

NO. \_\_\_\_\_

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IN THE  
UNITED STATES SUPREME COURT  
OCTOBER TERM 2020

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ANTONIO LOPEZ,  
Petitioner,

v.

THE STATE OF TEXAS,  
Respondent.

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On Petition for Writ of Certiorari  
To the Texas Court of Criminal Appeals

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APPENDIX (Vol. II)

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08-17-00039-CR  
1st Supp Rpt Rec

REPORTER'S RECORD  
VOLUME 2 OF 3 VOLUME  
TRIAL COURT CAUSE NO. 20120D04452  
COURT OF APPEALS NO. 08-17-00039-CR FILED IN  
8th COURT OF APPEALS  
EL PASO, TEXAS

11/17/2017 3:10:13 PM

DENISE PACHECO

Clerk

STATE OF TEXAS, ) IN THE DISTRICT COURT  
)  
vs. ) EL PASO COUNTY, TEXAS  
)  
ANTONIO N. LOPEZ. ) 171ST JUDICIAL DISTRICT

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MOTION TO SUPPRESS  
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On the 23rd day of September, 2014, the following  
proceedings came on to be heard in the above-entitled  
and numbered cause before the Honorable BONNIE RANGEL,  
Judge presiding, held in El Paso, El Paso County, Texas:

Proceedings reporting by machine shorthand  
utilizing computer-assisted realtime transcription.

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MOTION TO SUPPRESS

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STATE'S

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1 (Open court; attorneys and defendant  
2 present.)

3 THE COURT: Court calls Cause Number  
4 20120D04452, State of Texas versus Antonio Lopez.

5 Announcement of counsel, please.

6 MS. HAMILTON: Penny Hamilton and Holly  
7 Rodriguez for the State. We're ready.

8 MR. NORRIS: Robin Norris and Jaime  
9 Gandara for Mr. Lopez, Your Honor. We're ready to  
10 proceed.

11 THE COURT: Very well. Thank you.  
12 This is a motion to suppress, correct?

13 MR. NORRIS: Yes, Your Honor.

14 THE COURT: I think we have lots of  
15 motions or it's only the motion to suppress? It says  
16 motions hearing on my docket.

17 MR. NORRIS: Yes, it was our understanding  
18 that this would be a motion to suppress, Your Honor.

19 THE COURT: Only.

20 MR. NORRIS: Only.

21 THE COURT: Got it. Very well.

22 So you have got the burden -- did you say  
23 Mr. Norris has the burden?

24 MS. HAMILTON: He does have the burden,  
25 Your Honor, but it's been kind of typical practice that

1 the State usually calls our witnesses.

2 THE COURT: Okay.

3 MS. HAMILTON: We're fine to do that.

4 THE COURT: Okay.

5 MR. NORRIS: We're happy to have the State  
6 assume the burden in this instance.

7 THE COURT: Very good. Please call your  
8 first witness.

9 MS. HAMILTON: We're not assuming the  
10 burden. We're just going to go ahead and call the  
11 witnesses and get the evidence to the Judge. Thank you.

12 THE COURT: Very well.

13 Who is your first witness, Ms. Rodriguez?

14 MS. RODRIGUEZ: State calls Jerome Hinojos  
15 to the stand.

16 THE COURT: Jerome Hinojos, is he an  
17 officer or detective?

18 MS. HAMILTON: Directive, Your Honor.

19 THE COURT: Detective Jermone Hinojos.

20 MS. RODRIGUEZ: I apologize, Your Honor,  
21 let's do Detective Ruiz first.

22 THE COURT: Okay.

23 MS. RODRIGUEZ: Mr. Salazar?

24 MR. NORRIS: Your Honor, we request that  
25 the witnesses be placed under the rule.

1 THE COURT: Okay.

2 MS. HAMILTON: They are not our witnesses.

3 THE COURT: I'm sorry?

4 MS. HAMILTON: Our witnesses are outside.  
5 They are not our witnesses. You're talking about the...

6 MR. NORRIS: I'm talking about Detectives  
7 Ruiz and Hinojos.

8 THE COURT: All your witnesses in the  
9 motion to suppress bring them in.

10 MS. HAMILTON: I'll go get them, Judge.

11 THE COURT: Everybody.

12 Mr. Norris, do you have anybody?

13 MR. NORRIS: We have one witness.

14 THE COURT: Okay. Everybody that's going  
15 to testify -- it's somebody different. It's going to be  
16 Detective Ruiz. She changed her mind.

17 MS. RODRIGUEZ: But they can call come in  
18 first.

19 THE COURT: Come on. Come on Detective  
20 stand up right here, right here at the Bench.

21 DETECTIVE HINOJOS: Right here?

22 THE COURT: Yes, sir. The rule has just  
23 been invoked. I want everybody in here. And then  
24 Detective Ruiz is going to go first and then maybe you  
25 second.

1 DETECTIVE HINOJOS: Okay.

2 THE COURT: I don't know, but you're not  
3 first. I having nothing to do with that. It's the  
4 State.

5 DETECTIVE HINOJOS: Okay.

6 MS. HAMILTON: What did we do, Judge?

7 THE COURT: I told Detective Hinojos he  
8 was not number one and he took it personal.

9 Detective Ruiz -- are you Detective Ruiz?

10 DETECTIVE RUIZ: Yes, ma'am.

11 THE COURT: Very well. Are these the only  
12 three witnesses that are going to --

13 DETECTIVE RUIZ: No, there's one more out  
14 there.

15 THE COURT: Okay. Very good.

16 Stand right up here, officer. Thank you  
17 very much.

18 At this time the rule has been invoked.  
19 I'm going to as that each of you please raise your right  
20 hands to be sworn.

21 (Witnesses sworn.)

22 THE COURT: Very well. The rule has been  
23 invokes. Detectives and Officers, I know you understand  
24 what the means, but I have got to get it to record and  
25 instruct you nevertheless.

1           The rule been invoked. What that means is  
2 you cannot remain in the courtroom, listen to the  
3 testimony of other witnesses, nor can you discuss your  
4 testimony with the testimony of other witnesses, other  
5 than individually, with these attorneys, until the case  
6 is concluded.

7           Does everybody understand that?

8           (All answer in the affirmative.)

9           THE COURT: Very well. And before you  
10 leave, your exit the courtroom, I want you all to  
11 identify yourselves for the record beginning with you,  
12 sir.

13           MR. GANDARA: Officer Albert Gandara.

14           MR. HINOJOS: Detective Jerome Hinojos.

15           MR. RUIZ: Arturo Ruiz.

16           MS. LOPEZ: Alice Lopez.

17           THE COURT: Very well. Thank you all very  
18 much. You maybe temporarily excused. Please wait  
19 outside except you Detective Ruiz. Very well.

20           Take the witness stand, Detective, please.

21           And Ms. Rodriguez, you may proceed.

22           MS. HAMILTON: Thank you, Your Honor.

23           THE COURT: Yes, ma'am.

24                     ARTURO RUIZ,  
25 having been first duly sworn, testified as follows:

## 1 DIRECT EXAMINATION

2 BY MS. RODRIGUEZ:

3 Q. Would you please state your full name for the  
4 record?

5 A. Arturo Ruiz.

6 Q. And how are you employed?

7 A. I'm an employee with the Socorro Independent  
8 School District.

9 Q. Back in July of 2012, where were you employed?

10 A. With the El Paso Police Department.

11 Q. How were you employed with the police  
12 department?13 A. I was a detective assigned to the Crimes  
14 Against Persons unit.

15 Q. How many years were you assigned to that unit?

16 A. Approximately, about 20 years.

17 Q. And how many years did you work for the police  
18 department total?

19 A. Almost 28 years.

20 Q. Turning your attention to July 28th, 2012, do  
21 you remember that day?

22 A. Yes, ma'am.

23 Q. Were you working that day?

24 A. It was a Saturday. I was off that day.

25 Q. Did you end up working that day?

1 A. Yes, I did.

2 Q. On what?

3 A. We got called out on a baby death.

4 Q. Where did you respond to?

5 A. I believe the address was 1701 Villa Santos, I  
6 believe. I can't remember the street name. It's on the  
7 east side of El Paso.

8 Q. And when you responded there what did you find?

9 A. I found a -- I heard a baby had been  
10 transported to the hospital. It was unresponsive. I  
11 remained at the scene. My partner, Detective Hinojos,  
12 responded to the hospital.

13 Q. And what did you do at the scene that day?

14 A. Pretty much coordinated the processing of the  
15 scene. I met with the defendant at the scene and  
16 explained to them what our process was and obtained a  
17 consent to search his property.

18 Q. So you spoke with the defendant?

19 A. Yes, I did.

20 Q. What was his name?

21 A. It was Antonio Lopez.

22 Q. And you do see him in the courtroom today?

23 A. Yes, I do.

24 Q. Can you please point him out and identify an  
25 article of clothing that he's wearing?

1       A.     It's the gentleman to my left here.  He's  
2     wearing a glasses and wearing a jumpsuit of orange and  
3     white.

4               MS. HAMILTON:  Your Honor, may the record  
5     reflect this witness has identified the defendant?

6               THE COURT:  The record will so reflect.

7       Q.     (BY MS. RODRIGUEZ)  Now, you say you spoke with  
8     Mr. Lopez?

9       A.     Yes, I did.

10      Q.     What did your conversation entail?

11      A.     It pretty much gets into details as to what  
12     happened to the child in question.  Who was at the home  
13     at the time, and what were the activities going on when  
14     the baby became unresponsive.

15      Q.     Now, at this point, did you know what you were  
16     investigating?

17      A.     Just that child death, that's all it was at  
18     that time.

19      Q.     So was Mr. Lopez in custody at the time?

20      A.     No, he was not.

21      Q.     How long were you at the house approximately?

22      A.     I want to say we were there -- I was there for  
23     maybe about three, three-and-a-half hours by the time  
24     our crime scene unit got there and did what we asked  
25     them to do.

1 Q. Do you remember what time of day you responded  
2 to that house?

3 A. I believe I got the initial call around 5:30  
4 p.m. It was a Saturday.

5 Q. And was the defendant there with you the entire  
6 time?

7 A. He was present at his residence. Yes, ma'am.

8 Q. Did you have any other conversations with him  
9 while you were there?

10 A. Other than that just trying to explain to him  
11 what's was going on. He was a little bit concerned  
12 about the child's wellbeing, his family, but pretty much  
13 all the conversation I had with him was after we got to  
14 our office.

15 Q. Now, how did you get to your office?

16 A. That day I drove Mr. Lopez from his residence  
17 to my office.

18 Q. And how did that conversation start, did you  
19 ask him to accompany you?

20 A. Yes, I did.

21 Q. Was this voluntary on his part?

22 A. Yes, it was.

23 Q. Can you tell me how that conversation went?

24 A. Pretty much I asked him if he was willing to  
25 give me a statement as to what happened that evening in

1 his home. He agreed. He made me aware that his vehicle  
2 was not at the residence and I offered to give him a  
3 ride and he accepted the ride.

4 Q. So you didn't force him to come give you a  
5 statement?

6 A. No.

7 Q. About what time did you get to Crimes Against  
8 Persons?

9 A. I want to say it was probably close to 8:00.

10 Q. And what did you do when you got there?

11 A. Pretty much I -- we went to an interview room.  
12 I explained to him that we were going to take a  
13 statement. We reiterated he was not under arrest. He  
14 was free to leave. He told me he understood that, and  
15 after that I told him I was just going to turn on the  
16 recording equipment, which I did. I then proceeded with  
17 the interview.

18 Q. Once your started -- you started the recording  
19 equipment personally?

20 A. I believe I did. Yes, ma'am.

21 Q. And was that equipment capable of making a good  
22 recording?

23 A. Yes, ma'am.

24 Q. Okay. Once you started speaking with the  
25 defendant did you advise him on his constitutional

1 rights?

2 A. Yes, I did.

3 Q. Did you advise him of his right to an attorney?

4 A. Yes, I did.

5 Q. His right to remain silent?

6 A. Yes, I did.

7 Q. That anything he said could be used against  
8 him?

9 A. That is correct.

10 Q. Did you ask him did he understand his right to  
11 have an attorney present prior to and during any  
12 questioning?

13 A. Yes, I did.

14 Q. Did you advise him of his right to have an  
15 attorney appointed to advise him prior to and during any  
16 questioning?

17 A. Yes, I did.

18 Q. And did you advise him of the right to  
19 terminate the interview at any time?

20 A. Yes, I did.

21 Q. Did the defendant indicate he understood each  
22 of these rights that you advised him of?

23 A. Yes, he did verbally.

24 Q. And how did he indicate this to you?

25 A. He verbally stated to me that he understood his

1 rights and then he wanted to speak with me, give me a  
2 statement.

3 Q. And this is also on the recording?

4 A. Yes, ma'am.

5 Q. And you read him these rights on the recording?

6 A. That is correct.

7 Q. After you advise him of his constitutional  
8 rights, and he indicated that he did understand them,  
9 did he agree to waive the rights and speak with you?

10 A. Yes, he did.

11 Q. Is that also on the recording?

12 A. Yes, ma'am.

13 Q. Did the defendant, in fact, agree to provide a  
14 statement?

15 A. Yes, he did.

16 Q. Now, at any time during this statement did he  
17 request an attorney?

18 A. No, ma'am.

19 Q. At any time did he request that the statement  
20 end?

21 A. No, ma'am.

22 Q. At any time do you coerce or threaten him to  
23 give you the statement?

24 A. No, ma'am.

25 Q. Did you deny him any basic necessities such as

1 restroom, food, or cigarettes?

2 A. No, ma'am.

3 Q. At any time did you directly or indirectly  
4 promise the defendant anything in exchange for his  
5 statement?

6 A. No, ma'am.

7 Q. Was the defendant, in your opinion, under the  
8 influence of any narcotics, drugs, or alcohol?

9 A. Not in my opinion.

10 Q. What offense, at the time, were you  
11 investigating?

12 A. There was really no offense in question. We  
13 just wanted to find out what had happened to the child.

14 Q. So was the defendant in custody at this time?

15 A. No, ma'am.

16 Q. At the end of the recording, what happened to  
17 the defendant?

18 A. Eventually we ended up driving him back to, I  
19 believe, it with a Del Sol. Their vehicle -- their  
20 family vehicle was Del Sol and we drove him back so they  
21 could retrieve it and we were done with him.

22 Q. So they were released?

23 A. Yes, ma'am.

24 Q. At no point he was placed under arrest?

25 A. No, ma'am.

1 Q. At any point was he placed in handcuffs?

2 A. No, ma'am.

3 Q. At any point was he told he was not free to  
4 leave?

5 A. No, ma'am.

6 Q. Okay.

7 MS. RODRIGUEZ: Your Honor, may I approach  
8 the witness?

9 THE COURT: Yes.

10 Q. (BY MS. RODRIGUEZ) Do you recognize this? I'm  
11 showing what is State's Exhibit Number 1?

12 A. Yes, it look like --

13 THE COURT: State's MS-1 for purposes of  
14 appeal I like MS because that's motion to suppress.

15 MS. RODRIGUEZ: Okay.

16 THE COURT: So it's State's MS-1.

17 Go ahead.

18 THE WITNESS: It appears to be the copy of  
19 the statement.

20 Q. (BY MS. RODRIGUEZ) And have You seen that  
21 statement?

22 A. Yes, I have.

23 Q. And does it fairly and accurately depict the  
24 statement that you took that night?

25 A. Yes, ma'am.

1 Q. Okay.

2 MS. RODRIGUEZ: Your Honor, at this time I  
3 move for State's -- State's Exhibit MS-1 into evidence.

4 (Exhibit offered, State's MS-1.)

5 THE COURT: Any objection, Mr. Norris?

6 MR. NORRIS: No objection other than the  
7 objection contained in the motion to suppress.

8 THE COURT: Very well.

9 State's MS-1 admitted.

10 (Exhibit admitted, State's MS-1.)

11 MS. RODRIGUEZ: Thank you, Judge.

12 I guess, I would ask permission to  
13 publish, Judge, although the State has no problem with  
14 you taking it and watching it at a later time.

15 THE COURT: What do you prefer?

16 MR. NORRIS: We would prefer to have it be  
17 played here.

18 THE COURT: Okay. Very well. Let's  
19 publish it to me.

20 MS. RODRIGUEZ: Your Honor, can I have one  
21 moment, please?

22 THE COURT: Yes, ma'am.

23 MS. RODRIGUEZ: Well, I do have a few more  
24 questions, Judge.

25 THE COURT: Go ahead.

1 MS. RODRIGUEZ: Before we show it.

2 THE COURT: And Mr. Salazar, fuss with it  
3 while she is asking the questions to see if you can get  
4 it to work.

5 Q. (BY MS. RODRIGUEZ) At some point, after this  
6 first statement, did you take a second statement?

7 A. Yes, we did.

8 Q. And who did you take that statement from?

9 A. The defendant.

10 Q. And do you remember what date you took that  
11 statement on?

12 A. I believe this was July 31st.

13 Q. At about what time?

14 A. I want to say some time around 7:30, 8:00. I'm  
15 not to sure on the time. It was in the evening hours of  
16 the 31st.

17 Q. How did it come about that you wanted to do a  
18 second interview?

19 A. By that time we had received the autopsy  
20 results.

21 Q. And so how did you do about getting the second  
22 interview?

23 A. We went ahead -- I believe we went to his  
24 in-law's house to go look for him. At that time we  
25 found out that they were out having dinner.

1 Q. And you said we, who is we?

2 A. Detective Hinojos and myself.

3 Q. Okay. And you went to -- do you remember where  
4 the in-law's house was?

5 A. I believe it was 301 Kit Street in the lower  
6 valley.

7 Q. And was anyone there when you got there?

8 A. I believe his father-in-law was there, and we  
9 made arrangements -- they were out having dinner. I  
10 recall that we made arrangements to meet and eventually  
11 we ended up in our office.

12 Q. Now, why did you go to the inlaw's house and  
13 not his address?

14 A. They were staying -- they staying at the  
15 in-law's house. We found out that they were not staying  
16 the residence where the incident occurred. They were  
17 staying at the in-law's house when we went down there  
18 trying to and locate him.

19 THE COURT: Detective, when you say they  
20 were staying, who is they?

21 THE WITNESS: I'm talking about the  
22 defendant and his family. I'm sorry about that.

23 THE COURT: His entire family?

24 THE WITNESS: Yes, his wife and his two  
25 daughters.

1 THE COURT: Okay.

2 Q. (BY MS. RODRIGUEZ) You said that eventually  
3 they ended up in your office?

4 A. Yes.

5 Q. How did that happen?

6 A. They drove their personal family vehicle to our  
7 office. We, myself and Detective Hinojos, asked for  
8 their assistance to have their daughters taken to Crimes  
9 Against Children's Office, the Advocacy Center, for an  
10 interview. We all followed in our separate vehicles,  
11 and then from the Advocacy Center, they -- the defendant  
12 and his wife followed us to our Crimes Against Persons  
13 Office.

14 Q. In their own vehicle?

15 A. Yes, ma'am.

16 Q. Did you force them to come give a statement?

17 A. No, ma'am.

18 Q. Did you threaten them --

19 A. No, ma'am.

20 Q. -- to give a statement?

21 A. No, ma'am.

22 Q. Coerce them in any way?

23 A. No, ma'am.

24 Q. Or promise them anything to come give a  
25 statement?

1 A. No, ma'am.

2 Q. Were both of them cooperative at this time?

3 A. Yes, they were.

4 Q. Once they arrived at Crime Against Persons what  
5 happened then?

6 A. The defendant was placed in an interview room  
7 and I believe his wife, Alicia or Alice, was asked to  
8 wait in the waiting area within our office.

9 Q. Were you planning on interviewing her as well?

10 A. At some point, yes.

11 Q. Who made the decision to interview the  
12 defendant first?

13 A. That was myself and Detective Hinojos.

14 Q. At that point, was the defendant under arrest?

15 A. No, ma'am.

16 Q. Was his wife under arrest?

17 A. No, ma'am.

18 Q. Was the defendant in handcuffs?

19 A. No, ma'am.

20 Q. Was his wife in handcuffs?

21 A. No, ma'am.

22 Q. Were they told they were not free to leave?

23 A. No, ma'am.

24 Q. Who read the defendant his rights?

25 A. I believe on the second statement it was

1 Detective Hinojos.

2 Q. And that is a recorded statement as well?

3 A. That is correct.

4 Q. Who started the recording on that statement?

5 A. I'm not to sure if I turned on the equipment or  
6 Detective Hinojos. It was the same equipment we used  
7 for the prior interview.

8 Q. And that equipment was capable of recording?

9 A. That is correct.

10 Q. Okay. Were you present for that interview?

11 A. Yes, I was. I believe at one point I stepped  
12 out, but I was present in the beginning of the  
13 interview.

14 Q. So you were there when the defendant was read  
15 his rights?

16 A. That is correct.

17 Q. And you heard Detective Hinojos -- did he  
18 advise him of his right to an attorney?

19 A. Yes, he did.

20 Q. Did he advise him of his right to remain  
21 silent?

22 A. Yes, he did.

23 Q. Did he advise him that anything he said could  
24 be used against him?

25 A. Yes.

1 Q. Did he advise him that he had a right to have  
2 an attorney present, prior to, and during any  
3 questioning?

4 A. Yes, he did.

5 Q. Did he advise him that he had a right to have  
6 an attorney appointed to advise him prior to, and during  
7 any questioning?

8 A. Yes, he did.

9 Q. Did he advise him of his right to terminate the  
10 interview at any time?

11 A. Yes, he did.

12 Q. Okay. Did the defendant again indicate that he  
13 understood each of these rights?

14 A. Yes, he did.

15 Q. After you advised him of his rights did he  
16 agree to speak to you?

17 A. Yes, he did.

18 Q. So he again agreed to waive his rights?

19 A. That is correct.

20 Q. Did he, in fact, provide a statement?

21 A. Yes, he did.

22 Q. And at any point during that statement, did you  
23 coerce or threaten the defendant into giving you a  
24 statement?

25 A. No, ma'am.

1       Q.    At any point did you hear Detective Hinojos  
2 threaten or coerce him into giving a statement?

3       A.    No.

4       Q.    At any time did you directly, or indirectly,  
5 promise the defendant anything in exchange for his  
6 statement?

7       A.    No.

8       Q.    Did Detective Hinojos promise him anything?

9       A.    Not to my knowledge.

10      Q.    Did you or Detective Hinojos deny the defendant  
11 any basic necessities?

12      A.    Not to my knowledge.

13      Q.    Okay. Was the defendant on July 31st under the  
14 influence of any narcotic drug or alcohol?

15      A.    Not in any opinion.

16      Q.    Now, at this point, were you investigating an  
17 offense?

18      A.    Yes.

19      Q.    Which offense was that?

20      A.    It was a capital murder.

21      Q.    During this interview was is defendant in  
22 custody?

23      A.    No, he was not.

24      Q.    What happened at the end of this interview?

25      A.    He was released from our office. He was -- he

1 went back home.

