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Edward Garza Interview Transcript

00:01:15

(Eddie Garza on screen.)

BW: Eddie, would you please say your name, give a brief biography of yourself, describe where you grew up, your career, what you're presently employed . . . what your present employment is.

00:01:33

Edward Garza: Ok, my name is Edward S. Garza. All my friends call me Eddie. I'm a resident of Corpus Christi, Texas, I've lived here, was raised here and born here in Corpus, Nueces, Texas. Went through the public school system here, attended Miller high school, where I graduated, and I was in the Army reserves, then I was full time in the Air Force. After getting out of the Air Force back in 1960 I started working for the city of Corpus Christi and later on in '64 I was employed by the Corpus Christi police department, where I retired from service in 1988. I worked in numerous jobs. I worked in patrol for ten years, where I established a good rapport with the citizens of Corpus Christi, and I had many friends, many informants, and later on in 1970, I believe, I was promoted to Sergeant and I went to work in the criminal investigation division, where I was working in the burglary division, theft division, auto theft, and later on went and worked on several homicides and then I was assigned to the

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major crimes division, where we handle all unsolved murders and different types of crimes that were committed.

00:03:23

BW: What was your position when you retired?

00:03:27

EG: I was a sergeant and I was assigned to the major crimes division of the Corpus Christi police department.

00:03:35

BW: And during that time, approximately how many homicides were you involved in investigating?

00:03:41

EG: I was involved in .. it was probably in the neighborhood of hundreds of homicides that I was involved in investigating during my tenure from 1970 through 1988. I worked on several homicides throughout those years. It wasn't always assigned to the homicide division, but when there was a major crime committed, I was assigned to several homicide investigations.

00:04:19

BW: You mention that you had informants, people you worked with on the street during your career.

00:04:29

EG: I had developed a good rapport with the community and several criminals that later on I turned them to be informants of mine

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because without a good informant . . . you're only as good as your informant is, as a police officer, especially in investigations. You don't get it out all on your own, you have to have people that rely on you helping them on some issues that they have, and they also recognize you as a person that is going to not reveal the name of the source of the information that you get.

00:05:20

BW: Did you receive any specialized training in investigations?

00:05:24

EG: Yes, I was trained with the Department of Public Safety in Austin. I went to many, many schools, some of them were crime scene search schools, homicide investigations, just different types of investigations that I did. I was always going to Austin for different schools, from one to two weeks in Austin, plus the training that I had received out in the field. You learned a lot from just working cases, itself. You develop a sense of who is who in the community and who is capable of committing different types of crimes.

00:06:13

BW: Were other officers assigned to the major crime unit, your department?

00:06:19

EG: There was one other office assigned with me to major crimes,

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which was Paul Rivera. We both worked pretty much together. And there was another office, Ray Rivera, no relation to Paul, that also teamed up with me to work in the major crimes division.

00:06:39

BW: And the gentlemen you just referred to you had similar training as yours?

00:06:44

EG: All, both of those officers that I mentioned have the same type of training that I've had.

00:06:52

BW: Did the other officers that were assigned to the criminal investigation division share similar training also?

00:06:59

EG: Sometimes they shared it and sometimes some of them liked to keep what they know to themselves, but most of the time it was a team of offices working together to bring a case to its conclusion.

00:07:14

BW: Mr. Garza, I've given you some police reports and photos that we have received regarding a homicide that occurred in 1983, February the 4th of 1983. Involved a homicide that occurred on the 2600 block of S.P.I.D., very close to Ayers Street, it's a Diamond Shamrock station. Do you remember that homicide?

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EG: I remember the homicide, it was a girl by the name of Wanda Lopez, I believe, was her name. She was the night clerk at the Shamrock service station, and I heard about the homicide that had occurred at that location. I did not . . . I was not assigned to work on this particular case but I knew the officer, the detective, that was assigned to work on the case.

00:08:19

BW: Did you have an opportunity to review the police reports and the crime scene photos in the last month or so?

00:08:29

EG: Yes, I have. I've read some of the reports and I've studied some of the photographs that were taken at the crime scene.

00:08:36

BW: Were you able to draw any conclusions based on your review of the crime scene photos and the police reports regarding this homicide?

00:08:47

EG: I reviewed it, and, to me, I had my doubts as to the offender that was convicted of the crime, and I believe it was a capital murder case and the person has since been put to death by lethal injection. I have many doubts in regards to the case itself because I felt that we had the wrong person that had been executed for this particular crime because of the evidence that was

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presented in the courts, and the evidence did not coincide with this particular person's alibi as to him committing the crime.

And the evidence gathered at the scene, the evidence gathered from the person that was convicted of the crime did not add up. I had other information as to another suspect that probably was involved in the crime itself.

00:09:55

BW: Who was that other individual?

00:09:56

EG: That other individual was Carlos Hernandez, the one that I felt was the one that had committed this particular crime.

00:10:05

BW: And when did you begin to feel that Carlos Hernandez had committed the crime?

00:10:11

EG: From information that I had received from other informants that Carlos DeLuna, the person that was convicted of the crime, had not done this particular crime. He was arrested, yes, he was arrested by a constable. In fact, it was the brother to my partner, Paul Rivera, he was a constable and he is the one that actually arrested Carlos DeLuna, the person that was convicted. He was found hiding underneath a car about a block and a half or so from the scene of the crime. But, later on, like I said, I

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developed information as to Carlos Hernandez being a person that had actually committed this crime.

00:11:03

BW: When did you develop that information, Mr. Garza?

00:11:06

EG: It was a few weeks after the crime had been committed and Carlos DeLuna had been arrested and charged with capital murder in regards to this case. The information that we got, that Carlos Hernandez had gotten someone else to take a fall for him in regards to this crime. And the evidence that was collected at the scene did not, did not prove that Carlos DeLuna had actually committed this crime. And the crime scene itself was really a crime scene that was not gone over. If I would have been investigating this case, I would be extremely careful of how the crime scene was processed, and, to me, the person assigned with the identification division that went to this scene did not do a proper job, especially on a capital murder case. There was many pieces of evidence that could have come into view that were probably completely ignored and overlooked.

00:13:37

BW: Mr. Garza, I have provided you with all the police reports, all of the photos that we've obtained on this case and I've given those to you to review. You've based some of your comments or all

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of your comments today regarding this case solely on that, or have you based it on that and other things?

00:14:00

EG: I had received the reports that have been supplied by me and photographs that have been supplied by me. I have studied these reports, and I also add that I have recollection of the crime itself when it was committed, from information that was going around by the detective in charge of the case.

00:14:25

BW: I'm going to jump us back again to the case. When the crime occurred, you indicated that you, soon after the homicide was committed, became aware of an individual who, you were told, through informants, had committed the crime. As I recall, that person was Carlos Hernandez. Again, when did you become aware of Carlos Hernandez and who made you aware of Carlos Hernandez?

00:15:06

EG: Approximately two or three weeks. There was talk from a couple of my informants that the person that they had arrested for this particular crime was not the person that had committed the crime. The person that had actually committed the crime was Carlos Hernandez, and Carlos DeLuna was the person that was being held for the crime itself. And these informants, like I said, relied on information that they had received by talking to some of

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the people that they congregate with in the streets.

00:15:44

BW: Now, after being told this, did you provide this information to the officers investigating the homicide?

00:15:55

EG: I contacted the detective in charge and informed of the information that I had received, but the detective itself [sic] said that they had enough evidence linking Carlos DeLuna to the crime itself. So I just backed away from it and let her work her case.

00:16:20

BW: Now, who was the detective in charge of that investigation, the Carlos DeLuna investigation?

