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REPORTER'S RECORD
VOLUME 4 OF 8 VOLUMES
TRIAL COURT CAUSE NO. 1412198
COURT OF APPEALS NO. 14-15-00380 - CR FILED IN
14th COURT OF APPEALS
HOUSTON, TEXAS

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CHRISTOPHER A. PRINE
Clerk

THE STATE OF TEXAS * IN THE DISTRICT COURT OF
*
*
VS. * HARRIS COUNTY, TEXAS
*
*
GUSTAVO VASQUEZ * 230TH JUDICIAL DISTRICT

GUILT/INNOCENCE PHASE
JURY TRIAL

On the 14th day of April, 2015, the following
proceedings came on to be heard in the above-entitled
and numbered cause before the Honorable Brad Hart,
judge presiding, held in Houston, Harris County, Texas.

Proceedings reported by computerized stenotype
machine; Reporter's Record produced by computer-aided
transcription.

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1 THE COURT: Okay.

2 MS. BARD: Your Honor, Eric and I -- the
3 defense attorney and I had agreed -- there are two
4 witnesses that are both family. They're both related
5 to either the defendant or the victim in this case.

6 We both agree even though they may
7 testify or, in fact, could testify, that they could
8 both be in the courtroom throughout the trial.

9 MR. DAVIS: And there were three
10 witnesses. One is John Watson. The other one was
11 Aleida Martinez. And third witness --

12 MS. BARD: Is Tiffany Wright.

13 THE COURT: So, I'm taking by that one of
14 you are invoking the Rule.

15 MR. DAVIS: Yes, Your Honor. We'd invoke
16 the Rule and ask that those three witnesses be exempt
17 from the Rule.

18 THE COURT: All right. Make sure that
19 all of your witnesses understand that Rule has been
20 invoked. And as long as that is y'all's agreement,
21 then those three witnesses that you've listed can be
22 excused from the Rule.

23 MR. DAVIS: Thank you, Your Honor.

24 (Jury seated).

25 THE COURT: All right. You may be

1 seated.

2 Good morning, ladies and gentlemen.

3 I'm going to have a few more instructions
4 to give you before we get started. First off, just so
5 you'll know, any time you come into the courtroom or
6 leave the courtroom, the bailiff is going to say all
7 rise. Everyone else is going to stand for you. When
8 you're coming into the courtroom, come on in and have a
9 seat over there. There's no assigned seating. As long
10 as you're sitting over there, sit wherever you want.
11 Go ahead and have a seat. Once y'all are seated, then
12 I'll tell everyone else to sit down. So, y'all don't
13 need to keep standing.

14 Just please remember the instructions
15 that I gave yesterday about not discussing this case
16 with anyone. That includes amongst yourselves even as
17 the case is unfolding. When we're on breaks or at
18 lunch, whatever the case may be, you're not allowed to
19 discuss it even then. Only when I give you the
20 instructions to begin your deliberations are you
21 allowed to then start discussing it. So, talk about
22 whatever you want to talk about other than the case.

23 Please remember what I told you about not
24 doing any of your own investigation into the case. You
25 know, here in a few moments, you're actually going to

1 start hearing about what happened on the day in
2 question and surrounding it. So, don't go out and do
3 any Google searches on any of that information either.
4 Just make sure that you focus on the information that's
5 here in the courtroom and only that you learn here in
6 the courtroom.

7 Just so you'll know, there's no note
8 taking. I don't see any notepads in your hands. But
9 in case you think about that at some point or whatever,
10 there's not any note taking. And the reason for that
11 is Trish, as I told y'all yesterday, is writing down
12 everything that's being said. She's the official note
13 taker. So, she's the one that we have to look to if it
14 becomes an issue.

15 I don't want y'all writing something down
16 over there and missing something that's happening here
17 in the court that you need to be paying attention to.
18 I also don't want y'all to get there when you do begin
19 your deliberations and one of you wrote something down
20 one way and maybe somebody wrote it down a different
21 way and y'all are arguing over that. If during your
22 deliberations y'all have a specific disagreement about
23 testimony and y'all can put that in writing, what the
24 specific disagreement is and we if can find it, then we
25 can have that read back to you if we're able to find

1 it. But that's the only time that that happens. So,
2 there's no note taking with y'all. Trish is writing
3 everything down. If there's a disagreement amongst you
4 and we can find it, then we can read that back to you
5 during your deliberations if that becomes necessary.

6 I want you to feel free to stand up if
7 you need to in between witnesses or if a lawyer asks
8 for a moment. If you need to stand up, stretch your
9 legs, feel free to do that. As I told y'all yesterday,
10 you're welcome to have drinks here in the courtroom,
11 coffee, Cokes, water, whatever you need this morning,
12 this afternoon, whatever the case may be.

13 We will take regular breaks. I do have
14 other cases that have nothing to do with this case
15 going on. So, I will need to talk to those lawyers
16 probably about 10:30 or so. So, each day that we're
17 here, we'll probably break about 10:30, just so you'll
18 know. We'll also break for lunch about 12:30 or so.
19 We'll either take you out or we'll order in depending
20 on the weather. We need to see what's going on with
21 the weather today before we make that decision. Then
22 we'll have another afternoon break around 3:30 or so --
23 between 3:00 and 3:30. But anytime y'all need a break
24 that's not one of my scheduled breaks, if you'll just
25 get my attention, get the bailiff's attention, get

1 someone's attention, I'll break if you need to. If you
2 need the restroom or whatever, y'all let me know and
3 we'll break whenever that y'all need to.

4 Now, I am going to ask y'all to stand up
5 right now and be sworn in as a jury, please.

6 (Jurors sworn).

7 THE COURT: All right. You can be
8 seated.

9 Both sides ready to proceed?

10 MS. BARD: Yes, Your Honor.

11 MR. DAVIS: Yes, Your Honor.

12 THE COURT: All right. State, if you'll
13 arraign the defendant, please?

14 MS. BARD: In Cause No. 1412198: In the
15 name and by authority of the State of Texas, the duly
16 organized Grand Jury of Harris County, Texas, presents
17 in the District Court of Harris County, Texas, that in
18 Harris County, Texas, Gustavo Andres Vasquez, hereafter
19 styled the defendant, heretofore on or about December
20 20th of 2013, did then and there unlawfully,
21 intentionally and knowingly cause the death of Agnes
22 Whitaker-Vasquez, hereinafter called the complainant,
23 by shooting the complainant with a deadly weapon,
24 namely a firearm.

25 It is further presented that in Harris

1 County, Texas, Gustavo Andres Vasquez, hereafter styled
2 the defendant, heretofore on or about December 20th,
3 2013, did then and there unlawfully intend to cause
4 serious bodily injury to Agnes Whitaker-Vasquez,
5 hereinafter called the complainant, and did cause the
6 death of the complainant by intentionally and knowingly
7 committing an act clearly dangerous to human life,
8 namely by shooting the complainant with a deadly
9 weapon, namely a firearm.

10 Against the peace and dignity of the
11 State. Signed the foreman of the 337th Grand Jury.

12 THE COURT: All right. And to this
13 charge, Mr. Vasquez, what's your plea, guilty or not
14 guilty?

15 THE DEFENDANT: Not guilty.

16 THE COURT: All right. Thank you, sir.
17 That will be entered for the record.

18 Y'all can have a seat.

19 State, do you wish to make an opening
20 statement?

21 MS. MORNEAU: Yes, Judge.

22 He knew what he was doing. Over the
23 course of this trial, you're going to learn that on
24 December 20th of 2013, five days before Christmas, this
25 defendant knew what he was doing when he shot his wife,

1 not once, not twice, but six times with a shotgun in a
2 fit of rage killing her.

3 Now, the reason that we're here today is
4 because of the defendant's actions on this date. And
5 you're going to learn that he knew what he was doing
6 when he committed these actions. And the story really
7 starts the day before December 20th. You're going to
8 learn about the victim in this case, Agnes
9 Whitaker-Vasquez. You're going to learn that her
10 family calls her Goldie. It's a nickname that her
11 grandfather gave her when she was just a baby that just
12 stuck with her throughout her entire life.

13 And you're going to learn that Goldie and
14 the defendant have been married. They were high school
15 sweethearts. And they had been recently having some
16 problems in their marriage. And that the day before on
17 December 19th, Goldie had kind of had enough and told
18 him that he needed to find another place to stay that
19 night. And that he did find another place to stay that
20 night.

21 You're going to hear about this from
22 Goldie's sister, Tiffany Wright. Tiffany and her
23 little girl Miah were living with Goldie and the
24 defendant at that time. And Tiffany is going to tell
25 you a little bit about her sister. She's going to tell

1 you that her sister was a private person. Not really
2 the type of person to get into her marital problems and
3 discuss them with someone. But she's going to tell you
4 that, you know, she, living in the same house, knew
5 that there was something going on. She heard her
6 sister up late in the early morning of December 20th.
7 And that when she woke up in the morning, she could see
8 that the defendant wasn't there and that he had
9 obviously spent the night somewhere else. And she
10 checked in with her sister and said hey, are you okay.
11 And her sister said, yeah, you know, how it is.

12 Tiffany is going to tell you that that
13 morning on December 20th that she took her daughter to
14 school. And then she went and picked her up around
15 noon because due to the holidays, they had early
16 dismissal. And then she came home. And then again,
17 when she got home around 12:20, 1:00 o'clock, Goldie
18 was there. But again, the defendant was still not
19 there.

20 She'll tell you that on the weekends, it
21 was customary for Tiffany to take her daughter to go
22 and visit her father. And that they would go and spend
23 the night at that location. And so, before they got
24 ready to go, Tiffany, Goldie and the little girl, Miah,
25 decided to order some pizza. And that shortly after

1 the pizza arrived around 2:30, the defendant came home.

2 She'll tell you that Goldie and the
3 defendant immediately went into their bedroom and that
4 they had went in there to have a private conversation.
5 She'll tell you that they came out of the bedroom and
6 Goldie went and fixed him a pizza that he then went and
7 took into the bedroom.

8 Well, Tiffany will tell you that she
9 could tell that something again was not quite right.
10 That it was obvious that they wanted to have a private
11 conversation because they continued to go into the
12 bedroom and then come back out. And that she could
13 tell that the defendant wanted to speak to her sister.
14 And that her sister at that point just was sitting at
15 her computer and didn't want to speak anymore.

16 Deciding that it was time to give her
17 sister some privacy, she told her little girl okay,
18 it's time to pack your things. We're going to go and
19 we're going to -- we're going to head out and we're
20 going to go over to your father's house. So, Tiffany
21 and her sister start heading out to the car. And
22 Goldie meets them outside and says hey, are you guys
23 leaving now? Gives them a big hug and says I love you.
24 That's the last time that Tiffany Wright ever spoke to
25 her sister.

1 Now, there are only two people there for
2 what happens next in that house. And only one of them
3 is still alive today. And you're going to hear from
4 one of them. And that's because the defendant gave a
5 statement to the police. And as you already heard from
6 the Judge, you can believe some of what a witness says,
7 none of what a witness says or all of what a witness
8 says. And it's important that you listen to the
9 statement because, again, it's the only evidence from a
10 witness who was in the house. And that's why we're
11 going to play it for you.

12 But the evidence will show you that you
13 should only believe some of what he says. And that's
14 because he does throw in some excuses for his behavior,
15 trying to blame it on drug use. But the evidence will
16 show that he knew what he was doing when he shot his
17 wife.

18 The evidence is going to show you that
19 Goldie was sitting at their table. They have a combo
20 living and dining room. And she was sitting at the
21 glass table where she had her laptop set up. It will
22 show you that the defendant went and got a shotgun from
23 his closet in his bedroom.

24 And you're going to hear evidence today
25 about how shotguns work, about how you load them, about

1 how you have to pump them, about how you have to pull
2 the trigger, about the safety mechanisms on a shotgun,
3 and about how many rounds they hold.

4 You're going to hear that the defendant
5 in a fit of rage shot his television twice before then
6 turning the gun on his wife. You're going to hear
7 about how he grazed her in the back of her head,
8 hitting her while she was still in the dining room.
9 And then continuing to shoot her five more times as she
10 ran, eventually collapsing right by the front door on
11 her way to escape. You're going to hear that he had to
12 pause his attack to reload that gun. He knew what he
13 was doing.

14 You're going to hear the police get
15 called out to the scene. They get called out for a
16 disturbance actually. They don't know that a murder
17 has taken place. And you're going to hear that these
18 police officers come up to the door. You're going to
19 hear they knocked. Houston police, no answer. You're
20 going to hear that they knock again. Houston police,
21 no answer.

22 You're going to hear that finally they
23 hear a door open. And that one of the officers steps
24 and says hey, did somebody call the police. And that's
25 when this officer, dressed in a Houston police uniform,

1 was met with this same defendant holding that same
2 shotgun he had used to kill his wife. You're going to
3 hear that he pumped that shotgun again and that these
4 officers heard multiple clicks as he tried to shoot
5 those officers. But that shotgun was empty because he
6 had already used all of the shells inside that shotgun
7 to kill his wife.

8 You're going to hear at that point those
9 officers called for backup and immediately a perimeter
10 was around the house. And that after the perimeter was
11 set around the house, another officer made the scene
12 who had training in hostage negotiation. The officer
13 who was trained in hostage negotiations started to
14 speak to the defendant on the phone while he was inside
15 the house. Other officers who were on the perimeter,
16 they set up and they watched the house.

17 You're going to see photographs from
18 inside and outside of this house. And the officers who
19 were there will tell you, they could see the defendant
20 peeking through the blinds at them. Walking back and
21 forth, back and forth. When you look at the
22 photographs in the house, you'll see exactly what he
23 was walking back and forth passing each time. Their
24 Christmas tree, presents underneath it, a table with
25 their wedding photos on it and his wife's bleeding body

1 in the foyer.

2 You're going to hear what he did instead
3 of calling 911, instead of attempting to render aid for
4 his wife. He packed his getaway bag. He knew what he
5 was doing.

6 You're going hear that eventually the
7 defendant started to comply with the commands that the
8 officer was giving him to come outside. And that he
9 comes out the front door with his cell phone in his
10 hand and that he walked down the driveway. And that at
11 some point, he then decided that he was going to
12 escape. He throws his phone down. Turns to the right
13 and runs towards his backyard. And you're going to
14 hear what exactly is behind the fence in his backyard,
15 the perfect escape, a bayou.

16 But for the good work of the officers who
17 were back there, the defendant could have escaped.
18 Instead he was apprehended there and taken into
19 custody.

20 When the officers went inside to do their
21 safety search of the house, that's when they learned
22 what exactly they had on their hands. And that what
23 they really had on their hands was the murder of Agnes
24 Whitaker-Vasquez.

25 Now, after you've heard from all the

1 witnesses in this case and you've seen all the evidence
2 -- physical evidence that we brought before you, we're
3 going to get up here and talk to you again and ask you
4 to find the defendant guilty of murder because he knew
5 what he was doing.

6 Thank you.

7 THE COURT: All right. Thank you.

8 Mr. Davis, does the defense wish to make
9 an opening at this time or reserve for later?

10 MR. DAVIS: Yes, Your Honor, we'll make
11 an opening at this time.

12 THE COURT: Okay. Please do.

13 MR. DAVIS: Please the Court.

14 THE COURT: Yes, sir.

15 MR. DAVIS: Counsel, Mr. Vasquez.

16 Ladies and gentlemen of the jury, good
17 morning.

18 Gustavo Vasquez loved Agnes Vasquez. He
19 met her when he was 16. He dated her when he was 16
20 and had been with her all the way up until the time of
21 this incident. He had been with her longer than he had
22 been without her. Their relationship was one where he
23 saw a lot of her early on when they were in high
24 school. They were high school sweethearts and he loved
25 and cherished her and described her as his rock.

1 Throughout his marriage, Gustavo battled
2 to excise a demon. And that was the demon of drug
3 addiction. He had been addicted to PCP and marijuana
4 and other substances. And Agnes knew about his drug
5 addiction. Everyone who knew him, for the most part,
6 knew about his battle with his drug addiction. Agnes
7 worked with him. Went to hospitalizations. Went to
8 Riverside Hospital where they checked him in and he got
9 drug treatment. And he spent time receiving drug
10 treatment.

11 Gustavo Vasquez battled this demon and it
12 ruined and wrecked his wife's life. Brought her life
13 to an end. Ruined and wrecked his life as well.

14 On the day this happened, Gustavo Vasquez
15 shot Agnes Vasquez. And the medical examiner doesn't
16 say it was six times. I think the medical examiner
17 might say it was more like seven shots that her body
18 received with a shotgun. He says that the shots were
19 erratic. That he had never seen anything like this in
20 terms of the distancing of the shots.

21 Prior to all this happening, Gustavo had
22 ADHD. Was using marijuana to sort of cope with it.
23 And was trying to smoke marijuana. And at some point,
24 he realized that this wasn't marijuana. He had bought
25 drugs from someone who wasn't his normal supplier and

1 felt something different. And he put it away. He
2 threw it away actually.

3 His boss at work noticed on that day --
4 he had seen Gustavo actually smoke marijuana at work
5 and saw the effects that him smoking marijuana had on
6 him. Had even seen him smoke marijuana and PCP and saw
7 the effects it had on him. And saw him at work on that
8 day and realized that the day that this happened -- at
9 least prior to this happening, that Gustavo appeared
10 messed up. He appeared different than he had ever
11 appeared before, is what his employer says.

12 And Gustavo went home messed up. He may
13 not have interacted with her family members in the
14 state he was in, but he interacted with Agnes. And
15 Agnes was shot.

16 Following her shooting, the activity and
17 the actions of Gustavo were all erratic. It is true a
18 lieutenant who's a hostage negotiator -- Lieutenant Lee
19 was called and he speaks to Gustavo on the phone. And
20 he gives Gustavo certain descriptions of things to do.
21 And everything he described to Gustavo, Gustavo doesn't
22 do. He does everything awkwardly and weirdly
23 differently, as if he's not following the instructions
24 that the police officers are telling him.

25 When an officer first comes to the door

1 and knocks on the door, Gustavo comes with a shotgun to
2 the door with police officers who were at the door and
3 he racks the shotgun and pulls the trigger with
4 officers at the door. But he doesn't pull the trigger
5 one time. The gun is unloaded. But he racks it and
6 pulls the trigger a second time. And then racks it and
7 pulls the trigger a third time. He stands in front of
8 the door with police officers outside, who have side
9 arms on their hips, and he racks the shotgun three
10 times not realizing that the gun is unloaded.

11 All of this behavior at that time
12 indicates that he was under the influence of some
13 substance. Police officers don't shoot him. They show
14 great restraint and don't shoot him. Apparently
15 Gustavo closes the door. And after he closes the door,
16 he goes towards the back of the house and he looks
17 outside the back of his house.

18 And then the phone rings. Now, the phone
19 rings. And the hostage negotiator says that when the
20 phone rang the first time, nobody answers it. It went
21 to a voicemail. And so, he called the phone a second
22 time and he says somebody picked up. And he says -- he
23 says hello. He asked the person on the phone -- hello,
24 who is this? And then the person on the phone doesn't
25 say that is Gustavo Vasquez. I'm in this house. There

1 are police officers are outside. What do I do?

2 That isn't said. The person says well --
3 who do you want to speak to, is what the person asked
4 the investigator when he calls. And then he said I
5 want to talk to Gustavo. And he said this is Gustavo.
6 And then he starts talking to Gustavo about coming
7 outside.

8 And when Gustavo comes outside, he comes
9 outside of the house and he has the cell phone in one
10 hand kind of a -- and the officer tells him to switch
11 the light switch on once before you come outside. He
12 flicks the light switch a bunch of times. Comes
13 outside with the phone and his hand up. And they tell
14 him to come out walking backwards. He comes out
15 walking forward. Throws his cell phone down. Turns
16 around and runs back inside of the house.

17 While inside of the house, officers say
18 they see him looking out the back window looking at
19 them because they surrounded his house. So, the person
20 inside the house knows the police officers are in the
21 back of the house. That's Mr. Vasquez. Because
22 officers see him inside of the house looking out the
23 window at them. So, he bolts out of the backdoor and
24 officers subdue him and arrest him in the back. And
25 they put him in cuffs.

1 While he's in the patrol car an officer
2 sees him slumped over. And he has some interaction
3 with an officer that doesn't seem like that this person
4 is inherent -- coherent. And when he gets down to the
5 police station, he's handcuffed. And a sergeant who
6 sees him at the police station handcuffed notes that
7 Gustavo is struggling with some handcuffs. He's trying
8 to get out of the handcuffs. And he talks to Gustavo
9 and Gustavo tells him that I'm going to break these
10 handcuffs. I'm going to get out of these handcuffs.
11 So, he cuffs him a second time. And he notes in his
12 report that Gustavo is talking a lot gibberish. That
13 he's incoherent. He's talking about aliens and
14 airplanes. That he's talking about stuff that just
15 doesn't make sense.

16 The detective who takes the statement
17 from Gustavo decides not to interview Gustavo at that
18 time because he has concerns about Gustavo being under
19 the influence of a substance. So, he waits until the
20 next day, a whole 24 hours before actually interviewing
21 Gustavo Vasquez. And when he interviews Gustavo
22 Vasquez, Gustavo doesn't make excuses. He says that
23 they're telling me I shot Agnes. I don't know what
24 happened, but they're saying I shot Agnes.

25 Gustavo gives a statement where he

1 acknowledges shooting Agnes. And police ask him
2 questions and they talk to him. And everything during
3 that statement, for the most part, that Gustavo tells
4 is the truth. He tells the truth during that
5 statement.

6 After Gustavo gets -- gets through with
7 all of this -- 'cause in his statement, it looks like
8 he's impaired. It looks like he's under the substance
9 -- under the influence of some substance. A lot of
10 what he's saying doesn't make sense. Some of it sounds
11 like gibberish, sounds like foolishness.

12 So, after all of that a doctor is hired
13 who's an expert psychologist. And her job -- she works
14 -- she's done work for the district attorney's office.
15 She does work for the court system in general. She --
16 she is on contract with the court system to do
17 competency evaluations and competency restoration
18 evaluations. Meaning if someone has been found
19 incompetent, she comes on behalf of the court and
20 evaluates the person to see if the person has regained
21 competency after being at the state hospital.

22 She goes in to do a sanity evaluation of
23 Gustavo because he's talking about aliens, about
24 airplanes and gibberish. And then the way this event
25 -- all the inconsistencies and things that seemed

1 sporadic in the case, she goes in to do a sanity
2 evaluation of Gustavo to see if he's insane.

3 But she opines that Gustavo was sane at
4 the time of the event. She opines that he wasn't
5 insane which eliminates the defense of insanity. But
6 she also opined that because of his drug use -- his
7 using of drugs, Gustavo could not appreciate right from
8 wrong. It wasn't because of a mental illness, which is
9 what's required for a sanity defense. But it was
10 because of drug use, he could not appreciate right from
11 wrong at the time this occurred.

12 She evaluated Gustavo two times. And
13 part of her training is to be able to evaluate and see
14 whether or not someone is faking injury or faking
15 mental illness or faking not remembering. And she sees
16 him two times on two occasions. She watches the video
17 recording of his statement as well. And she says that
18 it was clear to her, based on her interviews with
19 Gustavo and watching the statement, that he was under
20 the influence of a substance at the time he gave the
21 statement.

22 The evidence will show that as soon as
23 Gustavo leaves that house -- as soon as he leaves that
24 house, he's subdued by police officers and remains in
25 police custody. That he had no opportunity or time to

1 use any substance or use any drugs. Meaning at the
2 time that he's in the house with Agnes, Gustavo was
3 under the influence of a drug.

4 He didn't intend to kill Agnes. There's
5 no evidence of any intent. The evidence will show that
6 Gustavo loved Agnes. That she loved him. That in
7 their house there are a whole bunch of photos --
8 marriage photos. That they had struggled with this
9 drug addiction, but they stayed together and were
10 committed to staying together.

11 The evidence will show that he has no
12 history of domestic violence towards Agnes. There was
13 no situation where he had been violent towards Agnes
14 ever, is what the evidence will show. The evidence
15 will show that Gustavo -- even though all of this
16 occurred, Gustavo when he sits down and he talks to the
17 expert psychologist, she notes that he shows remorse --
18 appropriate remorse. And he genuinely did not know
19 what happened.

20 The evidence will show as he sits here
21 today, Gustavo doesn't remember any of this. And
22 that's consistent with the psychologist, what they say.
23 That happens when people suffer from trauma and when
24 people abuse certain drugs like PCP and other drugs
25 that have been laced and mixed and different cocktails

1 of drugs.

2 We anticipate that you will hear evidence
3 of a former -- the testimony of a psychologist who will
4 come in to talk about the effects of different drugs,
5 the effects on the mind. How certain hallucinogens can
6 cause a person to see and do things that they don't
7 intend. There's no evidence at all of any intent. The
8 evidence will show that there was no evidence of any
9 planning in the commission of this crime.

10 The evidence will show that Agnes was
11 never shot in the head. That she was never shot in the
12 heart directly. That there weren't any shots fired at
13 Agnes that would be shots that one could -- could
14 decipher as being one intending to kill someone. That
15 these shots were all over the place. That they were
16 sporadic. That there's a pumping of a gun. And even
17 after Agnes is dead and he goes to the door -- if
18 there's some suggestion that Mr. Vasquez could have
19 reloaded that the gun, that he was in his faculties.
20 The evidence will show that when he goes to the gun --
21 the door with the gun and pumps it multiple times with
22 the police officers and the gun was empty.

23 Ladies and gentlemen, he didn't intend to
24 kill Agnes and the evidence will show that.

25 THE COURT: Thank you, Mr. Davis.

1 State, call your first witness, please.

2 MS. MORNEAU: State calls Mr. Wieners.

3 THE COURT: Ladies and gentlemen, so
4 you'll know, some of the witnesses were sworn in while
5 we were waiting this morning. So, you won't
6 necessarily see that happen.

7 This witness has been previously sworn
8 in.

9 Ms. Morneau?

10 ROBERT WIENERS,
11 having been first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MS. MORNEAU:

14 Q. Could you introduce yourself to the ladies and
15 gentlemen of the jury?

16 A. My name is Robert Wieners.

17 Q. And, Mr. Wieners, where are you currently
18 employed?

19 A. I work as an investigator for the industrial
20 relations department at Aramco Services here in
21 Houston.

22 Q. Okay. What did you do back -- where were you
23 working back on December 20th of 2013?

24 A. I was assigned to crime scene investigations
25 with the Houston Police Department Identification

1 Division.

2 Q. Okay. And when did you start working for the
3 Houston Police Department?

4 A. In January of 2006 I was accepted into the
5 police academy.

6 Q. Okay. And do you have any degrees?

7 A. Yes. I have a Bachelor's in Business
8 Administration from the University of Alabama.

9 Q. Okay. And after you finished that Bachelor's,
10 is that when you went to the Houston Police Department?

11 A. Yes. I graduated in December of 2005. And I
12 was accepted in the academy January of '06.

13 Q. Okay. I want to talk to you a little bit
14 about the training that you need to have to become a
15 police officer. Where do you start?

16 A. I began my career well, like everybody in the
17 police academy. After graduation I was assigned to the
18 southeast patrol division. I did about a year and a
19 half there before I was taken over to the gang unit.
20 And I did a little over two years before I moved over
21 to investigations.

22 I started out as a special crimes
23 investigator and I moved over to the identification
24 division as a crime scene investigator around 2012.

25 Q. Okay. And when you become a crime scene

1 investigator, do you do additional training?

2 A. Yes. Typically it's customary for an in-house
3 training program to be put on by the senior crime scene
4 investigators in the unit. And we're also sent to
5 specialty schools such as forensic technician classes
6 as well as photography, forensic photography and things
7 of that nature.

8 Q. Okay. Do you also get on-the-job training?

9 A. Yes. There is consistent training throughout
10 the -- throughout the process of being a crime scene
11 investigator in addition to the training that's
12 necessary to uphold your Texas Peace Officer's license.

13 Q. Okay. So, I want to talk to you about how you
14 got involved in this case. How do you -- how do you
15 know that you need to report to a scene?

16 A. Typically, you know, when we come to work, we
17 go in for our shifts. I believe I was working 2:00
18 o'clock in the afternoon to 10:00 o'clock in the
19 evening that night. And I was working on another case
20 when I got a call up in the office that a shooting
21 death had occurred.

22 Q. Okay. Is that all the information that you
23 typically -- would typically have?

24 A. Yeah. Typically, it's very vague. We don't
25 get a whole lot of information. I believe they had

1 mentioned that there was one victim and it was a
2 shooting death.

3 Q. Okay. And what did you do after you got that
4 information?

5 A. Well, normally we have a lot of equipment that
6 we bring with us to process the scenes. So, usually
7 we'll move into loading up the equipment and actually
8 driving to the scene to see what's going on.

9 Q. And what -- what scene -- where did you
10 respond to?

11 A. We were called out to the -- to the address of
12 this incident, which was 5711 Vendi.

13 Q. And is that in Harris County, Texas?

14 A. Yes, it is.

15 MS. MORNEAU: Your Honor, may I approach?

16 THE COURT: Yes, ma'am.

17 Q. (BY MS. MORNEAU) Showing you what's been
18 marked as State's Exhibit No. 1. Is this a fair and
19 accurate representation to the address that you
20 responded to?

21 A. Yes.

22 Q. And for the record, what is State's Exhibit
23 No. 1?

24 A. It's a -- appears to be a Google maps picture
25 with the address labeled with the blue dot.

1 Q. So, it's a map?

2 A. Yes.

3 Q. Okay.

4 MS. MORNEAU: Tendering State's --

5 MR. DAVIS: There's no objection on that.

6 THE COURT: No objection, State's 1 will
7 be admitted.

8 MS. MORNEAU: Your Honor, may I publish
9 State's 1 to the jury?

10 THE COURT: Yes, ma'am.

11 Q. (BY MS. MORNEAU) Do you remember what time
12 you got called out?

13 A. I believe I documented in my report that we
14 were called at 6:20 in the evening.

15 Q. And what time did you get there?

16 A. I documented my arrival time as 1901 -- at
17 7:01 p.m.

18 Q. Okay. And the delay would be because there
19 was a lot of equipment you need to get?

20 A. Yeah. We typically load up a lot of equipment
21 And then, you know, depending on traffic and drive
22 times and things like that. So, it was about a
23 40-minute response time.

24 Q. So, when you're responding to a homicide scene
25 and you get there, what is the first thing that you do?

1 A. I -- typically what I want to do is meet with
2 any officers that are on scene that can kind of give me
3 a picture of what's going on. I'll talk to them. Find
4 out what -- you know, how they get called out. What --
5 you know, what they saw when they got there. And then
6 I'll actually have one of them take me on what's called
7 a walk-through. And we will -- we will actually -- you
8 know, it is what it sounds like. We'll walk through
9 the scene and see exactly what we've got.

10 Q. And why is it important to talk to the
11 officers who were there?

12 A. Responder -- speaking to any first responder
13 is generally good information to have when you're
14 beginning your investigation. You know, these are
15 people that are trained to be professional witnesses.
16 They know generally what you're looking for and what's
17 going to be of value to you when you're beginning an
18 investigation.

19 Q. Okay. Did you do that in this case?

20 A. Yes, I did.

21 Q. Do you remember who you -- specifically who
22 you spoke with?

23 A. I believe I started with -- it was a Sergeant
24 Jaramillo.

25 Q. Okay. And what did you do next?

1 A. Once we did the walk-through, I -- well, after
2 that, I learned that they actually had a person in
3 custody. And our procedure when we arrive on a scene,
4 that if there is a person in custody, we want to start
5 by documenting them, processing them -- is what we call
6 it.

7 Q. Okay. What does it mean to process a person?

8 A. Typically, we want to document them with
9 photographs and we want to perform any physical tests
10 that we would like to do prior to beginning the actual
11 scene investigation.

12 Q. Okay. And what types of tests would those be?

13 A. There was a -- since this was a shooting
14 incident, we did a gunshot residue test. And I believe
15 other than the photos, that was the only thing that was
16 done for Mr. Vasquez.

17 Q. Okay. So, in this case what specifically --
18 at first -- first, do you see the person that you
19 processed in the courtroom here today?

20 A. Yes, he's --

21 Q. Can you identify -- sorry.

22 Just be really careful not to step on the
23 end of my answer because the court reporter can only
24 take down one of us at the same time.

25 A. Okay.

1 Q. Okay. Do you see the person in the courtroom
2 here today?

3 A. Yes. He's the gentleman in the dark suit with
4 the yellow tie.

5 MS. MORNEAU: Let the record reflect that
6 the witness has identified the defendant.

7 THE COURT: It will.

8 Q. (BY MS. MORNEAU) And what specifically did
9 you do to process him?

10 A. Well, when I arrived, he was in -- he was in
11 custody. He was in a police car. His hands were
12 cuffed behind his back and he had paper bags on his
13 hands. Typically officers are trained to put paper
14 bags on somebody's hands to preserve gunshot residue if
15 there is a possibility that it's going to be on there.

16 When I removed him from the car, I noted
17 that the bags had been torn. Not -- it's not
18 necessarily that that's going to, you know, mess up a
19 gunshot residue test, but, you know, we can perform the
20 tests anyhow. And after that I took a -- I took
21 pictures of Mr. Vasquez.

22 MS. MORNEAU: May I approach?

23 THE COURT: Yes, ma'am.

24 Q. (BY MS. MORNEAU) I'm showing you what's been
25 marked as State's Exhibit 2, 3, 4 and 5. Do you

1 recognize these?

2 A. These would appear to be the -- some of the
3 pictures that I took of Mr. Vasquez at the time of this
4 investigation.

5 MS. MORNEAU: Your Honor --

6 Q. (BY MS. MORNEAU) And they fairly and
7 accurately depict how Mr. Vasquez looked when you saw
8 him on December 20th of 2013?

9 A. Yes, they do.

10 MS. MORNEAU: Your Honor, at this time
11 the State offers into evidence State's Exhibits 2, 3, 4
12 and 5 and tenders them to opposing counsel for any
13 objections.