2 Q. Did you drive him back home?

3 A. Know I believe they had their vehicle so they  
4 had access to their personal vehicle at the station.

5 Q. So they left?

6 A. Yes.

7 Q. And at no point did you place him under arrest?

8 A. No, ma'am.

9 Q. What about his wife? What happened to her at  
10 the end of that.

11 A. She also left.

12 Q. And she -- they left together?

13 A. That's my recollection.

14 Q. And did you place her under arrest at any point  
15 in time?

16 A. No, ma'am.

17 Q. Now, did there come a time where there was a --  
18 you took a third statement from the defendant?

19 A. There was a third statement yes, ma'am.

20 Q. And were you present for that statement?

21 A. I was present at the office, but not in the  
22 interview.

23 Q. Did you start the recording equipment on that?

24 A. Yes, I did.

25 Q. And was the recording capable -- I'm sorry.

1 The equipment recording capable of recording in that  
2 instance?

3 A. Yes, ma'am.

4 Q. Which date was this?

5 A. I believe that was August 1st.

6 Q. Do remember what time?

7 A. I want to the say it was somewhere around 3:30,  
8 4:00 in the morning.

9 Q. Do you -- if you know, how did the defendant  
10 get to the station at that point?

11 A. He was transported by one of our marked units.

12 Q. Was he under arrest?

13 A. Yes, ma'am.

14 Q. Do you know who placed him under arrest?

15 A. Officer -- I can't recall his last name.

16 Q. Was the defendant in handcuffs?

17 A. Yes, he was.

18 Q. And you said you weren't present for that  
19 statement?

20 A. I was in the office, but I was not physically  
21 in the interview, no.

22 Q. But you listened in to the interview?

23 A. I just listened through the recording  
24 equipment, on and off.

25 Q. But not completely on hundred percent?

1       A.     No, ma'am.

2       Q.     Was the defendant's wife there that day?

3       A.     I believe she was not.

4               MS. RODRIGUEZ:   Can I have one moment  
5 please, Your Honor?

6               THE COURT:   Yes, ma'am.

7       Q.     (BY MS. RODRIGUEZ)   Did you review statement  
8 number 2?

9       A.     Yes, ma'am.

10      Q.     On July 31st?

11      A.     Yes, ma'am.

12              May I approach, Your Honor.

13              THE COURT:   Yes, ma'am.

14              MS. RODRIGUEZ:   Your Honor, I'm showing  
15 the witness what's been marked as MS Number -- State's  
16 Exhibit Number MS-2.

17      Q.     (BY MS. RODRIGUEZ)   And do you recognize that?

18      A.     Yes, it looks like a copy the second statement.

19      Q.     And have you reviewed it?

20      A.     Yes, I did.

21      Q.     And does it fairly and accurately depict that  
22 recording from that night?

23      A.     Yes.

24      Q.     July 31st?

25      A.     Yes, it does.

1 MS. RODRIGUEZ: Your Honor, at this time,  
2 I move to enter State's Exhibit MS-2 into evidence.

3 (Exhibit offered, State's MS-2.)

4 THE COURT: Mr. Norris?

5 MR. NORRIS: Again no objection, Your  
6 Honor, beyond the motion to suppress itself.

7 THE COURT: Yes, sir.

8 State's MS-2 admitted.

9 (Exhibit admitted, State's MS-2.)

10 MS. RODRIGUEZ: Your Honor, permission to  
11 publish State's Exhibit MS-1 and MS-2.

12 THE COURT: Very well.

13 Any objection?

14 MR. NORRIS: No, Your Honor.

15 THE COURT: Counsel, do you want the court  
16 reporter to take it down or is the audio enough?

17 MR. NORRIS: You know, I actually would  
18 like to have the court reporter take it down if that's  
19 possible.

20 THE COURT: Of course.

21 MS. HAMILTON: Judge, if the court  
22 reporter is able to do that in realtime we -- sometimes  
23 we've trouble with the audio since we are introducing  
24 it. The State has absolutely no objection to the court  
25 reporter supplementing the record after the fact, if she

1 is not able to hear everything that goes on in this DVD  
2 here in court today.

3 MR. NORRIS: And we don't anticipate  
4 having any objection to that, in fact, we join in there.

5 THE COURT: Right. Very well.

6 This is State's MS-1?

7 MS. RODRIGUEZ: Yes, Judge.

8 THE COURT: The first statement.

9 MS. RODRIGUEZ: Yes.

10 MR. NORRIS: Your Honor, may I make a  
11 request at this time?

12 THE COURT: Yes, sir.

13 MR. NORRIS: I was wondering if we can  
14 pause this for a moment while I do this.

15 THE COURT: Cause you pause it Ms.  
16 Rodriguez because Mr. Norris is going to ask for  
17 something.

18 MR. NORRIS: I can't remember exactly what  
19 the duration of these records are, but I think in total  
20 they will be several hours --

21 THE COURT: Okay.

22 MR. NORRIS: -- in time. I also remember  
23 that in anticipation of this hearing going on longer  
24 than 5:00 today, the Court has set us for a  
25 continuation, I believe, on the 30th. I would like to

1 agree to have -- I don't think that we will get to the  
2 end today, and therefore I would like to agree to have  
3 Pearl Lopez released to go back to work if no one has an  
4 objection to that. We would rather not have her  
5 continue to wait if her testimony isn't expected until  
6 the next hearing.

7 THE COURT: How long are these --- we only  
8 have MS-1 and MS-2. Do you intend MS-3 and then publish  
9 as well?

10 MS. RODRIGUEZ: MS-3 is quite short  
11 though, Your Honor.

12 THE COURT: Okay.

13 MR. NORRIS: It's much shorter.

14 THE COURT: So how long -- what's the  
15 duration?

16 MS. RODRIGUEZ: A couple hours, Your  
17 Honor.

18 THE COURT: Okay.

19 MS. RODRIGUEZ: Each.

20 MR. NORRIS: There will be --

21 THE COURT: Each?

22 MS. RODRIGUEZ: Yes.

23 THE COURT: Oh, gosh. Yes, we will.

24 MR. NORRIS: And there will be further  
25 examination and cross-examination.

1 THE COURT: Very well. Is that the young  
2 lady that was up here?

3 MR. NORRIS: Yes. May I ask her to come  
4 into the courtroom so the Court can release her?

5 THE COURT: Yes, and then I'll tell her --  
6 when are we set? When is the next continuation of this  
7 motion to suppress?

8 MR. NORRIS: I believe it's set for the  
9 30th; is that correct?

10 MR. GANDARA: Tuesday, the 30th, Your  
11 Honor, in the afternoon.

12 THE COURT: Okay.

13 MR. GANDARA: But we've been informed that  
14 you may start a trial on Friday, so we wondering how?

15 THE COURT: 30th of this week?

16 MS. HAMILTON: Of this month.

17 THE COURT: September 30th.

18 MR. GANDARA: Yes.

19 THE COURT: But you know, September 30th  
20 we should be -- September 30th is a Tuesday.

21 MS. RODRIGUEZ: Judge, I'm scheduled to  
22 pick a jury this Friday.

23 THE COURT: We are going to pick a jury on  
24 Friday?

25 MR. GANDARA: In another case.

1 THE COURT: That's right. I keep thinking  
2 we're not in this week that we're in, that's my problem.  
3 And it is set for 30th. I can tell you this is a case  
4 with Mr. Charlie Roberts.

5 MR. GANDARA: Well, that means you go all  
6 day on the jury selection.

7 THE COURT: Right, and he ran the first  
8 panel.

9 MR. GANDARA: Yes.

10 THE COURT: And we don't know --

11 MR. GANDARA: They ran themselves, Judge.

12 MS. HAMILTON: Judge, for --

13 THE COURT: That's matter of perspective  
14 and opinion, but nevertheless, I don't know if we have  
15 an another jury available on Monday to try this seat the  
16 jury. We can possibly not be in trial.

17 MR. GANDARA: Okay.

18 MR. NORRIS: We currently prepared to  
19 continue on the date that it's --

20 THE COURT: Right.

21 MR. NORRIS: -- been subject to the  
22 Court's needs, of course.

23 THE COURT: Right.

24 MR. NORRIS: Or you can reschedule that, I  
25 mean, since we have agreed, I believe, on the December

1 1st to begin the actual jury trial in this case we have  
2 a little --

3 THE COURT: No. We're not going --  
4 because I can't accommodate. I can't accommodate a  
5 reset on it. Hopefully -- or if I have to, I have to.  
6 I'd rather not. So we're not going to continue it  
7 unless I'm in trial with Mr. Roberts. It's kind of  
8 anticipatory right now.

9 MR. NORRIS: We would rather continue, of  
10 course, too, but all I'm saying is that it's always been  
11 my request to have this hearing conducted are enough  
12 advice of the jury trial.

13 THE COURT: Right.

14 MR. NORRIS: So we can be comfortable with  
15 that. We wouldn't, of course, have an objection if we  
16 were unable to continue on the 30th and needed to reset  
17 it.

18 THE COURT: We might have to. I don't  
19 like that scenario, so let's try to avoid that.

20 MR. NORRIS: We'll move as quickly as well  
21 but...

22 THE COURT: Yeah.

23 Okay. Very well.

24 MS. HAMILTON: Judge, by my calculations

25 --

1                   THE COURT: Bring in Ms. Perla whoever,  
2 please.

3                   MR. NORRIS: Yes, Your Honor. May I be  
4 excused for a moment?

5                   THE COURT: Yes.

6                   MS. HAMILTON: MS-1 is about 40 minutes  
7 long.

8                   THE COURT: Okay.

9                   MS. HAMILTON: MS-2 is two hours and  
10 thirteen minutes.

11                  THE COURT: Okay.

12                  MS. HAMILTON: So -- and then MS-3 is  
13 about 15 to 20 minutes.

14                  THE COURT: That should be a good portion  
15 of the afternoon. Very well. We'll bring Ms. Perla in  
16 here.

17                         (Witness present in courtroom.)

18                  THE COURT: What is your last name again?

19                  MS. LOPEZ: Ms. Lopez.

20                  THE COURT: Ms. Lopez, it doesn't look  
21 like we are going to get to you today and it would be an  
22 unfortunate thing for you if you sat out there waiting  
23 and waiting realizing that we probably won't get back to  
24 you so. We are on the record. I'm going to release you  
25 for today. I am going to ask that you please return on

1 September 30th, which is next Tuesday, at 9:00 a.m.

2 Please return then.

3 MS. LOPEZ: Okay.

4 THE COURT: And --

5 MR. NORRIS: And we expect her to remain  
6 under the rule during that time.

7 THE COURT: Right. Yes. You are under  
8 the rule so you can't discuss anything about your  
9 testimony --

10 MS. LOPEZ: Okay.

11 THE COURT: -- with any other witnesses,  
12 other than with these attorneys, okay?

13 MS. LOPEZ: Okay.

14 THE COURT: So you are temporarily  
15 excused, ma'am.

16 MS. LOPEZ: Okay.

17 THE COURT: Thank you so much.

18 MS. LOPEZ: Thank you.

19 THE COURT: Okay.

20 (Witness excused from courtroom.)

21 THE COURT: Okay. Let's play it.

22 (DVD being played in open court.)

23 INTERVIEW OF ANTONIO LOPEZ, JR.

24 BY DETECTIVE RUIZ:

25 Q. Okay. Okay, Antonio, este, like I explained to

1 you, we're gonna take a statement. It's being recorded,  
2 okay, so I need you to speak up loudly.

3 For the record, I'm gonna introduce  
4 myself. I'm Arturo Ruiz, detective with the El Paso  
5 Police Department.

6 We're here investigating the death of a  
7 child that happened at your residence today.

8 A. (Head nod in the affirmative.)

9 Q. Today's date is going to be July 28th, 2012.  
10 Case number is 12-210152 and according to my watch it's  
11 approximately 10:15 p.m., okay?

12 Can you identify yourself, sir?

13 A. Antonio N. Lopez, Junior.

14 Q. Okay. When were you born, sir?

15 A. March 19th, 1982.

16 Q. Okay. And -- and where is your home address?

17 A. 1701 Villa Santo, El Paso, Texas, 79935.

18 Q. Okay. And that -- that's a duplex that you're  
19 renting with your family there?

20 A. Yeah, a town home.

21 Q. Okay. A town home. Okay. And I have  
22 explained to you that -- that you were not under arrest  
23 from the -- from minute that I talked to you a lot  
24 earlier at your residence.

25 A. (Head nodding.)

1       Q.    We were there.  I explained to you you're not  
2 under arrest.  You're -- you're free to go any time you  
3 want.  You told me you wanted to cooperate with the  
4 investigation?

5       A.    Yes, sir.

6       Q.    I explained to you that we need to take a  
7 statement, right?

8       A.    (Head nodding.)

9       Q.    And you agreed to come down with me, right?

10      A.    Yes, sir.

11      Q.    Okay.  Before we get started and through all  
12 the other details and stuff, and then you're telling me  
13 you're accomplice to what happened today --

14      A.    Okay.

15      Q.    -- I'm going to read you some rights, okay?

16      A.    Okay.

17      Q.    At the end I'm gonna ask you a questions to see  
18 if we move forward, ese.

19                    It say, you have the right to remain  
20 silent and not make statement any at all.  Any statement  
21 you make maybe use -- maybe used -- may be used against  
22 you in trial.

23                    Any statement you make may used -- maybe  
24 used as evidence against you in court.

25                    You have the right to have a lawyer

1 present to advise you prior to and during any questions.

2           If you are unable to employ a lawyer, you  
3 have the right to have a lawyer appointed to advise you  
4 prior to and during any questions.

5           You have the right to terminate this  
6 interview at any time, okay?

7       A.    Yes, sir.

8       Q.    Were you born here in the U.S.?

9       A.    Yes, sir.

10      Q.    Okay. So Number 6 does not apply to you.  
11 Okay. And then at the very bottom it says, I understand  
12 my rights -- the right I just read you -- and I hereby  
13 knowingly, intelligently and voluntarily waive these  
14 rights.

15           Is that a true statement? Are you willing  
16 to waive these rights and talk to me about -- about what  
17 happened at your house today?

18      A.    Yes.

19      Q.    Okay. All right. And before you get started  
20 with the actual questions, this -- the person that  
21 passed away today, her name is Jayla Marie Beckley; is  
22 that correct?

23      A.    Yes.

24      Q.    Okay. And she's just slightly under one years  
25 of age?

1       A.    Yes, sir.

2       Q.    Okay.  And she -- it's my understanding, she's  
3 the foster child that was placed at your home, right?

4       A.    Yes, sir.

5       Q.    Okay.  Let's start off by telling me who lives  
6 at that household right now?

7       A.    It's my wife and I, and my two children.

8       Q.    Okay.  Can you give me the name of your wife?

9       A.    Alice Pearl Holguin -- Lopez.  I'm sorry.

10      Q.    Okay.

11      A.    And Rebecca is four.  Rebecca Naomi Lopez.

12      Q.    Okay.

13      A.    Kayla Elizabeth Lopez is two.

14      Q.    Okay.  And then today there was two other  
15 children there.  Who were those?

16      A.    Rihannon Reynolds.

17      Q.    Reynolds?

18      A.    She's our respite foster child for a couple  
19 days.

20      Q.    Okay.

21      A.    And the other one, my mother-in-law just --  
22 it's her foster child.  She just took her there for a  
23 little bit.  Her name is Alejandra.  I don't know her  
24 last name.

25      Q.    Okay.  She was there at your house?

1 A. Yes.

2 Q. Okay. And your mother-in-law is also a foster  
3 --

4 A. Yes.

5 Q. -- provider, right?

6 A. Yes, sir.

7 Q. Okay. And then Jayla has been placed in your  
8 home for a few days or --

9 A. Yes, sir.

10 Q. -- or for about a month now, or whatever?

11 A. Yes, sir.

12 Q. Okay. Let's -- let's start off by telling me,  
13 how did you get into the foster parent program?

14 A. We actually decided we wanted to get into  
15 foster care in New Mexico.

16 Q. Okay.

17 A. Except when we discovered that my wife had a  
18 tumor and everything in the pituitary, we decide it was  
19 best to move to El Paso.

20 Q. Okay.

21 A. Because her doctors are here and she had  
22 already had a prior surgery here in El Paso.

23 Q. Okay.

24 A. So we decided to move. We moved, and, you  
25 know, God called us to, you know, from the beginning, to

1 be foster parents.

2 Q. Okay.

3 A. And my in-laws were already foster parents at  
4 the -- at the time and we had more information from  
5 them. And we talked to the agency and they talked to us  
6 and we got information like that and we prayed about it  
7 and all that. And we finally decided, you know, to be  
8 foster parents.

9 Q. Okay.

10 A. And --

11 Q. Is there a certain training or process that you  
12 have to go through to become a foster parent?

13 A. Yes, sir.

14 Q. Can you explain that to me?

15 A. You have to have -- there's a lot of things  
16 they ask. You know, you have to -- you have to be 25  
17 years or older.

18 Q. Okay.

19 A. No criminal record.

20 Q. Okay.

21 A. You have to have a home that is adequate for  
22 the foster child, and that's done by home study. You  
23 have to found, you know, competent and all that.

24 Q. Okay.

25 A. You have to have 50 hours of training. I know

1 there's a lot more things on this.

2 Q. Okay. But you -- you went through the whole --

3 A. Yes.

4 Q. -- state process?

5 A. Yes.

6 Q. To be certified as a foster --

7 A. Yes, sir.

8 Q. -- provider?

9 A. (Unintelligible.)

10 Q. Okay. And when were you certified as a foster  
11 provider?

12 A. When? In the month of June.

13 Q. In the month of June?

14 A. (Head nod in affirmative.)

15 Q. Okay. Of this year?

16 A. Yes, sir.

17 Q. Okay. So -- so you're -- you're new at the  
18 foster program?

19 A. Yes.

20 Q. Okay. Okay. Now, let's get started with how  
21 did Jayla end up at your house and when?

22 A. We were contacted by our foster director.

23 Q. Okay.

24 A. And she let us know she had a placement for us.

25 Q. Okay. What's the director's name, do you know?

1       A.     Pati Prieto.

2       Q.     Pati Prieto?

3       A.     Yes.   And she contacted us and some, you know,  
4 other people from the agency, also.

5       Q.     Okay.

6       A.     They had a foster child for us, a placement.  
7 We went in and they gave us just a little bit of info,  
8 who she was and -- and all that, and why she was -- not  
9 the whole reason why she was taken from her home, but  
10 just, you know, the basics.

11      Q.     (Unintelligible) -- why.

12      A.     Yes.

13      Q.     Okay.

14      A.     And she gave us some time to think about it and  
15 we decided, you now, to take Jayla in.   And if I'm not  
16 mistaken, I think Jayla was placed with us on the 21st  
17 or the 22nd of June.

18      Q.     Okay.

19      A.     My wife has all the paperwork.

20      Q.     Okay.

21      A.     Yeah.   And so that's how she come in.

22      Q.     Okay.   And -- and just so I can be clear, you  
23 and your wife are both certified foster parents?

24      A.     Yes.

25      Q.     You went through the program together?

1       A.     Yes.

2       Q.     Okay.  And I had asked you this before when we  
3 were at your house.  But are you currently employed  
4 full-time elsewhere other than -- outside your home?

5       A.     No.

6       Q.     No.  How about your wife?

7       A.     She's part-time.

8       Q.     Part-time.  Where does she work at?

9       A.     Care Home Health Agency.

10      Q.     Okay.  Care Home Health?

11      A.     Uh-huh.

12      Q.     So when she's at her part-time job, you're  
13 responsible for any foster children that might be there?

14      A.     Yes, sir.

15      Q.     Along with your two own children, right?

16      A.     Well, sometimes she -- it's cause she works  
17 with my mother-in-law, with her mom.

18      Q.     Okay.

19      A.     And the foster child she has, she takes care of  
20 him, you know, making his bed, making him eat--

21      Q.     Okay.

22      A.     -- cause he qualifies for that.  So sometimes  
23 she takes the girls, sometimes she doesn't.  Sometimes  
24 she might just take Jayla or thinks like that.

25      Q.     Okay.  Now, when Jayla was placed at your home

1 on the 21st or 22nd of June, did she come in with any  
2 medical conditions that you were made aware of?

3 A. No.

4 Q. Or --

5 A. The didn't -- the agency did not have any of  
6 that information.

7 Q. Okay. So the agency didn't provide you  
8 anything?

9 A. No.

10 Q. Did you notice any medical conditions that the  
11 baby might have had?

12 A. You know, we've never had, you know, cause, you  
13 know, we're Hispanic, so we don't really, you know,  
14 relate to any African-American, so, you know, people but  
15 when she came in, we noticed that she would get a lot of  
16 rashes with wipees, especially the ones with alcohol,  
17 that had a scent.

18 Q. Okay.

19 A. And it was just a lot of, you know, care for an  
20 African-American baby and the agency let us know, you  
21 know, it's much more care. They gave us a packet of how  
22 to do with their hair and all that.

23 Q. Okay.

24 A. And we did notice that her skin would sometimes  
25 chap, you know. That's -- and that was because of the

1 wipees.

2 Q. Okay.

3 A. They gave us a special lotion, that we had to  
4 use special oil. And other than that, no, we didn't  
5 notice anything else.

6 Q. No?

7 A. No.

8 Q. Okay. Other than that. And then, explain to  
9 me, just recently you had to take her to -- to the  
10 hospital to get a -- for some medical condition. Can  
11 you explain to me --

12 A. Yes.

13 Q. -- about that?

14 A. We took her to the hospital on Sunday, the 22nd  
15 of July, I think, if I'm not mistaken. She has the  
16 paperwork.

17 Q. Okay.

18 A. She was crying. She was crying since -- since  
19 Saturday. It was -- it was not just crying, it was a  
20 grunt. It was kind of like -- (making sound) -- you  
21 know, a pushing. Every time we would pick her up it was  
22 -- (making sound).

23 Q. Okay.

24 A. Every time we'd place her on her back or  
25 something, we'd change the diaper, it was the same

1 thing. And since Saturday at night she would just cry  
2 like a pain, like a painful cry.

3 Q. Okay.

4 A. And, you know, we just attributed to the fact  
5 that, you know, she didn't like to be touched or  
6 anything, or be held by men, and just, you know, they  
7 said it was a transition and all that. So we just left  
8 it alone.

9 Q. Okay.

10 A. We brushed it off. Sunday morning it sort of  
11 was the same. After church when we came back, you know,  
12 she kept on. She's usually very happy, actually.

13 Q. Okay.

14 A. She claps her hands and everything. And when  
15 we got back, I'd say about 5:00, maybe 5:30, 6:00  
16 somewhere around there, she -- it just -- it just didn't  
17 get worse, but she didn't stop.

18 Q. Okay.

19 A. And we decided to take her to Physicians Clinic  
20 on George Dieter.

21 Q. Okay.

22 A. And we had noticed, also, that she wouldn't  
23 poo-poo. She hadn't poo-pooed in almost a day.

24 Q. Okay.

25 A. And she -- she usually does, mainly twice.

1 Q. Okay.

2 A. And the doctor said that she had -- she was  
3 constipated.

4 Q. Okay.

5 A. And that he had an ear infection.

6 Q. Okay.

7 A. So she was treated for that.

8 Q. And did they give you an y medications to the  
9 take home or --

10 A. Yes.

11 Q. -- or prescriptions?

12 A. Yes. They gave us two.

13 Q. Okay.

14 A. And that was amoxicillin for the ear infection  
15 and glycerol suppositories for constipation.

16 Q. Okay. And -- and I -- I -- you did fill the  
17 prescriptions and you were giving the medication as  
18 prescribed?

19 A. Yes. We stopped giving her the glycerol, the  
20 suppositories --

21 Q. Okay?

22 A. -- I believe, on the 25th or 26th about two or  
23 three days after she was seen.

24 Q. Okay.

25 A. So that's why we stopped.

1 Q. And the amoxicillin, was it still ongoing or --

2 A. Actually, today was the last day. It's seven  
3 days, so the 22nd to now, 28th, 29th.

4 Q. Close.

5 A. Yeah, somewhere around there.

6 Q. Okay.

7 A. Yeah.

8 Q. Okay. And all the medication was given to her  
9 a prescribed?

10 A. Yes.

11 Q. You weren't over- or undermedicating the baby?

12 A. No. No.

13 Q. Okay. Okay. Now, let me ask you, as far as  
14 Jayla's care, who, between you and your wife, is -- was  
15 the person giving -- providing more care for her? Was  
16 it you or your wife?

17 A. Care as in?

18 Q. Yeah, you know, constant -- cause, you know, a  
19 one-year-old still need pretty much constant monitoring  
20 caring. So, I mean, who was the person mostly caring  
21 for her?

