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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 23rd 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 23, 2014

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DEFENSE WITNESSES

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EXHIBIT INDEX

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DX - 37-A	Contents of DX - 37	3	3
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1 (Open court, defendant present)

2 MR. SCHNEIDER: Your Honor, one brief
3 housekeeping. Defense Exhibit 77 was a folder from
4 Mr. DeGuerin's file that had Charles Kenneth Temple's
5 written statement in it. The folder is marked Defense
6 77. I have marked the contents of it as Defense Exhibit
7 77-A, so it wouldn't be lost.

8 THE COURT: All right. You want 77-A
9 admitted as part of 77?

10 MR. SCHNEIDER: Yes, Your Honor.

11 Defense Exhibit 37 are the reports given
12 to -- the folder for Mr. DeGuerin's file regarding the
13 investigation of Mr. Cain, Frank Cain, that was
14 discussed on October 4th, 2007 in the record. And the
15 contents of -- that's Defense Exhibit 37. I've marked
16 the contents of the folder as 37-A. I found it this
17 morning floating around without a mark -- a sticker on
18 it. So, the contents of 37 is 37-A and I'm offering
19 that into evidence.

20 (Defense Exhibit No. 37-A and 77-A Offered)

21 THE COURT: All right. They will be
22 included as exhibits.

23 Go ahead with your examination, please.

24 (Defense Exhibit No. 37-A and 77-A

25 Admitted)

1 MS. GOTRO: Yes, sir.

2 KELLY SIEGLER,

3 having been first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 CONT'D BY MS. GOTRO:

6 Q. Good morning.

7 A. Good morning.

8 Q. I think when we had left off yesterday, we were
9 talking about some of the items that -- I guess the
10 period of time from when David Temple was arrested until
11 the moment you-all showed up for trial, that sort of
12 pretrial discovery period.

13 Do you remember getting any particular
14 requests for evidence in writing from Mr. DeGuerin?

15 A. Yes.

16 Q. Okay. I'm going to hand you a series of
17 documents and we can go through them. They're out of
18 order, but I would like you to take a chance and just
19 thumb through them and tell me if you recognize them
20 (indicating).

21 A. (Witness complies).

22 I recognize all of these.

23 Q. You do?

24 A. Yes.

25 Q. Are those the written requests that

1 Mr. DeGuerin had sent you prior to trial?

2 A. Yes.

3 Q. Okay. Are there some of them in there that
4 appear to be sent to you during trial?

5 A. Yes.

6 Q. All right. And based on those written
7 requests, is there a theme, in your opinion, for what it
8 is that Mr. DeGuerin is looking for based on these
9 documents?

10 A. Thoroughness.

11 Q. Thoroughness?

12 Okay. What's the -- specifically, is there
13 a theme for what he's looking for, any particular types
14 of evidence that he's requesting from you?

15 A. No. I would say he was just being very
16 thorough. Everything is in there.

17 Q. Okay. So, he was asking for scene photographs
18 and scene videos, yes?

19 A. Yes.

20 Q. Okay. Do you recall having telephone
21 conversations with he and Matt Hennessy about these
22 discovery requests?

23 A. And Barbara and Warren and Todd and Neal and
24 Matt.

25 Q. Okay. Having dealt with Mr. DeGuerin before,

1 you know that he records those telephone conversations?

2 A. I did not know that.

3 Q. No?

4 A. No.

5 Q. Okay.

6 A. Not surprised I guess, but I did not know that.

7 Q. When you say that, is that based on, I guess,
8 what we've described as sort of a mutual distrust
9 between the two of you?

10 A. Yes, ma'am.

11 MR. CHIN: Excuse me, Judge. If you could
12 have the witness pull the microphone closer.

13 THE WITNESS: Oh, I'm sorry.

14 Q. (By Ms. Gotro) Yeah, that mutual distrust. Did
15 you ever feel a need to record any of Mr. DeGuerin's
16 conversations?

17 A. Not one time. So, Barbara and Warren record
18 all of their conversations, too?

19 Q. I don't know about Barbara and Warren, but
20 certainly there was some testimony -- or Mr. DeGuerin
21 had some transcripts from some telephone conversations
22 between the two of you where you're discussing, for
23 instance, his filing that examining trial. I think you
24 called it the motion to grant the speedy indictment.
25 Does that sound right?

1 A. No.

2 Q. Okay. Sometime in February -- I guess David
3 was indicted at the end of February. Is that right?

4 A. Yes, ma'am.

5 Q. Is that when you became aware of an inmate
6 named Michael David?

7 A. I think it was a little after that, but I'm not
8 sure. I know that I first became aware of him on a
9 Friday night when I was sitting at home.

10 Q. Okay. And is that -- a detective had contacted
11 you to let you know this letter had come in that was
12 addressed to David Temple?

13 A. It was either Dean Holtke or Mark Schmidt.

14 Q. And if I'm correct, Mr. Michael David --

15 A. Yes.

16 Q. -- had mailed a letter to David Temple's former
17 address saying that he knew who the real killer was?

18 A. Actually, he mailed a letter to Dick DeGuerin
19 even before that. So, Dick knew about Michael David way
20 before I knew. He pretended like he didn't throughout
21 that whole hearing, throughout my whole grievance, and
22 throughout that whole box full of papers. Dick knew
23 about Michael David before I did.

24 Q. But when you found out about Michael David that
25 would have been in February?

1 A. I don't remember. I'd have to look in the
2 stuff and see when that was.

3 Q. That's fair. No reason to disagree that it was
4 in February?

5 A. No, there is. It could have been a month or so
6 after that. I don't remember.

7 Q. Okay. Give me just one second.

8 (Pause)

9 Q. (By Ms. Gotro) You mentioned the grievance that
10 was filed against you.

11 A. Yes.

12 Q. Is that the one filed by Sean Buckley?

13 A. Via Dick DeGuerin.

14 Q. But is that the one that was filed by Sean
15 Buckley?

16 A. Via Dick DeGuerin, yes.

17 Q. And when you say "via Dick DeGuerin," you
18 mean -- it's your belief that Dick put him up to it?

19 A. Absolutely.

20 Q. Okay. I'm going to show you just a portion of
21 the transcript. And you can start with Page 2 and flip
22 through and see if you recognize that as your response
23 to the grievance that was filed by Mr. Buckley
24 (indicating).

25 A. Yeah, this is it.

1 Q. Okay. Can you thumb through there and tell me
2 when it was that you received the letter or received
3 notice, I guess, of the letter from Michael David?

4 A. This says that Mark Schmidt called me at my
5 house on that Friday night, February 11th, 2005.

6 Q. Okay. And am I correct in saying that the
7 letter had been addressed to David Temple's former -- I
8 guess former home?

9 A. Correct.

10 Q. Okay. And the residents had accidentally
11 opened the letter?

12 A. I don't know if they opened it or knew right
13 away what it should be and called the sheriff's
14 department.

15 Q. Okay. And then forwarded that letter to the
16 sheriff's department?

17 A. Correct.

18 Q. Okay. And after you read the letter, what was
19 it that you decided to do?

20 A. Figure out who this Michael David person was
21 and research his criminal history and try to find every
22 single place that he had been within TDC and California,
23 and I think there were seven states where he had
24 convictions, to track his criminal history, to try and
25 verify this story that he said he heard from another

1 inmate, and figure out if it could be verified to see if
2 it was true.

3 Q. Okay. And working in the division you worked
4 in, it's true -- I'm correct in saying that you-all
5 received a lot of letters from inmates claiming to have
6 information about crimes?

7 A. You know, what's "a lot"? Maybe one a month.
8 Not as many as people think.

9 Q. Johnny Bonds submitted an affidavit in your
10 support.

11 A. Yes.

12 Q. Okay. And Mr. Bonds had helped you sort of vet
13 this letter from Michael David?

14 A. He did.

15 Q. Mr. Bonds said that the district attorney's
16 office received several letters a month from Texas and
17 federal inmates wanting to give us information. Does
18 that sound about right?

19 A. Well, Johnny was the investigator for seven
20 prosecutors. And if any of the letters were written
21 with inmates trying to give information, that they
22 should have been writing those seven prosecutors. If he
23 got two or three a month that he knew about, it would be
24 consistent with my one a month.

25 Q. Okay. So, again, fair to say that that's a --

1 Johnny Bonds at least was certainly familiar with
2 getting these types of letters, right?

3 A. Yes.

4 Q. Okay. And based on that letter and Johnny's
5 experience -- and you consulted with Craig Goodhart on
6 this as well, didn't you?

7 A. I would think so. He was my partner.

8 Q. Okay. You-all knew that typically people in
9 Mr. David's position are out for something, they're
10 looking for something, right?

11 A. Heck yeah.

12 Q. Right.

13 And so, am I correct in saying that your
14 job, law enforcement's job is to do a thorough search,
15 find out as much as you can about this person before you
16 guys actually sat down with him?

17 A. True.

18 Q. Okay. And then in your -- in your response to
19 this grievance, you would explain that it's best to do
20 those types of interviews cold. Do you remember saying
21 that?

22 A. You mean bringing Michael David in without him
23 knowing what's up?

24 Q. Yes, ma'am.

25 A. Yes.

1 Q. Why is that important?

2 A. Well, because if you send him a letter going:
3 Hey, dude, I want to talk to you about this letter that
4 you wrote, can we meet next Tuesday, that's all he's
5 going to be thinking about is trying to get his story
6 straight in a way that might not be true.

7 Q. And he might start collecting information,
8 additional information or trying to search out
9 additional information?

10 A. Yeah. I don't know how he can do that if he's
11 in prison, but I guess that happens in the real world.

12 Q. Okay. Well, so it's important to do this
13 interview cold, right? That's what you mean by that?

14 A. Yes.

15 Q. Okay. And then certainly Johnny Bonds in his
16 affidavit talks about doing the interview on your own
17 turf.

18 A. All cops believe in that, yes.

19 Q. What exactly does that mean?

20 A. You don't ever ideally want to do an interview
21 sitting in the suspect's home.

22 Q. Okay. Why?

23 A. Because they feel comfortable there. They can
24 kick you out during the interview. It's not going to
25 end when and how you want it to.

1 Q. Okay. And if it's on your turf, then you have
2 a little bit more control over the situation?

3 A. True.

4 Q. Okay. We had spoken earlier about Steven
5 Clappart's investigation into Daniel Glasscock. Do you
6 remember that?

7 A. Yes.

8 Q. Okay. Were you at any point aware that
9 Clappart was going to execute some municipal warrants
10 that Cody Ellis had outstanding against him?

11 A. I don't think I ever knew that.

12 Q. Okay. You had spoken, I guess yesterday, about
13 your knowledge of a capital murder warrant.

14 A. That's the P.C. warrant against Glasscock.

15 Q. Okay. Did you know about any sort of capital
16 murder warrant --

17 A. Not against Glasscock. Where Glasscock is the
18 main witness. I said that wrong.

19 Q. Okay. But a capital murder warrant that
20 Clappart was trying to put together for the arrest of
21 Cody Ellis?

22 A. Right.

23 Q. Okay. But you didn't have any information
24 about these municipal warrants that Clappart was going
25 to execute in order to do an interview of Ellis?

1 A. No.

2 Q. Okay. Were you in -- you do know that Dean
3 Holtke did conduct an interview with Cody Ellis?

4 A. I assume at some point he did. I don't know
5 when that happened. I wasn't in the middle of all of
6 that discussion.

7 Q. Okay. So, you had told us earlier that Dean
8 Holtke was your primary source of information about the
9 investigation into Mr. Glasscock.

10 A. Yeah. That was probably a total of two or
11 three phone calls.

12 Q. So, what else would you have been talking about
13 with Mr. Holtke during that period of time?

14 A. The whole thing that we talked about yesterday,
15 Glasscock and Riley Joe Sanders and all of this going
16 all over again.

17 Q. Okay. So, you know, it's no secret that your
18 cell phone records have been obtained.

19 A. Right.

20 Q. All right. So, if we see ongoing phone
21 conversations and text messages, regular phone calls and
22 text conversations between you and Mr. Holtke, if you
23 only spoke with him twice about the Glasscock
24 investigation, my question is: What else are you
25 talking to him about during that --

1 A. That's probably all we were talking about.

2 Q. Okay. And in all of that time, he never said
3 to you that he was going to execute -- he was going to
4 go out and talk to Cody Ellis?

5 A. He might have. I don't remember all of that
6 because, honestly, the dilemma that we were all in then
7 is that I was the person who was vested the case, but I
8 was also the person that everybody was afraid to
9 communicate with about anything. Dean didn't want to
10 call me. He didn't know who else to call. Whoever was
11 in appellate that was handling the case was afraid to
12 call me. Craig Goodhart, my partner, never picked up
13 the phone to call me. They wanted to leave me out.
14 They didn't want me to be in the middle because they
15 were afraid they'd get in trouble for putting me in the
16 middle of it.

17 Q. So, when you say whoever was in appellate that
18 was -- who do you mean? Do you mean a district
19 attorney?

20 A. Yes.

21 Q. So, your assumption is that there was someone
22 in the appellate section of the district attorney's
23 office that was managing this investigation?

24 A. Well, somebody had to be. At that point, it
25 was still on appeal.

1 Q. Okay. And so, did you not understand that to
2 be Alan Curry?

3 A. I got calls from Alan Curry and Brian Rose
4 periodically updating me on the case. So, it was both
5 of them, I think.

6 Q. Okay. I want to go back to your knowledge of
7 the interview. So, you are telling us that you had no
8 idea that Dean Holtke was going to interview Cody Ellis?

9 A. He might have told me. He might have told me
10 the highlights of what was happening. I don't remember
11 because it wasn't -- there was nothing I could do about
12 it. I was just kind of stuck in the middle of all of
13 this going on and I had nothing -- there was nothing I
14 could do about it.

15 Q. Okay. And you told us that you were the one
16 that knew the most about the case and that's why Dean
17 Holtke was talking to you?

18 A. Yeah.

19 Q. Okay. But fair to say you didn't know anything
20 about -- well, let me scratch that.

21 What did you know about Daniel Glasscock?

22 A. That Dick claimed that he was a brand-new
23 witness who could say that David Temple was innocent.

24 Q. Okay. But you also knew the substance of what
25 his statement was?

1 A. Not until I saw that P.C.

2 Q. And when did you see the P.C.?

3 A. Sometime in the middle of all this time. I
4 don't remember exactly when.

5 Q. Who showed you the P.C.?

6 A. I don't remember how I got that.

7 Q. Was it by text message, was it by e-mail? Did
8 you see a hard copy of it?

9 A. It wouldn't have been a text message. I don't
10 know if it was a hard copy or an e-mail. I think it was
11 an e-mail.

12 Q. Okay. Well, if I told you that Dean -- excuse
13 me -- that Steve Clappart had been working or instructed
14 to work with Alan Curry on that particular affidavit,
15 does it sound right that you got that from Alan Curry?

16 A. Maybe.

17 Q. I guess Mr. Curry would be the best person to
18 ask about that?

19 A. If he remembers, yeah. I think the records
20 probably speak for themselves.

21 Q. Now, during this same period of time, you were
22 working closely with Alan, though, weren't you?

23 A. No. There was nothing close about it. You
24 don't understand. They were afraid to call me. No one
25 wanted to tell Pat Lykos they were communicating with

1 Kelly Siegler about the David Temple case. I was a
2 pariah. They didn't want to tell me anything. If you
3 think there was some ongoing help or back-door
4 happenings, there wasn't.

5 Q. So -- and just so that we're clear, the summer
6 between -- the summer, June through September, you
7 weren't working with Alan Curry to respond to the Brady
8 claims that the defense had alleged?

9 A. We were working on my affidavit, yes.

10 Q. Okay. And when you were working on your
11 affidavit, were you given access to your old files to do
12 that?

13 A. Well, yeah, I had to.

14 Q. Okay. Where did you get access to the file?

15 A. I came down to the D.A.'s office and they sat
16 me in a room for one day and I looked it over and took
17 notes for my affidavit.

18 Q. Okay. And then when you got to the D.A.'s
19 office, I guess you don't remember what day it was?

20 A. Oh, no.

21 Q. Okay. You don't remember what month it was?

22 A. No.

23 Q. All right. Whenever you got to the D.A.'s
24 office, did you meet with a specific assistant district
25 attorney before they left you in a room with the boxes?

1 A. Brian Rose.

2 Q. Okay. So, you meet with Brian Rose, he says:
3 Go through these boxes. Did you see Daniel Glasscock's
4 statement in there?

5 A. I don't think it was that day. It might have
6 been. I don't remember. I mean, my focus that day was
7 to try and figure out how to go through all those boxes
8 and take enough notes to draft an affidavit. I was kind
9 of overwhelmed.

10 Q. Were you able to take enough notes to draft an
11 affidavit -- were you able to take enough notes in order
12 to draft an affidavit?

13 A. I think so.

14 Q. Okay. And what was the purpose of the
15 affidavit that you were drafting?

16 A. To address each and every allegation that Dick
17 made when he filed the motion. That's the same thing
18 we're still talking about today.

19 Q. The out of time motion for new trial?

20 A. I don't remember what it was titled exactly. I
21 just know that it was repetitious and the same thing
22 I've been answering all this time.

23 Q. Okay.

24 A. The only thing new was Glasscock.

25 Q. So, if I told you that the out of time motion

1 for new trial was filed September 10th, September
2 10th --

3 A. Of 2012?

4 Q. Yes, ma'am.

5 A. Then?

6 Q. You would have been working on your -- you
7 would have been working on your affidavit sometime after
8 September 20th?

9 A. Yes.

10 Q. Sometime after September 10th?

11 A. Yes.

12 Q. Okay. And you are telling us that it was Brian
13 Rose that gave you access to the file?

14 A. He walked me down the hall, escorted me down
15 the hall, and put me in an office and shut the door, and
16 left me there to look through the boxes.

17 Q. And I apologize, Ms. Siegler, I didn't have my
18 pen with me. But just so that we're clear, did you have
19 any -- did you do any work with Alan Curry in crafting
20 your response to these particular Brady claims?

21 A. I took my notes and then I went home and typed
22 the affidavit by myself and I e-mailed it to Alan Curry
23 to look over. And I think he tweaked it a little bit
24 and sent it back to me, and then I looked to see what he
25 tweaked, and then we were done with it.

1 Q. Okay. And then so you guys communicated by
2 e-mail?

3 A. Yes.

4 Q. Was that at his Harris County District
5 Attorney's e-mail or was it his Alan Curry gmail
6 account?

7 A. I don't remember.

8 Q. Ms. Siegler, do you keep any separate notes
9 yourself on the cases that you prosecuted during your
10 time with the D.A.'s office?

11 A. They're all up in the files.

12 Q. Okay. So, your personal notes, whatever notes
13 you made during your prosecutions, would be in the care,
14 custody, and control of the district attorney's office?

15 A. All of them.

16 Q. All right. So, there is nothing in your
17 personal possession?

18 A. No.

19 Q. Do you still have access to the e-mails you
20 exchanged with the district attorney's office during
21 that summer of 2012?

22 A. You mean like did I print out a copy of every
23 e-mail I sent?

24 Q. Well, no. I'm talking about your inbox.

25 A. No. I'm not very computer savvy, so I don't

1 really know what you're asking me. Do I save those
2 things? No.

3 Q. Well, when you open up your e-mail and read an
4 e-mail, once you've read it, doesn't it just sort of sit
5 there in your box, the inbox, and it's not in bold
6 indicating that it's just been read?

7 A. Anyone who knows me can tell you that I'm an
8 OCD and I delete everything the minute it's done.
9 Because if I don't, I'm looking at it every day. The
10 minute that I take care of it, it's gone.

11 Q. So, you deleted all of your e-mails right after
12 you read them?

13 A. Yes.

14 Q. Okay. Tell me again when you became -- how you
15 became aware of the contents of Daniel Glasscock's
16 statement.

17 A. The contents of the statement?

18 Q. Yes, ma'am.

19 A. When I saw that P.C. Because I remember not
20 knowing what it was he had to say until I read the P.C.
21 itself that Clappart drafted. And that was the first
22 time I realized how lame it was.

23 Q. Do you remember which version of the affidavit
24 you read?

25 A. I do not.

1 Q. And you don't remember who showed it to you?

2 A. I do not.

3 Q. Well, can we safely assume that if Alan Curry
4 was the lawyer that Clappart was working with, that it
5 was Alan who showed it to you?

6 A. I don't even know that for sure.

7 Q. Don't know what for sure?

8 A. That it was Alan Curry. I mean, I think it
9 was, but he would know better than me.

10 Q. He would know better than you whether or not he
11 was the one that showed you the affidavit?

12 A. Yes.

13 Q. Right.

14 Ms. Siegler, did I leave those discovery
15 requests up there, those letters from Mr. DeGuerin?

16 A. Yes.

17 Q. Fantastic. I hate to jump around on you, but
18 it seems to make sense to go in that order.

19 Do you remember the date that the trial
20 commenced in the State of Texas vs. David Temple?

21 A. Sometime around my birthday in October of 2007.

22 Q. Okay. When is your birthday?

23 A. The 12th.

24 Q. Okay. Do you see a handful of written requests
25 from Mr. DeGuerin in November of 2012?

1 A. Yes.

2 Q. Can we agree that you were in the middle of
3 trial in November of 2012?

4 A. Yes.

5 Q. All right.

6 MR. CHIN: Excuse me? What year?

7 THE WITNESS: 2012.

8 MR. CHIN: Trial in 2012?

9 THE WITNESS: Sorry.

10 Q. (By Ms. Gotro) 2007.

11 Am I correct in saying that when you began
12 trial, Mr. DeGuerin had not been given -- other than
13 reading those offense reports, he had not been given any
14 specific -- he had not been given copies of offense
15 reports, right?

16 A. Snippets of the offense report, not the entire
17 copy, no.

18 Q. When you say "snippets," those are the ones
19 that you read to him?

20 A. Yes. And Matt and Todd and Neal and Ralph.

21 Q. And am I correct in saying that there were
22 offense reports in your possession that Dick never saw?

23 A. With his own eyes, correct.

24 Q. All right. That the defense counsel never saw?

25 A. There were parts of that they had never seen,

1 that's correct.

2 Q. Okay. Do you remember which parts those were?

3 A. No. No way.

4 Q. What was the criteria that you used to decide
5 what parts the defense got to see and what parts they
6 didn't?

7 A. They got to see everything they were entitled
8 to see. Anything that was exculpatory and anything the
9 law allows them to see, they got to see or they got to
10 know about.

11 Q. Anything that was exculpatory and anything that
12 the law allowed them to see?

13 A. Correct.

14 Q. You make a distinction between those two things
15 and -- I don't want to quibble over words, but we can
16 both agree the law allows them to see exculpatory
17 evidence, right?

18 A. Yes.

19 Q. Are you referring to a second type of evidence
20 when you say something that the law allows them to see?

21 A. Well, just the stuff that's more easily -- more
22 easy to categorize.

23 Q. Like?

24 A. Photographs, defendant's statement, oral
25 statements made by the defendant, the results of testing

1 done, things like that.

2 Q. Okay. So, am I correct in assuming that the
3 offense report that you had been working with during
4 this pretrial period would be in the State's file?

5 A. I have no idea if it's still in the same format
6 it was in back then. I mean, they might have taken it
7 apart and put in different kinds of notebooks and
8 divided it up the way they want it today. When I was
9 through with the file in '07, it was in the box the way
10 I had worked on it for years.

11 Q. Okay.

12 MS. GOTRO: Your Honor, may I ask the
13 witness to step down and see if she can put her hands on
14 the offense report that she had been working with for
15 years?

16 THE COURT: Yes.

17 Q. (By Ms. Gotro) Ms. Siegler, would you --

18 A. Yeah.

19 Q. -- mind maybe assisting Mr. Smith?

20 A. Ms. Gotro, this is completely different than it
21 was when I had it. New stickies, new divisions,
22 everything.

23 Q. Okay. Does that look like -- and when you say
24 it's all different, what are we talking about? Can you
25 describe for the record what kind of --

1 A. These stickies are not my writing. See all
2 these (indicating)?

3 Q. Yes, ma'am.

4 A. The way it's in three folders, that's not me.

5 Q. Okay.

6 A. That's just not the way I had it.

7 Q. Okay.

8 A. That's not the way I had it.

9 Q. Fair enough. So, the appellate division came
10 along and mucked up your organized files?

11 MR. CHIN: I object to that
12 characterization being argumentative as well.

13 THE COURT: Overruled.

14 Q. (By Ms. Gotro) Have you looked through that
15 just to see if you recognize the documents, that maybe
16 your work product is on it, post-it notes, anything like
17 that? If not -- yeah, take a minute just to do that for
18 me.

19 A. It is the offense report, you know. Beyond
20 that, I don't know what to tell you.

21 Q. Okay. Could you take a second and go through
22 those three red wells and see if you recognize any of
23 your work product still attached to it? Because I know
24 Mr. Curry is particular about not disturbing work
25 product on trial counsel's file.

1 A. Well, there is no -- I never made a habit of
2 writing on the offense report.

3 Q. Post-it notes?

4 A. Post-it notes.

5 Q. Yes, ma'am.

6 A. These red stickers on the corner --

7 Q. Yes, ma'am.

8 A. -- are from me.

9 Q. Would you mind pulling those items out? When
10 did you put the red stickers on those offense reports?

11 A. I don't know. I don't think I put the date.

12 Q. Would that have been something you did back in
13 '07 or would that have been something you had done
14 during the appellate --

15 A. I didn't do anything during the appellate
16 process.

17 Q. Okay. So, if there are red stickers on the
18 offense report, those would have been from your trial
19 preparation?

20 A. Yes.

21 Q. Perfect.

22 Can you pull those pages of the offense
23 report out that have got your sticky on it?

24 A. I don't want to take them out of order. I'll
25 just go with the first one and start like that.

1 Q. Yes, ma'am. Do you mind doing that?

2 A. This is the first sticky I see (indicating).

3 Q. What is the -- who wrote that offense report?

4 A. This would be Sam Gonsoulin.

5 Q. Sam Gonsoulin?

6 A. Yes, ma'am.

7 Q. Wasn't he the first -- was he the first officer
8 that appeared at the scene?

9 A. He is the first officer that arrived at the
10 scene from Precinct 4 or 5. And he was the first
11 witness I planned on calling at the trial, but he passed
12 away.

13 Q. Yes, ma'am.

14 A. I'm getting my glasses on.

15 Q. How about I just bring those up to you and you
16 can flip through them on the stand?

17 A. Okay. There you go.

18 Q. And as far as your first red sticky, that's
19 Officer Gonsoulin's offense report?

20 A. Yes, ma'am.

21 Q. May I see that document?

22 MR. CHIN: Judge, may I approach and come
23 view?

24 THE COURT: Yes, sir.

25 MR. CHIN: Thank you, sir.

1 Q. (By Ms. Gotro) Am I correct in saying that he
2 entered that offense report on January 11th, 1999?

3 A. Yes.

4 Q. Okay. And that document is highlighted,
5 Ms. Siegler. Is that your highlighting?

6 A. It is.

7 Q. Okay. And then is all of that offense report
8 tagged from you, red-flagged from you?

9 A. Say that again.

10 Q. Mr. Gonsoulin, that offense report that he
11 generated --

12 A. His supplement, you mean?

13 Q. Yes, ma'am. His supplement to the offense
14 report. Have you read-flagged each one of those pages?

15 A. Of his supplement?

16 Q. Yes, ma'am.

17 A. Yes, because I think there are only a few
18 pages.

19 Q. Okay.

20 MS. GOTRO: Can I have just one second,
21 Judge?

22 THE COURT: Yes, ma'am.

23 (Pause)

24 MS. GOTRO: Judge, I've never seen the
25 items that Ms. Siegler -- that is in front of

1 Ms. Siegler right now. If we can have a moment for the
2 defense to sort of go through those, I might be able to
3 move this more quickly than having Ms. Siegler sit there
4 and flip through every single page.