14 MR. DAVIS: May I have one moment, Your
15 Honor?

16 THE COURT: Yes, sir.

17 MR. DAVIS: There's no objection, Your
18 Honor.

19 THE COURT: No objection, State's 2, 3, 4
20 and 5 will be admitted.

21 MS. MORNEAU: Your Honor, may I publish
22 the exhibits to the jury?

23 THE COURT: Yes, ma'am.

24 Q. (BY MS. MORNEAU) Showing you what's been
25 admitted as State's Exhibit No. 2. Is that how the

1 defendant looked on -- when you photographed him?

2 A. Yes, it is.

3 Q. And did you notice any injuries on him?

4 A. No, I did not notice any immediate injuries on
5 him.

6 Q. State's Exhibit 3, did you see anything of
7 note on his clothing?

8 A. No, I did not.

9 Q. State's Exhibit No. 4, did you see anything of
10 note on his pants?

11 A. No.

12 Q. And State's Exhibit No. 5, were his shoes
13 already removed when you arrived?

14 A. I believe they were. I wouldn't have taken
15 his shoes off, so --

16 Q. Did he have any blood on his clothes?

17 A. I don't recall that he had blood on his
18 clothes, no.

19 Q. And in reviewing the photographs now, do you
20 see any blood on his clothing?

21 A. It's not readily visible here, no.

22 Q. And did you note that he had any blood on his
23 clothes in your report?

24 A. No. I actually made note that I didn't see
25 any blood on the clothing.

1 Q. Okay. And that would be something that would
2 have been important for you to put in your report?

3 A. Yes. Typically, if I see something like blood
4 on somebody's clothing, I will make a note of it.

5 Q. Okay. So, when you do a walk-through, does
6 that include the exterior of the house?

7 A. Yes. I mean, normally we'll go exact --
8 typically when I get on scene, I want to know exactly
9 where the victim is and where there's any --
10 potentially, you know, valuable evidence. And in this
11 case, it was mainly contained to the foyer of the home,
12 the living room and the dining area. And so, those
13 were the places that we walked through first. But the
14 walk-through does eventually entail the exterior of the
15 home.

16 Q. Okay. And can you describe to the jury what
17 the house looked like?

18 A. Without going into all the detail in my
19 report, it was standard recently constructed
20 subdivision-type home, brick exterior, one story.
21 Maybe around 18 to 2,000 square feet -- 1,800 to 2,000
22 square feet.

23 Q. And did you photograph the exterior of the
24 house?

25 A. Yes, I did.

1 MS. MORNEAU: Your Honor, may I approach?

2 THE COURT: Yes, ma'am.

3 Q. (BY MS. MORNEAU) Showing you what's been
4 marked as State's Exhibits 6 through 26. Do you
5 recognize these?

6 A. Yeah. These appear to be the low-light
7 photographs that I took of the exterior of 5711 Vendi.

8 Q. Okay. And are they the front, back or both of
9 the house?

10 A. It takes pictures of both the front and the
11 back.

12 Q. Okay. And did you take all of the pictures?

13 A. Yes. I believe I took all of the scene
14 photographs that are -- that we're showing here.

15 Q. Let me --

16 A. Yeah. I was going to say with the exception
17 of these. These pictures are in daylight. We weren't
18 there during the daylight. So, I wouldn't have taken
19 these ones.

20 Q. Okay. The pictures that you did not take that
21 are in daylight, do they fairly and accurately depict
22 the scene?

23 A. Yes, it is the same home.

24 Q. Okay. And the photographs that were taken in
25 daylight, since the lighting is better, would they aid

1 in the jury's understanding of your testimony today?

2 A. Yes, they would.

3 MS. MORNEAU: Your Honor, at this time
4 State offers State's Exhibits 6 through 26 into
5 evidence and tenders to opposing counsel for any
6 objections.

7 MR. DAVIS: Your Honor, there's no
8 objection to State's Exhibit 26 and 25, 24, 23, 13, 12,
9 11, 10, 9, 8, 7 and 6. There's no objection to those
10 exhibits.

11 But we would object to State's Exhibit
12 22, 21, 20, 19, 18, 17, 16, 15 and 14 as they're -- not
13 being the proper foundation and relevance to these
14 exhibits, Your Honor?

15 THE COURT: Can I see those or are those
16 the daylight photos?

17 MR. DAVIS: Yes, Your Honor, the daylight
18 photos.

19 THE COURT: All right. No --

20 MR. DAVIS: Haven't been established --
21 haven't been established that they're substantially
22 similar to the time that the event occurred. Different
23 time. And I think the question she asked, would it
24 help the jury -- she's not offering it as a
25 demonstrative aid. She's offering it as an exhibit.

1 THE COURT: Let me see those.

2 (Bench conference on the record).

3 THE COURT: Is that the date these were
4 taken?

5 MS. MORNEAU: Yes. That's the date they
6 were taken.

7 THE COURT: All right. I'm going to
8 sustain your objection at this point for these.

9 If you want to ask him more questions to
10 clarify the dates they were taken, I'll let you do
11 that.

12 (End of conference).

13 THE COURT: All right. State's Exhibits
14 6 through 13 will be admitted. And State's 23 through
15 26 will be admitted.

16 Q. (BY MS. MORNEAU) Mr. Wieners, with regards to
17 State's Exhibits 12, 20, 22, 19, 18, 17, 16, 15 and 14,
18 these were the photographs that you did not take,
19 correct?

20 A. Correct. Like I said, we weren't there in the
21 daylight. And these do not appear to be pictures that
22 I took at the time of the investigation.

23 Q. Okay. And they have a date stamp on them of
24 4/7/2015. That was the date the photographs were
25 taken?

1 A. That's what I see on there, yes.

2 Q. Yes. And the photographs here, although they
3 are not taken on the December 20th of 2013, they do
4 fairly -- do they fairly and accurately represent how
5 the scene looked on December 20th of 2013?

6 A. Yes, they do.

7 MS. MORNEAU: State would re-offer
8 State's Exhibits 20, 21, 22, 19, 18, 17, 16, 15 and 14.

9 MR. DAVIS: There's no objection, Your
10 Honor.

11 THE COURT: All right. No objection,
12 what would be State's 14 through 22 will now be
13 admitted as well.

14 MS. MORNEAU: And, Your Honor, may I
15 publish to the jury?

16 THE COURT: Yes, ma'am.

17 Q. (BY MS. MORNEAU) Showing you what's been
18 admitted as State Exhibit No. 14. What are we looking
19 at?

20 A. That would be the front of the home located at
21 5711 Vendi.

22 Q. And when you were doing your investigation,
23 where did you enter from?

24 A. I entered the front door, which you can see
25 right there.

1 Q. Okay. And when you go through the front door,
2 do you photograph it?

3 A. Yes. I typically photograph the doorjamb
4 itself just to -- well, the door itself and then
5 generally the doorjamb to see if there's -- to document
6 any signs of possible forced entry.

7 Q. Okay. So, this is State's Exhibit No. 13 and
8 State's Exhibit No. 12. Did you notice any signs of
9 forced entry in this case?

10 A. No, I didn't.

11 Q. Okay. So, when you went inside the house,
12 where did you start your investigation?

13 A. Well, the walk-through began in the foyer --

14 Q. Okay.

15 A. -- obviously which was where the body of the
16 complainant was found.

17 We also located the -- a shotgun, which
18 was placed barrel down and leaning up against the
19 corner of the wall that has -- the corner of the wall
20 where the front door is and where the -- where the side
21 wall is in the foyer.

22 Q. Okay. So, in the foyer, you said that you
23 found a shotgun?

24 A. Yes.

25 Q. And then you also found the body. Can you

1 describe the body for the jury?

2 A. The body was that of a black female. She was
3 laying face down in a good amount of her own blood.
4 Her, you know, arms and -- her arms and legs were face
5 down in this fashion. I noticed that -- what -- what
6 appeared to be several strikes, which would appear to
7 have been from a firearm on the -- on her backside.

8 Q. Okay. And when you -- when you go in and
9 you're doing your crime scene investigations and you
10 see a body like this, do you touch the body?

11 A. No, I don't.

12 Q. Okay. And do you make any notations regarding
13 blood?

14 A. Typically I'll make note of the amount of
15 blood that's in the area. Sometimes you see shootings
16 where there's very little blood. So, it's important to
17 document that. Other times we see shootings where
18 there's copious amounts of blood and I'll also document
19 that as well.

20 Q. Okay. In this case did you document any blood
21 pooling?

22 A. Yes, there was blood pooling in the area of
23 the body on the floor directly in the vicinity of it.

24 Q. And can you explain to the jury what blood
25 pooling means?

1 A. Blood pooling is just where there's a wound.
2 It's been opened and the heart has pumped the blood out
3 of the body to the point where it's began to pool onto
4 the floor of the -- of where the person is laying.

5 Q. And were there any visible wounds to the -- to
6 the complainant who was on the -- I guess the victim
7 who was on the floor?

8 A. There was a lot of blood in the upper body
9 area. And it was a little difficult to see exactly,
10 you know, which -- what was the special strike from a
11 firearm -- from a firearm projectile.

12 But one that was noticeable was that she
13 was stuck in the -- like in the center part of her rear
14 end with a projectile -- with a firearm projectile.

15 Q. And did you -- how did you know it was a
16 firearm projectile?

17 A. I've seen a lot of shooting deaths. And it
18 appeared to be what a -- what a wound from a firearm
19 projectile looked like.

20 Q. Okay. Did you -- when you're doing the
21 investigations and you're looking for evidence, do you
22 look for -- do you look for evidence just on the floor
23 or are you also looking on the walls?

24 A. We look -- look -- pretty much it's a
25 three-dimensional type of investigation. We will look

1 on the ceilings, the floors, the walls, pretty much
2 anywhere we can.

3 Q. Okay. And in the foyer, did you find anything
4 on the walls?

5 A. I mean, there was blood spray on the walls of
6 the foyer. But, you know, other than more blood that
7 they were just finding from -- on the floor -- or which
8 was kind of a continuation of what we had seen on the
9 floor, no, I didn't really notice anything else.

10 Q. Okay. And other than the shotgun, did you
11 find any physical evidence?

12 A. There were several shotgun shells or fired
13 shotgun shells which were laying on the ground. And
14 the wading, which is what the shotgun shell is encased
15 in comes out after it's fired. And typically, it just
16 -- it will go, you know, any -- any certain direction.
17 But when it is fired from the weapon, it comes out and
18 that was laying on the ground as well.

19 Q. Okay. How many shotgun shells did you find in
20 the foyer?

21 A. In the foyer, I would have to see my -- a
22 crime scene diagram. But from what I recall, one or
23 two.

24 Q. And did you take photographs of the foyer?

25 A. Yes, I did.

1 Q. Handing you what's been marked as State's
2 Exhibit 27 through 39. Are these the photographs that
3 you took of the foyer?

4 A. Yes. I can see the shotgun leaning against
5 the wall, the complainant's body laying face down.
6 Yeah. These appear to be pictures that I took of the
7 foyer.

8 Q. And do they fairly and accurately represent
9 how the scene looked on December 20th of 2013?

10 A. Yes, they do.

11 MS. MORNEAU: Your Honor, at this time
12 States offers into evidence State's Exhibits 27 through
13 39 and tenders to opposing counsel for any objections.

14 MR. DAVIS: May we approach, Your Honor?

15 THE COURT: Yes, sir.

16 (Bench conference on the record).

17 MR. DAVIS: Judge, I want to object to
18 some of these as being needlessly cumulative as well as
19 I think, Judge, they're really gruesome photos. And
20 they have the potential to inflame the jury as well.
21 And they're unnecessary because they're duplicates of
22 some of the other photos. In other words, there are
23 two or three photos of kind of the same thing -- that
24 depict the same thing. And the photos themselves are
25 gruesome enough. And so, I think that they have the

1 potential to inflame the jury to show a lot of these
2 different photos. And so, I'd object to them.

3 These are the ones that I kind of picked
4 out. I probably wouldn't have any objections if these
5 weren't admitted. These are the ones I would have
6 objections to.

7 THE COURT: Okay. So, your objection is
8 to --

9 MR. DAVIS: For the record --

10 THE COURT: -- for purposes of the
11 record, State's 31, 36, 37, 29 and 30?

12 MR. DAVIS: That's correct.

13 THE COURT: Okay.

14 MR. DAVIS: Most of those pictures are --
15 that the information in those pictures is contained in
16 the Exhibits 27, 28, 32, 33, 34, 35, 38 and 39.

17 THE COURT: Okay. Do you want to say
18 anything about these?

19 MS. MORNEAU: I didn't even see which
20 ones he was objecting to.

21 THE COURT: Okay.

22 MS. MORNEAU: The State's response would
23 be that while -- while -- I mean, while the pictures
24 are -- I wouldn't say gruesome. They depict the crime
25 scene as it was. And the defense is that there was no

1 intent to commit this crime. And so, therefore, I
2 think it's important for the jury to see specifically
3 exactly how the complainant's body looked while the
4 defendant was in the house walking back and forward.

5 The defense made a big deal in his
6 opening statement about how none of the shots that he
7 made were, you know, that bad of shots, that they
8 weren't, quote, unquote, kill shots. Where they have
9 this shot where he's directly -- obviously directly
10 aiming right at the complainant. He's obviously
11 intending to shoot her.

12 And furthermore, the photographs that
13 show the blood on the ground is necessary as far as the
14 State's case go to show that he never -- since the
15 defendant didn't have any blood on him, he never tried
16 to render any aid to her. He never came up to her to
17 try to give her any help because otherwise he would
18 have gotten blood on him.

19 THE COURT: What's your purpose for this
20 one?

21 MS. MORNEAU: The purpose for this one, I
22 guess, would be twofold, Judge. 'Cause as you can see
23 here, it's got a -- has part of a projectile in it.
24 And the medical examiner will be able to use that to
25 talk about distance.

1 MR. DAVIS: The same photos are in the
2 medical examiner's photos that he has as well, Judge.
3 So, that scene photo is unnecessary for the medical
4 examiner because he's got a bunch of photos where he
5 actually has the wadding and everything inside.

6 And in addition, much of what's in those
7 photos are also in these photos. So, in terms of the
8 relevance of it, I mean, that may -- but if you'll
9 notice the position of her body is to -- and in this
10 photograph as well here and Photo 28, which shows the
11 position of her body. Those are cumulative and
12 unnecessarily cumulative and have no relevance another
13 than to try to inflame the jury.

14 THE COURT: All right. State's 27
15 through 39 will be admitted. Your objection to
16 State's 29, 30, 31, 36 and 37 will be noted for the
17 record.

18 MR. DAVIS: And, Judge, is it possible
19 for the Court to sort of let the people in the venire
20 know about what pictures they're going to see? 'Cause
21 some of them might have difficulty with them.

22 THE COURT: I was just about to ask the
23 State to do that.

24 MS. MORNEAU: Lauren gave our people a
25 heads up with what was coming.

1 THE COURT: And do they know if we can't
2 have --

3 MS. MORNEAU: Yes.

4 THE COURT: If they can't handle, they
5 need to go outside.

6 MS. MORNEAU: Lauren told them or asked
7 me and she gave them a nod saying this is the time to
8 go outside if you can't handle it.

9 THE COURT: And you might want to let the
10 jury know that they might -- you know, warn the jury
11 that they --

12 MS. MORNEAU: Okay.

13 THE COURT: In your questions, say some
14 of these are a little graphic. You know, let the jury
15 know that's coming.

16 MR. DAVIS: And just for the record,
17 those objections are overruled?

18 THE COURT: Yes.

19 MR. DAVIS: All right.

20 THE COURT: Yeah. That's what I said and
21 noted.

22 MR. DAVIS: Thank you, sir.

23 THE COURT: All right.

24 (End of conference).

25 MS. MORNEAU: Your Honor, may I publish

1 these to the jury?

2 THE COURT: Yes, ma'am.

3 Q. (BY MS. MORNEAU) Showing you what's been
4 marked as State's Exhibit No. -- I'm sorry -- admitted
5 as State's Exhibit No. 27. Can you describe what we're
6 seeing here?

7 A. This is a picture of the front door, which is
8 in the foyer of the home. And in the corner there
9 between the wall and the front door, you can see the
10 shotgun which is labeled with Evidence Marker No. 1.

11 Q. Okay. When do you go through and label
12 everything with evidence markers?

13 A. Typically after I document the evidence with
14 overall photographs, I will put down evidence markers
15 to mark all of our items.

16 Q. Okay. So, would it be fair to say that you
17 almost do three -- three walk-throughs? Once with the
18 officers, a second time to document with photographs
19 and a third time with evidence markers.

20 A. Correct. Yes.

21 Q. Okay. And then I'm going to publish State's
22 Exhibit 28 next. And just a warning that the
23 photographs from here on out do -- do get a little -- a
24 little disturbing.

25 This is what's been admitted as State's

1 Exhibit No. 28.

2 A. This is an overall picture of the foyer
3 looking towards the front door. As you can note, the
4 complainant's body is laying in the foyer there. And
5 you can see some of the -- some of the evidence markers
6 which indicate firearms projectiles and shotgun shells.

7 Q. Okay. I can see that there's a room off in
8 this direction. Which room is that?

9 A. That appears to be a bedroom.

10 Q. Okay. Did you walk through that bedroom?

11 A. Yes, we did.

12 Q. And did you find any evidence in that bedroom?

13 A. I don't recall finding any evidence in there.

14 Q. Okay. And I'm showing you what's been
15 admitted as State's Exhibit No. 32.

16 A. Yeah. These are a little bit closer pictures
17 of Evidence Markers 2 and 3. It looks like you can see
18 the Evidence Marker 2 is a part of a fired projectile.
19 And then Evidence Marker No. 3 is going to be a fired
20 shot shell.

21 Q. Okay. And can I -- what is this red staining?

22 A. That would be blood.

23 Q. Showing you what's been admitted as State
24 Exhibit No. 33.

25 A. This again, little bit closer picture of

1 Evidence Marker No. 2. And it looks like the little
2 ball bearing that goes inside of a shotgun round.

3 Q. Okay. What kind of a -- do you know what kind
4 of shotgun round that would come out of?

5 A. Typically, we see that in bird shot.

6 Q. Okay. I'm showing you State's Exhibit No. 4.
7 What were you marking here?

8 A. This is what was labeled as Evidence Marker
9 No. 3 at the scene. And this is a fired shot shell.

10 Q. State's Exhibit No. 35?

11 A. This is labeled as Evidence Marker No. 4. And
12 it's also a fired shot shell.

13 Q. Okay. And what is it adjacent to?

14 A. This is -- what you can see immediately to the
15 right of the shot shell and the evidence marker is --
16 it would appear to be the complainant's torso.

17 Q. Is this part of her pants?

18 A. Yes. Yes, it is.

19 Q. And this would be exercise top?

20 A. Yeah. The lower part here, I guess, is the
21 waistband of her pants.

22 Q. Okay.

23 A. And then upper part would be the -- I guess
24 the sport strap of her -- of her shirt.

25 Q. State's Exhibit No. 38 was part of the foyer

1 as well?

2 A. Yes. I think this is just an overall picture
3 -- or part of an overall picture of the foyer.

4 Q. State's Exhibit No. 39.

5 A. This is blood that was on the -- found on the
6 floor in the foyer.

7 Q. And can you tell if it was leading, I guess,
8 towards the front door or away from the front door?

9 A. To be honest, I can't --

10 Q. Okay.

11 A. -- really differentiate from that photo there.

12 Q. Showing you State's Exhibit No. 36 there.

13 A. This is just another angle of the
14 complainant's body as it was found at the scene. And
15 you can see to the right side of her, the amount of
16 blood and the red staining on the wood floor there that
17 was documented.

18 Q. And what is this?

19 A. I believe that was a pendant to a necklace or
20 -- of some sort. I don't really recall exactly what it
21 was. But I think it was a piece of jewelry.

22 Q. And did it appear that she had a chain around
23 her neck?

24 A. I can see a chain in the picture, yes.

25 Q. Okay. And then we can see that her pants are

1 torn. Can you describe that injury?

2 A. Yes. That was the injury that I explained
3 earlier. That, you know, immediately noticeable on her
4 back side was a -- that she had appeared to be struck
5 in the buttocks with a firearm projectile.

6 Q. And is what we're seeing here in State's
7 Exhibit No. 31?

8 A. Yeah. That's a close-up of the wound. It's
9 -- you know, you can see it's broken the pants and that
10 it's down to the dermis level of the skin.

11 Q. Okay. So, after you finished your
12 investigation into the foyer, where did you go next?

13 A. From there we moved into the living room. You
14 know, 'cause once you move past the foyer you can
15 immediately notice that there was some disarray in the
16 living room. You know, I noted that the TV had been
17 shot out and that there was also some more shotgun
18 shells found on the ground in the living room.

19 Q. Okay. And so, describe how the living/
20 dining/kitchen area is set up?

21 A. It was a pretty open floor concept that you're
22 -- that you're used to seeing in homes -- more modern
23 homes. The living room was opened to the dining room
24 and you could also see into the kitchen from there,
25 which was off to the -- just off to the side of the

1 foyer. And it was just -- it was very -- very much
2 open from -- from the living room to the dining room.
3 So, you had a pretty solid vantage point from wherever
4 you stood in any of the rooms that were in the main
5 living area.

6 Q. Okay. So, I want to start in the dining room
7 and then work our way forward.

8 So, what did the dining -- what did the
9 dining room look like?

10 A. I recall there was a glass table in the dining
11 room. And I want to say that there was a -- I can't
12 really recall without seeing the picture of it. There
13 were pictures and things like that on the wall. I
14 believe one of them might have been a mirror.

15 But immediately noticeable when we get into
16 the dining room area was that there was what appeared
17 to be pieces of scalp on the wall.

18 Q. Okay. Well, let's start with just like the
19 furniture. You said there was a glass table. Were
20 there also any chairs?

21 A. Yes. There was, you know, a standard dining
22 room setting in there with the dining table which was
23 glass. And then there were chairs and a computer -- a
24 laptop computer was set up on the -- on the head of the
25 dining room table.

1 Q. And then as far as the general appearance of
2 the house, did it appear to be well-kept?

3 A. Yeah, the house did appear -- I mean, other
4 than the disarray that was caused by the shooting,
5 there was -- the house did appear to be in pretty
6 decent order.

7 Q. Okay. Was there anything on the table?

8 A. The dining room table, yes. I mean, there was
9 -- aside from, you know, normal stuff that the people
10 tend to throw on the dining room table, there was a
11 laptop computer.

12 Q. Okay. Do you remember if it was open or
13 closed?

14 A. No, I don't.

15 Q. Okay. And what evidence did you recover from
16 the dining room?

17 A. I'd have to refer back to the report. But
18 yeah, I document here that on the floor near the
19 southeast corner of the dining table, I discovered a
20 fired shot shell. So, there was more shotgun shells
21 there. That was labeled -- there was human scalp --
22 remnants of human scalp found on the floor and on the
23 wall there.

24 Q. Okay.

25 A. Yeah. Other than that --

1 Q. Did you find any holes?

2 A. Bullet holes?

3 Q. Yes.

4 A. Yeah. I -- I mean, I recall that there have
5 been holes in the wall. Again, I'd have to see
6 picture.

7 Q. Okay. And you did take photographs of the
8 dining room?

9 A. Yes.

10 MS. MORNEAU: Your Honor, may I approach?

11 THE COURT: Yes, ma'am.

12 Q. (BY MS. MORNEAU) Showing you what's been
13 marked as State's Exhibits 40 through 50. Are these
14 the photographs you took of the dining room on December
15 20th of 2013?

16 A. Yeah. The light's pretty low here. But yes,
17 these -- that is the dining room. Yeah. Those are the
18 pictures that I took of the dining room area.

19 Q. And they fairly and accurately -- do they
20 fairly and accurately depict how the scene looked on
21 December 20th, 2013?

22 A. Yes, they do.

23 Q. Now, you said that there were bits of what you
24 believed to be scalp on the walls and that you
25 photographed that?

1 A. Yes.

2 Q. How many different bits were there?

3 A. Just looking at the pictures here, I believe
4 there was two or three that were immediately
5 noticeable.

6 Q. The three different bits, is that what we're
7 seeing in State's Exhibits 44, 45 and 46?

8 A. Yes. Those would be close-ups of the pictures
9 of the hair and scalp that was found on the wall.

10 MS. MORNEAU: Okay. Your Honor, at this
11 time State offers into evidence State's Exhibit 40
12 through 50 and tenders to opposing counsel for any
13 objections.

14 MR. DAVIS: May we approach Your Honor?

15 THE COURT: Yes, sir.

16 (Bench conference on the record).

17 MR. DAVIS: Judge, we'd object to State's
18 Exhibit 50.

19 THE COURT: 50?

20 MR. DAVIS: 50. And we'd also object to
21 State's Exhibit 44 as well and 46.

22 THE COURT: 46 --

23 MR. DAVIS: And, Judge, we'd object to
24 those pictures as being -- again, those pictures are
25 particularly gruesome photos. They're pictures of a

1 scalp. But they're also cumulative. What's portrayed
2 in State's Exhibit 50 is also portrayed in State's
3 Exhibit 49 in terms of the scalp. It's also portrayed
4 there as well. Maybe not as gruesome as it is in 50,
5 but still portrayed as scalp in 49 and would still the
6 purpose of allowing the jury to see that information.

7 Although relevant, I think that has a
8 danger of prejudicing the jury for them to make a
9 decision based on this is gruesome. These photos are
10 gruesome -- the alleged gruesomeness that they have
11 runs that danger and any probative value is clearly
12 outweighed by that danger because we have other
13 photographs -- there's other evidence that is available
14 that the jury could find that information.

15 The same with those photos that are
16 pictures of the scalp on the ceiling. There are other
17 photos that depict the exact same thing that are also
18 -- State's 45 depicts the exact same thing as 46 and
19 44. So, admitting those would be unnecessarily
20 cumulative, Your Honor. It's duplicitous. That
21 evidence is in there from other photographs. Adding a
22 bunch of different photographs that are a little more
23 graphic, a little more detailed, we're putting the risk
24 of prejudicing the jury.

25 THE COURT: Are you objecting to 45 also.

1 MR. DAVIS: No, I'm not. I think 45 is
2 probably one of the photos -- it's the same thing
3 pretty much as 46 and 44. So, I would probably agree
4 to let one of them in, but a bunch of them depicting
5 the same thing might not necessarily be all that
6 cumulative.

7 THE COURT: These are not the same.

8 MS. MORNEAU: They're not the same. And
9 that's what I was -- what I just had him testify to.
10 There are three different spots on the wall.

11 MR. DAVIS: Three different spots of
12 scalp on the wall. But if one of them is admitted, the
13 jury can kind of get the picture.

14 THE COURT: So, you have no objection to
15 the others other than the --

16 MR. DAVIS: That's correct. No objection
17 to the other ones. No objection to 40, 41, 42, 43, 47,
18 48 and 49.

19 THE COURT: Those that you have no
20 objection to will be admitted. Those that you noted
21 your objection, your objection will be overruled and
22 noted for the record.

23 MR. DAVIS: All right.

24 THE COURT: And they will be admitted as
25 well.

1 (End of conference).

2 MS. MORNEAU: Your Honor, may I publish
3 the exhibits to the jury?

4 THE COURT: Yes, ma'am.

5 Q. (BY MS. MORNEAU) Showing you State's 43. Is
6 this the set up of the dining room as it was when you
7 got there?

8 A. Yeah. This is the head of the dining room
9 table as can you see it. And there was an open laptop
10 computer found on the end of it.

11 Q. Okay. And what -- this is State's Exhibit 49
12 that we're looking at now. What did -- what is State's
13 marker number -- what is it your Marker No. 6 is
14 showing?

15 A. I believe Marker No. 6 is showing a piece of
16 human scalp that was recovered from the floor.

17 Q. Showing you State's Exhibit No. 50. Is that
18 what we can see here?

19 A. Yes, to the immediate left of the -- of the
20 evidence marker there, you can see the flesh part
21 bottom there attached to hair.

22 Q. Okay. And what is this black thing running
23 through the photograph?

24 A. I believe that's a power cord that was for the
25 laptop.

1 Q. Showing you State's Exhibit No. 41. Do you
2 recall was the hair found to the right or to the left
3 of this photograph?

4 A. Well, looking at straight on where the
5 computer is at, it would have been to the left, I
6 believe.

7 Q. Okay. And you said in your testimony earlier
8 that you did find some bullet -- a bullet hole. Do you
9 see that here in this photograph?

10 A. Yeah. There appears to be a hole right here
11 just to the immediate left of where it says celebrate
12 on the wall there.

13 Q. Showing you State's Exhibit No. 40. This
14 photograph is a little dark. Where is the laptop in
15 this photograph?

16 A. Yeah. This photo was a little dark with the
17 lighting that was in the home. But can you see -- if
18 you look at the left side of the dining room table you
19 can see --

20 Q. Left side?

21 A. Yeah. Right there, you can see where the
22 screen to the laptop is visible.

23 Q. Okay. And you said that you found human --
24 what appeared to be human scalp on the walls. Where
25 did you find it on the walls?

1 A. It would have been actually where these
2 mirrors are. It appears to be three smaller mirrors.
3 And you can see pieces of hair here -- well, yeah --
4 above the mirrors there. And it's one, two and three.

5 Q. Showing State's Exhibit 44, is that one of the
6 spots?

7 A. Yes. That's what I believed to be human hair
8 that I took a picture of that was plastered to the
9 wall.

10 Q. State's Exhibit 45?

11 A. That is a separate piece of human hair that
12 was on the wall.

13 Q. And State's Exhibit 46?

14 A. And this was a third piece of human hair that
15 was on the wall.

16 Q. Okay. And you said that you also recovered a
17 shotgun shell?

18 A. Yes, I believe we did.

19 Q. This is State's Exhibit 47.

20 A. Okay.

21 Q. Which end of the table are we near now?

22 A. This is the end of the table that's closer to
23 the -- to the living room.

24 Q. Okay. So, on the other end of the laptop?

25 A. Correct. Yes.

1 Q. Okay. And State's Exhibit 48?

2 A. This is just a close-up of what was labeled as
3 Evidence Marker No. 5, which is a fired shotgun shell.

4 Q. Okay. Now, you had said there was also a
5 kitchen and bar area near there.

6 A. Yes.

7 Q. And did you also investigate the kitchen and
8 bar area?

9 A. We did do a walk-through of the kitchen and
10 bar area. And we did go through -- we did go through
11 the kitchen just to make sure that there wasn't any
12 evidence in there. But I don't recall recovering any
13 from the kitchen.

14 Q. Did you photograph the area?

15 A. Yes.

16 Q. And did you find anything near the bar area?

17 A. Near the bar -- again, I'd have to see a crime
18 scene diagram or something to --

19 MS. MORNEAU: Your Honor, may I approach?

20 THE COURT: Yes, ma'am.

21 Q. (BY MS. MORNEAU) Showing you State's Exhibit
22 51, 52, 53. Did you take these photographs?

23 A. Yeah. These photographs are where the foyer
24 and the dining area kind of lead into where there was a
25 bar and kitchen area of the home. And, you know, now

1 that I'm looking at the photographs, I can see shotgun
2 wadding scattered on the floor there.

3 Q. Okay. And does this fairly and accurately
4 depict how the scene looked on December 20th of 2013?

5 A. Yes, it does.

6 MS. MORNEAU: At this time, State offers
7 State's Exhibit 51, 52 and 53 into evidence and tenders
8 to opposing counsel for any objections.

9 MR. DAVIS: No objection, Your Honor.

10 THE COURT: All right. No objection,
11 State's 51, 52 and 53 will be admitted.

12 MS. MORNEAU: Your Honor, may I publish
13 this to the jury?

14 THE COURT: Yes, ma'am.

15 Q. (BY MS. MORNEAU) Showing you what's been
16 admitted as State's Exhibit No. 51. What's in this box
17 we see?

18 A. Honestly didn't look at what was inside of the
19 box.

20 Q. Okay. What's the box for?

21 A. I think it was a television.

22 Q. Okay. And what would lead through this
23 doorway?

24 A. Well, this little entryway is where the foyer
25 and dining area lead into the kitchen.

1 Q. Okay. And we can see what looks like debris
2 on the floor. What is that?

3 A. Well, the debris is the wadding from fired
4 shotgun shells.

5 Q. Okay. And is that what we see here in State's
6 Exhibit 52?

7 A. Yes. Well, here to the left on the carpet,
8 you can see what a -- yeah. That is a -- part of a
9 wadding from the shotgun shell. Over here to the right
10 of -- immediate right of the carpet on the wood floor,
11 I don't know exactly what that is. I think it might
12 just be some part of the drywall or something.

13 Q. Okay. When you say wadding, you mean packing
14 material that's in a shotgun that comes out when it's
15 fired?

16 A. Correct. Yes.

17 Q. And State's Exhibit No. -- No. 53.

18 A. That was just kind of an overall view of the
19 bar and kitchen area.

20 Q. Okay. And then after you did your
21 walk-through of the kitchen, you also did a
22 walk-through of the living room?

23 A. Correct. Yes.

24 Q. How was the living room set up?

25 A. The living room, it had a television on the --

1 on the far wall from the -- or actually on the same
2 wall where the dining room table would have been. You
3 know, it was just a continuation of that wall since it
4 was an open concept. There were two couches set up in
5 an L shape. There was a coffee table. And the master
6 bedroom was immediately off to the -- off to the left
7 when you walk in from the foyer.

8 Q. Okay. And did you find any evidence in the
9 living room?

10 A. Yes. There was more shotgun shells recovered
11 from the -- from the living room. There's also more of
12 the shotgun debris or the shotgun wadding --

13 Q. Okay.

14 A. -- that was recovered from there.

15 Q. And was there anything in the living room that
16 appeared to have been shot?

17 A. Yeah. The television appeared to have taken
18 two shotgun strikes to the -- to the screen part of the
19 television.

20 Q. And did you photograph the living room?

21 A. Yes, I did.

22 MS. MORNEAU: May I approach?

23 THE COURT: Yes, ma'am.

24 Q. (BY MS. MORNEAU) Showing you what's been
25 marked as State's Exhibits No. 54 through 59. Are

1 these the photographs you took of the living room on
2 December 20th of 2013?

3 A. Yes. I can see the television is shot. And
4 there are close-ups and overall pictures of the
5 evidence markers I took.