22 A. Well, I'd have to say it was mostly both of us.  
23 If I ever had to leave, you know, for a church service  
24 or a men's Bible study, and if Pearl had to do  
25 something, I would usually take her with my children, so

1 I had all of them.

2 Q. Okay.

3 A. And that's because Jayla, she just always  
4 wanted to be with her, in her arms and everything, and  
5 you know, agency told us to maybe spend some more time  
6 with her, me, you now --

7 Q. Okay.

8 A. -- because with men she just would not, you  
9 know --

10 Q. Okay.

11 A. So it was both of us, you know. I -- I would  
12 -- I'm usually -- I wake up earlier, so when she would  
13 wake up, I would give her her bottle and I would change  
14 her diaper and put her back in the crib.

15 Q. Okay.

16 A. And things like that.

17 Q. Okay. Lets' do a little rundown as to what  
18 happened today.

19 A. Okay.

20 Q. But let's start early in the morning. I mean,  
21 let -- let's cover like meals, diaper changes, who was  
22 caring for her, who took turns. If you can remember  
23 times, it's very helpful, up until the moment that you  
24 had to call for EMS for help.

25 A. Okay.

1       Q.    But lets' start in the early morning.  Well,  
2   lets' start last night.  What time did you put her to  
3   sleep or --

4       A.    She would -- we had -- every Friday we have the  
5   leaders of the church get together and we pray.

6       Q.    Okay.

7       A.    At 10:00 at the church and --

8       Q.    What church do you attend?

9       A.    Truth Apostolic Church.

10      Q.    Okay.  Where is that at?

11      A.    It's on Loma Verde and Rojas.

12      Q.    Loma Verde and Rojas?

13      A.    Yes.

14      Q.    Okay.

15      A.    And she was already asleep there, so --

16      Q.    Okay?

17      A.    -- we didn't get home until about 11:30, 12:00,  
18   and then we put her to sleep.

19      Q.    This is midnight, 11:00 --

20      A.    Yeah, somewhere --

21      Q.    Okay.

22      A.    Well, actually, I did.  She still had to say  
23   because she made the cake and there was a party.  So she  
24   had to stay and make all the arrangements.

25      Q.    Okay.

1       A.     But I went home with Jayla, Rihannon, and  
2 Kayla.

3       Q.     Okay.

4       A.     And put her to bed and -- and that was it.

5       Q.     Okay. That was it. During the night, from  
6 when you put her to bed, to say, what time did you get  
7 up today?

8       A.     I would say about 7:00, 7:30.

9       Q.     In the morning you got up?

10      A.     Yes, I did.

11      Q.     Did -- did you have to care for Jayla any time  
12 in between midnight and 7:00 in the morning?

13      A.     No, she slept all the way through. And she  
14 actually woke up kind of late. And I think that's just  
15 because of the night before.

16      Q.     Okay.

17      A.     She didn't wake up until about 9:00.

18      Q.     About 9:00?

19      A.     9:30, 9:00.

20      Q.     Okay. Okay. When she woke up today at 9:00,  
21 did you notice anything maybe wrong with her, odd, or  
22 anything like that?

23      A.     No. No. That's the strange thing. She wasn't  
24 odd. She just -- I mean, she will still -- she had made  
25 great strides with men.

1 Q. Okay.

2 A. With me, especially, she would now give me her  
3 arms, and when my wife actually woke up, I was on the  
4 bed and Jayla was standing up grabbing on to the crib,  
5 and she would go like this, and she would smile at me.

6 Q. Okay.

7 A. I even told my wife, look, you know, she's  
8 playing with me and everything. And, you know, she  
9 would run her gums through the crib, and I'm -- you  
10 know, I guess that's just cause of --

11 Q. She's teething?

12 A. But other than that, she's fine. She would cry  
13 when I would pick her up to change her diaper.

14 Q. Okay.

15 A. And it wasn't a cry, like a big cry, it's just  
16 maybe two or three, wha, wha, you know.

17 Q. Okay.

18 A. And we'd give her her meds also.

19 Q. Okay.

20 A. But other than that she --

21 Q. When -- when you talk about meds, which ones  
22 are you talking about?

23 A. Amoxicillin.

24 Q. The amoxicillin?

25 A. (Head nod in the affirmative.)

1 Q. Is that a pill or a liquid?

2 A. No, it's a liquid.

3 Q. Liquid form?

4 A. Yes.

5 Q. Okay. Let me ask you now. So she gets up  
6 around 9:00. What do you do with her?

7 A. Well, she -- she's just laying there. And I  
8 know that that's the time -- every time I wake up I need  
9 to make her a bottle, so I got her bottle. Actually --

10 Q. What kind of bottle do you make?

11 A. It's milk. Milk.

12 Q. Milk? Just regular milk?

13 A. No. Well, it's the Similac for --  
14 (unintelligible).

15 Q. Okay. So it's powdered mild?

16 A. Yes.

17 Q. Okay.

18 A. Actually, I picked her up, I brought her with  
19 me, and I made her her bottle.

20 Q. Okay.

21 A. -- in the kitchen, and we came back, and then I  
22 placed her on the bed.

23 Q. Okay.

24 A. And I changed her diaper.

25 Q. Okay.

1       A.    And I put her back.  And then she -- she always  
2 takes a nap for about another hour.

3       Q.    Okay.

4       A.    So I left her there to nap.

5       Q.    Okay.  How much -- how much did you feed her in  
6 the morning?

7       A.    It's eight ounces.

8       Q.    Eight ounces?

9       A.    Yes.

10      Q.    Okay.  And it's a baby bottle?

11      A.    Yeah, it's a bottle.

12      Q.    Okay.  You prepared it?

13      A.    Yes.  Sometimes it's a bottle or a sippy cup.

14      Q.    And.  And you put her in her crib today?

15      A.    Right.

16      Q.    Okay.  In the morning?

17      A.    Yes, sir.

18      Q.    And -- and how do you get her down when you put  
19 her in there?

20      A.    Well, I just laid her back down, you know.

21      Q.    On her back, on her stomach, on her side, or --

22      A.    Well, sometimes I -- sometimes on her back,  
23 sometimes on the side.

24      Q.    Okay.

25      A.    But --

1 Q. She -- is she able to turn over now --

2 A. Yes.

3 Q. -- by herself?

4 A. Yes.

5 Q. She stand up and all that?

6 A. She has to have help to stand up.

7 Q. Okay.

8 A. But she -- she might for five, ten seconds,  
9 just stand there without grabbing anything.

10 Q. Okay. Is she walking yet?

11 A. No.

12 Q. No. Crawling?

13 A. Yes.

14 Q. She crawls, but she doesn't walk yet?

15 A. (Head nod in affirmative.)

16 Q. Okay. Okay. So you -- you make her bottle  
17 sometime around 9:00, 9:30, you put her back to nap?

18 A. Uh-huh.

19 Q. What do you do? You just do your normal --

20 A. No, sometimes I make coffee, sometimes I make  
21 breakfast, or I'll just lay back down and --

22 Q. Okay.

23 A. -- watch TV.

24 Q. What did you do today?

25 A. Today I just laid back down and I would just

1 turn on the TV --

2 Q. Okay.

3 A. --to watch the Olympic games.

4 Q. Okay. And then what's the next thing that you  
5 do when you deal with her? Does you wife deal with her  
6 her any time today that you're aware of?

7 A. No, and that's just -- I don't think so. But  
8 I'm not sure. And that's just because she was making  
9 the cake.

10 Q. Okay.

11 A. So she was busy with the cake.

12 Q. Okay.

13 A. Oh, well, yeah, before we called, she did come  
14 in and I was in the office and she came in and Jayla was  
15 in the crib. But I don't know if she got her or not.

16 Q. Okay. Okay. After 9:00 in the morning, 9:00,  
17 9:30 when you give her her bottle in the morning to --  
18 to when you have to call for help, was there any other  
19 feedings in between there?

20 A. Yes.

21 Q. Okay.

22 A. Let me see. She woke up 10:00, 10:30. I have  
23 her a bottle with water.

24 Q. Okay.

25 A. And that's it. You know, I gave her like, I

1 think on-half bottle of water and the other one like  
2 three-quarters of water gave her like one-half bottom of  
3 water.

4 Q. Okay.

5 A. Something like that.

6 Q. Okay.

7 A. We don't give her a bottle of milk, not until  
8 after about 1:00 or 2:00.

9 Q. 1:00 or 2:00?

10 A. Yeah.

11 Q. And did you do that today?

12 A. No, I didn't get --

13 Q. You didn't get a chance to do it?

14 A. No.

15 Q. Okay. Did you feed her any solid food or  
16 semi-solid food yet?

17 A. Yea. We -- we sometimes serve her some table  
18 food.

19 Q. Okay.

20 A. Rice or -- she didn't like Gerber's, but now  
21 she was starting to like the pears, the Gerber pears.

22 Q. Okay.

23 A. She enjoys peaches, fruits --

24 Q. Okay.

25 A. -- and all that.

1 Q. So you're feeding her semisoft or soft food?

2 A. Yeah.

3 Q. Is that what you're trying to get her --

4 A. Yes, sir.

5 Q. -- adjusted to?

6 A. (Head nod in the affirmative.)

7 Q. Okay. And do you rely on this because of the  
8 experience through your kids at the states they were at  
9 on the way you fed them or...

10 A. Well, when we -- when they -- when WIC gave us  
11 food and all that, and also CPS came in and gave us, you  
12 know bags of food and clothes --

13 Q. Okay.

14 A. -- we tried giving her Gerber, but she would  
15 just -- (making sound) -- you know, kind of gag.

16 Q. Okay.

17 A. So we wouldn't -- we didn't even mess with that  
18 or the cereals, so we started giving her, besides her  
19 milk, we would give her fruit and table food.

20 Q. Okay.

21 A. But a couple of days ago my wife got her and  
22 she ws giving her the Gerber's and she actually ate real  
23 well.

24 Q. Okay.

25 A. So -- yeah.

1 Q. Okay. Let's -- let's go back to, you said  
2 around 1:30 or 2:00, you have her the bottles of water,  
3 okay?

4 A. Yeah, about -- yeah, 11:00, 12:00, something  
5 around there.

6 Q. Okay. 11:00, 12:00. Okay.

7 A. Somewhere around there.

8 Q. Then did -- do you hold her? Do you put her  
9 down so she can crawl around or...

10 A. No, today I got her, and I know I told the  
11 officer that, you know, she was in the crib, and she  
12 was, but the only time I got her was -- was to change  
13 her diaper, to give her the meds, and when I would take  
14 her with me to make the bottle. And that's just because  
15 when I take her bottle away, she'll start crying.

16 Q. Okay.

17 A. But if I grab her, you know -- and she won't  
18 cry.

19 Q. Okay.

20 A. So today, you know, I made her the bottle with  
21 water.

22 Q. Okay.

23 A. And I put her back.

24 Q. You put her back in the -- in the crib?

25 A. Yes, sir.

1 Q. Okay. And -- and that was the last time you  
2 actually picked her up or anything like that?

3 A. Well -- well, I only picked her up to change  
4 her diaper again.

5 Q. Okay. Around what time was that?

6 A. I say about 12:00, 12:15, maybe.

7 Q. Okay.

8 A. Right before her meds.

9 Q. Okay.

10 A. I gave her meds. She had just peed, and so I  
11 put her in her diaper and then at around, I say about  
12 12:20, 12:40, 12:30, somewhere around te, I have her her  
13 medication.

14 Q. Okay.

15 A. And I have pick her up to do that. You now, I  
16 tried today to give it to her in the crib. She  
17 sometimes lets me. You know, she'll stand and -- but  
18 she didn't. I had to go like that and, you know, see if  
19 I could pinch her mouth open and give it to her. She --

20 Q. How did you give it to her? How did you  
21 administer it?

22 A. L, usually when I get her, I'll sit her here.

23 Q. Okay.

24 A. And I'll -- I'll just give it to her like this.

25 Q. Okay. You're motioning this. What are you

1 using, a cup or --

2 A. No, it's a needle. It's one of those needles  
3 where you can draw out the liquid.

4 Q. Okay. It's a syringe type?

5 A. Yeah.

6 Q. Okay.

7 A. Sometimes I do that, or sometimes she'll let me  
8 give it to her while she's in the crib.

9 Q. Okay.

10 A. And that's when she's standing up or sitting  
11 up.

12 Q. Okay. And today, how did you do it today?

13 A. Today when I got the medication, I tried giving  
14 it to her in her crib and she didn't let me.

15 Q. Okay.

16 A. And I tried to go like that, pinch her mouth  
17 and she wouldn't.

18 Q. Okay.

19 A. I picked her up and I put her on my knee  
20 sitting down on the bed.

21 Q. Uh-huh.

22 A. And you know, again, and she wouldn't let me.

23 Q. Okay.

24 A. So what I did is I laid her down and I tried  
25 to, you know, hold on, you know, and I had her like

1 this, and, yeah, she let me do it like that, so I gave  
2 it to her. I picked her up, and then put her back in  
3 the crib, and just gave her her bottle.

4 Q. Okay. The dosage, what -- what does -- what  
5 does it consist of, do you know?

6 A. I believe it's five millimeters.

7 Q. Okay.

8 A. No, well --

9 Q. The -- the -- the deal -- the syringe --

10 A. Syringe.

11 Q. -- has a line --

12 A. Yes.

13 Q. -- for five? Okay.

14 A. Five. That's what --

15 Q. And that's what the bottle says?

16 A. Yes.

17 Q. Okay. And -- and the dosage is every how many  
18 hours?

19 A. It's -- it doesn't say. It just says three  
20 times a day.

21 Q. Three times a day.

22 A. Seven days.

23 Q. So -- okay. So about every eight hours or so?

24 A. Around there.

25 Q. Yeah. Okay. So -- okay. All right. So you

1 gave her the medication, you changed her --

2 A. Uh-huh.

3 Q. -- diaper, you put her in the crib, or do you  
4 let her down with you, or what do --

5 A. No. No. I -- I put her in the crib and at  
6 that time my wife called me and I went and she said, you  
7 know, take the girls into the room because I'm making  
8 the cake and I don't want them to -- to bother me. So  
9 --

10 Q. And she -- she's talking about your girls?

11 A. My girls, yeah.

12 Q. Your two- and your four-year-old?

13 A. Yes.

14 Q. Okay.

15 A. And we had them in the room, turned on the TV,  
16 and watched Mickey Mouse and the Olympics.

17 Q. Okay.

18 A. I didn't stay there the whole time. I know I  
19 told him I stayed the whole time, but sometimes I'd -- I  
20 would rather go into the office.

21 Q. Uh-huh.

22 A. I'd be browsing on the internet or, you know,  
23 reading a book or something.

24 Q. Okay. But you're still within the same room  
25 right?

1       A.     Yeah.  Yeah.

2       Q.     The way you showed me your office?

3       A.     Yes.  Yes.

4       Q.     Okay.

5       A.     Every so often I would come out and check on  
6 her and all that.

7       Q.     Okay.  All right.  Okay.  And then explain to  
8 me, how -- how did it happen that you realized that  
9 there was something wrong with the baby?  Tell me what  
10 you're doing?

11      A.     Well, I was in the office and I was browsing on  
12 the web.  I cam back and the girls were kind of  
13 shouting.  I told them Hey, settle down, you know, quiet  
14 down.  So I sat down with them watching Mickey Mouse and  
15 then the Olympics, also.  And I smelled poo-poo.

16      Q.     Okay.

17      A.     So, you know, I attributed it to Jayla, you  
18 know.  So I went to get the diaper bag that's on top of  
19 the filing cabinet.  And right when I was gonna pick her  
20 up, she was -- she was like, I don't know, wincing or,  
21 you know, just -- (indicating) -- you know, like that,  
22 and it just...

23      Q.     Okay.  Like a whimpering noise or something,  
24 or...

25      A.     Yeah, I mean, sort of.  It was just like, uh,

1 you know --

2 Q. Okay.

3 A. -- like that. And -- and she does that when  
4 I'm gonna pick her up --

5 Q. Okay.

6 A. -- so I didn't think much of it.

7 Q. Okay.

8 A. But then I saw her eyes were kind of  
9 cross-eyeded [sic], sort of, and then going back.

10 Q. Okay.

11 A. And so I picked her up. And -- and you know,  
12 Jayla, Jayla, you know, are you okay?

13 Q. Okay.

14 A. And her head would just, you know, tilt like  
15 that.

16 Q. She felt limp?

17 A. Yeah. And then that's when I called my wife  
18 and it's just -- (shaking head) -- you know. You can't  
19 --

20 Q. Okay. Let me ask you. You had mentioned  
21 something to the officer about the lips on --

22 A. Yeah, they were -- they were white, and my wife  
23 said they were purple, but I didn't...

24 Q. You don't remember seeing her purple?

25 A. Well, I -- I guess I just didn't -- I just

1    couldn't -- I don't know how she saw she was purple, but  
2    I didn't see she was purple.

3           Q.    Okay.

4           A.    But I did see the lips were white.

5           Q.    Were like a whitish tint.   Okay.   And let me  
6   ask you.   When you -- when you're gonna life her up from  
7   the -- the crib to change her -- because that's what you  
8   were gonna do, right?

9           A.    Yeah.

10          Q.    -- a normal diaper change.

11          A.    Yeah.

12          Q.    How was she in the crib.   How was she laying,  
13   on her back, on her side, on her stomach, how -- how do  
14   you --

15          A.    When I saw her?

16          Q.    Yeah, when you were picking her up right before  
17   you realized that there was something wrong with her?

18          A.    Well, she was on the side like this.

19          Q.    Which side would she be on?

20          A.    This side, which is the left side.

21          Q.    The left side.

22          A.    Yes, sir.

23          Q.    Okay.

24          A.    And then I said, Jayla, Jayla, and she turned  
25   on her stomach because she has a cove there --

1 Q. Okay.

2 A. -- that we cover her with. And you know, she  
3 just -- I guess she kind of ignored me and then I said,  
4 Jayla, Jayla, and then she stood up and I got her, you  
5 know and...

6 Q. Okay. That's when you started noticing --

7 A. (Head nod in the affirmative.)

8 Q. Okay. Then you called out for your wife, you  
9 said?

10 A. Yeah, I called out for my wife and she came  
11 running. And I said, you know, somethings' wrong, you  
12 know. Jayla's not, you know, responding.

13 And -- and she got her, and, Jayla, Jayla,  
14 Jayla, and so...

15 Q. Okay. And when your wife got the baby, what --  
16 what do you do?

17 A. Oh. Well, I was trying to -- you know, I went  
18 like that -- (indicating) -- you now, seeing if she  
19 could -- you know, I guess at that moment, you now, I  
20 did that, and I didn't do CPR, you know.

21 Q. Okay.

22 A. Because, you know, her head was like this, and,  
23 you know, supposedly she was purple, and so my wife  
24 said, go get the phone and call 911.

25 And I said, well, where's the phone?

1                   And she said, it's over there in the  
2 counter. So I called and --

3           Q.     Okay. So you -- you're the were one that  
4 called 911?

5           A.     Yes.

6           Q.     What do you remember telling the call taker?

7           A.     I told her that, you know, my name is  
8 so-and-so, and I'm the foster parent of Jayla, and she  
9 -- she's just not breathing right. Her eyes are going a  
10 little bit back. They're cross-eyed a little bit. Her  
11 lips are white, you know. I told her her face looks  
12 purple.

13          Q.     Okay.

14          A.     And so can you please send somebody. And she  
15 just kept asking questions. You know, where is she?  
16 Where are you? And go to another room. And it's just  
17 --

18          Q.     Okay.

19          A.     -- chaos.

20          Q.     Did you ever mention anything about the baby  
21 having any type of injuries?

22          A.     Injuries? No.

23          Q.     No? You never mentioned anything about  
24 injuries that you can remember?

25          A.     Not that I remember.

1 Q. Okay.

2 A. No.

3 Q. All right. Okay. So pretty much you called  
4 911, they're -- they're getting information from you.  
5 Do the medics every show?

6 A. Yes.

7 Q. Okay. And what happens from there?

8 A. Well, they -- they come in and they -- they --  
9 the lady on the phone told me to put her on the floor --

10 Q. Okay.

11 A. -- face up. And she said just to stay there  
12 until they come. They came and they looked at her and  
13 everything and one of them said -- he said -- he asked  
14 us the questions, you know, what's wrong? Has she had  
15 any medications and everything. And we told him the  
16 story.

17 Q. Okay.

18 A. And he said, well -- she says, it doesn't -- it  
19 looks -- it doesn't look like she's gasping for air, he  
20 said. It looks like she's pushing.

21 Q. Okay.

22 A. So -- and then they asked us, does she -- do  
23 you know if she has any seizures, any medical, you know,  
24 any histories of seizures? Did you guys involuntarily  
25 -- by accident, did she fall? Was she shaken?

1                   No, we said, no.

2           Q.     Okay.  Do they asked you --

3           A.     Yeah.

4           Q.     They asked you if she fell and you --

5           A.     Yeah.

6           Q.     -- specifically said no.

7           A.     No.

8           Q.     Did you -- they asked you if you shook the  
9 baby.

10          A.     Yeah.

11          Q.     And you -- you said no.

12          A.     No.  I said the only thing we did was -- that I  
13 did was I blew a little bit in her mouth, you know.

14          Q.     Okay.

15          A.     Nobody is allowed to carry the baby, I told  
16 them, except us.

17          Q.     Okay.

18          A.     So...

19          Q.     Okay.

20          A.     And they performed their procedures and  
21 everything and so...

22          Q.     Okay.  And then what happened?  Did they  
23 transport the baby?

24          A.     Yes.

25          Q.     Of they left the bay?

1       A.    No.  No.  They transported the baby to the  
2 hospital.

3       Q.    Okay.  Did -- did you or your wife go with the  
4 ambulance?

5       A.    My wife -- I wanted to go since I was the one  
6 that was in the room --

7       Q.    Okay?

8       A.    -- you know, but she said, no, let me go.  I  
9 want to go.  And so I said all right, go.  And she left  
10 and I stayed with the children.  And I'd say about 30,  
11 40 minutes, maybe, later some -- the police officers  
12 showed up, so...

13       Q.    Okay.  All right.  Now, let me ask you.  The --  
14 the -- your townhouse, how many bedrooms is it?

15       A.    Three.

16       Q.    Three bedrooms?  Okay.

17       A.    Yes, sir.

18       Q.    Three bedrooms.  And you've got your living  
19 room, your dining area, and your kitchen, right?

20       A.    Kitchen.  And then there's kinda like a  
21 storage, washroom on the other side.

22       Q.    Okay.  On the other side.  Okay.  What's the  
23 live arrangements in your house right now?  I mean, like  
24 the bedroom where you have your office, I'm assuming  
25 that's your master bedroom?

1 A. Yes.

2 Q. Who sleeps in that bedroom?

3 A. My wife and I, and then the baby sleeps in the  
4 crib.

5 Q. Okay.

6 A. We put the babies too bed in their room, but in  
7 the middle of the night they somehow show up.

8 Q. They -- they have their own room, separate?

9 A. Yes.

10 Q. Okay. And then the third bedroom is used for  
11 who?

12 A. Foster children.

13 Q. Foster children.

14 A. Uh-huh.

15 Q. Okay. You have that specifically --

16 A. Yes.

17 Q. -- for the foster children? Okay.

18 A. Yes.

19 Q. Okay. So your two daughters sleep in one room,  
20 but they eventually end up in bed with you at one oint.  
21 And then you have -- you have your room plus the crib  
22 there --

23 A. Right.

24 Q. -- where you had Jayla?

25 A. Yes, sir.

1 Q. Okay. All right. And that's the way it's  
2 pretty much set out all the time?

3 A. Yes.

4 Q. Okay. Now, let's -- let's get into the  
5 13-year-old foster child that you had there, Ri- --

6 A. Rihannon.

7 Q. Rihannon?

8 A. Yes, sir.

9 Q. Reynolds?

10 A. Yes.

11 Q. Okay. She's 13-years-old, right?

12 A. I think so.

13 Q. Okay.

14 A. I'm not sure.

15 Q. When -- when doe she come? How does she end up  
16 in your home?

17 A. We were called by -- by our foster home  
18 director.

19 Q. Okay. When was this?

20 A. I -- I can't remember. It was before she was  
21 placed, maybe a day or a couple of days before that.  
22 And she called and -- and -- or texted. I don't even  
23 remember, but --

24 Q. Okay.

25 A. -- she -- she said if we were interested in

1 having a foster -- respite child come in.