5 THE COURT: All right.

6 MS. GOTRO: May we do that?

7 THE COURT: You want a recess?

8 MS. GOTRO: Briefly, sir.

9 THE COURT: How long?

10 MS. GOTRO: Fifteen minutes, maybe; ten
11 minutes.

12 THE COURT: Well --

13 MS. GOTRO: I will go with 15 just to be
14 safe, Judge.

15 THE COURT: Okay. We'll be in recess for
16 15 minutes.

17 (Recess)

18 (Open court, defendant present)

19 THE COURT: Thank you. Please have a seat.

20 Ms. Gotro, go ahead, please.

21 MS. GOTRO: Yes, sir.

22 MR. SCHNEIDER: Excuse me, Your Honor.

23 Mr. Rose brought in e-mails that were recovered from the
24 district attorney's files concerning the Temple case in
25 2007. We just got those now. I just wanted to let the

1 Court know.

2 THE COURT: All right. Thank you.

3 Go ahead, please.

4 MS. GOTRO: Thank you.

5 Q. (By Ms. Gotro) Ms. Siegler, while we were on
6 the break, we got a chance to go through what appears to
7 be the offense report that you used during your
8 preparation for the trial of David Temple; is that
9 right?

10 A. Yes.

11 Q. Okay. And if the record could reflect we're
12 looking at -- what is that -- about 6 inches of -- 7 or
13 8 inches of paper on the right not on the red well.

14 A. This part (indicating)?

15 Q. Yes, ma'am.

16 A. Five inches, yes.

17 Q. And then this second red well, is that also
18 part of the offense report or -- yeah, offense report?

19 A. Yes.

20 Q. Would you remove from that from the red well so
21 the Judge can see it?

22 A. (Witness complies).

23 Q. And then is there a third red well?

24 A. Yes.

25 Q. Okay. Can we take that out so the Judge can

1 see it?

2 A. (Witness complies).

3 Q. And is that the extent of the offense report
4 that you used to prepare for the prosecution of David
5 Temple?

6 A. Yes, ma'am.

7 Q. Okay. I'm going to show you what's been marked
8 and admitted as State's Exhibit 32, State's Exhibit
9 29 --

10 MR. SCHNEIDER: Defense.

11 Q. (By Ms. Gotro) I'm sorry. Defense Exhibit 32,
12 Defense Exhibit 29, Defense Exhibit 33, and Defense
13 Exhibit 31. And I'm going to ask you if you recognize
14 these, Ms. Siegler (indicating)?

15 A. Yes.

16 Q. Okay. Would you place them on the counter in
17 front of you?

18 A. (Witness complies).

19 Q. Now, those four exhibits that I've just shown
20 you, do you recognize those exhibits as the offense
21 report that you actually tendered to Dick DeGuerin
22 during the course of the trial?

23 A. I do not remember that, no, but they appear to
24 be the supplements of Shipley, Holtke, Leithner, and
25 Schmidt.

1 Q. Okay. Do you remember at any point during the
2 course of the trial actually tendering the physical
3 offense reports and supplements to Dick DeGuerin?

4 A. I don't remember that, but it would be in the
5 record.

6 Q. Okay. And so, if after Detective Leithner
7 testified, the record indicates that Dick was able to
8 look at Leithner's supplements and offense report --

9 A. I do remember that, yes.

10 Q. Okay. Am I correct in saying that he was only
11 allowed to look at those offense reports while he was in
12 the courtroom?

13 A. I think it depended on the time of day and the
14 offense report. I think there were times when the Judge
15 broke for the day or gave him the overnight or gave him
16 time, but, again, the record will speak for itself.

17 Q. Okay. So, if it's in the record that he only
18 reviewed those supplements and offense reports in the
19 courtroom, then you are not going argue with that?

20 A. No.

21 Q. Okay. So, if we compare this one stack of
22 papers, Ms. Siegler, to the other three, can we agree
23 that --

24 A. Well, first of all, these are repetitious and
25 also included in here.

1 Q. Oh, yes, ma'am. Yes, ma'am.

2 A. Okay.

3 Q. Okay. So, can we agree that the four exhibits
4 that I've just shown you are actually contained within
5 these three stacks of papers?

6 A. Yes.

7 Q. Okay. And at some point we talked about the
8 criteria that you used to decide what the defense could
9 have access to, right?

10 A. Yes.

11 Q. Okay. And you said that it was exculpatory
12 evidence and evidence that the defense was entitled to
13 have under the law?

14 A. Yes.

15 Q. All right. I'm going to take those State's
16 {sic} exhibits back from you. That first pile of
17 papers, Ms. Siegler, would you -- I'm going to work
18 through that with you as best I can. We've ripped
19 through it pretty quickly. I'll try to go through it
20 more thoroughly on the lunch break.

21 You told us yesterday that this was a
22 circumstantial evidence case, right?

23 A. Correct.

24 Q. And so that the truth was in the details?

25 A. Right.

1 Q. And you outlined some details that were pretty
2 critical to your case. The first of them being the
3 time. Your theory of the case was that Belinda Temple
4 had arrived home at 3:45 and had been killed around 4:00
5 p.m. Does that sound right?

6 A. Yes.

7 Q. Okay. Now, the day that Belinda Temple was
8 killed, you'd agree with me that wasn't her -- she
9 didn't follow her regular schedule that day, did she?

10 A. Correct.

11 Q. Right. She had gone over to -- she had a
12 meeting after school and then had gone over to
13 Mr. Temple's home?

14 A. Correct.

15 Q. At any point during the course of your
16 investigation, in the course of that investigation that
17 was at your disposal, were you able to determine what
18 time Belinda Temple normally arrived home?

19 A. I don't remember that today.

20 Q. Ma'am?

21 A. I don't remember that today.

22 Q. All right. At the far end of the bar in front
23 of you is the manila folder you were working from
24 yesterday.

25 A. Right.

1 Q. Does that contain any of your work product?

2 A. That's mostly motions.

3 Q. Okay. Were you able to locate any of your work
4 product in any of those boxes?

5 A. I don't think I have a folder just flat out
6 called work product. It's sort of in the middle of
7 everything.

8 Q. Is there anything that you would need to review
9 to help you with the testimony we're about to go
10 through?

11 A. What are we about to go through?

12 Q. I guess the trial and your strategy.

13 A. Okay. Let's go.

14 Q. All right. So, you said 3:45 was the State's
15 theory about when Belinda Temple had gotten home, yes?

16 A. Yes.

17 Q. Okay. And that was based on David Temple's
18 statement, right?

19 A. Yes, ma'am.

20 Q. That issue was highly contested at trial, no
21 doubt, right?

22 A. Yes.

23 Q. Dick's theory of the case was that she had
24 gotten home a little bit after 4:00?

25 A. Yes.

1 Q. All right. During Detective Schmidt's Grand
2 Jury testimony -- and we talked about this just a little
3 bit yesterday -- he was asked what time Belinda Temple
4 had gotten home, and his response was either 3:45 or
5 4:00 to 4:10, depending on who you believed, or
6 depending on the story. Right?

7 A. Depending on who you believed.

8 Q. Depending on the story. Because if we listen
9 to David Temple's statement, she got home at 4:45.

10 A. Correct.

11 Q. And if we listen to Kenneth Temple's statement,
12 she couldn't have gotten home at 4:45?

13 A. Correct.

14 MR. CHIN: I'm sorry. What was the time
15 again?

16 MS. GOTRO: Oh, 3:45. I apologize.

17 MR. CHIN: So, are the answers still the
18 same from Ms. Siegler concerning the corrected question
19 or the original question?

20 THE COURT: Ask it again, please.

21 MR. CHIN: Thank you.

22 Q. (By Ms. Gotro) According to David Temple's
23 statement, Belinda Temple arrived home at 3:45, yes?

24 A. Yes.

25 Q. Okay. According to Kenneth Temple's statement,

1 Belinda Temple had not left his home until about 3:55,
2 and thus wouldn't have arrived home until somewhere
3 around 4:10, something like that, between 4:00 and 4:10?

4 A. Correct.

5 Q. Fantastic.

6 I'm going to work through this first pile
7 of papers that you've got here. There's a divider
8 called table of contents. Does that appear to be your
9 handwriting (indicating)?

10 A. It is.

11 Q. What does it say?

12 A. "Do not move stickies."

13 Q. All right. And are you referring to the flags
14 that litter this offense report?

15 A. Yes.

16 Q. All right. Is that commonly how you would
17 prepare for trial, Ms. Siegler, is to sticky the offense
18 report?

19 A. I mean, I use sticky sometimes. I don't
20 understand your question. That's not helping me prepare
21 for trial.

22 Q. Well, you know, trial lawyers are weird
23 creatures. They've all got their own manners and
24 methods about how they get ready for a big trial. I'm
25 just wondering if there was any particular organization

1 to what we see here with these red and green and yellow
2 flags all over it.

3 A. A lot of these stickies are not mine.

4 Q. Okay. Does the fact that you use a red sticky
5 in the top right-hand corner of these documents mean
6 anything of significance?

7 A. The colors mean nothing. Just whatever I could
8 find to stick.

9 Q. Fair enough.

10 Does the placement on the page mean
11 anything?

12 A. It used to, but there are so many placings here
13 I don't really know what it all means. The corners, I
14 can say for sure these red stickies in the corner are
15 mine.

16 Q. Okay. Would it be being placed -- that sticky
17 being placed in the corner mean anything significant?

18 A. That it is significant. I don't remember now
19 why it was significant. There's probably a bunch of
20 reasons.

21 Q. Okay. I've flipped to what appears to be just
22 the first page of the offense report. A case synopsis,
23 is what it says?

24 A. Yes.

25 Q. I'm going to need my glasses as well.

1 A. No kidding. Yes.

2 Q. Does it indicate on this offense report the
3 time -- and it's a case synopsis of when Belinda Temple
4 was, perhaps, killed; is that right?

5 A. I think it's just a synopsis of everything, but
6 I'm not going to disagree with what you said.

7 Q. Okay. Can you tell who wrote that synopsis?

8 A. Schmidt/Leithner.

9 Q. Okay. And the time of occurrence. What is the
10 time of occurrence on that particular page?

11 A. Between 4:15 and 5:30 p.m.

12 Q. Do you know what the officers, Smith and
13 Leithner, based that timeframe on?

14 A. I don't remember what time the 911 call was.
15 Do you? 4:32?

16 Q. 4:32, 4:38?

17 MR. SCHNEIDER: 911? 5:36.

18 THE WITNESS: The 911 call?

19 MR. SCHNEIDER: Yes.

20 A. I'm not sure why they came up with 4:15 to 5:30
21 if they're talking about the window of the whole thing
22 or what they're talking about.

23 Q. What would the window of the whole thing be?

24 A. The events of the afternoon that were
25 significant. Much broader than the time the shots were

1 fired.

2 Q. Okay. What significant event would have
3 occurred in that timeframe, between 4:15 and 5:30?

4 A. What time Belinda got home, what time David got
5 home, whether they got home at different times, any
6 arguments that might have occurred, what she did when
7 she got home, who put Evan to bed, how he got to the
8 garage, and all of those things.

9 Q. Okay. And so, just for the record -- or I
10 would like the record to reflect the document we're
11 working from is actually Bate's stamped No. 3 in the
12 offense report that has since been submitted to us.

13 A. You mean the whole thing?

14 Q. We were provided a different copy. And just so
15 we're clear, Ms. Siegler, Bate's 03, is that, in fact,
16 the document we're talking about (indicating)?

17 A. Yes, yes.

18 Q. Fantastic.

19 Do you have any specific recollection of
20 talking with either Schmidt or Leithner about how they
21 generated that timeframe, 4:15 to 5:30 p.m.?

22 A. No, I don't.

23 Q. Do you have any recollection of tendering that
24 offense report or discussing the contents to defense
25 counsel prior to trial?

1 A. This specific page?

2 Q. Yes, ma'am.

3 A. No, I don't.

4 Q. Can you agree with me that the timeframe that's
5 reported in this document actually is contrary to what
6 your theory was at trial?

7 A. I don't agree with that.

8 Q. Well, your theory at trial was that Belinda
9 Temple was dead by 4:00 p.m.

10 A. By when?

11 Q. By 4:00 p.m.

12 A. Okay.

13 Q. And if this offense report indicates that the
14 occurrence was between 4:15 and 5:30, about 15 minutes
15 later than what your theory at trial was.

16 A. And they typed this synopsis on January 13th,
17 1999 before they had all of the information. They typed
18 their supplements at the end of every day as best they
19 could to keep up. And every day they learned new
20 information. And it wasn't until they had all of the
21 information they were able to come up with the true time
22 of occurrence. So, the fact that this says one thing
23 two days after the murder doesn't really mean that much.

24 Q. So, can we agree that this timeframe 4:15 to
25 5:30 does not comport what with your theory was at

1 trial?

2 A. We cannot. We're talking about a window of an
3 afternoon. The window is what's important. The whole
4 afternoon is what's important. It's not just the time
5 the shots were fired.

6 Q. Did you introduce any of this testimony from
7 either Schmidt or Leithner at trial?

8 A. About the time of everything?

9 Q. About the time of occurrence being between 4:15
10 and 5:30.

11 A. We talked about all of the events of the
12 afternoon. Did I ask them specifically if once upon a
13 time two days after the murder they had a window of
14 opportunity or time of occurrence as 4:15 to 5:30? I
15 don't remember that. I do not think I asked them that.

16 Q. My question was: Did you ask -- oh. I don't
17 know that I heard the answer to it. I will just repeat
18 the question.

19 At trial, did you elicit any testimony from
20 either Schmidt or Leithner about this offense report
21 with the time of occurrence of Belinda Temple's death
22 was between 4:15 and 5:30 p.m.?

23 A. I don't remember if I did or not. It would be
24 in the record.

25 Q. Okay. If I tell you you did not or it's not in

1 the record, you wouldn't disagree with it then?

2 A. No.

3 Q. Do you remember a witness named Justin Valdez?

4 A. V-a-l-d-e-z?

5 Q. Yes, ma'am.

6 A. No. Give me a hint.

7 Q. I'm going to have to work through my offense
8 report, too. Just give me one second.

9 A. Was he the boyfriend of the lady that saw the
10 car in the garage?

11 Q. I don't know. I don't know who his girlfriend
12 was. But I would say about an inch-and-a-half into your
13 offense report there is a supplement, a Harris County
14 supplement that is dated January 12th of 1999, and it
15 appears to be of that initial canvass where the
16 neighbors were interviewed.

17 A. Right.

18 Q. Can you flip through that portion of your
19 offense report? It's about 80 pages in.

20 A. Do you know who wrote that supplement?

21 Q. Yes, ma'am. That appears to be Sergeant T.
22 Herndon.

23 A. Do you want to just show me that page?

24 Q. Sure. And I'm happy to show you my document.
25 I just know that yesterday you wanted to work from your

1 copy, and so -- but I'm happy to share this with you.

2 A. Let's start that way. And if I need to look in
3 here, I can. Because the page is the page. It speaks
4 for itself.

5 Q. Yes, ma'am. So, let's get to Page 85. Justin
6 Valdez. Do you remember reading the offense report with
7 Justin Valdez's testimony -- or his, I guess, statement
8 to Herndon?

9 A. So, this goes with this pile, right?

10 Q. Ma'am?

11 A. I'm holding it like this.

12 Q. It's one supplement.

13 A. But it doesn't go with this, right
14 (indicating)?

15 Q. Yes, ma'am.

16 A. Okay. I read it.

17 Q. Okay. Does Mr. Valdez make any statements
18 about - well, before I get into that, one of your other
19 details at trial was about Shaka, right?

20 A. Correct.

21 Q. Shaka was a dangerous or a scary dog and
22 strangers or -- couldn't get into the back yard, right?

23 A. Correct.

24 Q. All right. Does Mr. Valdez make a statement
25 about Shaka, the dog?

1 A. Are you talking about Christopher Valdez or
2 Justin Valdez?

3 Q. I'm talking about Justin Valdez.

4 A. He does talk about the dog.

5 Q. What does he say about the dog?

6 A. He says that he always rides his bike in the
7 neighborhood. He had stopped and talk with Belinda in
8 the past. The dog barks and growls at everyone that
9 walks by the gate. All those dogs, a little familiar
10 with him. He still barks sometimes when he'd stop by,
11 but would calm down after a little bit. During the day,
12 the dog is left out in the back yard with the door
13 leading from the garage to the back yard open giving the
14 dog access to the garage and the back yard.

15 Q. Okay. And so, just to recap Mr. Valdez's
16 statement about Shaka, did you receive any information
17 that he was actually familiar with the dog other than
18 these occasional visits?

19 A. That's what this says in here, yes.

20 Q. Okay. So, that's it, that's the only
21 information that you got about Mr. Valdez?

22 A. That I can recall right now, yes.

23 Q. Okay. Do you have any recollection of turning
24 either Mr. Valdez -- this offense report over to the
25 defense?

1 A. I don't think so, no.

2 Q. Okay. Any recollection of either giving
3 Mr. Valdez's name, telephone number, contact information
4 to the defense?

5 A. I don't remember talking about the Valdezes,
6 no.

7 Q. To Mr. DeGuerin or the defense team?

8 A. Correct.

9 Q. Okay. Thank you, ma'am.

10 And that was Justin Valdez, right, and that
11 was -- what did we say -- Page 85?

12 Do you remember -- do you remember who
13 questioned Quentin Harlan whenever he testified at
14 trial?

15 A. You mean me or Craig?

16 Q. Yes, ma'am.

17 A. That would have been me.

18 Q. Okay. And in preparing for Quentin Harlan's
19 testimony, do you remember what you reviewed before he
20 testified?

21 A. We would have -- I would have let him read his
22 Grand Jury testimony. If he gave a statement -- I can't
23 remember if he did or not -- he would have looked that
24 over. And we had talked about everything.

25 Q. You said you did not let him read his Grand

1 Jury?

2 A. No. I did.

3 Q. You did?

4 Okay. And we had some confusion about this
5 yesterday. When you say "his statement," are you
6 referring to his oral statement or his written
7 statement?

8 A. Written statement.

9 Q. Okay. How many written statements do you
10 recall him giving?

11 A. I don't remember.

12 Q. Would his written statements be in your file?

13 A. Yes.

14 Q. Could you locate them for us, please?

15 A. In all this?

16 Q. Yes, ma'am.

17 A. Tell me how many you think there are? I'm not
18 going to argue with you.

19 Q. I think there are at least two written
20 statements.

21 A. That sounds right.

22 Q. But are they in your file?

23 A. They would be somewhere in all of this.

24 Q. Okay. Well, I thought we just went through
25 offense reports.

1 A. Offense reports contain witness statements.

2 Q. Okay.

3 A. And they contain ATF forms and ballistics
4 reports and autopsy report. This is not all just from
5 the cops. This is everything.

6 Q. Well, Ms. Siegler, I'd like to ask you, since
7 we have identified those documents as the one that you
8 are working from --

9 A. Right.

10 Q. -- if you wouldn't mind terribly, I can tell
11 the first stack, I went through them and I didn't see
12 any written statements, but the next stack, do you mind
13 terribly going through them and telling me if there are
14 any written statements in there?

15 MR. SCHNEIDER: Just with the red tags,
16 there are no statements in there.

17 A. Okay. This pile right here seems to be written
18 statements (indicating).

19 Q. (By Ms. Gotro) Okay.

20 A. And what did you want me to do?

21 Q. Quentin Harlan.

22 A. If I just need Quentin's statement, I actually
23 divided up statements in a different box alphabetically.
24 Do you want me to get that?

25 Q. Wherever it is, I just need to know what it was

1 that you reviewed with Quentin before he testified.

2 THE WITNESS: Can I go get it, Judge?

3 THE COURT: Yes, ma'am.

4 THE WITNESS: Okay.

5 Q. (By Ms. Gotro) How many statements -- how many
6 oral statements did -- how many oral statements did --
7 I'm sorry -- written statements did Quentin Harlan give?

8 A. Well, I'm just looking at the two Grand Jury
9 testimony days right now. I'm sorry. One Grand Jury
10 testimony day. One is a copy.

11 THE WITNESS: You don't see his written
12 statements, Andrew?

13 Q. (By Ms. Gotro) All right. How many written
14 statements?

15 A. Two.

16 Q. Two written statements.

17 And did you go over -- I guess did you
18 allow him to review both of those before he testified?

19 A. Yes.

20 Q. Okay. And did you tender both of those to
21 Mr. DeGuerin after Quentin testified?

22 A. Yes.

23 Q. Okay. To your knowledge, were there any oral
24 statements made to law enforcement by Quentin Harlan?

25 A. I don't remember if there were or not.

1 Q. Okay. And, again, just so we're clear, you
2 don't have any work product that would --

3 A. No.

4 Q. Okay. Give me just one second?

5 (Pause)

6 Q. (By Ms. Gotro) Turning to Page 27, Supplement
7 No. 3 of Detective Schmidt. I'm going to pass that to
8 you right there (indicating).

9 A. Okay.

10 Q. And if you will flip to Bate's 129.

11 A. Okay.

12 Q. I believe it's the last full paragraph at the
13 bottom.

14 A. Right.

15 Q. Does that appear that Detective Schmidt took an
16 oral statement from Quentin Harlan on the 13th of
17 January about 2:10 p.m.?

18 A. Yes.

19 Q. Okay. In that statement -- if you will take a
20 minute to read over it.

21 A. (Witness complies).

22 Okay.

23 Q. Okay. Mr. Harlan states that he has no memory
24 of David ever discussing hunting, right?

25 A. Correct.

1 Q. Okay. And he also states that the Temples' dog
2 stays at his home with his children --

3 A. Correct.

4 Q. -- right?

5 A. And all of that was brought up at the trial.

6 Q. Okay. Does he say anything about being afraid
7 of the dog?

8 A. And all of that was brought up at the trial.

9 Q. Okay. Does he say anything about being afraid
10 of the dog?

11 A. No.

12 Q. Okay. And just so that we're clear, do you
13 know if this offense report was one of the ones that was
14 tendered to Dick DeGuerin?

15 A. It's all repetitious in the Grand Jury
16 testimony. It was brought up at the trial. One
17 sentence not being tendered to Dick when it was all
18 brought up at trial, what difference does it make?

19 Q. Well, as a defense attorney, I say it makes a
20 big difference whether he got it during trial or prior
21 to trial.

22 A. He had it prior to trial. He knew that.

23 Q. When did he -- you gave him access to that
24 statement prior to trial?

25 A. This particular paragraph right here, no.

1 Q. Okay. Did you give him access to Quentin
2 Harlan's written statements prior to trial?

3 A. No.

4 Q. Okay. So, as a defense attorney, again, you
5 asked me when does it matter, I'm saying it matters that
6 a defense attorney have that information prior to trial.

7 A. All of this was brought up at trial. Dick
8 questioned Quentin about the fact that the dog wasn't
9 afraid of Quentin. The jury heard that. Shaka did not
10 scare Quentin.

11 Q. But prior to trial, Dick didn't have the
12 benefit of that information, did he?

13 A. I don't know what Dick knew or didn't know.

14 Q. Well, he hadn't gotten the information from
15 you, right?

16 A. About that particular paragraph, no.

17 Q. About this paragraph, about Quentin's written
18 statement, he had not gotten those, had he?

19 A. No.

20 Q. And he had not gotten Quentin's Grand Jury
21 testimony, had he?

22 A. Not until after he testified.

23 Q. Right. And so, it's fair to say that prior to
24 Quentin Harlan -- prior to the start of trial, Dick
25 DeGuerin didn't know how many inconsistent statements

1 Quentin Harlan had given?

2 A. Well, the record will speak for itself as to
3 the fact that Quentin very clearly was not afraid of
4 Shaka.

5 Q. Ms. Siegler, for the purposes of my question
6 I'm talking about what Dick was provided by you before
7 the start of the trial. Okay?

8 A. I've answered that.

9 Q. No. What you've stated -- what I heard you
10 say -- and correct me if I'm wrong, but what I heard you
11 say is that he was given this information right after
12 Quentin Harlan testified.

13 A. Correct.

14 Q. If it's right after Quentin Harlan testified,
15 then you'd have to agree trial was already commenced,
16 right?

17 A. Correct.

18 Q. Okay. When we talked about Brady evidence
19 yesterday, Ms. Siegler, and your obligation to turn it
20 over -- right -- a prosecutor's obligation to turn it
21 over, I believe what you had said -- just answer the
22 question again. I don't want to put words in your
23 mouth.

24 What is your understanding of a
25 prosecutor's obligation as far as when they are supposed

1 to turn Brady evidence over?

2 A. I think the case law says as soon as
3 practicable. You tell me what that means.

4 Q. As soon as I find it, as soon as I put my hands
5 on it.

6 A. I'm not going to argue with that.

7 Q. Okay. Can you tell us when you put your hands
8 on Bate's stamp 003?

9 A. Mark Schmidt's paragraph that we're talking
10 about right now?

11 Q. Yeah, 4:15 to 5:30.

12 A. The fact that Shaka did not scare Quentin
13 Harlan is not necessarily Brady.

14 Q. Ms. Siegler, your case was a circumstantial
15 case, correct?

16 A. Yes.

17 Q. Okay. And you told that jury in opening and
18 closing probably 30 times that the truth is in the
19 details, did you not?

20 A. Yes.

21 Q. Then can you not agree with me that any piece
22 of evidence that contradicts those little pieces of the
23 puzzle that you stacked up to get a conviction of David
24 Temple was Brady as far as the defense was concerned?

25 A. I do not agree with that. There are many

1 details that neutral, innocuous, unobjective details
2 that speak for themselves that create a circumstantial
3 case that has nothing to do with being exculpatory
4 against David Temple.

5 Q. But, Ms. Siegler, if you were going to take
6 those --

7 A. Buck -- like Buck Bindeman catching him driving
8 down the road, that's a circumstantial piece of evidence
9 that has nothing to do with exculpating David Temple.

10 Q. Right. But when you put Mr. Bindeman on the
11 stand, what you argued to that jury and the impression
12 that you left was that Buck Bindeman was actually
13 present at the time that David Temple hid the murder
14 weapon. That's the impression that you left with
15 Mr. Bindeman's testimony, was it not?

16 A. No.

17 Q. No, that's not what you -- that's not what you
18 argued in closing?

19 A. The impression I left was that Buck Bindeman
20 saw him immediately after he headed out to the Temple
21 compound, which is where we believe he got rid of the
22 shotgun.

23 Q. Right. So, the purpose of Buck Bindeman's
24 testimony was to put this man, David Temple, in a place
25 where he could destroy, hide, conceal the murder weapon,

1 right?

2 A. I just answered your question. My point was
3 that Buck Bindeman could tell the jury that David Temple
4 was coming from the opposite direction away from the
5 Temple compound immediately after it all happened, which
6 is where we believe he got rid of the shotgun.

7 Q. Okay. So, I guess that may be a long way of
8 saying "yes" to my question. Because what I heard you
9 say prior to that was that there are all of these little
10 innocuous facts, right --

11 A. Yes.

12 Q. -- that you don't believe contradictory
13 evidence constitutes Brady, right?

14 A. In some cases it does. In some case it
15 doesn't.

16 Q. Well, let's talk about this case.

17 A. We have been.

18 Q. Okay. And so, if you've got all of these
19 little-bitty innocuous facts that you are going stack up
20 to create enough evidence to put a man in prison for the
21 rest of his life, is it not fair to say that the
22 defense, under Brady versus Maryland, is entitled to any
23 contradictory evidence that you've got in your
24 possession for any one of those little-bitty facts?

