorry. Subpoena for what?

7 A. The names of witnesses. Sorry.

8 Q. Got you.

9 A. Ballistics reports, that was checked off on
10 July 18th of '05 and again '07. Tape-recordings,
11 July 21st and 22nd of '05.

12 Q. What are the tape-recordings, Ms. Siegler?

13 A. There's a whole box of tapes. I think that's
14 going to be the 911 tape. And I don't know what else.

15 Q. Any witness statements?

16 A. On tape?

17 Q. Yes, ma'am.

18 A. I don't think so.

19 Q. Okay. I didn't mean to interrupt.

20 A. That's okay.

21 Results of blood, breath, and urine tests
22 done July 28th of '05.

23 Q. And those would have been David Temple's blood,
24 breath, urine?

25 A. I guess so. I didn't say anything else.

1 Q. Okay.

2 A. And photographs, those were done July 18th of
3 '05. And then on the motion for discovery, as things
4 were done I would make notes to myself what was done,
5 but I didn't put the dates.

6 Q. Okay. Can you tell us what alternate -- what
7 evidence in your possession regarding these Katy boys
8 did you turn over to Mr. DeGuerin?

9 A. Well, the Katy boys would have come up first
10 with the Grand Jury. And remember, the Grand Jury
11 testimony was all given to Judge Shaver to read because
12 Dick didn't trust me. So, he wanted Judge Shaver to
13 read all the Grand Jury testimony to see if Judge Shaver
14 saw anything Brady in all of that testimony.

15 Q. Sounds like you and Dick had a great deal of
16 distrust for each other?

17 A. It started out pretty good with Dror Goldberg,
18 and it went downhill after that.

19 Q. So, you tendered -- did you give all of the
20 Grand Jury testimony to Judge Shaver?

21 A. Every page.

22 Q. Okay. So, outside of the Grand Jury testimony,
23 let's just focus on stuff that you would have had access
24 to, like offense reports, written statement, etcetera.

25 A. Okay. So, ask me the question again.

1 Q. I was asking about the Katy boys. And by "the
2 Katy boys," we mean Riley Joe Sanders, Cody Ellis, Cody
3 Towner, Michael Grantom, Carlos Corro. Casey Goosby
4 would be part of the Katy boys. I think that's about
5 it.

6 A. I don't remember when those were turned over.
7 I didn't write it down.

8 Q. But if I understand you correctly, if you did
9 turn anything over, it would have been written
10 statements?

11 A. Yes.

12 Q. Okay. But do you have -- you at least
13 acknowledged that Riley Joe Sanders gave some oral
14 statements to officers?

15 A. No. I remember I told you I really don't
16 remember that. I really felt that the written
17 statements were the summary of those interviews. And
18 there weren't any other occasions we would go out there
19 and chat and he would tell me anything they would
20 document. I don't remember that.

21 Q. So, outside of written statements, if you
22 tendered anything, it would have just been those written
23 statements of Riley Joe Sanders and the Katy boys?

24 A. I think so, yes.

25 Q. Okay. Do you remember reading an offense

1 report for a Hetherington burglary?

2 A. Yes.

3 Q. Okay. And am I correct in saying that offense
4 report was actually discovered in the '99 investigation,
5 when law enforcement first started investigating
6 Belinda's murder?

7 A. I think so.

8 Q. Do you remember who all was involved in the
9 Hetherington burglary?

10 A. It was the Hetherington mother's daughter. So,
11 Mr. Hetherington's stepdaughter, and pretty much the
12 Katy boys, plus or minus a few.

13 Q. Okay. And when you say "pretty much the Katy
14 boys, plus or minus a few," do you remember exactly who
15 it was?

16 A. No.

17 Q. Okay. If I told you that it was Casey Goosby,
18 Cody Ellis, and Carlos Corro, would you have any reason
19 to disagree with that?

20 A. I agree with that.

21 Q. Okay. Did you turn that offense report over to
22 Mr. DeGuerin?

23 A. At some point I know he saw it. As a matter of
24 fact, I think Ralph Warren got them a copy.

25 Q. Of the offense report?

1 A. Yeah.

2 Q. Okay. My question is, though, did you turn
3 over the offense report to the defense at any point
4 prior to trial?

5 A. That, yes.

6 Q. Okay. Do you remember when?

7 A. No. And I didn't write that down.

8 Q. Would you have done it in open court or would
9 you have faxed it?

10 A. I think it would have been the same thing, one
11 of the guys would have come to the office and looked at
12 it and taken notes.

13 Q. Okay.

14 MS. GOTRO: May I approach the witness,
15 Judge?

16 THE COURT: Yes, ma'am.

17 Q. (By Ms. Gotro) You told us earlier that it was
18 primarily Matt Hennessy -- and who else was coming to
19 your office?

20 A. That was right around the time that Matt quit
21 and Neal was about to quit and Todd had not been there
22 that long. So, you know, I get them confused with which
23 trial was with which guy.

24 Q. Got you.

25 Was Mr. DeGuerin experiencing some high

1 turnover.

2 A. You could say that.

3 Q. I'm going to show you a couple of exhibits that
4 have already been marked and admitted.

5 MR. CHIN: Judge, may I please come up to
6 look?

7 THE COURT: Certainly.

8 MR. CHIN: Thank you.

9 Q. (By Ms. Gotro) This is 23 through 27. And
10 these are offense report notes, Temple.

11 When Mr. Hennessy was in your office, do
12 you remember if he was typing or handwriting,
13 Ms. Siegler?

14 A. I don't remember.

15 Q. Fair enough.

16 Can you look through those and tell me if
17 that jogs your memory about what was and was not
18 disclosed at least pretrial to the defense?

19 A. These are Matt's notes, right?

20 Q. Yes, ma'am.

21 A. I mean, I guess so. They're Matt's. I don't
22 really know.

23 Q. I can tell you, I will represent to you that
24 Mr. Hennessy has testified and claims that these items
25 outline the information that he received from you. And

1 what I'd like you to do is to look through them and see
2 if, perhaps, that jogs your memory as to when it was you
3 would have turned over maybe the Hetherington offense
4 report or anything else that we've discussed so far.

5 A. No, this doesn't help.

6 Q. It doesn't help?

7 A. Uh-huh.

8 Q. Okay.

9 A. I know it was during the same time when the
10 back-and-forth was going on with all the shotguns.

11 Q. Okay. Talk about that. When you say "the
12 back-and-forth with all of the shotguns," what does that
13 mean?

14 A. There were seven shotguns in the middle of our
15 story. Because, basically, any time a shotgun came up
16 in Katy, they were trying to collect it and figure out
17 whether or not it was related to the case.

18 Q. All right.

19 A. And Dick, at one point, asked for clarification
20 on where they all came from. And there is a list
21 somewhere in the file that -- it was hand-printed in my
22 writing where we tried to answer the questions as to
23 where all the shotguns came from, but I haven't seen
24 that either. I'd have to find it for you.

25 Q. Okay. Is this the first time you've seen your

1 work product file -- when was the last time you saw this
2 file, Ms. Siegler?

3 A. I saw it with Baldwin and Andrew two weeks ago,
4 but I did not study it. Sorry.

5 Q. Okay. Would you like a few minutes to go
6 through that file?

7 A. Not really.

8 Q. Given that you're --

9 A. I'm trying to remember it all without having to
10 go through all of that. That wasn't -- it's my fault
11 it's not there. They tried to get me to study it, but I
12 thought I could remember it all enough to answer your
13 questions.

14 Q. I understand. And I'd like you to be able to
15 answer them. And so, if we took maybe 10 minutes --

16 A. Tell me what you want me to look for right now.

17 Q. Well, what I'm wanting to know is when you
18 turned over the Hetherington offense report. And I'm
19 looking at about 2-and-a-half, 3 inches worth of paper
20 in front of you with handwritten notes all over them.
21 And I don't know if --

22 A. I'm not going to have a date, even if I find
23 it, because I didn't put dates except for here.

24 Q. You know what, Ms. Siegler, I'd settle for just
25 a note, "Hetherington O.R. tendered."

1 (Pause)

2 A. I don't know where it is. It's not in here.

3 Q. (By Ms. Gotro) And just for clarification, what
4 exactly was it that you were looking for when you were
5 thumbing through those --

6 A. If there is a date that showed when Dick got
7 the Hetherington offense report.

8 Q. Okay. So, I want to back up for just one
9 second. We have been talking about what it is that
10 you -- what you turned over to Dick about the Katy boys.
11 And when we say "the Katy boys," we've identified all of
12 them, right, Ms. Siegler?

13 A. Yes.

14 Q. Okay. And so, I'm just going to say Riley Joe
15 Sanders/Katy boys.

16 A. Okay.

17 Q. Am I correct in saying that your recollection
18 is that you tendered all written statements of the Katy
19 boys, the formal written statements of the Katy boys to
20 Dick DeGuerin?

21 A. At some point if they testified. If I gave him
22 all the Katy boys before then, I don't remember.

23 Q. Okay. And, again, we're working with that
24 period of time from arrest until the day --

25 A. Until trial.

1 Q. -- you showed up for trial. So, pretrial.

2 Okay. Do you have any specific
3 recollection of giving those statements to Mr. DeGuerin
4 in that period of time?

5 A. I don't remember.

6 Q. Okay. And you also don't remember whether or
7 not you gave him any offense report with oral
8 statements?

9 A. I did not do that because I don't remember
10 that.

11 Q. Okay. So, definitely no oral statements?

12 A. Of the Katy boys, you're still talking about?
13 Correct.

14 Q. Yes, ma'am.

15 And then with respect to the Hetherington
16 burglary. Do you have any specific recollection of
17 giving Mr. DeGuerin a copy of the offense report of the
18 Hetherington burglary?

19 A. No.

20 Q. Do you have a general recollection of giving
21 him a copy of the offense report on the Hetherington
22 burglary?

23 A. No. What I remember is that Ralph Warren
24 talked to Mr. Hetherington and knew more about it than I
25 did.

1 Q. Well, can we agree, Ms. Siegler, as a member of
2 law enforcement, you have access to information that a
3 private investigator cannot access?

4 A. Typically, yes.

5 Q. Okay. And so, if Mr. Warren were aware of the
6 Hetherington burglary, that's not to say he's aware of
7 the details of that burglary?

8 A. It depends on what all Mr. Hetherington told
9 him.

10 Q. But as far as law enforcement's investigation,
11 what law enforcement revealed in the course of its
12 investigation, that isn't readily accessible to members
13 of the public?

14 A. Correct.

15 Q. Was the Hetherington burglary -- did anyone
16 ever get convicted of that?

17 A. I don't think so.

18 Q. Okay. Do you remember seeing any confession?
19 Did anyone ever confess to committing that crime?

20 A. You mean like a written confession? I remember
21 that the Katy boys said that they, you know, broke into
22 the gun cabinet, they were drinking, wasn't it New
23 Year's Eve that they went out and fired the shotguns,
24 that kind of thing. And they were mad because
25 Mr. Hetherington either was mean to Ms. Hetherington or

1 grounded the stepdaughter. I don't remember what got
2 them mad.

3 Q. Okay. Do you recall that it was Casey Goosby's
4 mother who he had been dating?

5 A. Yes.

6 Q. Okay. And, again, just so I'm clear, you don't
7 have any recollection of tendering your copy of the
8 offense report to the defense, right?

9 A. I can't say for sure that I did, no.

10 Q. Okay. So, just put a question mark by
11 Hetherington.

12 As far as written statements pretrial,
13 that's not something you would have done either?

14 A. No.

15 Q. Okay. So, no written statements.

16 So, what, if any, evidence of law
17 enforcement's investigation of these other folks that
18 Mr. DeGuerin was calling alternate suspects, other
19 suspects, what evidence, if any, did you tender to the
20 defense prior to the start of the trial?

21 A. I can't remember.

22 Q. Do you remember tendering any evidence about
23 these Katy boys to Mr. DeGuerin prior to trial?

24 A. I know we talked about them nonstop, but
25 whether or not I gave him the written statements, I

1 can't remember.

2 Q. Okay. Any evidence. Not just -- you've said
3 with written statements, oral statements, and even the
4 Hetherington burglary, you either don't remember or you
5 have no recollection of turning that over to Dick prior
6 to trial, right?