2 Q. Respite?

3 A. Respite.

4 Q. What does that mean?

5 A. It just means that when the foster parents want  
6 to take a vacation, they want a break, or something they  
7 want to go out, you know, they'll find another foster  
8 family. They have to call the agency first, and then  
9 they'll find another foster family that will take care  
10 of them either for the night or for whatever days  
11 they're gonna be gone.

12 Q. Okay. So it's a you short-term --

13 A. Yeah.

14 Q. -- foster placement?

15 A. Yes, sir.

16 Q. And -- and Rihannon was a short-term?

17 A. Yes.

18 Q. Okay. Do -- do -- you don't remember the date  
19 that she showed up to house for the first time?

20 A. July 25th.

21 Q. July 25th?

22 A. Yes.

23 Q. Okay. And how long was her stay going to be?

24 A. Until tomorrow, July 29th.

25 Q. Tomorrow, the 29th, she was supposed to go back

1 to her --

2 A. Uh-huh.

3 Q. -- assigned foster -- okay.

4 A. Yes.

5 Q. And she's 13 years of age?

6 A. I think so.

7 Q. Okay. You're -- you're not too sure, but she's  
8 a -- she looks like she's --

9 A. Yeah.

10 Q. -- a teenager, right?

11 A. Yes.

12 Q. Okay. Does -- does she have any issues, or  
13 anything like that?

14 A. Just from reading what they sent us, cause they  
15 us -- with the child they send us the medications, just  
16 some paperwork authorization, respite letter.

17 Q. Okay.

18 A. One of them just said she had -- before she  
19 came in, a couple of -- a day before, she just had a  
20 speech therapy --

21 Q. Okay.

22 A. -- session, and besides the medication she  
23 takes. And -- and she's hearing impaired, she says.

24 Q. She is?

25 A. Yeah.

1 Q. Okay. Do you know what her medication is, the  
2 name of it or anything?

3 A. No, I just read that it's something for deep  
4 sleep.

5 Q. Deep sleep?

6 A. Yeah.

7 Q. Okay.

8 A. And my wife would have that. It's on the  
9 paperwork.

10 Q. Okay. But it's something for deep sleep?

11 A. Yes.

12 Q. And you have that medication?

13 A. Yes.

14 Q. Okay. And you were giving it to her?

15 A. Yes, every night.

16 Q. Okay. Then let me ask you. From the 25th of  
17 July, when she came first to your house up until today,  
18 was she helping you all care for Jayla? Does she  
19 actually have any participation in diaper changes,  
20 feeding?

21 A. No.

22 Q. Carrying her around?

23 A. No, she's not allow to do that. No other  
24 foster children is allowed. Sometimes we would place  
25 Jayla on the rug in the living room--

1 Q. Okay.

2 A. -- to play with Kayla and Rebecca and, you  
3 know, her, but we were there or she was there --

4 Q. Okay.

5 A. -- my wife.

6 Q. So there's adult supervision?

7 A. Yes.

8 Q. But, I mean, you want them to interact, which  
9 is --

10 A. Right.

11 Q. -- perfectly normal.

12 A. Yes.

13 Q. Perfectly okay.

14 A. Yes.

15 Q. But Rihannon, and then your two younger  
16 daughters, your two- and four-year-old, they weren't  
17 tasked with taking care of --

18 A. No.

19 Q. -- Jayla, right?

20 A. No.

21 Q. Okay. Okay. So the only care she was getting  
22 was between you and your wife, to Jayla?

23 A. Yeah. I mean, she tried to carry her, but I  
24 said, No, no, no, you now, don't carry her.

25 Q. Okay.

1       A.     Don't do anything. And Jayla, when she would  
2 be placed there with them, she wanted to be climbing up  
3 on top of her, but I told Rihannon, you now, just get  
4 her from under the armpits or the arms, and place her  
5 down and tell her, no, you know, so she...

6       Q.     Okay. In the past several days, has Jayla  
7 taken any falls, hit her head, anything that -- that --  
8 that you're aware of?

9       A.     No, not that we're aware of.

10      Q.     Or anything that your wife mentioned to you  
11 that might have happened to her?

12      A.     No.

13      Q.     No?

14      A.     No.

15      Q.     Okay. During the past recent days, did -- did  
16 any of the other kids there, including your own kids,  
17 pick her up and maybe accordingly drop her?

18      A.     No, but sometimes when she's in her crib she --  
19 she likes to hold her bottle with one hand and grab on  
20 with the other. And there's times where she'll let  
21 herself go and sit down.

22      Q.     Okay.

23      A.     There have been times where she lets go and  
24 she'll fall back, but that's on a -- that's on a spring  
25 little bed.

1 Q. Okay.

2 A. I ave heard that when she falls, she might hit  
3 the thing, the wood, but I mean, that's just --

4 Q. Okay. But that's within the --

5 A. Yeah, that's within --

6 Q. -- the crib itself?

7 A. Yeah, that's within the crib.

8 Q. Okay. Does he know how to climb out of the  
9 crib yet.

10 A. No, but she -- when my wife would leave the  
11 room --

12 Q. Okay.

13 A. -- you know, i can attest to that because I was  
14 there. When she would leave, I mean, she would get so  
15 upset that she would, you know, grab it with her feet,  
16 you know, do this, and there were times when she would  
17 hold on, but not that she could actually climb out.

18 Q. Okay. Now, she wasn't at the oint where she  
19 was escaping out of the crib yet?

20 A. No.

21 Q. Okay. All right. Okay. So just so I can be  
22 clear, Rihannon is not allowed -- was not allowed in the  
23 few days that she was there to care for --

24 A. No.

25 Q. -- Jayla. I mean, you let her interact with

1 her?

2 A. Right. Right.

3 Q. And your daughters, too, right?

4 A. Yeah.

5 Q. You -- you didn't feel any sense of -- of  
6 caution with Rihannon there interacting with the younger  
7 kids, right?

8 A. Well, we always have to be cautious. I mean,  
9 we just always have to be there. You know, I -- we  
10 don't know Rihannon. We don't know an -- anything of  
11 her history.

12 Q. Okay.

13 A. So it's not something that we could place her  
14 there and just leave. We just had to be there.

15 Q. Okay. But -- okay. I understand what you  
16 mean. Like, you weren't gonna leave them in their care  
17 and then you guys disappear. But you let them interact.  
18 You were comfortable enough to interact, but you were  
19 there --

20 A. Yes.

21 Q. -- to supervise the interaction?

22 A. Yes, sir.

23 Q. Okay. Okay. And at no time did you leave them  
24 all alone with Rihannon?

25 A. No.

1 Q. Okay.

2 A. If I left, my wife was there. If she left, I  
3 was there.

4 Q. Okay. As a matter of fact, my understanding is  
5 that your wife was getting Rihannon involved in the cake  
6 --

7 A. Yeah, she was helping.

8 Q. -- with the cake activity?

9 A. -- with the cake, her and Alejandra and --

10 Q. Okay.

11 A. That's when my wife told me to get the girls,  
12 my girls --

13 Q. Okay.

14 A. -- Kayla and Rebecca, and just take them for a  
15 nap in the room.

16 Q. Okay. And Alejandra, how old is Alejandra?

17 A. Maybe 11, 12.

18 Q. Okay.

19 A. Maybe.

20 Q. And she was just there for a little while,  
21 right, while your mother-in-law took care --

22 A. Yeah, I mean, we -- we've respite her before.

23 Q. Okay.

24 A. And she really enjoys being in our home.

25 And --

1 Q. Okay.

2 A. -- as soon as she found out she was making a  
3 cake, she wanted to go out and help.

4 Q. Okay. Wanted to help out. And -- and  
5 Alejandra, did she have any responsibilities, or did you  
6 ever see her taking care of Jayla or handling Jayla?

7 A. No, because that day, today, Jayla -- we didn't  
8 put her out of her crib at all.

9 Q. Okay.

10 A. Not today.

11 Q. She was pretty much in the crib today?

12 A. Yeah.

13 Q. Okay.

14 A. She was in the crib.

15 Q. Okay. Do you know what could have happened to  
16 Jayla today?

17 A. No. That's -- that's what I don't -- we don't  
18 get. I just -- we know she is constipated, but I -- I  
19 -- I don't -- we don't think that has anything to do  
20 with --

21 Q. Okay.

22 A. I don't, you know --

23 Q. Okay. Let me ask you. Did you intentionally  
24 hurt Jayla?

25 A. No, sir.

1 Q. No? Did your wife intentionally hurt Jayla?

2 A. No, sir.

3 Q. No?

4 A. No. No, sir. There were times when I'd go  
5 into the office and she would come in, but, no, no. I  
6 mean, we've -- we wouldn't --

7 Q. So as far as you now, you didn't hurt --

8 A. No, sir.

9 Q. -- or do anything intentional to Jayla today,  
10 and your wife didn't do anything?

11 A. No, sir.

12 Q. Did any of the kids that were there, including  
13 the foster kids, did they do anything to Jayla that  
14 you're aware of --

15 A. No, sir.

16 Q. -- that you're not telling me right now?

17 A. No. No, sir.

18 Q. Nothing?

19 A. Nothing.

20 Q. Okay.

21 A. I mean --

22 Q. And if they would have done something, whether  
23 its' accidental or intentional, you wold let me know  
24 right now?

25 A. Yes.

1       Q.    Okay.  And the reason I ask you is because they  
2   are gonna perform an autopsy on -- on Jayla, and -- and  
3   for what you're telling me, there shouldn't be any  
4   injuries on the baby?

5       A.    No.

6       Q.    Right?  Because, I mean, you've had her long  
7   enough to where she's been under your care --

8       A.    Yes.

9       Q.    -- for almost a month?

10      A.    Yes, sir.

11      Q.    Okay.  So there shouldn't be any injuries --

12      A.    No, sir.

13      Q.    -- on Jayla.  Okay.  And as far as you know,  
14   you haven't hurt --

15      A.    No.

16      Q.    -- Jayla?  Okay.

17      A.    No, sir.  The only thing, that she likes to  
18   pull her hair.

19      Q.    Okay.

20      A.    And that, we've had her recorded with out  
21   incident logs, and the agency knows, so she likes -- she  
22   likes to do that.

23      Q.    Okay.

24      A.    Sometimes my -- my little one, she likes to  
25   mess with her hair.  She just, you know, but nothing --

1 Q. Okay.

2 A. Nothing severe.

3 Q. And -- and you don't detect any possible  
4 medical problems that you ignored by getting her  
5 treatment on Jayla, any recent days here besides what  
6 you took her to the hospital for? Was there any other  
7 medicals that you might have noticed that she not  
8 breathing right or -- or something like that? We'll  
9 just get her checked out another day? There's nothing  
10 like that that you ignored?

11 A. No, I mean, that Saturday she did have that  
12 little grunt, but we -- we always attributed it to the  
13 fact that when we picked her up -- when -- well, when I  
14 would pick her up, she would just -- didn't want to be,  
15 you know, and that's -- she just always showed that with  
16 men.

17 Q. Okay.

18 A. So we just, maybe she just doesn't want to be  
19 picked up.

20 Q. Okay. It sounds fair enough. What I was  
21 trying to get is that you didn't notice like she's  
22 running a fever and you just blew it off?

23 A. Oh, no.

24 Q. No, nothing like that?

25 A. No.

1       Q.    You would have gotten her proper medical  
2 treatment if that was the case?

3       A.    Yes, sir.

4       Q.    But there's nothing that happened --

5       A.    No, sir.

6       Q.    -- from the hospital visit today that -- that  
7 you blew off?

8       A.    No, sir.

9       Q.    No? Okay. And -- and the kids did care for  
10 her? You were in charge of her? They did interact with  
11 her?

12      A.    Yes, sir.

13      Q.    But today, her day was mostly spent in the  
14 crib?

15      A.    Yes, it was in --

16      Q.    Pretty much from the time you put her to bed  
17 around midnight --

18      A.    Yeah.

19      Q.    -- to -- to when the incident happened?

20      A.    Yes. I mean, I did get her to change her  
21 diaper twice. I did get her when I would ge the bottle  
22 --

23      Q.    Okay.

24      A.    -- you know, twice. But other than that, she  
25 was always placed in the crib. And that's just because

1 if I did get her, you know, she -- she would cry and pos  
2 you -- you could hear it and --

3 Q. Right.

4 A. -- you know, but...

5 Q. Okay. Now, let me ask you. When -- when I got  
6 there I looked at the crib, and all there was was like a  
7 little sheet, I think, of Mickey Mouse characters, or  
8 something like that, cartoon characters.

9 A. Yeah.

10 Q. Was there anything else in the crib with her  
11 when all this happened?

12 A. Well, she just had her bottle and she had a  
13 little cover.

14 Q. Okay. What do you mean? What kind of cover  
15 was it?

16 A. Just a baby cover.

17 Q. A blanket?

18 A. Yeah, a blanket.

19 Q. Okay. And her bottle?

20 A. Yes.

21 Q. Okay. Did you remove that out of the crib  
22 after all this happened or -- cause it wasn't in there?

23 A. Yes. When all this happened, we got out Jayla,  
24 I think I removed that blanket even before anything  
25 happened.

1 Q. Okay.

2 A. And that's just because it was getting kind of  
3 hot.

4 Q. Okay.

5 A. So I actually removed it.

6 Q. So you took the blanket out. And the bottle --

7 A. Yeah.

8 Q. -- what did you do with it? Was it already  
9 drank?

10 A. Yeah.

11 Q. Did she already drink it?

12 A. I believe so. I think it's on the table.

13 Q. Okay.

14 A. In the house.

15 Q. Okay. So pretty much how I saw the crib was  
16 how -- how -- how it was there when this happened?

17 A. (Head nod in the affirmative.)

18 Q. There wasn't any toys in there or anything that  
19 could have got stick in her throat or anything like  
20 that?

21 A. No.

22 Q. No?

23 A. No.

24 Q. Okay.

25 A. We're not supposed to have --

1 Q. Okay. That sounds good. Okay. We're -- we're  
2 gonna end the statement here --

3 A. Okay.

4 Q. -- unless there's something else that you want  
5 to let me know, that you fell might be important that I  
6 haven asked you or we haven't covered. Is there  
7 anything?

8 A. I have her a piece of chocolate today.

9 Q. Okay.

10 A. It's a Reese's little cup.

11 Q. Okay.

12 A. -- the little minis, before I gave her her  
13 bottle.

14 Q. I okay.

15 A. And I told my wife, hey, you know what, I have  
16 her a little Reese's cup of, you know, chocolate.

17 Q. Okay.

18 A. And she said, no, you now, you shouldn't do  
19 that.

20 And I said, well, she like it. You know,  
21 and it wasn't a lot.

22 Q. Okay.

23 A. So I didn't, you know...

24 Q. Okay. But other than that, I mean, everything  
25 was okay?

1       A.     Yea, sir.

2       Q.     Okay. All right. Okay. According to my  
3 watch, it's 10:55 p.m. We're gonna end the statement,  
4 okay?

5       A.     (Head nod in the affirmative.)

6       Q.     And that's it. Let me go turn off and I'll  
7 come back. And I believe the people from CPS is here.  
8 They want to talk to you?

9       A.     Okay.

10      Q.     And we'll let them do their part, okay?

11      A.     Thanks.

12               THE COURT: Very well. That concludes  
13 State's Exhibit 1, correct?

14               MS. RODRIGUEZ: Yes, Your Honor.

15               May I publish State's Exhibit MS-2?

16               MR. NORRIS: Your Honor, before we do  
17 that, I have a question. Mr. Lopez has been bumping me  
18 on the shoulder. He needs to have a bathroom break and  
19 my cocounsel, perhaps, he might need one too.

20               THE COURT: Okay. We -- let's take ten  
21 minutes, please. Ten minutes.

22               (Recess taken.)

23               THE COURT: We are back on the record in  
24 State of Texas versus Mr. Antonio Lopez.

25               We're going play the second?

1 MS. RODRIGUEZ: Yes, Your Honor.

2 THE COURT: Very well.

3 MS. RODRIGUEZ: State's Exhibit MS-2.

4 THE COURT: Yes. Thank you.

5 (DVD being played in open court.)

6 INTERVIEW OF ANTONIO N. LOPEZ, JR.

7 BY DETECTIVE HINOJOS:

8 Q. Okay. Okay, Mr. Lopez. I need to make my  
9 introductions again cause we're gonna be recording this  
10 so -- so that people can know who my voice is and your  
11 voice, and then Detective Ruiz, okay?

12 A. Uh-huh.

13 Q. All right. My name is Detective Hinojos. I'm  
14 with the El Paso Police Department, okay.

15 A. (Head nod in the affirmative.)

16 Q. And today is July 31st, 2012, and we're at 911  
17 North Raynor, El Paso, Texas, police headquarters. All  
18 right?

19 A. (Head nod in the affirmative.)

20 Q. I'm gonna be talking to you reference case  
21 number 12-210152. Okay?

22 A. (Head nod in the affirmative.)

23 Q. Also present in the room is?

24 DETECTIVE RUIZ: Arturo Ruiz. I'm with  
25 you the El Paso Police Department. I had previously

1 spoken with you, so...

2 THE WITNESS: (Head nod in the  
3 affirmative.)

4 Q. (BY DETECTIVE HINOJOS) And could you please  
5 state your full name, please.

6 A. Antonio N. Lopez, Jr.

7 Q. Antonio N.?

8 A. Uh-huh.

9 Q. What the N stand for?

10 A. Nunez. Lopez, Jr.

11 Q. Lopez, Jr.

12 A. Uh-huh.

13 Q. Okay. And what's your date of birth?

14 A. March 19th, 1985.

15 Q. And your social?

16 A. 525-57-0560.

17 Q. Okay. And what's your address?

18 A. 1701.

19 Q. Uh-huh.

20 A. Villa Santo Circle, El Paso, Texas, 79935.

21 Q. Okay. All right. You're not under arrest  
22 right now and we don't have a warrant for your arrest,  
23 but like we had explained earlier, we want to ask you  
24 some questions and we're gonna read you your right,  
25 okay?

1       A.     Okay.

2       Q.     All right.   *Warning to Be Given -- Warnings to*  
3   *Be Given Before Questioning.*

4                You have the right to remain silent and  
5 not make any statement at all. Any statement you make  
6 may be used against you at trial.

7                Do you understand that?

8       A.     Yes.

9       Q.     Any statement you make may be used as evidence  
10 against you in court.

11               Do you understand that?

12       A.     Yes, sir.

13       Q.     You have the right to have a lawyer present to  
14 advise you prior to and during any questioning.

15               Do you understand that?

16       A.     Yes, sir.

17       Q.     If you are unable to employ a lawyer, you have  
18 the right to have a lawyer appointed to advise you prior  
19 to and during any questioning.

20               Do you understand that?

21       A.     Yes, sir.

22       Q.     You have the right to terminate the interview  
23 at any time?

24               Do you understand that?

25       A.     Yes, sir.

1       Q.    If you are not a United States citizen, you  
2 have the right to contact your consulate.

3               Do you understand that?

4       A.    Yes, sir.

5       Q.    And down at the bottom it says, I understand my  
6 rights and I hereby knowingly, intelligently, and  
7 voluntarily waive these right.

8               Do you understand that?

9       A.    Yes, sir.

10       Q.   By talking to us you're gonna be waiving your  
11 rights.

12       A.    Yes, sir.

13       Q.    Okay.  Also, I had, on the United States, you  
14 are a United States citizen?

15       A.    Yes, sir.

16               DETECTIVE RUIZ:  Before we go on,  
17 according to my watch, ti's 1955 hours.

18               DETECTIVE HINOJOS:  1955.

19               DETECTIVE RUIZ:  So it's about -- I know  
20 you don't understand military time.  So it's 7:55, okay?

21               THE WITNESS:  Okay.

22               DETECTIVE RUIZ:  Cause I remember the last  
23 time we were discussing that.  Okay.  All right.

24       Q.    (BY DETECTIVE HINOJOS)  so real quick, my  
25 partner talked to you before.  I kind of went over that,

1 but I just want to make sure that we have everything  
2 right from what you had told us before. So I just kinda  
3 want you to go ahead and -- and lay out for us the day  
4 that Jayla got sick. If you can just lay out for us  
5 what had happened. Who was in the house, okay?

6 A. Okay.

7 Q. So lets' start off with that. Who's in the  
8 house?

9 A. At the time it was my wife. She was making a  
10 cake.

11 Q. What's her name?

12 A. Alice Pearl --

13 Q. Uh-huh.

14 A. -- Lopez. And then my two girls, Rebecca and  
15 Kayla.

16 Q. And how old are they?

17 A. Rebecca is four and Kayla is two.

18 Q. Okay.

19 A. And they were with me. And Rihannon Reynolds,  
20 and she's -- she said she was 13 or 14, something like  
21 that.

22 Q. Okay.

23 A. And Alejandra Mota. I don't know how old she  
24 is. And I think that's it.

25 Q. Okay. And how is is that Rihannon and -- and

1 -- well, how is it that Alejandra got there to your  
2 house?

3 A. She likes to help my wife when she makes cakes  
4 or anything like that. And so I don't know how she  
5 found out she was gonna make a cake. I'm sure my wife  
6 told my mother-in-law. And they talked and I guess  
7 Alejandra asked if she could come over, and, then *pos*,  
8 she got there.

9 Q. Okay. So let's start off with the morning.  
10 That morning, how -- what time did you wake up?

11 A. I think we ended up waking up around -- I think  
12 I woke up around 7:30, 8:00, somewhere around there.

13 Q. Okay.

14 A. So, yeah.

15 Q. Were any of the kids up?

16 A. No. Everybody was asleep. The second one to  
17 wake up was Jayla.

18 Q. Okay. And then what happened when she woke up?

19 A. *Pos*, I usually always make her her bottle, so I  
20 picked her up, went to the kitchen and I took her with  
21 me. Made her a bottle, came back. I changed her diaper  
22 later on the -- on the bed, and I have her her  
23 medication and put her back.

24 Q. About what time was that when she woke up?

25 A. I think it was around 9:00. And then that's

1 unusual for her to wake up late, but it's cause the day  
2 before we have a meeting, the leaders of the church have  
3 a meeting at 10:00, and it sometimes last till 12:00, so  
4 we were there pretty late.

5 Q. Okay.

6 A. So...

7 Q. All right. And then just to kind of be clear,  
8 you said your other daughters were Rebecca and?

9 A. Kayla.

10 Q. Kayla, right?

11 A. (Head nod in the affirmative.)

12 Q. Those are your kids with --

13 A. They're mine.

14 Q. -- with Alice, right?

15 A. Yes.

16 Q. They're bi- -- you biological kids?

17 A. Uh-huh.

18 Q. And Jayla, Jayla Beckley, how is Jayla Beckley  
19 there with you at your house?

20 A. She was placed in our home for -- as a foster  
21 placement.

22 Q. Okay. All right. So then you had given her  
23 her -- her food and everything like that, right?

24 A. (Head nod in affirmative.)

25 Q. You had given her -- her -- her bottle. Who

1 else woke up during that time? Did anybody else wake up  
2 while you were feeding her?

3 A. Well, I didn't feed her. I just gave her the  
4 bottle and I left her in the crib. And then me and her  
5 -- I was on the edge and 00 and she would just imitate  
6 sounds and she would play with me, and we were just  
7 giggling back and forth. And my wife woke up and, *pos*,  
8 she saw us, you know, playing around, and so afterwards  
9 it was my wife.

10 Q. Your wife woke up?

11 A. Uh-huh.

12 Q. Okay. And then what did she do? Did she stay  
13 there with you guys?

14 A. For a little bit cause we watched -- we have  
15 the *novela* we record --

16 Q. Uh-huh.

17 A. -- we watched it together from the previous  
18 night, and we were watching that, and then we watched  
19 the Olympics together or something else, but after a  
20 while she woke up and started dined all the -- all cake  
21 stuff.