00:16:26

EG: The detective that was in charge of the case was Olivia Escobedo. She worked mostly rapes and was assigned a couple of homicides during the time.

00:16:38

BW: And again, just to be clear on this, you provided her, the chief investigator, main investigator on the Wanda Lopez homicide, information that Carlos Hernandez was the perpetrator of this crime. Is that correct?

00:16:59

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EG: I advised her that they needed to look at him very hard, look very hard at Carlos Hernandez, because he was the person out in the streets boasting that he had gotten someone else to take the fall for him.

00:17:16

BW: Now if I was to tell you that, in the trial of Carlos DeLuna, a police officer testified that they had reviewed or looked at all Carlos Hernandez's regarding this incident, the homicide of Wanda Lopez, and in trial they said that they had reviewed and looked at all Carlos's, Carlos Hernandez's, and there was no Carlos Hernandez that they felt was connected to this case. Would that be surprising to you?

00:18:07

EG: Well, I don't remember a police officer testifying in court to this case, but there was a Carlos Hernandez, and I knew Carlos Hernandez ever since he was a juvenile because I arrested him many times. And he lived around the Carrizo - Laredo Street area. And he was always involved in some type of crime, theft, in shoplifting, and several other assaults that he was involved in. He was always getting involved in fights within the area. So I knew there was a Carlos Hernandez. If somebody got up and testified that there was no Carlos Hernandez, there sure was, and I can testify to that because I arrested him several times.

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00:19:12

BW: Eddie, I've handed you a picture. Could you identify the photos? A photo, a picture of two men. Do you know these men?

00:19:25

EG: *(holds up a photo of two men's faces, points to the face on the right side of the photo)* I know this guy. This is Carlos Hernandez. *(points to the face on the left)* This picture is similar to Carlos Hernandez, maybe it was when he was younger or something like that. The only thing I see different in these two guys is the eyes. The eyes themselves are a little bit different, but I do say that this *(points to the face on the right)* is Carlos Hernandez and this person right here *(points to the face on the left)* looks a lot like him but, like I said, it would be at maybe a younger age. The only thing different I see is the eyes.

00:20:17

(camera zooms in for close-up of photograph)

00:20:38

BW: Ok, Eddie, I'm going to hand you another photograph. *(hands him another photograph)* Could you look at that and identify that photo, tell me what it is?

00:20:53

EG: This is a picture of me and Paul Rivera arresting Carlos Hernandez at a younger age. It was reference of murder, I know

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that. There was another subject that was also arrested for the same crime, murder, same time. I believe this was in the case of Dahlia Saucedo, another murder that had occurred where she was knifed to death in the back of her van. And we had Jesse Garza, I believe, was another person that we were working in regards. There was two people involved.

00:21:44

EG: Actually, in the Dahlia Saucedo case, there was a total of three or four people that were brought in on that particular murder. But later on, in '86, I obtained a statement from a female, Diana Gomez, that told us that Carlos Hernandez was the one that had committed that crime. They went to trial, both of these guys, and later on got off for some reason or another. The crime itself I . . . me and Paul Rivera did not investigate the actual murder when it happened for Dahlia Saucedo, but we teamed up with the officers that were working the case, and that's how these people were arrested.

00:22:43

BW: Thank you. Mr. Garza, you are familiar with Carlos Hernandez when he was a young man. Is that correct?

00:23:04

EG: Yes, I arrested him several times for several crimes: petty theft crimes and little assault cases and stuff. He was always

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getting involved in some type of crime or another. The guy had an arrest record--unbelievable. And he had been arrested numerous times for different types of crimes

00:23:30

BW: And were you the only Corpus Christi police officer who arrested Carlos Hernandez?

00:23:35

EG: No, there were several other officers that were involved in arresting Carlos Hernandez. It wasn't me all the time.

00:23:42

JSL: Was Carlos Hernandez familiar to most policemen in the police department?

00:23:49

EG: Well, the policemen that actually were involved in investigating some of the crimes that he had committed, yes there were several officers that knew him. The patrol division knew who he was, knew his hangouts, and the people that he hung out with.

00:24:04

BW: Did the criminal investigation division, were they aware of Carlos Hernandez?

00:24:09

EG: Myself and my partners, we were well aware of Carlos Hernandez and what he was capable of doing.

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00:24:15

BW: In 1983, did the officers in the criminal investigation division know of, know who Carlos Hernandez was?

00:24:26

EG: In regards to being a suspect in a crime, yes, we were aware that Carlos Hernandez might be a possible suspect.

00:24:40

BW: But it's safe to say that he was familiar to the C.I.D. division within the Corpus Christi police department. Is that correct?

00:24:50

EG: Definitely. Most of the detectives in the criminal investigation division knew of Carlos Hernandez.

00:25:00

BW: Are you familiar with Carlos DeLuna?

00:25:03

EG: Yes, I am.

00:25:05

BW: Tell me how you are familiar with him.

00:25:07

EG: Well, Carlos DeLuna lived in, on Rockport Street up in the West side of town, actually the Molina division. I worked that beat for a while and also knew him from, I believe, West Oso, he

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attended the West Oso independent school district. And I was familiar with Carlos DeLuna.

00:25:38

BW: Did Carlos . . . Were you aware of Carlos DeLuna and Carlos Hernandez knowing each other?

00:25:47

EG: They knew each other because of the hangouts that they used to have. Carlos DeLuna used to hang out out here off of Leopard Street and those areas. And they became acquaintances, and I knew that they knew each other.

00:26:04

BW: Did you see them together?

00:26:07

EG: Possibly two or three times that I saw them together in the Leopard Street and Staples area.

(cut to new shot, still Edward Garza)

00:26:18

BW: Mr. Garza, did you ever see Carlos Hernandez and Carlos DeLuna together?

00:26:26

EG: During the late 70's and 80's I saw Carlos DeLuna and Carlos Hernandez together around Leopard and Staples Street area.

00:26:42

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BW: As a police officer, what, how would you describe that part of town?

00:26:48

EG: Well, to me, they were always hanging around South Bluff Park, which . . . There was a, kind of like a play room, a pool hall, and a place where a lot of people that obtained drugs and dealed [sic] in drugs hung out most of the time, and that was in the South Bluff area along Staple Street. There's a little road that runs out towards the back, and most of these people that are looking for some type of dope or something like that hang around that particular area. And this is where I confronted these people two or three times in that general area.

00:27:32

EG: We had a tendency, me and my partner, that we would stop and talk to all the people that were hanging around in that area, try to identify who was hanging around with who, and who ran with who, in case later on there was a crime committed, we could actually pinpoint, by description of these individuals, who might be involved in these particular crimes that were committed in that general area.

00:27:59

BW: And it's my understanding you and your partner contacted or saw Carlos DeLuna and Carlos Hernandez on some of those occasions

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together.

00:28:11

EG: Definitely. There were two or three times that we saw them together. We identified them together. There was another person that ran with them by the name of Freddy Shilling. He ran around with this same crowd.

00:30:55

BW: Mr. Garza, your experience with Carlos Hernandez: What type of crimes did he commit?

00:31:10

EG: Carlos Hernandez was almost always assaulting women and assaulting guys. And his weapon of choice was a knife. He always had a knife on him. And most of the time it was cutting up people or hitting them with a beer bottle or something. But he was always involved in mostly violent crimes.

00:31:38

BW: Do you have any recollection of the type of weapon, what type of knife he used?

00:31:43

EG: The type of knife was a sort of . . . I arrested him one time and the knife that he had was a regular, like a buck knife, you would say. It's a buck knife, and then it has a retraction button at the rear of the deal which it sets on top. You push that

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button then you pull the blade and it locks. The blade will lock.