7 A. Yes, that's correct.

8 Q. All right. So, my question is: What other
9 evidence, if any, if you recall, did you turn over to
10 Dick prior to trial?

11 A. Having to do with all of this?

12 Q. Yes, ma'am?

13 A. Nothing that I can remember.

14 Q. Okay. So, nothing about the Katy boys was
15 tendered to Dick DeGuerin prior to trial?

16 A. We talked about them nonstop.

17 Q. I know you did.

18 A. He knew all about it. We talked about it all
19 the time.

20 Q. But just so that we're clear, Ms. Siegler,
21 we've named these three items that you don't recall --
22 you're pretty sure you didn't give him. Is it fair to
23 say you didn't give him anything else that you recall
24 about law enforcement's investigation of these Katy boys
25 prior to trial?

1 A. He had all of the information about the Katy
2 boys. We talked about it nonstop. He knew about the
3 polygraphs, he knew about the --

4 Q. Ms. Siegler, I'm not even --

5 A. I told him all of it.

6 Q. Ms. Siegler, I'm not going to ask you to
7 speculate about what Dick did and didn't know. I'm just
8 going to ask you about what you did. Okay?

9 A. Okay.

10 Q. So, did you tender anything else?

11 A. Yes. Out of my mouth, I told him the story.

12 Q. What story was that?

13 A. About the Katy boys, about the Hetherington
14 burglary.

15 Q. What did you tell him about the Hetherington
16 burglary?

17 A. What we just said, that I thought it was the
18 stepdaughter, but it was Casey Goosby --

19 Q. And who else?

20 A. Well, Casey Goosby was mad at Mr. Hetherington,
21 who was dating his mom --

22 Q. Uh-huh.

23 A. -- for something. I don't remember what. And
24 kind of a payback kids' prank, one night they broke into
25 the house, they went after the shotguns. I don't know

1 what else they took, if anything. And later on, they
2 fired those shotguns, which is what lead to the S.O.
3 being interested in them in the first place. There were
4 shotguns being fired that they wanted to account for out
5 in the Katy area.

6 Q. Okay. So, you told Mr. DeGuerin about Casey
7 Goosby, yes?

8 A. About the Hetherington burglary, yes.

9 Q. Okay. Well, I'm going to talk to you about the
10 details of that burglary just so that we have a clear
11 idea of what it is you told him. Okay?

12 A. Okay.

13 Q. All right. You told him that it was -- that
14 Casey Goosby was involved, right?

15 A. Yes.

16 Q. Who else did you mention by name?

17 A. Riley Joe Sanders was involved. I told him
18 that.

19 Q. In the Hetherington burglary?

20 A. It was his friend that went out shooting the
21 shotgun that day.

22 Q. Can we agree that shooting the shotgun happened
23 several days after the burglary?

24 A. Yes. And Riley Joe Sanders, I think, fired his
25 own daddy's shotgun, not the burglary shotgun.

1 Q. Okay.

2 A. But I could be wrong about that.

3 Q. So, Casey Goosby and -- was involved in the
4 burglary?

5 A. Yes.

6 Q. Who else did you tell Dick DeGuerin that was
7 involved in this Hetherington burglary?

8 A. I don't remember. Maybe Corro.

9 Q. Corro?

10 A. Yeah, Maybe him.

11 Q. Okay. Did you mention Cody Ellis' name?

12 A. He was in there, but I can't tell you for sure.

13 Q. You can't tell me for sure whether or not you
14 mentioned Cody Ellis' name?

15 A. Or if he was even involved in the burglary. I
16 don't remember for sure if he was in it.

17 Q. Fair enough.

18 Did you tell him anything else about the
19 Hetherington burglary.

20 A. There was something else stolen besides
21 shotguns, but I don't remember what it was.

22 Q. Jewelry, maybe?

23 A. Yeah. I think that's all.

24 Q. Did you tell him how the burglars had gained
25 entry into the home?

1 A. I don't even remember that.

2 Q. Did you tell him about any of the details --
3 did you tell him about any details about the actual
4 burglary itself?

5 A. I don't remember that.

6 Q. Okay. Whether or not anything was stolen, you
7 don't remember?

8 A. I think I did tell him about that, yes.

9 Q. Okay. That jewelry was stolen?

10 A. Yes.

11 Q. Okay. Did you tell him about any electronics
12 being left on the floor?

13 A. I don't remember that.

14 Q. Do you remember electronics being left on the
15 floor and plugged in the wall?

16 A. No.

17 Q. But do you remember that piece from the Temple
18 burglary?

19 A. Oh, yeah.

20 Q. How did the burglars gain entry into the
21 Hetherington address?

22 A. I do not remember.

23 Q. Do you remember Dick DeGuerin questioning -- I
24 believe it was Detective Leithner in trial about the
25 Hetherington burglary?

1 A. Yes.

2 Q. Okay. Did it strike you as odd that Dick
3 didn't mention any of the Katy boys except Casey Goosby?

4 A. No.

5 Q. That the whole time he's talking to Detective
6 Leithner, his entire -- Dick's entire line of
7 questioning had only to do with Casey Goosby?

8 A. I don't remember that. I mean...

9 Q. You don't remember that?

10 A. No, I don't.

11 Q. Do you remember Dick only being able to get the
12 public information on the Hetherington burglary?

13 A. No, I don't even know the answer to that.

14 Q. You don't even know.

15 Okay. Had you and Detective Leithner
16 discussed the Hetherington burglary at all prior to his
17 testimony?

18 A. Yes.

19 Q. Okay. What did you guys talk about?

20 A. We went over the interviews with the kids about
21 the burglary. I don't remember if he is the one that
22 interviewed them or not. We went over the time
23 difference between when the burglary happened to when
24 the shotguns were practiced with to the murder.

25 Q. What was that timeline?

1 A. I don't remember. You know, I don't remember.

2 Q. Okay. But you went over the interview of the
3 boys that were involved in the burglary?

4 A. Whoever interviewed the boys in the burglary,
5 whoever that detective was that interviewed him, if he
6 testified I went over that with him, but I don't
7 remember who that was anymore.

8 Q. Okay. But you recall specifically the Charles
9 Leithner -- Detective Leithner was familiar with the
10 facts of the Hetherington burglary?

11 A. Yes.

12 Q. Okay. All right. Ms. Siegler, I was just
13 going to ask you: Did you see any similarities between
14 that Hetherington burglary and the Temple burglary?

15 A. No, ma'am.

16 Q. Okay. Well, I will just tell you --

17 A. Oh, wait. One, a shotgun.

18 Q. Okay. Manner of entry?

19 A. I don't remember what the manner of entry was
20 on Hetherington.

21 Q. Okay. If I told you that the window to the
22 right of the door had been busted out so that a
23 perpetrator could stick their hand in and unlock the
24 door and get into the Hetherington house, does that
25 sound familiar at all?

1 A. That's not what happened in the Temple case. I
2 get your point, but that's not what David Temple did. He
3 held the door open while he pretended to bust it out.

4 Q. Ms. Siegler, you weren't there when that window
5 was broken.

6 A. Oh, the reenactment in the courtroom that blew
7 up on Dick when he used Max Courtney and tried to make
8 it run into a break front kind of blew up on him.

9 Q. Ms. Siegler, you were not there when that
10 window was broken.

11 A. I was there during the trial.

12 Q. But you were not there when that window was
13 broken?

14 A. You need to read the transcript.

15 Q. I have many times.

16 A. Well, then you know that the whole break front
17 causing the damage to the door, the defense that Dick
18 put on, blew up in his face.

19 Q. You know, I'm not even here to talk about
20 Dick's defense. We're still pretrial, Ms. Siegler.
21 We'll get to Dick's defense. He sat where you are at
22 and answered some questions, but it's your turn today.

23 MR. CHIN: I'll object to the sidebar,
24 Judge.

25 THE COURT: Sustained.

1 Go ahead.

2 Q. (By Ms. Gotro) Okay. How many glass break
3 experts have you put on the stand in your entire legal
4 career?

5 A. None.

6 Q. Is that because there's no such thing as a
7 glass break expert, Ms. Siegler?

8 A. I don't think there is.

9 Q. All right. It's basically junk science. Can
10 we agree to that?

11 A. Well, junk science is a little worse. I think
12 it's just common sense.

13 Q. How glass breaks -- the physics of how glass
14 breaks out of a window is common sense?

15 A. Pretty much.

16 Q. To Harris County jurors, that's just common
17 sense, right?

18 A. Through any normal person.

19 Q. Okay. Let's talk about the shotguns for just a
20 second. You knew that Belinda Temple was killed with a
21 12-gauge shotgun, right?

22 A. Yes.

23 Q. And specifically with a reloaded 12-gauge
24 double-ought buckshot shell?

25 A. Correct.

1 Q. Tell us what exactly that is, please.

2 A. You mean the size of the pellets?

3 Q. What is a reloaded double-ought buckshot shell?

4 A. Well, I bird hunted before, but I'm not trying
5 to be a ballistic expert.

6 Q. That's okay. Just your understanding of the
7 words.

8 A. Well, do you know what a shotgun shell looks
9 like?

10 Q. I do.

11 A. So, it's a reload. And they make their own
12 buckshot and put it in the reload.

13 Q. And at some point do you remember having a
14 hearing in front of -- I guess it was Judge Harmon was
15 still on the stand {sic} -- having a hearing with Judge
16 Harmon about shotguns?

17 A. Oh, that was all Judge Shaver. Judge Harmon
18 got rid of us as fast as he could.

19 Q. He did. What did he do with y'all?

20 A. He sent us to project court where we are today.

21 Q. How quickly did you become aware -- once you
22 picked the case up at the end of 2004, how quickly
23 before you became aware that it was a 12-gauge shotgun
24 that had killed Belinda Temple?

25 A. I think we always knew that.

1 Q. Okay. That it was a 12-gauge shotgun?

2 A. I think so.

3 Q. Okay. In the course of the investigation, how
4 many 12-gauge shotguns had been recovered by law
5 enforcement?

6 A. There were like seven shotguns. I can't
7 remember if they were all 12-gauge for sure.

8 Q. Okay. Did you ever recover any 12-gauge
9 shotguns or any shotguns at all from David Temple?

10 A. Yeah, they brought one to us.

11 Q. Okay. Who was that?

12 A. Who brought the shotgun?

13 Q. Yes, ma'am.

14 A. One of the Temple family members brought one
15 one day because Dick told them to, I think, in the
16 trial.

17 Q. Do you remember who the family member was?

18 A. I'm assuming it's the P.I. brother. He is the
19 one that did everything.

20 Q. Okay. And during the trial, he brought a
21 12-gauge shotgun to court?

22 A. I don't remember for sure, but I know that one
23 day Dick had a shotgun.

24 Q. That originated with?

25 A. The Temple --

1 Q. The Temple family?

2 A. I think so.

3 Q. Okay. Back up to 1999 when this case was first
4 being investigated. Law enforcement found several
5 12-gauge shotguns that belong to Riley Joe Sanders, did
6 he not?

7 A. He turned them over to him.

8 Q. So, that's a "yes," law enforcement found
9 several -- at least two 12-gauge shotguns that belonged
10 to Riley Joe Sanders?

11 A. They belonged to his father.

12 Q. Okay. And at least one of those shotguns was
13 recovered by R. Hernandez?

14 A. Right.

15 Q. Okay. Were you ever able to determine where
16 Detective Hernandez recovered that shotgun?

17 A. That was the to-do I had for a while. And we
18 finally talked to Ramon about it, but I don't remember
19 where -- do you mean like physically where were they
20 standing when he recovered it?

21 Q. Yes, ma'am.

22 A. I don't think he remembered, but I'm not sure.

23 Q. Okay. So, then you -- so, to answer the
24 question; no, you weren't able to determine where the
25 12-gauge shotgun -- one of the 12-gauge shotguns was

1 recovered?

2 A. To answer your question, I don't remember if
3 Ramon could answer that question. I know I had a to-do
4 to try and do that. And somebody was assigned to go
5 find Ramon and ask him where he got the shotgun, but
6 what his answer was, I don't remember.