22 Q. Okay. Did she make breakfast at any time for  
23 your guys?

24 A. Yeah. She -- she make egg and a sandwich.

25 Q. Okay.

1 A. Yeah.

2 Q. And so then did the kids, the other kids wake  
3 up then? What time did they wake up?

4 A. Yeah. Rebecca wakes up later, like around  
5 10:00. And Kayla actually woke up, if I remember, Kayla  
6 actually woke up right around the time I did, or the  
7 time Jayla did.

8 Q. Okay.

9 A. So...

10 Q. And then you said Rihannon Reynolds was there,  
11 too, right?

12 A. Yes.

13 Q. And why is it that Rihannon Reynolds was there?

14 A. Oh, she was place as a respite, just temporary.  
15 I think her foster parents went on vacation or something  
16 like that. So she was placed in our -- our home.

17 Q. Okay. And what time did she wake up, do you  
18 remember?

19 A. No, but she wakes up late because she takes  
20 medication for deep sleep.

21 Q. Okay.

22 A. So it's usually always around 10:00.

23 Q. Okay.

24 A. Around here.

25 Q. All right. So when, your -- I guess the kids,

1 everybody is eating breakfast?

2 A. (Head not in the affirmative.)

3 Q. And did you guys get an visitors?

4 A. I think later on when Alejandra came in. It's  
5 cause I was eating breakfast in the office. She took me  
6 a sandwich in the office and -- while they were doing  
7 the cake stuff. They would eat it there in the kitchen.

8 Q. Okay.

9 A. So I didn't even know at what time she got in.  
10 But I do remember she came in because sometimes I would  
11 walk out and, you know, I would see who was there.

12 Q. Okay. Who was there? Who did you see there?

13 A. There in the kitchen it was just my wife, my  
14 two girls, Rihannon, and I don't know if at that time  
15 Alejandra was there, but later on in the day she was  
16 there.

17 Q. Okay. And anybody else other than Alejandra  
18 and -- and Rihannon and your girls?

19 A. No.

20 Q. Was your mother-in-law there?

21 A. Afterwards, whenever -- well, actually, yeah,  
22 she got there when she took Alejandra. She stayed there  
23 for a little bit watching my wife make the cake. I  
24 don't know if Jeremiah went during that time, but  
25 whenever the ambulance came and everything, she did.

1 She did get there with Jada and -- and Jeremiah.

2 Q. Okay. All right. So then they're all there.  
3 You said that you were pretty much in the room, that --  
4 that she took you breakfast into the room?

5 A. In the office, yeah.

6 Q. Okay. So who was in the -- who was in the room  
7 with you? Okay. The office is where? Can you explain  
8 that to me?

9 A. Pos, the -- the room is here, and then if you  
10 walk, there's a little -- little hallway. There's a  
11 restroom in the office, so it's in between the off- --  
12 the restroom and the master bedroom.

13 Q. But attached to the room?

14 A. Yeah.

15 Q. Attached to the --

16 DETECTIVE RUIZ: And the office you're  
17 talking about is like a walk-in closet, right, you just  
18 turned it into --

19 THE WITNESS: Yeah. We just turned it  
20 into an office.

21 DETECTIVE RUIZ: Okay. But it's within  
22 your master bedroom?

23 THE WITNESS: Yeah.

24 DETECTIVE RUIZ: Okay.

25 Q. (BY DETECTIVE HINOJOS) All right. So then, in

1 the room with you -- who's in the room with you, or in  
2 the -- in the bedroom?

3 A. Pos, Kayla -- Jayla was in the crib there.  
4 Afterwards, my wife told me to get Rebecca and Kayla  
5 into the room because they weren't letting her make the  
6 cake right, so I just brought them in and we were just  
7 watching TV.

8 Q. Okay. So after you had fed Jayla, you said you  
9 gave her a bottle and she was in there. Was she -- was  
10 she still there? Was she awake? Was she like in the  
11 crib, like, you know, watching you guys and stuff?

12 A. Yeah. She was -- she would sit down, she would  
13 just lay, or she would make noises, or Kayla would get  
14 off and play with Jayla through the crib. So she was  
15 there.

16 Q. Okay.

17 A. There was a time where it got quiet, so I just  
18 thought she had tooken [sic] a nap.

19 Q. And about how long was that after you had given  
20 her her bottle?

21 A. The nap? I'd say around 10:30, 11:00, maybe.

22 Q. Okay.

23 A. That she took a nap cause she always takes a  
24 nap right after.

25 Q. Okay.

1 A. I don't know if --

2 Q. And usually, how long are her naps?

3 A. About an hour.

4 Q. About an hour?

5 A. The longest has been like almost two, but about  
6 an hour.

7 Q. Okay. So when she laid down and took the nap,  
8 when was it -- when -- about how long was it before you  
9 realized something was wrong?

10 A. When she took the nap until I figured out  
11 something was wrong? *Pos* that happened around 3:30, so  
12 -- I mean, she didn't nap that long.

13 Q. So did she wake up at any time?

14 A. Oh, yeah, yeah.

15 Q. She did wake up?

16 A. Yeah, she woke up around, I'd say about 11:30,  
17 12:00, some where around there.

18 Q. Okay.

19 A. So she took a nap like -- she took a nap right  
20 after i gave her the -- her bottle and her medication.  
21 So I think in the medication log it says I gave her her  
22 meds at, I'd say, 15 till 10:00, or something like that.  
23 *Algo asi*. I don't remember.

24 Q. All right. But you said she woke up a 12:00,  
25 though, right?

1 DETECTIVE RUIZ: So she napped from 10:00  
2 till about 12:00?

3 THE WITNESS: No. She napped like about  
4 an hour, hour and a half. It wasn't that long.

5 DETECTIVE RUIZ: Okay.

6 THE WITNESS: So --

7 Q. (BY DETECTIVE HINOJOS) All right.

8 A. I -- I -- it's cause I'd have to look at the  
9 medication logs to see exactly what time I gave her the  
10 medication, you know?

11 Q. And then when she woke up after her nap, did  
12 she go to sleep at all anymore?

13 A. From her nap, no. Not no more.

14 Q. No?

15 A. No.

16 Q. She was awake?

17 A. Yeah. She was just awake there in the crib.

18 Q. What was she doing?

19 A. No, she would just sit down, or -- or she would  
20 grab on, just go like that, or Kayla would play with  
21 her, or she'd just lay there, but...

22 Q. Okay.

23 A. I would --

24 Q. So she was awake and playing around and then --  
25 and then what? And then when did you notice something?

1 I mean, she was -- from the last time you saw her, she  
2 was like playing around and stuff, and then you saw her  
3 that she wasn't?

4 A. Well, that was around -- I think that was  
5 around 3:00, 3:30. I have given her her mediation *como*  
6 *a las* 12:00, 12:30, and *pos, ya* -- I left her alone.  
7 She didn't take a nap anymore and I gave her her -- her  
8 I think it was the second bottle, and we left her there.

9 I was watching the Olympics with the girls  
10 and we were just laying there. And sometimes I'd go in  
11 the office, or sometimes I'd come back out, or sometimes  
12 I'd go where my wife was and just, you know, to see the  
13 cake and all that, and come back.

14 And I think about 3:00 or 3:30, somewhere  
15 around there, when I was in the -- in the bedroom, *pos,*  
16 I smelled a dirty diaper, and so I got up and, you know,  
17 got the stuff from the -- I think it was on top of the  
18 filing cabinet -- and I brought it down. And when I  
19 peeked over the crib, you know, I think she was on her  
20 side and I heard, you know, like -- like *pucheros*, like,  
21 you know, like.

22 Q. Uh-huh.

23 A. So I just thought she didn't want to be grabbed  
24 or anything, *pero ya*, you know, when I got her and  
25 everything, *ya mire*, like she -- her cover was right

1 here and -- and pos I just got her and she just looked  
2 -- she didn't look right, you know. The -- her eyes  
3 were, you know, just, you know, like cross-eyeded [sic]  
4 sort of, and they started going back, and that's when I  
5 called my wife. She came in and -- and got her.

6 Q. So the time that -- when she was in the bedroom  
7 with you --

8 A. Uh-huh.

9 Q. -- anybody else come in there and take care of  
10 her at all?

11 A. Well, when I was in the office, I -- when I was  
12 browsing the web or reading the book, one of those  
13 things, somebody came in and opened the filing cabinet  
14 and close it, and I thought it was my wife. And I think  
15 I told him or somebody that I thought it was my wife. I  
16 asked her and she said it wasn't her. So I'm thinking  
17 it was Kayla, cause sometimes they like to get some  
18 papers that are there and color. And so whoever walked  
19 in, you know, whatever, pero it was just myself, Kayla  
20 and Rebecca.

21 Q. Okay. But when you heard the file cabinet, you  
22 came out and looked --

23 A. No, I didn't --

24 Q. -- and you didn't see who it was?

25 A. No, I didn't come out.

1 Q. Oh, you didn't come out?

2 A. No, I came out later, not when I heard the...

3 Q. But that's all you heard, was just the --

4 A. Yeah.

5 Q. -- the file cabinet? I mean, you could hear  
6 anything else is anything else had been --

7 A. Yeah.

8 Q. Okay. All right. And so that's pretty much  
9 it. And you -- that's when you told your wife and then  
10 that's when you call the police and everything?

11 A. Uh-huh.

12 Q. Okay. All right. I just wanted to make sure  
13 that nobody else had -- had gone in there. And that was  
14 it, right?

15 A. No. *Pos*, I mean, as far as I'm concerned, like  
16 nobody is allowed to go in the room. Your know,  
17 Rihannon would ask sometimes, can I come in? And *pos* I  
18 -- I would tell her no, you now. You know, if somebody  
19 came in while I was in the office, *pos*, you know -- and  
20 I don't think she would open the filing cabinet anyway,  
21 so...

22 DETECTIVE HINOJOS: Okay.

23 DETECTIVE RUIZ: Did anybody else care for  
24 Jayla that day?

25 THE WITNESS: No.

1 DETECTIVE RUIZ: Besides yourself?

2 THE WITNESS: Grabber her and everything?

3 DETECTIVE RUIZ: Yeah.

4 THE WITNESS: No. No. She basically just  
5 stayed in the crib. The only time I would get her was  
6 when I changed the diaper or give her the medication.  
7 And that's just because my wife was making that cake,  
8 you now.

9 DETECTIVE RUIZ: Okay.

10 THE WITNESS: So...

11 Q. (BY DETECTIVE HINOJOS) You're -- you're, from  
12 what I gathered, I imagine you're a pretty religious  
13 guy, right?

14 A. Yes, sir.

15 Q. So you know, being -- I think that it's one of  
16 those things, you know, being religious, you really  
17 believe that somebody is looking down on you at all  
18 times and stuff like that, right?

19 A. Uh-huh.

20 Q. And do you feel that you're being completely  
21 honest with us?

22 A. Yes, sir.

23 Q. Okay.

24 A. Yes, sir.

25 Q. And you're sure about that? Cause I want to

1 give you an opportunity, if for some reason, you may  
2 have, you now, forgotten or neglected to tell us  
3 something, I want to give you the opportunity --

4 A. Uh-huh.

5 Q. -- to --

6 DETECTIVE RUIZ: Come --

7 Q. -- do it on your own, you know what I mean?

8 A. (Head nod in the affirmative.)

9 Q. Okay?

10 A. Uh-huh. No. No. I mean, I've -- I've -- you  
11 know, what I tell my wife is that, you now, I'm glad  
12 that we both feel that, you know, *pos*, we did everything  
13 we could for, you know, little Jayla, even though we  
14 can't, you know, explain exactly what happened. But you  
15 know, we feel that our prayers are being heard and all  
16 this, and *pos*, we feel, even though we can't sleep real,  
17 real, well because of things that have been going on,  
18 you know, we just feel that, *pos*, God is on our side,  
19 you know, and it's not like anything intentional or  
20 nothing like that, you know. It's just something  
21 delicate, you know. It's something so delicate that I  
22 don't think we could deal with something on our hands  
23 like that, you now -- you now what I mean?

24 Q. Well, is it God? You know, he maybe on your  
25 side or whatever, but science does not lie.

1 A. Oh, okay.

2 Q. And -- and we did have the autopsy today.

3 A. Oh, okay.

4 Q. Okay. We did have the autopsy today. All  
5 right?

6 A. Uh-huh.

7 Q. So is there anything that you want to tell us?

8 A. No, nothing. Nothing at all.

9 QUESTIONING BY DETECTIVE RUIZ:

10 Q. We have some issues that we need to cover with  
11 you, and they're serious issues.

12 A. Okay.

13 DETECTIVE HINOJOS: Okay.

14 Q. And -- and you need to -- I mean, you're a  
15 strong believe in the Lord.

16 A. Yes, sir.

17 Q. I mean, you've made it very clear to us. And  
18 -- and you know, regardless of what happened that  
19 morning at your house --

20 A. Uh-huh.

21 Q. -- you know, if you strongly believe in the  
22 Lord the way you're telling us --

23 A. Uh-huh.

24 Q. -- that you have to dig deep inside of you and  
25 do the right thing and be completely, one hundred

1 percent honest.

2 A. Yes, sir.

3 Q. And at this point right now I don't think  
4 you're being one hundred percent honest. Okay? I think  
5 there are some problems here. Okay?

6 A. Oh, no. No.

7 Q. Yea. So -- and that's what we need to get  
8 straightened out here, because there's -- there's some  
9 serious issues that my partner is gonna cover with you.

10 A. Okay.

11 Q. And -- and -- and we need to be completely  
12 honest.

13 A. Okay.

14 FURTHER QUESTIONING BY DETECTIVE HINOJOS:

15 Q. Okay?

16 A. No problem.

17 Q. One of the things that we know is that what  
18 caused Jayla to die was that she bled internally. Okay?

19 A. Okay.

20 Q. All right. She had massive lacerations. That  
21 means her -- her liver was cut, okay, and the only way  
22 that was gonna happen was by a significant blow to her  
23 stomach or to her abdomen, okay?

24 A. Okay.

25 Q. All right. And you've already told us you were

1 the only one that was in there with her.

2 A. Yes.

3 Q. All right. And this didn't happen before, a  
4 ling time before, okay?

5 A. (Head nod in the affirmative.)

6 Q. What those -- those injuries that caused her to  
7 die, those happened right when you guys called for --  
8 for medical help.

9 A. Uh-huh.

10 Q. Okay? They -- they weren't like a long time  
11 before.

12 A. Right.

13 Q. These happened when you guys had custody of --  
14 of Jayla, all right?

15 A. Okay.

16 Q. It wasn't something that happened before when  
17 they -- you know, cause she's been with you since --  
18 since June 21st.

19 A. Uh-huh.

20 Q. Okay. It didn't happen any time before that.  
21 That much we can definitely say.

22 A. Okay.

23 Q. All right?

24 A. Yes, sir.

25 Q. So her liver was lacerated, okay. Not only

1 were these -- did these punches lacerate her liver, they  
2 also caused her lung to get punctured, okay?

3 A. (Head nod in the affirmative.)

4 Q. And her -- the lining of her -- of her -- of  
5 her intestines were also -- also cut. She had a lot of  
6 blood inside of her stomach, okay.

7 DETECTIVE RUIZ: She was in a lot of pain.

8 Q. A lot of pain. This was a painful death. It  
9 wasn't that quick, either, you know. It took her a  
10 little bit to die, all right. Now, do you still want to  
11 sit there and tell me that you don't know what happened?

12 A. Yes, sir.

13 Q. Because I'm gonna tell you right now, okay,  
14 what's gonna happen is that if you stick with this, all  
15 right, if you stick with this side of the story, this is  
16 pretty much what it's gonna show; is that you're pretty  
17 cold, because all you're looking out is for yourself,  
18 okay?

19 A. No, sir.

20 Q. Because what we know is that the injuries that  
21 were sustained by -- by Jayla were intentional, all  
22 right, and it was caused by somebody, by an adult, all  
23 right, somebody who's gonna be able to produce that  
24 amount of force to do that. Not only did she have that,  
25 she also had some broken ribs, okay?

1 A. Oh, no. N.

2 Q. Yes. Yes, she had some broken ribs, okay.

3 A. Oh, wow.

4 Q. She also had an injury to the back of her head.

5 Al right?

6 A. Yes, sir.

7 Q. Like I tell you, God may be on your side, but  
8 when God sees what science has to show, I don't think  
9 he's gonna be on your side very long, okay?

10 A. Yes, sir.

11 Q. Not until you come clean. Not until you're a  
12 man and come clean about what you did, all right?

13 A. No, sir, I didn't do --

14 Q. And if you didn't do it, then that means your  
15 wife did it.

16 DETECTIVE RUIZ: Then your wife did it.

17 THE WITNESS: But she wasn't even --

18 DETECTIVE HINOJOS: Well, it's gonna be  
19 one or the other.

20 DETECTIVE RUIZ: It's one --

21 DETECTIVE HINOJOS: It's either you or  
22 her.

23 FURTHER QUESTIONING BY DETECTIVE RUIZ:

24 Q. Or both of you. It's plain and simple, okay?

25 A. No, sir.

1 Q. Those injuries happened within two hours of  
2 when you called for help, okay. That's the bottom line.  
3 Like my partner is saying, science does not lie. Okay.  
4 The medical examiner, okay, was very thorough. He's  
5 been doing this for numerous years, I mean, 30, 40 years  
6 plus, okay. So he knows what he's talking about, okay?

7 A. Right.

8 Q. So either that child suffered those injuries in  
9 your hands, in your wife's hands or both of your hands,  
10 okay? And it's time to, like my partner is saying, it's  
11 time to make the proper choices here, okay?

12 A. Right.

13 Q. And if you want God to stand on your side, you  
14 need to be one hundred percent truthful, okay?

15 A. I am being one hundred percent --

16 Q. That -- I -- we don't think so.

17 A. No.

18 Q. We don't think --

19 DETECTIVE HINOJOS: We know you're not.

20 THE WITNESS: No. No.

21 DETECTIVE HINOJOS: We know you're not.

22 THE WITNESS: No, sir.

23 Q. (BY DETECTIVE RUIZ) then give me -- give me  
24 your explanation of those injuries, then.

25 A. I don't know.

1 Q. Well --

2 A. We didn't --

3 Q. I mean --

4 A. We would --

5 Q. I dont know, either?

6 A. We didn't have to do nothing.

7 Q. I wasn't at your house. I wasn't at your  
8 house, Antonio. Okay? And I know, I know out of shame  
9 or something, but you know, it's very easy to lose your  
10 cool with a child.

11 A. Oh, no. No. I mean, it's not shame.

12 (Unintelligible) no, it's not even losing temper. We  
13 would -- we would never -- I mean, we opened our home.  
14 We opened our hearts, I mean. No. No. No.

15 Q. Well, then you tell me how that baby go those  
16 injuries in the hours that she was under you watch?

17 A. I -- no, no, no.

18 FURTHER QUESTIONING BY DETECTIVE HINOJOS:

19 Q. You know what? It's just -- it's worse for you  
20 to sit there and deny it --

21 A. No, no, no.

22 Q. -- than to finally --

23 A. I'm not denying anything.

24 Q. -- just come out and say it and at least have  
25 some remorse for having done that to a child because --

1       A.    No, no, no.

2       Q.    -- all she did was to go there to try to  
3 hopefully find somebody who's gonna be able to take care  
4 of her.  Now -- and if it was something like that, you  
5 know what, it was just one of those spur-of-the-moment  
6 things and you just kind of lost your temper, you know,  
7 it happened.  It happened?

8       A.    Not even with my kids I do that.  I've never  
9 spanking my children.  I'm ---

10      FURTHER QUESTIONING BY DETECTIVE RUIZ:

11      Q.    And -- and your kids are perfectly healthy.  I  
12 don't see anything like that.  But -- but you know what,  
13 there was an issue here, okay, there was an issued with  
14 this child, okay.  Something happened that morning,  
15 okay.  That's why we wanted to make sure that we were on  
16 the same page, that you were the only one watching that  
17 child, okay, like you told us twice already.

18      A.    Yes.

19      Q.    Okay?  And we're telling you, okay, we're not  
20 lying to you.  I've told you from the get-go --

21      A.    Yes, sir.

22      Q.    Okay.  I told you that Saturday night that I  
23 like to be very straight forward with people, okay?

24      A.    Yes sir.

25      Q.    And you know, I can be a very reasonable man,

1   okay, but you know what, if I -- if you want me to see  
2   you as a monster, I'll see you as a monster, okay? Now,  
3   if you want to offer me a reasonable explanation why you  
4   or your wife would do this to a child -- 4?

5       A.    No.

6       Q.    -- then, you know, I think the opportunity is  
7   right now, okay?

8       A.    No, no. We wouldn't.

9       Q.    But the thing is that that child suffered  
10  injuries at your hand or the hands of your wife or both,  
11  like I said. And there's not gonna be no way around it,  
12  okay? There's not gonna be no way around it. Now, if  
13  you don't want to give a pliable explanation, then let  
14  the courts decide, let them look at you as monsters,  
15  okay?

16      A.    No, we're not --

17  FURTHER EXAMINATION BY DETECTIVE HINOJOS:

18      Q.    Because somebody -- I mean, at least a person  
19  that you know that they're sorry about something, that  
20  they have at least a conscience, if they have a  
21  conscience, something -- that little girl, at least try  
22  to picture that -- try to picture her face, okay?

23      A.    (Head nod in the affirmative.)

24      Q.    I'm picturing Jayla's face right now because,  
25  guess what? I got to see her on a cold slab. That's

1 how I got to see Jayla?

2 A. No. We would never do nothing like that.

3 Q. I'm just telling you this is what I'm seeing,  
4 okay? I get to see Jayla on a cold slab, freezing cold  
5 in there, her body lifeless, and they have to cut her  
6 open. And when they do, noting but blood starts to come  
7 out of her stomach. And you know why? Because somebody  
8 punched her in the stomach causing her liver to get cut  
9 open and causing her lots of pain and then she died.

10 A. No.

11 Q. Okay?

12 A. No, sir. We would --

13 Q. Somebody did it.

14 A. No, no.

15 Q. And it had to have been caused right before the  
16 ambulance was caused [sic]. And I'm telling you right  
17 now, there is no way that any child should ever be  
18 sitting on a slab like that, okay?

19 A. No.

20 Q. And the thing is, Jayla doesn't deserve this.

21 A. No, she doesn't. No -- no child deserves that.

22 Q. You know, at the very least, a lot of times in  
23 these cases, at least somebody has a conscience to say,  
24 you know what, I've made a mistake. I've done -- you  
25 know, I've done something that I shouldn't have done,

1 but you know what, I'm a man, and I'm -- you know, I  
2 look up to -- I'm a God-fearing person and I know that  
3 God will punish me if I keep lying. My -- God will  
4 punish my kids. God will punish everything from me on  
5 down, my -- my seeds to come into the future for having  
6 done something like this if I don't atone for it.

7 A. It's case that's the thing. I didn't do it.  
8 My wife, we could --

9 FURTHER QUESTIONING BY DETECTIVE RUIZ:

10 Q. So who -- who did it? Your -- your children?

11 A. I can't even believe that would ever happen.

12 Q. Well --

13 A. Sometimes I'd be in the office, sometimes I'd  
14 go in the kitchen, sometimes I'd come back, but my girls  
15 were there.

16 Q. Okay. Well, now, earlier you told us that you  
17 never really left the room? Now you're leaving the  
18 room?

19 A. No. I said from the beginning when you first  
20 interviewed me I would sometimes go into the office or  
21 sometimes I'd go into the kitchen to see my wife make  
22 the cake, and then I would come back.