25 A. It depends on the facts.

1 Q. These facts.

2 A. It depends on the specific fact.

3 Q. Anything controverting your timeline when
4 Belinda Temple got home that day.

5 A. That is Brady that would go to the defense,
6 yes.

7 Q. So, just so that I'm clear, if you have any
8 evidence, any documentation, any witness statement in
9 your possession that Belinda Temple arrived home at any
10 other time other than 4:00 p.m. or could not have
11 arrived home at 4:00 p.m., then that constitutes Brady?

12 A. That's a long question. I think the answer to
13 that is yes.

14 Q. Okay. And I'm going -- that was a long
15 question. I'll ask it differently.

16 Your theory of the case was that Belinda
17 Temple was killed at 4:00 p.m. At trial, your theory of
18 the case was that she had arrived home at 3:45 p.m. Do
19 you agree with both of those statements.

20 A. Well, I would say that David Temple said that
21 she got home at 3:45 p.m. and we believe that she was
22 killed sometime right after 4:00. I can't remember if
23 we were hard and fast on 4:05. I don't remember.

24 Q. Can we agree at trial that your theory of the
25 case was that Belinda Temple had arrived home at 3:45?

1 A. Yes.

2 Q. Okay. Can we agree at trial your theory of the
3 case was that Belinda Temple was killed around 4:00
4 p.m.?

5 A. Yes.

6 Q. Okay. If you had evidence in your possession,
7 the State's possession, that showed Belinda Temple could
8 not have been home at 3:45, would that have been Brady
9 evidence?

10 A. Probably, yes.

11 Q. What's the equivocation?

12 A. It depends on who it comes from. If it's some
13 random person calling in that's a kook. It just
14 depends. I can give you a blanket "yes" that's
15 all-inclusive. It just depends.

16 Q. And so, if a random person or witness says:
17 You know what, Belinda Temple wasn't home at 3:45, if
18 you think that person is a kook, are you saying it's not
19 Brady?

20 A. It depends.

21 Q. I'm just working with the answers you've given
22 me, Ms. Siegler.

23 A. And I'm just trying to answer your questions.

24 Q. Okay. So, if you have evidence that shows
25 Belinda Temple could not have been home before 4:00 --

1 let's just throw that out there -- she couldn't have
2 been home before 4:00, is that not Brady?

3 A. Yes, it is.

4 Q. It is Brady.

5 And so, if you possess that kind of
6 evidence, it's your testimony today you should have
7 turned it over to the defense?

8 A. Yes.

9 Q. Okay. We got there.

10 There was a statement -- let's go back to
11 the Grand Jury testimony for just a second. Detective
12 Schmidt. When he was asked -- and you and I have gone
13 over this today. When he was asked if law enforcement
14 was able to find out what time Belinda had gotten home,
15 Schmidt says: 3:45, 4:10, depends on who you listen to.

16 Correct me if I'm wrong, but Schmidt goes
17 on to opine that if Belinda Temple had arrived home at
18 4:10, it would have been -- makes it pretty impossible,
19 if not impossible, pretty difficult, if not impossible
20 for David Temple to have committed this crime. Do you
21 remember something like that coming out of the Schmidt's
22 mouth.

23 A. Something like that, yes.

24 Q. In your opinion, is a statement like that
25 Brady?

1 A. Yes.

2 Q. Okay. Now, you had read all of the Grand Jury
3 transcripts by the time you got to trial, right?

4 A. Yes.

5 Q. Okay. And you will agree with me that
6 Schmidt's statement was not turned over to Dick
7 DeGuerin?

8 A. Dick DeGuerin knew what Mark Schmidt had to say
9 about the time.

10 Q. Did Dick DeGuerin know what Mark Schmidt's
11 statements were to the Grand Jury?

12 A. No.

13 Q. Okay.

14 A. Well, I don't know. I don't know if Ted and
15 Donna had told him. No. They wouldn't have told him.
16 He wasn't the lawyer back then.

17 Q. Did Dick DeGuerin ever -- let's face it. Dick
18 DeGuerin couldn't have seen the transcripts,
19 Ms. Siegler, because you had exclusive possession of
20 them at that time, right?

21 A. Correct.

22 Q. Okay. And you told us you didn't give him
23 those Grand Jury transcripts?

24 A. Correct.

25 Q. Okay. So, then we have to agree that Dick

1 DeGuerin did not see prior to trial Mark Schmidt's
2 statement about the impossibility of David Temple
3 committing this crime if Belinda Temple gets home at
4 4:10?

5 A. Well, he didn't use the word "impossible," but
6 he did not see the Grand Jury testimony. I agree with
7 that.

8 Q. What was the word that he used?

9 A. I don't remember.

10 Q. Me either. I will look it up. But it makes it
11 very, very difficult, right?

12 A. Agreed.

13 Q. And the reason that it makes it very, very
14 difficult is because David's on film at Brookshire
15 Brothers at 3:32 -- 4:32, right?

16 A. Correct.

17 Q. So, that would have given him 10 minutes to
18 murder his wife, get cleaned up, and get over to
19 Brookshire Brothers?

20 A. It would have been real fast.

21 Q. It would have been real fast.

22 Now, you have to -- you have to agree this
23 could not have been a premeditated murder, right?

24 A. Well, what's your definition of "premeditated"?
25 I think it was one of those murders where he had

1 thoughts about it prior to that day and he had thoughts
2 about how to alibi himself prior to that day. Did he
3 wake up that morning and say: Today is going to be the
4 day? No. I think that the day just went crazy and he
5 had enough and the New Year's Eve weekend had happened
6 and he finally lost it, and that's when it happened.
7 So, premeditated in the sense that he had thought about
8 it before and how to alibi himself and what he's going
9 to do with the shotgun, I do believe that part was
10 premeditated. Did he wake up that morning planning to
11 do it that day? No.

12 Q. Okay. Well, when I had asked you about the
13 premeditation, the place that I was going to go was that
14 Belinda didn't stick to her regular schedule that day,
15 did she?

16 A. She did not.

17 Q. Right? Because she didn't know that Evan was
18 going to get sick at school, right?

19 A. True.

20 Q. And so, midway through his workday, David
21 Temple sort of gets thrown a curve ball when Belinda
22 Temple says: Hey, you've got to come home and watch the
23 baby, he is sick?

24 A. That is true.

25 Q. So, when I had asked you whether or not this

1 was premeditated murder, typically wouldn't you expect
2 someone to sort of plan in advance how they were going
3 to commit this murder?

4 A. Not a spouse murder, no.

5 Q. No?

6 A. They think about parts of it and how to get
7 away with it. I will agree on that with you.

8 Q. Okay.

9 A. But usually a spouse murder is in the middle of
10 a fight and they just lose it and it happens.

11 Q. Right. In the middle of a fight. And it's
12 toe-to-toe, isn't it?

13 A. No. He was mad that she made him come home
14 early and he was mad that he didn't get his hookup with
15 Heather. So, as he drove him that day, he was already
16 pissed off.

17 Q. Right. How many statements --

18 A. And then when we --

19 Q. -- did you read, Ms. Siegler, where people
20 described Belinda Temple as spunky?

21 A. A lot. She was.

22 Q. As a fighter, right?

23 A. "Spunky" is different than "fighter."

24 Q. She stood up for herself?

25 A. Yes.

1 Q. She didn't take crap from anybody, certainly
2 not at work anyway?

3 A. Correct.

4 Q. Right.

5 How many statements did you read where
6 she's described as a woman who loved her children?

7 A. A lot.

8 Q. Okay. A woman who sticks up for herself, who
9 loves her children, do you think for a single second
10 she's going to go down on her knees on the ground
11 against a guy like that? Is that your experience with
12 spousal fights, Ms. Siegler?

13 A. At the barrel of a shotgun, anybody would go
14 down on their knees with their back turned toward the
15 shotgun. That's exactly what happened and that's what I
16 believe happened.

17 Q. Well, I know -- we know that's what you
18 believe happened. The first thing that you told us when
19 you walked into this courtroom is that you were
20 absolutely convinced of this man's guilt and there was
21 close to nothing that would ever change your mind about
22 that. Right?

23 A. Right.

24 Q. Right.

25 And it doesn't matter what kind of new

1 evidence comes forth because you sit here today
2 convinced that he killed her?

3 A. Correct.

4 Q. And let's be honest. That's the world --
5 that's the lens you are going to view this conviction
6 through for the rest of your life, isn't it?

7 A. Seems like it.

8 Q. Right.

9 The truth of the matter is that most
10 domestic violence deaths occur in either the kitchen or
11 the bedroom?

12 A. Where did you get that stat from?

13 Q. Well, I don't remember.

14 A. I don't --

15 Q. You know what, I guess I read it at some point
16 preparing for this. I guess I read it at some point
17 preparing for this.

18 A. Well, I've handled a lot of them and I've never
19 read that stat.

20 Q. How many cases have you handled where the
21 husband shoots his pregnant wife in the back of the head
22 when she's fully dress on the ground in the closet?

23 A. Exactly like that? Only this one.

24 Q. Okay. Well, how about just on her knees --

25 A. Pregnant?

1 Q. Well, I was going to go with on her knees in
2 the closet.

3 A. Just this one.

4 Q. Okay. How about on her knees pregnant
5 somewhere else in the house?

6 A. Or outside?

7 Q. Well, we having gotten there yet. My hypo.
8 Somewhere else in the house.

9 A. Just this one.

10 Q. Okay. Well, you drug me there. Outside.
11 Pregnant on her knees outside?

12 A. Yes.

13 Q. How many?

14 A. One.

15 Q. Okay. Where else do husbands kill their
16 pregnant kneeling wives besides outside --

17 A. Anywhere they might not get caught.

18 Q. -- that you've handled?

19 A. Anywhere they might not get caught.

20 Q. That you've handled personally, Ms. Siegler.

21 A. All over the house, outside the house, down the
22 road, outside bars. Lots of places.

23 Q. These are cases you've personally handled?

24 A. Yes, ma'am.

25 Q. Where pregnant women are kneeling and shot in

1 the back of the head by their husbands?

2 A. They weren't all pregnant. They were spouses
3 or girlfriends.

4 Q. On their knees shot in the back of their head
5 by their partners?

6 A. No. We were talking about where. All the
7 wheres.

8 Q. Right. Right. And don't those situations
9 typically have a history of domestic violence?

10 A. Yes, or a bad temper in the mix.

11 Q. Well, now, Ms. Siegler, your office very often
12 uses that cycle of violence, right, that sort of
13 explosion, the honeymoon, the blah, blah, the explosion.
14 You are familiar with that cycle of violence?

15 A. I don't think it's just my office that uses it.
16 I think the whole world uses it because it's accurate.

17 Q. Well, no. Your office uses it, "yes" or "no"?
18 Do you have personal knowledge of that?

19 A. Most D.A.'s offices use it, yes.

20 Q. Okay. And do you have any idea who developed
21 that particular tool?

22 A. I don't know for sure.

23 Q. Okay. If I told that you that it's called the
24 Duluth model, would you have any reason to disagree with
25 that?

1 A. D-u-l-u-t-h?

2 Q. Duluth.

3 A. I've seen that name, but I don't know if
4 that's it. I'm not going to argue with you.

5 Q. Okay. That particular -- and, again, tell me
6 if you have any reason to disagree with what I'm about
7 to say. You've used that power -- that cycle of
8 violence before in your prosecutions?

9 A. Yes.

10 Q. Okay. So, then you're familiar with those
11 dynamics, right?

12 A. Yes.

13 Q. Did you also know that that particular exhibit
14 was based on women who were in a shelter, that women had
15 sought shelter from battered women's -- at a battered
16 women's center; did you know that?

17 A. I did not know that.

18 Q. These were women that had been beaten severely
19 over years of their lives. Did you know that?

20 A. I'm not even sure that I know what the Duluth
21 model is. So, no, I didn't know that.

22 Q. Okay. So, you have no idea where the
23 information that that wheel came from, you just used it
24 a lot in court?

25 A. Yes.

1 Q. All right. And then you use it a lot in court
2 in your cases where you've got people in intimate
3 relationships hurting each other?

4 A. Well, what do you mean by "use it a lot"? I
5 mean, you referred to the cycle of violence. Everybody
6 knows what it is.

7 Q. Right.

8 A. Do I make it a cornerstone of my case, like an
9 element of the offense? No.

10 Q. No, but, Ms. Siegler, you said some things
11 about David Temple. You said he had an explosive
12 temper, right?

13 A. Yes.

14 Q. Right?

15 Any evidence that he exploded at Belinda
16 before?

17 A. They had some pretty good arguments before.

18 Q. Did you find any evidence that he had exploded
19 at Belinda before?

20 A. I think that Tammy Harlan testified about that
21 and so did Brenda Lucas.

22 Q. So, other than Brenda Lucas and Tammy Harlan?

23 A. She might have told some of the girlfriends
24 about some of their arguments. I can't remember
25 anymore.

1 Q. Would these have been the girlfriends whose
2 names you couldn't really get into at trial?

3 A. I think we got into the names. We didn't get
4 into the contents of what Belinda told the girlfriends.

5 Q. Do you remember testifying at the motion -- the
6 hearing on motion for new trial, Ms. Siegler?

7 A. Yes.

8 Q. Okay. And do you remember the defense's
9 objections about you sort of alluding to statements that
10 had never been made; do you remember that?

11 A. And I remember my explanation for all of that,
12 which was --

13 Q. Ms. Siegler.

14 A. -- what he was alluding to.

15 Q. Ms. Siegler, come on. I just asked you if you
16 remember the defense --

17 A. I do remember.

18 Q. -- complaining about you alluding to testimony
19 that had never been entered. Yes?

20 A. I remember his allusions.

21 Q. Okay. And you claimed on the stand that there
22 were folks -- family members that actually said these
23 things to you, right?

24 A. Yes.

25 Q. Okay. But they never came into the courtroom

1 and testified, did they?

2 A. They couldn't, so they didn't.

3 Q. Ms. Siegler, again, they never came into the
4 courtroom and testified, did they?

5 A. They did not.

6 Q. No. But you asked questions in a certain way
7 that left the impression that you had had these
8 conversations anyway?

9 A. Are you going to get into why I did all of that
10 or are you going to stop your questions when I answer
11 that question?

12 Q. Well, I'll get where I'm going when you start
13 answering the questions that I'm asking, Ms. Siegler.

14 A. The answer to that question is yes.

15 Q. Okay. So, you did ask questions in a manner
16 that left the impression with that jury you had
17 conversations with folks that hadn't even testified yet?

18 A. I also did it on voir dire. So, yes.

19 Q. Do you think there's anything improper about
20 that?

21 A. Not for the reasons I did it.

22 Q. Do you think there is anything improper about
23 that?

24 A. Not for the reasons I did it.

25 Q. This is a yes-or-no question. As a general

1 principle, do you think there is anything improper about
2 trying to get in evidence that you know is not
3 admissible and --

4 A. That's not what I was trying to do.

5 Q. May I finish, please? Is that a yes?

6 A. I'm waiting for the question.

7 Q. Okay. You know under the rules of evidence,
8 top prosecutor in the country, it is improper to try and
9 get in evidence, to try and leave an impression with the
10 jury about evidence that you know is not admissible or
11 you know hasn't come in, but you're saying that if the
12 reason is good enough it's okay?

13 A. That's a heck of a question.

14 Q. You just said if the reason is good enough,
15 it's okay.

16 A. That's not what I said.

17 Q. Well, what was your reason for doing that,
18 Ms. Siegler?

19 A. The reason I did it was to remind the jury that
20 even though there are a lot of girlfriends out there who
21 have information about what happened between Belinda and
22 David, the law does not allow them to come into court
23 and testify to it.

24 Q. Did you explain why the law doesn't allow them
25 to come in and testify?

1 A. I sure did, on voir dire.

2 Q. But you managed to slip their testimony in
3 anyway, didn't you?

4 A. No, I did not. I was just reminding the jury
5 that there were girlfriends that have information, that
6 Craig and I are not worthless, pathetic prosecutors that
7 aren't going to call them; the law does not allow us to
8 call them, and I was reminding the jury of that. And
9 that is what I said at that hearing in January of 2008.

10 Q. Okay. Did you not leave the impression with
11 that jury during trial -- right -- that those
12 conversations had actually happened, that people had
13 actually said those things to you about David? Did you
14 do that?

15 A. Yes.

16 Q. Okay. Because you thought you had good enough
17 reason to do it?

18 A. No.

19 Q. Then why did you do it?

20 A. Because it's common sense to remind the jury
21 that the girlfriends did hear all these things about
22 their failing marriage, and that the law doesn't allow
23 them to necessarily come into the courtroom and talk
24 about all of those things.

25 Q. But it's okay for Kelly Siegler to bend the law

1 and get it in front of them anyway?

2 A. I didn't get it in front of them. I was just
3 reminding them of why we didn't present it. I would
4 have loved to have put it in front of them, but I
5 couldn't.

6 Q. Do you think that reminding them -- I don't
7 even --

8 MS. GOTRO: Could I have just a second,
9 please?

10 (Pause)

11 Q. (By Ms. Gotro) Ms. Siegler, do you remember
12 speaking at South Texas College of Law to a bunch of law
13 students about the issues we're talking about now?

14 MR. CHIN: I object, Judge. It's been --
15 number one, it's been addressed in the motion for new
16 trial proceeding that was raised on direct appeal. And
17 also it's irrelevant to any habeas allegation.

18 THE COURT: Overruled. Go ahead.

19 A. Do I remember speaking to a class at South
20 Texas?

21 Q. (By Ms. Gotro) Yes, ma'am.

22 A. Which time?

23 Q. Well, the time that Mr. Chin was talking about.
24 Let's start with that one.

25 A. You mean the time that Dick had his intern who

1 worked for him go to South Texas and get a copy of my
2 speech, that time?

3 Q. I actually thought it was a clerk that had been
4 working for Stan Schneider, but I don't think that --

5 A. Well, it's a guy that took the bar four times
6 and never passed it. What was his name, Stanley?

7 Q. A different one.

8 A. I'm sorry?

9 Q. Different student, Ms. Siegler.

10 A. Oh, well.

11 Q. But back to your talk --

12 A. That was the one that got the copy of the tape.

13 Q. In any case, do you remember what you talked
14 about?

15 A. What I talked about?

16 Q. Yes, ma'am.

17 A. I talked about a lot. I have been to South
18 Texas many times teaching advocacy classes.

19 Q. Right. And teaching those advocacy classes, do
20 you remember teaching those law students that it's okay
21 to ask a question that you know is objectionable.
22 Right? Did you --

23 A. No. What I said --

24 Q. Let me finish my question, Ms. Siegler, please.
25 May I?

1 A. Sure.

2 Q. Okay. Do you remember telling those law
3 students that it's okay to ask a question that you know
4 is objectionable, that you know is improper, and you
5 know an objection is coming just so you can get that
6 information in front of the jury? Do you remember
7 saying that?

8 A. That's not what I said.

9 Q. Then tell me what it was you said.

10 A. I said that good trial lawyers often ask
11 objectionable questions. A good defense lawyer is going
12 to object, a judge is going to rule on it. You can't
13 live your life as a trial lawyer being afraid to ask
14 questions. Sometimes they're going to be objected to.

15 Q. Do you make a distinction between a
16 prosecutor's obligation in trial, Ms. Siegler, and a
17 defense attorney's obligation?

18 A. In what respect?

19 Q. In any respect.

20 A. Yeah. I think a prosecutor is a whole lot more
21 restricted.

22 Q. Right. So, for instance, prosecutors don't
23 talk about the defendant's right to remain silent, do
24 they?

25 A. That's correct.

1 Q. You guys have a lot more restrictions on you
2 as far as argument is concerned. Why do you think that
3 is?

4 A. Because it's our job to seek justice and seek
5 the truth.

6 Q. And maybe to protect the defendant's due
7 process rights, those constitutional rights?

8 A. Correct.

9 Q. That's part of it, right?

10 A. Correct.

11 Q. And so, when you say this thing about trial
12 advocacy -- and specifically at South Texas College of
13 Law, you didn't make a distinction between defense
14 attorneys and prosecutors, did you?

15 A. I think I was talking to a class as a
16 prosecutor and everybody assumed that. We would at
17 times talk about defense lawyers, too.

18 Q. But what you said to that group of folks is
19 kind of what you did in this case, Ms. Siegler.

20 A. Whatever I said to that group of folks and
21 whatever I did in this case is the same that I have
22 always done.

23 Q. Which is bend the rules?

24 A. Ask an objectionable question? I've probably
25 done that lots of times.

1 Q. Intentionally?

2 A. Objectionable questions are asked all the time.
3 That's not bad. There is nothing wrong with that.

4 Q. Doesn't it depend on the question that you are
5 asking?

6 A. Yes, sometimes.

7 Q. All right. And if the question that you are
8 asking gets a fact in front of that jury that you know
9 is not admissible, can you agree with me that that's
10 improper?

11 A. It depends.

12 Q. On what?

13 A. On what the question is.

14 Q. If it gets a piece of information, a fact that
15 you know is not admissible, that you know is improper,
16 in front of that jury and you do it anyway.

17 A. What's your question?

18 Q. Is that okay to do, Ms. Siegler?

19 A. It depends.

20 Q. All right. On your definition?

21 A. On the question.

22 Q. On what it is you're trying to accomplish?

23 A. On the question.

24 Q. Because the reality is, is that if in your mind
25 the end justifies the means, doesn't it?

1 A. No.

2 Q. And it doesn't matter how you get there, does
3 it?

4 A. You need to be asking that Dick that question,
5 not me.

6 Q. Ms. Siegler, I promise you Dick DeGuerin will
7 be thoroughly cross-examined before this hearing is over
8 with, but he is not here today. Okay?

9 So, to you I ask a specific question. It
10 doesn't matter how you get to the end, does it, just so
11 long as you get there?

12 A. That's not true.

13 Q. Did you read all of Justin -- I'm going to back
14 that up for a second. The offense reports that are
15 sitting in front of you, they look pretty well thumbed,
16 Ms. Siegler.

17 A. They do.

18 Q. Right. Imagine those are your thumbprints on
19 them.

20 A. Some.

21 Q. Some. Some Craig Goodhart's, right?

22 A. Some.

23 Q. All right. You are not going to tell anybody
24 in this courtroom that you tried David Temple, this man,
25 that you tried this man in a six-week trial and that

1 both prosecutors didn't pour over every page of that
2 offense report; you are not going to say that, are you?

3 A. I knew this offense report very well.

4 Q. Right.

5 And so, in knowing that offense report very
6 well, you knew exactly what evidence was getting turned
7 over to the defense and what wasn't, right?

8 A. Correct.

9 Q. Right.

10 And so, all of those statements about Riley
11 Joe Sanders or all those statements from Riley Joe
12 Sanders, those didn't get turned over to Dick DeGuerin
13 because you didn't want them to get turn over to Dick
14 DeGuerin.

15 A. Everything that I know about Riley Joe Sanders
16 was given and told to Dick DeGuerin. He knew all of
17 that and it was presented to the jury.

18 Q. The offense report with the oral statements in
19 them that didn't make their way to Dick DeGuerin, didn't
20 make their way because you didn't want them to, did you?

21 A. I will say it again. All of the information
22 about Riley Joe Sanders was turned over to Dick
23 DeGuerin.

24 Q. I will take that as "yes" to my question. Yes?

25 A. You heard my answer.

1 Q. Is that a "yes" to my question?

2 A. I don't remember the question. I'm sorry.

3 Q. Who was the ultimate decisionmaker about which
4 of these offense reports made their way into defense
5 counsel's hands?

6 A. I was.

7 Q. Right. And so, from that statement, may we
8 conclude that if you decided Dick didn't get the
9 statement, then he didn't get the statement?

10 A. Dick DeGuerin got all of the information about
11 Riley Joe Sanders. It was presented at trial.

12 Q. That you deemed him entitled to?

13 A. He got all of the information about Riley Joe
14 Sanders. He got Riley Joe Sanders. He got to
15 cross-examine Riley Joe Sanders at trial.

16 Q. How many of Riley Joe Sanders' statements had
17 you given Dick before that cross-examination?

18 A. None.

19 Q. How many written statements did Riley Joe
20 Sanders give?

21 A. I think we talked about that yesterday. What
22 did we say? Three, two.

23 Q. Right. And so, prior to Riley Joe Sanders --
24 excuse me. After Riley Joe Sanders' testimony, did you
25 give Dick the written statements?

1 A. After he testified?

2 Q. Yes.

3 A. Yes. But Dick had the information before Riley
4 Joe Sanders testified.

5 Q. Why do you keep making that distinction?

6 A. Because you keep acting like he never heard
7 about Riley Joe Sanders until the trial.

8 Q. No, ma'am. I do not. I'm talking about your
9 prosecutorial obligation to turn over a witness' written
10 statement or oral statement to defense counsel.

11 A. He got the information. He saw --

12 Q. Why do you keep making that distinction?

13 A. Because you keep making the distinction.

14 Q. So, as long as you transmit the information to
15 him, then do the Rules of Criminal Procedure just
16 forgive you for turning over the written statement?

17 A. The information was provided to Mr. DeGuerin.
18 The actual statements themselves he saw when the law
19 says he's entitled to see it, after direct examination.

20 Q. Ms. Siegler -- and I just want to be sure I
21 understand you correctly -- if you give the information
22 in the statement to defense counsel, do you believe that
23 that is enough to comply with the Code of Criminal
24 Procedure that requires you to turn over written
25 statements?

1 A. If I --

2 Q. "Yes" or "no"?

3 A. Yes.

4 Q. Okay. So, in your mind, you don't have to turn
5 over the written statement so long as you tell defense
6 counsel the contents of it, correct?

7 A. Yes.

8 Q. Okay. And is that what you did in this case?

9 A. Yes.

10 Q. All right. Do you recall for how many
11 witnesses you did that?

12 A. No.

13 Q. All right. Is Riley Joe Sanders one of them?

14 A. Yes.

15 Q. All right. Quentin Harlan?

16 A. Again, give the information, but not the
17 statement until after he testifies on direct?

18 Q. Yes, ma'am.

19 A. Yes.

20 Q. Okay. Now, are we to assume that the -- no,
21 no, no, no.

22 My question to you was: If you give the
23 contents of the written statement or the contents of any
24 statement, does that relieve you of your duty to tender
25 those statements to defense counsel after a witness

1 testifies?

2 A. No.

3 Q. All right. And so, your testimony then is for
4 every witness that testified, after that person was done
5 testifying, you tendered written statements and oral
6 statements made to law enforcement?

7 A. Written statements. Again, oral statements are
8 documented in all of this (indicating).

9 Q. Right.

10 So, you don't believe you have an
11 obligation to turn over the oral statements?

12 A. The oral statements were consumed in the
13 written statements. They're all the same.

14 Q. Okay. So, then are you saying that you believe
15 the oral statements that these witnesses made in offense
16 reports are completely consistent with the written
17 statement?

18 A. Yes, for the most part.

19 Q. Well, what are the exceptions?

20 A. Well, it depends on who you're talking about.

21 Are we talking about Quentin Harlan?

22 Q. Let's talk about Riley Joe Sanders.

23 A. Okay.

24 Q. So, for the most part. What do you mean by
25 "for the most part"?

1 A. Dick DeGuerin had all of the information about
2 Riley Joe Sanders. And after he testified, Dick
3 DeGuerin got the statement.

4 Q. We're not talking about Dick DeGuerin right now
5 though. We're talking about the difference between
6 Riley Joe Sanders' written statement and his oral
7 statement to law enforcement. Okay?

8 A. We talked about the oral statements yesterday.
9 If an oral statement was made, it's somewhere in all of
10 this and in paragraphs. The oral statement and what
11 they said are consumed inside the written statements.

12 Q. Okay. So, just so we're clear, are you saying
13 that in this case all of Riley Joe Sanders' oral
14 statements to law enforcement, those facts, details
15 contained in those oral statements to law enforcement
16 are represented in his written statements?