7 Q. So, then, no, you weren't able to determine
8 where that second shotgun came from?

9 A. I wasn't. I don't remember. He might know.

10 Q. I'm just talking about during the course of
11 your investigation. Okay?

12 A. Okay.

13 Q. You said you had what, seven shotguns?

14 A. Something like that.

15 Q. All right. And in preparing for trial, at
16 least one of those shotguns, you the prosecutor, could
17 not determine the origin of that shotgun, right?

18 A. No. I'm telling you I don't remember what
19 Ramon said. Ramon could very well tell us right now
20 where he got the shotgun from Riley Joe Sanders. He
21 might not know either. I don't remember.

22 Q. So -- and I'm confused, so help me out here.
23 So, you don't remember if Ramon ever disclosed to you
24 where he had gotten it from?

25 A. If he told me, I don't remember what he said.

1 Q. Okay. Fair enough.

2 Do you remember if it was the H&R?

3 A. Oh, I don't remember which brand they were. I
4 can't remember that.

5 Q. Of all of the shotguns that you recovered, that
6 law enforcement recovered, how many of them were
7 returned to their rightful owners prior to trial?

8 A. Three or four. I think three or four.

9 Q. Okay. Do you remember which three or four got
10 returned?

11 A. No, I don't.

12 Q. Okay.

13 MS. GOTRO: Your Honor, may we approach the
14 bench, please?

15 THE COURT: Yes.

16 (At the Bench, outside the hearing of the
17 audience)

18 MS. GOTRO: Can we take a break, please?

19 THE COURT: Yes.

20 (Open court, defendant present)

21 THE COURT: Okay. We're going to stand in
22 recess for 20 minutes.

23 (Recess)

24 (Open court, defendant present)

25 THE COURT: Ms. Gotro.

1 MS. GOTRO: Thank you, sir.

2 Q. (By Ms. Gotro) I want to jump forward just a
3 little bit, Ms. Siegler. On September 13th in 2012, do
4 you recall an article in the "Houston Chronicle" that
5 quoted you with respect to the Temple case?

6 A. What was the quote?

7 Q. That Dick had assumed that -- "He assumed I
8 would never see what the witnesses really said when I'm
9 the person on this planet who knows this case better
10 than anybody," Siegler said. "Dick DeGuerin put it
11 under seal thinking nobody would ever just dispute what
12 that witness really said and accused two completely
13 innocent people of capital murders." That quote.

14 A. I remember that article.

15 Q. Okay. When you were speaking with the -- back
16 in 2012 when you were speaking with the reporter, you
17 said in that piece that nobody on this planet would know
18 this case as well as you would.

19 A. Back then.

20 Q. In 2012?

21 A. Well, I knew it best in 2007.

22 Q. Okay. But this article was published in 2012,
23 September of 2012.

24 A. Correct.

25 Q. Okay. So, in 2012 did you know your case as

1 well as you did back in '07?

2 A. No.

3 Q. But you did believe that nobody on this planet
4 knew the case as well as you did?

5 A. David Temple does.

6 Q. As far as lawyers are concerned.

7 A. I think Baldwin and Andrew do now.

8 Q. Okay.

9 A. And they might have in 2012. Or it might have
10 been Brian Rose. I don't remember who knew it best in
11 '12.

12 Q. But you were confident about your knowledge in
13 this case to tell the Chronicle what you told them?

14 A. Yes, ma'am.

15 MS. GOTRO: May I approach the witness,
16 Judge?

17 THE COURT: Yes, you may.

18 Q. (By Ms. Gotro) Ms. Siegler, I'm going to show
19 you what's been marked and admitted as State's Exhibit
20 18. It's a Harris County Sheriff's deputy's
21 supplemental report about some shotguns. And it's
22 Bate's 561 to 562. And then it goes to 5 -- well, it
23 starts there. Have a look (indicating).

24 A. (Witness complies).

25 Q. Does that report outline some shotguns that

1 were referred by law enforcement with respect to the
2 Temple case, the murder of Belinda Temple?

3 A. Yes.

4 Q. The first shotgun that you see on that page,
5 what date was it recovered?

6 A. This is the H&R 12-gauge?

7 Q. Yes, ma'am.

8 A. 1-28-99.

9 Q. And that's -- the H&R 12-gauge, that's the one
10 that was recovered --

11 A. By Ramon.

12 Q. -- Hernandez?

13 A. Yes.

14 Q. And he was able to ascertain that it was owned
15 by Riley Joe Sanders?

16 A. I know there was one that was owned by Riley
17 Joe Sanders' daddy. If you say this is the one, then I
18 agree with you.

19 Q. Okay. Is that the one that was recovered with
20 the spent reloaded buckshot shell in the chamber?

21 A. I think so.

22 Q. Okay. Again, that was a 12-gauge shotgun, yes?

23 A. Yes.

24 Q. Any other shotguns outlined in the report that
25 I just handed you?

1 A. Any other shotguns?

2 Q. Yes, ma'am.

3 A. Well, the next one is the Daiwa, if I'm saying
4 that right, 12-gauge, No. 96.

5 Q. When was that recovered?

6 A. 2-1-99.

7 Q. Where was it recovered?

8 A. It says also from Joe Sanders.

9 Q. Now, does that, on the Daiwa -- it was owned by
10 Joe Sanders, but does it indicate where it was
11 recovered, from whom it was recovered?

12 A. Received from Joe Sanders.

13 Q. Okay. And if I can back you up to that H&R
14 12-gauge. There is no such indication as to received
15 from on that particular weapon?

16 A. Correct.

17 Q. Okay. And the Daiwa was a 12-gauge?

18 A. Yes, ma'am.

19 Q. Is there a third shotgun on that report?

20 A. There is a Winchester 12-gauge pump shotgun.

21 Q. And when was that recovered?

22 A. 2-1-99.

23 Q. Who was the owner?

24 A. I don't see the owner on that one.

25 Q. Who was it received from?

1 THE COURT: Yes, sir.

2 MR. CHIN: Thank you, Your Honor.

3 A. There was an L.C. Smith 12-gauge shotgun.

4 Q. (By Ms. Gotro) Was that a 12-gauge?

5 A. Yes, ma'am.

6 Q. And when was it recovered?

7 A. 1-15 of '99.

8 Q. Who owned it, were you able to determine?

9 A. It was recovered at 6200 George Bush Drive,
10 which, I think, is the VFW park.

11 Q. Okay.

12 A. But there's not an owner listed. I don't know
13 who the owner is.

14 Q. Fair enough. Any other weapons recovered in
15 this investigation?

16 A. Did we already do the Beretta 12-gauge?

17 Q. Yes, ma'am. The one that was found in the
18 field?

19 A. Yeah. And this says it was released to Tim
20 Tangle. So, I guess they did find the owner of that
21 one behind the Kroger's.

22 Q. Were any of those other weapons released to
23 your knowledge or based on what you are looking at now?

24 A. The Daiwa 12-gauge was released to Riley
25 Sanders' dad on February 8th of '99. The Winchester

1 12-gauge was release to Mr. Hetherington on February 8th
2 of '99. And the only other shotgun left is the
3 Remington 12-gauge that belonged to the Cains.

4 Q. Was the L.C. Smith released?

5 A. Yeah. I have released, but I don't have to
6 whom.

7 Q. Okay. Was the Remington released?

8 A. Yes. It was released back to, I think, Cathy
9 Cain.

10 Q. And so, any other weapons recovered?

11 A. Not that I know of.

12 Q. So, of those six --

13 A. Well, the starter pistol, but you're still
14 talking shotguns.

15 Q. Just shotguns, yes.

16 A. Not that I know of.

17 Q. So, of the six 12-gauge shotguns that you just
18 listed, only one of them was not released and that would
19 have been the H&R 12-gauge?

20 A. Correct.

21 Q. And that was also shown to be owned by
22 Mr. Sanders?

23 A. Correct.

24 Q. Ms. Siegler, do you know why that weapon was
25 not released back to Mr. Sanders and when the Daiwa was?

1 A. You mean why they didn't give it back to him?

2 Q. Yes, ma'am.

3 A. I don't think he asked for it back, but I don't
4 know.

5 Q. So, you don't know why one was released but you
6 decided to keep the H&R shotgun?

7 A. No, but I know the buckshot was not the same
8 buckshot in either shotgun.

9 Q. All right. But just my question was: You
10 don't know why the decision was made to release the
11 Daiwa but to keep the H&R?

12 A. I don't remember.

13 Q. Very well.

14 Before we broke, Ms. Siegler, I had given
15 you the transcript of an August 25th hearing --

16 A. Yes, ma'am.

17 Q. -- 2005. Was Judge Harmon presiding over that
18 hearing?

19 A. No. It was Judge Shaver.

20 Q. In the very front of -- I believe you had the
21 motion -- the hearing on the motion to recuse prior to
22 that. Was Judge Harmon actually recused?

23 A. What day was the recusal?

24 Q. The recusal hearing would have been August
25 12th -- 11th.

1 A. And this is August the 25th, so this is still
2 Judge Harmon.

3 Q. Okay. Now, that recusal hearing. Was -- Judge
4 Harmon was not recused, was he?

5 A. No. He just voluntarily got rid of us.

6 Q. I'm sorry?

7 A. He just voluntarily got rid of us.

8 Q. Do you remember -- did you have a chance to
9 look over the transcript?

10 A. I read the pages you told me to.

11 Q. Okay. Do you remember there being some
12 discussion about the shotguns that were recovered in law
13 enforcement's investigation of this case?

14 A. Yes.

15 Q. All right. Did you make any representations to
16 the Court about the type of shotguns that were
17 recovered?

18 A. I thought you just wanted me to read like Page
19 41 on for a while. Is there a certain page? If you
20 know the page, I will look at it real fast.

21 Q. I will just ask you from memory right now.

22 A. Okay.

23 Q. Do you remember making any representations in
24 that hearing about the shotguns that were recovered?

25 A. I don't remember.

1 Q. Okay.

2 A. I know at that time where they were recovered,
3 who they were recovered from. Who they went back to
4 wasn't clear. That happened later.

5 Q. But it's fair to say that what was clear was
6 the caliber of weapon used was a 12-gauge shotgun?

7 A. Yes.

8 Q. Okay. And had Dick DeGuerin made any requests
9 of you up until this point, just based on your
10 recollection, about any 12-gauge shotguns recovered by
11 law enforcement?

12 A. Request as in?

13 Q. Information about -- requesting information
14 about any 12-gauge shotguns recovered by law enforcement
15 in this investigation.

16 A. I don't remember for sure. I'm assuming he
17 did. I think the big fight back then was the whole GSR
18 and the FBI. And that was the main concern and focus
19 and fight back then.

20 Q. Okay. Can you flip to Page 54 of the
21 transcript that you're holding?

22 A. Okay. Got it.

23 Q. Okay. There is a Line 16.

24 The Court: All right. Now we have
25 shotguns that were recovered at a later time.

1 You respond: Yes, sir.

2 And some of them were tested, asked the
3 Court.

4 Read your response, please, Ms. Siegler.

5 A. "Well, they cannot be tested because we're
6 talking about shotguns. It was pretty clear right away
7 it was the wrong kind of ammunition."

8 Q. Okay. It was pretty clear right away it was
9 the wrong kind of shotgun, wrong kind of ammunition.

10 A. Yeah. It's the ammunition. You can't ever
11 definitively identify shotguns just by the ammunition.

12 Q. Fair enough. But if I could direct your
13 attention to Lines 20 through 23. I want to make sure
14 you and I are working from the same copy here.

15 A. After the comma, I corrected myself and said:
16 Wrong kind of ammunition.

17 Q. Okay. So, then your testimony is that it was
18 the right type of caliber, right?

19 A. The guns that we just talked about were all
20 12-gauge, yes. They were all the wrong kind of
21 ammunition, even Riley Joe Sanders'.

22 Q. But for the caliber of the weapon that you are
23 working with --

24 A. It was right, it was the same.

25 Q. They were all 12-gauge shotguns?

1 A. Yes.

2 Q. May I see your transcript, please?

3 A. (Witness complies).

4 Q. Okay. I'm going to direct your attention back
5 to Lines 20 through 24 where you tell the Court: They
6 cannot really be tested because we're talking about
7 shotguns. It was pretty clear right away that it was
8 the wrong kind of shotgun, wrong kind of ammunition.

