

trial record of a jury trial on October 18, 2010, where, at the conclusion of the trial, the jury was unable to reach a verdict.

5. The parties agree that the "Stipulated Sworn Testimony of Andy Little," who is unavailable for trial but who was previously deposed by the defense with knowledge of Little's unavailability for trial, is an accurate transcription of a portion of his deposition testimony. A pretrial motion to exclude Little's testimony based on Crawford v. Washington, 541 U.S. 36 (2004), has been denied. A pretrial motion to exclude his testimony based on Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 U.S. 579 (1993), has also been denied. All other objections to Little's testimony have been specifically reserved for trial. Subject to any evidentiary rulings by the trial court, Little's stipulated sworn testimony may be read to the jury, either in whole or in part, at the request of either the State or the defense during their respective cases-in-chief.

6. Lone Star Statutes (2009) provide the following:

**§ 782.04. Homicide**

(1)(a) The unlawful killing of a human being:

1. When perpetrated from a premeditated design to effect the death of the person killed or any human being;

.....  
is murder in the first degree and constitutes a capital felony.

**§ 812.13. Robbery**

(1) "Robbery" means the taking of money or other property which may be the subject of larceny from the person or custody of another, with intent to either permanently or temporarily deprive the person or the owner of the money or other property, when in the course of the taking there is the use of force, violence, assault, or putting in fear.

(2)(a) If in the course of committing the robbery the offender carried a firearm or other deadly weapon, then the robbery is a felony of the first degree.

7. Under Lone Star law, a conviction for possession of marijuana is punishable by less than one year in prison and a conviction for attempted extortion is punishable by more than one year in prison.

8. The State and the defense stipulate that the women found deceased in the office of the Everything's a Dollar store were Krista Chacona and Wendy Smith.

9. The State and the defense stipulate that both Krista Chacona and Wendy Smith were each shot with a firearm and cut and/or stabbed with a sharp instrument. The State and defense also stipulate that the medical examiner, if called, would testify that both the gunshots and the cutting or stabbing wounds would have been independently fatal. The medical examiner would also testify that he cannot determine whether either victim was shot first or cut and stabbed first.

10. The State and defense stipulate that when the victims were discovered, the door to the safe in the office of the Everything's a Dollar store was open and approximately \$6000 in cash, representing the store receipts for the past two days, was missing.

11. The State of Lone Star observes Daylight Savings Time.