00:32:20

BW: Mr. Garza, I'm going to show you another photo. Would you look at that and tell me what you see in that photo? *(hands him a photograph)*

00:32:34

EG: I seen a knife similar to the one that Carlos Hernandez, when I arrested him at one time, had. A particular knife, similar to this. It might not have been as long, but the . . . I would call this a buck knife. This is the same type of knife that if you press a button up here on the top the blade will open and it will lock the blade itself. And it sort of has like bronze or copper at the end with wood and then it's got some brass screws on it. I call this a buck knife most of the time.

00:33:18

BW: And is that a folding knife?

00:33:19

EG: It's an open, lock, a fixed-blade knife. Not fixed, but it will be become a fixed knife by pressing the button right here and then it has a locking device that locks it it's just like . . . and you can use it as a dagger or a knife. And it has enough space where a person can really grip the knife and that's why most of these people use this knife because they could pop that deal

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(demonstrates with hands) and then just switch it out like that and it would lock and right away they could go cutting somebody up.

00:33:54

BW: What's the advantage of having it lock?

00:33:58

EG: The blade will not retract back. Once the button . . . You have to actually press this button to get the knife to release to go fold and go back around here. Most of the time, once you press this button and the blade comes out, it locks it completely and it will not retract until you press that button again.

00:34:17

BW: And why is that an advantage?

00:34:20

EG: It's an advantage that once the knife is extended and locked it's a lethal weapon. To me, it's one of the most lethal weapons, and Carlos Hernandez always carried this type of knife.

00:34:35

BW: Now looking at that knife in the picture, opening the knife and locking the knife, would you expect a person to leave fingerprints on a knife like that when they opened it?

00:34:50

EG: It's a great possibility to get prints off this knife because this is a smooth surface and you have your brass or copper ends

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right here and you can very well lift a partial palm-print or a thumbprint or fingerprint off this particular knife. It has been done before and I've seen it done before. You can actually seal this weapon, superglue it, and you can get a print off of this. It might not be enough points in the print to prove that that's that particular person but it will have enough points in there to determine that yes, that is the person that had this knife in his hand.

00:37:38

BW: Mr. Garza, tell me about Carlos DeLuna.

00:37:43

EG: Carlos DeLuna was sort of a slow thinker. I wouldn't say he that he was a complete retarded person. He was just slow in thinking. And he wasn't a violent person that I can remember. He was just a slow person, a follower, someone that, they would tell him "Go do this" or "Go do that" and the guy would follow what someone else told him. He wasn't a person that would stand up and think on his own what he was going to do. Most of his habits was really intoxication and petty theft, but nothing in the violent part of . . . that you would say Carlos DeLuna is a very violent person. Never, never did I have anything dealing with any violence. Mostly it was just that he was a slow thinker, I wouldn't say a complete retard, he wasn't that. He was just a

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slow thinker, a follower, not a leader.

00:38:57

BW: Mr. Garza, let's go back, now, again, to the crime scene of the Wanda Lopez murder. And again, I refer you to the police reports that I provided and the photographs that have been provided to you, which include all of the photographs and police reports that have been made available to us in our research project. You've had an opportunity to read the police reports. Would you please make a comparison or a summation, in reading those reports, compare those to when you were investigating homicides. And additionally, before addressing that, would you tell me how many homicides, death investigations, suicides, any type of death investigations that you covered in your years in the criminal investigation division in Corpus Christi.

00:40:07

EG: It was a little over . . . between one to two, two hundred and fifty cases I investigated. That's dealing with aggravated assault, murders, suicides, and that type of crime. I say it was well over . . . between two hundred to two hundred and fifty major crimes.

00:40:37

BW: In your experience in the Corpus Christi city area, what was, in death investigations or homicide investigations, the weapon of

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choice used by assailants?

00:40:50

EG: I'd say that the weapon of choice would be, if you were to say guns or knives, I think that knives, in my homicides that I investigated, knives were used more than guns were used. And in the Hispanic population, a knife was always carried by criminals that I dealt with, the Hispanics. You take your Anglo type and your Black people, Black people sort of like guns too, and White people would use a gun. But Hispanics, the major choice of weapon to carry on themselves would be a knife. And to me, most of the crimes I worked on on the West side and in the center of town where mostly with knives that were used.

00:42:13

BW: Now, talking . . . back to the crime scene at the Wanda Lopez killing. Again, you've reviewed the police reports and the photos. Now, I want to begin with the police reports. In reading those reports, did you make any observations, summaries, things that you thought could have been handled better in reading those reports, based on your experiences and how you handled major cases at the time.

00:42:50

EG: The way I handle cases, the crime scene is one of the most important aspects of solving a crime. I feel that if you do not

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protect a crime scene and let the proper people from the identification division come in and just seal that scene until they're satisfied that they've picked up every bit of the evidence that is available in the crime that supposedly was committed. I think that the identification section plays the most major role in solving any type of homicide because, to me, if I was to take you back to the scene of this particular time, Wanda Lopez at the 2600 block of S.P.I.D., the crime scene was not protected enough, it was not secured enough. The identification people that actually processed the scene for evidence did not use the proper way that I would have requested that a crime scene be searched and protected for evidence. It could have been lifted from the place.

00:44:14

EG: And I am speaking in general of many things after reviewing the pictures that you gave to me to review and the reports that I went through. The crime scene itself was not processed properly. There could have been someone else identified as committing the crime. And there was evidence that was stepped on by the investigator that was at the scene. And to me, if you just stay out of a crime scene and talk to the witnesses outside and secure the scene and let just identification take, whether it be one day, two days, or three days, just to be at that scene, processing the scene, I think that the results of this case would have been

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totally different. There was too much evidence that could have been obtained that was never even touched.

00:45:16

BW: Why is that evidence so important?

00:45:19

EG: The evidence is important because if you're convicting somebody of a capital murder case you better be well sure that you have enough evidence that that person was at the crime scene. The person they have charged, I'm talking about. That person, you have to link him with witnesses' statements, with the physical evidence that is found at the scene, whether it be footprints, fingerprints, palm prints, anything.

00:45:51

EG: And when the person is arrested, if that person has anything on his person, whether it be blood stains on his shoes, his soles, whether he took any thing from the scene, whether there would be blood that would match the victim's blood that was in there, whether this person had a fight with an individual that might have linked him more closely to the crime, whether he had-- what type of clothing he was wearing at the time that he was arrested, that would link him back to the crime scene. You have all types of people walking around different areas of a crime scene. Just because they find somebody hiding somewhere underneath a car, and

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there's no physical evidence to tie that person to the crime scene itself. I see that a lot of things that did not get done on this particular case that could have been done to prove beyond a reasonable doubt that this person was the actual person that had committed the crime. I think that they left a lot of doubts when the case was presented to the courts.

00:47:15

BW: When you say "this person," are you referring to?

00:47:19

EG: I'm referring to Carlos DeLuna, when they actually had the right person that had committed the crime, which I stated later on, I obtained some evidence that it was another person, totally different, that had committed this crime.

00:47:37

BW: Am I correct: you've reviewed the police reports and the crime scene photos, and am I correct that you have indicated that there was no link made to Carlos DeLuna and the crime scene.

00:47:57

EG: After reading the reports and everything else, I have no physical evidence, actually, that connected him, whether it be a fingerprint on a package of cigarettes that was on top of the counter, whether the scene was processed properly. The door leading out of the establishment, there had to be some type of

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palm print left on the door as he exited the place, yet I see no evidence of anything that was left at the scene linking Carlos DeLuna to the crime.