9 A. Right.

10 Q. Right.

11 So, in reading this, you are telling the
12 Court that what was recovered by law enforcement was the
13 wrong kind of shotgun and the wrong kind of ammunition?

14 A. No. What I'm saying is I corrected myself when
15 I said "wrong kind of shotgun." I meant to say "wrong
16 kind of ammunition."

17 Q. Okay. Will you point in the transcript where
18 you correct yourself?

19 A. I don't. I corrected myself right here, "wrong
20 kind of ammunition."

21 Q. So, that second sentence is you correcting
22 yourself. You didn't mean to say "wrong kind of
23 caliber," you meant to say "wrong kind of ammunition"?

24 A. Yeah. It was a 12-gauge coming and going.
25 There was never any question about that.

1 Q. And you haven't looked through any part of that
2 transcript?

3 A. Just Page 41 after you told me to.

4 Q. All right. So, assuming argument that's what
5 Dick understood, that's what the Court understood, that
6 you were simply correcting the component about
7 ammunition. Does that change whether or not the defense
8 is entitled to that information, Ms. Siegler?

9 A. He got that information.

10 Q. That wasn't my question. Does it change
11 whether or not the defense is entitled to information
12 about the weapons that were recovered by law
13 enforcement?

14 A. He got that information.

15 Q. When did he receive it?

16 A. Before trial about -- a few weeks, a few months
17 before trial.

18 Q. And how did he receive it?

19 A. That was the same time that we did the to-do to
20 try and be more clear on Ramon, where did you get it
21 from, who still has it, who got their shotguns back. It
22 was in that time period, but I don't remember when that
23 was.

24 Q. Okay. Does your file reflect at any point
25 where you tendered this information to defense counsel

1 about the weapons that were recovered?

2 A. This piece of paper right here (indicating).

3 Q. Okay.

4 A. It's what I just read to you. There's nothing
5 new in it.

6 Q. Okay. So --

7 A. It's just a summary of the shotguns.

8 Q. And you're saying that this summary of the
9 shotguns is what you tendered to Mr. DeGuerin?

10 A. Verbally. I don't know if I handed him that
11 list or not. I might have.

12 Q. Okay. And when you verbally tendered this list
13 of shotguns to Mr. DeGuerin, when did you do that?

14 A. I don't know. Dean Holtke made this list here,
15 either Dean or Craig or both of them. And this is my
16 writing here where we got the answers and these are the
17 numbers in my mind when we marked the exhibits to make
18 it all make sense.

19 Q. Is that the original of that document,
20 Ms. Siegler?

21 A. No. It's a copy.

22 Q. Okay. May we mark and admit that?

23 A. Do y'all have another one?

24 MS. GOTRO: So, I'm going to mark as
25 Defense 88 a list of shotguns with Ms. Siegler's

1 handwritten notes beside it, and ask that it be
2 introduced into evidence. Any objection, State?

3 **(Defense Exhibit No. 88 Offered)**

4 MR. CHIN: Actually, if I could have a
5 couple of questions on voir dire, Judge.

6 THE COURT: Yes, sir.

7 MR. CHIN: Ever so briefly.

8 **VOIR DIRE EXAMINATION**

9 **BY MR. CHIN:**

10 Q. Just so I understand, Ms. Siegler, you're
11 saying that the typed-out list, the typed-out portion on
12 Defense 88, you said that was Dean Holtke preparing
13 that?

14 A. And/or Craig Goodhart. They are the gun
15 people, not me.

16 Q. Okay. So, Craig Goodhart and/or Dean Holtke
17 prepared the typed portion on Defendant's 88?

18 A. Correct.

19 Q. Now, these numbers to the left of the typed
20 portion, that's your writing?

21 A. Yes.

22 Q. And the typed -- the written portions on the
23 right of it is your writing?

24 A. Yes.

25 Q. Okay. Did Holtke or Goodhart have anything to

1 do with the written parts or only you?

2 A. Well, it started out as a to-do list to answer
3 Dick's questions. So, as we got the answers to the
4 questions and I wrote them in -- the detectives were the
5 ones that got the answer to the questions and I just
6 wrote it in to be able to give Dick the answers.

7 Q. And just so I'm clear, these numbers off to the
8 left are the exhibit numbers?

9 A. Yes.

10 MR. CHIN: Okay. That's fine. I have no
11 objection to 88.

12 THE COURT: 88 is admitted.

13 **(Defense Exhibit No. 88 Admitted)**

14 **DIRECT EXAMINATION**

15 **CONT'D BY MS. GOTRO:**

16 Q. So, based on your memory, you orally tendered
17 this list of shotguns to -- was it Mr. DeGuerin himself?

18 A. Or Matt or Todd or Neal or Ralph.

19 Q. Okay. But you don't remember who?

20 A. No.

21 Q. Okay. Then I've got to ask you, Ms. Siegler,
22 what makes you so certain -- what makes your memory so
23 clear that you tendered this orally when you can't tell
24 me when and you can't tell me to whom?

25 A. Because we had so many conversations about the

1 shotguns.

2 Q. Yes, you did, in fact, have many conversations
3 about the shotguns, but how does that -- how does that
4 trigger your memory that you turned it over?

5 A. Because Dick beat it to death and I beat to
6 death the fact that every single shotgun that popped up
7 out of the blue in Katy, Fort Bend County, Harris
8 County, Texas, the S.O. recovered because they wanted to
9 be thorough and they wanted to be diligent, and they
10 didn't want a shotgun go missing that they didn't pay
11 attention to. And that's why all of these shotguns that
12 have nothing to do with our case are in the middle of
13 this world. They wanted to be thorough, Dick wanted to
14 know the answers, and we tried to give him the answers.

15 Q. Well, can we agree that's not the only item
16 that Dick beat to death, this shotgun issue; can we
17 agree to that?

18 A. Oh, yeah.

19 Q. Didn't he not beat these Katy boys to death?

20 A. He sure did.

21 Q. Every time you got in front of the Judge, he
22 was asking you for evidence about law enforcement's
23 investigation of these Katy boys, was he not?

24 A. Yes, he was.

25 Q. Okay. But earlier today, Ms. Siegler, you

1 testified that you don't remember whether or not you
2 tendered oral statements of these boys that Dick beat to
3 death, whether or not you tendered that information to
4 him.

5 A. No. I told you I don't remember that there
6 were any oral statements. I remember the written
7 statements. And I can't tell you when I tendered those
8 over, if I did.

9 Q. If Dick DeGuerin is being the squeaky wheel,
10 and every time you come to court he's talking about
11 these Katy boys, and he's blowing your fax machine up
12 with Lord knows how many requests for information, would
13 that not have caused you at least, Ms. Siegler, to go
14 and look for some evidence of investigation into these
15 Katy boys?

16 A. It was all there. It was all done.

17 Q. What does that mean: "It was all there, it was
18 done"?

19 A. They were investigated completely and
20 thoroughly.

21 Q. And how do you know that?

22 A. Because I read the case file, because I
23 obsessed over the case, because I tried the case,
24 because I talked to them myself. And finally, because
25 the jury got to hear Riley Joe Sanders with their own

1 ears and in no time at all convicted David Mark Temple.

2 Q. Ms. Siegler, if you read over that case file
3 yourself, if you obsessed over that case file yourself,
4 then how is it that you can't tell us one way or another
5 whether or not there were oral statements made by Riley
6 Joe Sanders to law enforcement?

7 A. I have told you. I don't think there were.
8 Not oral statements. You are talking about like random
9 conversations, not documented in a written report or a
10 taped report. I do not remember those.

11 Q. No. I'm talking about -- and I'm sorry. I
12 might not have been clear about this, but I've given the
13 example of law enforcement's initial canvass where the
14 police are simply walking up to neighbors and saying:
15 Hey, what did you see? The neighbor gives the
16 information, law enforcement writes it down on a piece
17 of paper.

18 A. Right.

19 Q. That's the type of oral statement that I'm
20 talking about. Just so we're clear, when any one of
21 these Katy boys made an oral statement to law
22 enforcement that was then memorialized in an offense
23 report, those are the oral statements that I'm referring
24 to. Okay? Yes, ma'am?

25 A. Yes.

1 Q. Okay. If no one knew this case file better
2 than you, if you went through it and you obsessed over
3 it as you've just described, my question, Ms. Siegler:
4 How is it that you don't know about these oral
5 statements made by Riley Joe Sanders? They're all
6 through this offense report.

7 A. That was seven years ago. I don't remember the
8 same today as I did seven years ago.

9 Q. Fair enough. And I don't expect you to. But
10 at the time this case was preparing to go to trial and
11 Dick DeGuerin is banging his drum about law
12 enforcement's investigation of these Katy boys, was it
13 not your obligation to do another review of the offense
14 reports to see if there was an investigation of the Katy
15 boys?

16 A. I read that offense report I can't even tell
17 you how many times. I reread it every time Dick asked
18 me to look for something else. And if there was
19 anything in there on the Katy boys that he needed to
20 know, that he was entitled to know, he knew it.

21 Q. Ahh. If there was anything there that he
22 needed to know or that he was entitled to know, then you
23 are testifying that's what he received, what he needed
24 to know and what he was entitled to know?

25 A. Yeah, whatever is Brady.

1 Q. Okay. Well, those statements, statements of
2 Riley Joe Sanders, those oral statements of Riley Joe
3 Sanders to law enforcement, are those items, in your
4 opinion, things that he need to know or was entitled to
5 know?

6 MR. CHIN: Well, I object to that, Judge.
7 She's already said she doesn't remember the oral
8 statements. So, there's no foundation for the question.

9 THE COURT: Overruled.

10 A. Ask me the question again.

11 Q. (By Ms. Gotro) The question is: These oral
12 statements that Riley Joe Sanders -- some nine
13 statements, however many statements, that Riley Joe
14 Sanders made to law enforcement documented in the
15 offense reports, are those things that in your opinion
16 at the time the defense was either entitled to know or
17 needed to know?

18 A. He did know. He did receive that information.

19 Q. Ms. Siegler, that's not the question. I'm
20 asking you about your opinion about whether or not that
21 was the type of evidence that the defense was entitled
22 to know.

23 A. Yes.

24 Q. Okay. And so, Dick DeGuerin is making these
25 specific requests for the investigation of these Katy

1 boys, Riley Joe Sanders included, can we agree that as
2 the prosecutor on the case, with a specific request like
3 that, it's your job to go through the file and see if
4 that information is there?

5 A. Yes.

6 Q. Okay. Did you do that?

7 A. Yes.

8 Q. And it's your testimony that you did not
9 recover any offense reports documenting these oral
10 statements of Riley Joe Sanders?

11 A. I don't remember. I can't answer that today.
12 If I did it back then, I might have. I don't remember.

13 Q. Okay. So, if you did it back then and you had
14 found it, you and I can agree that you should have
15 turned it over to the defense?

16 A. Only if it was inconsistent.

17 Q. Only if it was inconsistent?

18 A. Yes. If he is talking about the fact that he
19 ate chilli that day or he went to the store with his
20 buddies or he smoked some dope, it's not necessarily
21 inconsistent with what David Temple did. It has nothing
22 to do with what David Temple did. It just means it's
23 not necessarily inconsistent with his own statement.

24 Q. What is your understanding of an alternate
25 suspect theory, Ms. Siegler?

1 A. It's a lot different than Dick DeGuerin's.

2 Q. I'm not asking you about Dick DeGuerin. I'm
3 asking about your understanding. What is your
4 understand of an alternate suspect theory?

5 A. Someone who truly, truly was considered a
6 suspect, who truly needed to be and was cleared out.

7 Q. I'm sorry. Say that again.

8 A. Someone who truly needed to be and was cleared
9 out.

10 Q. Someone who needed to be cleared out?

11 A. And was cleared out.

12 Q. All right. Who did that Remington shotgun
13 belong to?

14 A. You have the paper.

15 Q. Cain.

16 A. Is that the last one on the list?

17 Q. Yes, ma'am.

18 A. No. 88?

19 Q. Yes, ma'am.

20 A. Cain.

21 Q. Who was Cain?

22 A. I think his name was Frank Cain. He is the one
23 that passed away. His wife was Nancy Cain -- Cathy
24 Cain.

25 Q. Okay. And who are these people with respect to

1 the Temple investigation?