17 A. Yes.

18 Q. Okay. And you reviewed those oral statements
19 to make sure of that?

20 A. Yes.

21 Q. All right. And so, in tendering those two
22 written statements to defense counsel, you turned over
23 any -- you turned over everything you knew about what it
24 is that Riley Joe Sanders had testified to -- or had --
25 statements that he had made to law enforcement?

1 A. Yes.

2 Q. All right. Just one second. Let me get my
3 glasses.

4 (Pause)

5 Q. (By Ms. Gotro) Will you -- if you could on the
6 documents in front of you, will you find the first time
7 that Riley Joe Sanders was interviewed by law
8 enforcement? It would have been to Detective Shipley on
9 January 11th, 1999.

10 A. Do you have it? Do you want to do it that way?

11 Q. It's tiny, and I'm looking for a larger version
12 now.

13 A. You mean the print is tiny.

14 Q. Yes, ma'am.

15 A. I've got my glasses -- that's okay -- I think.

16 Q. Well, it's work product, Ms. Siegler, and I
17 don't want to misquote anything. Here you go. It's
18 Bate's stamped 2193 and this is in Exhibit No. 32.

19 A. Okay.

20 Q. Now, if it's Exhibit 32, we know that Dick
21 DeGuerin was at least given that offense report during
22 trial, right?

23 A. Correct.

24 Q. On that first statement to Detective Shipley,
25 when she testified at trial did she discuss that

1 statement at all?

2 A. Did you tell me a page?

3 Q. I did not.

4 A. Okay. So, are you waiting for me to answer
5 your question?

6 Q. I was waiting for you to get -- did you find
7 where it is Detective Shipley got -- interviewed him and
8 got a statement from him?

9 A. Riley Joe?

10 Q. Yes, ma'am.

11 A. February the -- no. This is titled "Tracy
12 Shipley," correct?

13 Q. Well, he was interviewed by Tracy Shipley. I'm
14 sure by this point you know that one detective might
15 author it, but it typically will include -- at least in
16 those offense reports, it will include --

17 A. But that's what's confusing. Because this is
18 it Rogers Wedgeworth's supplement. It's not Tracy
19 Shipley's supplement. So -- and this is Valerio's
20 supplement. It's not Tracy Shipley's supplement. So,
21 I'm not sure what this is. It's called "Shipley," but
22 these are not all Tracy's.

23 Q. All right.

24 A. So, whoever put this together is incorrect.

25 Q. Well, those were just the documents that you

1 had tendered to Dick in the middle of the trial. So,
2 you're saying you can't find Riley Joe's statement in
3 there?

4 A. It was given to -- I don't know which one
5 you're talking about. Show it to me.

6 Q. Well, I had it open to a page. Oh. That would
7 be Page 2. 2193, No. 2. Bate's 2193. Detective
8 Schmidt was assigned to -- I misspoke. I'm sorry. It
9 says "Shipley," but this looks like it says "Schmidt."

10 A. Well, it's Schmidt and Wedgeworth and Valerio.
11 So, that document is put together incorrectly.

12 Q. Why is it -- how is it put together
13 incorrectly?

14 A. Well, it's a bunch of different detectives'
15 supplements and I thought it was all just Tracy's.

16 Q. Well, we've got Page 1 and Page 2.

17 A. I know, but look. Watch this. So, this is
18 Shipley's, Tracy Shipley's. This is Tracy Shipley's.
19 This is Tracy Shipley's. This is Tracy Shipley's. This
20 is Tracy Shipley's. These are all Tracy's.

21 Q. So, what's confusing about how the documents
22 are put together?

23 A. One of the supplements back here belongs to
24 Roger Wedgeworth. And this is Bill Valerio's here.
25 This is Bill Valerio's supplement. And this is Roger

1 Wedgeworth's supplement. And this is Roger's
2 supplement. And this is Wichkoski's supplement. I
3 don't know why they are all in with Tracy Shipley's.
4 So, whoever told you this was incorrect.

5 Q. Told me what?

6 A. That this was all Tracy Shipley's.

7 Q. I didn't say it was all Tracy Shipley's. I'm
8 just giving you the exhibit as it was marked and as it
9 was provided to Dick DeGuerin during trial.

10 A. Well, somebody wrote in here "Shipley's O.R.,
11 Exhibit 32." Whoever wrote that, this is not Shipley's
12 O.R. It's four different people's supplements to the
13 offense report .

14 Q. Are Shipley's O.R.s in there?

15 A. Some of them are. I hope this is all of them.

16 Q. Okay. So, let's go to Page 2. What does
17 Bullet No. 2 say?

18 A. 22506 Round Valley, Riley Joe, his home phone
19 number. I spoke with Mr. Sanders, his wife Connie, and
20 his teenaged son, Joe, who is a student at Katy High
21 School where the complainant taught. Mr. and Ms.
22 Sanders stated that they did not see anything out of the
23 ordinary today. Their son Joe stated he went to school
24 today, and when he came he did not see anything either.
25 Joe stated he knows Ms. Temple because she is one of his

1 teachers, but he can't remember seeing her in the
2 hallway today.

3 Q. Okay. And when was that statement made? Can
4 you look at these offense reports and tell me when the
5 statement was made?

6 A. All on January 11th, 1999.

7 Q. Okay. So, January 11th, 1999 Riley Joe
8 Sanders -- and when I say "Riley Joe Sanders," can we
9 just agree I'm talking about the teenage kid that we've
10 been talking about?

11 A. Yes.

12 Q. Okay. So, on January 11th, 1999, he states --
13 Riley Joe Sanders states that he wasn't home that
14 afternoon, right?

15 A. He went to school today and when he came, he
16 did not see anything either.

17 Q. Okay.

18 A. So, he doesn't really say he wasn't home. He
19 said he went to school today and when he came he did not
20 see anything.

21 Q. Okay. Is he being questioned by a detective
22 with the Harris County Sheriff's Office?

23 A. Yes.

24 Q. Homicide Division?

25 A. Yes.

1 Q. Okay. So, is it fair to assume that that
2 detective is asking him questions about the homicide
3 that happened next door?

4 A. Yes.

5 Q. Okay. So, when he responds: I was at school
6 and didn't see anything, what does that mean to you,
7 Ms. Siegler?

8 A. Well, just what it says.

9 Q. That I went to school today, came home and
10 didn't see anything?

11 A. Yes.

12 Q. Is that what it means to you?

13 A. That he went to school. At some point, he came
14 home. And during the time that you're asking him about,
15 he doesn't think he saw anything.

16 Q. All right. Can you flip to the next page where
17 you see a statement from Riley Joe Sanders?

18 A. On the very next page?

19 Q. I said just to the next page.

20 A. Okay. Is it going to be another Tracy Shipley
21 supplement?

22 Q. I'm not sure.

23 A. Do you have a page number?

24 Q. Of the one -- next one chronologically?

25 A. Yeah.

1 Q. Hang on.

2 A. Or do you want to show it to me?

3 Q. The next statement that I have him giving is on
4 the 12th.

5 A. Okay. Well, I'm to the 28th with Tracy and I
6 either missed or I don't see it.

7 Q. I'm sorry?

8 A. I'm on the 28th -- now I'm on February 1st with
9 Tracy Shipley's supplement. So, I either missed it
10 or --

11 Q. Give me one second.

12 A. Okay.

13 Q. Do you have a statement from -- do you have a
14 Shelly Gonzalez offense report up there?

15 A. Shelly Gonzalez?

16 Q. Shelly Gonzalez. Do you have an offense report
17 from her up there?

18 A. Is it going to be in the same pile of stuff
19 I'm looking at or something else?

20 Q. They're not really organized very well, are
21 they?

22 A. Nope.

23 Q. How about this highlighted page, does that
24 appear to be a statement from Joe Sanders?

25 MR. CHIN: Do you have a Bate's page?

1 MS. GOTRO: 78.

2 MR. CHIN: 78. Thank you.

3 MS. GOTRO: You're welcome.

4 A. Yes, it does.

5 Q. (By Ms. Gotro) Okay. Then I'm going to --
6 well, it starts with Wichkoski, but then we move to --
7 who does that say?

8 A. Here's 4 and --

9 Q. But that's page. So, Wichkoski or page --

10 A. That's giving all of this. I need to see the
11 front. Where is Page 3? You're going to the front of
12 it. Where is Page 3? Page 3, 2, 1. So, it's
13 Wichkoski.

14 Q. Where does Shelly Gonzalez come in?

15 A. I don't know. That's the canvass, which is
16 going to be the violent youth offender guys.

17 Q. The who?

18 A. What we talked about yesterday.

19 Q. The violent youth offender guys?

20 A. Uh-huh.

21 Q. Okay.

22 A. Page and Herndon with that unit.

23 Q. Was there any significance to the Violent Youth
24 Offender Unit participating in this initial canvass of
25 Belinda Temple's murder?

1 A. They just needed all men on deck to take care
2 of all of the to-do lists.

3 Q. Okay. I'm sorry. So, the next statement was
4 what?

5 A. This is a supplement by Steve Wichkoski when he
6 interviewed Riley Joe Sanders.

7 Q. And that date would be what?

8 A. The interview was on January 14th, '99.

9 Q. Okay. You don't see a statement on the 12th of
10 '99?

11 A. Of Riley Joe Sanders?

12 Q. Yes, ma'am.

13 A. By Steve Wichkoski?

14 Q. No, ma'am. That would have been by, I think,
15 Shelly Gonzalez.

16 A. Well, I'm just looking at Wichkoski's right.
17 Do you have Gonzalez's?

18 Q. No. I thought it was in the group of papers I
19 gave you.

20 A. I think this is just Wichkoski.

21 Q. So, nothing in here about -- okay. When you
22 turned these offense reports over to Dick in the middle
23 of the trial, how were they organized?

24 A. By the detective who just testified.

25 Q. Okay. So, did Steve Wichkoski testify?

1 A. He had -- he was subpoenaed and he was out in
2 the hallway. I did not call him. And I know Dick
3 thought about calling him -- yeah, he did call him
4 because of the Roberts' boys, I think.

5 Q. Okay. So, if Steve Wichkoski testified, the
6 trial transcript will reflect that?

7 A. Yes.

8 Q. Okay. What other detectives did Riley Joe
9 Sanders give a statement to? What I'm asking you,
10 Ms. Siegler, did all of the detectives that Riley Joe
11 Sanders gave oral statements to, did you call them to
12 the stand?

13 A. The detectives?

14 Q. Yeah.

15 A. No. Because I called Riley Joe to the stand.

16 Q. Okay. But that was a rebuttal witness. I'm
17 talking about during your case-in-chief.

18 A. No, I did not.

19 Q. Okay. Can you agree with me that if you don't
20 call an investigator to the stand, a defense attorney
21 never gets to see his offense report, does he?

22 A. Yeah, he does.

23 Q. How is he going to see an offense report for
24 somebody that doesn't testify? Didn't you just say that
25 you only turned over offense reports for folks that

1 testified?

2 A. Yeah, but Judge Shaver was pretty clear about
3 letting him see copies of the statements of anyone who
4 testified.

5 Q. Okay. But I'm just talking about offense
6 reports, Ms. Siegler. I'm not talking about -- just
7 help me, please. Help me and listen to the questions
8 that I'm asking because this is exhausting.

9 A. Okay.

10 Q. This is exhausting.

11 A. Imagine being in trial with Dick for six weeks.

12 Q. I have read that transcript. No, thank you.

13 Okay?

14 So, my question is: If you don't call a
15 detective or an investigator and put him on the stand --
16 right?

17 A. Right.

18 Q. -- then isn't it true that defense counsel -- I
19 mean, how is defense counsel supposed to know what
20 detectives even participated in the investigation?

21 A. Well, their names are on the subpoena. And if
22 you really want to know what they did, you call them to
23 the stand yourself, but if I don't call them to the
24 stand myself as a witness, no, then I don't hand over
25 their supplement to the defense because I never called

1 them.

2 Q. Okay. So, just so that I'm clear, if defense
3 counsel wants to know who all investigated a particular
4 offense, all of those detectives will be listed on your
5 subpoena list?

6 A. Yes.

7 Q. Okay. And you're saying that it is defense
8 counsel's job to call up every one of those individuals
9 and find out what, if any, role they participated in in
10 this particular crime or this investigation?

11 A. I wouldn't say it's his job. I would say that
12 if he wanted to, he could.

13 Q. Well, how else is he supposed to find out which
14 members of law enforcement actually participated in the
15 investigation?

16 A. Their names are on the subpoenas.

17 Q. Right. You're doing that circular thing. I
18 think the question is real clear, Ms. Siegler.

19 A. Okay. Ask it again.

20 Q. All right. So, how is defense counsel supposed
21 to know which members of law enforcement participated in
22 an investigation? You tell me: Well, he can look at
23 the subpoena list. Right?

24 A. Yes.

25 Q. Okay. Well, if he looks at the subpoena list,

1 there is nothing on the subpoena list that says who
2 investigated and who didn't, right?

3 A. Not from the subpoena, no.

4 Q. Right. Which means defense counsel is going to
5 have to call every single person on that subpoena list
6 and ask them what role, if any, they played in this
7 investigation? Is that what you're saying?

8 A. If you want to know, yes.

9 Q. Okay. Do you know how long your subpoena list
10 was in this case?

11 A. I sure do.

12 Q. How long?

13 A. I don't know, but I typed it up and it was even
14 in alphabetical order.

15 Q. I appreciate your alphabetical order on things,
16 I really do.

17 So, you will agree with me that it was a
18 whole lot of folks?

19 A. Yes, ma'am.

20 Q. All right. On that subpoena list, did you
21 include every single officer that put together an
22 offense report?

23 A. I thought I got all of the important ones that
24 I would ever possibly need to testify. If I left off a
25 couple of them, I might have.

1 Q. Ms. Siegler, not all the important ones. My
2 question to you was: Did you subpoena all of the
3 members of law enforcement that participated in the
4 investigation of this offense?

5 A. Every single one, no.

6 Q. Okay. What were the criteria that you used to
7 decide who you would subpoena and who you would not
8 subpoena?

9 A. Did they do anything significant.

10 Q. Like?

11 A. Oh, lots of things.

12 Q. Interview a witness?

13 A. Interview a witness that was important, collect
14 any evidence that was important.

15 Q. And, again, this is important by your
16 standards, right?

17 A. Do you know how many people with the sheriff's
18 department were involved in this case?

19 Q. No, I don't.

20 A. A lot.

21 Q. I don't.

22 A. That didn't anything that amounted to anything.
23 I wasn't going to shut down the sheriff's department and
24 subpoena all of those people.

25 Q. How is defense counsel supposed to find out who

1 participated in the investigation, Ms. Siegler?

2 A. I guess ask the questions.

3 Q. Well, no, no, no. No, no. Don't do that. You
4 and I both know you don't call everybody on that
5 subpoena list to the stand.

6 A. No, of course not.

7 Q. No, of course not. Those subpoena lists were
8 baloney. I mean, you people would -- y'all would stick
9 everybody and their mama on that list and you know you
10 only call a tenth of them. Because that was how we got
11 our notice of witnesses, right, check the subpoena list?

12 A. What's your question?

13 Q. Do you know what I'm talking about, the
14 phenomenon I just described?

15 A. You kind of went off on a tangent and lost me.

16 Q. No, I did not, Ms. Siegler. You put how many
17 people on that witness list?

18 A. Count them. I really don't know. It was a
19 lot.

20 Q. All right. And you called what, less than a
21 tenth of them?

22 A. I called a lot of people. It was a six-week
23 trial.

24 Q. Right.

25 A. I think there was 40-something witnesses.

1 Q. So, correct me at any point if I'm wrong.
2 Depending on which cop talked to which witness and
3 depending on whether or not you deemed that witness or
4 that information important, that officer might make his
5 name on a subpoena list, right?

6 A. If the witness -- I don't necessarily agree
7 that you have to subpoena the cop that interviewed the
8 witness in all cases. Like those canvasses of all the
9 people on the street that didn't know anything, the guys
10 from the Violent Youth Offenders Unit that talked to
11 those neighbors that didn't know anything, I didn't put
12 the neighbors on the subpoena, I didn't put the Violent
13 Youth Offenders on the subpoena.

14 Q. Well, you didn't stick Justin Valdez on that
15 subpoena, did you?

16 A. No.

17 Q. Justin Valdez who said: You know what, the dog
18 stays in the back yard, got access to the garage with a
19 door that leads from the back yard to the garage. You
20 didn't put him on that list, did you?

21 A. I did not.

22 Q. No, but you hammered David Temple on his
23 cross-examination when you said: Nobody said anything
24 to anybody about that dog being in that garage until
25 2007. Do you remember doing that?

1 A. Yes, ma'am.

2 Q. Right.

3 You had that statement and you were the
4 only person that had Justin Valdez's statement. Is that
5 fair?

6 A. Yes.

7 Q. It's fair for you to argue one point when you
8 were the sole possessor of anything in the world that
9 could contradict it and you don't give it to defense
10 counsel; that's fair?

11 A. I did not give defense counsel these statements
12 made by Justin Valdez about one time seeing the dog in a
13 garage. I did not do that.

14 Q. Right. But that one time, Ms. Siegler, makes
15 it enough. That one time makes your questions of David
16 Temple and your argument to that jury wrong. It makes
17 it wrong because you knew -- and he wasn't the only one
18 that said that dog was in that garage. There are other
19 statements in there, Ms. Siegler. Do you remember
20 seeing those?

21 A. Is that an argument or a question?

22 Q. No. I'm asking. Do you remember seeing the
23 other witnesses talk about that dog being in that
24 garage?

25 A. No, I do not. And I disagree with your

1 argument.

2 Q. All right. So, if it's just one witness that
3 contradicts what you're arguing, it's okay to keep that
4 in your file?

5 A. No. I didn't say that.

6 Q. Then I missed your answer, Ms. Siegler. Why
7 was it that Justin Valdez's statement wasn't turned over
8 to the defense?

9 A. The fact that Justin Valdez saw the dog go into
10 the garage one day is not something significant enough
11 to me to need to be turned over to the defense.

12 Q. One day in 1999, right?

13 A. Correct.

14 Q. Right.

15 But it's okay to argue to the jury and to
16 beat him up with the statement that nobody said anything
17 about that dog until -- being in the garage until 2007?

18 A. Well, he kind of did give his own statement
19 about the dog, but he never happened to mention it until
20 his trial started.

21 Q. Did he --

22 A. That's what I beat him up about it.

23 Q. Did anybody ask him where the dog was in that
24 statement, Ms. Siegler?

25 A. Of course they did.

1 Q. Where?

2 A. I don't remember.

3 Q. That's because it didn't happen.

4 A. It was all about Shaka.

5 MS. GOTRO: Your Honor, may we approach the
6 bench, please?

7 THE COURT: Yes, ma'am.

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

10 THE COURT: You need a break?

11 MS. GOTRO: Can we have a restroom break?

12 THE COURT: For lunch or --

13 MS. GOTRO: Sure, is that your --

14 THE COURT: Half an hour?

15 MR. SMITH: Why don't we do 45 minutes,
16 Judge, because Mr. Durfee is supposed to show up at
17 12:30.

18 MS. GOTRO: If we can work our stuff out,
19 we --

20 THE COURT: If we go to 12:30, does that
21 sound okay with y'all?

22 MS. GOTRO: Yes, sir.

23 MR. SMITH: Yes.

24 (Open court, defendant present)

25 THE COURT: Court will be in recess till

1 12:30.

2 (Lunch recess)

3 (Open court, defendant present)

4 THE COURT: All right.

5 Q. (By Ms. Gotro) Welcome back from lunch.

6 Okay. I'm going to back up for just a
7 second before we even get to Riley Joe Sanders,
8 Ms. Siegler.

9 A. Okay.

10 Q. Before we broke for lunch and before we got
11 into Riley Joe Sanders' statement, we had been talking
12 about the timeframe behind the prosecution's theory at
13 the time of Temple -- at the time of David Temple's
14 trial. I'd like to back up to that spot for just a
15 moment.

16 MS. GOTRO: What exhibit number are we on?

17 THE COURT: 89.

18 Q. (By Ms. Gotro) I'm going to show you what's
19 been marked just for demonstrative purposes as Defense
20 No. 90, Ms. Siegler (indicating).

21 A. Okay.

22 Q. It's a file-stamped copy of the State's
23 subpoena list -- oh, the next one is 89. I apologize.

24 Defense Exhibit 89 for demonstrative
25 purposes, which is a file-stamped copy of the State's

1 subpoena list. I'm going to pass that to you now and
2 ask you if you recognize it as that (indicating)?

3 A. Yes, ma'am.

4 Q. Okay. Thank you, ma'am.

5 A. I'll give you room for a new pile.

6 Q. I will pile over here.

7 A. Okay.

8 THE COURT: Are you tendering that as
9 evidence?

10 MS. GOTRO: Judge, it's just for
11 demonstrative purposes.

12 THE COURT: All right.

13 MS. GOTRO: I believe it's already part of
14 the clerk's record, Your Honor.

15 Q. (By Ms. Gotro) Do you remember reading the
16 statement of Ms. Terri Schultz?

17 A. Not offhand, no.

18 Q. Okay. Just to facilitate things, I'm going to
19 hand you what's Bate's stamped beginning -- perhaps
20 Bate's stamped No. 90. Does that appear to be an
21 offense report (indicating)?

22 A. A supplement to the offense report, yes.

23 Q. I apologize. A supplement to the offense
24 report.

25 A. Yes.

1 Q. Okay. Do you see where Ms. Terri Schultz is
2 being interviewed?

3 A. Yes.

4 Q. Okay. She's asked a question about the dog,
5 the Temples' dog. Do you see the portion that is
6 highlighted there (indicating)?

7 A. Yes.

8 Q. Okay. What does Ms. Schultz say about that
9 dog?

10 A. Terri said she knew the Temples to own a black
11 Chow dog that was very mean. She also advised that the
12 dog stayed in the back yard and also had access to the
13 garage.

14 Q. Okay. And then I'm going to show you and hand
15 you back Defense Exhibit No. 89. And that was Terri
16 Schultz that makes that statement about Shaka having
17 access to the back yard?

18 A. Yes, ma'am.

19 Q. Is Ms. Schultz on the witness list?

20 A. She is not.

21 Q. Okay. And could you read what the Bate's
22 stamped was on that document that I have just shown you?

23 A. Could I read it? I think it's 90.

24 Q. 90, yes, ma'am.

25 Now, to your recollection, was this offense

1 report or the information within it tendered to
2 Mr. DeGuerin prior to trial?

3 A. It was not.

4 Q. And you did not see her name on your witness
5 list either; is that right?

6 A. I did not see Schultz on the subpoena list, no.

7 Q. Okay. Do you remember an interview with
8 Roseanne Martinez?

9 A. I do recognize that name.

10 Q. Okay. Do you know her to, perhaps, as the -- I
11 guess the wife or partner of a Joe Cadena {sic}?

12 A. Isn't she the blue car in the garage lady?

13 Q. I don't know who that is.

14 A. It might not be her.

15 Q. Okay. I'm going to hand you what's Bate's
16 stamped 98 and -- or excuse me -- 99 of the offense
17 report. You may need to refer back to 98 to see who's
18 making that first statement, but I will submit to you it
19 is Ms. Martinez.

20 A. Okay.

21 Q. And in the highlighted portion, does she make
22 any statements about Shaka, the dog?

23 A. She does. She said the dog sometimes stayed in
24 the kitchen, but that Belinda told her she was going to
25 start keeping the dog outside because of the new baby

1 coming.

2 Q. Okay. Does she say anything about the dog
3 staying in the garage?

4 A. No. She says she knew the Temples to own a
5 large black Chow dog that was protective, but she is the
6 garage lady.

7 Q. When you say "the garage lady," what do you
8 mean by that?

9 A. There was a witness that saw the car pulling
10 into or out of the garage. And I specifically went and
11 talked to her in person.

12 Q. Okay. When you say the car pulling into or out
13 of the garage, what are you referring to?

14 A. I don't remember which it was now. I just know
15 that during the time -- the time window that we have
16 been talking about, she saw the car coming out of the
17 garage. And I can't remember if she saw Evan in the
18 car, the car seat in the car, and all of that, but she
19 was the car witness. That's how I referred to her in my
20 head.

21 Q. Was that Angela Vielma?

22 A. Yes, yes.

23 Q. And if I'm correct, Angela Vielma was the woman
24 that had come jogging down the street when she saw David
25 Temple pull into the garage?

1 A. Yes.

2 Q. Okay. Is -- but let's back up for a second.
3 So, Roseanne -- Roxanne Martinez --

4 A. Roseanne Martinez.

5 Q. Roseanne Martinez. Is she on the State's
6 witness list?

7 A. Yes.

8 Q. Okay. Do you know if she was ever called to
9 testify?

10 A. Oh, I can't remember.

11 Q. But she didn't say anything about Shaka having
12 access to the garage. She just said that she was aware
13 that Belinda was going to start keeping Shaka outside,
14 right?

15 A. That she typically kept Shaka in the kitchen
16 and it was a very protective dog.

17 Q. Do you recall any other interviews with Terri
18 Schultz where she talks about -- scratch that.

19 Do you recall any witnesses -- any witness
20 interviews that discussed the time that Belinda Temple
21 would typically arrive home from work?

22 A. I don't remember. You asked me that at the
23 beginning of the day and I can't remember what they
24 said.

25 Q. Okay. At this very moment, the name -- I think

1 it was Terri Schultz, and I will check on that, but do
2 you remember Terri Schultz saying that Belinda typically
3 got home from school at about 3:40 in the afternoon?

4 A. I really don't remember.

5 Q. Okay. But can you agree with me if Belinda
6 typically got home at 3:40 on the afternoon on just a
7 regular workday, it would be very difficult for her to
8 leave school, go to Kenneth Temple's home, and make it
9 home by 3:45?

10 A. If she typically got home at 3:40?

11 Q. Yes, ma'am.

12 A. Ask me the question again.

13 Q. So, if Belinda Temple is at school and she
14 decides to go straight home from the high school, from
15 the school where she worked to her home, she would
16 arrive at 3:40 p.m. under normal circumstances?

17 A. To her home?

18 Q. Yes, ma'am.

19 A. Okay.

20 Q. Okay. On this particular day, though, she
21 decided to go -- there was a diversion, right? She went
22 to Mr. Temple's home. Can you and I agree that if she
23 typically gets home at 3:40 under normal circumstances,
24 with the added trip to Kenneth Temple's home, it would
25 have been virtually impossible for her to make it home

1 by 3:45?

2 A. Well, it was a flying trip to Mr. Kenneth
3 Temple's house. And I don't remember what everybody
4 else said was the typical time she got home. Terri
5 Schultz didn't live in the house with her and wasn't one
6 of her girlfriends.

7 Q. Okay. But did you talk to any of her
8 girlfriends that did tell you what time she typically
9 got home?

10 A. I did. They all knew what time she usually
11 left for school and what her procedure was and all of
12 that, but I don't remember what time they said she would
13 have left school usually or gotten home usually. I
14 can't remember.

15 Q. But -- you don't remember what time the
16 girlfriends said she usually got home, but you know it
17 wasn't 3:40?

18 A. I don't know.

19 Q. Okay. Fair enough. Give me just one second.
20 I misplaced my notepad. I'm looking for a particular
21 offense report that is Bate's stamped 17. It's an
22 interview with -- Terri Schultz is interviewed during
23 that initial canvass by law enforcement. She tells them
24 that 3:40 is the time that Belinda Temple typically gets
25 home. Do you have any reason to dispute that,

1 Ms. Siegler?

2 A. I do not.

3 Q. Okay.

4 MR. CHIN: That was 17 --

5 MS. GOTRO: Bate's 17. 17.

6 I apologize. There is a lot of paper up
7 here.

8 Q. (By Ms. Gotro) And do you remember off the top
9 of your head what kind of car Belinda Temple drove at
10 the time of her murder?