23 Q. Okay. So who -- who did this to your child  
24 then?

25 A. I can't even believe you're telling me this or

1 that you think that we would even --

2 FURTHER QUESTIONING BY DETECTIVE RUIZ:

3 Q. I believe that we're having to tell you this.  
4 I can't believe that you didn't at least have some sort  
5 of a conscience to say, you know what, I made a mistake.  
6 I should have just came out and told you guys. And you  
7 know what, it would have been a little bit different.  
8 But for us to have to keep here and trying to get you to  
9 try to tell us what really happened --

10 A. Sir, I can't even -- I wasn't -- I couldn't.  
11 How?

12 Q. How?

13 A. My wife was -- was in there. I would sometimes  
14 be in there. I can't even believe that you guys would  
15 -- would think that about us, I mean, not even with our  
16 own children.

17 Q. What would you think if you were at an autopsy  
18 and then they cup open her stomach and all the blood was  
19 there, and then her liver was cut and her intestines  
20 cut? What would you think?

21 A. I would think that something was seriously  
22 wrong.

23 Q. That I told you that I was the one that had  
24 taken care of her through all that time and she was the  
25 -- I'm the only one that had acces to her. What would

1 you think?

2 A. I would think something went wrong.

3 DETECTIVE RUIZ: Well, something did go  
4 wrong.

5 DETECTIVE HINOJOS: Because -- because  
6 something did go wrong, Antonio.

7 DETECTIVE RUIZ: People's livers don't  
8 just lacerate for nothing, okay?

9 THE WITNESS: I understand.

10 DETECTIVE RUIZ: You don't break your ribs  
11 for nothing, okay? I mean --

12 DETECTIVE HINOJOS: You don't get a bang  
13 on the head for nothing, okay?

14 DETECTIVE RUIZ: You don't fracture her  
15 skull for nothing, okay?

16 THE WITNESS: No. No, no, no, no.

17 DETECTIVE RUIZ: Well, I mean, those are  
18 the true facts. Those are the true facts, okay?

19 Q. (BY DETECTIVE HINOJOS) And I know why you're  
20 wincing, because you can still picture it, what  
21 happened, how you lost it with this little baby and how  
22 that happened.

23 A. I -- no. No, no, no. I wish you wouldn't  
24 question me like that because I didn't do anything. My  
25 wife didn't do anything. Our girls --

1 Q. One of you did.

2 A. -- didn't do anything. No.

3 Q. One of you did. We know your girls didn't do  
4 it. I'll tell you right now. Cause don't even go  
5 there. Don't even mention your girls in that little --  
6 that little response because, you know what, that's the  
7 coward's way.

8 A. No, no, no.

9 Q. So don't even mention that your girls did  
10 anything because they didn't, okay?

11 A. No.

12 Q. It took a significant amount of force to cause  
13 those injuries, okay, only coming from an adult. And  
14 that's either you or your wife.

15 A. No, no, no, no, no.

16 Q. And your wife, I've talked to her. She doesn't  
17 seem like she has enough, you know to have done that,  
18 but is she does --

19 A. I don't know how you think I would.

20 Q. -- then you know what? I think you do. I see  
21 your hands. You're pretty strong.

22 A. Oh, no. No, no, no. No, no, no. Don't think  
23 that about us. We're not that -- no.

24 FURTHER QUESTIONING BY DETECTIVE RUIZ:

25 Q. Well, what do you want me to think? What do

1 you want me to think, Antonio. What do you want me to  
2 think when I've got a professional telling me this kid  
3 suffered these injuries at the hand of whoever was  
4 taking care of it, okay? That happens to be you. What  
5 do you want me to think? You tell me what you want me  
6 to think --

7 A. No.

8 Q. -- as a reasonable person.

9 A. We didn't do any --

10 Q. Tell me?

11 A. -- anything. We didn't --

12 Q. No. Tell me what you want me to think.

13 A. I don't know, but we didn't do anything.

14 DETECTIVE HINOJOS: What would you think?

15 THE WITNESSES: I wish we would have had  
16 cameras in the house. I didn't --

17 DETECTIVE RUIZ: Well, I do, too.

18 DETECTIVE HINOJOS: I wish you would have  
19 had, too.

20 Q. (BY DETECTIVE RUIZ) I wish you would have had,  
21 too, okay, but unfortunately, I don't have that  
22 opportunity, okay. I just have to go by medical science,  
23 okay, by medical science and -- and reasonable thinking,  
24 okay?

25 A. (Head nod in the affirmative.)

1 Q. I have to deduct all -- everything else. The  
2 kids didn't do it, okay? The medical examiner is  
3 telling us that, okay?

4 A. (Head nod in the affirmative.)

5 FURTHER QUESTIONING BY DETECTIVE HINOJOS:

6 Q. We even asked you. We even asked you, what  
7 would you think in our case.

8 A. I would just think something went wrong.

9 Q. Okay. We even put it to you, that you would  
10 think that I had done it?

11 A. No.

12 Q. So, you know, it's a reasonable thing.

13 A. I would think something went wrong.

14 Q. Something wasn't medical, okay. It's not  
15 something that happened.

16 A. No, I didn't say medical.

17 Q. Somebody did --

18 A. I said something went wrong.

19 Q. Somebody did this to her. That's all there is.  
20 That's the explanation. Somebody did this.

21 FURTHER QUESTIONING BY DETECTIVE RUIZ:

22 Q. Two adults in the house. Two adults in the  
23 house, the child suffer injuries that we're describing  
24 to you. What is your conclusion?

25 A. Something went wrong. Something's wrong.

1 Q. Something's wrong like what? I don't get you.

2 A. Well, I mean, if you're describing all that,  
3 then something happened.

4 DETECTIVE HINOJOS: Yes, something did  
5 happen.

6 Q. (BY DETECTIVE RUIZ) Yeah. So then, you give  
7 me your explanation on what something happened?

8 A. I don't know. I don't --

9 Q. Exactly. We know. We know.

10 DETECTIVE HINOJOS: There's only two of  
11 you in there.

12 Q. (BY DETECTIVE RUIZ) We know that she suffered  
13 the injuries at your hands or the hand of your wife,  
14 okay?

15 A. No, no, no. I mean, I can't. No. I don't  
16 know. How can it even -- how could you think that it  
17 would be me or my wife?

18 FURTHER QUESTIONING BY DETECTIVE HINOJOS:

19 Q. Because you're the only two that are in there.  
20 And from what you're telling us, she never went in there  
21 --

22 A. No.

23 Q. -- from the time she was fed to when you were  
24 there, till when you called EMS. It was only you.

25 A. There was times I went in the office, but I

1 don't know who els went in. I did hear the -- the  
2 filing cabinet, but I don't think any of the other tow  
3 girls would do that.

4 Q. But you never heard anything, right?

5 A. Just the filing cabinet open and close.

6 Q. But I mean, you didn't hear her crying?

7 A. No, no, no. I just heard the wincing, the --  
8 the -- you know, whenever I would go change the diaper.

9 Q. But that's when you went out?

10 A. Yeah.

11 DETECTIVE RUIZ: Well, she's suffering in  
12 pain. That's what you heard right there.

13 Q. (BY DETECTIVE HINOJOS) After you punched her.

14 A. No, sir. No, sir. I didn't do that.

15 FURTHER QUESTIONING BY DETECTIVE RUIZ:

16 Q. Well --

17 A. No, sir.

18 Q. Well, the I guess your wife did?

19 A. No.

20 Q. Then I better go over there and tell her what  
21 you're telling me.

22 A. Yes, please, tell her that --

23 Q. That she did it?

24 A. I didn't say that. I didn't say that, sir.

25 Q. Well, you're saying you didn't do it?

1 A. I didn't do it.

2 Q. Okay. And it's just --

3 DETECTIVE HINOJOS: She did it, then?

4 Q. -- two adults in the house. Okay. It's either  
5 you or her.

6 A. No.

7 Q. Okay.

8 A. No, no, no.

9 FURTHER QUESTIONING BY DETECTIVE HINOJOS:

10 Q. And you can honestly sit here and swear to God  
11 --

12 A. I can --

13 Q. -- that she didn't do anything?

14 A. No, sir. No, sir. No, sir.

15 Q. You can swear to God on your fam- -- on your --  
16 on yourself?

17 A. I can swear to God on myself, on my children,  
18 on my wife. I don't know, whatever you want, but no,  
19 sir. No. No.

20 FURTHER QUESTIONING BY DETECTIVE RUIZ:

21 Q. So you're gonna hide behind God?

22 A. I'm not hiding behind anybody.

23 Q. Then give me a reasonable explanation, Tony?

24 A. I'm not -- no -- nobody --

25 DETECTIVE HINOJOS: Nobody what?

1 Q. (BY DETECTIVE RUIZ) Nobody what? Give me a  
2 reasonable explanation, something that I can believe and  
3 that my partner can believe and that we can take to the  
4 doctor, the medical examiner, so he can say, yeah,  
5 that's a reasonable explanation.

6 A. No, sir. I didn't do anything. My wife didn't  
7 do anything. No, we didn't do anything.

8 Q. Okay.

9 A. We opened our home.

10 Q. Okay.

11 A. We opened our hearts.

12 Q. Well, then, who else went in there? Who else  
13 went in there?

14 A. From --

15 Q. You have control of your house.

16 A. From where I.

17 Q. What adult went in there?

18 A. From when I was there in the bedroom, nobody  
19 went in there. When I was in the office, I can't tell  
20 you. I didn't come out. I didn't come out to check who  
21 went in and out. I did hear the filing cabinet open and  
22 close.

23 FURTHER QUESTIONING BY DETECTIVE HINOJOS:

24 Q. Even if you were -- even if you were in the  
25 office, okay, you would have heard somebody --

1 A. I would have heard.

2 Q. -- punching her.

3 A. Yes, sir.

4 Q. This is bad.

5 A. I would have heard something. Yes, sir. I  
6 don't doubt that. I can't -- I can't even believe you  
7 guys would think that. I've never been in trouble with  
8 the law. Never. I mean, I've had tickets, but...

9 DETECTIVE RUIZ: Well, I mean --

10 Q. (BY DETECTIVE HINOJOS) You know what, I mean,  
11 a lot of people have sat in that chair and said the  
12 exact same thing and they did this to these kids.

13 A. Yes, but I didn't do anything. My wife didn't  
14 do anything.

15 Q. And that's exactly what they said, too, as they  
16 sat there.

17 A. No, no, no, no.

18 FURTHER QUESTIONING BY DETECTIVE RUIZ:

19 Q. But like we tell you, you need to make the  
20 proper choices, okay, and, okay, don't hide behind the  
21 Lord's?

22 A. No.

23 Q. -- word.

24 A. No.

25 Q. Okay. Name.

1       A.    No, sir.

2       Q.    Don't hide there.

3       A.    No.

4       Q.    Okay.  Then like I said, give me a reasonable  
5 explanation.

6       A.    I don't have a reason --

7       Q.    I'm a reasonable man.  Give me a reasonable  
8 explanation.

9       A.    I don't --

10      Q.    Okay.

11      A.    I don't have one.

12      Q.    That's not gonna wash.  That's not gonna wash,  
13 okay?  That's not gonna wash.  Okay.  You've gotta give  
14 me a reasonable explanation that I can justify, okay,  
15 and -- and verify that that's what actually happened,  
16 okay?

17      A.    Sir, I don't have one.

18      Q.    I mean --

19      A.    I don't have one.

20      Q.    You've gotta tell me an intruder broke in  
21 there, and you know --

22      A.    No.

23      Q.    -- went strait to the baby, hurt her, what --  
24 whatever.  But give me something that I can go on and  
25 verify.

1 A. I --

2 Q. Okay.

3 A. I don't have anything to give you. I --

4 Q. Well, you got the truth stuck in you, okay?

5 You got the truth stuck in there.

6 A. I just told you. I was in the office, or I  
7 would be in the bedroom, or sometimes I would go into  
8 the kitchen.

9 Q. Okay. How long were your absences?

10 A. Not that long. Sometimes in the office --

11 DETECTIVE HINOJOS: Were you in the  
12 kitchen, did anybody leave the kitchen?

13 THE WITNESS: I don't -- not that I can  
14 remember.

15 Q. (BY DETECTIVE RUIZ) Okay. And the office,  
16 it's -- it's in the same room. It's right around the  
17 corner.

18 A. Yeah.

19 Q. Those are paper-thin walls.

20 A. Right.

21 Q. Okay. Those dividing walls within the same  
22 room are not insulated walls or anything, okay? So, I  
23 mean, you heard a filing cabinet --

24 A. Yeah.

25 Q. -- open up or close.

1 A. I was in the office.

2 Q. Okay. You're gonna hear somebody beating the  
3 kid.

4 A. Yes.

5 Q. Okay?

6 A. I can hear cries.

7 Q. Okay. You're gonna hear somebody beat the kid,  
8 okay. Bottom line, okay?

9 A. Yes, I can -- I could hear. I could hear them  
10 crying. I could hear, you know, if Kayla and Rebecca  
11 were fighting. I could hear.

12 Q. Okay.

13 A. When I went to the kitchen I don't know who --  
14 I don't remember if anybody left.

15 Q. So --

16 A. I don't think anybody left.

17 Q. -- Jayla did this to herself?

18 A. No, I don't know why you're -- you're thinking  
19 that I would.

20 Q. Well, I'm asking.

21 FURTHER QUESTIONING BY DETECTIVE HINOJOS:

22 Q. Because you put yourself there with her. You  
23 said you were alone --

24 A. I --

25 Q. -- with her most of the time with her.

1       A.    Yes.  I was that day, yes.

2       Q.    So why wouldn't we think that it was you?

3       A.    I could see why you --

4       Q.    Who else are we gonna think -- who else are we  
5 gonna think that it is?

6       A.    No, I didn't --

7       Q.    You tell me, who else are we supposed to think  
8 that it is?

9       A.    I don't -- I don't now, but I can sit here  
10 honestly and say I didn't do anything.  Nothing.

11       Q.    I don't think that you can.  And I don't think  
12 that you're doing that really with a clear conscience.

13       A.    Yes.

14       Q.    Cause I'll tell you one thing.  When we came  
15 into that house today, you had a face of somebody who  
16 did want to come clean, okay?

17       A.    (Shaking head.)

18       Q.    Yes, you did.  You have a totally different  
19 face on right now.  Right now the face that you have on  
20 is the man -- a desperate man trying to save --

21       A.    No.

22       Q.    -- his own hide.

23       A.    No, sir.

24       Q.    Instead of a man who's willing to take  
25 responsibility of what he's done.

1       A.    By saying that it means I did something.  I  
2 didn't do anything.

3 FURTHER QUESTIONING BY DETECTIVE RUIZ:

4       Q.    Well, I'm stuck there.  I'm stuck there,  
5 Antonio.  So then Pearl is the one that did this.  Hey,  
6 it's -- it's -- it's one of the two, okay?  One of the  
7 two.  So if you're telling me right now, okay, that  
8 you're one hundred percent sure that you didn't do  
9 anything to the baby --

10      A.    Yes, I'm one hundred percent sure.

11      Q.    -- then that means that your wife is the one  
12 that beat the child.

13      A.    My wife was in the kitchen.

14      Q.    Well, I mean, how -- how can it happen then?  
15 I'm telling you, give me a reasonable explanation.

16      A.    No.

17      Q.    You're not offering me everything.  All you're  
18 doing is saying, I didn't do it.  I didn't do it.

19      A.    You can even check the computer, the times that  
20 I was there.  There was -- no.

21 FURTHER QUESTIONING BY DETECTIVE HINOJOS:

22      Q.    Did you ever see her hit him -- hit Jayla?

23      A.    I never saw my wife hit Gayly.  I would see  
24 her just sometimes, you'd tell her, no, Jayla, no.  But  
25 I never say my wife hit Jayla.  I would never hit Jayla.

1 That's state property. We would never put out our- --  
2 that's delicate.

3 Q. You know what? That's not state property.

4 DETECTIVE RUIZ: State property?

5 Q. (BY DETECTIVE HINOJOS) That's a person.

6 That's a person.

7 A. State property, CPS, El Paso Center for  
8 Children. That's them. I mean, even --

9 Q. No, she was supposed to be yours.

10 A. Yes, she was in our care.

11 Q. They put her there for you to take care of.

12 A. She's in our care.

13 Q. She's not their property.

14 A. But if anything would happen, I mean, it's so  
15 delicate, you know what I mean?

16 DETECTIVE RUIZ: No, you know what, babies  
17 are not that delicate. They can take a beating. This  
18 one did.

19 THE WITNESS: No.

20 DETECTIVE RUIZ: This one took a hell of a  
21 beating.

22 THE WITNESS: No, no, no, no.

23 DETECTIVE RUIZ: Okay?

24 THE WITNESS: My wife would never do that.

25 My wife would never do that.

1 Q. (BY DETECTIVE HINOJOS) I don't think she  
2 probably would, but I think you did.

3 A. No, sir. No, sir. You can check my  
4 fingerprints, anything. I'm up to anything. I would  
5 never do that. My wife would never do that. Oh, no.  
6 No, no, no, no.

7 FURTHER QUESTIONING BY DETECTIVE RUIZ:

8 Q. The offer me a reasonable explanation.

9 A. I don't know.

10 Q. Well, I don't know either. All I know is that  
11 that child was in your hands and it's dead now, okay.  
12 It has all these injuries in it, okay, that can only be  
13 caused by excessive force, okay?

14 A. But my wife would hear cries if that would  
15 happen. I don't --

16 Q. All right. Well, then --

17 A. Why would she not come in?

18 Q. Then she's covering for you?

19 FURTHER QUESTIONING BY DETECTIVE HINOJOS:

20 Q. Unless she covered her mouth.

21 DETECTIVE RUIZ: And then she's covering  
22 for you.

23 Q. And then she's covering for you. And then it's  
24 just gonna be the both of you?

25 A. No, I mean --

1 Q. And your kids can go to foster care.

2 A. My children --

3 Q. And then hopefully the don't end up with a  
4 family like yours and end up on a slab where I have to  
5 ge see them get cut open --

6 A. My children would hear those cries.

7 Q. -- and then blood leak out of their stomachs.

8 A. They would say something. My wife, the girls  
9 that were there would hear something.

10 Q. Not necessarily. Not necessarily?

11 DETECTIVE RUIZ: Not necessarily.

12 THE WITNESS: No. No.

13 Q. (BY DETECTIVE HINOJOS) You can explain it to  
14 yourself the way you want to, but that's -- that's --  
15 that's not necessarily so?

16 A. No.

17 Q. They wouldn't have -- that's not necessarily  
18 that they would have heard anything. You could have  
19 covered her mouth. There could have been a lot of  
20 things.

21 A. Oh, no.

22 Q. She could have been gasping for air, you know.

23 A. No, no, no.

24 Q. But the one thing that I do know is that this  
25 little girl suffered.

1 A. No.

2 Q. The doctor was clear about that. It was very  
3 painful --

4 A. No, no, no.

5 Q. -- painful death.

6 A. Why would you think we would do something like  
7 that?

8 FURTHER QUESTIONING BY DETECTIVE RUIZ:

9 Q. Then was it an accident, something? She fell  
10 --

11 A. No, no, no.

12 Q. -- from your arms? I don't know. That's why  
13 I'm telling you, give me an explanation. I'll run it  
14 through the medical examiner and he's gonna tell me yes  
15 or no, okay. But right now with the position you're  
16 taking that, I didn't do anything. I didn't do  
17 anything. It can't happen like that. This baby was  
18 down in the crib and all of a sudden her liver busts  
19 open, okay? Her -- her -- her skull fractured and she  
20 got fractured ribs. There is no way on earth that's  
21 gonna happen, okay? There is not way, okay?

22 A. I'm telling you --

23 Q. And I'm telling you, too.

24 A. -- I didn't do anything. We didn't do  
25 anything.

1 Q. Well, that's -- that's not gonna cut it. I'm  
2 telling you right now. That is not gonna cut it,  
3 Antonio. That is not gonna cut it. You can sit here  
4 and deny it till you're blue, okay, till you're the  
5 color of that shirt, you can -- that is not gonna cut it  
6 as an explanation. I didn't do anything to her. Okay.  
7 I'm asking you --

8 A. It's cause that's not the truth.

9 Q. That is not.

10 DETECTIVE HINOJOS: No, it isn't.

11 THE WITNESS: I didn't do anything. My  
12 wife didn't do anything. I don't think anybody form the  
13 kitchen came into the room.

14 Q. (BY DETECTIVE RUIZ) Okay?

15 A. And we would hear something.

16 Q. Then who did it? Someone had to do it.

17 A. I don't know. I don't know. I don't know. I  
18 honestly don't know. I don't know.

19 FURTHER QUESTIONING BY DETECTIVE HINOJOS:

20 Q. You don't know.

21 A. No, sir. I do not know. No, sir. I do not  
22 know.

23 Q. Yeah, you do.

24 A. No, sir. No, sir. I don't know. I would --  
25 not even my own children, I've never hit them with a

1 belt. Never.

2 DETECTIVE RUIZ: To you own children. I  
3 mean, that's your blood.

4 DETECTIVE HINOJOS: And remember, this  
5 wasn't yours. It was just state property, remember?

6 DETECTIVE RUIZ: It was state property.

7 THE WITNESS: Yes, they're -- they're from  
8 the El Paso Center for Children.

9 DETECTIVE RUIZ: Yeah.

10 THE WITNESS: That's how much  
11 responsibility we had.

12 DETECTIVE RUIZ: Okay. They're just state  
13 property. It's just a piece of property to you. You  
14 made that very clear to us right now.

15 THE WITNESS: Yes, but to --

16 Q. (BY DETECTIVE HINOJOS) You know, you smell the  
17 poop. Man, you know what, what the hell. She's  
18 pooping. I've got to get up. I've gotta -- I'm  
19 enjoying the Olympics. I'm doing whatever in my office  
20 and I've gotta come over here and I've gotta take care  
21 of this --

22 A. Oh, no.

23 Q. -- piece of property that the state --

24 A. No, no, no.

25 Q. -- has dropped in my hands, and I've gotta go

1 ahead and take care of that while my wife enjoys, you  
2 know, baking cakes and stuff.

3 A. How hard would it be --

4 Q. And I've gotta stay in here and sit her here.

5 A. -- for me to bring that baby into the kitchen  
6 with us? It wouldn't be hard.

7 Q. Well, shouldn't have been that hard, right?

8 DETECTIVE RUIZ: It shouldn't have been  
9 that hard.

10 DETECTIVE HINOJOS: It shouldn't have been  
11 hard.

12 DETECTIVE RUIZ: Something got hard that  
13 morning.

14 THE WITNESS: No, no.

15 DETECTIVE RUIZ: Okay. Something got hard  
16 that morning that -- that ended up injuring this kid,  
17 okay?

18 THE WITNESS: No.

19 DETECTIVE RUIZ: This piece of property,  
20 okay?

21 Q. (BY DETECTIVE HINOJOS) Something go so bad and  
22 made somebody so angry that --

23 A. But they would have heard.

24 Q. -- the hit the baby so hard.

25 A. My wife would have heard if I got angry or

1 something happening.

2 Q. Not if she's in the kitchen.

3 A. It's right there. The door's open, halfway  
4 open or whatever, and the hallway's there.

5 Q. But I mean, she's way in the kitchen and you're  
6 in the office. You say she can't hear anything.

7 FURTHER QUESTIONING BY DETECTIVE RUIZ:

8 Q. She has kids helping her, they're -- they're  
9 talking loud, okay?

10 A. No.

11 Q. And you told me yourself when I talked to you  
12 originally that Saturday that that door was close, open,  
13 close, open, close, open, okay? You told me that on  
14 Saturday, okay. But now it's partially open. Make up  
15 your mind.

16 A. I don't --

17 Q. Was it close, was it open, or what?

18 A. No, it was halfway closed when people -- I  
19 don't know if the opened the door. The air conditioner  
20 is on, sometimes it closes, but I'm sure they would have  
21 heard if something happened.