2 A. Mr. Cain was a guy that lived close to the
3 Temples who had some interesting images on his computer.
4 And he was a little odd. And his wife -- I think it was
5 his own wife who called up the sheriff's department to
6 tell them that she was worried that her husband was
7 involved in Belinda Temple's murder.

8 Q. She actually contacted law enforcement and said
9 that she thinks her husband was the one that shot and
10 killed Belinda Temple?

11 A. Something like that.

12 Q. All right. Did law enforcement investigate
13 that investigation?

14 A. They sure did.

15 Q. Did they reach the summary and conclusion that
16 Mr. Cain had not, in fact, been responsible for Belinda
17 Temple's death?

18 A. Among other things.

19 Q. Okay. When did they reach that conclusion?

20 A. Back when Donna and Ted had the case.

21 Q. Well, but Ms. Cain didn't report this to you
22 until 2004.

23 A. I don't remember when she reported it to me. I
24 remember seeing "Cain" in the offense report somehow,
25 but it could have been at the end.

1 Q. Okay. If I told you it was reported to law
2 enforcement in 2004, would you have any reason to
3 disagree?

4 A. No, I don't.

5 Q. Okay. So, do you know when law enforcement ran
6 that lead down and determined that no, in fact, Mr. Cain
7 was not responsible?

8 A. November 8th, 2004.

9 Q. Okay. So, by November 8th, 2004, law
10 enforcement had determined Mr. Cain was not a viable
11 suspect in the murder of Belinda Temple, right?

12 A. And his wife had a few credibility issues
13 herself, yes, ma'am.

14 Q. You eventually turned that information over to
15 Mr. DeGuerin, did you not?

16 A. Yes.

17 Q. And do you remember when you did that?

18 A. October 4th, 2007.

19 Q. Okay. How long before trial was that?

20 A. Right before trial.

21 Q. You had this information in your file beginning
22 from 2004, and for three years you waited to give it to
23 the defense. Is that about the summary of what
24 happened?

25 A. Yes, ma'am.

1 Q. Okay. Can we agree that Mr. Cain, irrespective
2 of whether or not law enforcement had vetted it, was, in
3 fact, an alternate suspect?

4 A. We cannot.

5 Q. Okay. Why?

6 A. Because a kooky lady called and made a kooky
7 story on a kooky husband, and they wasted their time
8 checking that out, like a million other things they
9 checked out and wasted their time, and I don't think
10 that means that David Temple didn't commit the crime or
11 is inconsistent with his guilt. We cannot agree that he
12 was an alternate, true suspect. We do not agree on
13 that.

14 In any event, Dick DeGuerin had that
15 information. And what you also don't know is that Judge
16 Shaver instructed me to have Ms. Cain on standby in
17 trial in case Dick wanted to call her. And she was on
18 standby and Dick made that call one day at the end of
19 testimony, and said: No, I don't want her either.

20 Q. So, then is it your testimony -- scratch that.

21 I will ask your opinion. Under Brady vs.
22 Maryland, was the defense entitled to know about the
23 Cain person, this Cain allegation under Brady v.
24 Maryland in your opinion?

25 A. I think that's one of those gray areas. I

1 think that Dick would say they were, and I would say I'm
2 not sot sure, but he got the information. And Brady is
3 a pretty gray world. It's not black and white like we
4 wish it could be.

5 Q. And earlier in your testimony we talked about
6 what a prosecutor should do when confronted with Brady.

7 A. That's right. And that's why this is a gray
8 area.

9 Q. And you told us at the time that your boss was
10 Ted Wilson, right?

11 A. Yes.

12 Q. Did you take your gray Brady issue to Ted
13 Wilson and get any kind of input from him?

14 A. I didn't need to.

15 Q. Why?

16 A. Because it was cooky. They checked out a kooky
17 lead just to be thorough because when they got
18 cross-examined one day in trial, they could tell the
19 whole world that they checked out every lead that came
20 to the sheriff's department. And they did that.

21 Q. Ms. Siegler, can you and I agree that you, as a
22 state prosecutor, and a defense attorney, may not always
23 agree on the characterization, and specifically the
24 kookiness of certain type of evidence?

25 A. We can agree on that.

1 Q. All right. Then does it really matter whether
2 or not you think it's kooky?

3 A. I don't think it's my responsibility as a
4 prosecutor under Brady to have to tell a defense lawyer
5 every single little bitty thing that was investigated
6 that has nothing to do with a defendant or his defense
7 or in any way mitigates punishment or is inconsistent
8 with a witness that testifies at the trial. When you
9 when your defense is to throw mud on the wall and to see
10 what sticks, no prosecutor could possibly satisfy Brady
11 and give that defense lawyer everything they would want
12 to use in a jury trial. That's impossible. That's an
13 impossible burden.

14 Q. Can we -- okay. So then, when exactly did you
15 find out what Mr. DeGuerin's defense was?

16 A. In opening statements. And I was shocked.

17 Q. Okay. Your statement just a moment ago was
18 that it is not a prosecutor's job to turn over every
19 little rabbit trail that may be relevant to the
20 defense's theory. Right?

21 A. Yes.

22 Q. Okay. And then you tell us that --

23 A. No, not relevant to the defense's theory.
24 Every little rabbit trail.

25 Q. Okay. Every little rabbit trail related to the

1 defense's theory, yes?

2 A. Not really, but keep going.

3 Q. Well, no. I want to work with your --

4 A. A rabbit trail is not related to the theory. A
5 rabbit trail is a rabbit trail. It's got nothing to do
6 with the theory. That's the hole point of calling it a
7 rabbit trail.

8 Q. Well, Ms. Siegler, if you don't know what the
9 defense's theory is until opening statements --

10 A. Yes, ma'am.

11 Q. -- are you telling us that you don't have an
12 obligation to turn any rabbit trails until after
13 opening?

14 A. Not if they're ridiculous.

15 Q. Based on your assessment?

16 A. Yes, ma'am.

17 Q. And so, if your assessment is that any piece of
18 evidence is either ridiculous, kooky, or a rabbit trail,
19 you don't have to turn it over?

20 A. That's the problem with Brady. It always comes
21 back to a prosecutor as to what constitutes Brady.
22 That's the problem with the whole rule.

23 Q. Okay. I will ask that question again. Is it
24 your opinion that Brady relies on your assessment of the
25 evidence, correct?

1 A. Unfortunately, yes.

2 Q. And if in your assessment of the evidence it is
3 kooky or a rabbit trail, then it's not Brady?

4 A. In most cases, that is correct.

5 Q. In this case is it correct?

6 A. On the Cain issue, yes.

7 Q. What about the Katy boys?

8 A. Not the same.

9 Q. Not the same as Cain?

10 A. Not the same as Cain.

11 Q. What was the difference in your mind between
12 the Katy boys and Mr. Cain?

13 A. In my mind, nothing. In Dick DeGuerin's mind,
14 because Riley Joe Sanders lived next door to Belinda
15 Temple --

16 Q. Well, I don't want to talk about Dick
17 DeGuerin's mind because we've already established that
18 as a prosecutor it is your opinion that matters. Right?

19 A. When it comes to Brady.

20 Q. When it comes to Brady, it is your opinion that
21 matters. Right?

22 A. Yes.

23 Q. Okay. And so, in your opinion, could you
24 please distinguish for us the difference between law
25 enforcement's investigation of Mr. Cain and law

1 enforcement's of the Katy boys?

2 A. Well, the investigation of the Katy boys was
3 much more extensive. There was much more focus on them.
4 They were more thorough in flushing all of that out.

5 Q. Were there any other distinctions?

6 A. Those are the main ones.

7 Q. Just that the investigation was far more
8 extensive and they were far more thorough in
9 investigating the Katy boys than what they were in
10 Mr. Cain?

11 A. Correct.

12 Q. Okay. Please explain to us why in your opinion
13 Mr. DeGuerin was not entitled to law enforcement's
14 investigation of the Katy boys.

15 A. He was. He had the information.

16 Q. And by "information," you mean?

17 A. He knew everything about the Katy boys. He
18 knew about the burglary, he knew about Riley Joe being
19 home that day, he knew about the dope smoking, he knew
20 about the polygraph, he knew about the shotguns --

21 Q. Slow down.

22 A. -- he knew about the chilli.

23 Q. Slow down just a second. I lost you after the
24 dope smoking.

25 A. He knew about the shotguns, he knew about Riley

1 Joe crying that night. He knew about all of it.

2 Q. Did he know about Riley Joe Sanders calling
3 Nikki Biondo between 6:30 and 7:00 that night crying and
4 telling her that his neighbor had been shot?

5 A. I don't remember.

6 Q. Did you tender him that information?

7 A. I don't remember that either.

8 Q. And, again, as Mr. Schneider reminds me, we're
9 just talking about that period between David Temple
10 being arrested and you guys showing up ready to go to
11 trial.

12 A. Right.

13 Q. In your review of the law enforcement's
14 investigation, do you remember reading their interview
15 of Nikki Biondo?

16 A. I remember the name Nikki Biondo and I remember
17 him crying to his girlfriend because he was upset that
18 Belinda Temple was shot, yes, I remember that. Whether
19 it's through Riley Joe or her, I can't say.

20 Q. If I told you it was through Nikki Biondo, you
21 don't have any reason to disagree with that?

22 A. No, I don't.

23 Q. Okay. And so, between the hours of 6:30 and
24 7:00, not only is he upset, but he specifically tells
25 Nikki Biondo that his neighbor had been shot, that

1 Ms. Temple had been shot.

2 A. Well, that's what happened.

3 Q. Right. But do you remember seeing that
4 statement?

5 A. I'm not disagreeing with you, no.

6 Q. Okay. Do you remember seeing that statement,
7 though, that this is what Riley Joe told Nikki Biondo?

8 A. I can't picture it in my head, but I'm not
9 disagreeing with you.

10 Q. Fair enough.

11 A. Vaguely.

12 Q. Fair enough.

13 Does it strike -- from just a prosecutorial
14 point of view, does it strike you as -- let's see. What
15 time did you -- what time was it that David Temple makes
16 the first phone call to 911?

17 A. I don't remember that.

18 Q. Okay. If I told you maybe 5:38, does that
19 sound about right?

20 A. Is that right? Yes.

21 Q. Okay. And by the time EMS arrives, it's close
22 to 6:00. Fair?

23 A. Yes.

24 Q. Okay. Does it strike you as odd from a
25 prosecutorial perspective that within 30 to 45 minutes

1 Riley Joe Sanders knows how Belinda Temple was killed?

2 A. Have you ever grown up in a small town? That
3 doesn't surprise me at all.

4 Q. Ms. Siegler, that's not my question.

5 A. He lived next door to her. The sirens are
6 blowing up everywhere. The whole part of Katy out there
7 knew what happened in five minutes.

8 Q. So, your testimony is, no, it does not surprise
9 you?

10 A. It does not.

11 Q. That you'd expect that everyone standing
12 outside of that house knew that Belinda Temple had been
13 shot?

14 A. Pretty much, yes.

15 Q. Okay. Even though nobody had heard the
16 shotgun?

17 A. Yes.

18 Q. And how, in your opinion, Ms. Siegler, would
19 they have arrived at that conclusion?

20 A. Because cops were everywhere and they were all
21 talking and trying to figure out what was going on.

22 Q. Correct me if I'm wrong on this, but isn't --
23 it's not common practice for law enforcement to keep
24 their mouths shut whenever they have a homicide they are
25 investigating?

1 A. That's what you hope for.

2 Q. And so, if I understand correctly, the only --
3 you attribute Riley Joe's statement to the fact that he
4 probably overheard it from law enforcement?

5 A. Yes.

6 Q. All right. Do you recall that you-all had
7 subpoenaed some school records for Riley Joe Sanders and
8 Michael Grantom and Cody Towner?