6 Q. Okay. And does it fairly and accurately
7 depict how the scene looked on December 20th of 2013?

8 A. Yes, it does.

9 MS. MORNEAU: At this time, the State
10 offers State's Exhibits No. 54 through 59 into evidence
11 and tenders to opposing counsel for any objections.

12 MR. DAVIS: There is no objection, Your
13 Honor, to 54 through 59.

14 THE COURT: All right. Thank you, sir.
15 State's 54 through 59 will be admitted
16 with no objection.

17 MS. MORNEAU: May I publish them to the
18 jury?

19 THE COURT: Yes, ma'am.

20 Q. (BY MS. MORNEAU) Showing you State's Exhibit
21 No. 54. What are we looking at?

22 A. This is the television that was located in the
23 living room. Yeah. You can see it appears to have
24 taken two separate shotgun blasts.

25 MR. DAVIS: Objection to speculation,

1 Your Honor, as well as volunteering.

2 THE COURT: Sustained.

3 MR. DAVIS: I'd ask the jury to be
4 instructed to disregard that last comment of the
5 witness.

6 THE COURT: Jury is instructed to
7 disregard the last statement of the witness.

8 MR. DAVIS: And we move for a mistrial.

9 THE COURT: That will be denied.

10 Q. (BY MS. MORNEAU) State's Exhibit No. 55, is
11 this the same television?

12 A. Yeah. It's just a close-up on the damage to
13 the television.

14 Q. What are you photographing here in State's
15 Exhibit 56?

16 A. That is the plastic wadding that is found in
17 the fired shotgun shell.

18 Q. So, it was more shotgun debris?

19 A. Correct.

20 Q. State's Exhibit No. 57?

21 A. This is one of the overall pictures of the
22 living room. And you can see Evidence Markers 8 and 9
23 kind of leading up into the master bedroom.

24 Q. Okay. Would the living -- would the dining
25 room area be to right or to the left?

1 A. It would be to the right.

2 Q. Okay. And then what is going to be off to the
3 left here?

4 A. That is the master bedroom.

5 Q. Okay. And then the door with the cross over
6 it that we see here, is that front door or the
7 backdoor?

8 A. That's the backdoor.

9 Q. And do we here -- see here in State's
10 Exhibit 58?

11 A. This was the item that was marked as Evidence
12 Marker No. 8. And it's a fired shotgun shell.

13 Q. State's Exhibit 59?

14 A. That is more shotgun debris, more of a plastic
15 wadding that was labeled as Evidence Marker No. 9.

16 Q. So, after you finish with the living room, did
17 you go into the master bedroom?

18 A. Yes, we did.

19 Q. Can you describe to the jury how the master
20 bedroom was set up?

21 A. It was standard set up for a bedroom. There
22 was -- appeared to be either queen or a king-size bed
23 in there, several dressers and, you know, things for
24 storing clothing. There was a large closet. And
25 really -- I mean, I can recall, you know, sort of a --

1 I guess it looked like clothing in disarray on the
2 floor of the bedroom.

3 Q. And did you photograph the bedroom?

4 A. Yes, I did.

5 MS. MORNEAU: May I approach?

6 THE COURT: Yes, ma'am.

7 Q. (BY MS. MORNEAU) Showing you State's Exhibits
8 No. 60 through 68. Are those photographs you took on
9 December 20th of 2013?

10 A. Yes, they are.

11 Q. And do they fairly and accurately depict how
12 the bedroom looked on December 20th of 2013?

13 A. Yes, they do.

14 MS. MORNEAU: At this time State offers
15 State's 60 through 68 into evidence and tenders to
16 opposing counsel for any objections.

17 MR. DAVIS: Your Honor, there's no
18 objection to State's 61 through 68.

19 THE COURT: 60 through 68 or --

20 MR. DAVIS: I'm sorry. 60 through 68.

21 THE COURT: I just want to make sure.

22 All right. Thank you.

23 60 through 68 will be admitted.

24 And, ladies and gentlemen, before we
25 start looking through these photographs, since it's

1 10:30, we're going to go ahead and take our morning
2 break at this time. Just remember the instructions
3 that I've already given you about not discussing this
4 case. I don't know how long it's going to take me to
5 deal with the other cases that I told y'all about.
6 Hopefully, it won't be anymore than 15 minutes or so.
7 So, plan on about 15 minutes to use the restroom, get
8 some more coffee or water or whatever you need. And
9 soon as I'm done with those cases, we'll be back and
10 ready to go.

11 So, if you'll step to the back, please.

12 (Jury out).

13 THE COURT: All right. You can be
14 seated.

15 Take about 15 minutes or so.

16 (Court recess).

17 (Jury in).

18 THE COURT: You may be seated.

19 Just so you'll know, ladies and
20 gentlemen, because of the weather, we've ordered lunch
21 in. So, we'll work until it arrives. Once it arrives
22 and they let me know that it's here, then we will break
23 at that point and have our lunch then. But we're going
24 to work until then.

25 Ms. Morneau?

1 Q. (BY MS. MORNEAU) Okay. Officer Wiener -- I'm
2 sorry. Mr. Wieners, I think that we were last
3 discussing what you found in the master bedroom.

4 A. Okay. Yeah.

5 Q. Showing you what's been admitted as State's
6 Exhibit No. 60. What do we see here?

7 A. This is an overall of the master bedroom.
8 Yeah. You can see the bed, which is pretty much the
9 dominant piece of furniture in the room. And then
10 there's evidence markers -- Evidence Markers 2, 10 and
11 11.

12 Q. And State's Exhibit No. 61?

13 A. This is just a different angle shot of the
14 floor of the master bedroom where you can also see
15 Evidence Marker No. 12.

16 Q. And in State's Exhibit No. 62, what is this
17 staining?

18 A. Honestly, I didn't really know what the
19 staining was. I just saw a staining on the carpet and
20 documented it.

21 Q. Okay. State's Exhibit No. 63?

22 A. This is just the dresser that was next to the
23 master bed.

24 Q. Okay. And what is this green item that we see
25 partially pictured?

1 A. The partial picture of the item down there
2 appears to be a bag.

3 Q. Okay. And is that the bag that we see in
4 State's Exhibit No. 64?

5 A. Yes. It's -- appears to be a green gym bag.

6 Q. Did you look inside the bag?

7 A. I don't recall.

8 Q. Okay. Well, State's Exhibit No. 65 -- did you
9 look inside the bag?

10 A. It appears we did, yes.

11 Q. And do you recall what you found inside the
12 bag?

13 A. From what I can see here in the pictures, it
14 looks like clothing and toiletries possibly.

15 Q. Okay. And showing you what's been marked --
16 admitted as State's Exhibit No. 66. What are these?

17 A. These are pictures -- or this is a picture of
18 unfired shotgun shells.

19 Q. And where did you find them?

20 A. In the master bedroom. I believe they were in
21 the closet.

22 Q. Okay. Okay. So, if I zoom in on State's
23 Exhibit No. 65, what are these red items here?

24 A. Yeah. That's the overall picture of the
25 contents of the bag. And you can see that the unfired

1 shotgun shells are in there.

2 Q. Okay. So, the unfired shotgun shells that we
3 see in State's Exhibit No. 66 --

4 A. It's just a close-up of the shotgun shells.

5 Q. Okay. So, they were inside the green bag on
6 -- in the master bedroom --

7 A. Yes.

8 Q. -- not in the closet?

9 A. No. They were in -- in the green bag.

10 Q. Okay. State's Exhibit No. 67, what is this?

11 A. That is a picture of a box that normally
12 contains shotgun shells.

13 Q. Okay. Was it full or empty when you saw it?

14 A. I don't recall if it was empty or full.

15 Q. Okay. For what type of shotgun was it for?

16 A. It says there that it's for a 12-gauge slug --
17 a 12-gauge slug.

18 Q. And do you know what gauge of shotgun you
19 recovered?

20 A. I could look in the report.

21 Yeah. The caliber is listed as a
22 12-gauge on the evidence submission.

23 Q. And State's Exhibit No. 68?

24 A. That's a picture of the top of the bed. There
25 is a plate with half eaten pizza on there.

1 Q. And that pizza would have been there, I guess,
2 at the time that you arrived?

3 A. Yes. This is documented the way that we found
4 the scene.

5 Q. Okay. Y'all weren't ordering pizza?

6 A. No. We didn't eat the pizza.

7 Q. Do they have a master bathroom?

8 A. Yes, they did.

9 Q. And where is it in this house?

10 A. I believe it was just to the -- if you're
11 facing the bed when you come in, it was to the -- to
12 the left.

13 Q. And did you go into the master bathroom?

14 A. Yes.

15 Q. And did you photograph it?

16 A. I believe we did, yes.

17 MS. MORNEAU: Your Honor, may I approach?

18 THE COURT: Yes, ma'am.

19 Q. (BY MS. MORNEAU) Showing you State's Exhibit
20 69, 70 and 71. Are these the photographs that you took
21 on December 20th of 2013?

22 A. Yes, they are. This is just the overall
23 pictures of the master bathroom.

24 Q. Do they fairly and accurately depict how the
25 master bathroom looked on December 20th of 2013?

1 A. Yes, they do.

2 MS. MORNEAU: State offers State's 69, 70
3 and 71 into evidence and tenders to opposing counsel
4 for any objections.

5 MR. DAVIS: There's no objection.

6 THE COURT: All right. Thank you, sir.
7 State's 69, 70 and 71 will be admitted.

8 MS. MORNEAU: Your Honor, may I publish
9 them to the jury?

10 THE COURT: Yes, ma'am.

11 Q. (BY MS. MORNEAU) Showing you what's been
12 admitted as State's Exhibit No. 69, what is this
13 photograph depicting?

14 A. This is just the overall photograph of the
15 master bathroom.

16 Q. Okay. What's here on the floor?

17 A. It appears to be a piece of a wall. If you
18 look, I believe there's a photograph to the left of the
19 door which shows where the wall had been damaged.

20 Q. State's Exhibit 71, is this the hole that you
21 were just talking about?

22 A. Yeah, it would appear to be.

23 Q. Okay. And State's Exhibit No. 70?

24 A. That's just a scratch in the paint that was on
25 the wall of the bathroom.

1 Q. Okay. And then finally, did you have a 13th
2 evidence marker?

3 A. Again, I'd have to see a crime scene diagram.
4 But I believe we did find a piece of evidence a little
5 bit later in the investigation that we marked as
6 Evidence Marker 13.

7 MS. MORNEAU: Can I approach?

8 THE COURT: Yes, ma'am.

9 Q. (BY MS. MORNEAU) Showing you State's Exhibit
10 72 and 73.

11 A. Yes. This picture shows an evidence marker
12 labeled as 13.

13 Q. Okay.

14 A. And there's a close-up of another fired
15 shotgun shell.

16 Q. And do these photographs fairly and accurately
17 depict how the scene looked on December 20th of 2013?

18 A. Yes, they do.

19 MS. MORNEAU: State offers 72 and 73 into
20 evidence and tenders them to opposing counsel for any
21 objections.

22 MR. DAVIS: There's no objection,
23 Judge --

24 THE COURT: All right. No --

25 MR. DAVIS: -- to 72 and 73.

1 THE COURT: Thank you.

2 State's 72 and 73 will be admitted.

3 MS. MORNEAU: And, Your Honor, may I
4 publish these to the jury?

5 THE COURT: Yes, ma'am.

6 Q. (BY MS. MORNEAU) Showing you No. 72. What
7 room is over here by State's -- or I'm sorry -- Marker
8 No. 9?

9 A. That's the entryway to the master bedroom.

10 Q. Okay. And so, off to the right-hand side
11 would be the living room and dining room?

12 A. Yes. Correct.

13 Q. Okay. And what do we find here in State's
14 Exhibit No. 73?

15 A. That was what was labeled as Evidence Marker
16 13.

17 Q. Okay. And how is the shotgun shell in
18 Evidence Marker 13 discovered?

19 A. I believe it was discovered a little bit later
20 in the investigation. You know, once we had documented
21 the -- done the initial documentation of the scene, we
22 started moving some things around. And that's when we
23 discovered an additional shotgun shell, which I labeled
24 as evidence and documented it.

25 Q. Okay. What was on top of it?

1 A. I believe it was a bag.

2 Q. Okay. Can you refresh your -- would it
3 refresh your recollection if you could review your
4 report?

5 A. Yes, it would.

6 Q. I just want you to be absolutely certain and
7 you said I believe it was a bag.

8 A. Okay. It mentions that there was a white and
9 black animal print bag. The bag was located between
10 the barstool and a brown leather ottoman, which was
11 positioned along the east wall of the living room.
12 Underneath the bag I discovered a fired shotgun shell.
13 And I labeled the shotgun shell as Evidence Marker 13.
14 So, that would be under a black and white animal print
15 bag.

16 Q. Okay. And is it possible that it just rolled
17 under that bag?

18 MR. DAVIS: Objection, Your Honor, calls
19 for speculation.

20 THE COURT: Sustained.

21 Q. (BY MS. MORNEAU) Based on your understanding,
22 training and the laws of physics, was the bag flush
23 with the floor, such that something would have to be
24 placed on top of that shell or was it placed in a way
25 such that something could roll under it?

1 MR. DAVIS: Objection, compound, Your
2 Honor, as well as still calls for speculation.

3 THE COURT: Sustained.

4 Q. (BY MS. MORNEAU) Was the bag on top of
5 Evidence Marker 13?

6 A. Yes, it was.

7 Q. Was the bag flush with the floor?

8 A. Yes, it was.

9 Q. To see Evidence Marker 13, did you have to
10 remove the bag?

11 MR. DAVIS: Objection to leading, Your
12 Honor, as well as calls for speculation.

13 THE COURT: Overruled as to that
14 question.

15 A. Yes. The shotgun shell, which was labeled as
16 Evidence Marker 13 was found --

17 MR. DAVIS: Objection to nonresponsive,
18 Your Honor.

19 THE COURT: Overruled.

20 A. It was found after the bag was moved.

21 Q. (BY MS. MORNEAU) So, after you finish putting
22 all of the markers down, what do you do next?

23 A. I typically -- once we have the markers down
24 -- move into video documentation of the scene. And the
25 video documentation is really just used as a supplement

1 to the photographs. And so, generally they're there
2 about 10 to 15 minutes in length. And they, like I
3 said, just supplement the photography that we did --

4 Q. Okay.

5 A. -- at the scene.

6 Q. Now, in this case does the video show anything
7 that the photographs do not show?

8 A. No, they wouldn't.

9 Q. Okay. After you finish the video, what do you
10 do next?

11 A. Once the video is complete, I move into
12 measurements and sketching of a diagram. And typically
13 what I'll do is I'll take measurements of the overall
14 of the house as well as pick points of reference to
15 measure where the evidence is located inside the home.
16 And use that to sketch out a roughly-to-scale scene
17 diagram.

18 Q. Okay. And when are you free to leave the
19 scene?

20 A. Typically I leave the scene when everybody
21 else has left. I'm usually the last person off the
22 scene as is dictated by our -- by our policy --

23 Q. Okay.

24 A. -- as crime scene investigators. So,
25 typically the medical examiner will come remove the

1 body. And once that's done and everybody is out, then
2 I leave.

3 Q. And do you document the scene after the body
4 has been removed?

5 A. Yeah. I usually take what's called exit
6 photographs. And that is done after the body is
7 removed from the scene.

8 Q. And why do you do that?

9 A. Usually just to document the scene as it looks
10 without a -- without the victim.

11 Q. And did you do that in this case?

12 A. Yes, I did.

13 MS. MORNEAU: May I approach?

14 THE COURT: Yes, ma'am.

15 Q. (BY MS. MORNEAU) Showing you what's been
16 marked as State's Exhibits 74 and 75. Are these
17 photographs that you took in this case?

18 A. Yes, they are.

19 Q. Are these the exit photographs from December
20 20th of 2013?

21 A. Yes, they are.

22 Q. And do they depict the scene as it looked
23 after the ME's office came in and began to remove the
24 -- the complainant's body?

25 A. Yes. This is what -- it appears that they had

1 begun -- the ME's office had begun their investigative
2 function. That's what one of the pictures is. And
3 then it's after they picked up the body.

4 MS. MORNEAU: Your Honor, at this time
5 State offers into evidence State's Exhibit 74 and 75
6 and tenders them to opposing counsel for any objection.

7 MR. DAVIS: May we approach, Your Honor?

8 THE COURT: Yes, sir.

9 (Bench conference on the record).

10 MR. DAVIS: We'd object to 74 and 75. 74
11 in particular in that it is again cumulative. It is a
12 picture of the complainant's body not as it appeared at
13 the time, but has also been manipulated by the medical
14 examiner at this point in time, meaning the body has
15 been moved around.

16 And 75, the same reason, Your Honor. The
17 jury has already seen photos of her body with blood on
18 that area -- just showing the blood after her body has
19 been removed. You know, serves no -- no purpose other
20 than to sort of inflame the jury.

21 The first picture definitely with her
22 turned over serves no purpose but to inflame the jury
23 as well.

24 And so, we'd object to both of them
25 because of probative value isn't very high. 'Cause

1 pictures that depict that area and that scene have
2 already been admitted through witness. And second,
3 those pictures show manipulation -- that the scene has
4 been manipulated after the police involvement -- after
5 police at the scene in terms of the police and medical
6 examiner.

7 MS. MORNEAU: Judge, the standard is not
8 that they outweigh the probative value. It's that they
9 substantially outweigh the probative value. In this
10 case they're cumulative because there have been no
11 photographs to show what's happened after the ME's
12 office has come. It would be akin to showing what
13 would happen if there was medical intervention in the
14 case.

15 In this case again, it goes to the
16 State's theory of the case that the defendant, in fact,
17 intend to -- intend his actions. It shows further
18 injury to the complainant that have not been seen so
19 far. It also shows with the amount of blood there,
20 just how long she was laying there. And again, the
21 fact that he did nothing to help her.

22 MR. DAVIS: And, Judge, just so I'm
23 clear. The probative value is substantially outweighed
24 by the danger of prejudice and confusing the issues to
25 the jury. These pictures are cumulative. Any

1 probative value is low because they are cumulative --
2 because there's some other evidence, that means the
3 probative value is low. There's no need for the
4 government to introduce this evidence since it has
5 already been introduced through other photographs,
6 which is the test for probative value -- determining if
7 it's probative. And it's probative value is very low.
8 The danger great. The danger is great because they're
9 fairly inflammatory photographs and they're cumulative
10 as well.

11 THE COURT: All right. Your objection to
12 State's 74 and 75 will be sustained.

13 (End of conference).

14 Q. (BY MS. MORNEAU) Now, you said that you take
15 measurements to prepare a scene diagram. Did you
16 prepare a scene diagram in this case?

17 A. Yes, I did.

18 MS. MORNEAU: May I approach?

19 THE COURT: Yes, ma'am.

20 Q. (BY MS. MORNEAU) Showing you what's been
21 marked as State's Exhibit No. 76. Is this the scene
22 diagram that you prepared in this case?

23 A. Yes, it is.

24 Q. And I see that there's a key on it. What does
25 that key reflect?

1 A. The key to the side here is just the -- is the
2 evidence markers as they were labeled and the items
3 that were labeled with those numbers.

4 Q. Okay. And the key and the numbers that are on
5 the side of the diagram, do they fairly and accurately
6 depict where you found the evidence on December 20th of
7 2014 [sic]?

8 A. Yes, they do.

9 Q. And the other items that are within the
10 diagram, I see furniture and things like -- furniture
11 and doorways. Do they also fairly and accurately
12 depict how the scene looked on December 20th of 2013?

13 A. Yes, they do.

14 MS. MORNEAU: Your Honor, at this time
15 State offers State's Exhibit 76 into evidence and
16 tenders to opposing counsel for any objections.

17 MR. DAVIS: There's no objection to 76,
18 Your Honor.

19 THE COURT: All right. Thank you.

20 State's 76 will be admitted.

21 MS. MORNEAU: And may I publish State's
22 76 to the jury?

23 THE COURT: Yes, ma'am.

24 Q. (BY MS. MORNEAU) And looking at the key to
25 State's Exhibit No. 76, would it fair to say that you

1 recovered from the scene eight fired shotgun shells?

2 A. Yes, that's correct. I believe the number was
3 eight.

4 Q. Okay. Now, before you left the scene on this
5 date, did you do any evidence collection?

6 A. Yes. Typically after we do everything we can
7 with the documentation, as far as photo, video and
8 creation of a scene diagram, that's when we begin to
9 actually go through the process of collecting the
10 evidence.

11 Q. And can you explain to the jury what that
12 process is like?

13 A. Typically it involves just handling it without
14 contaminating the evidence, using gloves, putting the
15 evidence in plastic bags or appropriate bags. In the
16 case of DNA evidence, you're going to put them in paper
17 bags so that they are allowed to breathe. In the case
18 of, let's say for instance, fired shotgun shells, I
19 will typically just put those in a plastic bag.

20 Q. And is this something that you've received
21 training on?

22 A. Yes, it is.

23 Q. Is this something that you've done on few or
24 many occasions?

25 A. Many.

1 Q. Okay. And when you were collecting the
2 evidence in this case, after you put it into the bag,
3 what do you do next?

4 A. Typically I'll label the bag so that I know
5 exactly what the evidence is, what, you know -- the
6 marker that it was corresponding to on the scene
7 diagram and in my report. And I'll put the name and
8 case number or the name and case number usually go on
9 it to indicate which case it's related to.

10 Q. And that case number, is it a unique number?

11 A. It's a unique number assigned to all police
12 reports, yes.

13 Q. Okay. And does that bag ever get sealed?

14 A. Yes, it does. Typically we'll close it up on
15 the scene and we will package it up to -- for transport
16 to the property room. And once it arrives at the
17 property room, we'll go through the process of actually
18 sealing up the evidence and signing it into -- signing
19 it in as evidence.

20 Q. And when you take something to the property
21 room, who -- I guess, whose property room are you
22 taking it to?

23 A. That would be the Houston Police Department's
24 Property and Evidence Room.

25 Q. Okay. And the Houston Police Department

1 Property Room, is that some place that anyone has
2 access to?

3 A. No. It's very restricted to officers and
4 property room staff that are handling evidence.

5 Q. In fact, even though you tagged the evidence
6 in this case, you couldn't go there today to get the
7 evidence back, could you?

8 A. No. Due to the fact that I no longer work for
9 the police department, I was not able to go down there
10 and get the evidence today.

11 Q. Okay. I want to talk to you about the
12 evidence that you collected in this case.

13 MS. MORNEAU: Judge, this weapon has been
14 cleared.

15 THE COURT: All right.

16 Q. (BY MS. MORNEAU) Showing you what's been
17 marked as State's Exhibit No. 77.

18 A. This would be what I labeled in my scene
19 diagram as Evidence Marker No. 1. This is the shotgun
20 that was recovered at the scene in the corner of the
21 doorway and the wall of the foyer.

22 Q. How do you know that this shotgun is the one
23 that you retrieved on December 20th of 2013?

24 A. I documented the shotgun with pictures at the
25 scene. And I also documented in my report and in the

1 evidence submission the serial number.

2 Q. You documented the serial number?

3 A. Yes.

4 Q. Okay. And you can compare the serial number
5 on this weapon to the serial number in your report?

6 A. I believe so, yes. Let me just make sure it's
7 on there. By some chance I leave it off, it's always
8 on the evidence submission form.

9 But the serial number is listed on here
10 in the evidence documentation of my report.

11 Q. And what is that serial number?

12 A. N, as in November, Z, as in zebra, 618710.

13 Q. And is that the same as the serial number on
14 this weapon in State's Exhibit No. 77?

15 A. Yes, it is.

16 Q. Okay. And how did this weapon get to the
17 Houston property room?

18 A. This weapon was picked up by me at the scene.
19 It was made safe. And it was transported to the
20 Houston Police Property Room.

21 Q. By you?

22 A. By me, yes.

23 Q. Okay. Now, I want to show you State's Exhibit
24 No. 78. Is this evidence that you collected in this
25 case?

1 A. Well, the bag is sealed with my signature and
2 the date on there. Can I open it to see what it is?

3 Yeah. I recognize my handwriting on the
4 front of it here. And this evidence just appears to be
5 the -- some of the shotgun debris that we picked up off
6 the floor on the scene.

7 Q. Okay. And you said that you recognize your
8 handwriting?

9 A. Yeah. My handwriting is here on the front of
10 the bag where it's labeled the shotgun wadding.

11 Q. Okay. And is it also on the evidence bag
12 itself?

13 A. I'm sorry. What's that?

14 Q. I'm sorry. Is it on both bags?

15 A. Yeah. The case number and my signature and
16 handwriting are on both bags, yes.

17 Q. Okay. And is it dated?

18 A. Yes, it is. The date is December 21st, 2013
19 where I signed. I believe that the difference in the
20 date would have been because the scene was called in at
21 about 6:30. We arrived at 7:00. Usually takes us more
22 four hours -- four to five hours to conduct a scene.
23 So, it would have been after midnight when the evidence
24 got tagged.

25 Q. Okay. And I see your signature is over the

1 tape. And that's because you wrote it after you sealed
2 it?

3 A. Correct.

4 Q. Okay. And is there a unique case number on
5 the front of this envelope?

6 A. Yeah. The envelope is labeled with the case
7 number that corresponds to the police report.

8 Q. Which is?

9 A. 158078313.

10 Q. How did this evidence get to the property room
11 in State's Exhibit No. 78?

12 A. The evidence was picked up off the scene by
13 me. And it was transported to the Houston Police
14 Property Room by me.

15 Q. Okay. Showing you what's marked as State's
16 Exhibit No. 79 which contains State's Exhibits No. 80
17 and 81. Can you tell what that evidence is?

18 A. Again, I can see my signature and the date on
19 the sealing tape. And pulling it out, this is my
20 handwriting, which labels Evidence Marker No. 2. FJP
21 stands for fired jacketed projectile, I believe.

22 And then from the photos you can see here
23 this is Evidence Marker No. 2. And it appears to be
24 the tiny little metal ball bearing that goes inside of
25 the shotgun shell.

1 MR. DAVIS: Your Honor, I object to the
2 witness testifying to objects and items that aren't in
3 evidence at this time, describing what they are to the
4 jury.

5 THE COURT: Sustained.

6 Q. (BY MS. MORNEAU) Okay. Just whether or not
7 you --

8 A. Yeah. These would appear to be items that I
9 picked up as evidence on the scene.

10 Q. Okay. And how do you know that?

11 A. Because they're documented in my report. And
12 I recall my signature the date being on there.

13 Q. Okay. And State's Exhibit No. 79, which
14 contains 80 and 81, do you see the unique case number
15 for this case on this envelope as well?

16 A. Yes. It's printed here on the front. It's
17 158078313.

18 Q. And how did this evidence get to the Houston
19 Property Room?

20 A. That was picked up from the scene by me and
21 transported to the police property room by me.

22 Q. Showing you what's been marked as State's
23 Exhibit No. 82, which contains State's Exhibits 83
24 through 89. Again, does this envelope contain evidence
25 related to this case?

1 A. Yes. Again, I recognize it by my signature
2 and the date being on the tape seal of the bag.

3 And looking at all the evidence items --

4 Q. Let's go through it number by number.

5 On State's Exhibit No. 33 -- I'm sorry.
6 State's Exhibit No. 83.

7 A. This is what was labeled as Evidence Marker
8 No. 8. The printing on front says that it's a
9 shotgun --

10 MR. DAVIS: Again, Your Honor, I object
11 to the witness describing items and objects that are
12 not in evidence at this time.

13 THE COURT: Sustained.

14 Q. (BY MS. MORNEAU) State's Exhibit No. 83, who
15 collected that evidence?

16 A. I did.

17 Q. Who brought it to the property room?

18 A. I did.

19 Q. And how do you know that this is the same
20 evidence?

21 A. Because my handwriting is on the front of the
22 bag.

23 Q. Okay. State's Exhibit No. 88, who collected
24 this evidence?

25 A. I collected it.

1 Q. And who brought it to the property room?

2 A. I brought it.

3 Q. And how do you know that?

4 A. My handwriting is on the front of the bag.

5 Q. State's Exhibit No. 84, who collected this
6 evidence?

7 A. I collected the evidence.

8 Q. And who brought it to the property room?

9 A. I brought it to the property room.

10 Q. And how do you know that it's that same
11 evidence?

12 A. My handwriting is on the front of the bag.

13 Q. State's Exhibit No. 85 and its contents, who
14 collected this evidence?

15 A. I collected the evidence.

16 Q. And how do you know that?

17 A. I recognize my handwriting on the front of the
18 bag.

19 Q. And who brought it to the property room?

20 A. I did.

21 Q. State's 86 and its contents, who collected
22 this evidence?

23 A. I collected it.

24 Q. And who brought to the property room?

25 A. I brought it to the property room.

1 Q. And how do you know that?

2 A. My handwriting is on the front of the bag.

3 Q. State's Exhibit No. 89, who collected this
4 evidence?

5 A. I collected it.

6 Q. And how do you know that?

7 A. My handwriting is on the front of the bag.

8 Q. And who brought it to the property room?

9 A. I brought it there.

10 Q. And State's Exhibit No. 87, who collected this
11 evidence?

12 A. I collected it.

13 Q. Who brought it to the property room?

14 A. I brought it to the property room.

15 Q. And how do you know that?

16 A. My handwriting is on the front of the bag.

17 Q. And 83 through 89 are contained within State's
18 Exhibit 82. Who sealed State's Exhibit No. 82?

19 A. Initially I sealed it, as I can see my
20 signature and date on the tape seal.

21 Q. And is State's Exhibit No. 82 identified with
22 a unique case number for this case?

23 A. Yes, it is. It's the Police Report
24 No. 158078313.

25 Q. And is that how you know it's evidence in this

1 case?

2 A. Yes.

3 Q. And showing you State's Exhibits 90 and 91.

4 State's Exhibit 91, who collected this
5 evidence?

6 A. I collected that.

7 Q. And who took it to the property room?

8 A. I took it to the property room.

9 Q. And how do you know that?

10 A. My handwriting is on the front of the bag.

11 Q. And State's Exhibit No. 90, who collected
12 this?

13 A. I collected it.

14 Q. And who took it to the property room?

15 A. I brought it to the property room.

16 Q. And how do you know that?

17 A. My handwriting is on the front of that bag.

18 Q. Do both of these cases -- are both State's
19 Exhibits 90 and 91 evidence in State of Texas versus
20 Gustavo Vasquez?

21 A. Yes, they are.

22 Q. How do you know that?

23 A. Because the Houston police incident number is
24 printed on the front of the bag where the evidence is
25 contained. And the number of the case is 158078313.

1 Q. And finally showing you State's Exhibit 124
2 and its contents. Who recovered the piece of evidence
3 in State's Exhibit 124?

4 A. I recovered this.

5 Q. And who took it to the property room?

6 A. I brought it to the property room.

7 Q. And how do you know that?

8 A. Because my handwriting is on the front of the
9 bag.

10 Q. To what case is it for?

11 A. This is related to the incident number that's
12 on the front. And it's 158078313.

13 Q. And who sealed the envelope?

14 A. I sealed it, as I can see my signature and the
15 date that I sealed it on the tape seal.

16 Q. And all of the bags that we just went through
17 were opened in front of you, correct?

18 A. Yes, they were.

19 Q. And they were marked as evidence in front of
20 you?

21 A. Yes.

22 Q. And they're in the -- are they in the same and
23 similar condition as the last time that you saw them?

24 A. Yes. The last time I recall seeing those
25 evidence items, they appeared the same.

1 Q. On those bags you've marked numbers in
2 Sharpie. Do those correspond to the evidence markers
3 that we see in your diagram?

4 A. Yes. Typically the way I keep track of the
5 evidence as I pick it up is by labeling it to
6 correspond with the evidence markers that are placed at
7 the scene.

8 MS. MORNEAU: Pass the witness.

9 THE COURT: Mr. Davis?

10 CROSS-EXAMINATION

11 BY MR. DAVIS:

12 Q. Sir, what -- what was your name again?

13 A. My name is Robert Wieners.

14 Q. I'm sorry?

15 A. Robert Wieners.

16 Q. Is it Wiener or Wieners?

17 A. Wieners, plural.

18 Q. Okay. Like multiple Wieners?

19 A. Yeah, with an S at the end.

20 Q. And that's Mr. Wieners?

21 A. Yes, correct.

22 Q. Mr. Wieners, you work with the Houston Police
23 Department as a crime scene investigator, right?

24 A. I did at the time of this incident, yes.

25 Q. Yes, sir. How -- how long were you a crime

1 scene investigator?

2 A. To that point, I would say about a year and a
3 half.

4 Q. And prior to being a crime scene investigator,
5 you were a patrol officer?

6 A. No. I was a special crimes investigator.

7 Q. How -- how long were you a special crimes
8 investigator?

9 A. About two and a half years.

10 Q. And prior to being a special crimes
11 investigator, were you a patrol officer?

12 A. Generally it was uniformed patrol. I was in
13 the gang unit.

14 Q. In total, how long were you a police officer?

15 A. Eight years.

16 Q. Now, in your last duty or at least your last
17 assignment was as a crime scene investigator in which
18 you worked a year and a half?

19 A. Yes, sir.

20 Q. And -- and during the year and a half and
21 during your training courses as a special investigator
22 and as a crime scene investigator, you were given
23 training about processing scenes?

24 A. Yes.

25 Q. You were given training that was investigative

1 training about how to investigate and how to approach a
2 scene and do an investigation of the scene, right?

3 A. Yes, sir.

4 Q. One of the things that you often look at with
5 scenes is to see whether or not there's been some
6 staging of a scene. True?

7 A. That would be something that would -- yeah.
8 We would keep an eye out for.

9 Q. And by staging of the scene, we mean whether
10 or not certain items inside of a scene have been
11 manipulated to make it appear to be something that it
12 may have been; is that right?

13 A. I mean, if there's an obvious case of
14 manipulation, that would be something we document, yes.

15 Q. Some of them aren't quite so obvious, right?

16 A. I would -- honestly, I've never run across a
17 scene that was highly manipulated.

18 Q. Right.

19 So, in your year and a half, you've never
20 seen a situation where there's been a scene that has
21 been manipulated to make it look like something
22 occurred that actually occur -- that you were able to
23 discover didn't occur through investigation?