22 Q. Well, I'm sorry. I can't -- I can't accept  
23 that as a reasonable explanation.

24 A. I'm -- I'm sorry.

25 Q. Okay.

1       A.     But I did not do anything.

2       Q.     All I'm asking is --

3       A.     I didn't do anything.

4       Q.     All I'm asking is for a reasonable explanation  
5 as to how that baby ended up like that.

6       A.     I don't know. But I can honestly say I did not  
7 do anything.

8                     DETECTIVE HINOJOS: (Unintelligible.)

9       Q.     (BY DETECTIVE RUIZ) And I can honestly tell  
10 you that that child suffered those injuries while it was  
11 under your care and your wife's care.

12       A.     No, no, no, no.

13       Q.     I can honestly tell you that, okay? Now who  
14 did it? I don't know. But you know what? If we need  
15 to take this to court, okay, if you need to go to jail  
16 and wait for the courts to decide for both of you to be  
17 locked up, then we'll do it, okay? But I can tell you  
18 right now, okay, that that child suffered those injuries  
19 under your hand --

20       A.     No.

21       Q.     -- or your wife's hand. Period. Period.  
22 Okay? Its' not a mysterious injury, okay? It's not --  
23 you can't even offer me an explanation like, okay, maybe  
24 she crawled out of the crib and fell head first.

25       A.     Maybe, but I would have heard. They would have

1 heard cries.

2 Q. Well, I don't know. And it depends on -- this  
3 is a very serious injury.

4 A. But the crib is not high enough. I don't even  
5 know if an injury like that could occur if she even  
6 fell.

7 Q. Yeah. Very good. Very good. You're very  
8 smart?

9 DETECTIVE HINOJOS: That's why you never  
10 gave that explanation, because you're right, it couldn't  
11 have.

12 Q. (BY DETECTIVE RUIZ) It couldn't have. It  
13 couldn't have. Okay?

14 A. I dont know. I -- no, sir. I would never --

15 Q. There was blunt force trauma to that child.

16 A. No.

17 Q. Multiple blunt force trauma, not just --

18 DETECTIVE HINOJOS: You've got pretty big  
19 fists right there. (Unintelligible.)

20 THE WITNESS: No.

21 DETECTIVE HINOJOS: Yeah.

22 THE WITNESS: You could even test anything  
23 -- (unintelligible.)

24 DETECTIVE RUIZ: What do we test you for?

25 DETECTIVE HINOJOS: Soap?

1 THE WITNESS: I don't know.

2 DETECTIVE HINOJOS: Obviously, you took  
3 your shower, right? Right?

4 THE WITNESS: (Unintelligible.)

5 DETECTIVE HINOJOS: (Unintelligible.) So  
6 that's a pretty stupid thing to ask us.

7 THE WITNESS: No, sir. I would -- I would  
8 never do that. No, sir.

9 Q. (BY DETECTIVE RUIZ) I could --

10 A. No, sir.

11 Q. I could punch a baby right now with this hand  
12 and it's not gonna leave anything, okay? If I punch  
13 your baby, it'll leave something on there, okay? Maybe  
14 I'll but myself. You're not gonna cut yourself on an  
15 11-month-old.

16 DETECTIVE HINOJOS: Not on her stomach.  
17 It's all nice and soft.

18 DETECTIVE RUIZ: Nice and soft.

19 DETECTIVE HINOJOS: Do you know what  
20 you're gonna do? You're gonna cut her liver.

21 THE WITNESS: Oh, no. No. No.

22 Q. (BY DETECTIVE RUIZ) That -- that fist is just  
23 gonna go straight down. That foot is just gonna go  
24 straight down into the stomach.

25 A. No, no, no.

1       Q.    Those are explanations to those injuries.  Was  
2 it a fist?  Was it a foot.

3               DETECTIVE HINOJOS:  Yeah.

4       Q.    I don't know.  Did you slam her up against the  
5 side of the crib?  I don't know.  Okay?  I just know  
6 that that baby laying in that crib did not get hurt like  
7 that.

8               DETECTIVE HINOJOS:  Yeah.

9               DETECTIVE RUIZ:  Okay.

10              DETECTIVE HINOJOS:  She didn't get that  
11 big old bruise that you can't even see it until you cut  
12 her skull open and then you pull the skin off the skull  
13 and then you see all the blood that's right there.

14              THE WITNESS:  No.  No.

15              DETECTIVE HINOJOS:  Because why?  Because  
16 it probably hit something so hard on the damn, either  
17 table or the bed, or something.  It hit so hard that it  
18 caused the back of her head to -- to bruise, to bleed  
19 inside, okay.  It had to have been hard, okay.  And then  
20 her -- when -- when she got punched, I mean, she got  
21 punched so hard that her stomach is probably shut.  So  
22 hard that when it wen down like that, it went into her  
23 stomach and it cut her liver.  Not only did it cut it  
24 once, it cut it twice, okay.  That's a lot of force  
25 right there.

1 DETECTIVE RUIZ: Yeah.

2 DETECTIVE HINOJOS: That's a lot of force.

3 Q. (BY DETECTIVE RUIZ) But you know what, that  
4 when people get head injuries, they don't cry. They do  
5 low moans, okay. Low moans. Okay? You get a head  
6 injury, you're not gonna be going -- aah. You're gonna  
7 be going -- (making sounds) -- cause that's the reaction  
8 of the brain, okay? Your body is gonna react. Yeah,  
9 that's why the baby is not screaming. That's why  
10 nobody's hearing it.

11 You've got the luxury of turning up your  
12 TV, okay, but that baby suffers those injuries in your  
13 hands or your wife's hands. Period. Okay? That's all  
14 I'm telling you right now, okay. There's not way around  
15 it. There is no way around it. Unless you're gonna  
16 give me a reasonable explanation, which, I don't know,  
17 is not reasonable, okay? I mean, at least tell me the  
18 baby fell off the roof or something, okay?

19 A. No.

20 Q. You were up there fixing the air conditioner  
21 with the baby in your arms. You dropped it, I mean --

22 A. No.

23 Q. Like other people offer us some kind of an  
24 explanation, okay, but you're a smart man. You even  
25 said, I don't even think that kind of injury can happen

1 falling out of the crib. You're very correct.

2 A. I don't think that would even happen. And when  
3 I went to the kitchen, I don't think any of the girls  
4 came into the room.

5 Q. Those girls do not have the force, okay --

6 A. I don't --

7 Q. -- to cause those kinds of injuries?

8 DETECTIVE HINOJOS: Don't even -- don't  
9 even put those girls in that situation.

10 THE WITNESS: Cause I'm a guy and you  
11 think that I --

12 DETECTIVE HINOJOS: No.

13 THE WITNESS: No, no, no, no.

14 DETECTIVE HINOJOS: No, it's either you or  
15 your wife.

16 THE WITNESS: No, no.

17 DETECTIVE HINOJOS: Hey, we're thinking  
18 adult, okay.

19 DETECTIVE RUIZ: Okay. An adult. Okay.

20 DETECTIVE HINOJOS: Just because you're a  
21 guy. It could be your wife.

22 Q. (BY DETECTIVE RUIZ) No, you now what? I've  
23 had women there sitting that have killed babies, too,  
24 okay?

25 A. No.

1 Q. Okay? And this is -- something happened in  
2 their life, something happened that moment, okay. You  
3 just lose control. And it's understandable, okay, but  
4 you know what, if you want people to see you as a  
5 monster, that you're just cold blooded killer of state  
6 property, so be it.

7 A. I didn't kill anybody.

8 Q. So be it.

9 A. I'm not a monster. I --

10 Q. I'm not saying you're a monster, but you know  
11 what, you're making me think you're a monster. You're  
12 not offering me any explanation --

13 A. I don't have one to give you.

14 Q. -- as to how this state property go injured,  
15 okay, how this state property ended up dead. Okay. At  
16 least give me a reasonable explanation.

17 A. No.

18 Q. You're not giving me nothing.

19 A. No, no, no, no.

20 DETECTIVE HINOJOS: At least some remorse,  
21 at least some remorse that you damaged the state's  
22 property.

23 THE WITNESS: How would I even -- how  
24 could I -- no. No. That is a life.

25 Q. (BY DETECTIVE RUIZ) I don't live in your

1 house.

2 A. That is a life. No.

3 Q. It was.

4 DETECTIVE HINOJOS: It was a life.

5 Q. It was a life, okay?

6 A. I did not do that.

7 Q. But you know what, you called for help when you  
8 saw those same eyes rolling into the head, the last --

9 A. I'm the one that called 911.

10 Q. Yes, exactly.

11 DETECTIVE HINOJOS: Cause you didn't know  
12 what to do.

13 Q. The last-ditch effort to say, whoa, oh, my God,  
14 those eyes aren't supposed to be rolling into somebody's  
15 head.

16 A. No.

17 Q. Okay?

18 A. No.

19 Q. So if that's the -- (unintelligible) -- hey,  
20 Pearl, there's something wrong with the baby. Here.

21 A. No.

22 FURTHER QUESTIONING BY DETECTIVE HINOJOS:

23 Q. You knew.

24 A. No.

25 Q. You know you had gone to far. You knew?

1       A.    No, sir.

2       Q.    And that's why you screamed for Perla.

3       A.    I never touched the baby.

4       Q.    That's why you screamed for Perla.  She heard  
5 you scream in a way that you've never screamed before  
6 because you were scared.  You knew --

7       A.    Of course I was scared.

8       Q.    -- what you did.  You knew what you had done.

9       A.    Sir, I didn't do anything.

10      Q.    And you didn't know what you were gonna do from  
11 there.

12      A.    No, sir.  No, sir.

13      Q.    You didn't know what you were gonna do from  
14 there.

15      A.    No, no.  No, sir.  No, sir.

16      Q.    You know, and yesterday we were willing to give  
17 you the benefit of the doubt, okay.  We were willing to  
18 give you the benefit of the doubt.  Why?  Because we  
19 didn't really have anything -- any other explanation  
20 other than what you guys were giving us, okay?

21      A.    Yes, sir.

22      Q.    And what we say yesterday was somewhat of a  
23 decent person, somebody who had some remorse, somebody  
24 who may have, God, you know what, felt bad in some way.  
25 And then today, after being told that there is no other

1 way that this could have happened, other than an  
2 intentional injury, okay?

3 A. No. No.

4 Q. And giving you the specifics as to now Kayla  
5 died -- Jayla died?

6 A. Jayla.

7 Q. -- okay, and you're still gonna sit there and  
8 deny it. And what you're showing us now --

9 A. I didn't --

10 Q. -- is somebody who is so cold --

11 A. I --

12 Q. -- so just worried about themselves that  
13 they're willing to just deny it and not have any remorse  
14 over what happened to this little girl.

15 A. Denying something means I would do something.  
16 I didn't do anything. Nothing.

17 Q. You did something. Somebody did something.  
18 And if it wasn't you, then was it your wife?

19 A. No. No.

20 Q. It was Perla.

21 A. No.

22 FURTHER QUESTIONING BY DETECTIVE RUIZ:

23 Q. And I go back to my original request, Antonio.

24 A. I couldn't do that.

25 Q. Antonio, I go back to my original request.

1 Give me a reasonable explanation as to what happened to  
2 the baby.

3 A. I don't know. I don't know. I didn't do  
4 anything. My wife wouldn't do anything. We don't have  
5 a cold heart. We're not cold.

6 Q. I'm not saying you are. I'm not saying you  
7 are. But you know what? Things happen in everybody's  
8 life, okay? Things happen -- I've lost my cool before.  
9 I've lost my cool before.

10 A. Well, so have I, but not like -- not to hurt  
11 somebody.

12 Q. Well, when you lose your cool, until you --  
13 until you get ahold of yourself that's when you start  
14 realizing what you've done. And I think that's what  
15 happened here?

16 A. No. No.

17 Q. Okay? And like I'm telling you, your  
18 last-ditch effort is when you checked the baby, those  
19 eyes rolling back. You know that's not normal, okay?  
20 The whimpering, he can't cry, has a head injury. Has a  
21 head injury.

22 A. How would I even know --

23 Q. The body's just reacting.

24 A. -- that it was a head injury?

25 Q. Of course you would know. But you know what,

1 when you looked at those eyes, you -- you sure as hell  
2 knew something was wrong.

3 A. Yes. Those eyes were going cross-eyed back but  
4 --

5 Q. Exactly. That was your -- your point there  
6 saying, oops, I think I went too far.

7 A. No, sir. No, sir. No.

8 Q. So the bottle did it to him? The bottle did  
9 it?

10 A. No, I can't believe this is happening. We  
11 would never do anything.

12 Q. I can't believe it either.

13 A. We would never do anything.

14 Q. I can't believe it either.

15 FURTHER QUESTIONING BY DETECTIVE HINOJOS:

16 Q. Yeah, it is -- you're right. It is  
17 unbelievable.

18 DETECTIVE RUIZ: It's unbelievable. I  
19 couldn't believe it.

20 Q. It's unbelievable that somebody -- it's  
21 unbelievable that today I had to spend two hours in the  
22 M.E.'s office with an 11-month-old little baby on slab,  
23 getting cut open, and watching her organs get taken out  
24 with the punctures that were caused by punches.

25 A. No.

1       Q.    And then watching -- they had to take out her  
2 organs in order to see her bruises, and then we had to  
3 cut -- they had to cut out her ribs in order to finally  
4 feel the actual breaks in her ribs, okay. And then when  
5 they cut her skull open and they had to peel the skin  
6 back to see the blood back there where her head hit  
7 something, and then it had caused her, you know, a skull  
8 fracture. It fractured her skull. It fractured her  
9 skull.

10       A.    No, I would never --

11       Q.    Okay?

12       A.    No.

13       Q.    What would you think about that?

14       A.    That something went wrong.

15       Q.    What do you think that somebody else -- what do  
16 you think 12 people are gonna think about that?

17       A.    Twelve?

18       Q.    A jury?

19       A.    Oh. No, I would never --

20       Q.    A jury is gonna see all that. They're gonna  
21 see the pictures of everything that I say today.  
22 They're gonna see that. And then they're gonna hear  
23 your story. What do you think they're gonna believe?

24       A.    That something --

25       Q.    You think they're gonna believe this thing

1 right here --

2 A. I didn't --

3 Q. -- what you're telling us, that you don't know  
4 what happened?

5 A. I didn't do--

6 Q. Or that you didn't do it or that Perla didn't  
7 do it?

8 A. My -- no. I didn't do anything. Nothing at  
9 all. I don't -- no. No.

10 Q. Then Perla did it?

11 A. No. My wife could -- no, by wife could not do  
12 that. I could not do that at all.

13 FURTHER QUESTIONING BY DETECTIVE RUIZ:

14 Q. So which kid could do that? Use a kid as a  
15 scapegoat.

16 A. You said --

17 Q. Use one of the kids as a scapegoat, then.

18 A. You said that the kids couldn't go that. I  
19 don't --

20 Q. Unless there's some unusual strength in them  
21 that we haven't seen yet.

22 A. No, no, no, no, no, no. My wife couldn't do  
23 that and I couldn't do that. We would -- we could --  
24 no. No. That goes against everything we believe in.

25 DETECTIVE HINOJOS: That goes against a

1 lot -- what a lot of people believe in.

2 Q. What a lot of people believe in.

3 A. Yes.

4 Q. But you know what, people do, unfortunately,  
5 hurt other people, and sometimes its' because of a  
6 temporary loss of temper, I mean, which is more  
7 understandable than -- you know, right now I could just  
8 see you, hey, I've got this piece of property here from  
9 the state. Lets see what kind of things I can do to it.  
10 Let's see what kind of punishment I can put on it.

11 A. No. No.

12 Q. I can see, like I told you --

13 A. No. No. No. Don't even say that. That --

14 Q. Well, it's the truth?

15 A. No.

16 Q. It's the truth.

17 A. No. No. No.

18 Q. I can't believe you sit here and deny it.

19 A. I would never even do that. No, sir. Nor,  
20 sir.

21 DETECTIVE HINOJOS: Somebody did it.  
22 Somebody did it.

23 Q. I can't believe you sit there and deny it and  
24 -- and make me assume that your wife did it.

25 A. No, my wife could not do that. I could not do

1 that.

2 Q. Exactly, cause you were watching the baby.

3 A. I was watching the baby.

4 Q. Exactly. So your wife can't do it.

5 A. No, sir. I could not do that.

6 FURTHER QUESTIONING BY DETECTIVE HINOJOS:

7 Q. Your wife said you called out to her.

8 A. Yes, I did.

9 Q. And Alejandra said you called out to her. And  
10 Rihannon said you called out to her.

11 A. Yes, I did.

12 Q. Okay.

13 A. I called out to my wife.

14 Q. So that's why it comes down to you.

15 A. No, no.

16 Q. And that's why you're asking us, how could we  
17 say that. Because it's you.

18 A. No, sir.

19 Q. It's you. You're the one that's there with her  
20 alone.

21 A. I was not alone. My girls were there. That's  
22 what I'm saying. My -- my four-year-old, Rebecca, was  
23 there. My two-year-old, Kayla, was there. They would  
24 say something.

25 Q. The whole time? You said they were in and out.

1       A.    No, I did not say they were in and out.  I said  
2  I was in and out.  My two girls were there because my  
3  wife told me to bring them in.  They were not letting  
4  her do the cake.  They would say something.

5               DETECTIVE RUIZ:  Whoa, whoa.  Back up.  
6  Your wife told you to do what?

7               THE WITNESS:  My wife told me, get the  
8  girls.  Bring them in to the --

9               DETECTIVE RUIZ:  Okay.  So -- so they're  
10 with your wife at a certain point, right?

11              THE WITNESS:  Yeah, like at -- I don't  
12 know.

13              DETECTIVE RUIZ:  And you're with the baby  
14 alone?

15              THE WITNESS:  Yeah.

16              DETECTIVE RUIZ:  Okay.

17       Q.    (BY DETECTIVE HINOJOS)  So how long is it  
18 before they were in there?

19       A.    It was -- the girls in our room?

20       Q.    Yeah.  How long were they in there with you  
21 before Kayla got sick -- or Jayla got sick?

22       A.    It was about a good two hours.  They were there  
23 with m e for about a good two hours.

24       Q.    So Jayla was probably already hurt.  So she's  
25 suffering there in the crib for probably two hours

1 before you decided to call for help?

2 A. No, no, no, no.

3 Q. That's even more cold-blooded than what I  
4 thought before.

5 A. No, sir. No, sir.

6 Q. So you'd already -- you'd already used her as a  
7 punching bag, laid her in her crib, and then you let  
8 your kids come in here. And then, oh, I'll take care of  
9 them while I've already beat the crap out of this baby  
10 --

11 A. No.

12 Q. -- and I've left her in the crib, and I'll just  
13 let her suffer and bleed --

14 A. Kayla would play with Jayla.

15 Q. -- internally inside there.

16 A. Kayla would play with her. I would hear them  
17 playing while I was watching the -- the TV.

18 Q. Then it happened after.

19 A. No, no, no.

20 Q. They were in there when you called out to you  
21 -- to your wife. They were in there.

22 A. They were there. Rebecca and Kayla were there.

23 Q. When you called out?

24 A. Yes, they were there.

25 FURTHER QUESTIONING BY DETECTIVE RUIZ:

1 Q. Yeah, somewhere in the room.

2 A. There were in the room.

3 Q. Yeah, I remember you telling me --

4 A. Yes.

5 Q. -- that you were alone with the baby at a  
6 certain point. Kayla -- Kayla is not she's the bigger  
7 one of the two, right?

8 A. No, Rebecca.

9 Q. Rebecca. Four-year-old?

10 A. Yes.

11 Q. She doesn't have the strength to do that, okay?

12 A. No, of course not. No.

13 FURTHER QUESTIONING BY DETECTIVE HINOJOS:

14 Q. So that's what I'm saying. It's even worse,  
15 because you know what, you let her suffer in there.

16 A. No.

17 Q. You let her suffer in there while you're  
18 sitting in the -- in the -- in your office probably  
19 thinking, how the hell am I gonna get out of this?

20 A. No, no, no.

21 Q. Maybe she'll be fine, maybe shell come through  
22 or whatever.

23 A. No, no.

24 Q. Maybe she'll be fine. You know I've already  
25 beat the crap out of her. I've already left her in

1 there.

2 A. No, no.

3 Q. It's like, oh, no, oh, crap, oh, look, she's --  
4 her eyes are starting to -- now I've gotta call the --  
5 now, I'm gonna call the ambulance and stuff.

6 A. That -- no.

7 Q. That's what you're saying, I mean, cause your  
8 saying that your kids would have said something if your  
9 kids would have saw it.

10 A. They would have said something.

11 Q. And you probably wouldn't have done it in front  
12 of them.

13 A. They didn't even -- no. No. I can't believe  
14 -- no.

15 Q. I can't believe it, either.

16 A. No, I can't believe you would think that.

17 Q. Eventually you're gonna come to terms and  
18 you're gonna be honest about what happened.

19 A. I'm being honest.

20 Q. Okay? No, you're not.

21 A. As honest as I can.

22 Q. Eventually -- no, not as best as you can, okay?  
23 Either a person honest or they're not.

24 A. I am being honest.

25 Q. Not as the best as they can, okay?

1       A.    I an being honest to you.

2       Q.    Usually, as you're saying, as the best as I can  
3 be honest with you --

4       A.    No.

5       Q.    -- as I can get a way to get me out of this.

6       A.    No, sir.  No, sir.

7       Q.    Okay.

8       A.    I'm giving you everything that you want.  I did  
9 not do anything.

10      Q.    What we want is the truth.

11      A.    I'm telling you.

12      Q.    Period.

13      A.    I'm telling you --

14      Q.    And I'm telling you.

15      A.    -- I didn't do anything, sir.  No, sir.  No.

16      FURTHER QUESTIONING BY DETECTIVE RUIZ:

17      Q.    I'm not asking you to give me anything, okay?  
18 All I'm asking you is to be truthful and if --

19      A.    I am.

20      Q.    -- and if you're adamant that you didn't do  
21 this, which you seem to be, then --

22      A.    Yes.

23      Q.    -- all I ask you is give me a reasonable  
24 explanation.

25      A.    I don't know.

1 Q. That's -- that -- that doesn't cut it.

2 A. I don't know.

3 Q. That --

4 A. I don't know.

5 Q. I can't believe either one. I can't believe  
6 either one.

7 A. No. No. This isn't -- no.

8 Q. You're sitting there --

9 A. The children, they -- they.

10 Q. Yes, I know they trusted you with their  
11 property?

12 A. Yes, the trusted me with the child, with a  
13 life, I mean.... No.

14 DETECTIVE HINOJOS: And sometimes people  
15 make mistakes.

16 THE WITNESS: Not us. Not us.

17 Q. (BY DETECTIVE RUIZ) No?

18 A. No.

19 Q. You're special?

20 A. No.

21 DETECTIVE HINOJOS: You're infallible?

22 THE WITNESS: No.

23 Q. (BY DETECTIVE RUIZ) you've never made a  
24 mistake in your life?

25 A. I make mistakes, but not this.

1 Q. Well, I mean, obviously, Saturday you did.

2 A. No. No.

3 Q. Okay?

4 A. No, sir. No.

5 Q. And if you didn't do it, then I guess our wife  
6 made the mistake. Okay.

7 A. No. My wife would not so that. She's not --  
8 no.

9 DETECTIVE RUIZ: Well, that's --

10 FURTHER QUESTIONING BY DETECTIVE HINOJOS:

11 Q. It all comes down to one plus one always equals  
12 two, okay?

13 A. (Head nod in the affirmative.)

14 Q. One being you were alone with the baby. You  
15 were the one that was taking care of her. We know that  
16 because --

17 A. Yes.

18 Q. -- of everything that everybody's told us?

19 A. Yes.

20 Q. Okay. Plus one, okay. The other one is when  
21 we opened up Kayla, she had -- Jayla -- she had all  
22 injuries, okay. And those were caused by somebody,  
23 somebody who was able to generate a significant amount  
24 of force, an adult, okay?