9 A. Yes.

10 Q. And in that week, do you remember what the
11 school records indicated?

12 A. Oh. He didn't make very good grades and he
13 missed a lot of school. Riley Joe.

14 Q. He had actually missed that entire week after
15 Belinda Temple died?

16 A. I don't remember that, but I'm not arguing with
17 you.

18 Q. Okay. Was defense entitled to hear that
19 information?

20 A. Oh, they got that. I think I subpoenaed it
21 because Dick wanted it.

22 Q. In your opinion, did that constitute Brady
23 information?

24 A. No. Some kid skipping school has got nothing
25 to do with what David Temple did to Belinda and Erin.

1 Q. Ms. Siegler, can you and I agree that Dick
2 DeGuerin's job is not to prove that David Temple killed
3 his wife?

4 A. We can.

5 Q. Okay. Can we also agree that as a defense
6 attorney Dick DeGuerin's job was to find another suspect
7 that had committed the crime?

8 A. That's his job?

9 Q. As a defense attorney.

10 A. To blame an innocent kid? That's his job?

11 Q. That's not my question, Ms. Siegler.

12 A. That was your question.

13 Q. My question was: As a defense attorney, is it
14 not Mr. DeGuerin's job just to craft the defense of his
15 client? Can we agree to that?

16 A. We can agree that it's his job to create
17 reasonable doubt as to whether or not David Temple
18 killed Belinda and Erin. To blame an innocent
19 16-year-old kid, I don't think any defense lawyer would
20 say that's his job.

21 Q. And you personally have determined that Riley
22 Joe Sanders is innocent, right?

23 A. In my mind, he is.

24 Q. Right.

25 So it Michael Grantom.

1 A. Yes, ma'am.

2 Q. And Cody Towner?

3 A. Yes, ma'am.

4 Q. Just as innocent as the day is long, right?

5 A. Yes, ma'am.

6 Q. Can we agree that it is a defense attorney's
7 job to craft a defense for his client?

8 A. Absolutely.

9 Q. Okay. And when you think about defenses to
10 charges like murder, is alibi a possible defense?

11 A. Yes.

12 Q. Okay. What about alternate suspects, somebody
13 else did it --

14 A. Yes.

15 Q. -- possible defense, yes?

16 A. Yes.

17 Q. Okay. Now, when we start talking about that
18 alternate suspect, can we also agree that the defense
19 really isn't interested in finding just the evidence
20 that implicates his client? Just "yes" or "no."

21 A. You mean really not interested in the truth?

22 Q. Nope. That wasn't my question.

23 A. What's your question?

24 Q. Can we agree that defense counsel, in crafting
25 his alternate suspect theory, isn't looking for just

1 evidence that implicates a client?

2 A. Agreed.

3 Q. Okay. So, he's looking for evidence that
4 implicates an alternate suspect. Agreed?

5 A. Yes.

6 Q. Okay. Now, is it your understanding in this
7 pretrial period that Mr. DeGuerin's theory was that one
8 of these Katy boys was the alternate suspect?

9 A. Well, he had a lot of theories working. That
10 was one of them, yes.

11 Q. That was one of his theories, that one of these
12 Katy boys was, in fact, an alternate suspect; we can
13 agree to that?

14 A. Yes.

15 Q. Which is why he came to court and banged his
16 drum about wanting all of the evidence you had about
17 these Katy boys, right?

18 A. Yes.

19 Q. Because it fit with his defensive theory of
20 David Temple.

21 A. Well, he had several defensive theories at that
22 time. That was one of them.

23 Q. One of them. And we'll just focus on this one
24 for right now.

25 A. Okay.

1 Q. So, if you possess evidence of these -- scratch
2 that.

3 If you have anything in your possession
4 that the defense requests from you -- all right -- that
5 support his defensive theory, what is your understanding
6 under Brady of your obligation to turn it over?

7 A. To turn it over. And I did.

8 Q. Okay. And so, it is your testimony that --
9 well, can you say that, Ms. Siegler? Because you don't
10 remember --

11 A. But I told you I told him everything about the
12 Katy boys. He knew it all. When you wrote it down
13 awhile ago, there were four commas.

14 Q. Ms. Siegler, give me just one second. Because
15 what I wrote down was that you don't remember whether or
16 not there were any oral statements made by the Katy boys
17 to law enforcement.

18 A. But I do remember the fact that Dick DeGuerin
19 knew the whole story about the Katy boys.

20 Q. Well, again, Ms. Siegler, I don't want you to
21 speculate about what Dick did not know and did know.
22 Okay? I just want to talk about what you did.

23 A. I told Dick everything there was to know about
24 the Katy boys.

25 Q. Okay. But you told us that you don't remember

1 whether or not law enforcement documented any oral
2 statements in their offense report of Riley Joe Sanders
3 or any of the Katy boys, "yes" or "no"?

4 A. Correct.

5 Q. Okay. Then is it fair to say that there is a
6 possibility he might not have gotten all of the
7 information that he needed?

8 A. No. Because what we're not understanding here
9 together is that if they do a short oral interview and
10 if they did document that, I can't remember it. In any
11 event, they did at least three written statements,
12 interviews that were documented of Riley Joe Sanders,
13 that they did put down and the substance of those was
14 told to Dick DeGuerin.

15 Q. You told us earlier that Donna Goode had
16 thought a couple of times about filing charges on this
17 case.

18 A. I think that she was on the fence. So, I don't
19 know how close she came or how much she thought about it
20 or what she told Ted. I just know that she was always
21 on the fence.

22 Q. And having read the Grand Jury testimony, do
23 you remember seeing for certain grand jurors actually
24 describe Riley Joe Sanders as another suspect?

25 A. I recall seeing the way y'all read that Grand

1 Jury testimony --

2 Q. No, no.

3 A. -- and I disagree with that.

4 Q. No. I'm asking you if you recall reading the
5 Grand Jury testimony where a grand juror says: You've
6 got another suspect.

7 A. That is not how happened. Look at my
8 affidavit. I summarized it under Detective Mark
9 Schmidt. That is not the way it happened. You are
10 reading it to make that play, and that's not the way it
11 happened.

12 Q. Ms. Siegler, it was just a yes-or-no question.
13 I asked you if you remember at the time you got this
14 file from Donna Goode reading Grand Jury testimony where
15 a grand juror describes Riley Joe Sanders as a suspect,
16 "yes" or "no"?

17 A. I don't know when I read that the first time.

18 Q. Okay. Whenever you read it, do you ever
19 remember seeing that grand juror describing Riley Joe
20 Sanders as a suspect? It's okay if you don't.

21 A. A grand juror made an offhand comment that was:
22 You got yourself another suspect then. Just like that.

23 Q. So, then you do remember reading it?

24 A. I told you I did.

25 Q. I missed that part. I'm sorry. I missed that

1 part.

2 MS. GOTRO: If I could have just a second,
3 Judge.

4 (Pause)

5 Q. (By Ms. Gotro) If I could direct your attention
6 to Page 46 of that transcript that you've still got up
7 there, the August 25th hearing.

8 A. Okay.

9 Q. It's Page 46. You make a statement: What
10 they're looking for is every little dead-end, dead
11 trail, and rabbit trail that the police checked out over
12 all these years. Let me know when you find that
13 statement.

14 A. I've got it.

15 Q. Okay. What were you referring to when you said
16 "what they're looking for"?

17 A. What I just told you a while ago.

18 Q. But in the transcript -- and you can flip
19 forward or backward, whatever you need to do to put that
20 statement in context, but what were you referring to
21 when you said: What they're looking for is every little
22 dead-end?

23 A. What I continued to say -- if you keep reading,
24 what I said was: There were many of those. Every time
25 a shotgun was seen around Katy, they called the police

1 about it. They checked out all sorts of things for all
2 these years. What he wants me to provide him here is
3 all those little things so he can go -- so that he can
4 then go out and look at them himself and make something
5 of them in trial. Unless it's Brady, unless it turns
6 out to be something inconsistent with David Temple's
7 guilt, he is not entitled to it. Some lead that they
8 checked out on some random phone call where somebody
9 saw, you know, a pickup truck going down the road at a
10 certain time on January 11th that does not amount to
11 anything is not something he is entitled to. And the
12 Judge agreed with me.

13 Q. Okay. If it doesn't amount to anything, he's
14 not entitled to it. Is that your opinion?

15 A. Yes.

16 Q. If the lead doesn't amount to anything in your
17 opinion, then in your opinion the defense doesn't get
18 it, right?

19 A. In so many words, yes.

20 Q. Okay. Page 46 again. And I'll start you off
21 at Line 3. The Court makes a statement, doesn't it?

22 A. Yes.

23 Q. That certainly would be -- you can follow
24 along. That certainly would be, once again -- this is a
25 two-part test. Obviously, any reports, documentation,

1 reports, tips that leads to another person having
2 committed this offense, that's Brady material. And she
3 has a duty to disclose that to you.

4 I want to back up for a second.

5 Leads as to another person having committed
6 this offense.

7 Now, Judge Harmon says that's Brady
8 material. Do you disagree with that assessment?

9 A. No, but that's not we were talking about here.
10 You need to keep reading.

11 Q. No, ma'am. No, ma'am. I've moved on to Line 1
12 on Page 46. Okay? Where the Court makes an observation
13 about what is Brady material.

14 A. He does, but then he continues on Line 13.

15 Q. I have not gotten there yet. Just stick with
16 the top of the page, Line 3, where the Court makes an
17 observation: Obviously, in your reports, documentation,
18 which reports tips leads us to another person having
19 committed this offense, that's Brady material. She has
20 a duty to disclose that to you. Lines 3 through 8. Do
21 you see that, Ms. Siegler?

22 A. I do.

23 Q. Okay. Do you agree or do you disagree with
24 what Judge Harmon has described as Brady material?

25 A. In that description, I agree with it. However,

1 that is not what the request was for, which is what
2 continues on Line 10.

3 Q. We're not there yet. And I promise you we'll
4 get there. I promise we will, but we're not quite there
5 yet.

6 "Leads us to another person having
7 committed this offense." Judge Harmon doesn't make any
8 observations about whether or not those leads have to be
9 of a certain character before they're Brady material,
10 does he?

11 A. I don't know what you mean by "character."

12 Q. Well, he doesn't make an exception for kooky
13 leads, does he?

14 A. He said: Documentation which reports tips,
15 leads as to another person having committed this
16 offense, that's Brady material.

17 Q. Yes, ma'am.

18 A. He said that and I agree with that.

19 Q. Okay. Now, earlier -- and I could -- it's been
20 a long day and I am tired, so please correct me if I'm
21 mistaken. Earlier what I heard you say was that if law
22 enforcement vetted it, that it turned up a dead-end,
23 then you did not believe that to be Brady and that you
24 didn't need to turn that over to the defense.

25 A. In some cases, that's correct.

1 Q. In this case.

2 A. Which part of this case?

3 Q. The Brady -- the Katy boys.

4 A. It's Brady. It got turned over.

5 Q. Okay. Same page, you make a statement: What
6 he wants me to provide him here is all those little
7 things so he can go out and look at them himself and
8 make something of them at trial.

9 What are all of those little things
10 referring to in that statement, Ms. Siegler?

11 A. Which line are you reading.

12 Q. Volume 4 on Page 46.

13 A. And what line?

14 Q. I don't actually have a line. I'm happy to
15 help you look.

16 MS. GOTRO: May I approach, Judge?

17 THE COURT: Yes, ma'am.

18 Q. (By Ms. Gotro) I lost my spot. Give me a
19 second.

20 MR. CHIN: May I please go up to --

21 THE COURT: Yes, sir.

22 MR. CHIN: Thank you, sir.

23 MS. GOTRO: On Page 46.

24 MR. SCHNEIDER: Line 22.

25 Q. (By Ms. Gotro) There we go. The middle of the

1 page.

2 Oh, that was the dead-end, dead rabbit
3 trails. Right?

4 A. Yes.

5 Q. Okay. Do you remember in the same hearing
6 telling the Judge that Dick just wants this information
7 so he can make something out of nothing?

8 A. Yes.

9 Q. Yeah.

10 Was that the shotguns he was referring to
11 or the Katy boys? What information is he seeking that
12 he just wants to make something out of nothing?