00:48:34

BW: Based on your review of the crime scene photos, would you, do you feel or have an expectation that there should have been a transfer of evidence from the crime scene to the person who committed this crime?

00:48:57

EG: There should have been. There should have been something because there was enough evidence, whether it be a stain or a bloody footprint. There was enough blood on the floor and on the carpet that would have left an imprint of the shoe that the person was wearing that had actually committed the crime.

00:49:19

EG: Yet, when Carlos DeLuna was arrested, I don't know whether they confiscated his shoes to see if they had blood, whether they saw blood. I would have actually taken the shoes and any part of his garments that he had. There had to be one stain of blood somewhere, as much blood as was at that crime scene, there had to be one speck of blood that they could have connected, Carlos DeLuna, yes, you were at the crime scene, this blood matches Wanda Lopez. And that was not there.

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BW: Mr. Garza, I'm going to hand you not all, but a portion of the photos that I asked you to look at and evaluate regarding this, the homicide of Wanda Lopez. These are photos that you've indicated to me that you've identified points of interest within the photo within the crime scene. I'd like you to look at each photo and identify for me those points of interest that you see in those photos. *(hands him a stack of photographs)*

00:50:56

EG: Ok, as I'm looking at photograph number 2. Photograph number 2 shows part of the floor, I guess, behind the counter or in front of the counter at the crime scene. The first thing that I notice that this female, who is Olivia Escobedo, she is standing here, and all I can see is that her shoe is on top of a piece of paper that could probably be a piece of evidence. To me, right there and then, the crime scene is already contaminated by her heels of her shoes stepping on part of a paper. What if that paper had a fingerprint on it?

00:51:55

BW: Now who is Olivia Escobedo?

00:51:59

EG: That would be Olivia Escobedo, the investigator assigned to this case. Another thing that I saw in this scene that, right up here, is a roll of tape that is used by identification people to

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lift prints. There is another photograph of that particular part of a photo, which is in photo number 1, shows the roll of tape that is used, it's on the floor. I don't know, the identification person that was on the scene was pretty careless in letting some of his equipment fall into part of the crime scene. As I see here, I believe that this is a cigarette butt, that I don't know whether it was retrieved from the scene to be tested for fingerprints or anything else.

00:52:58

EG: But from what I read, I don't see any of this evidence that I see in these pictures that were collected. In photo number 3, I see a peppermint stick candy that's usually wrapped with cellophane, and you also have a package of Winston cigarettes laying on top of the counter. And to me, if I was thinking, this subject that committed this crime, came in, asked for a package of cigarettes, he was given the package of cigarettes and it was laid on the counter. I did not see any evidence during my reports on anything that was given to you all whether this package of cigarettes or this particular peppermint stick was processed for fingerprints or anything else, but that would be something that I would be looking at to obtain prints, especially the Winston package of cigarettes. And there is also a 5-dollar bill or something that's here on the floor that--and other photographs a

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lot closer--have blood on them. The cash register itself has got another piece of money. I don't know whether this money was processed for fingerprints or anything else. There was enough blood on here that if a subject was to grab part of this money, it would have some type of smudged fingerprint on it. I don't know whether it was processed or not. I did not read anything in my reports where it had any prints.

00:54:52

EG: *(holds up another photograph)* And in this photograph you see the 5 dollar bill which also has blood on it and there's blood over here. But, in this photograph, you see the knife that the person used. Now there was some matter left on this knife from fatty tissue or something that was . . . the knife that was used to cut the lady which was a fixed-blade knife with the . . . the same knife, that I, as I said earlier, it has a button that you press and it becomes a fixed-blade knife. Now, I did not read anything whether this knife was processed for fingerprints or not, but it is very, very possible to obtain either a palm print, a fingerprint from this knife. I did not read during my reading of the reports whether any prints were lifted or whether they even tried to lift any prints from this knife. *(holds up another photograph)* Then you have you counter, which you can see smudges of blood on the counter. Again, if somebody is struggling with

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somebody or fighting with somebody, I do not see any dusted, dusting for prints on the surface of this counter or even the top of this counter where it was processed. I did not read whether there was any processing done, in regards to trying to lift prints from the counter itself. Formica is a pretty smooth surface; sometimes you can lift a whole hand print if somebody puts their hands on the counter. And I've worked on cases where we have lifted whole hand prints from a piece of Formica.

00:57:00

EG: *(holds up another photograph)* And here's a closer photograph, photograph 6, of the knife itself. And you can see that there might be some foreign matter on this particular knife. I think that's why the close-up was taken of it because it does show some foreign matter. But just like you see foreign matter here, you have your other part of the knife that could have had some type of fingerprint. *(holds up another photograph)* This is a, to me, a photograph. There's the knife, but I see a heel print on this carpet. The . . . if you had a good identification person processing the scene, he would measure the distance of the heel across-ways or horizontal-ways to see how it fitted and what else closer picture he could get of this particular heel print. Because, evidently, the heel-print that I see here might have been from the offender that committed this crime. And, of course,

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you've got your 5-dollar bill, but then you've got your cash register open which has a lot of blood. To me, if this was processed properly, something could have been obtained from somewhere around the cash register, some type of print.

00:58:30

BW: May I ask a question regarding that photo, Mr. Garza? Would you expect that print that you see there, that you identified in the photo, that heel print wasn't there before, is that what you're saying? That that occurred during the course of the-

00:58:45

EG: It could not have been because it's embedded in blood. That heel print is embedded into blood. If you step on blood, it's going to leave the imprint where it squashed the blood over to the side and it's going to leave a perfect imprint of the heel, give or take a fraction of an inch, you know, both ways.

00:59:07

BW: So we would have an expectation that whoever left that footprint there left it after-

00:59:14

EG: That person was walking away from the cash register, and it would have to be the offender because, according to other photographs, the victim was wearing some type of shower clogs which had no heel, it was just a straight, flat bottom. This is

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heel print from a shoe. I would be looking, if I were the investigator, I would be looking very, very closely to try to match that heel print right there to the shoes that the offender would have been wearing. And being stepping into blood, you know that his shoes, at time of arrest, had to have some type of blood on them if there was this much blood at the scene.

01:00:00

EG: *(holds up another photograph)* Photograph number 8 is also a close-up of the Winston package of cigarettes and this. But you see, the surface of this counter, the person had to have come up to the counter to ask for this package of cigarettes. Evidently, the majority of the people, they put their hand on the counter. Was this counter processed? I don't see. I don't see any black powder anywhere. You could see it. Maybe it was photographed before, but I didn't read whether there was even any attempt to try to lift prints.

01:00:31

BW: Now, what is the black powder you're referring to, Mr. Garza?

01:00:34

EG: Graphite, black powder that's used by fingerprint that's used to lift latents from surfaces.

01:00:45

BW: Now when they use the black powder, how do they lift the

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print?

01:00:49

EG: They lift the print with the roll of tape that was on the floor. That's how that print is lifted. They actually dust it, they get the figure of a print, the tape is put over it, and then it is lifted and placed on a white four-by-five card, mostly.

01:01:06

BW: And how is that card identified?

01:01:08

EG: That card is marked by the person that lifted it, with the print, where he lifted the print from. He has to list it on the card exactly what part that print was lifted from. That's the work of a proper identification person. He has to list every bit of the evidence, every latent that is lifted, from where they lifted it.

01:01:29

BW: How does the technician or investigating officer identify where the particular print or piece of evidence is collected in a crime scene?

01:01:44

EG: By putting it on the card where he lifted it and having the card available. That card is sent to specialists that reads [sic] the print and identifies it with the points that that particular

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latent has. It used to be that you had to have 12 points to identify a person, that that is the person, the deal, but now they've got it narrowed down, I think, to 9 points that are admissible.