24 A. I guess the way I would rephrase that is
25 during my time as a crime scene investigator, there

1 wasn't a scene where, you know, we determined clearly
2 that something had been manipulated.

3 Q. I see. You had scenes where you saw evidence
4 of things had been manipulated, right?

5 A. I don't -- like I said, I don't recall seeing
6 a scene that had been manipulated.

7 Q. Interesting.

8 So, in your training you were taught to
9 look for scenes that are manipulated -- been
10 manipulated. But you're saying in your experience, you
11 haven't seen one. You didn't get a chance to see one?

12 A. I do not recall working a scene where evidence
13 had been manipulated.

14 Q. I understand.

15 And seen manipulation occurs, for
16 example, if someone's trying to make something look
17 like self-defense or if they're trying to make it look
18 like there was some forced entry. They actually would
19 manipulate and cause damage to make it look like
20 certain things occurred that didn't occur, right?

21 A. That's possible that somebody could do that,
22 yes.

23 Q. And in your training, you're taught to look
24 for those types of things, right?

25 A. We do look for types of things like that, yes.

1 Q. And in this scene -- when you come upon this
2 scene on December 20th in 2013, you don't find any
3 evidence or anything that leads you to believe that the
4 scene has been manipulated. True?

5 A. My job typically is to document the scene --

6 Q. Yes, sir.

7 A. -- the way it is.

8 Q. I understand.

9 But my question to you is, is you will
10 receive -- you received training to be able to see if
11 there had been scene manipulation.

12 And when you come upon this scene, you
13 don't see any evidence that there's been any scene
14 manipulation; isn't that correct?

15 A. I didn't see anything that obviously looked
16 like manipulation.

17 Q. In fact, you don't see anything that -- that
18 gives you any indication that anything had been tried
19 to be cleaned up, right?

20 A. No. There was still a good amount of evidence
21 on the ground --

22 Q. Yes, sir.

23 A. -- and scattered everywhere in disarray.

24 Q. Evidence was scattered everywhere in disarray.
25 The body hadn't been moved; isn't that right?

1 A. It didn't appear to have been moved, no.

2 Q. The body is in the same position. The blood
3 in the area are still in the same position, right?

4 A. From what I could tell, yes.

5 Q. The shotgun is at the front door. True?

6 A. Yes. The shotgun was found at the front door.

7 Q. It was out in the open. It wasn't hidden or
8 concealed or anything of that nature?

9 A. No, it wasn't.

10 Q. Right.

11 It's out in the open along with all the
12 other evidence that you were able to find?

13 A. That's correct.

14 Q. Shotgun shells hadn't been moved except maybe
15 some of them may have been kicked, right?

16 A. It's -- yeah, that's possible that they were
17 kicked, but --

18 Q. Right.

19 You -- you can't tell that?

20 A. No. And I couldn't tell because of the way
21 they fly out of the weapon at random trajectories.
22 There's really no way to tell.

23 Q. They fly out of a weapon randomly. And then
24 when people come into the house, they could potentially
25 kick some, not see them; is that right?

1 A. That is possible.

2 Q. It's something that happens all the time with
3 weapons and the discharged shell casings or cartridges
4 as well, right?

5 A. Yes. Like I said, there's no -- there's no
6 real way to predict the trajectory of those things when
7 they come out of the weapon.

8 Q. And when you go to the scene, you first get
9 called to the scene. And when you get there, one of
10 the first things you do is you photograph Mr. Vasquez.

11 A. Yeah. That was one of the first things I did.

12 Q. And you took pictures of him as he appeared
13 after being arrested by the police, right?

14 A. Yes. I took pictures of him after he had been
15 take into custody.

16 Q. Now, you didn't manipulate anything about his
17 clothing or how he appeared. True?

18 A. No. I wouldn't -- I wouldn't do that.

19 Q. You didn't take off clothing to try to test
20 them or anything of that nature?

21 A. No, I didn't.

22 Q. So, how he appeared when you got there and you
23 photographed him is how he appeared when he came out of
24 the house; isn't that right?

25 A. I wouldn't really know. All I know is he was

1 taken into custody. He was placed in the police car --

2 Q. That's right.

3 A. -- and that's when I saw him.

4 Q. And obviously, when you come in, you talk to
5 police officers. And they're normal duty is to
6 preserve the scene. True?

7 A. Correct. Yes.

8 Q. And they preserve the scene for you to get
9 there to process the scene, right?

10 A. Yes, that's correct.

11 Q. And normally officers don't manipulate the
12 evidence. True?

13 A. They try to -- I mean, they try to manipulate
14 it as little as possible. Sometimes, you know, in the
15 interest of safety, they will have to do certain
16 things --

17 Q. Yes, sir.

18 A. -- to certain evidence items.

19 Q. Yes, sir.

20 They'd have had to walk-through the house
21 for security sweep to make sure that there wasn't --

22 A. Yeah.

23 Q. -- anyone that may have been in danger inside?

24 A. Exactly or unload weapons or whatever the case
25 might be.

1 Q. Yes, sir.

2 They may have had to neutralize weapons
3 or anything. But if it's a situation -- if it's a
4 situation where weapons inside the house, they wouldn't
5 move in it unless there was some compelling reason for
6 them to do so?

7 A. That's correct.

8 MR. DAVIS: May I approach the witness,
9 Your Honor?

10 THE COURT: Yes, sir.

11 Q. (BY MR. DAVIS) I'm going to show you what I'm
12 going to mark as Defendant's Exhibit 1.

13 I'm going to show you what I've marked as
14 Defendant's Exhibit 1. Take a look at that for me, if
15 you can.

16 A. Yeah. I mean, these are photographs of the
17 defendant.

18 Q. Just look at it for me.

19 A. Okay.

20 Q. Have you looked at them?

21 A. Yes, sir.

22 Q. All right. Now, you said these were
23 photographs of the defendant. Are these photographs
24 that you took the night of December 20th, 2013?

25 A. Yes. They would appear to be photographs that

1 I took.

2 Q. Do they fairly and accurately represent the
3 way the defendant appeared on that night?

4 A. Yes.

5 Q. Okay.

6 MR. DAVIS: Your Honor, if the record
7 will reflect that I'm showing this -- what I'm marking
8 as Defendant's Exhibit 1 to the government in the case.
9 And I'd offer Exhibit 1 into evidence.

10 THE COURT: All right.

11 MS. MORNEAU: No objections.

12 THE COURT: All right. No objections,
13 Defense Exhibit 1 will be admitted.

14 MR. DAVIS: May I publish it, Your Honor?

15 THE COURT: Yes, sir.

16 Q. (BY MR. DAVIS) Now, when you took the
17 pictures of the defendant, you didn't tell him how to
18 pose for the pictures or anything like that, right?

19 A. No, sir, I didn't.

20 Q. So, you pretty much didn't tell him that you
21 were about to take his picture. You just snapped the
22 picture up.

23 A. Well, I indicated to him that he needed to
24 come out of the police car and that we needed to do a
25 couple things. And I did take pictures of him.

1 Q. And this is the picture of the defendant's
2 face that you took?

3 A. Yes, it is.

4 Q. Right?

5 A. Yes.

6 Q. Had you had any contact with Mr. Vasquez prior
7 to this?

8 A. No, I hadn't.

9 Q. So, you don't know how he normally appears?

10 A. No. I didn't know Mr. Vasquez at the time of
11 this investigation.

12 Q. Now, there's some question about Mr. Vasquez's
13 -- and on this picture I showed you, there are actually
14 four photos that are on one page, right?

15 A. Yes, there are.

16 Q. All right. And one of the photos on this page
17 is a picture of Mr. Vasquez's feet?

18 A. Yes, sir.

19 Q. Is that correct?

20 A. Yes. That's what the picture is.

21 Q. You took a picture of his feet to document --
22 this part of his body to document that there weren't
23 any -- there wasn't any blood on his clothes, right?

24 A. Yes. Typically we take overall pictures --

25 Q. Yes, sir.

1 A. -- of anybody in custody just to document
2 their appearance at the time.

3 Q. Yes, sir.

4 And this one you took a full body picture
5 for the most part, when you have part of his feet and
6 you have his head, right?

7 A. Yes, sir.

8 Q. And in this photo, mostly you focused on his
9 feet?

10 A. Yes, sir, that's correct.

11 Q. Right.

12 And Mr. Vasquez doesn't have any shoes
13 on.

14 A. No, sir, he doesn't.

15 Q. Okay. You would agree with me, if somebody's
16 planning to run, it might be something that they would
17 do, right, to put on some shoes?

18 A. I've seen people run without shoes.

19 Q. Of course. We all have.

20 But in this situation, Mr. Vasquez is
21 inside of his house. You would agree with me that
22 there were shoes inside the house.

23 A. Yes. There were shoes in the house.

24 Q. And while he's inside the house, he still has
25 on his socks and pants. And he comes out of the house

1 and he's arrested without any shoes on.

2 A. Like I said --

3 MS. MORNEAU: Object to speculation.

4 THE COURT: Sustained.

5 Q. (BY MR. DAVIS) Do you know if he was arrested
6 without any shoes on, sir?

7 A. I don't. Like I said, I only document what I
8 see when I make contact with him.

9 Q. Right. Right.

10 And, of course, you -- you told me
11 earlier that officers don't normally manipulate the
12 scene, right?

13 A. Like I said, they'll manipulate the scene as
14 little as possible in the interest of safety.

15 Q. Right.

16 So, when you encounter him in the back of
17 a patrol car and you have him stand out, he's there
18 without any shoes on and he has that look on his face
19 as well and take picture of him --

20 A. Yes, that's correct. That's the way he
21 appeared.

22 Q. Now, inside the house you talk about finding a
23 bunch of spent shotgun shells.

24 A. Yes, sir.

25 Q. You found some shotgun shells that weren't

1 spent as well.

2 A. Yes, that's correct.

3 Q. In other words, when you cleared the gun at
4 the scene -- and the gun itself had been fired, right?

5 A. Yes, it had.

6 Q. And there weren't any shotguns inside -- any
7 shell casings inside. In other words, the gun was
8 empty.

9 A. Not to my knowledge, there weren't. When I
10 picked it up off the scene, it was unload.

11 Q. But there was other shotgun shells inside the
12 house that someone could have used to load that
13 particular gun?

14 A. Yes. That's what we found in that green bag
15 in the master bedroom.

16 Q. Now, you were shown --

17 MR. DAVIS: I don't know if the exhibits
18 that are in evidence -- are they here?

19 MR. DAVIS: May I approach the witness,
20 Your Honor?

21 THE COURT: Yes, sir.

22 MR. DAVIS: Do you have those exhibits?

23 MS. MORNEAU: Which ones?

24 MR. DAVIS: The ones that were admitted.

25 MS. MORNEAU: All those are admitted.

1 MR. DAVIS: Do you have a problem if I
2 put them up with the --

3 MS. MORNEAU: Not at all.

4 MR. DAVIS: -- court reporter?

5 Q. (BY MR. DAVIS) I want to show you what's -- I
6 want to show you what's State's Exhibit 72. Do you see
7 that?

8 I'll show you the exhibit number. The
9 exhibit number is 72. And it has your Evidence
10 Marker 13 on it.

11 A. Yes, sir.

12 Q. And also in the photo on this little ottoman
13 are a bunch of clothes. Do you remember that?

14 A. Yes, I -- I recall that the ottoman had
15 clothes on it, yes.

16 Q. Yes, sir.

17 Did you make note of -- of whose clothes
18 -- or were they female or male clothes or anything of
19 that nature?

20 A. Other than documenting with photography, I
21 didn't make specific note of it in the report I don't
22 believe.

23 Q. So, you didn't document whether or not these
24 were women's clothes on this ottoman?

25 A. No, I don't believe I did.

1 Q. There appears to be also like a Coke bottle as
2 well.

3 A. Yes, sir. There was a Coke bottle there.

4 Q. In terms of the house, you didn't find any
5 evidence of a struggle; isn't that right?

6 A. As far as evidence of mutual combat, no.

7 Q. No evidence of mutual combat?

8 A. Not that I could see.

9 Q. No evidence that there was a struggle inside
10 the house in terms of objects being broken or anything
11 of that nature?

12 Besides the television set apparently
13 being shot, you didn't find any other objects inside
14 the house that had been broken; isn't that right?

15 A. I mean, aside from the damage to the master
16 bathroom, you know, and the damage that ensued from
17 what appeared to be shotgun blasts, I can't recall
18 finding any other evidence of a struggle.

19 Q. And you don't know what happened with the
20 master bedroom, right?

21 A. No, I don't.

22 Q. You don't know if that damage was related to
23 what occurred?

24 A. Correct. I do not know that.

25 Q. Right.

1 In fact, from your investigation of the
2 scene, you don't have any notion of what happened
3 inside the house; isn't that right?

4 A. From my investigation of the scene, like I
5 said, it's just to document the way the scene looks at
6 the time. You know, it's not really my position to
7 speculate --

8 Q. Yes, sir.

9 A. -- what happened prior to --

10 Q. That's right.

11 And so, from your -- you don't know what
12 happened prior to; isn't that right?

13 A. No, I don't know exactly what happened.

14 Q. You didn't find any evidence inside the house
15 that would give you any indication as to the number or
16 order of the shots; isn't that right?

17 A. As to the number or the order of the shots?

18 Q. Yes, sir.

19 A. No, I wouldn't -- I wouldn't know that.

20 Q. You know that there were about eight spent
21 shell casings. But you don't know in which order the
22 particular shell casings were shot or where the first
23 shot occurred or the second shot occurred; isn't that
24 right?

25 A. I couldn't say for certain, no.

1 Q. Now, when police were at the house, they
2 searched the house. True?

3 A. Yes.

4 Q. And you part of the search; isn't that right?

5 A. Yes. We -- we did search the house.

6 Q. And when you found objects, you documented
7 those objects, right?

8 A. When I found objects that were going to be
9 documented as evidence, yes, I labeled and documented
10 them.

11 Q. You didn't find any drugs inside the house;
12 isn't that true?

13 A. No. I don't believe there were drugs found at
14 the scene.

15 Q. You didn't find any marijuana inside the
16 house.

17 A. No.

18 Q. You didn't find any PCP inside the house.

19 A. No. Those items were not listed on my
20 evidence roster, so, no.

21 Q. If you had found drugs inside the house, you
22 would have listed them in your evidence roster?

23 A. Yes. They would need to be tagged as
24 evidence. So, yeah, they would have been listed.

25 Q. Did you have any indication that somebody

1 inside the house had recently used drugs?

2 A. No. I didn't see any signs of drug use at the
3 house, no paraphernalia or anything of that nature.

4 Q. Now, when you arrived at the scene now --
5 would you agree with me that there was a heavy police
6 presence at the scene?

7 A. Yes, there was.

8 Q. That somewhere in excess of 20 to 30 officers
9 had responded to the scene. Would that be accurate?

10 A. You know, I documented the officers that I met
11 with initially. And it appears that there was at least
12 10 them.

13 Q. That you met with?

14 A. I can't tell you the exact number, but there
15 was a heavy police presence, yes.

16 Q. Yes.

17 Now, did you ever have an opportunity to
18 look at the full police report in the case?

19 A. I've looked at my supplement. But no I
20 haven't read the entire police report.

21 Q. I see.

22 Nearly every officer -- well, I shouldn't
23 say every officer. A lot of officers who responded to
24 the scene all submitted different individual
25 supplements, right?

1 A. Yes. Typically if an officer responds to the
2 scene such as this, they will be required to enter a
3 supplement report.

4 Q. If they saw something significant as well,
5 they document it in a supplemental report?

6 A. Yes, they would.

7 Q. And did you have an opportunity to -- to
8 review anybody else's supplement besides your own?

9 A. Being as that I was only testifying to what I
10 did and what I saw at the scene, I only reviewed my
11 own.

12 MR. DAVIS: May I have one moment, Judge?

13 THE COURT: Yes, sir.

14 (Brief pause).

15 MR. DAVIS: I have no other questions,
16 Your Honor. We pass the witness.

17 THE COURT: Thank you, sir.

18 Ms. Morneau?

19 REDIRECT EXAMINATION

20 BY MS. MORNEAU:

21 Q. Mr. Wieners -- Officer -- I'm sorry.

22 The defense counsel asked you some
23 questions about the defendant not having shoes on. Did
24 you guys find any shoes -- any men's shoes inside the
25 house?

1 A. Yes. There were shoes found in the house that
2 were tagged as evidence.

3 Q. And you tagged those shoes?

4 A. Yes, I did.

5 Q. And you brought them down to the property
6 room?

7 A. Yes, I did.

8 Q. Just like all the other physical evidence that
9 we discussed?

10 A. Yes.

11 Q. Okay. We also talked a little bit about you
12 searching the interior of the house. Does this house
13 have a garage?

14 A. Yes, it did.

15 Q. Did you search the garage?

16 A. I believe we went into the garage and looked
17 around. But I don't believe that there was a whole lot
18 that would have necessitated a -- an in-depth search.

19 Q. Okay. So, given -- given the fact that there
20 was no information that the crime had occurred in the
21 garage, it would be fair to say y'all didn't do a
22 thorough search of the garage?

23 A. No. Like -- I believe we looked inside the
24 garage. We didn't see any immediate evidence that
25 anything was out there related to this incident and I

1 don't believe we spent much more time on that.

2 MS. MORNEAU: Pass the witness.

3 THE COURT: Mr. Davis?

4 MR. DAVIS: No other questions, Your
5 Honor.

6 THE COURT: All right. Thank you, sir.
7 You may step down and be excused.

8 THE WITNESS: Thank you, Judge.

9 THE COURT: Call your next witness,
10 please.

11 MS. MORNEAU: State calls Officer Bailey.

12 THE COURT: If you will stand there and
13 be sworn in as a witness, please.

14 Ms. Morneau?

15 LATONIA BAILEY,
16 having been first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MS. MORNEAU:

19 Q. Could you introduce yourself to the ladies and
20 gentlemen of the jury?

21 A. My name is LaTonia Bailey.

22 Q. And what do you do for a living?

23 A. I'm HPD homicide investigator.

24 Q. And how long have you been in law enforcement?

25 A. I've been in law enforcement for 26 years and

1 a police officer 17.

2 Q. And where did you start your career in law
3 enforcement?

4 A. I was working in the jail as a jail attendant.

5 Q. Okay. And when did you become a Houston
6 police officer?

7 A. 1998.

8 Q. And when did you join the homicide department?

9 A. 2013.

10 Q. What were your assignments before you went to
11 the homicide department?

12 A. I was on patrol. And then I went to an
13 investigative division within patrol. From then I went
14 to the burglary and theft division as a burglary
15 investigator. And from there I came to homicide.

16 Q. And were you working in homicide on December
17 20th of 2013?

18 A. Yes.

19 Q. I want to talk to you about how you got
20 involved in this case.

21 A. Okay.

22 Q. I guess, as a homicide investigator, how do
23 you guys get notified that there's a scene that you
24 need to investigate?

25 A. Once the patrol units go to a scene and

1 realize that it is an actual homicide, they call the
2 homicide division. And we have homicide investigators
3 that's there on call. And that's how we were notified.

4 Q. Okay. So, when somebody called in this case,
5 you were just the lucky person who was at work that
6 day?

7 A. We're on call. We're on standby. So, yes,
8 ma'am.

9 Q. Do you know what time you got a call about
10 this case?

11 A. I think we got notified about 6:00 o'clock, if
12 I'm not mistaken.

13 Q. And what scene was it that you were to go to?

14 A. We were to go to a murder scene.

15 Q. And what was the address?

16 A. 5711 Vendi, V-e-n-d-i.

17 Q. And is that in Houston, Harris County, Texas?

18 A. Yes, it is.

19 Q. Okay. And did you go with anyone to the
20 scene?

21 A. Yes. My partner at the time was frequently
22 Sergeant Robles. He and I went to the scene.

23 Q. And is it common for y'all to work in
24 partners?

25 A. Yes, it is.

1 Q. Okay. What do you do when you arrive on a
2 scene and you know a homicide has taken place?

3 A. When we first get to the scene, we decide
4 who's going to take scene side and witness side. And
5 from then, we start the investigation.

6 Q. Okay. And so, in this case who -- who -- of
7 you and your partner, who took scene side and who took
8 witness side?

9 A. I took the scene side of the investigation.

10 Q. Okay. Sergeant Robles took the witness side?

11 A. Yes.

12 Q. Okay. So, what did you do?

13 A. When I first arrived, I found the CSU person.
14 And basically, I just go through the whole scene with
15 CSU and recover any kind of evidence and take detailed
16 notes of the scene.

17 Q. And the CSU person, was that -- at the time
18 Officer Wieners?

19 A. Yes, it was.

20 Q. Okay. Who is now no longer with the
21 department?

22 A. Yes.

23 Q. Okay. So, everything that he saw, you saw?

24 A. Yes.

25 Q. Okay. And what did you do after you walked

1 through the scene with Officer Wieners?

2 A. After we walked through the scene and complete
3 that part of the investigation, we want to wait on the
4 medical examiner's to come. And we kind of go walk
5 back through the scene with them. And then at that
6 point, that was all we did that night.

7 Q. Okay. When you first got to the scene, did
8 they know who the deceased was in the home?

9 A. The patrol officers did, but we didn't know.
10 Sergeant Robles and I didn't know who was in the home.

11 Q. How was she identified?

12 A. She was identified because -- initially we
13 found out that two people were living in the home --
14 two females. And we didn't know who was inside. So,
15 once we found out that her sister lived with her and we
16 actually spoke with her, then we realized that we had
17 Ms. Agnes in the home.

18 Q. Okay. Did she have any identifying markings
19 on her body, like tattoos?

20 A. Yes, ma'am, she did.

21 Q. What was the tattoo of?

22 A. I would have to refer to my notes. I don't
23 really --

24 Q. Do you have it? Would looking at your report
25 refresh your recollection?

1 A. Only my report part, yeah.

2 Q. Okay. If you can just refresh your
3 recollection and then look up when your recollection
4 has been refreshed?

5 A. Okay. The tattoo read Mrs. Vasquez.

6 Q. Mrs. Vasquez?

7 A. Um-hum.

8 Q. So, that would be her married name?

9 A. Yes.

10 Q. Okay. Did you guys also find a driver's
11 license?

12 A. Yes.

13 MS. MORNEAU: Your Honor, may I approach?

14 THE COURT: Yes, ma'am.

15 Q. (BY MS. MORNEAU) Showing you what's been
16 marked as State's Exhibit No. 94. Is this a photograph
17 of the driver's license --

18 A. Yes.

19 Q. -- belonging to the victim in this case that
20 you found?

21 A. Yes.

22 Q. And does it fairly --

23 MR. DAVIS: Your Honor, I would object to
24 that reference.

25 THE COURT: What?

1 MR. DAVIS: May we approach?

2 THE COURT: Yes, what reference?

3 (Bench conference on the record).

4 MR. DAVIS: I object to the reference of
5 the complainant as the victim in the case. It's a
6 judicial determination for jury to make. That hasn't
7 happened at this point. So, I'd object to the
8 reference to the complainant as the victim by the
9 prosecutor.

10 THE COURT: Okay. I didn't know what you
11 were referring to because it's been referred to as both
12 and you hadn't object before, so --

13 MR. DAVIS: I don't know that she's been
14 referred to as a victim.

15 THE COURT: She has. That's fine. I
16 mean, I'll sustain your objection.

17 Just refer to her as the complainant.

18 MS. MORNEAU: Okay.

19 (End of conference).

20 Q. (BY MS. MORNEAU) So, this is the driver's
21 license belonging to the complainant that you saw on --
22 sorry. Let me finish the question first just so --
23 'cause she can't type both of us at once.

24 And you saw this on December 20th of
25 2013?

1 A. Yes.

2 Q. Okay.

3 MS. MORNEAU: State offers State's
4 Exhibit No. 94 and tenders to opposing counsel for any
5 objections.

6 MR. DAVIS: There's no objection, Judge.

7 THE COURT: All right. Thank you, sir.
8 State's 94 will be admitted.

9 MS. MORNEAU: May I publish 94 to the
10 jury?

11 THE COURT: Yes, ma'am.

12 Q. (BY MS. MORNEAU) So, after the victim was
13 identified and you had finished your walk-through, what
14 did you do --

15 MR. DAVIS: Again, Your Honor, object to
16 that reference.

17 THE COURT: Sustained.

18 Q. (BY MS. MORNEAU) After she was identified and
19 you finished your walk-through, what did you do next?

20 A. Once we left the scene, we went to her
21 family's house and spoke with them.

22 Q. Okay. And at any time did you speak to the
23 defendant?

24 A. Only when I first got to the scene, we spoke
25 with him.

1 Q. Okay. And why were you speaking to him?

2 A. Only so we can get a consent to do an
3 investigation inside the home.

4 THE COURT: You're pretty soft spoken.
5 So, pull that microphone up to you or keep your voice
6 up so we can make sure we can hear you.

7 Q. (BY MS. MORNEAU) And you asked her for -- I'm
8 sorry. I could barely hear you also.

9 You asked him for consent to search the
10 home?

11 A. Yes.

12 Q. Okay. And how do you ask him for consent to
13 search the home?

14 A. I just introduced myself and tell him that we
15 were here for an investigation inside his home. And
16 did we have his permission to go inside. And he said
17 yes and signed a consent.

18 Q. Okay. And do you see the person that you
19 asked for consent to search the home in the courtroom
20 today?

21 A. Yes.

22 Q. And can you identify him by an article of his
23 clothing?

24 A. He has the gold tie on. He has a gold tie on
25 -- a gold tie on.

1 MS. MORNEAU: Let the record reflect that
2 the witness has identified the defendant.

3 THE COURT: It will.

4 MS. MORNEAU: And, Your Honor, may I
5 approach?

6 THE COURT: Yes, ma'am.

7 Q. (BY MS. MORNEAU) Showing you what's been
8 marked as State's Exhibit No. 125. Is this the
9 consent-to-search form that you filled -- that you
10 presented to the defendant?

11 A. Yes.

12 Q. And did he sign this form?

13 A. Yes.

14 Q. And did you also sign this form?

15 A. Yes.

16 Q. And was this form executed on December 20th of
17 2013?

18 A. Yes.

19 Q. And it was for the address at seven -- I'm
20 sorry -- 5711 Vendi Drive?

21 A. Yes.

22 MS. MORNEAU: Your Honor, at this time
23 State offers State's Exhibit 125 into evidence and
24 tenders to opposing counsel for any objections.

25 MR. DAVIS: There's no objection, Judge.

1 THE COURT: All right. Thank you.

2 State's 125 will be admitted.

3 Q. (BY MS. MORNEAU) Now, in your law enforcement
4 career, have you ever had experience dealing with
5 intoxicated persons?

6 A. Yes.

7 Q. Intoxicated on alcohol?

8 A. Yes.

9 Q. Intoxicated on drugs?

10 A. Yes.

11 Q. And on few or many occasions?

12 A. Many occasions.

13 Q. When you were speaking with the defendant, did
14 he have any problems answering your questions?

15 A. No.

16 Q. Did he appear to understand everything that
17 you were asking him?

18 A. Yes.

19 Q. When -- did he appear to have problems signing
20 his name on that form?

21 A. No.

22 Q. Did he appear intoxicated to you?

23 A. No.

24 Q. Okay. Now, I want to talk to you about the
25 physical evidence in this case and how it got to court.

1 You're a current Houston Police Department officer?

2 A. Yes.

3 Q. And as a current police department -- Houston
4 Police Department officer, are you able to go to the
5 Houston Property Room and check out evidence?

6 A. Yes.

7 Q. And did you check out evidence for this case?

8 A. Yes.

9 Q. Okay. I want to talk to you about the
10 evidence that you checked out for this case.

11 Q. Showing you State's Exhibit No. 77, do you
12 recognize this?

13 A. Yes.

14 Q. And how do you recognize it?

15 A. This is the shotgun that we found behind the
16 door of the house.

17 Q. Okay. So --

18 A. Behind the front door of the house.

19 Q. You remember seeing this on the scene?

20 A. Yes, ma'am.

21 Q. Okay. How did this shotgun get from the
22 Houston Police Department Property Room to court today?

23 A. I brought it.

24 Q. Okay. You brought this to the --

25 A. I brought it to court.

1 Q. The district attorney's office?

2 A. Yes.

3 Q. Okay. And does it look in the same or similar
4 condition as when you brought it?

5 A. Yes.

6 Q. Okay.

7 MS. MORNEAU: Your Honor, at this time
8 State offers State's Exhibit No. 77 into evidence.
9 I'll tender it if you want me to.

10 MR. DAVIS: There's no objection.

11 THE COURT: State's 77 will be admitted.

12 Q. (BY MS. MORNEAU) Now, I want talk to you
13 about State's Exhibit No. 124. How did this evidence
14 get from the Houston Police Department Property Room to
15 court today?

16 A. I signed it out and brought it.

17 Q. Okay. And is it in the same or similar
18 condition as when you brought it to court?

19 A. Yes.

20 Q. And showing you State's Exhibit --

21 A. Except it's open.

22 Q. Pardon me?

23 A. Except it's open.

24 Q. Except it's open.

25 Okay. And I'm showing you State's

1 Exhibit No. -- contains State's Exhibit Nos. 90 and 91.

2 How did this evidence get to court today?

3 A. I signed it out and brought it.

4 Q. Okay.

5 MR. DAVIS: Your Honor, if this witness
6 has brought all the objects to court, I don't have a
7 problem with the prosecutor asking her one time if
8 she's brought all the evidence to the court. Because
9 if she has, I won't have an objection to it being
10 admitted.

11 THE COURT: All right.

12 Q. (BY MS. MORNEAU) Okay. Did you bring all
13 this evidence contained in 124, 90, 91, 82 through 89,
14 80, 81, 78, 92 and 93 to court?

15 A. Yes, I did.

16 Q. Okay.

17 MS. BARD: And State offers --

18 MR. DAVIS: And there's no objection.

19 THE COURT: All right. No objection to
20 State's 78 through 91 and State's 124 will be admitted.

21 MS. MORNEAU: Judge, to be clear for the
22 record, 92 and 93 are not in yet. While she did bring
23 them to court --

24 THE COURT: Right. I don't say that.

25 MS. MORNEAU: Just making sure.

1 Q. (BY MS. MORNEAU) State's Exhibit 92, did you
2 bring this to court?

3 A. Yes, I did.

4 Q. And where did you pick it up from?

5 A. The property room.

6 Q. Okay. Is it in the same or substantial --
7 same or similar condition?

8 A. Yes.

9 Q. Okay. And State's Exhibit No. 93, did you
10 bring this to court?

11 A. Yes.

12 Q. And is it in the same or similar condition?

13 A. Yes.

14 Q. Okay. In your investigation inside of the
15 house, did you find a pizza receipt inside the house?

16 A. Yes.

17 Q. And who ordered the pizza?

18 A. If I can refer back to my notes? But it was
19 in the sister's name.

20 Q. And what was her name?

21 A. If I'm not mistaken, Tiffany Wright. But I
22 can check to be sure.

23 MR. DAVIS: Your Honor, we'd object to
24 hearsay.

25 THE COURT: Sustained.

1 Q. (BY MS. MORNEAU) Did look at the receipt?

2 A. Oh, I thought --

3 MR. DAVIS: We'd object to hearsay, Your
4 Honor. Her testifying as to what the receipt says.
5 It's not in evidence.

6 THE COURT: Sustained as to testifying
7 what the receipt said, if that's the next question or
8 the question that you're asking.

9 But she can say if she looked at it or
10 not.

11 A. I found a receipt --

12 Q. (BY MS. MORNEAU) Well, hang on a second. Did
13 you look at the receipt?

14 A. Yes, I did.

15 Q. And without saying what it said, did it have a
16 name on it?

17 A. Yes, it did.

18 Q. Did it have a time on it?

19 A. Yes.

20 Q. What was the time?

21 MR. DAVIS: Objection, hearsay.

22 THE COURT: Sustained.

23 Q. (BY MS. MORNEAU) Did you find any pieces of
24 pizza in the house?

25 A. Yes.

1 Q. Where?

2 A. In the bedroom and in the kitchen.

3 MS. MORNEAU: Pass the witness.

4 THE COURT: Mr. Davis?

5 CROSS-EXAMINATION

6 BY MR. DAVIS:

7 Q. Detective Bailey --

8 A. Hi.

9 Q. -- how you doing?

10 A. Good.

11 Q. Now, you were assigned to collect evidence
12 when you got to the scene; is that right?

13 A. Yes.

14 Q. You and your partner split up the duties. He
15 took talking to the witnesses at the scene and you took
16 handling the physical evidence at the scene; isn't that
17 right?

18 A. Right.

19 Q. In fact, your handling of the physical
20 evidence included handling the evidence that was
21 collected with the CSU unit as well as any additional
22 evidence that you may have seen and gathered yourself.

23 A. Yeah. I didn't -- now, I didn't handle
24 anything. We just kind of -- you know, I told him what
25 to collect.

1 Q. Yes, ma'am.

2 So, he's doing his collection pretty much
3 and part at your direction?

4 A. Right.

5 Q. Right.

6 He uses his own training and experience.
7 But when you direct him to get certain pieces of
8 evidence, he does that as well?

9 A. Yes.

10 Q. In fact, some of your collection of evidence
11 actually involved the defendant; isn't that right?

12 A. At the scene?

13 Q. Yes, ma'am.

14 A. Yes.

15 Q. Collecting evidence from the defendant at the
16 scene. True?

17 A. We didn't -- I didn't collect -- we didn't
18 collect anything from him at the scene.

19 Q. His hands were bagged. Do you remember that?

20 A. Yeah. That was done before we got there.

21 Q. I see.

22 So, that was done by the CS unit before
23 detectives had shown up?

24 A. No. From my understanding, it was done from
25 patrol units before we even got there.

1 Q. I understand.

2 His hands are bags and then there's
3 actually a gunshot residue test that's performed,
4 right?

5 A. I think so.

6 Q. Right.

7 That was some evidence that you collected
8 from the defendant, a gunshot residue test?

9 A. Yeah. That was -- you have to ask CSU Wieners
10 about that. It was something that was done before we
11 got there.

12 Q. Yes, ma'am.

13 So, that would have been something done
14 before you even arrived on the scene?

15 A. Um-hum.

16 Q. Right.

17 You talked about this interaction you had
18 with the defendant.

19 A. Um-hum. Yes.

20 Q. You had interaction with --

21 MR. DAVIS: May I approach the witness,
22 Your Honor?

23 THE COURT: Yes, sir.

24 Q. (BY MR. DAVIS) You had interaction with him
25 when you asked him to sign the consent-to-search form.

1 A. Yes.

2 Q. State's Exhibit 125 was the consent-to-search
3 form that you had Mr. Vasquez sign, right?

4 A. Yes.

5 Q. And you talked to him for purposes of signing
6 the consent form, right?

7 A. Yes.

8 Q. And this is the one -- this is State's Exhibit
9 125 for the record. And it has on it the incident
10 number. And it says voluntary consent to search.