13 A. What he wants me to provide him here is all
14 those little things so he can then go out and look at
15 them himself and make something of them in trial. Page
16 47.

17 Q. 47.

18 A. Unless it's Brady, unless it turned out to be
19 something inconsistent with David Temple's guilt, he is
20 not entitled to it. Page 47.

21 Q. Ms. Siegler, can I just ask you -- I mean,
22 isn't that the defense attorney's job? Aren't we
23 supposed to go out and find those little things and make
24 something of them because our job is to defend?

25 A. Yeah, but there is a line. There is a line you

1 have to draw in your own mind ethically where you quit
2 accusing a 16-year-old boy of committing a capital
3 murder.

4 Q. Ms. Siegler, with all due respect, as the
5 prosecutor, is it really any of your concern who defense
6 counsel accuses?

7 A. Yes, ma'am, it is.

8 Q. Why?

9 A. Because somebody's got to stand up for him.
10 You're not going to do it.

11 Q. For who?

12 A. For anybody that's wrongfully accused.

13 MR. CHIN: Judge, I object to any sort of
14 noise coming from either counsel table or from the
15 gallery.

16 THE COURT: Be quiet in the gallery.

17 MR. CHIN: Thank you, Judge.

18 Q. (By Ms. Gotro) So, if I understand you
19 correctly, any time the defense counsel develops an
20 alternate suspect theory, it is the State's job to step
21 in and defend that alternate suspect when you
22 believe that alternate suspect is innocent?

23 A. The police can't do it. It's not your job.
24 And unless they have a lawyer to do that for them, it is
25 our job. Somebody has to do it. The Judge can't do it.

1 Q. But just so that I'm clear, Ms. Siegler, are
2 you telling us that any time a defense lawyer -- or when
3 a defense lawyer develops evidence of an alternate
4 suspect, if, as the prosecutor, you believe that
5 alternate suspect is innocent, it's your job to defend
6 the alternate suspect?

7 A. It's my job to be thorough in my presentation
8 of my case against the suspect I believe did do it. And
9 part of that thoroughness is finding out whether or not
10 the other person who is now accused is innocent or not.
11 So, yes, it is my job.

12 Q. So --

13 A. I don't think a defense lawyer can go around
14 willy-nilly accusing people of crimes like murder and
15 nobody steps up and says that's bull.

16 Q. But can you agree with me that if you can
17 marshal circumstantial evidence and point it at a
18 citizen and accuse them of a crime, that a defense
19 lawyer can marshal circumstantial evidence and point it
20 at a third party and accuse them of the same crime?

21 A. Sure, you can.

22 Q. Okay. Is that not what Dick DeGuerin did in
23 this case?

24 A. Sure, he did.

25 Q. Okay. Then --

1 A. And it is my job to say Riley Joe Sanders
2 didn't do it. If I don't say Riley Joe Sanders didn't
3 do it, in addition to him coming into court and
4 testifying voluntarily, who's going to do that? Who's
5 going to defend Riley Joe Sanders? The Judge can't.
6 You won't. The cops can't.

7 Q. You know who defends Riley Joe Sanders?
8 Defense counsel.

9 A. Whose defense counsel?

10 Q. Well, defense counsel at his choosing.

11 A. And that's why we got Chip Lewis and Paul Doyle
12 in the middle of this because I know these questions are
13 coming, because they needed a lawyer.

14 Q. Well, you know those questions are coming,
15 Ms. Siegler, because your own cell phone records were
16 subpoenaed, were they not?

17 A. And you think I'm not dumb enough {sic} not to
18 know when I'm dialing a number it's going to show up on
19 a piece of paper one day? I could have used a different
20 phone.

21 Q. I make no speculation about that, but you know
22 your cell phone records were subpoenaed, right?

23 A. By Brad Beers.

24 Q. Okay. Do you they why were subpoenaed?

25 A. I guess because y'all thought there was some

1 conspiracy going on between me and Dean Holtke.

2 Q. Y'all thought? Who's "y'all"?

3 A. Y'all.

4 Q. "Y'all" who? Please identify that "y'all" that
5 you are referring to.

6 A. Dick, Ralph, Todd, Neal, Matt, Stanley, you.

7 Q. Okay. So, you believe that all of those
8 defense lawyers were in cahoots with Brad Beers and
9 that's why your cell phone records got subpoenaed?

10 A. I don't know if I'd use the word "cahoots."

11 Q. Well, pick your own word.

12 A. On the same page.

13 Q. Okay. Defense lawyers and Brad Beers are on
14 the same page. What page is that, Ms. Siegler? What
15 page were we on?

16 A. The Pat Lykos' page.

17 Q. Pat Lykos' page.

18 You spoke a lot earlier about what your job
19 is, Ms. Siegler. Correct me if I'm wrong, but as a
20 Harris County prosecutor, as a prosecutor anywhere, your
21 job is to seek justice, right?

22 A. Yes, ma'am.

23 Q. Okay. It's not to seek conviction, is it?

24 A. No, ma'am.

25 Q. And, in fact, your job -- you have a higher, I

1 guess I would say standard of conduct, than defense
2 attorneys do.

3 A. Absolutely.

4 Q. Fair to say?

5 Because you represent the citizens of the
6 state of Texas.

7 A. Including Riley Joe Sanders.

8 Q. Including Riley Joe Sanders. You believe that,
9 right?

10 A. With all my heart.

11 Q. Okay. At what point did Riley Joe Sanders
12 switch over from being a suspect in a capital murder
13 case to someone that you represent as a prosecutor?

14 A. I didn't represent him as a prosecutor. I
15 thoroughly investigated him as a suspect when I was a
16 prosecutor. I never represented him. And that's the
17 reason why Dean Holtke called me in that initial phone
18 call, which records you have. Because Dean wanted to
19 know since I'm no longer at the D.A.'s office, could I
20 represent him then in 2012. And I said: Unfortunately,
21 no, I cannot. But I know what's fixing to come at him
22 down this road one more time for about the fifth time
23 from Dick DeGuerin and his entourage. And that's when I
24 called Chip Lewis and Paul Doyle so that Riley Joe
25 Sanders and Cody Ellis would have somebody out there

1 taking up for them in 2012.

2 Q. You said "I thoroughly investigated him" in
3 reference to Riley Joe Sanders. Right?

4 A. Well, it was pretty much already done.

5 Q. No. But what you just said from the stand that
6 you thoroughly investigated -- "I thoroughly
7 investigated Riley Joe Sanders." Do you remember saying
8 that?

9 A. I did, I did.

10 Q. And at the conclusion of your investigation,
11 you determined that he had nothing to do with this,
12 right?

13 A. Yes, ma'am.

14 Q. I want to back up for just a second. I asked
15 you about your cell phone records. So, the defense and
16 the special prosecutor Brad Beers, we're all on the same
17 Lykos' page. Is anybody else on that Lykos' page?

18 A. Well, you weren't on it back then. You are new
19 to the page.

20 Q. Okay. Was anybody else on the page back then?

21 A. Jim Leitner and Pat Lykos.

22 Q. Anybody else within the district attorney's
23 office?

24 A. No.

25 Q. So, on the opposite end of that page, who do we

1 find?

2 A. I don't understand the question.

3 Q. Well, what I believe I'm hearing from you is
4 that the elected district attorney Pat Lykos; the first
5 assistant Jim Leitner; and special prosecutor Brad Beers
6 were all colluding with the defense to try and get your
7 cell phone records?

8 A. Oh, it was a broader game than that.

9 Q. What was the broader game, Ms. Siegler?

10 A. Well, four different people told me that there
11 was a meeting between Pat Lykos and Dick DeGuerin when I
12 was running for D.A., as was Jim Leitner and Pat Lykos.
13 And in this meeting, Dick DeGuerin told Pat Lykos he
14 would support her for D.A. if she would agree to let him
15 reopen the Temple investigation any way he wanted to.
16 And for some coincidental, unknown reason, during the
17 four years that Jim Leitner was in office as her first
18 assistant, the only file that I know of that sat in his
19 office, all those boxes, was David Mark Temple.

20 Q. And how did you know that, Ms. Siegler?

21 A. Which part?

22 Q. The file sat on Jim Leitner's desk for all
23 those years.

24 A. Everybody saw those boxes.

25 Q. Who?

1 A. Lots of people.

2 Q. Names. Do you remember?

3 A. Lots of people.

4 Q. Do you remember any names?

5 A. I do.

6 Q. Will you share them with us, please?

7 A. No, I won't.

8 Q. Why?

9 A. Because I don't want them to get in trouble.

10 All they did was tell me boxes were sitting in an
11 office.

12 Q. What else did they tell you?

13 A. That's all they told me.

14 Q. And how would that get them in trouble exactly?

15 A. Because they worked for Pat Lykos and Jim
16 Leitner.

17 Q. But can we agree that Pat Lykos and Jim Leitner
18 are no longer in power?

19 A. Thank God.

20 Q. So, that's true, right?

21 A. Yes, ma'am.

22 Q. Certainly, you don't have any fears that Devon
23 Anderson is going to fire any of those folks?

24 A. I do not.

25 Q. Okay. So, then may we have their names?

1 A. No.

2 Q. Are these the same folks that were feeding you
3 information about the investigation of Daniel Glasscock?

4 A. Again, the only person feeding me that
5 information was Dean Holtke.

6 Q. Okay. It wasn't Danny Billingsley?

7 A. No.

8 Q. So, I take it that you've had the opportunity
9 to review your cell phone records, Ms. Siegler?

10 A. I actually have not. Baldwin showed them to
11 me, but I didn't look at them hard.

12 Q. So, there's regular occurring -- Danny
13 Billingsley was working for the sheriff's department
14 right around this investigation, was he not?

15 A. Yes, ma'am.

16 Q. Okay. And so, those long conversations that
17 you're having with Danny Billingsley, they didn't have
18 anything to do with the Glasscock investigation?

19 A. They were probably about John Denholm.

20 Q. Did it have anything to do with the Glasscock
21 investigation or David Temple?

22 A. All of that.

23 Q. "Yes" or "no," did your conversations --

24 A. Yes.

25 Q. -- with Danny Billingsley have anything to do

1 with Daniel Glasscock or David Temple?

2 A. Yes.

3 Q. So, was he giving you a blow-by-blow --

4 A. No. Wait. He wouldn't have known anything
5 about Glasscock because he was already gone, too. He
6 didn't know anything.

7 Q. Gone? What do you mean "gone, too"?

8 A. From the sheriff's department.

9 Q. When did he leave?

10 A. The end of '08 when Tommy Thomas lost sheriff.

11 Q. Did he go to Johnny Bonds' Thursday lunches at
12 Kelly's Place?

13 A. No. Those were prosecutor lunches.

14 Q. So, then your relationship with Danny
15 Billingsley was just personal?

16 A. We were friends, yes.

17 Q. Danny Billingsley was the same sheriff's --
18 what was he? Was he a detective then or what was his
19 title when he arrested David Temple?

20 A. He was in Homicide.

21 Q. He was in Homicide.

22 And your affiant in that arrest warrant,
23 right?

24 A. Yes, ma'am.

25 Q. Anybody else from the sheriff's department

1 giving you updates about investigating this new
2 evidence?

3 A. The only person I remember talking to was Dean.

4 Q. Okay. Ms. Siegler, do you know what the
5 Conviction Integrity Unit is?

6 A. That's where Baldwin is.

7 Q. Okay. What's your understanding of what that
8 unit did?

9 A. In this case or generally?

10 Q. Period. Just generally speaking.

11 A. I would assume that they probably do the same
12 thing that I did in the Anthony Graves case. Probably
13 pretty consistent.

14 Q. Okay. Well, I don't know if there is a person
15 on the planet who doesn't know what the Anthony Graves
16 case is, but can you describe to the Court in sort of
17 the broadest terms what it is the Conviction Integrity
18 Unit does?

19 A. They go back and restudy convictions to see
20 that they should be righteous.

21 Q. Right. If there is an advance in technology
22 and there is biological evidence that can be tested,
23 isn't that what the conviction review unit does?