25 A. Somebody who -- no.

1 Q. Hold on. So one, you're taking care of her.

2 A. Yes.

3 Q. One injury, internal -- intentional injury  
4 caused by somebody with a significant amount of force,  
5 okay, equals Jayla being dead, okay?

6 A. My girls were there.

7 Q. One plus one is two. What you're trying to  
8 give us is one plus one equals four.

9 A. No, no.

10 Q. And it just doesn't add up, okay?

11 A. (Shaking head.)

12 Q. You can sit there, shake your head all you  
13 want, and you can sit there and try to be sanctimonious  
14 and all that. But you're not, okay? You're gonna --

15 A. I don't even know what that means. My girls  
16 were there. They would say something.

17 Q. It's -- you know what it means is that you're  
18 -- you try to use your religion, you try to use the fact  
19 --

20 A. No.

21 Q. -- that you've never done anything wrong --

22 A. I've done things wrong.

23 Q. -- to make it seem like you didn't do anything  
24 wrong to this little girl.

25 A. I've done things wrong, but not to this extent.

1 No, sir. No, sir.

2 Q. Never before, but this time you did.

3 A. Oh, no. No. My -- no. No. No. No, sir.

4 DETECTIVE RUIZ: Let me stop you. It's  
5 8:54. I need to step out right away. Okay. I'll be  
6 back in a few minutes.

7 THE WITNESS: Okay.

8 DETECTIVE HINOJOS: We'll be right back.

9 (Detective Ruiz and Hinojos exit room.)

10 (Detective Hinojos returns to room).

11 Q. (BY DETECTIVE HINOJOS) He's talking to your  
12 wife now. You know, it's -- one of the things that she  
13 said was her last image, Jayla was -- she was happy and  
14 she's kind of bending over the side smiling.

15 A. Yeah, she was playing with me.

16 Q. And that's good. I'm glad that she has the  
17 last image. I'm glad she doesn't have the last image  
18 that I have of Jayla because I'll tell you right now,  
19 with all the blood that was inside of her stomach, with  
20 the cuts that she had on her liver, she wasn't gonna  
21 bend over like that. But she knows now. Your wife  
22 knows now what happened to Jayla.

23 We know what killed her. We just don't  
24 know how. Antonio, I know you're a good person.

25 A. I didn't do anything.

1 Q. I know. I know you're a good person, okay?

2 A. I am.

3 Q. I know.

4 A. And I didn't do anything.

5 Q. All right.

6 A. My mom raised a good boy. I would never do  
7 that.

8 Q. And you know what, there's no doubt in my mind  
9 that your mom raised a good boy.

10 A. (Unintelligible.)

11 Q. What would your mom want right now? Would she  
12 want you to be honest?

13 A. Yes. And I'm being honest. My wife wouldn't  
14 do that and I wouldn't do that.

15 Q. You're right. I believe you. I believe you.  
16 Your wife wouldn't do that. And the only reason I  
17 believe that your wife wouldn't do that -- cause I don't  
18 really know you two. But the reason that I know your  
19 wife didn't do that is because the kids, the 13-year-old  
20 and the 11-year-old, Rihannon and Alejandra, she was  
21 over there.

22 A. Yes, she was.

23 Q. Okay. So like I said, I -- thing is that  
24 sometimes good people make mistakes and they do things  
25 that they shouldn't sometimes. Sometimes there are

1 things that you can take back and then there's some  
2 times that there are things that you can't. But what we  
3 all have in this is we all have a choice. All have a  
4 choice to do something good, even out of something bad.  
5 We all have that choice. And you should know that.  
6 Just even sometimes we need a reminder. And you know,  
7 when this gets heard, they should know that you had an  
8 opportunity and that we gave you every opportunity to do  
9 what was right.

10 A. I didn't -- my wife wouldn't do it. It  
11 wouldn't do it.

12 Q. I know your wife didn't do it. But  
13 unfortunately, if she has to answer for it, then she's  
14 gonna have to answer for it, too.

15 A. We would never do anything like that. Ever.

16 Q. Somebody did. And you guys were the only ones  
17 taking care of her.

18 A. We're not capable of doing something like that.

19 Q. Like I said, sometimes people do thing that  
20 they're not necessarily capable of.

21 A. I could never do something like that. My wife  
22 is a good woman. I'm a good man. We would never do  
23 something like that. We would never do something like  
24 that. Even at church they would see us with the baby  
25 everywhere we would go. We would never go something

1    like that.    Ever.

2           Q.    Well, sometimes there are people -- that people  
3    are different behind closed doors.

4           A.    Yes, but not us, not us.

5           Q.    Este, I've had a lot of people sit in that  
6    chair say the same thing.

7           A.    Oh, no.

8           Q.    And they said the same thing like you.

9           A.    Oh, I -- (unintelligible.)

10          Q.    The only thing is that some of them actually  
11    had a conscience and cared.

12          A.    We do have a conscience.   That's why we opened  
13    out home.   That's why we opened our hearts.

14          Q.    Well, at some point somebody opened their  
15    fists.   Or actually, I should say, closed their fists.

16          A.    No.

17          Q.    Or put their foot down, one or the other.

18          A.    No.   No.

19          Q.    At some point something like that happened.

20          A.    I have two beautiful girls that God gave me,  
21    beautiful wife.   I mean, we've been through everything  
22    together.   Why would I mess that up?   Why would she mess  
23    that up?

24          Q.    Sometimes people don't think about it.   It just  
25    happens, you know.   Things just happen.

1       A.     Not to us.

2       Q.     Huh?

3       A.     (Unintelligible.)

4       Q.     It happened.

5       A.     We couldn't do that. I don't know what else  
6 you want me to tell you, but...

7       Q.     I just -- all I want is the truth. That's it.  
8 I don't want you to tell me anything but the truth.

9       A.     I already did.

10      Q.     Okay. All right. I'm just telling you, it's  
11 not like I want to be here. I don't want to be here  
12 having this conversation with you. I don't.

13      A.     I don't either.

14      Q.     I don't. I don't -- I don't -- when I went to  
15 that autopsy today, I wanted everything to be okay with  
16 Jayla. I wanted it was all my heart cause nobody,  
17 nobody would want that, you know what I mean.

18      A.     No, nobody.

19      Q.     Nobody would want that. Yeah, I know. So  
20 that's what I'm telling you. When I went there, I  
21 wanted with all my heart for her to be okay, for it to  
22 have not been something like this. Okay?

23      A.     (Head nod in the affirmative.)

24      Q.     But the thing is that it was. Okay?

25      A.     (Head nod in the affirmative.)

1 Q. And so that's why I'm here. Because she  
2 deserves some answers. She was a baby. Defenseless.  
3 And she deserves somebody to fight for her.

4 A. (Head nod in the affirmative.)

5 Q. She deserves somebody to ask the questions that  
6 I'm asking you. She deserves whoever did that to her  
7 say what it was that happened to her. She deserves  
8 that.

9 A. Yes, sir. We wouldn't do anything like that.

10 Q. I'm telling you, it didn't just recklessly  
11 happen. It's not something that would have happened  
12 medically, okay?

13 A. (Head not in the affirmative.)

14 Q. We wouldn't be here having this conversation if  
15 it was something like that. I wouldn't dream of telling  
16 somebody the things that I've told you unless I was told  
17 that there was no other explanation other than those  
18 injuries were caused intentionally by a significant  
19 amount of force, okay?

20 A. (Shaking head.)

21 DETECTIVE HINOJOS: I didn't make up  
22 words, okay? I didn't.

23 Be right back. It's 9:24.

24 (Detective Hinojos exits room.)

25 MS. RODRIGUEZ: Your Honor, would you like

1 me to fast forward.

2 THE COURT: Yes, please.

3 Is that okay, Mr. Norris.

4 MR. NORRIS: Yes, Your Honor.

5 THE COURT: Thank you. How much more is  
6 left, about?

7 MR. NORRIS: I think my notes indicate  
8 that there's about another 20 minute absence and then it  
9 ends pretty shortly after that.

10 THE COURT: 20 minute absence? Wow.

11 MR. NORRIS: Yeah.

12 THE COURT: Okay.

13 MR. NORRIS: I know we'll be able to ask  
14 the detectives about that.

15 Your Honor, I have been informed by Mr.  
16 Lopez, again, that he -- the chains are pretty tight  
17 around his midsection and he's been asking me for a  
18 while, I've been asking him to wait and hold it as long  
19 as he came.

20 THE COURT: Right.

21 MR. NORRIS: He requires a bathroom break.

22 THE COURT: Okay. Go ahead. Take him.

23 (Short recess taken.)

24 (DVD resumed playing.)

25 (Detective Hinojos returns and resumes

1 interview.

2 Q. (BY DETECTIVE HINOJOS) Need some water or  
3 something?

4 A. No.

5 Q. No?

6 A. No.

7 Q. I'm just going back and forth because we're  
8 talking to Pearl at the same time and it's just like --  
9 just kinda trying to kind an explanation for it all, you  
10 know?

11 A. (Head nod in the affirmative.)

12 Q. There really isn't, you know.

13 A. (Head nod in the affirmative.)

14 Q. What's your religion?

15 A. My faith is Christian.

16 Q. Christian?

17 A. (Head nod in the affirmative.)

18 Q. Okay. And let's suppose, let's say, in your  
19 faith, okay, the Christian faith, let's suppose you have  
20 somebody who did this, okay?

21 A. (Head nod in the affirmative.)

22 Q. And you're -- you -- you teach, right, you  
23 teach in your church?

24 A. (Head nod in the affirmative.)

25 Q. You're -- you're one of the elders, right?

1 You're -- you're one -- you're one of the people that  
2 people look to even for guidance or counsel, or  
3 something like that, right? I mean, like the *hermanos*,  
4 do they come to you? I mean, are you one of the ones  
5 that, you know, people come to?

6 A. Just like for questions like for Bible stuff.

7 Q. But they trust your -- your knowledge, right?  
8 They --

9 A. (Head nod in the affirmative.)

10 Q. You know what you're talking about, things of  
11 that nature, right?

12 A. (Head nod in the affirmative.)

13 Q. If one of your *hermanos* had come to you and  
14 told you that he had done something like this what would  
15 your advise to him be?

16 A. Committed a crime?

17 Q. Well, that, you know, he came and he told you,  
18 you know what, I have this baby, you know, I don't know  
19 what happened. I just became very angry and I did  
20 something to that baby that, you know, I shouldn't have.  
21 And now this baby's dead, you know.

22 What would you tell him? What would you  
23 tell somebody like that? What would you tell one of  
24 your *hermanos* if they came to you and told you something  
25 like that?

1       A.     That the needed to come to the police.

2       Q.     Okay.  And what else?  I mean --

3       A.     And just tell them what happened.

4       Q.     But what else about that?  I mean, not just  
5 going to the police.  But I mean, you're a very  
6 religious person, right?

7       A.     Uh-huh.

8       Q.     Would you pray with that person?

9       A.     Oh, I guess.  But, I mean, still, you would  
10 need to come to the police.

11       Q.     I know.  But I mean, before that happens, would  
12 you -- would you take the time to pray with this person?  
13 I mean, you're a religious person, right?

14       A.     Yeah.  I'm sure I would.

15       Q.     You're sure you would or -- I mean, wouldn't  
16 you?  I mean, I don't know.  I mean, I'm asking you  
17 because, I mean, you're the one with the bachelor's  
18 degree in religion.  You're the one who teaches Bible  
19 study.  You know what I mean.

20       A.     I mean, I -- I don't know.  If I was ever in  
21 that situation, I don't know what, you know -- I'd be  
22 scared.  I'd be -- you know.

23       Q.     You wouldn't pray for that person?

24       A.     Yea, I'd pray, obviously.  Yes.  I'd pray.  But  
25 I don't know if I --

1 Q. Would you tell that person, let's pray  
2 together. Let's pray for you?

3 A. Yeah. I'm -- I'm sure I would. I mean, I'm  
4 not in that situation, but I mean, yeah.

5 Q. And then?

6 A. And then I'd tell them --

7 Q. Do you think that -- do you think that God  
8 would forgive this person?

9 A. Yes, I mean, if it was the, you know,  
10 remorseful heart, you know. King David did it once. I  
11 mean, Moses did it. You name it.

12 Q. But they were remorseful, right.

13 A. Yeah.

14 Q. That's one of the things, right?

15 A. They would.

16 Q. So as long as -- as long as the person was  
17 remorseful and they didn't -- they meant it, right?

18 A. (Head nod in the affirmative.)

19 Q. And then and then what? Some way, I guess not  
20 only confess to God, but I guess, you know, in answer to  
21 the laws of -- of man, right.

22 A. (Head nod in the affirmative.)

23 Q. Okay. But if this person didn't, if they  
24 weren't honest with themselves and didn't answer to the  
25 law of man, what would God -- how would God judge them,

1 then, in your faith?

2 A. Well, I mean, if you -- if you wouldn't come  
3 clean, you know, I don't think God could forgive you,  
4 you know, because one thing is the laws of man and then  
5 another is the laws of God. But you can't obey the laws  
6 of God if you don't obey the man's law, you know.  
7 That's why they're put there.

8 Q. So what would happen to somebody's soul in that  
9 regard?

10 A. Well, that depends on your faith, but not --

11 Q. In your faith?

12 A. In ours, I mean, there's really no -- I mean  
13 the Bible says there's no, you know -- murderers can't  
14 enter the kingdom of God, you know, and there's other  
15 faiths that say, yeah, they do, but, I mean, with ours,  
16 not unless that person, you now, ask for forgiveness.

17 Q. And how does one ask for forgiveness? Just  
18 from a priest, from a family member? How do you ask for  
19 forgiveness? Just you, one-on-one with God?

20 A. (Head not in the affirmative.)

21 Q. That's it?

22 A. Yeah, I mean, you pray to God, you ask for  
23 forgiveness, and then obviously, there's laws of man, so  
24 you need to ask for forgiveness to the laws of man.

25 Q. I'm just curious as to what -- how you -- you

1 process things and things and think about things like  
2 that?

3           Because I kind of proces things the same  
4 way. And I think it's one thing to -- to do something  
5 wrong. But it's quite another to face those  
6 consequences, you know. And I think that facing those  
7 consequences, it doesn't erase what's happened. It  
8 doesn't. Nothing -- there's things that just can't be  
9 erased, all right? But when you face the consequences,  
10 then, at least -- at least you're being honest.

11       A.    Yeah.

12       Q.    You know? At least you're being honest and at  
13 least -- I think it take more courage --

14       A.    Yes, sir.

15       Q.    -- to do that, you know. But like I've told  
16 you before, a lot of people have say in that chair. It  
17 didn't necessarily make them evil, okay? Good people do  
18 bad things. It happens every day. Every day. Okay?

19       A.    (Head nod in the affirmative.)

20       Q.    The difference is whether or not those people  
21 are willing to have the courage to face the consequences  
22 of the actions that they've done, you know. That's --  
23 that's -- that's ultimately what it comes down to, okay?

24       A.    (Head nod in the affirmative.)

25       Q.    Like I said, we've seen other people when they

1 sit there, and like I said, they made bad choices and  
2 they keep continuing making worse choices and making  
3 things worse. And ultimately what happens, eventually  
4 somewhere down the line they end up telling the truth.

5 A. (Head nod in the affirmative.)

6 Q. And it's just a big dance and you're here for  
7 so many -- so long and it's just like, why couldn't you  
8 have just come out and said it before? And they're  
9 like, I don't know. I couldn't. I couldn't. I  
10 couldn't believe that he -- I couldn't even believe that  
11 I had done that myself. And I just -- I couldn't bring  
12 myself to say it.

13 And I can see that. It's human nature.  
14 It's human nature to hide. It's human nature to cower  
15 behind something when you're afraid. But that's why  
16 extraordinary feats of courage exist and sometimes that  
17 little bit of courage is being able to own up to your  
18 actions, the things that you've done.

19 A. That's true.

20 Q. Yeah. And you know, do you think that if a  
21 person -- how old are you?

22 A. 27.

23 Q. You think that if a person lives for 27 years  
24 and does good things, good things, good things, and one  
25 time does something extraordinary bad, does that erase

1 27 years of doing good things?

2 A. Well, in our faith it says it does, but I -- I  
3 don't know. I mean, that's -- that seems --

4 Q. Seems kind of harsh, right?

5 A. Yeah.

6 Q. And I don't think that it's true. I don't  
7 think that it does, all right? I don't think that one  
8 extraordinarily bad thing erases 27 years of good. It  
9 doesn't. Because, essentially, 27 years of building up  
10 and doing good, and you've built that, and what it is,  
11 is just one bad brick, and it doesn't make the whole  
12 wall.

13 But what tarnishes that, the rest of that  
14 legacy, is not being able to at least admit to it and  
15 just say, I've done something wrong and I'm gonna do  
16 right. I'm gonna do what 27 years of foundation has  
17 been laid and do the right thing that I've done for 27  
18 years. And I've done this bad thing and I'm gonna do  
19 what I know is righty from the 27 previous year, from  
20 what my parents have taught me, if my parents were  
21 sitting here in front of me. If they knew the things  
22 that are known, what would they want me to do? If my  
23 wife was sitting right here in front of me, what would  
24 she want me to do? What would I want for my kids? What  
25 would I want them to do in light of that? What kind of

1 a person do I want my kids to see me as? A coward, or  
2 somebody with a lot of courage. You know?

3 A. I can honestly say my wife, nor did I, do  
4 anything at all, anything at all.

5 Q. I don't think it's honestly, but I know you're  
6 saying it. What are you thinking Tony?

7 A. Nothing. We -- we didn't do anything. That's  
8 all I'm thinking.

9 Q. That's it?

10 A. (Head nod in the affirmative.)

11 Q. That's it?

12 A. Uh-huh.

13 Q. That's weird?

14 A. I'm thinking I can't believe we're even in this  
15 position.

16 Q. Is that it?

17 A. And that I'd like to go home.

18 Q. Yeah? Okay.

19 A. (Head nod in the affirmative.)

20 Q. And that's it? That's all you're thinking?  
21 Those are the only things that are going through your  
22 head?

23 A. My wife, my children.

24 Q. What are you thinking about your wife and your  
25 children?

1 A. Just that, you know, I'd like to be with them.

2 Q. What else? Anything else?

3 A. No.

4 Q. No thoughts about Jayla at all?

5 A. Yeah. I'm thinking about just -- the morning  
6 it -- she was laughing with me. My wife was woken up  
7 because of those laughs. I mean, we taught her to  
8 imitate sounds. We taught her --

9 Q. Yeah, but you didn't say that was in your head  
10 right now. The only things that were in your heard was  
11 that --

12 A. Yeah. You asked me and I'm telling you.

13 Q. Well, I know, but I had to ask you about Jayla.

14 A. (Unintelligible.)

15 Q. You offered up the other people, but you didn't  
16 really offer up Jayla.

17 A. Yes, I did. I told you. I just told you,  
18 Jayla.

19 Q. No, I asked you and you --

20 A. I know. And I answered.

21 Q. I know, but I am the one that told you.

22 A. You asked me, you didn't tell me. I -- I  
23 answered your question. I'm thinking about my mom and  
24 my in-laws, my brother, church. I mean, you name it.

25 Q. About what they're gonna think when they hear

1 about this?

2 A. Not necessarily. It's just, I mean...

3 Q. Cause they're gonna hear about it.

4 A. I'm sure they will. I'm sure they will. But  
5 --

6 Q. Oh, they will.

7 A. We didn't do anything at all. And I know that  
8 -- I just can't believe we're in this position, this...

9 Q. Well, theres' a reason why you're in that  
10 position. And you know why. Bu, let me see if we're  
11 ready to do anything.

12 Do you need to go to the restroom or  
13 anything?

14 A. Just some water.

15 Q. You want some water?

16 A. (Head nod in the affirmative.)

17 Q. Okay.

18 (Detective Hinojos exits and then returns  
19 to room.)

20 DETECTIVE HINOJOS: Actually, it's 10:08  
21 p.m., and we're gonna go ahead and terminate the  
22 interview. Okay?

23 THE WITNESS: (Head nod in the  
24 affirmative.)

25 DETECTIVE HINOJOS: Come on. I'll get you

1 some water.

2 (DVD concluded being played in open  
3 court.)

4 Q. (BY MS. RODRIGUEZ) Now, Detective Ruiz, the  
5 defendant left the building at that time?

6 A. Yes, shortly there after. Yes, ma'am.

7 Q. In his own vehicle?

8 A. Yes, ma'am.

9 Q. And he wasn't placed under arrest?

10 A. No, he was not.

11 Q. And he was not in custody?

12 A. No, he was not.

13 MS. RODRIGUEZ: Your Honor, I pass the  
14 witness.

15 THE COURT: Very well.

16 We're going to save the cross-examination  
17 -- I'm sure it's going to be lengthy.

18 MR. NORRIS: I'm sorry, Your Honor?

19 THE COURT: We're going to save the  
20 cross-examination for the next hearing because I'm sure  
21 it's going to be lengthy.

22 MR. NORRIS: Yes, Your Honor.

23 THE COURT: So let's recess at this time  
24 and we'll be here on September the 30th.

25 MR. GANDARA: Unless you're still in

1 trial.

2 THE COURT: Unless we're still in trial.

3 MR. GANDARA: We'll keep our hand -- our  
4 finger on our pulse and --

5 THE COURT: Check -- I checked just in  
6 case. I have got October 7th free. I don't know if  
7 everybody...

8 MR. GANDARA: Okay. I'll keep tabs with  
9 Becky.

10 THE COURT: And check to make sure, in  
11 case, let's see. Okay.

12 Thank you. Thank you all. You maybe  
13 excused.

14 MS. HAMILTON: Thank you, Judge.

15 (Proceedings concluded.)  
16  
17  
18  
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25

1 STATE OF TEXAS )

2 COUNTY OF EL PASO )

3

4 I, Anita D. Garza, Official Court Reporter in and  
5 for the 171st District Court of El Paso County, State of  
6 Texas, do hereby certify that the above and foregoing  
7 contains a true and correct transcription of all  
8 portions of evidence and other proceedings requested in  
9 writing by counsel for the parties to be included in  
10 this volume of the Reporter's Record, in the  
11 above-styled and numbered cause, all of which occurred  
12 in open court or in chambers and were reported by me.

13 I further certify that this Reporter's Record of  
14 the proceedings truly and correctly reflects the  
15 exhibits, if any, offered by the respective parties.

16 I further certify that the total cost for the  
17 preparation of this Reporter's Record is \$ -0- and was  
18 paid/will be paid by \_\_\_\_\_.

19 WITNESS MY OFFICIAL HAND this the 16th day of  
20 November, 2017.

21

22

23 /s/ Anita D. Garza  
24 ANITA GARZA, Texas CSR# 8444  
171st District Court  
El Paso, TX 79901 (915) 546-2100  
25 Expires: December 31, 2018

REPORTER'S RECORD  
 VOLUME 2 OF 2 VOLUME  
 TRIAL COURT CAUSE NO. 20120D04452  
 COURT OF APPEALS NO. 08-17-00039-CR

STATE OF TEXAS, ) IN THE DISTRICT COURT  
 )  
 vs. ) EL PASO COUNTY, TEXAS  
 )  
 ANTONIO N. LOPEZ. ) 171ST JUDICIAL DISTRICT

I, Anita D. Garza, Official Court Reporter in and for the 171st District Court of El Paso County, State of Texas, do hereby certify that the following exhibits constitute true and complete duplicates of the original exhibits, excluding physical evidence, offered into evidence during the Motion to Suppress, September 30, 2014, in the above-entitled and numbered cause as set out herein before the Honorable Bonnie Rangel, Judge of the 171st Judicial District Court of El Paso County, Texas.

I further certify that the total cost for the preparation of this Reporter's Record is \$    -0-     and was paid/will be paid by                                     .

WITNESS MY OFFICIAL HAND this the 16th\_ day of  
November, 2017.

/s/ Anita D. Garza  
 ANITA D. GARZA Texas CSR# 8444  
 171st District Court  
 El Paso, TX 79901 (915) 546-2100  
 Expires: December 31, 2018