11 A. I do not.

12 Q. If I said it was a red Isuzu, would have you
13 any reason to disagree with that?

14 A. Is that a car or an SUV?

15 Q. Isuzu? I'm going to go with one of those
16 crossover things.

17 A. That sounds right.

18 Q. Okay. Ms. Siegler, I have been writing down
19 just some summaries of evidence we have discussed. I
20 will put my hands on that B17, but for right now I'll
21 put an asterisk by it as far as Ms. Schultz saying that
22 Belinda Temple typically got home around 3:40 every day.

23 A. Okay.

24 Q. I'm going to pass you what's been previously
25 admitted as exactly that Bate's 17. And there is a

1 highlighted portion on there. Can you tell me if that
2 confirms what we have been talking about (indicating)?

3 A. It is.

4 Q. Thank you, ma'am. I'm going to scratch out
5 that asterisk.

6 Was -- and, again, Ms. Schultz isn't on the
7 State's witness list?

8 A. She is not.

9 Q. Okay. So, in an instance -- if a witness is
10 not on the State's witness list, I guess I'm trying to
11 figure out how it is that you know when Brady kicks in.

12 A. Well, a neighbor saying what time they think it
13 took her to get home compared to the girlfriends and the
14 teachers she worked with and her husband said what time
15 she typically gets home, who knows best? That's the
16 kind of the question.

17 Q. Okay. But Ms. Schultz living across the --
18 Ms. Schultz living across the street from the Temples,
19 can we assume that -- well, what time does she typically
20 get home is the question she's asked by law enforcement.
21 Can we assume that that's based on what her observations
22 are on a daily basis of Belinda Temple arriving home?

23 A. Observations, not daily necessarily, yes.

24 Q. Okay. And so, did girlfriends -- the
25 girlfriends -- did you give any names about who these

1 girlfriends were?

2 A. Well, the teachers that she worked with.

3 Q. Okay.

4 A. Who were also -- some of them were her
5 girlfriends.

6 Q. Okay. Do you remember what those -- what those
7 girlfriends -- what their names were specifically?

8 A. Yes. Debbie Berger, Margaret Christian.

9 Q. Okay. And did either of those two women tell
10 you what time Belinda typically arrived home from work?

11 A. They would have told me about her routine
12 typically. I don't remember what the times were.

13 Q. Okay. If I represented to you that as far as
14 the time that Belinda typically arrived home from work
15 that neither statement from either one of those women
16 reveals what time Belinda Temple typically gets home
17 from work, do you have any reason to dispute that?

18 A. No.

19 Q. And I'm sure if I'm wrong, Mr. Chin will clear
20 that up on his cross. Was Debra Berger on the State's
21 witness list?

22 A. Yes.

23 Q. Do you remember who cross-examined her?

24 A. Dick cross-examined everybody.

25 Q. I apologize. Do you remember who direct -- who

1 did the direct examination?

2 A. Me.

3 Q. All right. Do you remember what she -- what
4 was used to refresh her memory before she testified, if
5 anything?

6 A. If she gave a statement, she would have looked
7 over her statement, but I don't remember if she gave one
8 or not.

9 Q. Ms. Berger?

10 A. Yes, ma'am.

11 Q. Okay. Do you know how many times Ms. Berger
12 was interviewed by law enforcement?

13 A. I do not.

14 Q. Did any one of the flags on those offense
15 reports that you are looking at now, do those flags
16 signify a witness' oral statement to law enforcement?

17 A. They might.

18 Q. Could you have a look at those flags and see if
19 you see a pattern as far as when and where oral
20 statements were made? I mean, I'm happy to show you
21 what we've got, but if you've got them in your own work
22 product, I think that's ideal.

23 A. I don't really have any work product. This is
24 just the offense report with stickies on it. I didn't
25 write anything on here that I would call work product.

1 It's just on the same page.

2 Q. I think if you go through that offense report
3 carefully, Ms. Siegler, you will probably find some
4 offense reports and some handwritten notes on them with
5 your handwriting specifically.

6 A. On the sticky pages?

7 Q. And on the offense report itself.

8 A. That's my writing?

9 Q. Yes, ma'am.

10 A. Okay. Now, what's your question?

11 Q. Well, I had asked you about Debra Berger and
12 who had examined her and whether or not you saw any oral
13 statements up there. And specifically those flags, do
14 you see any pattern or method to where those flags are
15 placed? Do they reveal an oral statement made to law
16 enforcement?

17 A. Sometimes, but not necessarily.

18 Q. I'm sorry. I didn't hear what you said.

19 A. Sometimes, but not necessarily.

20 (Pause)

21 Q. (By Ms. Gotro) Okay. Could you --

22 A. Keep going?

23 Q. Yes, ma'am.

24 A. Okay.

25 Q. Anything?

1 A. As far as?

2 Q. Your flags indicating where an oral statement
3 from a witness might be made to a member of law
4 enforcement.

5 A. I know that the flags indicate oral statements
6 made by David Temple to law enforcement.

7 Q. Okay. Anybody other than David Temple?

8 A. I don't think so.

9 Q. All right. I'm going to hand you what's been
10 marked as Bate's stamped 332 (indicating).

11 A. Okay.

12 Q. What is that exactly?

13 A. This is Mark Schmidt's supplement regarding
14 Debbie Berger.

15 Q. Okay. And that supplement, when is it dated?

16 A. January 26th, 2000.

17 Q. In that supplement, is there a statement in
18 there where Ms. Berger says she's got Joe Sanders in one
19 of her classes?

20 A. Yes.

21 Q. And that he appeared to be genuinely upset over
22 Belinda Temple's death?

23 A. Yes.

24 Q. Okay. Was that information, the fact
25 Ms. Berger saw Joe Sanders in that period of time,

1 whenever it was, that he appeared to be genuinely upset,
2 was that information tendered to defense counsel?

3 A. I don't think so, no.

4 Q. Okay. Is there anything you can do or review
5 that would make you clearer in your answers? Like
6 any -- I know that you had a manila folder file up here
7 at one point that you were looking at. Is there
8 anything that you can look at within the possession of
9 the State that you could tell us determinately whether
10 or not certain information was tendered to the defense?

11 A. Roll back time.

12 Q. Okay. We don't have that one with us.

13 A. No.

14 Q. So, this is just Bate's stamped 332?

15 A. Yes.

16 Q. And that was by Debbie Berger?

17 A. Yes, ma'am.

18 Q. All right. I'm going to hand you Bate's
19 stamped 789 and 7 -- I can't really read these numbers
20 and I apologize. Beginning at 789, it appears to be a
21 voluntary statement of Ms. Debra Berger. Will you look
22 at it and confirm for me (indicating)?

23 A. Yes, it is.

24 Q. Okay. If I could ask you to flip to that last
25 page of her statement.

1 A. Okay.

2 Q. Is it Detective Shipley that's questioning her?

3 A. Yes.

4 Q. Okay. She's asked a question about Belinda
5 ever complaining about her feet being swollen.

6 A. Yes.

7 Q. And what was Ms. Berger's response?

8 A. Belinda had complained about being tired a lot
9 and had mentioned to me that she had not been eating
10 that much for supper over the past few weeks. On either
11 Friday or Monday, Belinda had mentioned that her hands
12 were swollen because her rings were tight.

13 Q. Okay. Is there any statement in there about
14 Belinda's feet being swollen?

15 A. About her feet being swollen?

16 Q. Yes, ma'am. And feel free to read the whole
17 statement.

18 A. Not that I see, no.

19 Q. Can I have that Bate's stamped that begins that
20 offense report?

21 A. 789.

22 Q. She said that Belinda had been complaining
23 about being tired and what else?

24 A. Her fingers swelling and not eating much.

25 Q. Do you know -- and Debra Berger testified at

1 trial, right?

2 A. She did.

3 Q. Okay. And was that written statement tendered
4 to Dick DeGuerin before -- or after Ms. Berger
5 testified?

6 A. Correct.

7 Q. Do you remember any -- just right now sitting
8 here, do you have any independent recollection of
9 Ms. Berger's testimony at trial?

10 A. Just sitting here right now?

11 Q. Yeah.

12 A. No.

13 Q. Okay. If I told you that she testified about
14 Belinda's feet being pretty swollen and having to prop
15 her feet up in the office at trial, does that ring a
16 bell at all?

17 A. Somebody said that. I don't remember which
18 lady it was.

19 Q. Okay. And Ms. Berger's name is on the witness
20 list, right?

21 A. Correct.

22 Q. Did I leave that offense report with you?

23 A. That's hers (indicating).

24 Q. Thank you, ma'am.

25 And that was Detective Shipley that had

1 taken Ms. Berger's statement?

2 A. It seems to me like Tracy Shipley asked her
3 some of these questions, but she's saying it past tense
4 and now she's putting down in writing from what might be
5 Detective Lampson because he is the one that signs it.

6 Q. Okay. Was it common for these investigators to
7 work in tandem and then just one of them write a
8 supplement?

9 A. Or as a team and only one write the supplement,
10 or as a squad or a group, whatever you want to call it.

11 Q. Okay. And that's not -- that's common
12 practice, fair to say?

13 A. Yes.

14 Q. Now, beginning at Bate's 789 when I showed you
15 that written statement, are you aware of any other
16 written statement or recorded statement that Debra
17 Berger gave?

18 A. Not that I can think of right now.

19 Q. Do you have any specific recollection after
20 Ms. Berger testified of written documents that you gave
21 to the defense other than this one written statement?

22 A. No, but it would be in the record if I did.

23 Q. Okay. Yeah, I was just checking.

24 A. I don't think so.

25 Q. You remember the Ruggerios, don't you?

1 A. Yes.

2 Q. How would you pronounce their last name?

3 A. You said it right.

4 Q. Ruggerios?

5 Do you remember either one of the Ruggerios
6 describing when Belinda Temple would pull into the
7 driveway, coming home from work, open the garage door,
8 she'd have to toot the horn to get Shaka to get out of
9 the way?

10 A. Somebody said that. I don't remember if it was
11 the Ruggerios or different neighbor or somebody else,
12 but somebody did say that.

13 Q. Okay. So, when you were cross-examining
14 Mr. Temple in the Temple trial, you said to him pretty
15 harshly and repeatedly that nobody said anything about
16 Shaka being in the garage until 2007.

17 A. And I was referring to this specific day and
18 instance. Not generally speaking or habitually.

19 Q. Okay. The statement that I -- at least that we
20 put up on the paper as far as who said Shaka did, in
21 fact, have access to the garage, those statements
22 weren't turned over to Dick DeGuerin?

23 A. Well, having access to the garage generally
24 speaking is not the same thing as on this very day,
25 during the most important time we can talk about, Shaka

1 being in the garage. I never knew that he was going to
2 say that. How would I know that was exculpatory or
3 inconsistent or anything or even important? I had never
4 heard that before until David Temple took the witness
5 stand. I can't see the future to know what to produce
6 to the defense.

7 Q. When David took the witness stand, was he
8 guessing at where the dog was or did he say definitively
9 Shaka had -- what did he say? Do you remember?

10 A. He was lying about where the dog was. The dog
11 was in the garage.

12 Q. That wasn't my question. My question was: Do
13 you remember what he said?

14 A. Word-for-word, no, I don't.

15 Q. Okay. But am I correct in saying that it
16 doesn't matter, I mean you just assumed every word that
17 came out his mouth was a lie anyway, right?

18 A. Actually, I did not. I thought he did a very
19 good job testifying, much better than his family did.

20 Q. But you thought he was lying about where the
21 dog was?

22 A. I thought he was lying about only three or four
23 things, but they were very significant.

24 Q. Did you think he was lying about where the dog
25 was?

1 A. Yes, yes.

2 Q. Yes. Okay. Why?

3 A. Because he had to explain the fact that Shaka
4 didn't bark. And if it was a random burglar or a random
5 robber or a murderer who want Belinda Temple dead, how
6 come that ferocious dog never barked a peep?

7 Q. Well, I want to direct your attention back to
8 Justin Valdez's statement where he says that, you know,
9 once the dog got used to him, Shaka kind of settled
10 down.

11 A. Right.

12 Q. Okay. I believe -- did we introduce an offense
13 report about the special ed teacher with you,
14 Ms. Siegler?

15 A. Yes, we did.

16 Q. Okay.

17 A. Sosa.

18 Q. Sosa.

19 Can you find in your offense report the one
20 that I showed you? It's going to be Bate's stamped 300.
21 And I know you're going to have to dig for it, but there
22 is a note in what I believe --

23 A. I saw it.

24 Q. Okay. What did it say?

25 A. That Mark Schmidt checked that out and there

1 was nothing to it. And it was on the page that you
2 showed me earlier having to do with Sosa.

3 Do you have the page that I wrote on or do
4 you want me to keep looking for it?

5 Q. No, ma'am. I would like for you to keep
6 working on it. Because you used some sort of shorthand
7 that I didn't quite understand.

8 A. I did.

9 THE WITNESS: Andrew, if y'all know the
10 page that we're talking about, jump in here.

11 Q. (By Ms. Gotro) I don't know that the Bate's
12 page would even help you, Ms. Siegler, because yours
13 don't coincide. It was right around 340, but your copy
14 of the offense report isn't Bate's stamped.

15 A. Does it look like I'm going in the right
16 direction?

17 Q. Yes, ma'am. I would go deeper into it.

18 A. I'm going back to the front. Here. No, that's
19 not it. I saw what you're talking about.

20 MR. CHIN: May I approach the witness and
21 help her locate it?

22 THE COURT: Yes, sir.

23 (Pause)

24 A. I know what you're talking about if you want to
25 do it from memory.

1 Q. (By Ms. Gotro) Well, it was in shorthand,
2 Ms. Siegler.

3 A. Yes. And it said: Addressed by Mark Schmidt.
4 And it had two lines drawn with an arrow. And it had a
5 nothing sign. And that's what I write down when I mean
6 "nothing."

7 Q. But there was another word. It was a word that
8 I couldn't make out.

9 A. Okay. Let me see if I can find it then.
10 Wasn't it: Addressed by Mark Schmidt? No?

11 Q. We guessed it alone or about?

12 A. Tell me the whole context.

13 Q. It said: Mark Schmidt act alone about, above
14 maybe.

15 A. I think it was Mark Schmidt addressed.

16 Q. Okay.

17 A. Do you know what we could do? We could -- do
18 y'all know what we're talking about? It's a page --
19 like it's typed and then it has my writing here that
20 she's talking about, but I don't know where in the pile
21 it is.

22 Q. We can come back to that if you'd like to have
23 the State help you look for it, Ms. Siegler.

24 A. Yeah.

25 Q. It sounds to me when it says: Mark Schmidt

1 above, does it sound like Mark was the person that
2 followed up with that -- with Mr. Sosa?

3 A. Exactly. Yes. Exactly.

4 Q. Okay. And just so we can recap, Mr. Sosa
5 basically contacted law enforcement and reported two
6 things, right?

7 A. Say that again.

8 Q. Mr. Sosa, he contacted law enforcement and he
9 reported two things. One was that the statement by
10 Michael Grantom: If you put a pillow over the end of a
11 shotgun it would muffle the sound.

12 A. Correct.

13 Q. And the other one was Cody Towner -- Cody
14 Towner's admission that he had been at Riley Joe
15 Sanders' the night of the homicide.

16 A. Correct.

17 Q. Okay. And that shorthand symbol that you used,
18 that would leave me to believe that Schmidt had been the
19 one to follow up with Mr. Sosa.

20 A. Correct.

21 Q. Okay. Do you remember what the date of the
22 report was?

23 A. Of the report or of the note that I made?

24 Q. Oh, of the report that you wrote on.

25 A. No. It's going to be on that page itself.

1 Q. Okay. Are you aware of any other offense
2 report where Schmidt documented his follow-up of --

3 A. Sosa?

4 Q. Yes.

5 A. I wouldn't remember that.

6 Q. Would you expect, if your handwritten note is
7 that he followed up and there is nothing, that an
8 offense report would exist, though; a supplement would
9 exist?

10 A. If they had the time to write the supplement.
11 We were doing a lot of things then. I don't know how
12 much time they had to supplement everything.

13 Q. Would you expect to see some sort of
14 supplement documenting Schmidt's contact with either
15 Grantom or Towner to confirm or debunk this idea that
16 either Grantom said that -- bad question.

17 Would you expect some sort of
18 supplement documenting Schmidt's efforts to corroborate
19 those statements?

20 A. Not really. Because the way I read it, Mark
21 Schmidt went to talk to Sosa and there was nothing to
22 it. I don't remember why there was nothing to it. So,
23 there wasn't any need to follow up any more.

24 Q. Okay. So, a teacher -- well, scratch that.

25 We know from the evidence that Cody Towner

1 and Michael Grantom were near Belinda's home at the time
2 she was killed.

3 A. Right.

4 Q. We also know from the evidence and the multiple
5 statements --

6 A. Around the time she was killed because we
7 don't -- you know, the whole window of when they got
8 home. Remember, we talked about that yesterday?

9 Q. Right. So, around the time. That's fair
10 enough. She was -- they were there around the time that
11 she was killed?

12 A. Yes.

13 Q. We know from the evidence that one of the boy's
14 parents drives a white four-door -- off-white, four-door
15 car, right?

16 A. Oh, I don't remember that.

17 Q. You don't remember that? Mr. Ruggiero talking
18 about being on a walk with Peggy Ruggiero and seeing
19 this --

20 A. I remember him seeing a car. I don't remember
21 who it belonged to.

22 Q. Well, I don't think you-all were able to
23 determine who it belonged to.

24 A. I don't think we were either.

25 Q. But the physical description given by

1 Mr. Ruggierios was that it was two late teen, early 20
2 boys.

3 A. Something like that, yeah.

4 Q. With a cream colored or off-white colored
5 four-door sedan?

6 A. Something like that, yeah.

7 Q. With some bondo on the back of it.

8 A. Yes.

9 Q. But law enforcement was never able to determine
10 who that was?

11 A. No.

12 Q. Mr. Ruggiero reported seeing that car speed
13 away right around 4:30 p.m. Does that sound right?

14 A. Yes.

15 Q. Can you agree with me that it was the defensive
16 theory that Belinda Temple was killed somewhere around
17 4:30 p.m.?

18 A. I don't remember exactly what time the theory
19 was. I just know that we were in disagreement over the
20 time.

21 Q. Okay. Do you remember the Roberts boys?

22 A. Yes.

23 Q. Okay. The Roberts boys, just to refresh, were
24 the three young boys that lived behind the Temple home
25 and had heard what they believed to be a shotgun, yes?

1 A. One of them did.

2 Q. Right.

3 Well, they heard -- everyone heard a noise.
4 I think one of them characterized it -- one or two of
5 them characterized it as a shotgun.

6 A. Correct.

7 Q. All right. And that would have been around
8 4:30 in the afternoon.

9 A. Well, that was also up in the air. No one
10 could say for sure.

11 Q. What was the State -- what was your opinion on
12 what time they heard what they say they heard?

13 A. We have no idea because they were ages -- what
14 was it -- six, seven, and eight; four, six and eight.
15 The only way to try to figure out the time was to
16 estimate that those little boys knew exactly what time
17 the school bus dropped them off, if they had a snack, if
18 they did their homework, when they put in the
19 Dr. Doolittle movie, and where it was in the movie they
20 heard the pop watching the movie. And there was just no
21 way of knowing.

22 Q. But can you and I agree that it was the
23 defensive theory that that pop was, in fact, the shot
24 that killed Belinda Temple?

25 A. That was one of the theories, yes.

1 Q. Okay. One of the theories.

2 And if we employ that defensive theory, it
3 certainly fits with the defensive theory that Michael
4 Grantom and Cody Towner are the two boys that are
5 speeding away from the Temple home?

6 A. If the times work, yes.

7 Q. Okay. If the times work.

8 So, you've got Mr. Sosa reporting that Cody
9 Towner and Michael Grantom are -- don't you think it's a
10 pretty inflammatory statement, that piece about putting
11 a pillow over the end of a shotgun.

12 A. There is no evidence that a pillow was used
13 when the shotgun was fired at Belinda Temple's head. I
14 don't know why all of a sudden the pillow is important.
15 We didn't have a pillow in our case.

16 Q. That wasn't my question.

17 A. Well, that was my answer. I don't think it's
18 important.

19 Q. My question is: Don't you think it's -- don't
20 you think it's odd that this kid is making this
21 statement at the time he is making the statement, given
22 the fact that Belinda Temple has just been shot in the
23 back of the head with a shotgun?

24 A. Everybody in Katy was talking about the case.
25 And most of the people in Katy had bad information. The

1 fact that one more kid that went to the high school
2 where she thought said something about how he heard it
3 happened, I do not think is important, no.

4 Q. I don't believe Michael Grantom said that's how
5 he heard it happened. I believe what Mr. Sosa reported
6 to law enforcement was -- and, again, we haven't seen
7 the offense report, so I don't know what the follow-up
8 was, but I believe what Mr. Sosa reported is he's got
9 these two boys in his class, one of them says: I was at
10 Riley Joe's house the night Belinda Temple was murdered.
11 And the other one says: If you put a pillow over the
12 end of a shotgun, it will muffle the sound of the shot.

13 A. That makes it even less important.

14 Q. To you that type of statement is less
15 important?

16 A. Yes.

17 Q. Why?

18 A. Did you say "wow" or "why"?

19 Q. I said: Why?

20 A. Why?

21 Q. Yes. That's my Cajun. I'm sorry.

22 A. No.

23 Q. Why?

24 A. Because everybody in Katy was talking about
25 this case and most of the information they all had was

1 incorrect. And the fact that yet another teenage boy
2 makes some statement about how a shotgun sound, gets
3 transmitted or not in the days that follow has nothing
4 to do with the facts of the case.

5 Q. Yeah, but all of these people that were talking
6 about this murder, they actually weren't anywhere near
7 the scene of the crime at the time it happened, though,
8 were they?

9 A. I guarantee the whole town of Katy knew she was
10 killed with a shotgun.

11 Q. That wasn't my question, Ms. Siegler.

12 A. That was my answer.

13 Q. Come on. Come on. The whole town of Katy
14 wasn't there, but the truth of matter is, Ms. Siegler --
15 come on --

16 A. The whole town of Katy knows everything about
17 this murder.

18 Q. Ms. Siegler, you know you have evidence, you
19 have independent evidence out of those boys' mouth that
20 put him -- put both of them right there in the house
21 next to where Belinda Temple was murdered. You had that
22 evidence.

23 A. On the day it happened. Not necessarily at the
24 very time it happened.

25 Q. Okay. What's your --

1 MS. GOTRO: Thank you, Andrew.

2 THE WITNESS: Thank you.

3 Q. (By Ms. Gotro) What's your understanding of --
4 no. You told us that your theory was that it happened
5 at 4:00 p.m., right?

6 A. Say it again. I'm sorry.

7 Q. Your theory was that Belinda Temple was
8 murdered at 4:00 p.m., right?

9 A. Around 4:00 p.m.

10 Q. Around 4:00 p.m.

11 Okay. Do you not have statements from the
12 Katy boys putting each of them in that neighborhood near
13 that house with opportunity to commit that murder?

14 A. They were in the neighborhood that afternoon.
15 Whether they were at the store or at that friend's house
16 where they tried to buy more marijuana or where they
17 were at the exact time she was murdered, we could never
18 establish that.

19 Q. And that's because you couldn't get a straight
20 story out of them, could you?

21 A. No. Because teenaged boys don't know exactly
22 where they are at any given time and they sure don't how
23 to compare it to what was happening inside the Temple
24 house next door, if they were even next door. It's
25 impossible to figure that out definitively. We tried.

1 Q. Okay. So that I'm clear, you're telling us
2 that teenaged boys don't know where they're at when
3 they're there? Is that what you just said?

4 A. Well, that's kind of general, but I'm not going
5 to argue with you.

6 Q. No. I'm not arguing with you. I just want to
7 make sure I understand your statement. Because what I
8 said was that law enforcement wasn't able to get a
9 consistent story between these kids, right?

10 A. It was pretty consistent. They just didn't
11 know what time they were doing everything. They didn't
12 watch a clock. They weren't documenting it. But where
13 they all went and who they were with and what they did
14 was pretty darn consistent.

15 Q. So, it's okay for these teenaged boys not to
16 watch a clock, but you expect David Temple to have his
17 eyeballs on a clock every minute of the day, don't you?

18 A. Heck, yeah, because he's trying to alibi
19 himself. He knew exactly what he was doing.

20 Q. And you decided that, right, because he's
21 trying to alibi himself and those Katy boys are just
22 Katy boys, right, don't know where they're at, just
23 getting high, yeah?

24 A. That's not what I said, but I'm not going to
25 argue with you.

1 Q. So, you say there is no significant difference
2 between the Katy boys' statements, right?

3 A. Between what each of them had to say that
4 afternoon about what they did?

5 Q. Yeah.

6 A. Not really, no.

7 Q. Okay. Well, the little differences that there
8 were, what were they?

9 A. Maybe one remembered Riley Joe eating chilli
10 and the other one didn't. Maybe one said the guy that
11 they went to buy dope from didn't have change and the
12 other one said: I'm not going to sell it to you because
13 you don't have enough money. Who rode shotgun when they
14 left the house. How they drove the route home to get
15 back to Riley Joe's house, when he fell asleep and when
16 they left. Those little things like that might be
17 inconsistencies.

18 Q. Well, now isn't the truth in the details,
19 Ms. Siegler?

20 A. Sure is.

21 Q. And isn't that where you typically trip
22 suspects up, is those little-bitty details?

23 A. Yeah, suspects that know the details. Teenaged
24 boys that happened to be next door that have nothing to
25 do with what's going on aren't going to remember the

1 details.

2 Q. That's why you separate co-defendants, right?
3 And that's why law enforcement separates co-defendants?

4 A. When they interview them?

5 Q. Right.

6 A. Yes.

7 Q. Because they can't get those little-bitty
8 details, right, unless they're sitting in front of each
9 other, can they?

10 A. Well, it would depend, but generally speaking I
11 agree with you.

12 Q. They can't get the details straight because
13 that's where the truth is, isn't it?

14 A. So, you think the Katy boys are smart enough to
15 conspire and try and figure all of this out themselves?

16 Q. I make no opinion about their enlightenment,
17 Ms. Siegler.

18 A. Just their guilt.

19 Q. I make no opinion about that either, but I have
20 some opinions about your investigation of those Katy
21 boys.

22 A. I can't figure that out.

23 Q. Did you ever see more than one interview of
24 Randall Hess?

25 A. I don't remember if there was more than one.

1 Q. Okay. Did you ever see -- there wasn't. Did
2 you ever see more than one interview of Cody Ellis'
3 father?

4 A. I don't remember.

5 Q. Did you ever see more than one interview of
6 Cody Ellis?

7 A. Yes.

8 Q. How many times was he interviewed?

9 A. I don't remember.

10 Q. Did he ever give a straight story?

11 A. Their stories were pretty consistent.

12 Q. No. Cody Ellis. The two different stories
13 that he told, were those two stories consistent?

14 A. I don't remember enough to tell you.

15 Q. Okay. Then nine different statements that
16 Riley Joe Sanders made out of his own mouth, were those
17 consistent?

18 A. In my opinion, they were pretty darn
19 consistent. You can pick them apart all you want to.
20 It's still my opinion they were pretty consistent.

21 Q. So, the first person that he tells -- the first
22 statement that Mr. Sanders gives is that he was in
23 school and he didn't see anything. Do you remember
24 that?

25 A. Say that again now.

1 Q. The first statement that Mr. Sanders gives is
2 that he was in school and that he didn't see anything.

3 A. No. He said he was in school part of the day.
4 Let's not make the whole day. That's what you just
5 tried to do with your question. And at the time that he
6 thinks it might have happen, he didn't see or hear
7 anything.