24 A. Yes.

25 Q. And can you and I agree that if a conviction is

1 just and correct, it will withstand any kind of
2 scrutiny, will it not?

3 A. Hopefully.

4 Q. Hopefully?

5 A. Hopefully.

6 Q. Are there a lot of cases in Texas where
7 convictions are getting overturned where folks are
8 really guilty, Ms. Siegler?

9 A. I hope not.

10 Q. Okay. So, can you and I agree that's probably
11 a good thing for us as a society, right, that guilty
12 people go to prison and innocent people go free?

13 A. Yes, ma'am.

14 Q. So, this Conviction Integrity Unit actually
15 serves a pretty good purpose here in Harris County?

16 A. Yes, it does.

17 Q. If new evidence comes forward on any case where
18 someone has been convicted of a crime, how should the
19 Harris County District Attorney's Office handle it?

20 A. Check it out and investigate it.

21 Q. How?

22 A. As thoroughly as they can.

23 Q. What does that mean? Because that sounds like
24 just lip service. What are they supposed to do with
25 this new evidence?

1 A. They're supposed to check it out and
2 investigate it. I mean, without giving me a specific
3 example, I don't know what you want me to say. They
4 check it out. They do their job.

5 Q. They corroborate the statements, go back
6 through the old case file maybe?

7 A. Well, if they have to, yeah, to understand what
8 they're doing.

9 Q. All right. Isn't that exactly what Steve
10 Clappart was trying to do in this case?

11 A. No. It might have started out that way.

12 Q. Where did he go off the rail, Ms. Siegler?

13 A. When he interviewed Glasscock.

14 Q. When he interviewed Glasscock. How did it go
15 off the rail with the interview of Glasscock?

16 A. Well, the first thing he should have done is
17 studied the facts and the way Dick interviewed
18 Glasscock. There would have been some clues there. And
19 then when he interviewed himself, he should have
20 realized that there was a lot of the story that was
21 missing and didn't make any sense.

22 Q. All right. And so, he went off the rails when
23 he interviewed Glasscock without studying everything
24 that Dick had done first?

25 A. In regards to Glasscock.

1 Q. Right. In regards to Glasscock?

2 A. I think that would have helped.

3 Q. Ms. Siegler, how do you know that he didn't
4 watch the deposition that Dick had done?

5 A. I don't.

6 Q. But you are quite convinced that that's where
7 Clappart's investigation just went wrong?

8 A. I think it went wrong once he interviewed
9 Glasscock and didn't catch a clue that the guy knows
10 nothing about what he said that he does.

11 Q. What do you base that on?

12 A. The probable cause that I read.

13 Q. No. I just want to talk about Glasscock's
14 statement. What's your understanding of what
15 Glasscock's statement was?

16 A. The probable cause that I read that Steve
17 Clappart typed up.

18 Q. What was your understanding of the Daniel
19 Glasscock statement? What did he claim to have heard
20 the week that Belinda Temple was murdered?

21 A. He says that he overheard Riley Joe Sanders
22 talking about shooting a dog and putting it in a closet.

23 Q. But Riley Joe Sanders never said he was the one
24 that shot the dog, right?

25 A. I can't remember enough to answer that.

1 Q. And your assessment of that is what, that
2 that's just nonsensical?

3 A. It has nothing to do with Belinda Temple being
4 murdered. Where is the dead lady in the middle of the
5 P.C.?

6 Q. You don't think that the dog was some kind of
7 reference?

8 A. Our dog wasn't shot. Our dog just didn't bark
9 conveniently.

10 Q. Between the conflicting statements that you got
11 between Michael Grantom and Cody Towner and Riley Joe
12 Sanders, isn't it possible that Riley Joe Sanders wasn't
13 actually referring to what he did in his new statement?

14 A. Well, first of all, their statements were not
15 necessarily inconsistent. And, second of all, no.

16 Q. No. I'm sorry. Let me rephrase. It was a bad
17 question. Again, I'm getting tired.

18 When Daniel Glasscock reached out and he
19 said: Hey, I heard this thing the week that Belinda
20 Temple was killed. All right? Riley Joe Sanders says
21 something about a burglary next door, things were bad,
22 they shot the dog -- or the dog got shot in the closet
23 and they put the body in the closet. Does that sound
24 about right?

25 A. I guess.

1 Q. All right. If Michael Grantom and Cody Towner
2 had gone in the house and done that, and if they had
3 gone into the house and burglarized the house, can we
4 agree that he might have just been repeating what he
5 heard those boys say?

6 A. You lost me. Sorry.

7 Q. Fair enough. I know it's difficult.

8 Do you remember Detective Sosa from the
9 original investigation?

10 A. S-o-s-a?

11 Q. Yes, ma'am.

12 A. Oh, no.

13 Q. No, not at all?

14 A. No.

15 Q. Okay. Do you remember there being an interview
16 of a special ed teacher at Katy High School?

17 A. Keep going.

18 Q. No. I will find it eventually, but there was
19 an interview of a special ed teacher at Katy High
20 School?

21 A. Was it about Belinda?

22 Q. It was about the -- her murder, yes, ma'am.
23 Does that ring a bell?

24 A. Sort of.

25 Q. I think that he had -- it was another statement

1 that Riley Joe Sanders had. No, no, no. Wrong one.

2 Cody Towner was in his classroom.

3 A. I don't remember that.

4 Q. Cody Towner was in his classroom and he tells
5 the special ed teacher that he was at Riley Joe Sanders'
6 house the night of Belinda Temple's murder.

7 A. Okay.

8 Q. Does that ring a bell?

9 A. Not really.

10 Q. Same special ed teacher, Michael Grantom says:
11 If you put a pillow over the barrel of a shotgun, it
12 muffles the noise. Do you remember that interview?

13 A. No.

14 Q. So, if you don't remember that interview, I
15 guess you don't remember giving a copy of that offense
16 report to Dick DeGuerin?

17 A. I don't remember that.

18 Q. If Riley Joe Sanders and Cody Towner make those
19 two statements, that I was at Riley Joe Sanders' house
20 the night of the murder, and Michael Grantom is saying
21 if you put a pillow over the end of a shotgun it muffles
22 the noise, do you think that that's evidence of maybe an
23 alternate suspect that Dick DeGuerin would have been
24 interested in?

25 A. He would have been interested in it. Do I

1 think it's Brady? No.

2 Q. Why not?

3 A. They're 16-year-old kids that are smoking dope
4 that barely even show up for school. There's a whole
5 lot more to do before you jump to your conclusion.

6 Q. So, if I understand correctly, just because
7 they're 16 and smoke dope there is nothing they could
8 say that could make -- that would make that evidence
9 Brady?

10 A. Well, it might help if they had a motive for
11 wanting Belinda Temple dead.

12 Q. You and I both know you don't have to prove
13 motive, do you?

14 A. No, but you sure better.

15 Q. Right. But you and I both know from a legal
16 perspective, you don't have to prove motive?

17 A. I don't have to, but I better.

18 Q. Okay. Are you saying that 16-year-old boys who
19 smoke dope, nothing they say could ever be Brady?

20 A. I am not saying that.

21 Q. Because I keep hearing you say that and I just
22 want to figure out where your line of demarcation is.

23 A. I just keep trying to put it in perspective
24 that they were 16-year-old kids with no reason in the
25 world to want Belinda Temple dead, and that they're

1 still in the middle of this nightmare that's accusing
2 Riley Joe Sanders of killing a woman he cared about and
3 her unborn daughter is just wrong.

4 MS. GOTRO: May I approach the witness,
5 Judge?

6 THE COURT: Yes, ma'am.

7 MR. CHIN: May I approach, Judge?

8 THE COURT: Yes.

9 MR. CHIN: Thank you.

10 Q. (By Ms. Gotro) I was mistaken. That would have
11 been Detective Schmidt. I'm going to hand you what's
12 been marked --

13 A. Instead of Sosa?

14 Q. Yes, ma'am. Sosa was the teacher.

15 I'm going to hand you what's been marked
16 Bate's 375. It's already admitted into evidence. Would
17 you read the contents of that offense report aloud,
18 please, or that supplement to an offense report?

19 A. Read it all.

20 Q. Yes, ma'am.

21 A. "2-4 of '99. Received phone message to call
22 Joe Sosa at 281-347-8011. Returned his call 2-4-99,
23 8:00 p.m. Mr. Sosa is a special ed teacher at Katy High
24 School. He talked to Officer Cox this day and Officer
25 Cox told him to call the sheriff's department. Cody

1 Towner told Mr. Sosa he was in Sanders' home the night
2 of the homicide along with Michael Grantom. Mr. Sosa
3 thinks Cody was absent the day after the homicide. Cody
4 Towner is living with the Touring family. The Tourings
5 lost a son in a homicide within about the last week or
6 two. Mr. Sosa said that Joe Sanders being a neighbor
7 could have distracted the Temples' dog. Michael Grantom
8 had made a comment that if you put a pillow up to the
9 shotgun, it will muffle the sound. Detective M.
10 Schmidt."

11 Q. Okay. And what was the date that that was
12 reported?

13 A. 2-4 of '99.

14 Q. Okay. So, the special ed was reporting having
15 heard at least a statement from Michael Grantom and from
16 Cody Towner, yes?

17 A. Yes.

18 Q. Okay. And there is certainly no evidence that
19 the special ed teacher was smoking dope, right?

20 A. Correct.

21 Q. All right. Is this Brady to you, Ms. Siegler?
22 Would it have been Brady evidence to you?

23 A. It's one of those gray areas. It's one of
24 those gray areas.

25 Q. What's gray about this offense report?

1 A. It's the kind of evidence that Dick would want
2 to use at trial. Do I think that it means David Temple
3 didn't commit this crime or it's inconsistent with his
4 guilt or it mitigates his punishment or it's
5 inconsistent with the statements they might have given
6 had they been asked if they would have been called as a
7 witness? No.

8 Q. You don't think this statement is inconsistent
9 with David Temple's guilt?

10 A. I do not.

11 MS. GOTRO: Could I have just a minute,
12 Judge?

13 THE COURT: Sure.

14 (Pause)

15 MS. GOTRO: Can we please approach, Your
16 Honor?

17 THE COURT: Of course.

18 (At the Bench, outside the hearing of the
19 audience)

20 MS. GOTRO: I don't mean to be -- but I'm
21 wiped out.

22 THE COURT: Okay. What time? 9:00?

23 MS. GOTRO: I'll come as early as 8:00. I
24 just hit the wall.

25 THE COURT: 9:00.

1 MR. SMITH: Mr. Goodhart has sent me an
2 e-mail. And he was supposed to come up here and talk to
3 you to kind of let you know about it, but, Judge, he
4 indicated that he has a doctor's appointment at 10:20
5 tomorrow morning.

6 THE COURT: He's fine.

7 MR. SMITH: His doctor's appointment is --

8 MR. SCHNEIDER: He's fine.

9 MR. SMITH: He said he'll be back at 1:00
10 tomorrow. So, I wanted to let y'all know.

11 MR. SCHNEIDER: I don't think we'll finish
12 tomorrow.

13 MR. SMITH: He's available tomorrow, but
14 not until 1:00 tomorrow.

15 THE COURT: Fine.

16 (Open court, defendant present)

17 THE COURT: We'll be in recess until 9
18 o'clock in the morning.

19 (Proceedings recessed)

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REPORTER'S CERTIFICATE

1
2 THE STATE OF TEXAS)
3 COUNTY OF HARRIS)

4 I, Mary Ann Rodriguez, Deputy Official Court
5 Reporter in and for the 178th District Court of Harris
6 County, State of Texas, do hereby certify that the above
7 and foregoing contains a true and correct transcription
8 of all portions of evidence and other proceedings
9 requested in writing by counsel for the parties to be
10 included in this volume of the Reporter's Record, in the
11 above-styled and numbered cause, all of which occurred
12 in open court or in chambers and were reported by me.

13 I further certify that this Reporter's Record of
14 the proceedings truly and correctly reflects the
15 exhibits, if any, admitted by the respective parties.

16 WITNESS MY OFFICIAL HAND this the 1st day of
17 January, 2015.

18
19
20 /s/ Mary Ann Rodriguez
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