11 This name, Gustavo Vasquez, would that
12 have been something you would have filled out?

13 A. I did. That's my writing.

14 Q. Okay. So -- so, the handwriting on the form
15 where it talks about J. Robles and L. Bailey and it
16 says Gustavo Vasquez, all of that is your handwriting?

17 A. Yes.

18 Q. Right.

19 When it lists the address, that's your
20 handwriting as well?

21 A. Yes.

22 Q. The only part of the form that has
23 Mr. Vasquez's handwriting really would be the signature
24 part?

25 A. Yes.

1 Q. Do you know what Mr. Vasquez's signature
2 normally looks like?

3 A. No.

4 Q. Can you really read what it says there?

5 A. It starts with a -- the G and --

6 Q. Um-hum.

7 A. -- and just the rest is scribbled.

8 Q. The rest looks scribbly.

9 Now, you talk about Mr. Vasquez not
10 appearing intoxicated to you.

11 A. Huh-uh.

12 Q. You talked to him, would you agree with me,
13 less than 10 minutes?

14 A. Yes.

15 Q. On that day, you had never seen Mr. Vasquez
16 before, right?

17 A. No.

18 Q. You ever had any interaction with him before?

19 A. No.

20 Q. You didn't know what he normally appeared
21 like?

22 A. No.

23 Q. Is that right?

24 A. That's right.

25 Q. All right. Meaning you didn't know what he

1 normally appeared like or did know what he normally
2 appeared like?

3 A. I did not.

4 Q. All right. So -- so, you're making -- basing
5 your judgment on him not appearing intoxicated based on
6 just your observations for that -- that very short
7 period of time to have him sign this form?

8 A. Yes.

9 Q. At some point during your investigation, you
10 had concerns about him being under the influence of
11 narcotics; is that correct?

12 A. I didn't.

13 Q. Now, you -- based on your investigation, you
14 came in contact with information from observations of
15 other officers, right?

16 A. Yes, but I didn't --

17 Q. Not from anything you did directly. Because
18 you didn't have any direct contact with Mr. Vasquez;
19 isn't that true?

20 A. Other than the first initial contact.

21 Q. That's right.

22 And when he goes down and he gives a
23 statement, you have contact with him --

24 A. Yes.

25 Q. -- right?

1 In between then you got information from
2 other officers who were at the scene who had had
3 contact --

4 MS. MORNEAU: Object to the hearsay.

5 Q. (BY MR. DAVIS) -- with Mr. Vasquez.

6 MR. DAVIS: It's all part of her
7 investigation, Your Honor.

8 THE COURT: Sustained.

9 Q. (BY MR. DAVIS) Now, your subsequent actions
10 -- when you sit down to try to interview Mr. Vasquez,
11 you actually -- you and your partner actually decide to
12 wait a day; isn't that right?

13 A. The next day, yes.

14 Q. And you decided to wait. The reason you
15 decided to wait is because you had received information
16 that he appeared to be under the influence; isn't that
17 correct?

18 MS. MORNEAU: Object to hearsay.

19 MR. DAVIS: It explains their subsequent
20 actions. It is not offered for the truth of the matter
21 asserted, Your Honor.

22 THE COURT: Overruled.

23 Q. (BY MR. DAVIS) The reason you waited is that
24 you received information from other officers that he
25 appeared to be under the influence of some narcotic;

1 isn't that correct?

2 A. I can't say that's true. I don't know.

3 Q. Well, ma'am, you -- you had the opportunity to
4 review different police reports, right?

5 A. I reviewed mine. I didn't look at everybody
6 else's police reports.

7 Q. Well, maybe before you testified --

8 MR. DAVIS: May I approach the witness,
9 Your Honor?

10 THE COURT: Yes, sir.

11 Q. (BY MR. DAVIS) But during the course of your
12 investigation, you would agree with me that you
13 reviewed the supplements, right?

14 You would agree with me you reviewed the
15 different supplements from different police officers?

16 A. Okay. Yes.

17 Q. And as one of the lead homicide detectives,
18 you would agree with me, it's your duty to look at all
19 of the supplemental reports from all the police
20 officers during the course of your investigation?

21 A. Yes.

22 Q. Especially when you're about to talk to a
23 suspect. You want to know what all the other officers
24 have said, right?

25 A. No.

1 Q. So, you don't want to know what other officers
2 have reviewed about a case before you go you in to sit
3 down and --

4 (Simultaneous speaking).

5 THE COURT: One at a time.

6 Q. (BY MR. DAVIS) Let me finish, Detective
7 Bailey. I don't want to -- I'm not going to disrespect
8 you. I apologize for talking fast. If I'm abrasive, I
9 apologize.

10 What I'm asking you right now is: As the
11 lead homicide detective, one of them --

12 A. Um-hum.

13 Q. -- part of your responsibility is to know
14 what's going on with the case, right?

15 A. Right.

16 Q. And one way you know what's going on with a
17 case is to review different supplemental reports.
18 Would you agree?

19 A. Right.

20 Q. And there was supplemental reports that talked
21 about some bizarre behavior of Mr. Vasquez --

22 MS. MORNEAU: Objection to counsel
23 testifying --

24 Q. -- prior to --

25 MS. MORNEAU: -- as to what's in other

1 officers' supplements.

2 MR. DAVIS: Well, I'm actually going to
3 show it to her, Your Honor. But I'm really going for
4 her state of mind at the time she's doing the
5 investigation.

6 THE COURT: Sustained.

7 MR. DAVIS: All right.

8 Q. (BY MR. DAVIS) Now, I'm going to show you
9 something, ma'am.

10 A. Okay.

11 Q. And I'm going to show you what's in a
12 supplemental report. And I don't want you to tell what
13 it was and what it says. But I at least want you to
14 look at it. Okay. I'm going to show you this one.

15 Do you see this? We'll start here.

16 MS. MORNEAU: What page are you on, Eric?

17 MR. DAVIS: It is Page 2.062 -- 2.062.

18 Q. (BY MR. DAVIS) Do you see that?

19 A. Um-hum.

20 Q. Keep reading.

21 A. What was it that you wanted me to read?

22 Q. Read this section right here where my finger
23 is. Can you read that? Let me know when you're
24 finished reading.

25 A. Okay.

1 Q. Does that help refresh your recollection?

2 A. A little, but that has nothing to do with me.

3 Q. I understand.

4 But as a lead detective, you were
5 familiar with what was going on, right?

6 A. Not at that time. Because we were at the
7 scene and Sergeant Brady was at the homicide division
8 with that defendant.

9 Q. So, before you go in and talk to the
10 defendant, for some reason you decide to wait 24 hours
11 to talk to him.

12 A. Um-hum.

13 Q. Right?

14 A. Right.

15 Q. You're saying you had gotten some information
16 that maybe he was under the influence, but not from you
17 and that's why you decided to wait, right?

18 A. No. It was late. And I don't really know why
19 Sergeant Robles wanted to wait to talk to him.

20 Q. So -- so, the information I showed you in
21 terms of the documentation -- are you aware of -- were
22 you aware of that statement, the stuff that was said to
23 Sergeant Bailey prior to going in to do the interview
24 with the defendant?

25 A. Sergeant -- Sergeant Brady spoke with Robles,

1 not me.

2 Q. I see. I see. So, you weren't aware of the
3 reason why Robles was waiting to talk to him?

4 A. No.

5 Q. When you go in -- and you talk to the
6 defendant, right?

7 A. Yes.

8 Q. And you ask questions about him remembering
9 talking to you the night before.

10 A. Yes.

11 Q. You -- you asked him as if like do you
12 remember talking to us the night before?

13 A. Right.

14 Q. It wasn't do you remember the substance, but
15 did he remember the event of talking to you the night
16 before.

17 A. Right. Yes.

18 Q. Why did you ask him that if you weren't
19 concerned about him being impaired?

20 A. We wanted to make sure he was okay.

21 Q. During your interview with him, when you're
22 sitting down and talking to him, you asked him -- you
23 actually asked him about drug use.

24 A. Yes.

25 Q. Do you remember that?

1 A. Yes.

2 Q. If you had no notion of him using drugs, why
3 even ask him during your interview about drug use?

4 A. Because after we left the scene, I spoke with
5 the family. And her family had mentioned about him
6 having drug use.

7 Q. So -- so, when you tell me you had no
8 information about him using drug use -- when you told
9 me that earlier, you didn't mean -- so, you left that
10 part out about the family -- her family telling you
11 about --

12 A. You didn't ask me anything about that. You
13 said did I have any recollection from the other
14 officers about any drugs.

15 Q. That may be fair enough.

16 So, at the time you went to the scene,
17 you found out information that there was some drug use
18 involved?

19 A. Not at the scene. We left the scene already.

20 Q. I see. So, you --

21 A. Competed our --

22 COURT REPORTER: I'm sorry.

23 THE COURT: One at a time, both of you.

24 Slow down.

25 MR. DAVIS: I'm sorry, Your Honor.

1 THE COURT: That's okay. Just don't
2 speak over each other. Trish cannot write that down
3 and y'all know that.

4 So, go ahead.

5 Q. (BY MR. DAVIS) Detective Bailey, I'm just
6 going to ask you as straight as I can. Before you
7 interviewed Mr. Vasquez, you had some information from
8 some source that there may have been drug use; isn't
9 that right?

10 A. Yes.

11 Q. And when you had this ability to collect
12 evidence from the defendant, you never had him do a
13 drug test; isn't that right?

14 A. No.

15 Q. Is that right or wrong?

16 A. That's right.

17 Q. All right. You didn't do a hair follicle
18 test, right?

19 A. No.

20 Q. You didn't do a urine test, right?

21 A. No.

22 Q. And no blood test or anything were ordered
23 from the defendant; isn't that correct?

24 A. That's correct.

25 MR. DAVIS: We don't have any other

1 questions, Your Honor.

2 THE COURT: All right. Thank you, sir.

3 Ms. Morneau?

4 REDIRECT EXAMINATION

5 BY MS. MORNEAU:

6 Q. Ms. Bailey, I'm sorry -- is it Detective
7 Bailey?

8 A. Just whatever.

9 Q. We'll go with Detective Bailey.

10 When you were -- so, you and your
11 partner, Sergeant Robles, you guys had split your
12 investigation up. What part were you handling?

13 A. The scene side of the investigation.

14 Q. And what part was Robles handling?

15 A. The interview -- the witness side of the
16 investigation.

17 Q. The interview of the defendant, what side of
18 the investigation would that fall under?

19 A. The witness side.

20 Q. So, was he the one making the decisions about
21 when and where and what to cover in an interview with
22 the defendant?

23 A. Yes. Because in our investigation, the person
24 taking the witness side becomes the lead investigator.

25 Q. Okay. Do you know why Sergeant Robles decided

1 to wait and investigate -- to interview --

2 MR. DAVIS: Objection, Your Honor --

3 Q. (BY MS. MORNEAU) -- the defendant.

4 MR. DAVIS: -- calls for speculation.

5 THE COURT: Sustained.

6 Q. (BY MS. MORNEAU) Was it your decision?

7 A. No.

8 Q. Was it Robles's decision?

9 A. Yes.

10 MR. DAVIS: Objection, Your Honor, calls
11 for speculation.

12 THE COURT: She can answer that if she
13 knows.

14 A. Yes.

15 Q. (BY MS. MORNEAU) At this point was there any
16 reason to rush interviewing the defendant?

17 A. No.

18 Q. Was it -- by that point was it already late at
19 night?

20 MR. DAVIS: Objection, leading.

21 A. Yes.

22 THE COURT: Don't lead your witness.

23 Q. (BY MS. MORNEAU) Do you know about what time
24 it was?

25 A. I'm not really sure, but it was after

1 midnight.

2 Q. And were you guys in any hurry?

3 A. No.

4 MS. MORNEAU: Pass the witness.

5 THE COURT: Mr. Davis.

6 MR. DAVIS: Very briefly, Judge.

7 THE COURT: Yes, sir.

8 RECROSS-EXAMINATION

9 BY MR. DAVIS:

10 Q. At the time Detective Robles is making the
11 decisions, you're in there with him, aren't you?

12 A. Yes.

13 Q. You're standing right by him when he's doing
14 the interview of the defendant. True?

15 A. Yes.

16 Q. You're in the room with him --

17 A. Yes.

18 Q. -- right?

19 And so, you're saying he makes these
20 decisions all by himself and doesn't tell you anything
21 or to talk to you about anything.

22 A. I don't understand that question. What do you
23 mean.

24 Q. You and -- you and Detective Robles talked
25 about the case and how you were going to investigate;

1 isn't that fair?

2 A. Yes.

3 Q. All right. And so, the reasons why you were
4 doing all of this and why you were doing what you were
5 doing, you were discussing amongst yourselves. Would
6 that be accurate?

7 A. Yes.

8 Q. When you have two homicide detectives and you
9 have one that may be working the scene and one working
10 witnesses, you collaborate with one another, don't you?

11 A. Yes.

12 Q. It's important. Because you may see something
13 in the scene that a witness has to be asked about,
14 right?

15 A. Yes.

16 Q. And the witness may tell him something that
17 you have to have or look for inside the scene. True?

18 A. Yes.

19 Q. So -- so, even though you both have these
20 different individual responsibilities, you've got to
21 work in tandem and work together. True?

22 A. Yes.

23 Q. So, when he finds out information about
24 possible drug use, you find out about it at the same
25 time when the family members on the scene tell you

1 that, right?

2 A. Right. Yes.

3 Q. And somehow he may have found out some stuff
4 from what officers even told you about drug use. And
5 you're saying he never told you any of that.

6 MS. MORNEAU: Object to counsel
7 testifying about what another officer told a witness
8 who hasn't testified.

9 THE COURT: Overruled.

10 Q. (BY MR. DAVIS) You can answer that question.

11 A. Repeat the question.

12 Q. So, he may have found out information about
13 what officers may have told him about drug use or
14 suspect -- suspecting drug use by the defendant and
15 you're saying he never told you any of that?

16 A. Yeah. Certain things he found out that I
17 wouldn't know.

18 Q. But you had access to the police reports,
19 right?

20 A. Yes.

21 Q. Of the other officers?

22 And I've shown you instances in the
23 police report of that, right?

24 A. Yes.

25 Q. And you're saying you didn't know any of that

1 before coming in here?

2 A. Before coming today?

3 Q. Yes.

4 A. It's been two years. Of course, I know now.

5 Q. Yes, ma'am. Yes, ma'am.

6 But when I was asking about what led you
7 to your investigation, you were saying you didn't know
8 about it. Do you remember that?

9 A. I didn't know about Sergeant Brady's part in
10 it, no.

11 Q. You would agree with me that drug use is an
12 issue in this case, right?

13 A. I -- I don't agree with that.

14 Q. You know it's an issue in this case in terms
15 of what was discussed when you had your interview with
16 Mr. Vasquez.

17 A. You're saying an issue in this case.

18 Q. Yes, ma'am.

19 A. I don't --

20 Q. I'm sorry?

21 A. I don't agree with that.

22 Q. When you did your investigation and you sat
23 down and talked to him, you talked about that.

24 A. You said -- you said do I think it's an issue
25 with this case.

1 Q. Yes.

2 A. And I said no, I don't agree.

3 Q. All right. No, I'm not asking your opinion.

4 I'm not asking if you think it's a valid issue or if
5 it's an issue that -- that -- that should be something
6 that you're concerned about. But it's an issue that's
7 raised in this case. You're aware of that, aren't you?

8 A. It's raised in this case, yes.

9 Q. Yes.

10 And you knew that at the time you were
11 doing some of your investigation as well. That it
12 would be an issue that would be raised in the case;
13 isn't that right?

14 A. No.

15 Q. Okay. And it's not an issue that you -- you
16 give any leeway on or any give on; isn't that right?

17 A. It's a what?

18 MR. DAVIS: No other questions, Your
19 Honor.

20 THE COURT: Ms. Morneau?

21 MS. MORNEAU: Nothing further.

22 THE COURT: All right. You may step down
23 and step outside. Thank you.

24 Call your next witness, please.

25 MS. BARD: Your Honor, the State calls

1 Tiffany Wright to the stand.

2 THE COURT: This witness was sworn in
3 previously outside y'all's presence, just so y'all will
4 know.

5 Ms. Bard.

6 MS. BARD: Thank you, Your Honor.

7 TIFFANY WRIGHT,
8 having been first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. BARD:

11 Q. Can you please introduce yourself to the jury?

12 A. My name is Tiffany Wright.

13 Q. All right. Tiffany, I'm going to need you to
14 speak up for me a little bit. We seem to be having
15 problem with our microphone. Okay?

16 A. Okay.

17 Q. Okay. How old are you?

18 A. 31.

19 Q. Are you married?

20 A. Yes.

21 Q. Do you have any children?

22 A. Yes. Yes, I do.

23 Q. Okay. How many children do you have?

24 A. I have one.

25 Q. Boy or girl?

1 A. A girl.

2 Q. What's her name?

3 A. Miah Anissa Wright.

4 Q. How old is Miah?

5 THE COURT: Hold on just a second.

6 (Brief pause).

7 THE COURT: All right. You're going to
8 have to keep your voice up to make sure that everybody
9 can hear you?

10 THE WITNESS: Okay.

11 A. Right now Miah is 11 years old.

12 Q. (BY MS. BARD) Okay. Back in 2013, did you
13 and your husband have or develop some marital issues?

14 A. Yes.

15 Q. As result of that, did you leave the house and
16 go move in with some family members?

17 A. Yes. As result of that, I went to live with
18 my sister.

19 Q. Let's talk about your family a little bit. Do
20 you have any brothers or sisters?

21 A. I do.

22 Q. How many brothers and sisters?

23 A. Agnes, my sister. I have a stepsister named
24 Shaquanda Brown and I have brother named Anthony Brown.

25 Q. And where did you -- like, can you give me the

1 order of oldest to youngest?

2 A. Yes. Shaquanda Brown is oldest out of all of
3 us. Then it's Agnes, my sister, me, and then Anthony.

4 Q. When Agnes passed away, how old was she?

5 A. She was born in '82.

6 Q. If I said she was 31, does that sound about
7 right?

8 A. Yeah. 'Cause I'm --

9 Q. Are you a little nervous?

10 A. She was 31 and I'm 31 right now.

11 Q. Okay. If at any time you need a minute, you
12 just let me know. Okay?

13 A. Okay.

14 Q. And there's some tissues right there next to
15 you if you need them. Okay?

16 So, Agnes, her official legal name was
17 Agnes Whitaker-Vasquez, correct?

18 A. No.

19 Q. What was her official name?

20 A. Agnes Arnez Whitaker-Vasquez.

21 Q. Okay. And I understand she had a nickname by
22 the family.

23 A. Yes.

24 Q. What was her nickname?

25 A. Goldie.

1 Q. Do you know how she got that nickname?

2 A. Yes.

3 Q. How did she get it?

4 A. She was -- she was a baby. And she would
5 pucker her lips like a goldfish. So, my paw paw
6 started calling her Goldie.

7 Q. And by paw paw, do you mean grandpa?

8 A. Yes. My grandfather who is deceased.

9 Q. Okay. And so, the name kind of stuck from
10 being a baby?

11 A. Yes.

12 Q. Okay. So, in 2013 you and your daughter,
13 Miah, moved into your sister Goldie's house?

14 A. Yeah, in May of 2013.

15 Q. In May.

16 Was your sister Goldie, Agnes, was she
17 married?

18 A. Yes.

19 Q. Who was she married to?

20 A. She was married to Andy.

21 Q. Do you see Andy here in the courtroom today?

22 A. Yes.

23 Q. Okay. Could you point him out and identify
24 him by an article of clothing he's wearing?

25 A. He's sitting to the right of me. And he has

1 on a suit.

2 Q. And can you describe something specific about
3 maybe the color of his tie?

4 A. It's yellow.

5 MS. BARD: Your Honor, may the record
6 reflect that the witness has correctly identified the
7 defendant?

8 THE COURT: It will.

9 Q. (BY MS. BARD) Now, do you know Andy's full
10 legal name?

11 A. Yes.

12 Q. And what is that?

13 A. Gustavo Andres Vasquez.

14 Q. So, when you say Andy, that was a nickname as
15 well?

16 A. Yes.

17 Q. Okay. When you moved in --

18 MS. BARD: Your Honor, may I have a
19 moment to grab a --

20 THE COURT: Yes.

21 Q. (BY MS. BARD) When you moved in, do you
22 remember the address of where they were living?

23 A. Yes.

24 Q. Where were they living?

25 A. At 5711 Vendi.

1 Q. Okay. How long had they been living there?

2 A. I -- I can't recall the move-in date. But it
3 had been a couple years -- a few years.

4 Q. All right. How long had they been married?

5 A. They were high school sweethearts. To my
6 memory, Miah was two. Maybe 2006.

7 Q. Okay. And I believe you said they were high
8 school sweethearts. So, they had been together a
9 pretty long time?

10 A. Yeah. So, forgive me if I --

11 Q. Sure. Okay.

12 When you moved into the house on Vendi --
13 we have a diagram here, State's Exhibit No. 76. Does
14 this look like a fairly accurate layout of the house?

15 A. Yes.

16 Q. Okay. If we're looking at State's Exhibit 76
17 here, we've got the front door kind of next to this
18 No. 1; is that correct?

19 A. Yes.

20 Q. Okay. When you guys -- you and your daughter,
21 Miah -- how old was she when y'all moved in?

22 A. Miah was nine.

23 Q. Okay. Did you and her share a room when you
24 moved into the Vasquez household or did you guys have
25 separate rooms?

1 A. We shared a room and shared a bed.

2 Q. Okay. Can you kind of point -- and if you
3 touch that screen -- do you see the screen to the right
4 of you? If you touch that screen hard enough, it
5 should make a mark.

6 Can you tell us where your bedroom was
7 with your daughter in this household?

8 A. (Indicating).

9 Q. Did it -- can you try pushing on it a little
10 harder? Maybe make a little squiggle for me.

11 That's not working either.

12 Okay. If I'm looking at State's Exhibit
13 76, the room directly north of the dining table, was
14 that the bedroom that you would share with your
15 daughter?

16 A. Yes.

17 Q. Okay. And then directly north of that, there
18 looks like a smaller room. What's that room?

19 A. The bathroom.

20 Q. And then what's the room directly north of
21 that?

22 A. My sister's office.

23 Q. Okay. So, the room at the very front of the
24 house was your sister's office?

25 A. Yes.

1 Q. Okay. Directly sort of across from those
2 three rooms, east if you will, there's a very large
3 rectangle. What would that represent?

4 A. That's the garage.

5 Q. Okay. Was it a one-car, two-car?

6 A. It was a one-car garage.

7 Q. Okay. And then if we move throughout the
8 diagram kind of south of garage, we've got -- what
9 looks -- is that a kitchen?

10 A. That's the kitchen. This is the dishwasher
11 and the stove. That's -- that's --

12 Q. All of that around in here?

13 A. Yeah. The -- the sink, the stove, dishwasher,
14 refrigerator, the breakfast table and the washer and
15 dryer, laundry room.

16 Q. And those are represented up here, the washer
17 and dryer?

18 A. The washer and dryer.

19 Q. Okay. And if we go straight south of that
20 kitchen, you end up what looks to be -- is that a
21 bathroom?

22 A. That's the bathroom. The bathroom wall was on
23 the other side of the kitchen wall.

24 Q. Okay. And if we come straight south, that was
25 the master bedroom?

1 A. Yes.

2 Q. Okay. And then the only room we really have
3 left is sort of one big giant open living/dining --

4 A. The dining room and living room.

5 Q. Okay. So, safe to say that when you and your
6 daughter moved in in May, y'all were all pretty much up
7 in each other's space 'cause there's not a whole lot of
8 space in that house, is there?

9 A. Right.

10 Q. Okay. How thin were the walls?

11 A. The walls -- if you were in one room and
12 sitting next to that -- that wall, you could hear what
13 was going on in the next room.

14 Q. Okay. Now, the way that this diagram shows,
15 is it looks like there's about the space of the dining
16 room between your bedroom and the master bedroom. Is
17 that an accurate statement?

18 A. Can you say that -- I'm sorry.

19 Q. Sure. Basically the dining room separated
20 your bedroom from the master bedroom.

21 A. Yes.

22 Q. Okay. Since the walls were sort of thin,
23 would you be able to hear, from your bedroom, to what
24 was going on in the master bedroom?

25 A. No, I wouldn't be able to hear. I could hear

1 muffles.

2 Q. Okay. But you couldn't hear like specific
3 sounds?

4 A. No.

5 Q. Okay. Was there ever any problem either with
6 the defendant or with your sister and you or Miah
7 staying and living with them in the house?

8 A. No.

9 Q. If there had been a problem, what would you
10 have done?

11 A. I would have found somewhere else to live, my
12 parents.

13 Q. Would you have wanted to cause any sort of
14 marital disagreements between the defendant and his
15 wife, your sister?

16 A. No.

17 Q. Okay. Miah, your daughter, her and Goldie,
18 your sister, had a pretty close relationship.

19 A. Yeah. Yes.

20 Q. And can you describe kind of why and how they
21 developed that close relationship?

22 A. When Miah was born --

23 MR. DAVIS: Your Honor, I object to
24 relevance.

25 THE COURT: How is this relevant?

1 MS. BARD: Just establishes who the
2 parties are, the people that are living in that house
3 and what's going on. Since the defense has brought up
4 that this was a non-domestic violence situation and
5 stuff, I want the jury to be able to understand exactly
6 who was there and what the relationships were.

7 THE COURT: Sustained.

8 Q. (BY MS. BARD) Okay. Did you hear any
9 arguments go on between the defendant and your sister?

10 A. Besides that day, I remember this one time
11 when I was awakened early in the morning where my
12 sister screamed Andy, no.

13 And at that particular point in time, I
14 came out of my room. And I looked around the corner to
15 see the mas -- you know, to look towards the master
16 bedroom and the door was open and she came out. And I
17 asked her if she was okay.

18 Q. Do you remember about when that was?

19 A. That was probably between October and November
20 of 2013.

21 Q. When your sister would get frustrated or angry
22 or hurt and like an argument, what was her personality
23 type? Would she explode? Would she shut down? What
24 was she like?

25 A. She would immediately -- silent treatment,

1 shut down and she wouldn't speak.

2 Q. Now, did the defendant have a smoking habit?

3 A. Yes.

4 Q. Okay. Where would he smoke?

5 A. In the garage or in his car.

6 Q. And would he keep his car in the garage or
7 would that be out in the driveway?

8 A. In the driveway.

9 Q. Did your sister like the defendant's smoking?

10 A. No.

11 Q. Would she allow it in the house?

12 A. No.

13 Q. Did they ever get into some arguments about
14 that?

15 A. Yes.

16 Q. When the defendant would go into the garage or
17 to his car to smoke, did you know what he was smoking?

18 A. Sometimes it would be cigarillos. Sometimes
19 it would be a weed smell. And sometimes it would be
20 another smell that was just an awful smell.

21 Q. Okay. So, if I understand it correctly --
22 would you be out there smoking with him?

23 A. No, I don't smoke.

24 Q. How would you get these -- you labeled three
25 sort of different smells, if you will.

1 A. Um-hum.

2 Q. How would you get those three sort of smells?

3 How would you come into contact with them?

4 A. In the house, if you would open up the garage
5 door, it would hit you.

6 Q. Okay. So, you said that he would smoke
7 cigarillos. Can you describe what you mean by that for
8 the jury in case they don't know?

9 A. It's a thin -- it looks like a cigar, but it's
10 smaller.

11 Q. And then you said you would sometimes smell a
12 weed smell; is that --

13 A. Marijuana.

14 Q. Okay. And then you said there was a third
15 smell. Can you describe that smell for me?

16 A. I could never put my finger on what it -- what
17 -- I'm sorry. I don't smoke. But it smelled worse
18 than weed. It also -- it almost smelled like cow
19 manure.

20 Q. Okay. Did it smell like regular tobacco?

21 MR. DAVIS: Objection to leading, Your
22 Honor.

23 THE COURT: Overruled.

24 A. No.

25 Q. (BY MS. BARD) So, it had a very distinct

1 smell, the -- I believe you called it a manure smell.

2 It was very distinct to you?

3 A. Yes.

4 Q. How often would the defendant go outside and
5 smoke?

6 A. Every day.

7 Q. Would he sometimes go multiple times a day?

8 A. Yes.

9 Q. Would he do it at night too?

10 A. Yes.

11 Q. Okay. How often would you smell the -- that
12 sort of nasty manure smell, how often would you smell
13 that?

14 A. I would smell it almost every day.

15 Q. Now, on December the 20th of 2013, do you --
16 I'm assuming you remember that day.

17 A. I remember that day.

18 Q. Okay. And do you kind of remember the day
19 before as well?

20 A. Yes.

21 Q. Okay. Was your daughter still in school at
22 the time?

23 A. Yes.

24 Q. And December 20th of 2013, that was a Friday,
25 correct?

1 A. Yes.

2 Q. On December 19th, that Thursday night, did
3 your sister and the defendant get into a fight?

4 A. There was some type of argument going on
5 between them.

6 Q. And why do you say there was some type of
7 argument?

8 A. Because I was in the bedroom that me and my
9 daughter lived in. And I could hear talks and them
10 going back and forth in the dining room area.

11 Q. Was this early in the evening, late in the
12 evening, about what time?

13 A. It was late in the evening. It was definitely
14 after 7:00, probably going on 8:00 because Miah's
15 bedtime was 8:00 o'clock.

16 Q. So, was Miah asleep or about to go to sleep
17 about this time?

18 A. She was about to go to sleep. So, she would
19 want me to be in the room with her when she's trying to
20 fall asleep.

21 Q. So, you heard some -- some noises that made
22 you -- made you think some sort of argument is going
23 on.

24 A. Yes.

25 Q. What do you do as a result of that?

1 A. I kind of listen out for it and make sure that
2 it doesn't escalate and --

3 Q. Go ahead.

4 A. And basically I didn't hear it escalate. I
5 heard a door close as if somebody had left.

6 Q. So, which door did you hear close?

7 A. The front door.

8 Q. What happens next that you remember?

9 A. I come out and I saw my sister at the dining
10 room table in front of her laptop.

11 Q. At that point, was there anybody else in the
12 house besides you, Miah and Agnes, your sister?

13 A. No.

14 Q. Would it be safe to say then the person that
15 you heard slamming that door was the defendant?

16 A. Yeah.

17 MR. DAVIS: Objection, Your Honor, calls
18 for speculation.

19 THE COURT: Sustained, unless she knows
20 from her own personal knowledge.

21 Q. (BY MS. BARD) Was the defendant there when
22 you went out to go talk to your sister after that door
23 slammed?

24 A. No, he was not there.

25 Q. Did you have a conversation with your sister

1 about him not being there?

2 MR. DAVIS: Objection, Your Honor, to
3 hearsay.

4 THE COURT: Sustained.

5 Q. (BY MS. BARD) Without going into anything,
6 did you have a conversation about the defendant not
7 being there after that argument you heard?

8 A. The only conversation that I had --

9 MR. DAVIS: Objection to hearsay.

10 THE COURT: Sustained as to anything
11 anyone said during the conversation.

12 Q. (BY MS. BARD) So, we can't say the exact
13 words that people said, but we can talk about the topic
14 or if you, yes or no did, in fact, have a conversation?

15 A. I did.

16 Q. Okay. How was your sister emotionally?

17 A. She was depressed looked like, upset. She was
18 in her shutting-down mode.

19 Q. What do you remember happening next?

20 A. After that -- can I say what -- what she was
21 doing?

22 Q. You can say what she was doing. You can't say
23 any conversation of the words you used.

24 A. Okay. So, she was still at her laptop. And
25 after that, I basically went back into the room with

1 Miah.

2 Q. What do you remember happening next?

3 A. I remember being in the bedroom and hearing my
4 sister -- hear my sister talk on the cell phone. Can I
5 say that? Hear my sister talk on the cell phone.

6 Q. Do you have any idea who she was talking to?

7 A. No.

8 Q. Okay. About what time is she having that
9 conversation on the cell phone?

10 A. By this time, it had to be between 10:00 and
11 11:00. It was late.

12 Q. Okay. What do you remember happening next?

13 A. After that -- I mean, I think I just drifted
14 off to sleep at that particular point in time.

15 Q. Okay. Does anything happen in the night that
16 wakes you up?

17 A. I did hear a door again, as if the door was
18 opening and then I heard the door close.

19 Q. Which door was that?

20 A. The front door.

21 Q. Is there any sort like alarm system or
22 anything in the house?

23 A. Yes.

24 Q. Would it make that sort of obnoxious beep beep
25 sound any time that a door or window opens?

1 A. It would make the beep beep sound.

2 Q. So, you said you heard that. That woke you
3 up?

4 A. The door woke me up. And, of course, the
5 alarm sound being there, I knew that the front door had
6 opened.

7 Q. What do you remember happening next?

8 A. I think by this time it was the next day.

9 Q. When you heard that door open, do you remember
10 about what time that was?

11 A. It was shortly after, between that 10:00 and
12 11:00 o'clock hour.

13 Q. Next thing you know, you wake up. So, we're
14 now to Friday, December 20th of 2013, correct?

15 A. Yes.

16 Q. Okay. What happens that morning?

17 A. That morning, I got up to get Miah ready for
18 school. I normally leave the house between 7:00 and
19 7:20 to get her to school. Her school is not too far
20 from the house. So, my alarm probably would have went
21 off between 6:00 and 6:15 for me to get up.