8 Q. Please find that offense report for me where
9 Riley Joe Sanders says what you just said, Ms. Siegler.

10 A. You have it easier than I do.

11 Q. No, actually I don't. I've never seen those
12 words come out that kid's mouth. And so, if you've got
13 an offense report that I don't --

14 A. That's how I remember reading it.

15 Q. Ma'am?

16 A. That's how I remember reading it. But isn't
17 the relevant question here that Riley Joe Sanders
18 testified at trial?

19 Q. That's not my question.

20 A. It ought to be.

21 Q. We're still pretrial, Ms. Siegler. We're still
22 pretrial. We'll get to trial, I promise.

23 A. Here's the page you were looking for.

24 Q. Which one?

25 A. The Mark Schmidt page.

1 Q. What's the Mark Schmidt page? I'm sorry.

2 A. The one I was looking for with my handwritten
3 note on it earlier.

4 Q. Oh, yes, yes. May I see that, please?

5 A. Yes.

6 MR. CHIN: May I approach to view, Judge?

7 THE COURT: Certainly.

8 MR. CHIN: Thank, you, sir.

9 Q. (By Ms. Gotro) Okay. And so, the offense
10 report that we're referring to with Ms. Siegler's
11 handwritten note, it's on February 4th, 1999, 8:00 p.m.,
12 Mr. Sosa, the special ed teacher, Detective Schmidt
13 phones him back. Cody Towner told Mr. Sosa he was in
14 Sanders' home the night of the homicide. Excuse me.
15 Cody Towner told Mr. Sosa he was in Sanders' home the
16 night of the homicide along with Michael Grantom?

17 A. Okay. It doesn't mean when the murder
18 happened. It could have been before, it could have been
19 after. They were over there that day. That's not in
20 dispute.

21 Q. I suppose we could quibble over those
22 semantics, but --

23 A. That's the way I read it.

24 Q. At least one interpretation would be that they
25 were inside Riley Joe's house the night that Belinda was

1 murdered.

2 A. I read it that they were over at the house the
3 night the murder happened because it was a big event in
4 their life. Belinda Temple gets murdered and that's the
5 same day they were right next door. The same day they
6 were right next door.

7 Q. I'm sorry. Tell me that again. You believe
8 that means what, that they were just next door?

9 A. They were in Riley Joe's house next door to
10 Belinda Temple that day, that same day at some point.
11 It could have been during, it could have been before, it
12 could have been afterwards.

13 Q. I guess that is an interpretation of it. And,
14 again, we don't have a follow-up report to this, do we?

15 A. No. It kind of speaks for itself.

16 Q. Well, that's your opinion, right, this speaks
17 for itself?

18 A. Is there a supplements that Mark Schmidt made
19 to that? No.

20 Q. Okay. And you know that for a fact?

21 A. No, I don't.

22 Q. All right. But this document right here speaks
23 for itself in your opinion?

24 A. I think so.

25 Q. Two boys in the same neighborhood near the

1 house where Belinda Temple is shot fitting the
2 description of the car that's speeding away at the time
3 the defense is saying Belinda Temple was murdered. And
4 there is absolutely no follow-up or at least documented
5 follow-up from the sheriff's department, and that's okay
6 with you?

7 A. How did you make the jump to it was the car?

8 Q. I said fit the description.

9 A. And how did you make that jump?

10 Q. It wasn't a jump, Ms. Siegler.

11 A. Who says that?

12 Q. Read your offense reports.

13 A. Mr. Ruggiero remembers seeing a car speeding
14 away. He --

15 Q. He described that car -- I'm sorry. I'm sorry.

16 THE COURT: One at a time, please.

17 Q. (By Ms. Gotro) If you'd go through your offense
18 report, if you review Steve Clappart's investigation as
19 he was attempting to verify Glasscock's statement, it --
20 well --

21 A. So, it's Clappart that says the car was
22 consistent. Well...

23 Q. Right. And Clappart is worthless, too, isn't
24 he?

25 A. In this investigation, pretty much.

1 Q. Right. Clappart's worthless. You said Denholm
2 was worthless.

3 A. I did not say that. I said the questions he
4 asked that day we tried to do a mock cross-examination
5 were questions that no lawyer would ever ask. And he
6 was supposed to be playing Dick DeGuerin. So, that
7 turned out to be a joke.

8 Q. You know that Mr. Denholm has given his opinion
9 that David Temple is innocent?

10 A. I have heard that.

11 Q. Okay.

12 A. He never said that to me.

13 Q. So, do you know if Detective Schmidt ever spoke
14 with Mr. Grantom or Mr. Towner about these two -- about
15 these statements made to this special ed teacher?

16 A. I don't know for sure. I don't think he did.

17 Q. But it's not something you would have
18 encouraged him to do, right?

19 A. Not really.

20 Q. Because it's insignificant, in your mind any
21 way, right?

22 A. I don't think that one teenaged boy talking
23 about a shotgun being muffled by a pillow, when our case
24 has nothing do with a pillow, or another teenaged boy
25 talking about being over at the house on the same day it

1 happened next door is significant, no.

2 Q. Is that because you had already decided that
3 David Temple was guilty?

4 A. It's because of all of the information and all
5 of the evidence and all the witnesses had to say.

6 Q. Right.

7 MS. GOTRO: Your Honor, may I request that
8 the State copy this so that we can make it part of the
9 record? I don't want to take the original from you, but
10 would I like a copy to be made part of the record.

11 THE COURT: Okay.

12 MS. GOTRO: Thank you.

13 THE WITNESS: Andrew, does this go back
14 like this (indicating)?

15 MR. SMITH: Yeah.

16 Q. (By Ms. Gotro) All right. I'd like to back up
17 for just a second. You told us that you thought that
18 the statements that Riley Joe Sanders had given, both
19 his oral and written statements, were basically the
20 same?

21 A. Basically consistent.

22 Q. Okay. You didn't see any glaring differences
23 between his statements?

24 A. Correct.

25 Q. Okay. I have organized some documents for us,

1 Ms. Siegler. And just so that we're clear, you did call
2 Riley Joe Sanders to the stand as a rebuttal witness,
3 right?

4 A. Correct.

5 Q. Do you remember receiving a letter from Dick
6 DeGuerin on the 13th of November requesting Riley Joe's
7 previous statements and Grand Jury testimony?

8 A. Yes.

9 Q. Okay. And I apologize. I'm -- I apologize for
10 not remembering this. Did you give him those things
11 after Riley Joe testified?

12 A. Yes.

13 Q. Including the Grand Jury testimony?

14 A. Yes.

15 Q. The reports that I give you are going to be
16 Bate's stamped, Ms. Siegler. And if you could start off
17 by letting me know what the Bate's stamp is.

18 A. Okay.

19 Q. Okay. Here you go (indicating).

20 What's the Bate's stamp on that
21 supplement offense report?

22 A. 379 and 380.

23 Q. 379 to 380?

24 A. Uh-huh.

25 Q. And who authored that supplement?

1 A. Mark Schmidt.

2 Q. And what's the date?

3 A. April 13th, '99.

4 Q. Do you know offhand the date that Riley Joe
5 Sanders testified before the Grand Jury?

6 A. No.

7 Q. Okay. Will you take a minute to look through
8 that statement?

9 A. (Witness complies).

10 Okay.

11 Q. Does Riley Joe Sanders give a statement in that
12 document?

13 A. Well, he talks to Heather Mesker, who is the
14 one being interviewed in this supplement.

15 Q. Okay. And what does Heather -- what
16 information do we learn about Riley Joe Sanders in that
17 report?

18 A. The supplement by Mark Schmidt documents that
19 he spoke to Heather Mesker, who tells Mark Schmidt that
20 she was an ag teacher at Katy High School. She knew
21 Belinda because they went through orientation together.
22 She grew up in Katy. She knew Kevin and Rebecca Temple.
23 She had socialized with Belinda. Belinda and Becky both
24 came to her baby shower.

25 Q. Ms. Siegler --

1 A. She had Joe Sanders --

2 Q. Okay. Yeah. I was going to say we can skip
3 right to Riley Joe.

4 A. She had Joe Sanders during the fall in one
5 class and now she has him in two classes, ag and study
6 hall. She described Joe as, in quotes: Not a terrible
7 kid. I think he just craves attention. She says
8 Belinda has never spoken badly of her in-laws or her
9 husband, but that does not surprise her. That's how she
10 knew Belinda. Belinda had never said anything
11 derogatory about Joe Sanders. She only knew that Joe
12 was her neighbor because she said in class one day she
13 had to send Ms. Temple a note and she asked the class
14 who knew where her class was and Joe said he did, she is
15 his neighbor. She said that Joe told her about the
16 incident one day while he was in study hall. He had
17 asked to use the phone. She overheard him saying he did
18 not want to go. After he got off the phone, she asked
19 him what the call was about. He told her he had taken
20 two polygraphs and they were wanting him to take a
21 third. He told her he was not at home. He had skipped
22 seventh period with a buddy and they had left to go get
23 cigarettes. He had told her he was gone at the time
24 this happened.

25 Q. Okay. So, this Ms. Mesker, I guess that Riley

1 Joe is speaking with her sometime between the second and
2 third polygraph exam?

3 A. Yes.

4 Q. Is that about right?

5 A. Yes.

6 Q. Okay. I'm going to ask you to just hold on to
7 that document.

8 A. Okay.

9 Q. I'm going to hand you Bate's 51. Is the date
10 of that offense report -- that supplemental offense
11 report January 11th?

12 A. It is.

13 Q. Okay. And who authored the offense report?

14 A. Tracy Shipley.

15 Q. Give me the Bate's again. I'm sorry.

16 A. The first page is 51. And 52. And then do you
17 think this is -- is that supposed to be 53 right behind
18 it?

19 Q. The numbers are sort of squiggly. It starts a
20 new document. I think that looks like 80. Just go with
21 the first two pages.

22 A. Okay.

23 Q. Okay.

24 A. So, this is Tracy Shipley's offense report.

25 Q. Okay. Do you see where Tracy Shipley speaks

1 with Riley Joe Sanders in that report?

2 A. Yes.

3 Q. Okay. And what does Riley Joe Sanders tell
4 Tracy Shipley on the first of -- on the 11th of January?

5 A. Their son Joe stated he went to school today.
6 And when he came, he did not see anything either.

7 Q. I'm sorry. I didn't hear you. Say it again.

8 A. Their son Joe stated he went to school today.
9 And when he came, he did not see anything either.

10 Q. Typo? Is that what that sounds like, a typo?

11 A. No. It sounds like exactly what I said he said
12 awhile ago.

13 Q. That when he came, he didn't see what?

14 A. He didn't see anything either.

15 Q. When he came where?

16 A. Home.

17 Q. Okay. But "home" is not written in the offense
18 report, right?

19 A. It is not.

20 Q. Okay. So, I was just observing that it might
21 have been a typo by the officer writing it.

22 A. Okay.

23 Q. Yes?

24 Okay. So, give us your interpretation of
25 that statement, Ms. Siegler.

1 A. That Joe Sanders says on this particular day he
2 did go to school. And when he got home that day, he
3 didn't see anything.

4 Q. Do you take that to mean that he had gone to
5 school all day?

6 A. I do not.

7 Q. What do you take that to mean?

8 A. Just what I said, he went to school that day at
9 some point. It doesn't mean he went to school all day.
10 That's your interpretation.

11 Q. Okay. So, it doesn't mean he went to school on
12 time, does it?

13 A. He simply said he went to school that day.

14 Q. I'm asking you your interpretation of that
15 statement.

16 A. Okay.

17 Q. Okay? Does that statement to you mean that he
18 went to school at his usual time?

19 A. Not necessarily, no.

20 Q. Okay. That he got off at the usual time?

21 A. Same answer.

22 Q. Not necessarily?

23 A. Correct.

24 Q. So, the only thing that statement tells you is
25 that at some point he was at that school and at point he

1 saw nothing?

2 A. When he got home, he saw nothing.

3 Q. Okay. So, school at some point, home at some
4 point, and he saw nothing?

5 A. Correct.

6 Q. Do you recall from the offense report Riley Joe
7 Sanders making a statement to the cameras that were
8 outside after the Belinda had been shot?

9 A. I don't think it was in the offense report. I
10 think I saw the interview somehow, somewhere.

11 Q. Okay. So, you saw the actual interview?

12 A. I think so.

13 Q. Do you remember what it said?

14 A. Yeah. He said he was at school all day, he
15 said something about school, when he wasn't really there
16 all day, and that's what lead to him getting into the
17 middle of all this.

18 Q. Okay. I will trade you.

19 A. You want both of these?

20 Q. Yes, ma'am. Thank you.

21 Bate's stamped 74, January 12th. Who wrote
22 that offense report?

23 A. Steve Wichkoski.

24 Q. Wichkoski?

25 A. Yes, ma'am.

1 Q. Okay. Now, real quick, was Tracy Shipley --
2 did she testify?

3 A. She did.

4 Q. Okay. And Wichkoski, did he testify?

5 A. He was out here a lot of days in the hall
6 waiting. I think he did.

7 Q. All right. Now, with respect to Riley Joe's
8 whereabouts on the day that Belinda Temple was murdered,
9 what does Detective Wichkoski document?

10 A. Which part do you want me to read, or just say
11 it to you?

12 Q. You can tell us what -- where was Riley Joe
13 that day? What statement did he give to Wichkoski?

14 A. Wichkoski's paragraph about Joe Sanders says:
15 This investigator got in the back seat of the Chevy
16 Lumina with Joe. I told him that the reason that I
17 wanted to speak with him is because he was on television
18 saying he was in school on the day of the murder, when,
19 in fact, he was skipping. I then asked Joe if he could
20 tell me anything about what happened on Monday, January
21 11th. Joe advised me that the reason he said he was in
22 school is because he didn't want his father to know he
23 was skipping school. I asked Joe if he was home all
24 day, and if so if he remembered anything out of the
25 ordinary that may have happened next door. Joe told me

1 that he was not home all day and that nothing out of the
2 ordinary happened. After telling me this, I told Joe
3 that I needed to call his parents. I advised Joe that I
4 wanted to tell them that I spoke with you. And then he
5 and Paige leave.

6 Q. Okay. So, it's Wichkoski and Paige that are
7 interviewing him?

8 A. Yes, ma'am.

9 Q. And just so that I'm clear, Riley Joe Sanders
10 says: I wasn't at school all day -- say that piece
11 again.

12 A. I asked Joe if he was home all day, and if so
13 if he remembered anything out of the ordinary that may
14 have happened next door. Joe told me that he was not
15 home all day and that nothing out of the ordinary
16 happened.

17 Q. And how do you interpret that statement,
18 Ms. Siegler? What does that mean to you?

19 A. Consistently with what he said earlier, he went
20 to school and he was also at home part of the day. And
21 when he got home, nothing out of the ordinary happened.

22 Q. Well, now let me ask you something. At the
23 beginning of that report, the detective says he's in the
24 back seat of the cop car with him because he said: You
25 lied, you skipped school yesterday, and we heard you on

1 camera saying you had been at school all day. Do you
2 know the cops found out he lied?

3 A. They saw the news and somebody else told him
4 that wasn't at school that day.

5 Q. How about does it sounds familiar if I tell you
6 that Lampson and Shipley and Hernandez and a lot of the
7 folks working for the sheriff's department went up to
8 the school, and the first thing they did was to see who
9 was missing that day, who hadn't been in school on that
10 particular day?

11 A. Right. But they did that because somebody else
12 saw Riley Joe on the news saying he was at school and
13 they knew he wasn't. So, some other little piece of the
14 story happened before they went looking for who was
15 missing at school.

16 Q. Okay. I'm going to ask if during the break you
17 find that for me in an offense report because I don't
18 remember seeing that. Can you agree to do that?

19 A. Yeah.

20 Q. Okay. They came up with three names of folks
21 that were missing from school at the time Belinda Temple
22 was killed. Do you know who that was?

23 A. What time are we talking about? When was
24 seventh period?

25 Q. It would have been the time that this officer

1 right here requested the information from the campus.

2 A. Well, but I don't know that we're in agreement
3 that the time that they skipped school is the same time
4 we think the murder happened. I don't remember when
5 seventh period was.

6 Q. Can we make -- can you and I agree that when
7 the officers went up to the school, they asked who
8 missed school at a particular time?

9 A. Yeah, but your question said they skipped
10 school when -- the time the murder happened. That was
11 your question.

12 Q. I have a different question. I have a
13 different question.

14 A. Okay.

15 Q. Can you and I agree that the cops -- that the
16 officers of the sheriff's department that were
17 investigating this maybe knew what they were doing?

18 A. Yeah.

19 Q. You think so?

20 A. Yeah.

21 Q. Okay. And so, if they request records to find
22 out when student were absent, do you think they've got a
23 pretty good reason for asking for that?

24 A. Yeah. And if they missed school, it might have
25 amounted to something, but just because you miss seventh

1 period doesn't mean it's the time the period happened.

2 Q. Fair enough. But you and I can agree the
3 timeframe that these cops would have asked for was at
4 least relevant in their minds?

5 A. Sure. They wanted to see who was skipping
6 school that day.

7 Q. Okay. And they came up with three names,
8 right?

9 A. I don't remember the three names. I know Riley
10 Joe Sanders was skipping school that day.

11 Q. And so was Cody Ellis?

12 A. Okay.

13 Q. Okay. And so, what that tells the police is
14 that Riley Joe Sanders had lied on B 51, on the first
15 statement?

16 A. And to the newsman.

17 Q. Right. And that's actually what Wichkoski says
18 in the report you just read?

19 A. Correct.

20 Q. All right. That you lied and so I'm back, what
21 happened.

22 A. Correct.

23 Q. But you perceive these two statements to be the
24 same?

25 A. I think they're consistent.

1 Q. All right. Who else was at the house that day
2 when the cops showed up? Can you tell us from that
3 offense report?

4 A. Joe Sanders, Travis Millner, Cody Towner,
5 Andres Aguilar, Michael Touring.

6 Q. Okay. Is there any indication that Cody Towner
7 was interviewed, on that day anyway?

8 A. It doesn't look like on that day, no.

9 Q. Okay. And if I can back up for a second.
10 Ms. Siegler, if I told you that neither Wichkoski or
11 Paige testified, do you have any reason to disagree with
12 that?

13 A. I know for sure Paige didn't testify, but I
14 sure thought Wichkoski did because I thought that Dick
15 put him on the stand.

16 Q. You thought Dick put him on the stand?

17 A. Yeah. It was about the Roberts' boys. I know
18 he was down here because Dick wanted him down here. I
19 didn't put him on the stand.

20 Q. I may not have the right record, but according
21 to mine Wichkoski did not testify.

22 A. Well, that's I mean. Dick had him on standby
23 out in the hall, but he might not have put him on the
24 stand. I know I didn't.

25 Q. Okay. So, then we're in agreement, neither one

1 of those two officers testified?

2 A. Correct.

3 Q. All right. I'm going to move to January 25th,
4 1999, Page 214 Bate's stamped.

5 A. Okay.

6 MR. CHIN: You said 214, ma'am?

7 MS. GOTRO: Yes.

8 MR. CHIN: Thank you.

9 Q. (By Ms. Gotro) Who authored that
10 supplemental report?

11 A. Ramon Hernandez.

12 Q. If you could look over that report and I'm
13 going to ask you some questions about a statement, an
14 oral statement Riley Joe Sanders gives to Ramon
15 Hernandez.

16 A. Okay. I'm looking at that paragraph.

17 Q. All right. How did Riley Joe come to be
18 interviewed by Mr. Hernandez, by Ramon Hernandez?

19 A. At his house, at Riley Joe's house.

20 Q. All right.

21 A. On January 25th.

22 Q. Okay. And what did Riley Joe tell
23 Mr. Hernandez -- or Officer Hernandez?

24 A. Sanders advised me -- that's going to be
25 Hernandez -- that after school he drove Cody Ellis home

1 at about 3:20 and then he drove home to his house where
2 he made himself something to eat. Michael Grantom
3 arrived at his residence shortly after about 3:30 hours.
4 Michael Grantom had asked him for some marijuana, but he
5 did not have any. Riley then told Michael Grantom to
6 take Joe to Randy Hess' house down the street to get
7 some marijuana. Michael Grantom told Riley Joe he did
8 not have any money. So then they went to Randy Hess'
9 house in Michael Grantom's car along with Cody Towner
10 where Randy told them he did not have any marijuana.
11 Riley Joe, Michael Grantom, and Cody Towner then left
12 Randy Hess' house. Cody Towner had gotten into Michael
13 Grantom's car in the front passenger side and called out
14 "shotgun," which means he had the right to the front
15 passenger seat. Riley Sanders said he did not want to
16 sit in the back seat and walked back to his house
17 instead. Michael Grantom drove his car back to Riley
18 Joe's residence and sat on the back trunk of his car as
19 it was parked directly in front of Joe's house on the
20 street. At about 4:30 to 4:40 Michael Grantom, Riley
21 Joe, and Cody Towner drove to a convenience store to buy
22 cigarettes, and Michael Grantom then drove Riley Sanders
23 back to his residence and dropped him off. Riley
24 Sanders then stated he went into his residence and fell
25 asleep on the couch until about 5:30 when his dad came

1 home and woke him up. This is when his dad told him
2 about the commotion going on next door at Belinda
3 Temple's house.

4 Q. Okay. And then so from that statement, what
5 happened between 4:30 and 4:40?

6 A. At about 4:30 to 4:40 Michael Grantom, Riley
7 Joe, and Cody Towner drove to a convenience store to buy
8 cigarettes, and Michael Grantom then drove Riley back to
9 his residence and dropped him off.

10 Q. Okay. And then can we conclude -- is that all
11 the statement says?

12 A. And then it ends with: Riley Joe stated he
13 went into his residence and fell asleep on the couch
14 until about 5:30 when his dad came home and woke him up.
15 And that's when they hear about the commotion next door.

16 Q. Okay. We know that 911 wasn't called until
17 like 5:38?

18 A. Yes.

19 Q. So, Dad might have been home for a couple of
20 minutes before he came out and got him, before the
21 commotion started, I guess?

22 A. Before he -- okay.

23 Q. Is that right?

24 A. Before he went in and got him?

25 Q. No. I'm sorry. Dad might have been home a few

1 minutes before the commotion started next door?

2 A. Got you. Yes.

3 Q. Is there any discussion in that offense report
4 about whose car Michael Grantom was driving?

5 A. Michael Grantom's car.

6 Q. Is there any description of the car?

7 A. No.

8 Q. Okay. I'm going to hand you Bate's -- I don't
9 know -- it looks like 8 -- 089. Does that look like a
10 Bate's 089 (indicating)?

11 A. Or 88, yes.

12 Q. Who authored that offense report?

13 A. Shelly Gonzalez.

14 Q. And what's the date?

15 A. January 12th. She says '98, but it's probably
16 '99.

17 Q. January the -- I'm sorry. What?

18 A. The 12th.

19 Q. January 12th. And I'm sorry, who wrote it?

20 A. Shelly Gonzalez.

21 Q. Okay. Is there an oral statement there from
22 Riley Joe Sanders?

23 A. Yes.

24 MR. CHIN: You said 889, Kelly?

25 THE WITNESS: Well, she says in the body

1 January 12th of '98, but up here it says '99.

2 MR. CHIN: You said --

3 THE WITNESS: Oh, the Bate's stamp. I'm
4 sorry.

5 MR. CHIN: Thank you.

6 A. I do see it.

7 Q. (By Ms. Gotro) Is Gonzalez on your witness
8 list?

9 A. No.

10 Q. Okay. And then what does Riley Joe Sanders
11 tell Gonzalez?

12 A. Joe said his neighbor across the street told
13 him -- that's Joe -- that he heard a backfire. Joe also
14 stated that his lunch period begins at 11:13 a.m. He
15 went home for lunch and claims to have seen what he
16 thought to be a utility person in the neighborhood. He
17 said the person was a black male holding a pole shaped
18 like a "T" like the ones used to open the water meter
19 box. Joe has knowledge of the Chow dog at the victim's
20 residence.

21 Q. Okay. Was Joe asked anything else about the
22 Chow dog at the victim's residence?

23 A. No.

24 Q. Does he make any statement about how mean and
25 vicious the Chow dog is?

1 A. Not in this statement.

2 Q. Okay. What does that mean to you, Joe has
3 knowledge about the Chow dog?

4 A. He knows about the dog, but they didn't ask him
5 any follow-up questions or they didn't bother putting
6 his answers here.

7 Q. Any idea why law enforcement would do that?

8 A. Well, Shelly Gonzalez was a deputy in the Youth
9 Violent Offender Unit, so she didn't have a lot of
10 experience.

11 Q. Okay. But can we agree that normal practice
12 might be to get some details about what kind of
13 knowledge you have about the dog?

14 A. She's not a detective. She's not an
15 investigator.

16 Q. My question is: Isn't the better practice to
17 document details?

18 A. Yes.

19 Q. Thank you.

20 Joe has knowledge about the dog. So --

21 A. Joe has knowledge of a Chow dog at the victim's
22 residence.

23 Q. Anything else that -- anything else that
24 Gonzalez reports?

25 A. No.

1 Q. So, is this the first time we find out that
2 he's skipped school in the offense report that we've
3 just read?

4 A. Well, he doesn't really say he skipped school
5 here. He says that his lunch period begins at 11:13, he
6 went home for lunch, and then he goes on to say he saw
7 the utility guy, the meter reader, who we did find.

8 Q. Were you allowed to leave lunch for school?

9 A. Yeah. A lot of high schools let you leave for
10 lunch. My daughter did.

11 Q. Did they find out if Riley Joe Sanders was
12 allowed to leave school for lunch?

13 A. I just assumed that he was. I don't know for
14 sure.

15 Q. Okay. You just assumed he was okay to leave at
16 lunch.

17 Does he tell us where he goes for lunch?

18 A. He went home for lunch.

19 Q. All right. Did he -- does he see anybody?

20 A. The utilities person.

21 Q. Who takes him home?

22 A. It doesn't say.

23 Q. It doesn't say who took him home?

24 A. No.

25 Q. Okay. And that would have been on the 12th,

1 1999, right?

2 A. Correct.

3 Q. Are there any other statements from Riley Joe
4 Sanders in that offense report?

5 A. Not this one, no.

6 Q. Okay. Thank you, ma'am.

7 I'm going to hand you what is Bate's -- I
8 think you did that one already.

9 A. Y'all need to get a better Bate's machine.

10 Q. It's the State's.

11 A. Y'all need to get a better Bate's machine.

12 Q. That sounds like it's got donation written on
13 it, Ms. Siegler.

14 A. Yeah.

15 Q. Give me just one second, please.

16 Now, you have told us that you are familiar
17 with some written statements that Riley Joe Sanders
18 provided.

19 A. Correct.

20 Q. All right. Were there any other oral
21 statements given to law enforcement other than the ones
22 that you see up here?

23 A. No, ma'am.

24 MS. GOTRO: May we approach, Judge?

25 THE COURT: Sure.

1 (At the Bench, outside the hearing of the
2 audience)

3 MS. GOTRO: May we take a break, Judge?

4 THE COURT: How long? Ten minutes?

5 MS. GOTRO: Ten minutes.

6 (Open court, defendant present)

7 THE COURT: Court will be in recess for 15
8 minutes.

9 (Recess)

10 (Open court, defendant present)

11 THE COURT: You may proceed.

12 MS. GOTRO: Thank, you, sir.

13 Q. (By Ms. Gotro) Ms. Siegler, I want to back up
14 to the January 25th offense report. That's Bate's 215,
15 Deputy Hernandez's contact with Riley Joe Sanders. When
16 he went to Sanders' home on the 25th, it's true that
17 Michael Grantom and Cody Ellis were also there, right?