01:02:12

BW: Are measurements ever taken of pieces of evidence to identify where the piece of evidence was collected within the crime scene?

01:02:22

EG: The proper identification person will always have a ruler. And he will put a ruler, like the knife that was picked up right there: actually the photo should have been taken with a ruler lain across the knife to show the proper length of the knife. That is the proper way. If you had the right person at a crime scene they would have been able to identify how long that knife was and then the distance that it was dropped from, whether it was the counter or the middle of the floor. You have to have some point where you can pinpoint how far the knife was from a certain point.

01:03:06

BW: Now does that same principle apply to any evidence collected at a crime scene, whether it be blood evidence, fingerprint evidence . . .

01:03:15

EG: Any blood evidence that is lifted, any print. *(holds up*

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another photograph) Like here, in this photo, photo number 10, you see a print of a foot, or a shoe. The proper way to have taken this picture is to put a ruler right beside it. That way you could identify whether it's the victim's footprint or the offender's footprint that was left. Footprint or shoe print, because there's another photograph that kind of shows toes or something like that. But the length of it, by the ruler, would identify what size shoe or what size the foot the person, whether it be the offender or the victim, were wearing. *(holds up another photograph)* And there are certain footprints leading to photograph number 11, I believe. Photograph number 11 shows another partial print where there was a pool of blood and someone stepped on it and squashed the blood over to the side. But if you can see, the footprint is very noticeable. That should have been measured also, it should have been a better quality picture made of this, with a ruler laying beside it.

01:04:42

EG: *(holds up another photograph)* And you've got footprints in this one coming from the back of the counter where they have the locked door. You see several prints coming up there and here's one that shows all five toes right there and the foot. But still, if you're going to present this in a capital murder case, you would have a ruler right beside it to show how big that foot is.

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And that way you could separate the victim from the offender to try and match and see if you were going to use that as evidence against the person that is being tried for the crime. *(holds up another photograph)* This is another photograph of the footprint in a different angle. This is a bad picture, it should have been a lot closer-up picture. It would actually put the camera over the deal with a ruler and take that particular picture. But it all leads to the front door. The front door: there's one photograph that you see a lot of blood on the door itself. *(holds up another photograph)* And this one you do see blood right here on the bottom part of where the handle is. But this door, I don't know if it was ever processed. I did not read anything that it was processed. There might have been a hand print, palm print, or something, with the offender just pushing the door and going out of the place, which could have been obtained if the scene was processed properly.

01:06:20

EG: *(holds up another photograph)* And this is photograph, number 14, which also shows part of the prints coming across the carpet over to the front door. Like I said, I would have, if that was me investigating the case, I would have made sure that this scene was secured, super-glued, all the prints that could have been gotten, every piece of paper that was on the floor, whether it be knocked

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off to the floor or grabbed off the floor with something, every piece of evidence that was there that wasn't on the floor before should have been processed for latent prints. And to my knowledge, after reading the reports, I don't think any of these items were even packaged up properly and taken to the lab so people could search for them. *(camera cuts to new shot, still Garza)*

01:07:20

BW: Mr. Garza, I'm going to read to you a list of items that were collected from the Wanda Lopez crime scene, where the items were found and what tests were conducted for each item. I'm going to do that on each item and ask you your opinion on your results. First item is blood. It was found outside the store. No tests were run on that blood. What is your opinion?

01:07:53

EG: My opinion, that should have been swabs taken from the blood, if what direction was it leading to. And I would have submitted those to the lab in Austin for identification of the blood to see if it was the victim's blood or the offender's blood.

01:08:18

BW: Next item, blood: smeared on the front door handle on the inside of the door on the lower left-hand side of the door. No tests were run, including tests for finger prints. What's your

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opinion?

01:08:35

EG: I feel that the whole door should have been processed and then swabs taken from the particular areas where there was blood on the door. Those swabs should have been obtained and sent to the laboratory in Austin to determine who's, what type of blood it was.

01:08:56

BW: Trail of blood, from the counter to the door. No tests were run, including tests for footprints.

01:09:09

EG: Again, any blood that was at the scene, wherever it was obtained from, should have been protected, put into swabs in the proper containers, sent to the laboratory for proper identification.

01:09:30

BW: Roll-about stool. This item was found, quote, "pulled out in front of the check-out counter." No tests were run, including tests for fingerprints.

01:09:45

EG: Again, that stool should have been photographed, closely visualized. If there was any evidence that there might be a bloody print, that print should have been photographed. Then

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after it was photographed, there should have been some swabs taken of the blood to identify it properly.

01:10:14

BW: There was a writing pen that was found on the counter, the writing pen you've previously identified in a photo as being which you believe to be a candy cane, I believe. That you identified as a candy cane covered with cellophane, in fact, was a writing pen. Found on the counter, you identified it previously in a photo. No tests were run, including tests for fingerprints. What is your opinion on that?

01:10:47

EG: It should have been properly secured, properly marked, and properly processed.

01:10:54

BW: A penny, found on the counter. No tests were run.

01:11:00

EG: Again, there should have been some type of an attempt to obtain a latent print from the penny itself.

01:11:11

BW: Calculator, was found on the counter. No tests were run.

01:11:17

EG: Every item on top of the table should have been processed with graphite for latent prints.

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01:11:25

BW: Winston cigarette pack, was found on the counter. It was processed for fingerprints. None were found.

01:11:35

EG: It should have been properly packaged, put in a bag, taken to the lab, and re-processed again by a chemical. Use superglue to see if they could actually raise a print from that cellophane cigarette package.

01:11:55

BW: Paper towels, scattered, with blood, found behind the counter on the floor. No tests were run, including for fingerprints, or blood, or footprints.

01:12:11

EG: Any piece of paper found on the floor or around the crime scene should have been put in paper bags, secured, taken to the laboratory, superglued, and they should have been tested for blood type and also any latents.

01:12:30

BW: A cigarette butt was found behind the counter, on the floor. No tests were run, including for prints or blood type.

01:12:42

EG: Should have been retrieved, properly taken to the laboratory, and tested under more stringent circumstances. They could have

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superglued that particular piece of paper and possibly come up with a latent.

01:13:49

BW: Mr. Garza, there was a calendar found behind the counter, on the floor, it had, was bloodied in the upper left-hand corner. There were no tests for fingerprints, or footprints, or blood was tested on that piece of evidence.

01:14:10

EG: That calendar should have been secured in a large paper sack, taken to the laboratory, swabs should have been taken from the blood on the paper, and then it should have been properly processed for latent prints.

01:14:25

BW: A plastic bag for cold drinks, with blood pools on it. It was found behind the counter, on the floor. No tests were conducted.

01:14:41

EG: That item should have been secured also and taken to the laboratory, the identification lab, and processed properly.

01:14:49

BW: Blood smears behind the counter, on the floor, near the back room. There were no tests for fingerprints, blood spatter tests, or blood type conducted.

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01:15:05

EG: Again, the proper identification in charge of the crime scene should have obtained swabs from every area of blood, whether it be on the wall, whether it be on the floor or doors, and properly put in a vial and sent to the lab for testing blood type.

01:15:30

BW: Mr. Garza, what does "blood spatter" evidence tell us?

01:15:36

EG: Blood spatters just depends on how violent the act is. And you will have splatters in different directions. You can actually determine what part of the room that person was in or how much velocity a person was attacked with that would splatter blood through walls to different areas of furniture within the room. You can actually almost put the crime scene together as to areas of how violent the act was.