22 Q. When you get up and start moving around, is
23 the defendant at home?

24 A. No.

25 Q. Was his car in the driveway when you left to

1 take Miah to school?

2 A. No.

3 Q. After you take Miah to school, what do you do?

4 A. After I take Miah to school, I come back to
5 the house because I was off that day and my sister was
6 off that day.

7 Q. Did you girls have any big plans that day or
8 was it just kind of be a hang out, relax kind of day?

9 A. We hadn't made plans for that day. We had
10 only made plans for the following week.

11 Q. And that would have been the week of
12 Christmas?

13 A. That -- yes.

14 Q. Okay. When you get back to the house after
15 dropping Miah off, do you see Goldie at home?

16 A. I know she's home because her car is outside.
17 And so, I go in and I immediately go to the bedroom
18 because I didn't see her on the couch or at the dining
19 room table.

20 Q. What do you remember happening next?

21 A. When I went to look to see if she was in the
22 bedroom, she was laying down. And I asked her was she
23 okay and she said she was.

24 MR. DAVIS: Objection to hearsay, Your
25 Honor.

1 THE COURT: Sustained as to anything that
2 was said.

3 Q. (BY MS. BARD) You're doing fine. Okay.

4 A. Okay.

5 Q. Let me ask the next question. Okay.

6 Do you remember about what time you go
7 into your sister's bedroom?

8 A. 7:00 something, before 8:00 o'clock.

9 Q. Was it normally like Goldie to be asleep in
10 bed at 7:00 o'clock like that, even on her day off?

11 A. No, not likely.

12 Q. Did it strike you as odd that she was still in
13 bed?

14 A. Yes. So, that's why I went in to ask her was
15 she okay.

16 Q. How did she look emotionally when she was
17 answering the question?

18 A. She looked -- she looked tired. She looked
19 drained. She still looked upset, but worried at the
20 same time.

21 Q. Did she tell you -- without going into the
22 words. Did she tell you why she was worried and upset?

23 A. Yes.

24 Q. Okay. And did it have something to do with --
25 and without going into the words or the conversation.

1 The topic of it, did it have to do with
2 her and her relationship with the defendant?

3 MR. DAVIS: Objection to hearsay, Your
4 Honor.

5 THE COURT: Sustained.

6 Q. (BY MS. BARD) So, you go to check on your
7 sister. What happens next?

8 A. Don't say what I -- don't say what we talked
9 about?

10 Q. Correct.

11 A. Okay. I -- I was just probably in the house
12 and in my room. Eventually Goldie came out the room.
13 And she was sitting at her laptop.

14 Q. Was her laptop -- would she use that for work
15 or personal, do you know?

16 A. She would use it for work and personal.

17 Q. Okay. And did it appear to you that she was
18 actually doing some work that morning?

19 A. It did look like she was doing work because
20 her papers were on the ottoman, that I can recall. She
21 had her -- her briefcase on the floor next to her.

22 Q. Now, that day, was it a half day of school?

23 A. It was a half day. Because they were about to
24 -- Miah's school was about to be out for the holiday
25 break.

1 Q. And when it's a half day, what time do you
2 have to go pick up Miah?

3 A. I have to pick her up at 12:00.

4 Q. When you leave the house -- have you been
5 inside the house at this point since you've dropped her
6 off to the time you go to leave?

7 A. Yes.

8 Q. Okay. So this is about 8:00 to noon?

9 A. Yes.

10 Q. Do you ever see the defendant?

11 A. No.

12 Q. Do you go pick up Miah?

13 A. I do.

14 Q. What do you guys do next?

15 A. I pick her up from school and we head back to
16 the house.

17 Q. About what time do you get home?

18 A. 12:00 something, close to 1:00 o'clock.

19 Q. When you get back to the house, do you see the
20 defendant's car?

21 A. No.

22 Q. Is the defendant inside when y'all get inside?

23 A. No.

24 Q. Now, if I understand correctly, on weekends,
25 you and your daughter would go stay with your husband

1 and sort of try and work on the relationship a bit?

2 A. Yes. We were reconciling our marriage. So,
3 on the weekend, me and Miah would go to visit him.

4 Q. And was that the plan for this weekend, the
5 20th -- I guess the 21st, the 22nd, that Friday,
6 Saturday, Sunday?

7 A. Yeah. We were going to be gone the Friday,
8 Saturday and Sunday. But normally when we leave,
9 Goldie only knows us to be gone Friday and Saturday.

10 Q. So, you and Miah get back to the house. It's
11 -- you said about 1:00 o'clock or so. What do you
12 girls do next?

13 A. At that particular point in time, it's always
14 Miah wants to have a conversation with Goldie. And so,
15 she's basically with Goldie. And I'm in the bedroom
16 and just going back and forth.

17 Q. And --

18 A. I'm sorry.

19 Q. That's okay. Do eventually you girls get
20 hungry?

21 A. Yes.

22 Q. About what time or so -- what do you guys do
23 about that?

24 A. Shortly -- probably less than an hour or right
25 about an hour, we order pizza because it's the easiest

1 thing for us to do. My sister didn't have on clothes,
2 so we weren't going to go anywhere. So, we ordered
3 Pizza Hut.

4 Q. Now, when you say your sister didn't have
5 clothes, was she walking around naked?

6 A. No, she -- I'm sorry. She -- she -- she
7 regulars the gym. So, the night -- the day before she
8 had gone to the gym and to Bible study. So, she still
9 had her gym clothes on. She hadn't changed.

10 Q. And were -- her gym clothes, would they entail
11 -- I'm assuming like a sports bra?

12 A. Um-hum.

13 Q. Is that a --

14 A. I'm sorry. She had probably a sports bra and
15 the muscle-type like shirt with her capri type bottoms.

16 Q. Were they like spandex?

17 A. Yeah. Yeah, elastic type.

18 Q. Okay. So, who orders the pizza?

19 A. I ordered the pizza on my phone on the Pizza
20 Hut App.

21 Q. And do you know or do you remember about what
22 time the pizza arrives?

23 A. I can't recall the exact time, but it -- it
24 probably arrived between 2:00 and 3:00.

25 Q. Now, you said that Goldie had been kind of

1 working throughout the morning. What's her emotional
2 state like throughout that morning and that afternoon?

3 A. She's just really quiet. She's in one of her
4 shutdown modes. So, you know, I -- I sometimes do the
5 same thing, so I know to, you know, not really bug her
6 that much. And, you know, that's -- that was one of
7 the reasons why I ordered pizza, so we could eat and
8 she wouldn't have to cook or I wouldn't have to cook.

9 Q. When your sister Goldie would get upset, you
10 said that she would shut down. Is she the type of
11 person who would sort of share after she had kind of
12 calmed down?

13 MR. DAVIS: Objection to leading, Your
14 Honor.

15 THE COURT: Don't lead your witness.

16 Q. (BY MS. BARD) After she had shut down, was
17 she the type of person to share?

18 MR. DAVIS: Again, Your Honor, objection,
19 to leading.

20 THE COURT: Overruled as to that.

21 A. No. She really wouldn't share what was going
22 on or why she was upset. She would give you a one
23 liner and that was about it.

24 Q. (BY MS. BARD) Okay. So, the pizza gets there
25 you said about 2:00 or 3:00.

1 A. Um-hum.

2 Q. Does the defendant ever arrive?

3 A. Yes.

4 Q. Okay. About what time?

5 A. Shortly after the pizza delivery came.

6 Q. So, sometime in that 2:00 to 3:00 o'clock
7 hour?

8 A. Um-hum. After we got the pizza and we had
9 just fixed plates, you hear the door unlocking. And my
10 sister goes towards the door. But before she can get
11 to the door, it flies open.

12 Q. And who's at the front door?

13 A. Andy.

14 Q. Would he normally fly the door open when he'd
15 come in?

16 A. No. So, I was -- I was sitting on the
17 ottoman. And when the door did that, I immediately
18 looked as to, you know, see what was going on.

19 Q. When you're describing this ottoman, are we
20 talking about what we see here sort of -- sort of south
21 of No. 13 right here?

22 A. Yes.

23 Q. Okay. Okay. So, you have a direct line of
24 sight to that front door?

25 A. I do.

1 Q. Okay. Do you get a good look at the defendant
2 as he's coming in?

3 A. I do.

4 Q. What, if anything, did you notice about the
5 defendant?

6 A. He had this look on his face as if he was
7 upset about something. So, he looked mad and upset.
8 And when we made eye contact, it's as if somebody's
9 shoulders are shrugged up and -- and went down.

10 Q. Was that odd to you?

11 A. It was odd to me.

12 Q. Why?

13 A. Because I had never seen him fly the door open
14 like that.

15 Q. For example, when the defendant would go out
16 to the garage and he would come back in -- it looks
17 like there's a door kind of by this No. 3, sort of a
18 little south. Do you see that?

19 A. I do.

20 Q. Is that the door into the garage?

21 A. It is.

22 Q. Okay. When he would be outside smoking and
23 he'd come inside, how would he open that door?

24 A. He would open it softly, gently as to come in
25 that way. You wouldn't get a whiff of --

1 Q. Of what he was smoking?

2 A. Right.

3 Q. And when he'd come back into the house after
4 he had been smoking in the garage, how would he be?

5 A. He would be different ways. It's like he
6 would go back and forth between normal and talking to
7 himself.

8 Q. Did he ever seem paranoid to you?

9 A. I don't -- I don't know if I would use the
10 word paranoid. Like he would pace back and forth.

11 Q. And how often would he pace back and forth?

12 A. Until my sister say, you know, babe, you want
13 to come sit down or, you know, you want to go lay down.

14 Q. And would that behavior, his pacing, the
15 talking to himself, would that be after he'd come out
16 of the garage from smoking?

17 A. Yes.

18 Q. Would he get sweaty?

19 A. I can't really say. I mean, I can't really
20 recall if he would sweat or not. I mean, he would
21 always do like this. So, I don't know if he's wiping
22 the sweat or rubbing his hair.

23 Q. Okay. Did you ever see him get angry after he
24 would come of the garage smoking whatever he had been
25 smoking?

1 MR. DAVIS: Objection to leading, Your
2 Honor.

3 THE COURT: Overruled.

4 A. Would I see him get angry? Nine times out of
5 10, no.

6 Q. (BY MS. BARD) But there would be occasions
7 where he would?

8 MR. DAVIS: Objection, leading.

9 THE COURT: Sustained.

10 Q. (BY MS. BARD) Okay. So, when he comes in the
11 door, does he look like -- does he look the same or
12 similar as to when he would come out of the garage door
13 smoking whatever he had smoked?

14 MR. DAVIS: Objection, Your Honor.
15 That's been asked and answered.

16 THE COURT: Sustained.

17 Q. (BY MS. BARD) When the defendant came in on
18 December 20th of 2013, you said he looked upset and mad
19 and he swung the door open.

20 MR. DAVIS: Objection to leading.

21 MS. BARD: Still asking my question, Your
22 Honor.

23 THE COURT: All right. Finish the
24 question.

25 Q. (BY MS. BARD) When he would come out of

1 smoking from the garage, did he look the same?

2 MR. DAVIS: Objection to asked and
3 answered.

4 THE COURT: I don't understand when
5 you're asking about. Rephrase your question.

6 Q. (BY MS. BARD) From the times that defendant
7 would come out of the garage after he had been smoking
8 whatever he was compared to the day that he came home
9 and he flung the door open on December 20th, did those
10 look the same?

11 MR. DAVIS: Objection, asked and
12 answered.

13 THE COURT: Overruled.

14 A. Okay. Did those look the same.

15 Q. (BY MS. BARD) Um-hum.

16 A. Not -- not necessarily, no.

17 Q. Okay. How so?

18 A. When he came in on December 20th and flung the
19 door open, he -- I mean, he looked like himself. He
20 looked upset.

21 Q. Okay. You say he looked like himself?

22 A. Like there was no recent, you know, garage
23 activity.

24 Q. And I mean, we're dancing around it, garage
25 activity, I mean, he was doing drugs in the garage.

1 Yeah?

2 MR. DAVIS: Objection, Your Honor,
3 speculation.

4 THE COURT: Sustained.

5 Q. (BY MS. BARD) You said that he was doing weed
6 in the garage, right?

7 MR. DAVIS: Objection, calls for
8 speculation.

9 THE COURT: She can say if she knows.

10 Q. (BY MS. BARD) Do you know if he was smoking
11 weed in the garage?

12 A. Right. The weed or the cow --

13 MR. DAVIS: Objection --

14 A. -- manure smell.

15 MR. DAVIS: -- to speculation.

16 THE COURT: She can say if she knows. I
17 mean, she either knows or she doesn't.

18 Q. (BY MS. BARD) Kind of a yes-or-no at this
19 point. Do you know if he was smoking weed in the
20 garage?

21 A. Yes.

22 Q. Do you know if he was smoking drugs, like
23 other drugs besides weed in the garage?

24 MR. DAVIS: Objection, calls for
25 speculation.

1 THE COURT: Sustained.

2 Q. (BY MS. BARD) Do you know if he was smoking
3 other drugs in the garage?

4 MR. DAVIS: Again, objection, calls for
5 speculation. It's the same question.

6 THE COURT: Well, I think it's been asked
7 and answered too, so sustained.

8 Q. (BY MS. BARD) Okay. So, the defendant comes
9 home and he's looking a little different.

10 What do you guys do? You had been doing
11 pizza. But what do you remember happen kind of next?

12 A. We basically -- me and Miah are still eating
13 our pizza at this point. Even though I ordered the
14 pizza, my sister did not eat any pizza. She -- they go
15 into the bedroom when he comes into the door.

16 Q. When you say they, you mean your sister and
17 the defendant?

18 A. Oh, I'm sorry. Goldie and Andy go in the
19 bedroom when he comes in. And once they go in the
20 bedroom, the bedroom door is closed.

21 And then she comes back out and she asked
22 him, did you -- do you want --

23 MR. DAVIS: Objection to hearsay.

24 THE COURT: Sustained.

25 Q. (BY MS. BARD) What happens after she comes

1 out of the bedroom?

2 A. She fixed him a plate of pizza.

3 Q. What happens next?

4 A. She takes the pizza in the bedroom.

5 Q. What do you remember happening next?

6 A. And next, Goldie and Andy go back in the
7 bedroom and close the door.

8 Q. Could you hear what was going on in there?

9 A. No.

10 Q. What are you doing while they're in the
11 bedroom?

12 A. I'm in the living room area. Between the
13 living room and the dining room on the ottoman
14 finishing up my pizza. And then I eventually go into
15 the bedroom to pack me and Miah's go-away bag. And I
16 tell Miah to get her stuff together as well.

17 Q. When you were sitting on the ottoman, were
18 there any clothes or anything on it?

19 A. No.

20 Q. So, when -- the TV -- we've seen a TV in some
21 of the pictures. And you were in the courtroom when
22 looking at some of the pictures. Yeah?

23 A. Yes.

24 Q. Okay. The TV that was in kind of the middle
25 of the foyer, had that been there?

1 A. Yes. That TV was always there.

2 Q. In the middle of the -- in the middle of the
3 hallway?

4 A. Oh. I thought you were talking about the TV
5 by the couch. No.

6 Q. So, the TV that's in the middle of the foyer,
7 was that there when you were sitting at the ottoman
8 eating pizza?

9 A. No.

10 Q. Okay. Was that TV there when you left the
11 house -- when you and Miah left the house?

12 A. No.

13 Q. So, you pack up a bag for Miah. You pack up a
14 bag for yourself. What do you remember doing next?

15 A. The next thing that I remember doing was
16 telling Miah, you know, that we're about to leave. I
17 go back into where I was sitting by the ottoman. And I
18 still hear Andy and Goldie in the bedroom. And I'm --
19 I'm going to the ottoman because I'm trying to hear
20 what's going on, but I can't hear it.

21 So, I go back in the room. I hear the
22 bedroom door open. And I hear the front room -- the
23 front door open.

24 Q. What do you do next?

25 A. I come out of the bedroom to see who went out

1 the door. And at that particular point, there's nobody
2 in the house. So, Goldie and Andy must have went out
3 the door.

4 Q. About what time or so is this?

5 A. By this time, it's getting close to 4:00
6 o'clock.

7 Q. So, they're outside and you have Miah with you
8 inside?

9 A. Miah, yes.

10 Q. Okay. What do you remember happening next?

11 A. Eventually they come back in the house because
12 the front door opens. So, they come back in the house.
13 And when they come back in the house, they go to the
14 bedroom and close the door.

15 At that particular point in time, like I
16 say, it's closer to 4:00 o'clock. So, me and Miah are
17 about to leave. So, I tell Miah get her stuff so we
18 can go. And I'm holding my shoes in my hand. I go and
19 I put the bag in my car. And I come back in the house.
20 And I tell Miah come on, let's go. And we begin to
21 walk out the door.

22 Q. Let me stop you there.

23 The defendant and your sister going back
24 and forth in and out of the bedroom, going outside,
25 coming back and forth, was that common between the two

1 of them?

2 A. No. I knew they were discussing something
3 that they didn't want us to hear.

4 Q. Did the defendant in any way seem intoxicated
5 to you?

6 A. Not really.

7 Q. You say not really, was there something about
8 him that did or --

9 A. It's just the -- the way he was acting. You
10 knew -- I'm sorry. You don't know. I knew that he had
11 smoked that day. He had this certain persona about
12 himself. But I would say it wasn't as impactful as,
13 you know, a fresh garage activity.

14 Q. Okay. So, the way he was acting would be
15 similar to the way when he'd come out of the garage.
16 You believed he might be intoxicated. Is that why you
17 were saying that?

18 A. Yeah.

19 Q. Okay. So, after you've got all the stuff in
20 the car, what do you do next?

21 A. I go back in the house so that Miah can come
22 outside with me. And at this point, I'm closing --
23 we're going out the door and I'm closing the door and
24 I'm locking the door. And immediately when I lock the
25 door, it's unlocked and Goldie opened the door. She

1 kind of peeked it open. And she said, you know, y'all
2 about to leave. And I said, yeah. And she was just
3 like okay, well, I'll see you later Niecy Pooh. She
4 called Miah Niecy Pooh. And Miah called her Auntie
5 Pooh.

6 So, she said I'll see you later Niecy
7 Pooh. She's like I love you. And I told her we would
8 be back on Sunday. And she told me --

9 MR. DAVIS: Your Honor, objection to
10 hearsay.

11 THE COURT: Sustained.

12 Q. (BY MS. BARD) Is that the last conversation
13 that you had with Goldie?

14 A. That's the last conversation and the last --

15 Q. As you're leaving, what is Goldie's emotional
16 state?

17 A. She -- she looked upset. She just -- I mean,
18 she looked upset.

19 Q. What time did you and Miah leave?

20 A. We leave about 4:00 o'clock because we were
21 getting on 288 and it normally has traffic.

22 Q. When you leave the house, who's left behind at
23 the house?

24 A. When I leave the house, Andy and Goldie are
25 still there.

1 Q. Did you notice in all of this activity that
2 was going on in the house, were any of either Goldie or
3 the defendant's bags being packed?

4 A. No.

5 Q. Did you know that -- whether or not the
6 defendant or your sister, if they had a gun in the
7 house?

8 A. No.

9 Q. Okay. And when you leave the house, is that
10 the last time you see or talk to the defendant?

11 A. Yes.

12 Q. Okay. As all that activity was going on in
13 the house -- let me ask it this way.

14 Did you ever go inside the defendant or
15 Goldie's bathroom?

16 A. No.

17 Q. Okay. So, you don't really know if anything
18 would be out of place or anything in that bathroom?

19 A. I mean, I've been in the bathroom before. I
20 would often go in her closet and her bathroom to borrow
21 stuff.

22 Q. When we're looking at State's Exhibit No. 71,
23 does this look like the master -- the master bathroom?

24 A. Yes.

25 Q. Okay. That giant hole that we see by the

1 doorknob, was that there the last time you had been in
2 the bathroom?

3 A. No.

4 Q. Okay. When -- do you remember when the last
5 time you were in the bathroom was?

6 A. Probably that Wednesday or Thursday.

7 Q. Okay.

8 MS. BARD: Pass the witness, Judge.

9 THE COURT: All right. Ladies and
10 gentlemen, we're going to take our lunch break here.
11 Your lunch was supposed to be here five minutes ago and
12 it's not here yet. So, I need to find out what the
13 heck is going on with that. So, I'm going to ask you
14 to go back to the jury room. As soon as we figure out
15 what's going on and get your lunch here, eat your
16 lunch. Let us know when you are finished. I'm going
17 to give everyone else about 30 minute or so to go have
18 their lunch.

19 But for now, go to the back. And as soon
20 as I find out what's going with the lunch, we'll let
21 you know.

22 (Jury out for lunch).

23 THE COURT: You can be seated.

24 (Court recess).

25 THE COURT: All right. Please be seated.

1 Mr. Davis?

2 CROSS-EXAMINATION

3 BY MR. DAVIS:

4 Q. Ms. Wright.

5 A. Yes.

6 Q. My name is Eric Davis and I'm going to ask you
7 some questions. Okay?

8 A. Okay.

9 Q. If I ask you something that you don't
10 understand or if I'm speaking too fast, just ask me to
11 slow down. It won't be a problem for few questions
12 that I have. Is that okay?

13 A. Okay.

14 Q. You know Gustavo Vasquez.

15 A. Do I know him?

16 Q. Yes, ma'am.

17 A. Yes, I do.

18 Q. And you've known him for a while.

19 A. Yes.

20 Q. And, Ms. Wright, we're sorry for your loss.

21 A. Thank you.

22 Q. From what I've heard about Goldie, she was an
23 incredible woman.

24 A. She was more than words.

25 Q. That's what I've been told as well.

1 And you loved Goldie.

2 A. Unconditionally.

3 Q. And you lived with her for how long, ma'am?

4 A. Since May -- May 2013 to December 2013.

5 Q. So, you were there for about seven months.

6 Would that be accurate?

7 A. Yes.

8 Q. And you lived with her and Gustavo?

9 A. Me and my daughter.

10 Q. Yes, ma'am.

11 During that seven-month period of time,
12 yourself, Gustavo, your daughter and Ms. Agnes all
13 lived together.

14 A. Yes.

15 Q. And when you were there every day while you
16 were reconciling with your relationship.

17 A. Yes.

18 Q. When you --

19 A. Outside of some of the days on the weekend.

20 Q. I'm sorry. Ma'am?

21 A. Outside of some of the days on the weekend.

22 Q. On those days on the weekend, you went back to
23 spend time with your husband to work on your
24 relationship.

25 A. Yes.

1 Q. And obviously -- and I'm not trying to get
2 into your business. But you and your husband got to a
3 point where you separated for a while, right?

4 A. During that time frame.

5 Q. Yes, ma'am.

6 In May when you moved in with Gustavo and
7 Agnes.

8 A. Yes.

9 Q. And you -- you were separated -- because in
10 our all relationships you have agreements and trouble.
11 Would you agree with that?

12 A. In all relationships? I can't speak on all
13 relationships.

14 Q. But it's not something that's uncommon for a
15 relationship, right?

16 A. My relationship or any relationship?

17 Q. Most relationships.

18 A. I guess, if that's what you want to say.

19 Q. And you like most relationships had some
20 disagreements and you separated to work through that,
21 right?

22 A. Myself or most relationships?

23 Q. Yourself, ma'am.

24 A. Myself, yes.

25 Q. And then when you moved in Gustavo -- when you

1 were there day to day, you didn't see Mr. Vasquez --
2 from that time in May through December when you were
3 there, you didn't see Mr. Vasquez being violent towards
4 Agnes; isn't that true?

5 A. No.

6 Q. Meaning you didn't see it or --

7 A. No, that's not true.

8 Q. Okay. So, you saw an occasion where they were
9 arguing, right?

10 A. Yes.

11 Q. And then Goldie said something like no, Andy,
12 right?

13 A. Yes.

14 Q. And that was on an occasion -- you said that
15 there was -- it was in November of 2013.

16 A. I said between October and November, yes.

17 Q. Yes, ma'am.

18 But besides that incident that you're
19 talking about where they had this argument -- this
20 verbal argument and her saying no, Andy, you didn't see
21 any acts of violence from Mr. Vasquez -- Gustavo
22 towards Agnes; isn't that true?

23 A. Outside of that event?

24 Q. Yes.

25 A. Yes, I did.

1 Q. Now, ma'am, the police were never called out
2 to Gustavo and Agnes' home; isn't that right?

3 A. In my presence, no.

4 Q. Okay. While you were there living there,
5 there wasn't an occasion when the police came out to
6 the scene. True?

7 A. While I was there, no.

8 Q. There wasn't a situation where you had the
9 need to call the police based on their interactions
10 together --

11 A. I've never called the police, no.

12 Q. Now, ma'am, I'm going to -- I'm going to do my
13 best not to talk over you when you're asking a
14 question.

15 The lady in front of you can't take us
16 both down at the same time. I'll do my best not to
17 start talking when you start talking. But if I'm
18 asking a question, please wait until I finish the
19 question. Because you're not going to know what
20 question I'm actually asking. Is that -- is that fair?

21 A. That's fair.

22 Q. There wasn't an occasion where you felt the
23 need to call the police; is that right?

24 A. No, there was not an occasion where I felt the
25 need to call the police.

1 Q. You would agree with me that Gustavo and Agnes
2 loved one other.

3 A. I would agree.

4 Q. That they lived in that house and you saw them
5 interact on a day-to-day basis, right?

6 A. On a day-to-day basis? No.

7 Q. You saw them interact with each other every
8 day; is that right?

9 A. No.

10 Q. Well, of course, there were times that you
11 weren't there on the weekends, right?

12 A. Right, but that's not --

13 Q. Yes, ma'am.

14 When you were there and Agnes and
15 Mr. Vasquez were all home, you saw him and her
16 interacting, right?

17 A. Not all the time, no.

18 Q. I understand.

19 Now, ma'am, there were times when you
20 talk about Mr. Vasquez going into the garage. Do you
21 remember saying all of that on direct examination?

22 A. I do remember that.

23 Q. You said it was frequent that he went into the
24 garage and you would smell different odors from the
25 garage, right?

1 A. Yes.

2 Q. He'd smoke cigarettes in the garage, right?

3 A. Not that I can recall.

4 Q. He'd smoke marijuana -- at least you'd see him
5 in the garage and smell marijuana --

6 A. Yes --

7 Q. Right?

8 A. -- I did smell marijuana.

9 Q. And then you'd see in the garage and smell
10 some other smell that you didn't recognize.

11 A. That's correct.

12 Q. And then that was a frequent basis.

13 A. Yes.

14 Q. And you'd see him after that as well, right?

15 A. Yes.

16 Q. And you'd see him come through the door after
17 that. Do you remember talking about that?

18 A. Yes.

19 Q. And he wouldn't fling open the door or
20 anything when he came in, right?

21 A. The garage door or the house door.

22 Q. The garage door, ma'am.

23 A. The garage door, no.

24 Q. All right. Now, the garage to the house when
25 the prosecutor was asking you questions on direct

1 examination -- you observed him after he came out of
2 the garage and you thought he was smoking or doing
3 drugs. And he'd come in. You would notice how he
4 would swing the door open. True?

5 A. Of the garage door?

6 Q. Yes, ma'am.

7 A. Yes.

8 Q. You said before that on August -- I'm sorry.

9 On December 20th of 2013, you saw Gustavo
10 come through the front door and fling open the door.

11 A. I did say that.

12 Q. You talked before saying that he looked like
13 he had been smoking, but not to the extent that he was
14 when he comes out of the garage; isn't that right?

15 A. Yes.

16 Q. When he came in the front door, you --
17 according to your testimony earlier -- thought he may
18 have been under the influence but not in the same way
19 as when he'd come out of the garage; is that right?

20 A. It was not a fresh influence, is what I
21 stated.

22 Q. Yes, ma'am.

23 You don't know what Gustavo was doing
24 prior to coming through the door; isn't that accurate?

25 A. The front door, no.

1 Q. Yes, ma'am.

2 You don't know what he was doing, but you
3 know he wasn't coming out of the garage, right?

4 A. I do know that.

5 Q. When you saw him coming out of the garage and
6 he has this fresh use of drugs, he was usually really
7 mellow, wasn't he?

8 A. Not all the time, no.

9 Q. He'd come in out of the -- I think you
10 described it to the prosecutor that he was kind of
11 slowed down a little bit when he'd come out of the
12 garage.

13 A. I don't believe I stated that he slowed down.

14 Q. I understand.

15 But on this day when you saw him, he
16 appeared different than he did when he came in through
17 the garage?

18 A. Right. There was an anger about him.

19 Q. He seemed more aggressive.

20 A. Yes.

21 Q. Right? Would that be accurate?

22 A. Yes, which I've seen before.

23 Q. Yes, ma'am.

24 Even though you've seen him under the
25 influence before, this time he appeared under the

1 influence, but he appeared more aggressive than he did
2 in the past; isn't that right?

3 A. Not more aggressive.

4 Q. He appeared aggressive?

5 A. Right, just aggressive.

6 Q. He flung open the door. And you testified
7 earlier that he was different than before.

8 A. Yes.

9 Q. Now, ma'am, when you were contacted by the
10 police -- because they contacted you -- after you were
11 informed of Agnes' death, you were contacted by the
12 police; is that right?

13 A. Yes.

14 Q. They were looking for you to try to make sure
15 you were okay. True?

16 A. No.

17 Q. I'm sorry?

18 A. No.

19 Q. All right. So, you were contacted and they
20 interviewed you about what happened?

21 A. No.

22 Q. So, when were you contacted by the police,
23 ma'am?

24 A. At what particular point in time are you
25 referring to?

1 Q. After Agnes' death.

2 A. On the day of?

3 Q. Yes, ma'am.

4 A. They asked me where my daughter was.

5 Q. They contacted you to make sure you were okay;
6 is that right?

7 A. No.

8 Q. Was it to confirm that -- you and your
9 daughter, where you were?

10 A. I answered the phone with the -- whoever had
11 called me. They asked me is this Tiffany. Yes, this
12 is Tiffany. Where is Miah? I said Miah is right here.

13 And I asked them why do you want to know
14 where Miah is. And they proceeded to inform me what
15 took place.

16 Q. Right.

17 So, at the time -- are you aware, ma'am,
18 that when the police go to the house and they find
19 Agnes' body, they didn't know where you z209/4
20 were. Were you aware of that?

21 A. I was not aware of that.

22 Q. Okay. So, you weren't aware that they were
23 concerned about where you were and they were trying to
24 locate you to make sure you were okay?

25 A. Based on the phone call that I just explained

1 to you, their initial question was where is Miah.

2 Q. Yes, ma'am.

3 A. So, to me, they were concerned about where
4 Miah was --

5 Q. Yes, ma'am.

6 A. -- which anybody would be.

7 Q. Yes, ma'am. But not you?

8 A. But they were on the phone with me, so they
9 understood that I was fine.

10 Q. I understand.

11 And Miah was okay as well.

12 A. Yes, she was.

13 Q. Okay. And so, when you talked to the police,
14 they talked to you about Mr. Vasquez, right?

15 A. No, they did not.

16 Q. So, when you talked to the police on the day
17 that this happened, is it your testimony the police
18 never tried to interview you to find out what occurred
19 prior to Mr. Vasquez coming or prior to your leaving
20 the home?

21 A. I ask that you please forgive me. Because
22 after they explained to me what happened, yeah, I was
23 done at that point.

24 Q. I understand.

25 In other words, you were emotional and

1 you were emotionally spent and not in any particular
2 state to be interviewed?

3 A. Exactly. So, I --

4 Q. I understand.

5 A. If they asked me something about him, I could
6 not tell you verbatim.

7 Q. Yes, ma'am, I understand.

8 At some point later, did you have contact
9 with the police and they interviewed you about what
10 occurred?

11 A. No.

12 Q. So, the police have never -- never sat down
13 and talked to you about what you saw in that house?

14 A. I remember speaking to the DA. I remember
15 speaking to the people of the court.

16 Q. So, let's back up, Ms. Wright. I just want to
17 make sure I understand.

18 Now, you were the last person to really
19 see Agnes before her death besides Mr. Vasquez, right?

20 A. Um-hum.

21 Q. And the police were aware of this, that you
22 had been in the house with --

23 A. Yes.

24 Q. -- with Agnes?

25 A. Um-hum.

1 Q. Right?

2 And no officer sat down and interviewed
3 you to find out what happened, ma'am?

4 A. I've only had conversation with officers via
5 phone. And that was on night of the conversation.

6 Q. All right.

7 A. So, as I stated, after they informed me what
8 took place, I couldn't tell you verbatim what was
9 spoken between the two of us.

10 Q. So -- so, after you have that phone
11 conversation with them over the phone and they tell you
12 what happened -- and you would agree with me, that this
13 -- this happened maybe a year and a half ago?

14 A. It happened on December 20th, 2013.

15 Q. Yes, ma'am.

16 And that's probably close to a year and a
17 half ago. Would you agree with that assessment?
18 Because this is 2015 and we're in April now.

19 A. Right.

20 Q. And so, within a year and a half time, no
21 police officers ever sat down and interviewed you and
22 talked to you about what you saw that night?

23 THE WITNESS: Can I ask him a question?

24 THE COURT: No, ma'am.

25 Q. (BY MR. DAVIS) Yes, ma'am. Go ahead.

1 THE COURT: I said no and you say yeah.
2 Now, who's in control here?

3 MR. DAVIS: You are, Judge.

4 THE COURT: Okay. Well, thank you.
5 You can ask her your next question,
6 please.

7 MR. DAVIS: Yes, sir.

8 THE COURT: All right.

9 Q. (BY MR. DAVIS) So, ma'am, my question to you
10 was again: So, within a year and a half time, is it
11 your testimony that no police officer has ever sat down
12 and tried to interview you about what happened and what
13 you saw?

14 A. No. I've only spoken to the police officer on
15 the phone on December 20th, 2013.

16 Q. Yes, ma'am.

17 And obviously, they didn't interview you
18 on December 20th, 2013, right? Because you were upset
19 when they told you about Agnes' death.

20 A. When I received the phone call on my phone, it
21 had not yet turned December 21st.

22 Q. All right. And so, after that phone
23 conversation you had with them all the way up until
24 now, is it your testimony that no police officer sat
25 down and tried to interview you to find out what

1 happened and what you saw.

