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Baca Orders Review of Interrogation Policy

The L.A. County sheriff acts after a judge throws out a murder case, citing detectives' questionable grilling of a suspect. He was freed.

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It began on an April afternoon in 2005 when neighbors in an upscale section of Manhattan Beach noticed black smoke billowing from an apartment rented by a local doctor.

Firefighters arrived and quickly extinguished the blaze. But when they got inside the home's bedroom, they found the body of the doctor's housekeeper, Libia Cabrera, lying under a window and burned beyond recognition.

The 41-year-old Lawndale mother had been bound, gagged, sexually assaulted and stabbed in the neck.

Months passed without any breaks. Then, in January, detectives arrested Herbert Orlando Gonzales, a 27-year-old clerical worker and aspiring musician.

Gonzales was charged with murder and three other felony counts including arson and residential burglary and, if convicted, could have faced the death penalty.

But the "big break" in the murder mystery has become a black eye for the Los Angeles County Sheriff's Department.

A Los Angeles judge last month threw out the case, raising concerns about the detectives' conduct during a lengthy interrogation.

Though the deputies claimed that Gonzales made incriminating statements during the interview, the judge concluded that they might have violated Gonzales' Miranda rights and bullied him into making incriminating statements that he later recanted.

The judge also cast a skeptical eye on detectives' decision to record only part of the interrogation, saying later that the Sheriff's Department could not afford to audiotape the entire interview.

The decision has reverberated throughout the Sheriff's Department, prompting Sheriff Lee Baca to launch a review of detectives' in-custody interrogations, including the one involving Gonzales.

Michael Gennaco, head of the Sheriff's Office of Independent Review, said he thought the department should consider standardizing policies for how interrogations are carried out and recorded.

Though Gennaco reserved judgment on the Gonzales case, he said it was important for the department to have a consistent policy.

He noted that a confession, absent supporting physical or circumstantial evidence, can be a tenuous foundation for a case.

The issue also has been debated at the state level. A blue-ribbon panel examining reform of the state's criminal justice system released a report in July urging the Legislature to adopt a law mandating electronic recording of all jailhouse interrogations.

The California Commission on the Fair Administration of Justice — which included Atty. Gen. Bill Lockyer and LAPD Chief William J. Bratton — recommended that if a law enforcement officer fails to make an audiotape, the law should require that criminal juries be instructed to view any confessions with caution.

Baca, who also was on the commission, abstained from the vote, saying he needed more time to study the proposal. The recommendations have since been adopted in a bill passed by the Legislature and sent to the governor's desk for signing.

Homicide investigators had little to go on when they started investigating Cabrera's killing.

Witnesses said they saw little out of the ordinary that day.

Detectives eventually focused on a surveillance video of the ground floor of the apartment building.

Grainy images showed a white truck with a camper shell parked on the street. It also showed a man with a receding hairline and a white stripe on his pants walking back and forth.

At one point, the man appears with a strap over his shoulder, which authorities thought was a carrying case for a laptop computer that was reported missing from the doctor's apartment building.

Although there was nothing definitive, investigators had another element working in their favor: a genetic profile of the killer from DNA evidence recovered from Cabrera's body.

But for months, detectives could not figure out who the man in the video was — or whether he had anything to do with the crime. They moved on to other cases.

Then the case picked up again in December when detectives decided to take a fresh look at the evidence. They opted to focus heavily on identifying the man in the videotape.

So sheriff's investigators descended on the victim's Lawndale neighborhood, hoping residents might have seen the man.

One woman told detectives that the man in the video resembled someone she had seen visiting a neighbor who had since moved to Virginia.

The detectives traveled to the East Coast, where the woman told them after repeated questioning — and viewings of the videotape — that the shadowy figure looked a lot like Herbert Gonzales, the cousin of her former husband.

Finally, the detectives thought they had a solid lead.

On Jan. 6, detectives arrested Gonzales at a South Los Angeles home that he and a fiancée were considering buying.

The interview, with Dets. Randy Seymour and Kathy Gallagher and a Manhattan Beach homicide investigator, occurred the next day at the Twin Towers Jail in downtown Los Angeles.

The interview lasted nearly two hours, but detectives recorded only the last hour, according to court records.

A transcript of the recorded interview shows that detectives told Gonzales their theory of the case: He, a cousin and another man were driving around Manhattan Beach that day in the white truck. They broke into the doctor's building because they needed money and stole the laptop.

At first, Gonzales vehemently denied the allegations. But as detectives pressed him, he seemed to waver.

"Just talk to us about how you came into possession of the laptop, and don't worry about going down for the murder, because you're not," one detective said, according to the transcript.

The detectives repeatedly told Gonzales that the videotape clearly showed him at the scene.

At one point, Gonzales admitted that he was at the apartment building but later recanted.

In throwing out the case, Los Angeles Superior Court Judge Carey H. Nishimoto expressed grave concerns about the interrogation.

His biggest criticism was that the detectives recorded just a portion of it, the part in which they lay out their theory of the case and press Gonzales to admit his role.

The judge noted that the recorded interrogation "consists 90% or more of the detectives talking, not the defendant."

Earlier parts of the interview, in which Gonzales repeatedly denied any involvement in the murder, were not recorded, he said.

The judge also found that the detectives' testimony in court contradicted what was heard on the audiotape, such as whether they fully advised Gonzales of his legal right to an attorney.

"The detectives testified that the defendant answered 'Yes' in response to the question 'Did you understand your rights, your Miranda rights?' " Nishimoto said. "The tape recording transcription shows that this question was followed by '(no audible response).' Not a statement that could be deciphered, but no statement at all."

Nishimoto also said investigators made "what appeared to be false promises of leniency," which "prompted the defendant to make an incriminating statement."

With the judge's decision, the mystery of who killed Libia Cabrera remains.

Capt. Ray Peavy, head of the sheriff's homicide unit, declined to comment on the status of the case other than to say it was still open. Peavy also declined to discuss the judge's criticism of his detectives' tactics.

Sandi Gibbons, a spokeswoman for the Los Angeles County district attorney, said her office also was still investigating the case.

Gonzales' criminal defense attorney, Joseph Shemaria, said that his client is innocent and that the Sheriff's Department built the entire case against him on a tenuous identification from the grainy security video and a dubious interrogation.

Investigators still have the DNA evidence found in the apartment. But both Shemaria and a top Sheriff's Department source said the DNA didn't match Gonzales'. Authorities have not found the missing laptop computer.

As for Gonzales, he was released in August after six months in jail and said he is trying to get his life back on track.

Before his arrest, Gonzales said, he had a steady job with a company that manages shopping malls and had landed two music recording jobs, including an appearance in a music video.

He recently found a job. But he said sheriff's investigators continue to suggest that he had something to do with the crime.

"People think I'm some sort of monster," he said.

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