01:16:12

BW: When you see blood splattered at a crime scene, do you expect it to be multi-directional?

01:16:21

EG: It depends on the people that are moving around the room, whether somebody is trying to get away from somebody, and then somebody hits them again, of course you're going to have splatters going different directions, and it would actually tell you just

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what areas of the crime scene they actually moved to, whether somebody was just trying to get away or just stood still and let someone do the damage to their body.

01:16:48

BW: In your experience as a homicide detective, when you see blood-spatter evidence and an indication that the crime was a knifing type of crime or death, do you expect to see blood splatters transferred to the perpetrator?

01:17:10

EG: Blood splatters can also occur as blood is really rushing out from someone's body, but the majority of the splatters are from actual blows to the body that are also being administered.

01:17:26

EG: Somebody can get hit and splatters will go against the wall. And if you hit a big vein or something like that, naturally blood is going to gush out and go in different directions, as to where the person is running, moving, or being pushed.

01:17:44

BW: Blood spatter on the floor and wall, again behind the counter. Again, no tests were conducted for blood spatter evidence nor blood type. What is your opinion?

01:18:00

EG: The scene wasn't properly processed. Every single area of

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that crime scene should have been . . . samples of swabs taken from every single area in that room. That way you determine whether it's just one person's blood or whether another person involved in the committing the crime.

01:18:25

BW: Soft drink cans from the display knocked on the floor. Again, were found on the floor behind the counter. No tests conducted.

01:18:35

EG: It's an improper identification of the crime scene.

01:19:40

Bruce Whitman: Soft drink cans from the display knocked on the floor found behind the counter. No tests were run.

01:19:42

EG: There should have been proper tests run for swabs of things. The cases, cardboard cases themselves, could have been processed for latents, and that wasn't done.

01:19:58

BW: Victim's shoe was found right-side up behind the counter. It was a thong or shower-type shoe. No tests were run.

01:20:14

EG: To me, the way the shoes were found there was one found in one area, one was upside, the other one was right-side up.

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Indicates that she was running for her life and actually ran out of her shoes just trying to get away from the perpetrator.

01:20:31

BW: A maroon-colored button. It was found on a maroon floor mat. No tests were run, no comparisons were made to anyone's clothing.

01:20:42

EG: Comparisons of that button should have been looked at, in the clothing that the offender was wearing at the time, whether it was jerked off by the victim, or whether it was a button that belonged to some of the victim's clothing, that should have been properly identified in some way or another.

01:21:00

BW: Empty penny wrapper, on the floor, underneath the cash register tray. No tests were run.

01:21:09

EG: Normally they would, should have been retained by the identification officer, packaged up, and taken to the lab. Of course, it's a store where a lot of clerks just get the wrappers and throw them on the floor, but this was a crime scene so it should have been properly handled with all the evidence at the crime scene.

01:21:35

BW: Stainless-steel knife, inner-lock knife-type blade was found

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near the left-hand side of the safe. It was processed for prints. None were found. No blood tests were conducted on that.

01:21:54

EG: Blood tests should have been conducted on there, there was other evidence on there that could have been obtained both by the knife itself, by just dusting it, is probably not going to bring a finger print. The hands of a perspiring person are going to leave some kind of palm print or something on it. But sometimes, you have to actually use a process they call "superglue," that will actually bring a latent to light if it is there. I don't care how much grease there is. You can obtain a wet can and if you dry that can, and later on superglue it, you're going to get a latent. I don't care what, I've had this happen on another crime scene that I investigated that I had that process done, because I believed you could get a print off a wet can. And I was told "no" by the identification. Yet, they got all five fingers on that can and they got a palm print on that can. So I say that a knife, yes, you could superglue it and get a print somewhere or another. Because there's enough oil in a person's body to transfer a palm print or a fingerprint onto any kind of surface.

01:23:27

BW: A 5-dollar bill with blood stain. Found on the floor underneath the cash register. It was tested positive for human

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blood. No blood type. It was tested for prints, no prints were found.

01:23:59

BW: A 5-dollar bill was found, with blood stains, was found on the floor underneath the cash register tray. It was tested for blood and found positive for human blood. They weren't able to determine a blood type. It was not tested for fingerprints.

01:24:16

EG: Again, if it had been sent to the D.P.S. lab, they could have blood-typed the blood that was on there. I don't care if it's one drop, it can be blood-typed to the victim or the offender. And again, that bill could have been superglued and some prints had to appear on that bill.

01:24:40

BW: Cash register tray was pulled from the register. It was tested, it was not tested for prints. On it were two 5-dollar bills, again, not tested for prints.

01:24:55

EG: Should have been properly packaged, taken to the laboratory, and, under more strenuous type of identifications, it should have been properly processed for latents. And also, swabs should have been taken from it to see if there was any blood on it.

01:25:16

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BW: There was a carbon paper taken from a credit-card receipt from a previous customer. It was found, quote, "half-haphazardly laying on top of the tray." No tests were made. No analysis of who the customer was, no analysis for prints.

01:25:37

EG: Again, if it was carbon paper, whoever pulled it off should have had some type of latent print on the carbon itself.

01:25:48

BW: Blood covering the cash register machine. No tests were conducted.

01:25:52

EG: Blood swabs should have been taken from there and closer photographs of the blood on the cash register should have been taken.

01:26:02

BW: Blood smears on the back side of the check-out counter. No tests were conducted.

01:26:09

EG: The whole counter should have been processed for latents.

01:26:13

BW: The telephone, it was in the cradle, behind the counter, tested for prints. One partial print was found, did not match Carlos DeLuna.

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01:26:25

EG: Again, I believe that the receiver itself should have been taken off that phone and taken to the laboratory and tested further.

01:26:37

BW: Victim's purse and comb was underneath the counter. No tests were conducted.

01:26:43

EG: There could have been hair tests taken from the comb itself and to determine whether it was her hair or who else's hair was on that comb.

01:26:57

BW: Keys to the safe were found in the key slot on the safe. No tests were conducted.

01:27:06

EG: They should have photographed it. And also processed, depending on the surface of the key, whether there could have been a tip print on that key or not.

01:27:18

BW: Cool tube, on the floor, near the bloody shoe, near the entrance to the storage room. No tests were conducted.

01:27:27

EG: Again, latent prints should have been processed on that tube.

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01:27:33

BW: 149 dollars in bills were found in Carlos DeLuna's pockets. They were tested for blood, they were found to be negative for any blood evidence. They were tested for fingerprints. No fingerprints were found.

01:27:53

EG: Again, the improper procedure was probably not used on the bills itself [sic], but if any money came from that crime scene, there should have been some speck of blood on 149 dollars.

01:28:10

BW: Black slacks, the slacks Carlos DeLuna was wearing when he was arrested. They were tested for blood. None was found.

01:28:20

EG: Again, they should have been packaged up and sent to Austin for more proper identification.

01:28:29

BW: White tennis shoes, near the scene where DeLuna was arrested. They were tested for blood and it was found negative for any blood evidence.

01:28:42

EG: Again, there was footprints and imprints in the blood at the crime scene. If the offender would have been at that crime scene, definitely there would have been a transfer of blood to the soles

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of the shoes, the sides of the shoes, or even the shoelaces would have had some type of blood splatters, as much blood as was at the crime scene. The offender would have had some type of transfer over to his shoes if he was wearing them inside the place. And, probably the length of the shoe itself should have been taken at the time and entered into documentation in the report of the officer investigating the case.

01:29:35

BW: White button-down shirt. This was also found near the scene where DeLuna was arrested. It was tested for blood, none was found.

01:29:47

EG: Again, if a person with a white shirt would have been at this crime scene it would have been a transfer of blood somewhere or another to that white shirt.