2 MS. BARD: Your Honor, at this point, I'm
3 going to object to asked and answered. She said she's
4 not talked to another officer.

5 THE COURT: Sustained.

6 MR. DAVIS: Hadn't been answered, Judge,
7 in terms of -- in terms of that aspect. She said she
8 talked to somebody on the 20th. But following the
9 20th, I'm asking did she talk to anybody else after
10 that.

11 THE COURT: And I think she said no like
12 two or three times. And when I say I think that, it's
13 what I remember. And when I'm reading along right
14 here, that's what I see as well.

15 MR. DAVIS: Thank you, Judge.

16 Q. (BY MR. DAVIS) So -- so, ma'am, you would
17 agree with me that how Agnes appeared on that day was
18 important, right?

19 A. I would agree you with that --

20 Q. How Agnes appeared on that day was important?

21 A. How she appeared on that day was important.

22 Q. Um-hum.

23 A. Important to what? I'm sorry.

24 Yes, it's important.

25 Q. She appeared to be upset?

1 A. Yes. There were some appearance of upset and
2 worry.

3 Q. You're -- you're aware that Agnes would
4 oftentimes be upset with Gustavo about drug use?

5 A. Yes.

6 Q. That it was a point of contention for Agnes
7 with Gustavo, the fact that he may sometimes appear
8 high?

9 A. Yes.

10 Q. In fact, it was the main thing that they
11 argued about or had heated discussions about. Would
12 you agree with that?

13 A. It was one of many.

14 Q. If Gustavo had come home high on that day, on
15 the 20th, it would be something that would have
16 aggravated or agitated Agnes; isn't that true?

17 A. It's a possibility. I don't know if it was
18 one of those things on that day.

19 Q. Yes, ma'am.

20 Would you agree with me that oftentimes
21 if -- when Gustavo came home and he may have been
22 appeared to have been intoxicated or under the
23 influence, that Agnes oftentimes would shield him from
24 other people. Would that be true?

25 A. What other people? I'm sorry.

1 Not to my knowledge.

2 Q. All right. For example, if Miah was home and
3 you were home and Mr. Vasquez may have appeared to be
4 intoxicated, it was Agnes' tendency to shuttle him off
5 to their room; isn't that right?

6 A. No.

7 MR. DAVIS: May I have one moment, Judge?

8 THE COURT: Yes, sir.

9 (Brief pause).

10 Q. (BY MR. DAVIS) On December 20th, 2013, you
11 said that when Mr. Vasquez came in, you got a good look
12 at him, right?

13 A. Yes. I looked in his eyes.

14 Q. You didn't have a conversation with
15 Mr. Vasquez when he came in, did you?

16 A. I did not.

17 Q. You didn't see him involved in or heard his
18 conversation with Agnes either; isn't that right?

19 A. No. The only thing that I heard that he came
20 out of his mouth was hey, y'all.

21 Q. Yes, ma'am.

22 But in terms of him and his conversation
23 with Agnes, you didn't hear a conversation that he was
24 having with Agnes either; isn't that right?

25 A. Behind closed doors, I did not.

1 Q. You said you saw him pacing back and forth
2 when he was there on the 20th.

3 A. Yes.

4 Q. That was something that was unusual, wasn't
5 it?

6 A. No.

7 Q. You made note of it on the 20th, that when he
8 came in, he was pacing back and forth.

9 A. I made note of everything that took place on
10 December 20th, 2013.

11 Q. Yes, ma'am.

12 Ma'am, from May of 2013 through December
13 of 2013, was Miah living with you with Gustavo and
14 Agnes?

15 A. That's correct.

16 Q. So, the four of you were living together,
17 right?

18 A. Yes.

19 Q. And there were occasions that you left Miah at
20 the house with Gustavo and Agnes. True?

21 A. During that time frame?

22 Q. Yes, ma'am.

23 A. No.

24 Q. So, during the time frame from May to
25 December, was there a time that Agnes may have taken

1 care of Miah for you when you weren't there?

2 A. Maybe if I had gone to work.

3 Q. Were there occasions in time that Mr. Vasquez
4 watched Miah for you?

5 A. During that time frame?

6 Q. Yes, ma'am.

7 A. No.

8 MR. DAVIS: May I have one moment, Judge?

9 THE COURT: Yes, sir.

10 (Brief pause).

11 MR. DAVIS: May I approach the witness,
12 Your Honor?

13 THE COURT: Yes, sir.

14 Q. (BY MR. DAVIS) Ma'am I want to show us what's
15 marked as Defense Exhibit 1. Would you just take a
16 look at it?

17 A. (Witness complying).

18 Q. Do you see those photographs?

19 A. I do.

20 Q. Ma'am, I'm showing you these photographs.
21 These are in evidence. I'm going to put it over here
22 just so we can talk about it briefly.

23 Now, there are four pictures and they're
24 pictures of Mr. Vasquez.

25 Do you remember the clothing he was

1 wearing that night, ma'am?

2 A. If I can recall, the clothes was a gray shirt
3 and white shorts. Not the color that he has on.

4 Q. All right. So, you remember a different pair
5 of shorts --

6 A. Yes.

7 Q. -- that he had on?

8 I'm sorry?

9 A. Yes.

10 Q. In terms of his shoes, do you recognize
11 whether or not he had on any shoes?

12 A. In this photo, you're asking me if he has on
13 shoes?

14 Q. No. I'm asking do you remember -- I should
15 say that. Do you remember --

16 A. When he came into the door, yes, he had on
17 shoes.

18 Q. So, at some point in time he may have taken
19 off his shoes, ma'am?

20 A. I would assume so.

21 Q. Was there ever an opportunity for you to
22 document in any place the color of clothes that
23 Mr. Vasquez had on?

24 A. Was there an opportunity for me to document?

25 Q. Yes, ma'am.

1 A. No.

2 Q. Did you -- did you ever keep a journal or
3 anything like that, is what I'm asking?

4 A. No, I didn't keep a journal.

5 Q. And obviously, there's no record or notations
6 of any recorded conversations that you had that we
7 aren't aware of, right?

8 A. Not to my knowledge.

9 Q. Okay. So, you're remember the color of the
10 short he had on is pretty much your recollection?

11 A. Yes.

12 MR. DAVIS: I don't have any other
13 questions, Judge.

14 THE COURT: All right. Thank you, sir.
15 Ms. Bard?

16 MS. BARD: Briefly, your Honor.

17 REDIRECT EXAMINATION

18 BY MS. BARD:

19 Q. I'm sorry. I just want to be clear. On the
20 picture that we saw he was wearing -- it looked like
21 sort of a like a maroon-ish colored short. Is that
22 what you remember him wearing when he walked in?

23 A. When he walked in, I remember a gray shirt and
24 white shorts.

25 Q. Okay. Did he have a uniform, like for work or

1 anything like that?

2 A. Yes.

3 Q. Okay. Was that -- when he was walked in the
4 door, was he wearing his uniform for work?

5 A. Yes.

6 Q. Do you ever remember before you left the
7 defendant turning on the water, like in the bathtub or
8 the bathroom?

9 A. The shower was on.

10 Q. The shower was on.

11 When the defendant would come out of the
12 garage and he'd be doing his pacing and, you know,
13 talking thing --

14 MR. DAVIS: Objection to leading, Your
15 Honor.

16 THE COURT: Don't lead your witness.

17 Q. (BY MS. BARD) When he was doing all of that,
18 was it common for him to go take a shower afterwards?

19 A. After he would come out of the garage, it
20 would be common for him to go lay down or to go take a
21 shower.

22 Q. Okay. Would Goldie ever encourage him to do
23 either of those two things if he seemed to be
24 unmanageable?

25 A. Yes.

1 MS. BARD: Pass the witness.

2 THE COURT: Mr. Davis?

3 MR. DAVIS: No other questions, Your
4 Honor.

5 THE COURT: All right. Thank you, ma'am.
6 You may step down and step back to your seat.

7 State, call your next witness, please.

8 MS. MORNEAU: Judge, can we approach?

9 THE COURT: Okay.

10 (Bench conference on the record).

11 MS. MORNEAU: Our next witness has a
12 translator. Q said they'd be here by 2:30. So, I
13 just didn't know if they were here yet.

14 MS. BARD: Do you know if he's in the --
15 I don't even know if he's in the back. I need to call
16 a witness and then -- I don't have the translator.

17 THE COURT: Well, I don't know.

18 MS. BARD: Do you mind if I go look real
19 quick? And if he's not there, we'll call another
20 witness. Is that okay?

21 THE COURT: Okay.

22 (End of conference).

23 THE COURT: All right. Ladies and
24 gentlemen, y'all step to the back for a moment, please.

25 (Jury out).

1 (Court recess).

2 (Jury in).

3 THE COURT: All right. Please be seated.

4 For the purposes of the record, State
5 will you call your next witness?

6 MS. MORNEAU: State calls Isaias
7 Verduzco.

8 THE COURT: All right. Ladies and
9 gentlemen, this witness was sworn in outside your
10 presence.

11 Sir, I need to give you some
12 instructions. Mr. Dodson standing next to you is the
13 court's interpreter. He is going to be interpreting
14 English to Spanish for you and then from Spanish to
15 English for the rest of us. The lawyers are going to
16 be asking you questions in English. Even if you
17 understand English or some English, please let the
18 court interpreter interpret the question to you fully
19 in Spanish before you answer. And when you answer,
20 please answer in Spanish for the interpreter to
21 translate to English for the rest of us.

22 Understand?

23 THE WITNESS: Yes.

24 THE COURT: Okay. Thank you, sir.

25 Ms. Morneau?

1 ISAIAS VERDUZCO,
2 having been first duly sworn, testified through the
3 duly sworn interpreter as follows:

4 DIRECT EXAMINATION

5 BY MS. MORNEAU:

6 Q. Could you introduce yourself to the jury?

7 A. My name is Isaias Verduzco.

8 Q. And where do you live?

9 A. In 5715 Vendi Drive, Houston, Texas, 77085.

10 Q. And who do you live with there?

11 A. With my wife.

12 Q. And how long have you lived there?

13 A. Up to now three years.

14 Q. Did you live there on December 20th of 2013?

15 A. Yes.

16 Q. And I'm showing you a picture that's in
17 evidence as State's Exhibit 17. Okay. Is this your
18 house?

19 A. Yes.

20 Q. On the right?

21 A. Yes.

22 Q. Do you know the people who live on the house
23 on the left?

24 A. Just by sight.

25 Q. Okay. But you know that something happened at

1 their house on December 20th of 2013?

2 A. Yes.

3 Q. And that that's what we're here -- and the
4 police talked to you about that?

5 A. Yes.

6 Q. Were you home that day?

7 A. Yes.

8 Q. And did you hear anything unusual that
9 afternoon?

10 A. Yes.

11 Q. What did it sound like?

12 A. Noise and then some explosions that sounded
13 like gunshots, like maybe fire crackers, but they were
14 gunshots.

15 Q. Okay. Did you hear -- how many did you hear?

16 A. About five or six, more or less.

17 Q. Okay. Did you hear them all at once or was
18 there a pause?

19 A. There was a pause.

20 Q. Okay. Before you heard the explosions, did
21 you hear anything like people arguing?

22 A. I heard noise, but they weren't arguing.

23 Q. And that night, did you call the police?

24 A. I called the police once they were already
25 there because I didn't know if it was the police or if

1 they were robbers. Because there had been a lot of
2 robberies there on that block.

3 Q. Okay. Did you call the police any other
4 night?

5 A. No. My wife called them before whenever she
6 was alone at home and someone tried to come into the
7 house during the day.

8 Q. Okay. After this happened on December 20th,
9 did you find something in your house that did not
10 belong there?

11 A. No.

12 Q. You -- on December 26th, that you never talked
13 to the -- never had a police officer come out to your
14 house?

15 A. After the tragedy?

16 Q. After the tragedy.

17 A. Yes. Yes.

18 Q. Okay. Why did you call the police to come out
19 to your house after the tragedy?

20 A. Because after the tragedy, I found the window
21 of my house broken with two gunshots. And there was a
22 visible --

23 MR. DAVIS: Objection to relevance.

24 THE COURT: Come up.

25 (Bench conference on the record).

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THE COURT: Can you give me some help on how a broken window six days later?

MS. MORNEAU: It's going to -- if I can proffer to the Court? What he's going to say is that what he found under the broken window was shotgun shell that came through his house. Then an officer comes out and finds on the outside sheetrock to the defendant's house a hole. So, basically the defendant in this case shot through the house into their house. That's what the relevance of this is.

THE COURT: Okay.

(End of conference).

THE COURT: Overruled.

THE INTERPRETER: The remainder of the answer was: There a visible bullet in the window.

Q. (BY MS. MORNEAU) Looking at this picture in State's Exhibit No. 17, which window?

A. It can't be seen very well, but it's right about here. It's the first one. There are three. It's this one here. It can't be seen well, but it's right there.

Q. Okay. And after you found the bullet inside of your window, did you touch it or move it?

A. No. I called the police immediately.

1 Q. Okay. And did the police come and remove it
2 and take it away?

3 A. Yes.

4 But there were two bullets. Well, I only
5 saw one, but there were gunshots -- two holes.

6 Q. Okay. So, you saw one bullet and two holes?

7 A. Yes.

8 Q. And were both of the holes in the window?

9 A. Yes.

10 MS. MORNEAU: Your Honor, can I approach?

11 THE COURT: Yes, ma'am.

12 Q. (BY MS. MORNEAU) Showing you what's been
13 marked as State's Exhibit No. 92. Is this what the
14 bullet looked like?

15 A. Yes.

16 Q. Okay. About what time was it that you heard
17 the explosions?

18 A. Around 5:00, more or less.

19 Q. Okay. And you said that there was a pause.
20 About how many shots were there before the pause and
21 how many shots after the pause?

22 A. Before there were -- there was like an
23 explosion. And I don't know if it was like three or
24 four shots all together. That's why it sound like an
25 explosion but I know they were shots. Two or three,

1 something like that.

2 Q. And then a pause?

3 A. Yes, a deep silence.

4 Q. Okay. And then how many more shots after
5 that?

6 A. Like five or six. Five or six. Pardon me.

7 MS. MORNEAU: Pass the witness.

8 THE COURT: Mr. Davis?

9 MR. DAVIS: May I have one moment,
10 Judge?

11 THE COURT: Yes, sir.

12 MR. DAVIS: I have no questions, Your
13 Honor.

14 THE COURT: All right. Thank you, sir.
15 Thank you, sir. You may step down and
16 step outside.

17 Call your next witness, please.

18 MS. BARD: Your Honor, the State calls
19 Chandler Bassett to the stand.

20 THE COURT: Ms. Bard?

21 CHANDLER BASSETT,
22 having been first duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. BARD:

25 Q. Could you please introduce yourself to the

1 jury?

2 A. My name is Chandler Bassett.

3 Q. And what do you do for a living, sir?

4 A. I am a firearms examiner.

5 Q. Now, that sounds like a cool job. How do you
6 get that job?

7 A. My formal education consists of a degree in
8 forensic science from Baylor University. And after
9 that, I applied and I went through a two-year
10 comprehensive training course under the direct
11 supervision of more senior firearms examiners.

12 Q. How long have you been working for -- or where
13 do you work?

14 A. I currently work for the Houston Forensic
15 Science Center.

16 Q. How long have you worked for them?

17 A. Approximately six years.

18 Q. And during that whole time, have you been a
19 firearms examiner?

20 A. Yes, I have.

21 Q. Okay. And what does that mean, to be a
22 firearms examiner?

23 A. It's my job to examine firearms and firearms
24 related evidence, meaning bullets and cartridge cases,
25 to try and determine if the fired evidence can be

1 identified back to a particular firearm.

2 Q. Do you have any special schooling or training
3 in regards to sort of making that identification?

4 A. Yes. That's part of our two-year training
5 course.

6 Q. And are you taught just at the forensic
7 science center or do you go places and learn about guns
8 and their -- their markings?

9 A. The bulk of our training was done in-house,
10 but I've also received training from firearm
11 manufacturers such as Glock Arms, Colt Arms, SIG Arms
12 and Hi-Point Arms.

13 Q. Have you ever testified before as an expert in
14 Harris County?

15 A. Yes, I have.

16 Q. On few or many occasions?

17 A. I believe this will be my 10th time.

18 Q. Would you say that there is a difference doing
19 a firearms examination on a pistol or a handgun versus
20 a shotgun?

21 A. There are differences, yes.

22 Q. Okay. What would be the differences in
23 regards to a shotgun?

24 A. The main difference between a pistol and a
25 shotgun would be most shotguns are smooth bore. And

1 that means that they don't really put markings on the
2 projectiles that come out of the shotgun. Whereas a
3 pistol or rifle, in most cases, have rifling and they
4 will put markings on the projectile as it's going down
5 the barrel.

6 Q. So, when looking at a shotgun, what kind -- or
7 the shotgun evidence, for example, the shells or the
8 wadding -- and we'll describe a little bit more about
9 that in a minute.

10 What kind of identification or analysis
11 can you perform?

12 A. I can perform comparisons between the fired
13 evidence, between the fired shot shells and say the
14 known test-fires that I create in the laboratory. I
15 can also attempt to do that with the fired projectiles
16 and try to make identifications back.

17 But for the most part with a smooth bore
18 shotgun, you're not going to see much with the
19 projectiles.

20 Q. Now, in the case that we have here today, did
21 you do the firearms examination and analysis?

22 A. Yes, I did.

23 Q. Okay. And how -- is it sort of a random
24 process or do you get to pick and choose what you want
25 to get involved in?

1 A. My supervisor assigns cases to analysts
2 depending on their workload.

3 Q. Okay.

4 MS. BARD: Your Honor, may I approach the
5 witness?

6 THE COURT: Yes, ma'am.

7 Q. (BY MS. BARD) Now, Mr. Bassett, I'm going to
8 show you -- I'm going to show you several pieces of
9 evidence. And I want you to tell me whether or not you
10 examined it.

11 Looking at State's Exhibit 82, you see
12 that there and the stuff inside. Go ahead and pull it
13 out for me.

14 A. Okay. Yes, I did.

15 Q. Okay. What are we looking at there that was
16 inside State's Exhibit 82?

17 A. These are fired shot shells.

18 Q. How many are there?

19 A. There are seven here.

20 Q. Okay. And then if I show you --

21 A. They also contain some waddings too.

22 Q. Okay. Looking at State's Exhibit No. 124,
23 what are we looking at there?

24 A. This is also a fired shot shell.

25 Q. Okay. Now, just for the purposes of the jury

1 -- we noticed that you were holding and handling and
2 kind of twisting and turning the bags around that these
3 shot shells come in.

4 A. Correct.

5 Q. What were you looking for?

6 A. I was looking for the HPD incident number on
7 the shot shell as well as our unique case or our unique
8 item identifier that we write on them. And I was also
9 making sure that my initials and date were at the top.
10 That's how I know that these have been shot shells that
11 I examined in this case.

12 Q. All right. So, when we're looking at Exhibit
13 124, for example, one of the shot shells, you actually
14 wrote on the bag the unique case number, your initials,
15 the item number and the date and time.

16 A. Our evidence technician would have written on
17 the bags --

18 Q. Okay.

19 A. -- at the time it was logged in.

20 Q. But this tells you it's specifically designed
21 for this case and you know you looked at it based on
22 that stuff?

23 A. Correct.

24 Q. Okay. So, we were able to do some analysis on
25 some shot shells.

1 A. Yes.

2 Q. Okay. You also had -- you also had -- for
3 example, in State's Exhibit No. 78, what are we looking
4 at there?

5 A. These are various types of waddings.

6 Q. I'll talk about what those mean in a second.

7 Looking at State's Exhibit No. 79, what
8 are we looking at -- and inside of State's 79 is 80 and
9 81.

10 A. Okay. State's Exhibit 80 is consistent with a
11 fired slug from a 12-gauge. Exhibit 81 is consistent
12 with a buckshot.

13 Q. Okay. So, you had shells. You had waddings.
14 You had buckshot. You had slugs.

15 A. Correct.

16 Q. And I believe you also had several pieces of
17 wadding and stuff inside of a bag that was labeled by
18 typically the medical examiner. Yeah?

19 A. Correct.

20 Q. Okay. And that was labeled -- I'm sorry --
21 State's Exhibit 93.

22 And looking at State's Exhibit 92 -- what
23 are we looking at in State's Exhibit 92?

24 A. 92 is a fragment that's possibly lead, but I
25 couldn't really make a determination on its origin.

1 Q. Okay. And we'll talk a little bit about that
2 in a moment. But this is all of the evidence that you
3 examined in this case including -- including the
4 shotgun that we have here?

5 A. Correct.

6 Q. Okay. Now, looking at the shotgun -- it's
7 tagged as State's 77 with the ticker up there. Does
8 this shotgun appear to have changed or been altered in
9 any way since you've last seen it?

10 A. Can I verify that it's the shotgun in my case?

11 Q. Absolutely.

12 A. Okay. It appears the same.

13 Q. Okay. And what were you looking at to
14 determine whether or not it was the same?

15 A. Our -- again, our HPD incident number and the
16 unique case item identifier is engraved on the shotgun.

17 Q. Okay. And is that done by you or one of the
18 evidence techs?

19 A. It's done by our evidence technician.

20 Q. Okay. I want to show you what has been
21 previously marked as State's Exhibit 126. Are you
22 familiar with what's depicted in State's Exhibit 126?

23 A. Yes, I am.

24 Q. Do you believe it would aid your testimony
25 before the jury in regards to how different shotgun

1 shells fire and what comes out of them?

2 A. Yes, it would.

3 Q. Okay. Do they fairly and accurately depict
4 what a slug shotgun shell and a birdshot or buckshot
5 shotgun shell would look like?

6 A. Yes, it does.

7 Q. Okay.

8 MS. BARD: Your Honor, at this time I
9 would offer into evidence State's Exhibit No. 126 and
10 tender to opening counsel for any objection.

11 MR. DAVIS: Your Honor, we object to
12 State's Exhibit 126. It hasn't been properly
13 authenticated and there's not a proper foundation.

14 May we -- may we approach briefly, Judge?

15 THE COURT: Okay.

16 (Bench conference on the record).

17 MR. DAVIS: It appears to be a
18 demonstrative aid.

19 THE COURT: Okay.

20 MR. DAVIS: And I'd object to relevance
21 and it hasn't been properly -- improper foundation.

22 THE COURT: Okay. That's overruled.

23 (End of conference).

24 THE COURT: State's 126 will be admitted.

25 Q. (BY MS. BARD) Okay. For the ladies and

1 gentlemen of the jury who are not familiar with
2 shotguns -- we're typically familiar with bullets, but
3 not shells so much.

4 MR. DAVIS: I would to object to counsel
5 testifying, Your Honor.

6 THE COURT: Sustained.

7 Q. (BY MS. BARD) Okay. We see in State's
8 Exhibit 126 two type of shotgun shells. What is the
9 big difference?

10 A. The main difference is the shotgun shell on
11 the right fires multiple projectiles. While the
12 shotgun shell on the -- excuse me. The shotgun shell
13 on the left fires multiple projectiles. While the
14 shotgun shell on the right fires a single projectile
15 called a slug.

16 Q. What is the projectiles -- for example, what
17 we see in State's Exhibit 126 on the left. You had
18 described some of the stuff that you had analyzed as
19 buckshot and then some birdshot. What's the
20 difference?

21 A. Buckshot -- really the only difference is
22 birdshot is a smaller shot. Buckshot is very large.
23 It's designed for hunting bigger game or for home
24 defense, things like that.

25 Q. How does it work? When either one of these

1 shells gets placed in the shotgun, how does it work?

2 A. Do you mean how does it -- how does the firing
3 process work?

4 Q. Correct.

5 A. Okay. Whenever the trigger of the shotgun is
6 pulled, the firing pin is going to hit the primer at
7 the base of the shotgun shell. That creates a spark
8 which will then ignite the gunpowder. The gunpowder
9 then expands and it pushes the wadding and the shot or
10 slug out of the barrel and towards the target.

11 Q. So, when we're looking at, for example,
12 State's Exhibit No. 92, what kind of, I guess, fragment
13 or projectile are we looking at here?

14 A. I could not make a determination on that. It
15 could possibly be lead -- a lead projectile. But other
16 than that, I really could not make a determination on
17 that slug.

18 MR. DAVIS: Your Honor, may we approach
19 briefly?

20 THE COURT: Yes, sir.

21 (Bench conference on the record).

22 MR. DAVIS: I don't know if I missed it,
23 but I don't have 92 as being admitted.

24 THE COURT: No, you're right. 92 is not
25 in evidence yet.

1 MR. DAVIS: So, I'd object to the witness
2 being shown an exhibit that's not in evidence.

3 THE COURT: That's sustained.

4 MR. DAVIS: I'd ask that the jury be
5 instructed to disregard that previous part of the
6 testimony, Your Honor.

7 (End of conference).

8 THE COURT: All right. Ladies and
9 gentlemen, you're instructed to disregard the last
10 question and answer from -- question from the
11 prosecutor and answer from the witness.

12 Q. (BY MS. BARD) All right. Looking at State's
13 Exhibit 80, what are we looking at there? Can you
14 tell?

15 A. This is consistent with a slug that has been
16 fired from a 12-gauge shotgun.

17 Q. So, if we were looking at State's Exhibit 126,
18 we'd be talking about the shell casing on the right?

19 A. That is correct.

20 Q. Okay. When we're looking at, for example,
21 State's Exhibit 81, what are we looking at there?

22 A. This is a shot pellet. And it's consistent
23 with single or double-aught buckshot.

24 Q. When looking at those compared to what the
25 ME's bag provided -- just for size purposes. Let's see

1 that --

2 MR. DAVIS: And, Your Honor, I'd object
3 to counsel publishing something that's not in evidence
4 as well. I don't think that's in evidence, what she's
5 about to show the jury.

6 THE COURT: Well, I don't know what she's
7 about to show. But if it's not in evidence, don't show
8 it.

9 MS. BARD: Okay.

10 Q. (BY MS. BARD) Did you do some examination on
11 the stuff that the medical examiner's office provided?

12 A. Yes, I did.

13 Q. Okay. And did you determine that there were
14 non-buckshot, non-slug materials recovered?

15 MR. DAVIS: Objection to leading, Your
16 Honor.

17 THE COURT: Overruled.

18 Q. (BY MS. BARD) You can answer.

19 A. Yes, I did.

20 Q. Okay. And that would be what is commonly
21 referred to as birdshot, correct?

22 A. That's correct.

23 Q. Would birdshot typically be bigger or littler
24 than what we see in State's Exhibit 81, this sort of
25 ball here?

1 A. Birdshot would typically be smaller.

2 Q. Birdshot or buckshot traditionally would come
3 out of what we see here on State's Exhibit 126, the
4 picture on the left. Is that fair?

5 A. That's correct.

6 Q. Yes?

7 A. Yes, that's correct.

8 Q. Okay. Other things that you looked at
9 including, for example, State's Exhibit No. 78 -- what
10 are we looking at there?

11 A. These are various types of waddings.

12 Q. Looking at -- back to State's Exhibit 126,
13 what do those waddings do? Where are they? How do
14 they work?

15 A. The wadding of the shot shell is -- it's the
16 -- if you can see picture, it's the middle part that
17 looks kind of plastic on the picture.

18 And the main purpose of that is to
19 separate the gunpowder from the shot. And also to
20 create a seal whenever the entire wadding and shot is
21 moving down the barrel. And there are various kinds
22 and all shapes and sizes and types.

23 Q. Inside of a shotgun shell, are there going --
24 is there going to be just one wad? Could there be
25 multiple wads? Do you know?

1 A. Depending on the manufacturer and even
2 depending on what kind of shot shells they make within
3 their own company, it can vary greatly.

4 Q. Okay. Looking at State's Exhibit 91 and 90.
5 Can you see those?

6 A. Yes.

7 Q. Okay. What are we looking at there?

8 A. Those are more waddings. But the two on the
9 top -- I believe there's something else in the lower
10 bag.

11 Q. So, there's --

12 A. But the ones that look like they have petals,
13 those are more specifically called shot carriers. And
14 they carry the shot down the barrel.

15 Q. If we zoom in for a second, do you see that?

16 A. Yes.

17 Q. Okay. How does that work within the shotgun
18 shell?

19 A. This is the part that kind of surrounds the
20 shot and keeps it all together and keeps it kind of
21 away from the barrel, away from deforming and the shots
22 -- so, the shot does not bounce in the barrel and
23 deform. This kind of holds it all together as it's
24 going down the barrel. And that's the purpose of the
25 shot carrier.

1 Q. Okay. Okay. Looking at State's Exhibit --
2 looking at, for example, State's Exhibit 89. What are
3 we looking at here?

4 A. That is a fired shot shell.

5 Q. Okay. And so, when we're looking at, for
6 example, State's 126 -- this is what gets left behind.
7 Everything else comes shooting out of it.

8 A. That's correct.

9 Q. Okay. And how does this make its way into the
10 shotgun, for example?

11 A. May I demonstrate?

12 Q. Sure.

13 A. On this particular shotgun, the shot shells
14 would be loaded from the bottom and pushed forward into
15 the tube magazine.

16 Q. Now, how many of these shot shells can fit
17 inside of that shotgun?

18 A. I determined that five shotgun shells can fit
19 inside the magazine tube, plus there could be one in
20 the chamber for a maximum of six rounds.

21 Q. How many shotgun shell -- fired shotgun shell
22 rounds did you examine in this case?

23 A. I examined eight.

24 Q. Okay. So, that would require at a minimum
25 this shotgun being reloaded if it was shot with eight

1 -- if eight shells were shot?

2 A. If eight were fired consecutively, yes, there
3 would have to be some sort of reloading.

4 Q. Okay. How do the shells make their way from
5 this tube up into the -- if you will, the firing tube
6 in order to be fired?

7 A. After the shells are loaded into the tube, the
8 -- this called the pump -- the pump -- you pull the
9 pump off -- excuse me. You pull the pump all the way
10 back and that releases one shell to come to this lower
11 portion of the receiver. And as the pump gets pushed
12 forward, there's a lifter in here that lifts the shell
13 up and then the bolt shoves it forward into the
14 chamber.

15 Q. Are you familiar with sort of a protective, if
16 you will -- like a -- a stop-gap when these shotguns
17 are sold that only allow up to three shots being within
18 the firearm?

19 A. Yes. For some shotguns, they come with a plug
20 where only two shotgun shells can be put in the
21 magazine tube, for a total of three.

22 Q. Okay. Did you find that plug in this shotgun?

23 A. No, I did not.

24 Q. Is it easy to remove that plug or does it take
25 some effort?

1 MR. DAVIS: Objection, Your Honor, calls
2 for speculation and relevance.

3 THE COURT: Overruled as to relevance.
4 He can answer if he knows from his own personal
5 knowledge.

6 A. Can you ask the question again?

7 Q. (BY MS. BARD) Sure. To remove the plug from
8 a shotgun -- for example, this one. Is it an easy --
9 relatively easy process or does it take some effort?

10 A. From my experience, it's relatively easy.

11 Q. Okay. Okay.

12 MR. DAVIS: May Your Honor, may we
13 approach briefly?

14 THE COURT: Yes, sir.

15 (Bench conference on the record).

16 MR. DAVIS: I would object to their
17 removing the zip tie. If she's planning on loading the
18 shotgun, Judge -- and I think that's what she's going
19 to do, is have him load the shotgun. I would object to
20 that.

21 THE COURT: You're going to have him load
22 it?

23 MS. BARD: No.

24 THE COURT: Well, for purposes of the
25 record, I would sustain your objection and say no,

1 we're not going to load the shotgun. And she says
2 she's not going to do that.

3 MS. BARD: I'm having the -- just for
4 purposes -- I'm having the safety zip removed to
5 explain some of the safety mechanisms and features that
6 go with the gun. But I am not loading, nor do I have
7 any sort of unfired cartridge in the courtroom.

8 MR. DAVIS: Okay.

9 THE COURT: All right. Thank you.

10 (End of conference).

11 MS. BARD: Is it safe, John?

12 THE BAILIFF: It's safe.

13 MS. BARD: Thank you sir.

14 Q. (BY MS. BARD) All right. Now, there are
15 safety mechanisms and features that come with this
16 shotgun, correct?

17 A. That's correct.

18 Q. Okay. Would you hold that?

19 Can you describe -- well, most people are
20 probably familiar with this sort of -- like a little
21 safety button. Can you describe -- does this shotgun
22 have that?

23 A. Sure. Whenever the shotgun is chambered,
24 there is a safety. You can see it right here. It's
25 just a button safety. We call it a cross-bolt safety.

1 And when that is engaged, the firearm will not fire.

2 If it's disengaged, then it will fire.

3 Q. And that is located on the back side of the
4 trigger, correct?

5 A. Yes, that's correct.

6 Q. Okay. If the gun is the way that it is now,
7 where the pump is all the way forward --

8 A. Okay.

9 Q. -- and somebody fires and pulls the trigger --

10 A. Um-hum.

11 Q. Okay. Can the gun re-fire another shell?

12 A. Not without first being pumped again.

13 Q. Okay. So, for example, if this one had been
14 -- has the trigger been depressed?

15 A. No.

16 Q. Okay. Go ahead and depress it.

17 A. Okay.

18 Q. All right. So, that would be a shot.

19 In order to reload, what needs to happen
20 next?

21 A. After the shot's been fired, it will not fire
22 again on its own. To reload, you must pull the pump
23 all the way back. It ejects the fired shot shell.
24 Push it forward and the next shell is loaded into the
25 chamber.

1 Q. Okay. So, if -- for example, if you didn't
2 think that the gun was loaded and you accidentally
3 fired one and then realized it fired and you put it
4 down, would it be able to fire again?

5 A. No, it would not.

6 Q. Would that gun be able to fire after it's been
7 -- the trigger has been depressed and a shell has gone
8 out, would it be able to fire any of those unfired
9 shells without making that pumping action?