18 A. I think so, yes.

19 Q. Okay. Detective Lampson had participated, I
20 guess, in part of this interview process with Detective
21 Hernandez. Does that sound about right?

22 A. Yes.

23 Q. Okay. Now, in that same offense report they
24 speak -- I don't know which detective, but some
25 detective speaks with Michael Grantom, does he not?

1 A. Correct.

2 Q. And what does Michael Grantom tell us? What
3 does he -- how did he spend his day?

4 A. What, Michael Grantom?

5 Q. Yes, ma'am.

6 A. Michael Grantom told us that he had gone over
7 to Riley Joe Sanders' home about 3:30 and stayed there
8 until about 4:30. He does not recall hearing any noises
9 on the day that Belinda Temple was killed.

10 Q. Okay. And then just for -- to be clear, this
11 is listed in military and you translated it to --

12 A. Yes, because I hate military time. Sorry.

13 Q. Me, too.

14 So, on 1-25 from -- was it 3:30 to 4:30?

15 A. Correct.

16 Q. He states he goes over to Riley Joe Sanders'
17 house --

18 A. Yes.

19 Q. -- stays there --

20 A. Yes.

21 Q. -- leaves and hears nothing?

22 A. Correct.

23 Q. Now, you read to us what Riley Joe Sanders had
24 said. Does Riley Joe Sanders report essentially the
25 same thing in your opinion?

1 A. As?

2 Q. As what Mr. Grantom did, that from 3:30 to 4:30
3 he goes over to Riley Joe Sanders, he hangs out, he
4 hears nothing, he leaves.

5 A. Well, Riley Joe Sanders mentions going to some
6 other places. I'm trying to see if Grantom went. And,
7 yeah, and Grantom went with him, but Grantom doesn't
8 talk about going to those places probably because they
9 were going to buy dope.

10 Q. The drive to the convenience store Michael
11 Grantom doesn't mention, does he?

12 A. He does not.

13 Q. Okay. Cody Ellis is also there, isn't he?

14 A. Yes.

15 Q. Okay. Can you tell us what time Cody -- does
16 Cody Ellis talk to any police officers?

17 A. There is one sentence that says: Cody Ellis
18 stated that he was at home when Belinda was killed.
19 Riley dropped him off at home after school was out about
20 3:22.

21 Q. Okay. So, 3:22 Cody Ellis is at home having
22 been dropped off by Riley Joe Sanders.

23 A. Correct.

24 Q. Okay. Does Mr. Grantom explain how he got over
25 to Riley Joe's house?

1 A. Over to Riley's house? Let's see. He doesn't
2 say exactly, but we do know that we have Michael
3 Grantom's car there. Is that what you asked me?

4 Q. Oh, is there a description of Michael Grantom's
5 car?

6 A. No, no, no. We just know his car is in the
7 mix.

8 Q. Okay. But there is no description of the car?

9 A. Correct.

10 Q. All right. Okay. Thank you. I just wanted to
11 backtrack. I had forgotten that those kids were there.
12 Thank you.

13 Oh, Detective Leithner. On February 1st,
14 are you aware of an interview that Detective Leithner
15 did with Riley Joe Sanders?

16 A. I don't remember the date. Were you looking --
17 you set these aside to go through next.

18 Q. Ma'am?

19 A. You set those aside to go through next.

20 Q. Let me make sure this is -- so it Bate's
21 stamped 1939. Bate's stamped 1939. Who authored that
22 offense report?

23 A. Chuck Leithner.

24 Q. And the date is 2-1-99?

25 A. Correct.

1 Q. And we know Leithner testified, right?

2 A. Correct.

3 Q. Now, he goes, at some point, to speak with
4 Riley Joe Sanders. Why is he going to re-interview
5 Riley Joe Sanders, can you tell?

6 A. I don't want to get these out of order here.
7 Can you come and make sure I didn't get these out order?
8 The little clippy fell off.

9 Q. I'm sorry. I --

10 A. This was the front page, right?

11 Q. Yes, ma'am.

12 A. We turned to this (indicating)?

13 Q. Yes, ma'am.

14 A. That's what I needed. Okay.

15 Q. That works?

16 A. So, you asked me what again?

17 Q. So, Leithner goes to interview Riley Joe
18 Sanders at some point. What was the -- why was he going
19 to re-interview him?

20 A. Well, I see that he summarizes Schmidt's
21 interview of Riley Joe and then he summarizes Wichkoski
22 interviewing Riley Joe. I'm trying to see where
23 Leithner interviewed Riley Joe. Okay. Here it is.

24 Now, what did you ask me?

25 Q. Okay. Is there a particular reason? Because

1 if we look up at the notes that I have been taking on
2 all of these interviews, this is going to make for
3 the -- one, two, three -- fourth time, fifth time he's
4 going to be interviewed, fifth time he's being
5 interviewed?

6 A. Yes.

7 Q. Okay. Was there a particular reason? Was
8 Leitner or Schmidt or anyone instructed by anyone else
9 to go and re-interview these kids?

10 A. I don't know. I wasn't handling the case back
11 then.

12 Q. No. I meant documented in the offense report,
13 Ms. Siegler.

14 A. That somebody told them to go do it? It's not
15 in here, no.

16 Q. Okay. Are you able to determine who spoke with
17 Riley Joe?

18 A. This says that right after Wichkoski got
19 through interviewing Riley Joe, Leithner says he wants
20 to talk to Riley Joe, and then he does.

21 Q. Okay. So, then we have two statements coming
22 out of that particular day; is that right?

23 A. Well, plus Mark Schmidt's summary makes three,
24 but that's just a summary of somebody else's interview.

25 Q. Do you know who Schmidt -- do you know who

1 Schmidt is summarizing?

2 A. No. Leithner summarizing Schmidt.

3 Q. Okay. So, first interview, who conducted it?

4 A. In this document, the first thing that we have
5 is Chuck Leithner summarizing an interview that Mark
6 Schmidt did of Riley Joe Sanders. And then we have him
7 going into the fact that Wichkoski was interviewing
8 Riley Sanders. And now we're to Chuck Leithner himself
9 wanting to interview Riley Joe Sanders.

10 Q. Does Chuck Leithner actually interview Riley
11 Joe Sanders?

12 A. He does.

13 Q. All right. Now, can you give us a reason
14 why -- why is Leitner summarizing an interview that
15 Schmidt did?

16 A. Because that's how Leithner always wrote his
17 reports. They're always long.

18 Q. Did Schmidt write his own report about the
19 interview?

20 A. I don't know. I don't remember.

21 Q. Would that be a customary practice?

22 A. As long as one person is writing down what
23 happened, that was pretty much routine.

24 Q. Okay. So, let's go through the first interview
25 with Riley Joe Sanders on there. Tell us who did it.

1 A. The one that Leithner did?

2 Q. Or I guess -- sure, yeah. What does Leitner
3 say?

4 A. Leithner says: A short time later Wichkoski
5 advised that he had completed his interview with Joe
6 Sanders. At that time, I advised that I would talk to
7 him. At approximately 11:00 a.m. I met with Joe
8 Sanders, III in Interview Room No. 1. During the
9 interview, Sanders advised that one -- that on the day
10 of the offense report he had gone to school early in the
11 morning. He advised that although he has a truck, his
12 parents took driving privileges from him and his mother
13 takes him to school.

14 During school, however, he talked a friend
15 into taking him home during the lunch break where he
16 picked up his truck and drove back to school. Later
17 during the afternoon hours, he met with a friend
18 identified as Cody Ellis and asked him to ditch the last
19 class with him. According to Sanders, he and Ellis cut
20 class and they drove to his house. He advised when he
21 arrived home, he noticed the front door was slight --
22 was opened slightly. He checked the house and noticed
23 that nothing appeared to be missing. So, he and Cody
24 got back in his truck and they drove off over off the
25 Grand Parkway where they shared a joint.

1 He advised after they finished the
2 marijuana cigarette, he drove Cody home. He stayed at
3 Cody's approximately 20 minutes and then drove home.
4 When he arrived home, he fixed himself something to eat
5 and then called a friend of his named Michael Grantom.
6 Sanders advised that Grantom and another friend named
7 Cody Towner arrived at his house at approximately 3:30.
8 He advised he had a partial joint lit and they finished
9 it off.

10 At approximately 3:45, they all decided to
11 go over to a friend's house named Randy Hess. He
12 advised that Randy lives just down the street from him
13 and that they would sometimes score some weed from him.
14 Sanders advised that they arrived at Randy's house a few
15 minutes later and stayed there approximately 15 minutes
16 or so. He stated Randy did not have any weed. While
17 departing the Hess residence, he fought over rights to
18 riding shotgun in Michael Grantom's car with Cody
19 Towner. He advised that Towner got the position, so he
20 told them to drive on and he would walk.

21 Sanders advised the walk was approximately
22 five minutes to his house. Sanders advised that as he
23 rounded the corner to his street, he could see both Mike
24 and Cody waiting in front of his house. As he continued
25 to walk towards his house, he saw his neighbor David

1 Temple's truck passing by heading northbound on Hidden
2 Canyon. He identified the vehicle by stating it was a
3 blue-colored Chevy pickup truck with tinted windows and
4 chrome wheels. When he arrived where Mike and Cody were
5 waiting, they told him they wanted to go to the store to
6 buy some cigarettes. According to Sanders, it was
7 approximately 4:30 p.m. as they got in Mike's car and
8 drove to the store.

9 He advised they were at the store a short
10 time and then Mike drove him home, as Mike had to pick
11 his mother up from work by 5:00. Sanders advised it was
12 approximately 4:45 when he got back home and he went
13 inside and turned on the television and laid down on the
14 couch where he fell asleep. He advised his father woke
15 him up when he arrived home from work.

16 Q. All right. Are any other boys interviewed on
17 that day in that offense report?

18 A. No.

19 Q. Okay. And Riley Joe mentions that he was
20 getting high with Cody Ellis, right?

21 A. Yes.

22 Q. Says that, you know, these boys came over at
23 3:30, according to Michael Grantom and to Cody Towner,
24 and he mentions the trip to Randy Hess' house, right?

25 A. Correct.

1 Q. He also says that he sees David Temple's truck?

2 A. Correct.

3 Q. What time do you approximate he thinks he sees
4 David Temple's truck?

5 A. It's hard to say because it says: According to
6 Sanders it was approximately 4:30 p.m. as they got in
7 Mike's car and drove to the store. Two sentences before
8 that, he says he identified David's truck, then he
9 arrived where Mike and Cody were waiting for him. They
10 told him they wanted to go to the store and buy
11 cigarettes, and that's when he mentions a time.

12 So, we don't know if the 4:30 refers to
13 when he sees the truck or when they leave to go to the
14 store to buy the cigarettes.

15 Q. Okay. Well, let's back up. He says that after
16 he stays at Cody Ellis' house for 20 minutes, then he
17 goes over to -- then he comes home. And then by 3:30
18 Michael Grantom and Cody Towner were there. Is that
19 accurate?

20 A. I'm looking for the 20 minutes. What did you
21 say about 20 minutes?

22 Q. Well, when he drops Cody Ellis off, he says he
23 stays at Cody Ellis for about 20 minutes, Riley Joe.

24 A. Okay. Yes.

25 Q. All right. And then he goes home. And at

1 about 3:30, Michael Grantom and Cody Towner come over.

2 A. Yes.

3 Q. And then he says at 3:45 they head over to
4 Randall Hess' house?

5 A. They decided to go over there, he lives down
6 the street, and then they go. So, close to 3:45.

7 Q. Okay. And they stayed there for about 15
8 minutes?

9 A. A few minutes later and stayed there
10 approximately 15 minutes, yes.

11 Q. Okay. And then he says he's got a five-minute
12 walk home.

13 A. Yes.

14 Q. So, give or take, does that put Riley Joe
15 Sanders seeing David Temple's truck leaving David
16 Temple's home at around 4:15, 4:10?

17 A. I don't know because the only reference in here
18 is 4:30 in the paragraph that has to do with the truck.
19 And it's hard to know.

20 Q. Well, I guess I'm working forward from the 3:30
21 time.

22 A. I know, but there is the 4:30 time in here that
23 you have to deal with.

24 Q. Well, let's start with 3:30. Can we agree that
25 comes before 4:30?

1 A. Yes, ma'am.

2 Q. Okay. So, at 3:30 he says that Michael Grantom
3 and Cody Towner come over to his house, right?

4 A. College.

5 Q. And then they decide to go to Randall Hess'
6 house.

7 A. Yes.

8 Q. All right. Does he say that they do anything
9 after they get there immediately?

10 A. At Randall Hess' house?

11 Q. No, no. At Riley Joe Sanders' home. When
12 those two boys come over, what's the first thing that
13 Riley Joe, Cody, and Michael Grantom do?

14 A. They finish off a joint.

15 Q. Okay. How long do you think it takes to smoke
16 a joint?

17 A. I really don't know.

18 Q. Okay. That was a loaded question.

19 A. I know, but I've never smoked one so I can't
20 tell you.

21 Q. Fair enough. He said it was half a joint?

22 A. Partial joint lit, but it's spelled l-e-t. So
23 I think that means lit.

24 Q. Four minutes, five minutes?

25 A. I guess.

1 Q. Okay. Five minutes.

2 And then they decide to go over to Randall
3 Hess' house.

4 A. At 3:45.

5 Q. At 3:45. So, 3:45 they had to Randall's house.
6 And he says they're for about 15 minutes?

7 A. Yes.

8 Q. All right. So that makes it now 4:00.

9 A. Well, they arrived at his house a few minutes
10 later. So, the earliest would be 4:00, yes.

11 Q. Okay. So 4:00 to 4:05.

12 A. Or 4:10.

13 Q. Or 4:10.

14 Okay. And then they go there and he states
15 that they try to buy weed, Hess says: I'm not giving it
16 away, you need money, and then the boys are out of luck.
17 Right?

18 A. Right.

19 Q. And then Mr. -- what's his name?

20 A. Grantom?

21 Q. Yeah. Then he's got a five-minute walk home.

22 A. After they argued about who gets to ride
23 shotgun.

24 Q. Right. Got a five-minute walk home.

25 A. Correct.

1 Q. So, what --

2 A. So, once again, we have some kids in the area
3 that we care about during the time that we care about,
4 but it sounds like they left the house right when
5 everything happened.

6 Q. So, can we agree, though, that based on this
7 timeline, what you've described, is that they see David
8 Temple leaving his home anywhere as early as 4:10 and as
9 late as 4:20?

10 A. Well, no, because we have 4:30 in here to deal
11 with.

12 Q. What's the 4:30 say?

13 A. According to Sanders, it was approximately 4:30
14 as they got in my car and drove to the store.

15 Q. Okay. Can we agree that 4:20 is approximately
16 4:30? I mean, it's 10 minutes. Right?

17 A. Yeah. That makes a lot of difference in this
18 scenario, though.

19 Q. It does make a huge difference, doesn't it,
20 those few minutes?

21 A. Uh-huh.

22 Q. It makes a huge difference.

23 A. And they're teenaged boys and a 10-minute
24 difference to them back then smoking dope is hard to
25 rely on.

1 Q. Ms. Siegler, I suggest to you that 10 minutes
2 is a big difference to a whole lot of people.

3 A. Especially to Belinda.

4 Q. So, you've told us earlier that all of these
5 oral statements were included in Riley Joe Sanders'
6 written statements. Do you remember saying that?

7 A. Yes. And the Grand Jury testimony was all
8 consumed in those.

9 Q. Now, I haven't gotten to the Grand Jury
10 testimony. What I was talking to you about were the
11 defendant's statements and specifically the State's
12 obligation to turn over written statements.

13 A. Okay.

14 Q. And your statement was that all of these oral
15 statements that had been previously made had basically
16 been collected into the written statements of Riley Joe
17 Sanders. Do you remember saying that?

18 A. If you say I did, I did.

19 Q. No, that's not my question. My question is:
20 Do you remember --

21 A. I thought I said and Grand Jury testimony, but
22 I don't want to argue with you about something like
23 that. So, if you think I said, then I will admit to you
24 that I said it.

25 Q. Can you and I both agree that you don't -- that

1 Grand Jury testimony is treated differently than a
2 written statement?

3 A. As far as what you turn over after somebody
4 testifies, not necessarily.

5 Q. Okay. Can you and I agree that Grand Jury
6 testimony is treated differently than a written
7 statement?

8 A. Yes.

9 Q. Okay. So, within the confines of a statement,
10 I understood you to say earlier -- and thank God we've
11 got the court reporter, but I understood you to say
12 earlier that in the case of Riley Joe Sanders with all
13 these oral statements that he made to law enforcement,
14 all of those oral statements had been collected into the
15 two written statements. Is that your testimony or not?

16 A. I don't remember saying that exactly. If you
17 think I did, then I will agree with you. I think what I
18 said was all of Riley Joe's oral statements eventually
19 got consumed into the written and the Grand Jury and it
20 all got told to Dick and it was all brought up at trial
21 and the jury heard all of it. That's what I remember
22 making a point of.

23 Q. Okay. Well, we don't even have to get to the
24 part of trial yet. Remember, we're still -- we're not
25 to trial yet, Ms. Siegler. And so, all of those oral

1 statements of law enforcement, those facts are
2 documented in the offense -- excuse me -- in the written
3 statement and the Grand Jury testimony; is that what
4 you're saying now?

5 A. One or the other.

6 Q. One or the other.

7 And you believe that's what you said
8 earlier, yes?

9 A. Yes.

10 Q. Okay. The offense report that I had given you,
11 do either Cody Towner, Cody Ellis, any of the other Katy
12 boys, give any statements in that offense report?

13 A. The supplement that we just got through talking
14 about?

15 Q. Yes, ma'am.

16 A. No.

17 Q. Okay. Okay. May I have that?

18 A. (Witness complies).

19 Q. Thank you, ma'am.

20 I'm going to pass you two documents. One
21 is Bate's stamped 831, which is a written statement of
22 Riley Joe Sanders on 1-28-99 (indicating).

23 A. Okay.

24 Q. Do you remember seeing that document before
25 today, Ms. Siegler?

1 A. Yes.

2 Q. Okay. Give me just a second.

3 Who -- where is Riley Joe Sanders when he
4 is giving that written statement?

5 A. I can't tell from this.

6 Q. Okay. Well, give me the Bate's stamp again,
7 please?

8 A. 831.

9 Q. And the date of the statement?

10 A. 1-28-99.

11 Q. Can you tell us who notarized the statement?

12 A. Pete Lampson.

13 Q. Okay. And what time was the statement given?

14 A. It's sworn to and subscribed at 2:56 p.m.

15 Q. All right. Will you please read that
16 statement?

17 A. My full name is Riley Joe Sanders and I'm a
18 white male, 16 years of age. My date of birth is
19 3-1-82. My social is, my driver's license is unknown.
20 I reside at 22506 Round Valley, Katy, and live with my
21 parents. My home telephone number is. I'm a student at
22 Katy High School in the tenth grade. It gives the
23 perjury paragraph.

24 On Monday, January 11th, '99, my mother
25 drove me to school at about 6:50 a.m. I was in class

1 from the time I arrived at school until about 11:20 a.m.
2 when I left school with Mike Langford. Mike drove me
3 home and dropped me there. I got in my car and drove to
4 school. I was about five to ten minutes late returning
5 to school. I entered my next class, algebra, fifth
6 period, about 11:55. My teacher, Mr. Elliott, asked me
7 why I was late, but did not send me to the office or
8 take any other action about my lateness that I saw.

9 I attended my fifth and sixth period
10 classes, but I skipped my seventh period English class.
11 When sixth period ended, I walked to my locker and put
12 up my books, then I walked my girlfriend, Nikki Biondo,
13 to her drill team practice in the drill team room. I
14 met up with my friend, Cody Ellis, and we went to my car
15 which was parked in the field by the ag barn and drove
16 to my house. I stopped at the Mobil station at Fort
17 Bend Road at I-10 and bought some gas. Cody paid cash
18 for the gas. It took me about 10 to 15 minutes to get
19 home. So, we arrived at my home at about 2:00 p.m.

20 I parked in my driveway and walked to my
21 front door. My front door is usually left unlocked
22 during the day even when no one is home, except at night
23 and when we go out of town. I do not have a key to my
24 house and haven't had one for about a year. I get into
25 my house each day when I return from school just by

1 opening the unlocked front door.

2 This day, Monday, January 11th, '99, I
3 opened the exterior glass door. And as I reached for
4 the inner door handle, I noticed that the inner door was
5 not fully shut. It was cracked open about an inch.
6 Cody was right beside me at this time. I remarked that
7 my door was open. Cody and I entered my house and my
8 three dogs, two small dogs and a large dog, ran up to us
9 in an unusually aggressive as if something was amiss in
10 the house. Cody and I split up and looked around the
11 house to see if anything was missing. We did not find
12 anything missing or amiss.

13 I went into my room and got some marijuana.
14 Then Cody got in my car and I drove Cody to his house on
15 Heights Street in Katy. As we drove, we smoked a little
16 marijuana. I dropped Cody at his house and I talk to
17 Cody's dad for about 10 to 15 minutes. I then drove
18 straight back to my house. I arrived home about 3:30.

19 I entered the front door as usual and went
20 through the kitchen into the garage, opening the garage
21 door, and pulling my truck into the garage. I started
22 heating some food and called Michael Grantom and asked
23 him to come over. He said he would be over shortly. I
24 started eating my food. Mike and Cody Towner arrived at
25 my house about 3:45 to 3:50 p.m. Mike asked if I had

1 any marijuana and I told him no. I said that we could
2 go to Randy Hess' to see if he had any marijuana.

3 We got in Mike's car and drove to Randy's
4 house, which was on Round Valley, a block or so around
5 the corner from my house. We rang the doorbell and
6 Randy's sister Bonnie let us in. We asked Randy if he
7 had any weed and he said: No, but I can get y'all some.
8 We didn't have any money, so we didn't take Randy up on
9 his offer to find some weed for us. We talked with
10 Randy for about 10 to 15 minutes and then we went
11 outside to leave. Mike asked me to buy him some
12 cigarettes because the clerk at the Quick Mart would not
13 sell them to him. I refused because Mike would not let
14 me ride shotgun in his car to the store.

15 I began walking towards my house and Mike
16 and Cody drove down the street beside me trying to get
17 me to stop, but I wouldn't stop because they wouldn't
18 let me ride shotgun. Mike at one point drove over the
19 curb in front of me up into a house's front yard and
20 yelled at me to get in his car. I refused and Mike
21 pulled away and went to my house and parked in the
22 street in front of my house. When I reached my house,
23 it was about 4:20 to 4:30 p.m. I got in Mike's car and
24 he drove us to Quick Mart where I bought a pack of
25 Marlboros for Mike. Mike then drove me home and dropped

1 me there. It was about 4:35 to 4:40 p.m. when Mike
2 dropped me at my house. Mike and Cody then drove away.

3 I went into my house and grabbed a blanket
4 and laid down on the couch in the living room, which is
5 in the front of the house near the front door. I went
6 to sleep and slept until my dad came home. It was
7 beginning to get dark when Dad got home, so I think it
8 was 6:00 p.m. when Dad got home. Dad woke me up and
9 told me there were some cops outside and told me to come
10 outside. The cops were beginning to put out yellow tape
11 around the Temples' house next door. Dad asked me if I
12 knew what was going on and I told him I had no idea.

13 Q. Is that it for Mr. Sanders' statement?

14 A. No.

15 Q. Okay.

16 A. I did not see Belinda or David Temple that day,
17 not even in school. I have never been inside the
18 Temple's house while they lived there. I did go into
19 the Temple's house in the past when the previous
20 residents lived there. I have never had any problems of
21 any kind with Belinda Temple. I was tutored some by
22 Ms. Temple at Katy High School, never at home. I know
23 that Ms. Temple once came to my house and told my
24 parents that I had 131 unexcused absences from class. I
25 didn't really appreciate Ms. Temple telling my parents

1 about my absences, but I was not angry about it, nor did
2 I hold a grudge against her. I have no knowledge of
3 anyone who would want to hurt Ms. Temple, nor have I
4 ever heard anyone talk bad about her. Ms. Temple was
5 liked by everyone, including me.

6 About the end of December '98, my friend
7 Cody Ellis told me that he, Casey Goosby, and Carlos
8 Gutierrez had broken into Casey Goosby's mother's
9 boyfriend's house over the Christmas holidays and had
10 stolen two shotguns. About two weeks after Cody told me
11 about the break-in, I went with Jonathan Pena, Carlos
12 Gutierrez, and Cody Ellis to the woods behind Carlos'
13 house on FM 529 and we fired the shotguns. I brought
14 one of the three shotguns that my dad owns. After we
15 fired the guns, I left the one I brought with Cody Ellis
16 because I didn't want my dad to discover I had used one
17 of his shotguns.

18 The shotgun I brought belongs to my dad was
19 a 12-gauge Remington single-shot shotgun. We also fired
20 a .22 pistol brought by Jonathan Pena and a 12-gauge
21 pump shotgun taken in the above break-in. A few days
22 after Ms. Temple was murdered, I was told by Casey
23 Goosby that Carlos Gutierrez had another shotgun taken
24 in the break-in at his home. This shotgun was supposed
25 to be a double-barrel shotgun, but I never saw it.

1 Casey also told me that one of Carlos Gutierrez's female
2 friends had a thrown a double-barrel in the street
3 gutter behind the VFW hall in Katy. End of statement of
4 Riley Joe Sanders.

5 Q. Okay. In the statement that Riley Joe gives,
6 he doesn't say anything about seeing David Temple's
7 truck, does he?

8 A. He does not.

9 Q. Okay. Can you and I agree a witness that shows
10 David Temple leaving approximately at the time you and I
11 talked about, approximately 4:00 -- what did I say, 4:10
12 to 4:20?

13 A. And I said there was a 4:30 in there, too.

14 Q. Well, there was the 4:30 in that statement
15 about when he was approximating, correct?

16 A. In that one --

17 Q. Okay.

18 A. -- in the other statement? But he also says
19 4:30 in this statement.

20 Q. Okay. Well, much like and you are going to
21 argue over what that time means, fair to say you and
22 Dick DeGuerin were probably going to argue over what the
23 time means, how it should be interpreted, yeah? Is that
24 fair to say?

25 A. Yes.

1 Q. Okay. Was the statement about having seen
2 David Temple's car at that time turned over to Dick
3 DeGuerin prior to trial?

4 A. It is not in this statement, so no.

5 Q. Was the statement from Riley Joe Sanders
6 wherein he states that he saw David testimony's truck
7 leaving David Temple's home between 4:10 and 4:30 --

8 A. No, I'm not agreeing to 4:30. He could have
9 seen the truck leaving at the exact same time we always
10 believed the truck left the house. What Riley Joe
11 Sanders said about seeing the truck leave could be
12 completely consistent with the evidence presented at
13 trial.

14 Q. It could also be completely consistent with the
15 evidence that Dick DeGuerin was trying to present.

16 A. Only if you buy your definition of what 4:30
17 means. Nobody does.

18 Q. Where in this statement -- do you still have
19 the statement we're talking about?

20 A. I have the one I just read.

21 Q. Okay. So, you don't have the statement that we
22 were just talking about. So, you're saying --

23 A. I'm saying you're making 4:30 the time you want
24 the truck to be --

25 Q. No, Ms. Siegler. No.

1 THE COURT: One at a time, please.

2 Q. (By Ms. Gotro) That statement from Riley Joe
3 Sanders said approximately 4:30, did it not?

4 A. In reference to when they left to go to the
5 store to get the cigarettes.

6 Q. Correct. No, no, no. Approximately 4:30 is
7 the time you and I are quibbling over, is it not?

8 A. Show me the statement.

9 Q. If I can find it.

10 A. Is it in Leithner right there with the clippy?

11 Q. From 3:45 -- right, that's when they went over
12 to Randall Hess' house, correct?

13 A. I think so, yes.

14 Q. This is from the 2-1-99 statement that Leithner
15 is giving the summary of what Schmidt interviewed.

16 A. It's right there.

17 Q. Perfect. But it's at 3:45 that they headed
18 other to Randall Hess' house. Do you agree with me on
19 that?

20 A. I think so, yes.

21 Q. Okay. And they stayed there for about 15
22 minutes. Can we agree on that?

23 A. Yes.

24 Q. Okay. So, does that make it 4:00?

25 A. Yes. They did something for 20 minutes. I

1 forgot what that was.