01:29:58

BW: Mr. Garza, it's my understanding that it had rained previous to this crime occurring. I don't believe that it was raining at the time but it had rained within a few hours of that crime. Do you think the rain or the wet ground would have influenced the integrity of those blood samples, had they been there on Mr. DeLuna's clothing?

01:30:23

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EG: Definitely not. Definitely not. Rain would not have any kind of factor. If there was blood on the clothing, blood on the shoes, the rain that was there . . . You would have had to actually scrub both items and wash them real good to get blood stains removed from an item that the subject was wearing just moments before the crime.

01:30:51

BW: Two Miller Light beer cans were found out back of the gas station on the grass. Some partial prints were found, but print examiners did not test for saliva or blood type.

01:31:08

EG: Again, the proper identification of the cans themselves. They should have been packaged up, taken to the lab, and tested for any type of evidence linking the offender. If he had actually placed those cans back there, it would have had something that would identify that offender to those cans.

01:31:31

BW: There were three swabs taken from Mr. DeLuna's body after his arrest. One was taken from his face, one was taken from his throat, one was taken from his chest. They were tested for blood. None was found.

01:31:50

EG: Again, that just goes to prove that there was a doubt whether

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this particular offender was the person that had been at the crime scene.

01:32:00

BW: Fingernail scrapings from Wanda Lopez: No fingernail scrapings were recovered nor tested.

01:32:09

EG: A person trying to defend herself, if that's the only weapon that she has, is her nails, should have revealed some kind of scrapings. And if it wasn't done, somebody dropped the ball and didn't do the proper examining on this body.

01:32:26

BW: Fingernail scrapings from Carlos DeLuna. No fingernail scrapings were taken or tested.

01:32:34

EG: Again, in cases of guns and stuff like that the proper way to do is take the offender that you have and do a paraffin test of his hands at the police station, which I was involved in, taking someone to determine whether that person had been involved. But the people that arrested this guy and the investigator in charge of the case, that's the first thing they should have been looking for, for any type of evidence on this man's hands that would relate. If there was that much blood, definitely the offender would have had some type of blood stains in between his

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fingernails. That's . . . they didn't let him wash his hands or nothing, that's the first thing they should have checked: his fingernails for blood. There was too much blood in the place, even blood on the money that was in the place. Something would have revealed, that if he handled money with blood, it would have transferred over to his hands somewhere or another.

01:33:49

BW: Fingerprint work that was done by the investigating officer and the lab technician working the crime scene. There were a few fingerprints that were, in fact, from a few areas, that were lifted. Inside area of the door, there were two partial prints, they were of a poor quality, bad quality. There was the aluminum bar handle on the front door was also examined for evidence. No prints were lifted.

01:34:31

EG: Again, it all goes back to the person that's in charge of the crime scene, the person that is collecting the evidence. If he is not properly trained or has had enough experience in a big homicide like this, they're going to miss some print area, they're going to miss something in the crime scene. That's why it's always good to protect the crime scene for as long as it may take, whether you need to call in other expert identification people to go to the scene and process the scene, more time would have been

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needed. What they should have done is they should have secured the scene completely for at least 24 to 48 hours until everything had been gone over to identify the offender that they had to the crime scene.

01:35:35

BW: On top of the counter, Formica counter, no prints were lifted.

01:35:40

EG: The counter was made of Formica, there would have been prints if . . . There should have been several prints from people that patronized the business itself. If none were lifted, then it was an improper way to try to lift latents from the counter itself.

01:36:02

BW: The telephone behind the counter. One partial print was lifted but it was not matched to Carlos DeLuna.

01:36:11

EG: Also they should have tested the telephone to see if it fit the victim's fingerprints.

01:36:20

BW: Cigarette pack, no prints were lifted.

01:36:24

EG: Again, that should have been superglued and more proper care of the evidence that was there at the scene should have been taken care of in order to obtain a latent if it was available from the

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package.

01:36:43

BW: Mr. Garza, after going through this list of evidence which was collected and some of which was analyzed at the laboratory, has this changed your opinions or your conclusions of how the case was handled and the outcome of the case.

01:37:08

EG: My opinion is all based on experience, experience that I have had and the experience that the investigator in charge of the case has. To me, the investigator that was assigned to this case did not have the ample knowledge of the criminals involved in this deal, had no knowledge of what the people involved in this crime were capable of. She didn't have the proper experience of how to investigate a major crime. The identification person did not have the proper experience in how to deal with a high-crime scene like something that would lead to a capital murder case. To me, it was improperly handled from the investigative part and also the identification part. More time should have been taken at the crime scene. There should have been one or two other experts called to the crime scene before the crime scene was turned over back to the owners of the establishment. And this way, you're dealing with a capital murder, you're dealing with a person that might get convicted of capital murder and put to death, and you

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want to make sure that you have the right person, and either with physical evidence that is found in the scene or other types of evidence linking the offender to this particular crime. To me, it was not handled properly from the investigative view and from the identification part of it.

01:39:04

BW: Who was the crime scene technician at the scene?

01:39:09

EG: The crime scene technician was Joel Infante. Joel was in patrol most of the time and later on he got assigned to the identification division. He might have had some experience in lifting prints, but to process a major, major crime scene, I don't think that this person had the proper training, the proper knowledge of what to look for at a crime scene.

01:39:40

BW: How much experience did the crime scene person have before this scene, and is that person still employed with the Corpus Christi police department?

01:39:53

EG: I don't know exactly how long this person had actually been assigned to the identification section, but I knew him when he was in patrol, and I know that in patrol you just go through the formularities [sic] of how to secure a scene and things like that.

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But to have the proper expertise in a major crime scene, you have to have people that have worked on big major crime scenes and have the knowledge and training on how to recover evidence, how to obtain evidence, how to handle it properly, where to send it, whether you're going to leave it in the local lab or whether you're going to package it up and send it to the Department of Public Safety or even the FBI laboratory.

01:40:40

BW: And the investigator investigating this case: how much experience had the investigator had in major crime scene investigations or major case investigations?

01:40:55

EG: I believe that this was her first or second major crime scene that she had investigated. Most of the cases that she handled were rape cases and simple assaults and things like that. But a major, major capital murder case like this, I think this was really her first or second case that she had handled.

01:41:21

BW: To your knowledge, did the crime scene technician have any disciplinary problems with the department during this time?

01:41:37

EG: He had had his problems, I don't know if it was at that particular time. But I know that he had several problems, that he

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had several problems that he had been through. I don't want to go into that, but I knew of problems that he had in the department.

01:42:05

BW: Carlos DeLuna. You have described Carlos DeLuna to us. Was Carlos DeLuna the type of person who carried a knife?

01:42:17

EG: Not to my knowledge. I don't remember I ever arrested him, that he carried a knife. Carlos Hernandez, yes, I arrested him in possession of a knife similar to the one that was found at the crime scene.

01:43:14

BW: Mr. Garza, would you compare Carlos DeLuna to Carlos Hernandez.

01:43.20

EG: Carlos DeLuna was not the type of violent person that I knew. He was sort of mild, like I said, he was slow in thinking. And comparing him to Carlos Hernandez: Carlos Hernandez, you would look at the guy, and you look straight in his eyes and you could see that cold, cold person, like he could stare straight through you. And it was a sort of a frightening, mean look that Carlos Hernandez had. Compared to Carlos DeLuna, it was totally different. The eyes were totally different. You can tell a person, when a person has meanness and a person is violent, you

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can see it right straight in the eyes. I handled many, many criminals, and you get a cold feeling when you look at a person like that that has a sordid stare. Carlos DeLuna had was not that type of person. You could talk to him and he would look you straight in the eye. You wouldn't feel threatened. You look at Carlos Hernandez and you look at him straight in the eye, you kind of feel a threat there. That's how I compare them.

01:44:45

BW: How many detectives, in your opinion, should have been at a capital murder crime scene?

01:44:52

EG: At least three. At least three detectives should have been involved in a capital murder crime. Just to have one detective in charge, I don't think that that's right. Because there are so many things that you look into on a major crime, on a capital murder. It's just better to have . . . two or three heads is better than one. You can think of something, but the other person is already thinking of something else that might be there. And if you get one person working a capital murder crime, I'm sorry, there's a lot of paperwork that's involved with it and a lot of reports that you have to write and everything else in order to put your case together. One person working at it alone . . . I have worked alone at a capital murder case, but it's very difficult,

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very hard. I've already requested other people to assist me when I investigated a capital murder crime.

01:45:53

BW: In your experience, how many ID technicians should be involved in processing a capital murder crime scene?

01:46:01

EG: There should have been at least three or four, four at the most, to process a scene like that and make sure that the proper evidence is gathered and the proper evidence is looked through. It's not only just one technician looking at everything else, you have to have a team of at least three to four technicians looking at different areas of the crime scene.

01:46:29

BW: It's my understanding, in a crime scene, a crime scene perimeter is established. When is that done, and what areas are usually contained within a crime scene perimeter? And, in reviewing this particular crime scene, was that done?

01:46:50

EG: Well, this crime scene was committed in a small area, it was a small area and there was two or three different parts of that particular room. Most crime scenes, sometimes, are a lot larger, but this crime scene, in itself, was a small crime scene. There was a counter, a front door, possibly a rear door, a rear storage

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area, and not much of an area . . . pretty crowded inside of the place because they have different racks here, different racks there. But it's all contained to a small area, I'd say no more than about ten by ten area. And, to me, that was a pretty small crime scene that a lot more evidence that was not collected, that was overlooked, was left at the scene without even collecting.

01:47:50

BW: Would there be an expectation to find trace evidence outside the store itself?

01:48:58

EG: You would look for that in your trail of blood. Trail of blood and from eyewitnesses that said, "hey, the offender ran that way." And then you would follow your crime scene over to where the offender was apprehended.

01:48:15

BW: In your experience as an investigator and as a patrolman, when you arrived at a scene similar to the Diamond Shamrock murder scene, where would you establish, with your crime scene tape, the parameter [sic] to preserve the crime scene.

01:48:48

EG: You would rope the whole area outside. Everything, to within ten to twenty feet. If you can stretch a ribbon all the way around the property itself, just secure it. Don't let anybody in

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to the crime scene at all. Just keep everybody beyond that tape. Because everything is important. I wouldn't have messed with anything else until the ID techs would come in and worked themselves from the outer perimeter to the inner perimeter of the crime, where the crime was committed.

01::49:11

BW: And when would you have established that perimeter?

01:49:25

EG: Immediately, arriving upon the scene. First thing to do is just take care of the victim, that would be the proper thing to do. Take care of the victim first. If I would have arrived when they were still there, make sure that the victim's ok. You look for witnesses, that are standing around in the area or people that volunteer to come up and tell you "I saw so-and-so or so-and-so." You kind of put those people over to the side or you get a squad car to come and pick them up, either follow them to the police station or take them to the police station where you can question these witnesses further. And secure your crime scene. Once you secure your crime scene, you get your initial report done as to what occurred, you turn the scene over to the ID techs and then to later come back yourself and try to talk to the identification people, see how far along they are in collecting the evidence. And you would reconstruct the scene yourself, do a diagram of the

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scene, but that comes later, later . . .

01:50:25

BW: Eyewitness identification was made in this case. You've reviewed the police reports. How would you evaluate, in your experience, how would you evaluate how the eyewitness identification of Mr. DeLuna was conducted.

01:50:43

EG: To me it was an improper identification. The offender himself should have been put in a line-up or else . . . You don't identify a person by just having somebody, "Hey, look at this person, is that the one you saw?" And some people, some witnesses, at the time, have a tendency, "yeah, that's the guy," because you've got him in custody. And they take it for granted, "yeah, that's the guy, that's the right guy they got, yeah, I'm going to go ahead and tell them that's the right guy." But there's other things that have to go with it. You have to mix that identification along with other people identification [sic] and do a live line-up. Bring the witnesses in, and let them pick that person out from a group of people that sort of match the same description of the individual that you have in custody. And you put them behind the glass and you have the witnesses come into that room and point out. Let them look at the people, let them turn sideways, forwards, backwards, and see what they saw.

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Sometimes people see a person from the back, they never get to see the front of that person, but yet, if you talk to them, oh yeah, they saw the whole guy, and they sort of describe facial hairs and things like that on them.

01:52:06

EG: But then when you look again and you look at whatever person you have in custody, you try to group that to what the witnesses told you they saw, and then try to match other people that go with that match and then put them all in a live line-up: that is the proper way to do it. Not just say, yeah, that is the guy that you have. Because the sight of a person, they'll tell you in any school, it changes from time to time. It will change, of what people saw. Not everybody has a photographic memory to remember what they saw, especially in a violent crime scene. So you have to piece the identification together with the evidence, physical evidence, tying that particular person to that crime scene and to the crime itself. If you don't have both, then you've got to look at the identification that the person that identified it made, and you've got to look at it real hard and real good because it might not be the proper identification if you don't have the physical evidence to go along with that identification.

01:53:28

BW: Based on your experiences as a police officer, as an

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investigator, and your evaluation of the police reports, evidence obtained, eyewitness identification, reviewing the crime scene photos, do you believe Carlos DeLuna committed this crime?

01:53:52

EG: No. Not that . . . If I was sitting in a jury, I could not convict, with the evidence that was presented, in court, with the evidence that was collected, I could not assure anyone that that was the person that committed that crime. Unless the person himself had confessed to the crime, and that, to me, it would satisfy me that there was a confession from that particular person. But other than that, if there was no confession or nothing, I would have to have the physical evidence collected at the scene of the crime with . . . linking that particular person to this crime. If I did not have it there is no way I could convict somebody of capital murder in a case.

01:54:43

BW: And again, assessing this crime scene, again, based on your experience as an investigator, would you have an expectation that there would have been a transfer of evidence from the victim to the perpetrator of this crime?

01:55:01

EG: Definitely, definitely. There would have been blood somewhere on that person's body, their clothing. There would have

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been blood on the shoes. If that person would have been at that particular crime scene with as much blood as there was there, yes, definitely, that would have linked that person to that crime.

(camera cuts to new shot, still Garza)

01:55:30

BW: Mr. Garza, again, based on your experience as a police officer, your experience in investigations, your experience in processing crime scenes, and after evaluating police reports, crime scene photos, evidence collected and tested in this case, do you feel that Carlos DeLuna was responsible for this crime and should have been executed for this crime?

01:56:07

EG: *Well, you know, I don't sit on a jury or anything else, but if I was a juror, and being as a police officer, with the knowledge I have of what it takes to convict somebody of a capital murder crime... and I've been involved in many of those capital murder cases... that this particular case, the person that they put to death, Carlos DeLuna, was the wrong person that was convicted of this crime. And I feel that the supporting evidence that was presented to the court was not sufficient to find him guilty of capital murder and be put to death in this particular crime. There was always a doubt in my mind, there will be a doubt in my mind because, after going through all the evidence that was presented, I don't see how anybody could get a*

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conviction with the evidence that was available to convict Carlos DeLuna of this capital murder case.