2 Q. I'm sorry?

3 A. They did something somewhere for 20 minutes.

4 Q. Oh, that would be Riley Joe Sanders staying at
5 Cody Ellis' house for 20 minutes. Does that sound
6 familiar?

7 A. Yeah. I need to look at the statement because
8 I've got them all backwards.

9 Q. We'll get to that, but does it sound familiar?

10 A. Yes.

11 Q. Okay. So, they stayed there for 20 minutes.

12 MR. CHIN: I'll object, Judge, at this
13 point. The witness already asked to review the
14 statement to refresh her memory.

15 THE COURT: Is there some reason, you can't
16 let her see the statement?

17 MS. GOTRO: I'm looking for it, Judge.

18 THE COURT: All right. Let's find it and
19 then go to the question.

20 MR. CHIN: Thank you, Judge.

21 Q. (By Ms. Gotro) 3:45, they all decide to go --
22 is that the one with half a joint?

23 A. It looks like a long paragraph.

24 Q. Is that it?

25 A. Yes. Okay.

1 Q. Do you want to refresh your memory?

2 A. I got it.

3 Q. Okay. So, 3:45 what happened?

4 A. At 3:45, they all decided to go over to a
5 friend's house named Randy Hess.

6 Q. Right. And they stayed there for what, 15
7 minutes?

8 A. Approximately 15 minutes or so.

9 Q. How long do you think it takes them to get to
10 Randy Hess' house?

11 A. Sanders advised they arrive at Randy's house a
12 few minutes later.

13 Q. Ms. Siegler, how long do you think it took them
14 to get to Randy Hess' house?

15 A. I have no idea. I'm reading --

16 Q. Did law enforcement ever try and collect that
17 information?

18 A. It says right here he told them they arrived at
19 Randy's house a few minutes later.

20 Q. My question is: Did law enforcement ever
21 measured the distance from Randy Hess' house to Riley
22 Joe Sanders' house?

23 A. I don't think so, no.

24 Q. Okay. So, you are just relying on what Riley
25 Joe Sanders is saying?

1 A. From this document, yes.

2 Q. Okay. I just want to be clear about that.

3 So, at 3:45, they decide to go to Randy
4 Hess' house. What happens next? They stayed for 15
5 minutes?

6 A. Yes.

7 Q. Okay. What time would you say it is when they
8 leave?

9 A. Anywhere from 4:00 to 4:05, 3:55 to 4:10,
10 somewhere in there. They stayed approximately 15
11 minutes. We don't know how long it took them to get
12 there. We don't know how long they stayed before they
13 left. So, we're right around the 4:00 time area here.

14 Q. Well, if we work with just what it is
15 Mr. Sanders has said, stays for 15 minutes, takes him
16 five minutes to walk home, give him five minutes to sort
17 of goof around, does that sounds about right?

18 A. Say it again.

19 Q. I said: If it takes him 15 minutes -- if he
20 stays at Randy's house for 15 minutes, right, the
21 five-minute walk home, and we just through an extra five
22 minutes on for goofing off.

23 A. We also have to get there.

24 Q. Okay. Want to put that in the goofing off
25 category or what?

1 A. I just think it -- the time that we care about
2 is up in the air because of the few minutes here and few
3 minutes there.

4 Q. Okay.

5 A. And the approximately 15 minutes that he says
6 they stayed there. And keeping in mind, they're all
7 high.

8 Q. Okay. So, if he is high, does that mean he
9 can't tell time?

10 A. Well, a 16-year-old boy who is high is not
11 paying attention to the clock.

12 Q. You know, Ms. Siegler, I guess I hold
13 16-year-old boys to a higher standard than what you've
14 described because I still expect them to know where it
15 is they are in the day as it passes. And so, if this
16 16-year-old boy is high or not tells you that at 3:30 he
17 walks over to his friend Randy's house, do you believe
18 that it took him 15 minutes -- that he hung out for 15
19 minutes there?

20 A. Well, they went over there at 3:45.

21 Q. Okay. So, let's just say five minutes there,
22 right?

23 A. Okay. That gets you to 3:50.

24 Q. Okay. Hangs out for 15 minutes.

25 A. That gets you to 4:05.

1 Q. All right. Five minutes back.

2 A. You mean five more minutes?

3 Q. Five minutes back to his house, yes.

4 A. That gets you to 4:10.

5 Q. Okay. And then what happens?

6 A. That's the time he gets back to his house, to
7 Riley Joe Sanders' house.

8 Q. At 4:10?

9 A. Yes.

10 Q. Okay. And that's the time that he reports
11 seeing David Temple driving away from his home, is it
12 not?

13 A. That's confusing. It's not cleared up in this
14 paragraph.

15 Q. Well, let's read the paragraph again.

16 A. Sanders advises as he rounded the corner to his
17 street, he could see both Mike and Cody waiting in front
18 of his house. As he continued to walk towards his
19 house, he saw his neighbor David Temple's truck passing
20 by heading northbound on Hidden Canyon. He identified
21 the vehicle by stating it was a blue-colored Chevy
22 pickup with tinted windows and chrome wheels. When he
23 arrived where Mike and Cody were waiting, they told him
24 they wanted to go to the store to buy some cigarettes.
25 According to Sanders it was approximately 4:30 p.m. as

1 they got in Mike's car and drove to the store.

2 Q. Well, we've heard one other statement after
3 this one. Can you and I agree that they are not
4 consistent to the extent that Mr. Sanders is reporting
5 seeing David Temple's car leave David Temple's home in
6 one statement, and in the second statement he doesn't
7 say anything about David Temple's car?

8 A. We can agree on that.

9 Q. Okay. Now, can we also agree that at trial
10 where David Temple was and when he was there was a
11 highly contested issue?

12 A. Yes.

13 Q. Okay. And given the amount of time that you
14 and I have spent arguing about what it is Riley Joe
15 Sanders meant by his ten minutes here and five minutes
16 there, isn't it fair to say that Dick DeGuerin needed to
17 have the evidence prior to the start of the trial?

18 A. He had all of the information he needed about
19 Riley Joe Sanders to present to the jury.

20 Q. Point me to a place in the record that
21 demonstrates anywhere, in any paper in this courtroom,
22 that demonstrates you gave Dick DeGuerin a copy of Riley
23 Joe's statement -- of Riley Joe Sanders' statement where
24 he puts David Temple leaving his home between -- that he
25 puts David Temple leaving his home.

1 A. David Temple admits he left his home. If Riley
2 Joe Sanders saw David Temple leaving his home in that
3 blue truck, that is not exculpatory. It is consistent
4 with David Temple's own words.

5 Q. Ms. Siegler, we have talked about this all day
6 and you admitted earlier today that if David Temple left
7 that -- if he leaves his home at 4:15, 4:20, there
8 simply is no way he could have committed this murder if
9 the timeline that Charles Temple has given us is true?

10 A. No one is basing anything on Charles Temple's
11 timeline. You are.

12 Q. The defense was.

13 A. Yes, you are.

14 Q. Right. Because that's the defense's job, isn't
15 it?

16 A. And even if you buy Charles Temple's timeline,
17 the very, very latest David Temple could have left would
18 have been 4:20.

19 Q. Ms. Siegler, can you and I both agree as a
20 prosecutor you don't have to buy the defense's timeline?
21 Can we both agree to that?

22 A. Yes, ma'am.

23 Q. Okay. Because the only people that have got to
24 buy the defense's timeline is the jury. Right?

25 A. Yes, ma'am.

1 Q. Okay. So, irrespective of whether or not the
2 prosecution buys the defense's theory, if you have
3 evidence that is favorable to that defensive theory, you
4 have to agree with me that you have to turn it over?

5 A. Agreed.

6 Q. That is Brady evidence, right?

7 A. Yes.

8 Q. And if you've got a statement from Riley Joe
9 Sanders that puts David Temple in the place that helps
10 the defense's theory, that is favorable to the defense's
11 theory, you've got to give to him, Ms. Siegler. You've
12 got to give it to the defense and you've got to do it
13 before trial.

14 A. I'm not disagreeing with your statement. My
15 point is that you are trying to make the time into
16 something that this statement doesn't say it is, which
17 means it's not inconsistent and it's not exculpatory.

18 Q. Can we agree that that statement that Riley Joe
19 Sanders gave is not precise?

20 A. That's a big word, "precise." What do you
21 mean?

22 Q. Well, the timeframe that he has given us, give
23 or take five -- you and I were doing it. Give or take
24 five --

25 A. Yeah. It's not a timelined statement, no.

1 Q. Right. And so, it's subject to interpretation,
2 is it not?

3 A. Yes.

4 Q. And in a circumstantial evidence case when
5 you've got all of these other pieces of fact that you
6 are going to stack up in order to prove your case, being
7 able to interpret a timeline is a pretty big deal?

8 A. Yes.

9 Q. To both sides?

10 A. Yes.

11 Q. Can you point me anywhere in this record,
12 anywhere in any paper in this building that says that
13 Dick DeGuerin got a copy of that statement before he
14 gave his opening statements, before he picked the jury?

15 A. He didn't. He had all of the information about
16 Riley Joe Sanders and he got these particular statements
17 after direct examination. And everything that he needed
18 to know about Riley Joe Sanders was provided to him for
19 presentation to the jury.

20 Q. Isn't opening statement a presentation to the
21 jury?

22 A. Yes.

23 Q. Okay. Well, if he didn't get this statement
24 until after Riley Joe Sanders testified, then he didn't
25 have that statement for presentation to the jury and he

1 didn't have it for voir dire.

2 A. And the fact that Riley Joe Sanders saw the
3 blue truck leaving David Temple's house is not
4 exculpatory necessarily. You want to make it
5 exculpatory because you want to make the time be what
6 you want it to be.

7 Q. Who gets to decide what's exculpatory,
8 Ms. Siegler?

9 A. We already did that yesterday.

10 Q. Well, humor me. Who gets to decide what's
11 exculpatory?

12 A. Usually the prosecutor.

13 Q. Can't you rely on the Judge to help you with
14 that?

15 A. And we did in this case. And Judge Doug Shaver
16 read every bit of the Grand Jury testimony and found
17 nothing exculpatory.

18 Q. I'm not asking about the Grand Jury testimony,
19 Ms. Siegler. I'm asking you about this oral statement
20 to law enforcement made by what was effectively the
21 defense's alternative suspect, but this statement by
22 Riley Joe Sanders, this oral statement by Riley Joe
23 Sanders corroborating the defensive theory, did you give
24 that statement to Judge Shaver and ask him to make a
25 decision about whether or not it was Brady?

1 A. Number one, I don't agree that it corroborates
2 the defense's theory. And, number two, no, I did not.

3 Q. Can we agree it could be favorable to the
4 defense's theory?

5 A. Yes.

6 Q. All right. And if it could be favorable to the
7 defense's theory, then it could be Brady, right?

8 A. Possibly, yes.

9 Q. Okay. So, how did you double-check your
10 homework? You didn't give it to Doug Shaver, did you?

11 A. This particular statement?

12 Q. That statement with the blue truck. Riley Joe
13 Sanders putting that man leaving his home at a timeframe
14 that makes it virtually impossible for him to commit
15 this murder.

16 A. Did I give that to Judge Shaver? No, I did
17 not.

18 Q. Okay. Did you consult with any other lawyer in
19 this building about what you should do with this
20 potentially exculpatory evidence?

21 A. No.

22 Q. All right. When you are in trial and you see
23 very clearly what Dick DeGuerin's trying to accomplish
24 as he puts on his evidence, did it ever occur to you,
25 you know what, I need to turn this evidence over now?

1 A. No.

2 Q. Did you just forget about it?

3 A. I really think I've answered your question.

4 Q. Did you just forget about that statement?

5 Because Riley Joe Sanders gave like ten of them.

6 A. The fact that Riley Joe Sanders saw David
7 Temple driving away in the blue truck that afternoon was
8 not exculpatory.

9 Q. Ms. Siegler, you've already agreed it was
10 favorable to the defense.

11 A. He couldn't --

12 MR. CHIN: Objection. That's a
13 mischaracterization of --

14 THE COURT: Overruled. You don't need to
15 shout.

16 A. He couldn't say for sure when he saw the truck
17 drive away. We still don't know.

18 Q. (By Ms. Gotro) We have been through this
19 statement several times and we've already agreed that
20 there is about 15 unaccounted minutes here in this
21 statement. In the statement that Riley Joe Sanders
22 gives to Detective Leithner there's about 15 unaccounted
23 minutes, 15 to 20 unaccounted minutes. Yes, do you
24 agree with that statement?

25 A. I don't know what you mean by "unaccounted

1 minutes." I mean, I'm not even paying attention to your
2 chart up there because your chart is not really
3 evidence. This is.

4 Q. Well, then read from that and tell me --

5 A. I am.

6 Q. -- how many unaccounted minutes are there.

7 A. What do you mean by "unaccounted minutes"?

8 Q. Well, when you and I were talking about how
9 long it would take Riley Joe Sanders to get from his
10 house over to Randall Hess' house, you said: Well, you
11 know, we need to factor in some time for him to get
12 there.

13 A. That's true.

14 Q. Right?

15 A. Yes.

16 Q. That's what I mean by an unaccounted period of
17 time.

18 A. Okay. Fifteen sounds fair.

19 Q. Okay. And so, if we've got 15 kind of wiggle
20 room unaccounted minutes, what does that do to the
21 timeframe that he sees David Temple leaving his home?

22 A. Nothing. Because we don't know what the
23 minutes are.

24 Q. You could move them up or you could move them
25 back?

1 A. They don't help or hurt us one way or the
2 other.

3 Q. Well, I don't know what "us" you're referring
4 to.

5 A. You or me. "Us" means you or me, the State or
6 the defense.

7 Q. No.

8 A. Help or hurt either side, because we don't
9 know.

10 Q. No, Ms. Siegler. There is no way you can say
11 that the defense and the prosecution were on the same
12 page when it came to where that man was on the day his
13 wife was murdered. You can't say that.

14 A. That's not what I was saying.

15 Q. Okay. Well, then let's focus on the timeline.
16 Because that written statement in front of you -- and I
17 appreciate that I'm looking forward, but I'm looking
18 forward for a reason. Okay?

19 The written statement -- excuse me. The
20 oral statement that Riley Joe Sanders gave on the 1st of
21 February is the first time that we hear him say he sees
22 David Temple's truck, right? Is that right?

23 A. We've established that, yes.

24 Q. Okay. And he says about what, 4:30 is when he
25 needs to go and get cigarettes with his buddies, 4:30;

1 is that right? Ms. Siegler, is that right?

2 A. Which statement are you talking about?

3 Q. Oh, the one -- the B 1937, Bate's 1937, given
4 on February 1st, 1999.

5 A. Okay.

6 Q. All right. So, what time do you think that
7 statement means he saw David Temple?

8 A. Are we talking about the 4:30 issue?

9 Q. Yes, ma'am.

10 A. I have no idea.

11 Q. Now, you have no idea?

12 A. It doesn't say and I'm not going to guess. It
13 doesn't say.

14 Q. May I see that statement?

15 A. (Witness complies).

16 Q. According to Sanders, it was approximately 4:30
17 p.m. as they got in Mike's car and drove to the store.
18 Does that sound about right?

19 A. Yes, ma'am.

20 Q. And a couple of sentences before that, Sanders
21 says -- Sanders advised that he rounded --

22 A. He rounded the corner and sees the truck and
23 then there's interactions between him and the boys. And
24 the interactions between him and the boys is where we
25 don't know how long it took.

1 Q. Right. We don't know how long it takes, but we
2 know that at 4:30 he's leaving to go to the store and
3 he's already seen David, right?

4 A. Yes, ma'am.

5 Q. Okay. So, as of 4:30 he's already seen David
6 and we've got about 15 minutes of unaccounted time.
7 That means anywhere between what 4:15, 4:10, 4:30 he
8 could have seen David Temple leaving his home, right?

9 A. Yes, ma'am.

10 Q. Right.

11 And based on Detective Schmidt's opinion
12 and the Grand Jury, there is no way that man could have
13 killed his wife on that timeline?

14 A. That's not true. That is not what Mark Schmidt
15 ever said.

16 Q. That's favorable to your theory, Ms. Siegler,
17 that timeframe, that particular statement that Riley Joe
18 Sanders gave?

19 A. Riley Joe Sanders' statement speaks for itself.
20 And the 4:30 is vague and not cleared up in this
21 statement. What 4:30 refers to, we know for sure is,
22 they leave to go get cigarettes. It doesn't mean
23 necessarily that that's when he saw the blue trunk.

24 Q. No. What it means is that he saw the blue
25 truck before 4:30, doesn't it?

1 A. It does. We just don't know how much before
2 4:30. We don't know. And when you don't know --

3 Q. For David Temple to have been on a videotape at
4 Brookshire Brothers grocery store at 4:32, you and I
5 both know he would have had to have left his home -- he
6 would have to have left his home, the house where
7 Belinda Temple got shot in the back of the head, no
8 later than 4:20. And I mean driving no later --

9 A. Agreed.

10 Q. Okay. Kenneth Temple -- and you've already
11 given your opinion about Kenneth Temple's statement, but
12 we're talking about the defensive theory. And Kenneth
13 Temple gave a written statement and testified before the
14 Grand Jury that Belinda left his home at --

15 A. 3:45.

16 Q. No. At five minutes until.

17 A. You're right.

18 Q. Which would have put her home anywhere between
19 4:05 and 4:10. If Belinda Temple is home between 4:05
20 and 4:10 and he's got to leave at 4:20, there is no way,
21 it is virtually impossible, or at the very least it is
22 arguable to twelve citizens to get to hear the full
23 sides of both stories that he can't blow his wife's --
24 what did you say -- face off -- is that how they said
25 it? He can't blow his wife's face off, clean himself

1 up, get his kid in the car, stage a burglary, and book
2 it down to Brookshire Brothers, or it certainly makes it
3 a lot more difficult. Can we at least agree to that,
4 that it would make it a lot more difficult, that small
5 window of time?

6 A. And everything you just said is exactly what
7 Dick DeGuerin said to the jury. You have not said one
8 thing new this entire day that Dick didn't argue
9 wonderfully to the jury.

10 Q. You know what he didn't get to do? He didn't
11 get to say any of that during opening, he didn't get to
12 talk about any of that during voir dire --

13 A. You want to talk about what he said on opening
14 and the reason he lost this case?

15 Q. No, Ms. Siegler. No, Ms. Siegler. I have some
16 pretty clear ideas about why he lost this case. And
17 I'll be happy to visit with you about that after this
18 trial. When Dick DeGuerin stood up and gave his
19 opening, it was based on about a third of the story.

20 A. No. It was based on the fact that he listened
21 to and believed what the Temple family, all of them had
22 to say about the relationship and that day and the
23 circumstances. And they lied to Dick and they set him
24 up to fail.

25 Q. You have no --

1 A. He put him on the stand --

2 Q. You have no --

3 THE COURT: One at time, please. She's
4 answering. You be quiet.

5 Q. (By Ms. Gotro) Well, how do you know they lied?

6 A. Because I cross-examined them and it was pretty
7 apparent.

8 Q. Right, that what, they got nervous when the
9 great Kelly Siegler was crossing them?

10 A. No. They lied. It was unbelievable how they
11 lied. It was apparent in the record. The Judge can
12 read it for himself. They lied like I've never seen a
13 family lie before. And everybody in this courtroom that
14 heard it knew that.

15 Q. I think you actually said that the whole mess
16 of them have told more lies than this whole building has
17 seen in their entire life. I think that was your
18 testimony, right?

19 A. That's a pretty accurate summary.

20 Q. But this kid, this kid right here, this one,
21 good Katy boy, isn't he, Riley Joe Sanders?

22 A. I think I've said more than anyone how much he
23 WAS smoking dope.

24 Q. But he's a good Katy boy, isn't he?

25 A. He sure as heck didn't commit a murder and his

1 statements are very consistent.

2 Q. Very consistent. All right. We'll keep
3 working through them. We'll keep working through them.
4 And this is the kid that you ultimately helped get Chip
5 Lewis to represent, right?

6 A. Yes, ma'am.

7 Q. Right. Because it's your job as a prosecutor
8 not only to prosecute citizens, but to get defense
9 counsel for the ones you believe are innocent, right?

10 A. When someone is going to be come after the way
11 Riley Joe Sanders was again by Dick DeGuerin, he needed
12 to have somebody advise him in the process and I could
13 no longer do that.

14 Q. Well, Ms. Siegler, it wasn't Dick DeGuerin that
15 was about to interview Riley Joe Sanders. It was Steve
16 Clappart with the Harris County District Attorney's
17 Office.

18 A. At the insistence of Dick DeGuerin.

19 Q. Where do you even get that information? Who
20 told you that?

21 A. A lot of people.

22 Q. Who? I would like to know who because they're
23 now witnesses, Ms. Siegler. You're saying things to
24 which there's been no factual basis of, none. Who is
25 telling you this information?

1 A. A lot of people.

2 Q. May I have the names, please?

3 A. No.

4 Q. Why not?

5 A. Because I'm not going to tell who told me
6 information.

7 Q. Then maybe no one told you that, Ms. Siegler.
8 Maybe you're making it up.

9 A. Okay. Go ahead and say that.

10 Q. Or give me a name.

11 A. I'm not going to do that.

12 Q. Why? Because you're afraid they're going to
13 get fired?

14 A. Because their friends of Dick's. Not
15 prosecutors.

16 Q. Oh, you see the last time you told this story,
17 I thought you said they were --

18 A. Those were about the boxes in Jim Leitner's
19 office.

20 Q. So, you've got a different group of people that
21 are friends of Dick's that are telling you about what
22 now? What's this group of people telling you about?

23 A. Dick's strategy and what's going on behind the
24 scenes.

25 Q. At trial or during the investigation?

1 A. Oh, no, not at trial.

2 Q. Okay. The investigation of Daniel Glasscock's
3 statement?

4 A. Yes.

5 Q. And so, you are -- so, you are assuming that
6 Dick DeGuerin was involved in the D.A.'s office
7 investigation of Daniel Glasscock?

8 A. Oh, yes, ma'am.

9 Q. Okay. And when I say involved with it, tell me
10 what you mean. What do you mean by involved with that
11 investigation?

12 A. He was in the middle of it trying to direct its
13 progress.

14 Q. And who was he directing?

15 A. Whoever he could.

16 Q. Like? Was he directing Clappart.

17 A. Through Brad Beers, yes. Through Jim Leitner,
18 yes.

19 Q. You have used the word "kooky" a couple of
20 times today, Ms. Siegler. And I've got to tell you,
21 that is one of the kookiest things I have heard today,
22 that Dick DeGuerin is directing the special prosecutor.
23 Have you met Brad Beers?

24 A. Yes, ma'am.

25 Q. He doesn't talk to anybody. You honestly

1 believe that he's taking his marching orders from Dick
2 DeGuerin? That's your belief?

3 A. Yes, ma'am.

4 Q. All right. All right. That statement on
5 2-1-99 you had in your possession since the day it was
6 written. And in your discretion, you kept it from the
7 defense, Ms. Siegler, didn't you?

8 A. Are we still talking about seeing the blue car?

9 Q. Yes, ma'am.

10 A. We have been over that. Yes, I did not tell
11 Dick about that.

12 Q. Because in your opinion it wasn't important?

13 A. Because in my opinion it was consistent with
14 everything else that was in evidence. It's not
15 exculpatory.

16 Q. Tell me from your memory, if you can, what
17 other witness testified? What other alibi did David
18 Temple have that put him leaving his home? Was there
19 any other witness that saw David Temple leaving his home
20 at any particular time?

21 A. Angela Vielma.

22 Q. I believe Ms. Vielma saw him arriving.

23 A. Okay. Then, no.

24 Q. No. So, we've got one witness that makes one
25 statement that's in your possession, but you decide

1 defense isn't entitled to it. Is it because you didn't
2 think it was Brady or because you didn't think it was
3 important?

4 A. Both.

5 MS. GOTRO: I need a minute.

6 THE COURT: What?

7 MS. GOTRO: I need a minute.

8 THE COURT: A minute?

9 MS. GOTRO: Yes, sir.

10 THE COURT: You need a break. Okay. We're
11 in recess for ten minutes.

12 (Recess)

13 MS. GOTRO: Your Honor, Ms. Siegler has
14 tendered a copy of an offense report with her
15 handwritten note on it regarding Mark Schmidt's
16 interview of Mr. Sosa, the special ed teacher. The
17 State's copied it and we've marked it Defendant's
18 Exhibit 90.

19 **(Defense Exhibit No. 90 Offered)**

20 MR. SMITH: The State has no objection, but
21 just a point of clarity. I believe it's the last page
22 it says Detective Schmidt, but I think it came out of a
23 supplement of Deputy Valerio. So, that way whenever
24 they're looking through -- whoever is higher up that's
25 looking at it, it comes from Deputy Valerio's

1 supplement.

2 THE COURT: All right. No. 90 is admitted
3 with that caveat.

4 (Defense Exhibit No. 90 Admitted)

5 MS. GOTRO: Thank, you, sir.

6 And speaking of the date, I'm not quite
7 near done with the examination, but I would be very
8 comfortable with breaking at this point, Your Honor, and
9 resuming at -- whatever date.

10 THE COURT: The 6th?

11 MS. GOTRO: Yes, sir.

12 THE COURT: It is of acceptable to you?

13 MR. SMITH: Since we're not at a breaking
14 point and probably not -- Ms. Gotro has indicated we're
15 not going to be at a breaking point even if we went --

16 MR. CHIN: I'm sorry. Remember, you also
17 have DeGuerin.

18 MR. SCHNEIDER: We've already subpoenaed
19 Mr. DeGuerin for the 13th and 14th.

20 MR. CHIN: I'm sorry. Then I have nothing
21 useful to say, Judge.

22 THE COURT: Could we start this -- I talked
23 to Mr. Schneider about this. Would 10:00 Tuesday be
24 acceptable as the start time rather than 9:00?

25 MR. SMITH: That would be fine with the

1 State, Your Honor.

2 THE COURT: Is that okay with everybody?

3 MS. GOTRO: No objections, Judge.

4 THE COURT: All right. Well, then with
5 everybody's consent, we sill stand adjourned until 10:00
6 on Tuesday, the 6th of January.

7 MS. GOTRO: Thank you, Judge.

8 (Proceedings recessed)

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REPORTER'S CERTIFICATE

THE STATE OF TEXAS)
COUNTY OF HARRIS)

I, Mary Ann Rodriguez, Deputy Official Court Reporter in and for the 178th District Court of Harris County, State of Texas, do hereby certify that the above and foregoing contains a true and correct transcription of all portions of evidence and other proceedings requested in writing by counsel for the parties to be included in this volume of the Reporter's Record, in the above-styled and numbered cause, all of which occurred in open court or in chambers and were reported by me.

I further certify that this Reporter's Record of the proceedings truly and correctly reflects the exhibits, if any, admitted by the respective parties.

WITNESS MY OFFICIAL HAND this the 2nd day of January, 2015.

/s/ Mary Ann Rodriguez
Mary Ann Rodriguez, Texas CSR 3047
Expiration Date: 12/31/2015
Deputy Official Court Reporter
178th Court
1201 Franklin
Houston, Texas 77002
713.755.7746

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