10 A. No, it would not.

11 Q. Okay. Would you agree that the trigger finger
12 is a safety mechanism with all firearms?

13 A. I would agree with that.

14 Q. Okay. So, if I don't press the button -- if I
15 don't pull the trigger, that gun is not going to go
16 off?

17 A. That's correct.

18 Q. Okay. There's a third safety feature that
19 goes with these particular types of shotguns, correct?

20 A. Yes, there is.

21 Q. Okay. Let's describe that for the jury.

22 A. So, this safety feature is called the slide
23 disconnect. And what that does is if the pump is
24 slightly back, the gun will not fire. This keeps it
25 from firing out of battery. It needs to be fully

1 forward and chambered for it to fire.

2 Q. Okay. So, we've got the trigger finger as a
3 safety. We've got the fact that you actually have to
4 pump it and reload it in order for it fire again.

5 A. Correct.

6 Q. We have the -- I'm sure I'm going to get this
7 wrong -- the cross-bolt safety or the little button
8 safety.

9 A. That's correct.

10 Q. Did I get it right?

11 A. You did.

12 Q. Yeah. And we have the slide disconnect
13 safety.

14 A. Correct.

15 Q. Okay. So, that's four?

16 A. Correct.

17 Q. Okay. After the shells are fired -- for
18 example, you said this could hold up to six.

19 A. Correct.

20 Q. You wanted to fire any more than six, you
21 would have to reload the shotgun, correct?

22 A. Correct.

23 Q. And go through that same process of pumping
24 the shotgun back and putting it -- putting the shell up
25 into the firing chamber?

1 A. That's correct.

2 Q. Okay. Were you able in your testing to
3 determine -- State's Exhibit 77, was it a fully
4 functional working firearm?

5 A. Yes, it was.

6 Q. And how do you know that?

7 A. Because I did my full function test on it,
8 meaning I tested the safeties. I did my trigger pulls.
9 And I also test-fired it myself to make sure that it
10 did function.

11 Q. Did all of the safeties work when you were
12 examining the firearm?

13 A. Yes, they did.

14 Q. Okay. And the firearm itself worked when all
15 of the safeties were, if you will, released?

16 A. Correct.

17 Q. Okay. Now, you said something about trigger
18 pull.

19 A. Yes.

20 Q. What is that?

21 A. Trigger pull is simply the amount of pressure
22 in pounds it takes to pull the trigger and make the gun
23 go off.

24 Q. What is the trigger pull for this shotgun,
25 State's No. 77?

1 A. I'm going to have to look at my notes really
2 quick.

3 Q. Sure. Go ahead.

4 A. It was five and a half to six pounds.

5 Q. Okay. Would you say, based on your training
6 and your experience with other shotguns, is that really
7 light, is that really heavy?

8 A. It's really pretty standard.

9 Q. Based on your judgment and your looking of the
10 trigger mechanism, did it appear to have been altered
11 in any way?

12 A. No, it did not.

13 Q. Okay. Now, for example, what type of shotgun
14 is this?

15 A. This is a pump-action shotgun.

16 Q. Okay. And I believe -- you know, there are
17 some pistols that are like 9 millimeter or .40 caliber.
18 What type of, if you will, caliber of pistol or shotgun
19 -- I'm sorry -- was this?

20 A. This is a 12-gauge shotgun.

21 Q. Okay. What does that mean, 12-gauge?

22 A. You know, I know this, but I would have to
23 look it up to figure out exactly what 12-gauge means.

24 Q. Did you just blank?

25 A. Yes, I did.

1 Q. Fair enough.

2 All right. There are, for example,
3 20-gauge shotguns.

4 A. Correct.

5 Q. Okay. Are 20-gauge smaller or bigger than
6 12-gauge?

7 A. They are smaller.

8 Q. Okay. So, 12-gauge, their shells and what
9 gets projected from them are actually a little bigger
10 than, for example, a 20-gauge?

11 A. That's correct.

12 Q. Okay. So, you determined that the shotgun
13 itself was working, that the safeties were working.

14 How do you determine or were you able to
15 determine if the shotgun shells were fired -- that we
16 have, for example, and we've seen -- that they were
17 fired from that shotgun, State's 77?

18 A. Whenever I'm looking at the shot shells, I do
19 two levels of comparison. And I'm comparing the fired
20 evidence to the actual known shotgun shells that I
21 fired in the lab. That's what I'm making my comparison
22 to. I do two levels of comparison.

23 I first look at what's called the class
24 characteristics. And these are going to be markings
25 and characteristics that will be common to a group of

1 firearms. And if those are consistent, I then look at
2 the individual characteristics using a comparison
3 microscope. And these are going to be markings,
4 striations that are unique to one specific firearm.

5 Q. Did you find any of those unique specific
6 striations or marks on the fired shells that we've seen
7 -- the eight fired shells that we've seen for this
8 case?

9 A. Yes, I did.

10 Q. And did those match State's Exhibit 77, the
11 shotgun?

12 A. Yes, they did.

13 Q. So, looking at the eight fired spent shells
14 that we have, were they in your opinion fired from that
15 shotgun?

16 A. Yes, they were.

17 Q. Okay. Now, are you able to do any sort of
18 analysis or identification on either the pellets or the
19 slug that come out of those shells?

20 A. I was able to make some determinations of the
21 caliber of gun that they were -- they could have been
22 fired from. But as far as matching it to a specific
23 firearm, I couldn't really make a determination on
24 that. Because they are typically what we see fired
25 from a smooth bore shotgun.

1 Q. If I understand this sort of firearms analysis
2 -- for example on a rifle -- not a rifle. In a
3 handgun, typically as they're making the barrel,
4 they're using metal instruments to sort of create the
5 barrel. Is that fair?

6 A. That's correct.

7 Q. Okay. In a shotgun, that same barrel, they're
8 not using those same metal instruments.

9 A. Not to make any sort of rifling in them.

10 Q. And it's the rifling that you would use to
11 determine if it -- if the -- like, for example, the
12 slugs or the pellets came from that shotgun?

13 A. That's correct.

14 Q. Okay. Now, you said you were able to look a
15 little bit at the class and the characteristic of the
16 slugs that you looked at and the buck and birdshot that
17 you looked at.

18 A. Correct.

19 Q. Were those consistent, with what could you
20 tell, from a 12-gauge shotgun and a 12-gauge shotgun
21 shell?

22 A. I was able to determine that the slugs -- the
23 fired slugs were consistent with being fired from a
24 12-gauge. Also the waddings were consistent in size
25 with 12-gauge waddings.

1 The buckshot and birdshot, I can't really
2 tell the gauge or shotgun that they came out of.
3 Because those -- the smaller pellets can be loaded into
4 shot shells of other gauges as well.

5 Q. So, there's to way for anyone -- it's not just
6 you. There's just no way really anyone could ever
7 figure out a buckshot or birdshot, where it came --
8 what gun fired it?

9 A. Not unless there was some unique marking on
10 them that somehow came from the shotgun.

11 Q. Okay. Mr. Bassett, in your expertise looking
12 at all the evidence in this case -- looking at the
13 shotgun itself, State's Exhibit 77, do you have an
14 opinion as to whether or not the shotgun is a deadly
15 weapon?

16 A. Yes. I would consider a shotgun a deadly
17 weapon.

18 Q. Would you consider the shotgun -- this sounds
19 weird. But would you consider the shotgun a firearm?

20 A. Yes, I would.

21 Q. Okay. Is it capable -- was that shotgun,
22 State's Exhibit 77, capable of causing serious bodily
23 injury or death?

24 A. Yes, it is.

25 Q. Okay.

1 MS. BARD: Pass the witness, Your Honor.

2 THE COURT: Mr. Davis?

3 MR. DAVIS: May I have one moment, Your

4 Honor?

5 THE COURT: Yes, sir.

6 (Brief pause).

7 MR. DAVIS:

8 CROSS-EXAMINATION

9 BY MR. DAVIS:

10 Q. Mr. Bassett.

11 A. Yes, sir.

12 Q. How you doing?

13 A. Very well. Thank you.

14 Q. You and I have spoken earlier today, right?

15 A. Yes, we did.

16 Q. Now, you talked a little bit about the shotgun
17 in terms of a plug inside of the shotgun as a safety
18 mechanism. That oftentimes manufacturers will put a
19 plug inside of a shotgun to sort of limit the number of
20 shells one can put inside.

21 A. That's correct.

22 Q. Right.

23 Now, you don't know whether or not that
24 gun came from a manufacturer with a plug inside; isn't
25 that right?

1 A. I do not, no.

2 Q. Right.

3 And so, the way it was presented to you
4 when you got it, there wasn't a plug inside, right?

5 A. That's correct.

6 Q. And you don't know if there was ever one or
7 anything else like that; isn't that right?

8 A. That's correct.

9 Q. Now, you talked a little bit about the three
10 different kinds of shotgun shells that you may have.
11 Three different kinds of bullets, right?

12 A. Yes.

13 Q. You've got buckshot, birdshot and then a slug.

14 A. That's correct.

15 Q. Those are the different types, right?

16 A. There are more, but those are three.

17 Q. Those were the three you were asked to talk
18 about?

19 A. That's correct.

20 Q. Okay. Of course, there are various in
21 between. There's buckshot where you may have three
22 pellets. And there's buckshot where you may have five
23 or four or six pellets of buckshot; isn't that right?

24 A. That's correct.

25 Q. And generally, birdshot is like BBs. Would

1 you take that as an accurate description, like small
2 BBs?

3 A. That's -- that's an accurate description, yes.

4 Q. It'd be a shell -- a shotgun casing with a
5 bunch of small little BBs inside that would disperse
6 once it was fired, right?

7 A. Correct.

8 Q. If somebody's going duck hunting it makes it
9 easier to hit a duck.

10 A. That's accurate, yes.

11 Q. Now, with buckshot most people -- law
12 enforcement actually uses buckshot, right?

13 A. They do.

14 Q. And they use buckshot because it is a
15 situation where you may have multiple different
16 projectiles that will spread out once they come out of
17 the shotgun.

18 A. That is correct.

19 Q. And each buckshot -- in some situations you
20 have buckshot cartridges that only have three buckshots
21 in them, right?

22 A. I really don't know how many. There are a lot
23 variations.

24 Q. Yes, sir.

25 You're aware that there is some that's

1 been sold where there have only been three inside?

2 A. I'm not particularly aware of that particular
3 one, but --

4 Q. In this case, are you aware that they actually
5 recovered buckshot?

6 A. Yes, we did.

7 Q. All right. And did you have an opportunity to
8 analyze the buckshot that was recovered, the unfired
9 cartridges?

10 A. The unfired cartridges?

11 Q. Yes, sir.

12 A. I did not analyze any unfired cartridges I
13 don't believe.

14 Q. So, are you aware that they actually recovered
15 unfired cartridges?

16 A. Let me look in my case file real quick.

17 I don't believe I received any unfired
18 cartridges.

19 Q. So, from -- from your -- your analysis, sir,
20 you weren't able to tell how many buckshots were inside
21 of the different cartridge; is that right?

22 A. I'm not really understanding the question.
23 Could you repeat, please?

24 Q. Now, you were asked to look at the particular
25 cartridges -- the shell -- the fired shell casings,

1 right?

2 A. Yes, sir.

3 Q. And you did a comparison with them to try to
4 make a determination that they fired from the same
5 gauge weapon, right?

6 A. The fired shot shells?

7 Q. Yes, sir.

8 A. Yes. I determined that they were fired from
9 the firearm.

10 Q. In looking at that those particular shotgun
11 shell casings, you weren't able to make a determination
12 of how much buckshot was inside the different shell
13 casings, right?

14 A. No, I was not.

15 Q. If you were able to make a determination on
16 how much buckshot was inside, it may give you some idea
17 about the damage that could be done. Would that be
18 accurate to say?

19 A. I really -- I really don't know about damage.

20 Q. Let me give an example. For example, if
21 someone is firing buckshot at a television screen, it
22 is possible -- because buckshot -- if it had two or
23 three projectiles inside of the buckshot cartridge, it
24 is possible that there would have been a dispersion and
25 it may have made it appear that there were multiple

1 shots on the screen if they had multiple buckshot
2 pellets inside of a cartridge; is that right?

3 A. It's possible. But that's getting into
4 ballistics and that's not really my area of expertise.

5 Q. I understand.

6 But you're familiar from test-firing
7 these weapons, right? You test-fired this shotgun,
8 right?

9 A. Yes, sir.

10 Q. And you've test-fired other shotguns that
11 contain buckshot?

12 A. Correct.

13 Q. Right.

14 And you're familiar with buckshot
15 actually dispersing. And one cartridge of buckshot, if
16 it contains two or three pellets, it will cause two or
17 three different injuries or two or three different
18 indentations when you're doing the test-firing; isn't
19 that right?

20 A. That's correct.

21 Q. In fact, because of buckshot it can actually
22 -- actually mask the number of injuries a person can
23 receive; isn't that correct?

24 A. I really have no knowledge of that.

25 Q. I understand. That would something outside

1 your expertise, right?

2 A. That would be for a medical examiner maybe.

3 I'm not sure.

4 Q. Yes, sir.

5 Or maybe for a ballistics expert like you
6 described as well.

7 A. Yes.

8 Q. Right.

9 And you're not a ballistics expert?

10 A. No. I'm a firearms examination expert.

11 Q. Yes, sir.

12 You're able to talk about the working
13 mechanism of a firearm, right?

14 A. That's correct.

15 Q. Now, you saw -- you were given eight shell --
16 shell casings -- shotgun shell casing, right?

17 A. Correct.

18 Q. You don't know when they were fired, do you?

19 A. No, I do not.

20 Q. You don't know what sequence they were fired
21 in.

22 A. No, I do not.

23 Q. In fact, you don't even know if they were
24 fired on the same day; isn't that right?

25 A. That's correct.

1 Q. If a witness said that he heard somewhere from
2 five to six shots, that would be consistent with that
3 gun being fired without being reloaded, wouldn't it?

4 A. That's seems logical, yes.

5 Q. Now, you would agree with me that the
6 different shell casings you received were all from
7 different -- were all different types?

8 A. I believe there were a couple different types,
9 yes.

10 Q. Some were birdshot. Some were buckshot. And
11 then there were even variations among the buckshot,
12 right?

13 A. Are we talking about the shot shells or the
14 actual buckshot.

15 Q. The shot shells.

16 A. The shot shells. I know that there were a
17 couple different types of shot shells. But as far as
18 which ones contained buckshot, I'm not really sure.

19 Q. Yes, sir.

20 MR. DAVIS: May I have one moment, Judge?

21 THE COURT: Yes, sir.

22 (Brief pause).

23 MR. DAVIS: I don't have any other
24 questions, Judge.

25 THE COURT: All right. Thank you.

1 Ms. Bard?

2 MS. BARD: Nothing further, Your Honor.

3 THE COURT: All right, sir. You may step
4 down and step outside.

5 THE WITNESS: Thank you.

6 THE COURT: Call your next witness,
7 please?

8 MS. MORNEAU: State calls Sergeant
9 Jaramillo.

10 THE COURT: All right, sir. If you'll
11 stand there, raise your right hand and be sworn in as a
12 witness, please.

13 THE COURT: Ms. Morneau?

14 JAIME JARAMILLO,
15 having been first duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MS. MORNEAU:

18 Q. Could you introduce yourself to the ladies and
19 gentlemen of the jury?

20 A. Sergeant Jaime Jaramillo. I work with the
21 Houston Police Department.

22 Q. And how long have you been with the Houston
23 Police Department?

24 A. 12 and a half years.

25 Q. What did you do before you went to the Houston

1 Police Department?

2 A. I was in the United States Marine Corps for 22
3 years.

4 Q. Did you do any deployments?

5 A. Yes, I did.

6 Q. To where?

7 A. Desert Storm in 1990 and '91.

8 Q. Well, thank you for your service.

9 What assignments have you had since
10 working with the Houston Police Department?

11 A. I've been doing entirely patrol, calls for
12 service.

13 Q. So, you -- I guess you started your career
14 after the academy as a patrol officer?

15 A. Yes.

16 Q. And that's somebody who's in uniform and out
17 on the streets?

18 A. Yes.

19 Q. Okay. And then you got promoted to sergeant
20 while still working patrol.

21 A. Yes.

22 Q. And is that what you do today?

23 A. Yes.

24 Q. And is that what you were doing out on
25 December 20th of 2013?

1 A. Yes, it was.

2 Q. Okay. How did you get involved in this case?

3 A. I was on patrol in the area and I heard the
4 call go over the radio. And I heard a unit was going
5 to go to that call and I volunteered to go with him.

6 Q. Okay. And that's just for officer safety
7 purposes.

8 A. Yes.

9 Q. Okay. And so, when a call comes out over the
10 radio, who is it who's making those calls to y'all's
11 radio?

12 A. The dispatcher.

13 Q. And the dispatcher is making this call because
14 somebody's called the police.

15 MR. DAVIS: Objection leading, Your
16 Honor.

17 THE COURT: Don't lead your witness.

18 Q. (BY MS. MORNEAU) How does -- how does
19 dispatch get the information to let you know you need
20 to go somewhere?

21 A. They get it from call takers.

22 Q. Okay. And where does -- where do call takers
23 get the information?

24 A. From citizens that are calling in.

25 Q. And what number do citizens call to get help

1 from the police?

2 A. The 911.

3 Q. Okay. Is that what happened in this case?

4 A. Yes.

5 MS. MORNEAU: Your Honor, at this time
6 State would offer State's Exhibit No. 95, which is the
7 911 call in this case.

8 MR. DAVIS: Can I ask counsel a question?

9 THE COURT: Sure.

10 (Attorneys speaking silently).

11 MR. DAVIS: And, Judge, right now we'd
12 object to the authentication of the document, but I
13 think they can authenticate it. I want to see if they
14 can.

15 MS. MORNEAU: Judge, it's been on file
16 with a business records affidavit pursuant to 80.36 a
17 copy of it has been provided to the defense counsel.

18 MR. DAVIS: I don't have any objection if
19 you're introducing the business record affidavit.

20 MS. MORNEAU: Okay.

21 MR. DAVIS: If the business records
22 affidavit is submitted with it, I don't have any
23 objection, Your Honor.

24 THE COURT: All right. Are you offering
25 the business records affidavit as well?

1 MS. MORNEAU: Yes, Judge.

2 THE COURT: Will that be --

3 MS. MORNEAU: I will mark it as 127.

4 THE COURT: I'm sorry.

5 MS. MORNEAU: I will mark the business
6 records affidavit as 127.

7 THE COURT: So, with the business records
8 affidavit, you will have no objection to State's 95 and
9 127, Mr. Davis?

10 MR. DAVIS: Yes, Judge.

11 THE COURT: Okay. Then those will be
12 admitted.

13 MS. MORNEAU: Permission to publish the
14 911 to the jury?

15 THE COURT: Yes, ma'am.

16 (State's Exhibit 95 published but not
17 reported).

18 Q. (BY MS. MORNEAU) Now, when you went to the
19 location, did you have all that information we just
20 heard?

21 A. No.

22 Q. You just get a fraction of it.

23 A. Right. Yes.

24 Q. Okay. So, what time did you get out to 5711
25 Vendi on December 20th of 2013?

1 A. It was right after 5:00 p.m. I think it's
2 5:07 p.m.

3 Q. Okay. And was anybody else there?

4 A. Yes.

5 Q. Who was there?

6 A. Officer Dinh.

7 Q. Okay. And where was he?

8 A. He was on the -- he was arriving on the scene
9 on the front yard.

10 MS. MORNEAU: Your Honor, may I approach
11 to retrieve an exhibit?

12 THE COURT: Yes, ma'am.

13 Q. (BY MS. MORNEAU) Showing you State's Exhibit
14 No. 14. Is this the house that you came to?

15 A. Yes.

16 Q. Okay. And where was Officer Dinh when you
17 arrived?

18 A. He was walking from the left on the grass
19 right before you get to the driveway. He was walking
20 towards the driveway.

21 Q. Okay. And what did you do?

22 A. I got out of my vehicle and I ran up to him
23 and told him to wait for me.

24 Q. Okay. And Officer Dinh, is he with the
25 Houston Police Department?

1 A. Yes.

2 Q. Was he in uniform that day?

3 A. Yes.

4 Q. Were you in uniform that day?

5 A. Yes.

6 Q. Does your uniform identify you as a Houston
7 Police Department officer?

8 A. Yes.

9 Q. Okay. And did you have a patrol car?

10 A. Yes.

11 Q. And did Officer Dinh have a patrol car?

12 A. Yes.

13 Q. So, do those cars identify you as police
14 officers?

15 A. Yes.

16 Q. Okay. So, after you caught up with Dinh, what
17 did you guys do next?

18 A. Officer Dinh went towards the door and
19 knocked. And we came back towards the driveway by the
20 garage.

21 Q. Okay. Can you describe how you knocked to the
22 jury?

23 A. Just a gentle -- a regular knock.

24 Q. Okay. More than once?

25 A. More than once.

1 Q. But y'all weren't banging the door down?

2 A. No.

3 Q. Okay. Did you announce that you were

4 officers?

5 A. Yes.

6 Q. Okay. Houston police officers?

7 A. Yes.

8 Q. Okay. And you said that you went out towards

9 the driveway. Let me see if I can zoom in here.

10 Is this a walkway?

11 A. Yes, it is.

12 Q. I guess you can't see what I'm doing.

13 Right here?

14 A. Yes.

15 Q. Okay. So, where were you standing?

16 A. Right by that green bush, right by the -- yes,

17 right there.

18 Q. Okay. By the green bush where the driveway

19 and that walkway meet?

20 A. Yes. Uh-huh.

21 Q. Okay. And what happened?

22 A. No one answered the door.

23 Q. Was there anything to indicate that there

24 might be someone home?

25 A. There was a car in the driveway, but other

1 than that, no.

2 Q. Okay. So, you have a car in a driveway and
3 then information from a dispatcher that someone should
4 be there.

5 A. Yes.

6 Q. Okay. So, could you hear any noise?

7 A. No.

8 Q. Okay. So, after nobody answered, what did you
9 do?

10 A. We stood by the driveway. And then I went to
11 the front door and knocked.

12 Q. And how did you knock this time?

13 A. A regular knock with like my knuckles, but a
14 little louder.

15 Q. Okay. Again, are you identifying yourself as
16 Houston police?

17 A. Yes.

18 Q. Okay. Where did you go after knocked?

19 A. Went back to the garage door.

20 Q. Okay. And this door that you're knocking on
21 -- showing it to you from State's Exhibit No. 13 --
22 does it appear to have a peephole?

23 A. Yes.

24 Q. Okay. So, this second time -- round of
25 knocks, does anybody answer the door this time?

1 A. No.

2 Q. Any noises inside this time?

3 A. No.

4 MR. DAVIS: Objection, Your Honor,
5 leading.

6 THE COURT: Don't lead your witness.

7 Q. (BY MS. MORNEAU) Do you hear any noises from
8 the inside?

9 A. No.

10 Q. So, what do y'all do?

11 A. We stood on the -- on the driveway. And I
12 remember our radios were loud. They were on loud. And
13 I told Officer Dinh have dispatch call back the
14 reportee.

15 Q. Okay. And you know now that the reportee is
16 the defendant's mother.

17 MR. DAVIS: Objection, leading, Your
18 Honor.

19 THE COURT: Sustained.

20 Q. (BY MS. MORNEAU) So, what did you do while
21 Officer Dinh went to go call back dispatch?

22 A. I was facing the street. And I was still
23 standing in the driveway. Just a little puzzled what
24 was going on.

25 Q. Okay. And why did you have Officer Dinh call

1 dispatch back?

2 A. Because I didn't believe anyone was inside of
3 the house.

4 Q. Okay. And did he call dispatch back?

5 A. Yes.

6 Q. Okay. And what did you guys do?

7 A. We heard the dispatcher tell us --

8 MR. DAVIS: Your Honor, I'd object to
9 hearsay, Your Honor.

10 THE COURT: Sustained.

11 Q. (BY MS. MORNEAU) Without getting into what
12 the dispatcher said, did they give you -- without
13 getting into what the exact words the dispatcher told
14 you, did they give you information that led you to
15 believe that you should remain on the scene?

16 MR. DAVIS: Objection to hearsay. And in
17 addition, Your Honor, object to leading.

18 THE COURT: Sustained.

19 Q. (BY MS. MORNEAU) Why did you decide to remain
20 on the scene?

21 A. Because the call slip said --

22 MR. DAVIS: Objection to hearsay, Your
23 Honor.

24 THE COURT: Sustained.

25 Q. (BY MS. MORNEAU) Did you believe police

1 presence was still required at that time?

2 A. Yes.

3 Q. Okay. So, what happened next?

4 A. The door came open.

5 Q. Okay. Did you see the door open or hear the
6 door open?

7 A. I heard the door open.

8 Q. Okay. How long after you contacted dispatch
9 before the door opened?

10 A. Two seconds, maybe.

11 Q. Okay. So, it was happening quick.

12 A. It happened quick.

13 Q. All right. What happened after the door
14 opened?

15 A. Officer Dinh turned around and walked towards
16 the door and asked the male --

17 MR. DAVIS: Objection to hearsay, Your
18 Honor.

19 THE COURT: Sustained.

20 Q. (BY MS. MORNEAU) Okay. Without getting into
21 anything Officer Dinh said, what happened next?

22 A. We looked towards the door -- I looked towards
23 the door.

24 Q. What did you see?

25 A. I saw a man open the door. And he pulled a

1 shotgun out and he pointed it at me. And went like
2 three times -- three or four times very fast, racking
3 the shotgun.

4 Q. Okay. And you said that you heard -- the man
5 who had the shotgun, do you see him here in the
6 courtroom today?

7 A. Yes.

8 Q. And can you describe him by an article of his
9 clothing?

10 A. He's wearing the yellow tie and the black suit
11 wearing a beard.

12 MS. MORNEAU: Let the record reflect that
13 the witness has identified the defendant.

14 THE COURT: It will.

15 Q. (BY MS. MORNEAU) And so, describe the gun
16 that you saw him holding.

17 A. I just know it was a shotgun.

18 Q. Okay. And what exactly did he do with it?

19 A. He had it by his waist and he had pointed it
20 towards us. And he was like took maybe a step or two
21 towards us and he was just like -- he just racked it as
22 fast as he could.

23 Q. Okay. Did you hear -- did you hear any clicks
24 from the trigger pull?

25 MR. DAVIS: Objection to leading, Your

1 Honor.

2 THE COURT: Sustained.

3 Q. (BY MS. MORNEAU) What noises, if any, did the
4 shotgun make?

5 A. Just metal going back and fourth. It's just
6 -- just metal going back and forth.

7 Q. Okay.

8 A. Like the slide.

9 Q. What were you thinking when you saw him doing
10 this with the shotgun?

11 A. Shooting him.

12 Q. Why didn't you?

13 MR. DAVIS: Objection to relevance, Your
14 Honor.

15 THE COURT: Overruled.

16 Q. (BY MS. MORNEAU) Why didn't you?

17 A. By the time I reacted, grabbed my gun -- and I
18 had to wait for Officer Dinh to walk by me. And when I
19 was able to go in that direction pointing the gun at
20 him, he saw me and shut the door.

21 Q. Okay. So, were you originally in the
22 defendant's line of sight or was Officer Dinh the first
23 officer who was in his line of sight?

24 A. Officer Dinh was the first officer --

25 Q. Okay.

1 A. -- in line of sight.

2 Q. And then when you stepped into the area where
3 the door would be visible, were you in front of Dinh or
4 behind him?

5 A. I was behind.

6 Q. Okay. And so, in order for -- but the shotgun
7 is raised at the both of you?

8 MR. DAVIS: Objection to leading, Your
9 Honor.

10 THE COURT: Sustained.

11 Q. (BY MS. MORNEAU) Was the shotgun raised at
12 both of you or just one of you?

13 A. Both of us.

14 Q. Okay. And what does Officer Dinh do when the
15 shotgun was raised?

16 A. He ran away from the door. That's what he
17 did. He ran away from the door towards the yard.

18 Q. Okay. Did you have to wait for Officer Dinh
19 to get out from in front of you before moving your --
20 before moving your weapon?

21 MR. DAVIS: Objection leading, Your
22 Honor.

23 THE COURT: Sustained.

24 Q. (BY MS. MORNEAU) What happened after Officer
25 Dinh moved out of your way?

1 A. I -- I faced the man at the door. At the same
2 time, I was bringing my gun down towards his direction.

3 Q. Okay. And what happened when he saw you?

4 A. He looked at me for like a quick second, like
5 surprised. And he jumped back in the house and slammed
6 the door shut.

7 Q. Okay. What did you do after he went into the
8 house?

9 A. Repeat the question.

10 Q. What did you do after he went into the house?

11 A. I followed protocol and backed off. Went
12 inside -- went onto the front yard, got away from the
13 door. And let dispatch know we had a barricaded
14 suspect.

15 Q. Okay. And what happened after you let
16 dispatch know?

17 A. I heard a lot of units responding. And we
18 just monitored the front door while they were -- while
19 we were waiting for other units to show up.

20 Q. Okay. And what do you mean when you say you
21 have a barricaded suspect?

22 A. That means that he's got an advantage. He's
23 inside. And if we try to go in there, he'd probably
24 hurt us.

25 Q. With all this happening, were you nervous?

1 MR. DAVIS: Objection, Your Honor, to
2 relevance.

3 THE COURT: Overruled.

4 MR. DAVIS: And this goes to -- never
5 mind, Your Honor.

6 Q. (BY MS. MORNEAU) Were you nervous at the
7 time?

8 A. I don't -- I don't know if it was -- I don't
9 think I was nervous. I know my adrenalin was high. I
10 don't know if it was nervous, I guess you -- I don't
11 know.

12 Q. Okay. Are you a little bit nervous today
13 testifying about it?

14 MR. DAVIS: Objection to relevance.

15 THE COURT: Overruled. I'll let him
16 answer.

17 A. A little bit.

18 Q. (BY MS. MORNEAU) Okay. So, officers came.
19 And what happened when the other officers came?

20 A. They went towards the back to cover the back,
21 the backdoor or any windows like that.

22 Q. Okay. What did you do as other officers were
23 holding the perimeter. I went out to the front street
24 and pulled -- had patrol cars face it -- face the front
25 door and we could use it for cover.

1 Q. Okay. And did you make any phone calls?

2 A. Yes.

3 Q. To -- who did you make phone calls to?

4 A. Our command center.

5 Q. Okay. And why did you call command center?

6 A. To let them know that we had a barricaded
7 suspect and we may need more resources.

8 Q. Okay. And did you -- who else did you speak
9 with?

10 A. I spoke with a captain from SWAT.

11 Q. Okay. And what was the purpose of that call?

12 A. He wanted to assess if --

13 MR. DAVIS: Your Honor, object to
14 hearsay, Your Honor.

15 THE COURT: Sustained.

16 Q. (BY MS. MORNEAU) Without getting into what
17 anyone told you, what was the purpose of the phone
18 call?

19 MR. DAVIS: Again, objection to hearsay.

20 THE COURT: That's overruled if it's his
21 purpose of calling. Not what anyone else said.

22 A. Can you repeat the question?

23 Q. (BY MS. MORNEAU) Without getting into the
24 content of your conversation of what anybody said, what
25 was the purpose of making the phone call to SWAT?

1 A. To let them know we had a barricaded suspect
2 and I was requesting SWAT to make the scene.

3 Q. Okay. Did you speak to anyone else?

4 A. I spoke to the defendant's mother on the
5 phone.

6 Q. Okay. And why did you speak -- why did you
7 speak to her mother -- I'm sorry -- his mother?

8 A. We needed to know the names and dates of birth
9 of the people inside the house.

10 Q. And did you ever call inside the house?

11 A. Yes.

12 Q. Who did you speak to inside the house?

13 A. The defendant.

14 Q. Okay. How did he identify himself?

15 A. He did not identify himself.

16 Q. He never identified himself on the phone?

17 A. Not that I recall.

18 Q. Okay. Why were you calling?

19 A. I was calling to see if -- if his wife was
20 okay.

21 Q. Okay. How did he sound when you were speaking
22 to him?

23 A. Calm, very low voice.

24 Q. Okay. And when you called to ask to speak and
25 see if his wife was okay, did you ask to speak to her?

1 A. Yes.

2 Q. Okay. And what happened when you asked to
3 speak to her?

4 A. I heard another calm, low voice.

5 Q. Okay. And was it someone purporting to be
6 Agnes?

7 A. I believed it was Agnes at that time.

8 Q. Do you currently believe it was Agnes?

9 A. No.

10 Q. Why?

11 A. It sounded like the same voice.

12 Q. And you're basing that on what?

13 A. Just low, calm voice.

14 Q. How quickly was it before the person
15 purporting to be Agnes and you asking to speak to the
16 Agnes -- asking the defendant to speak to Agnes?

17 A. Like no more than two seconds.

18 Q. Okay. Did you ever try to convince the
19 defendant to come out of the house?

20 A. Can you repeat the question?

21 Q. Did you ever try to convince the defendant to
22 come out of the house?

23 A. Yes.

24 MR. DAVIS: Objection, leading, Your
25 Honor.

1 THE COURT: Overruled.

2 Q. (BY MS. MORNEAU) How?

3 A. We used the loud PA from the police car.

4 Q. And were you successful?

5 A. No.

6 Q. Did anybody else, while you were on the scene,
7 try to get the defendant to come out of the house?

8 MR. DAVIS: Objection, hearsay, Your
9 Honor.

10 THE COURT: Overruled.

11 A. Yes.

12 Q. (BY MS. MORNEAU) And who was that person?

13 A. Lieutenant Lee.

14 Q. Okay. Are you aware if he has training in
15 hostage negotiation?

16 A. Yes.

17 Q. And would that be why he handled that part of
18 the scene?

19 MR. DAVIS: Objection, leading, Your
20 Honor.

21 THE COURT: Overruled.

22 A. I can't really answer that, but I just know he
23 -- he volunteered to do that.

24 Q. (BY MS. MORNEAU) Okay. Did -- while you were
25 on the scene, did the defendant ever come out of the

1 house?

2 A. Yes.

3 Q. Okay.

4 A. How -- how long from when you got to the scene
5 to when he came out was he inside of the house?

6 A. I don't understand the question.

7 Q. Okay. From when he pointed the shotgun at you
8 and then backed into the house till when he was
9 apprehended outside of the house, how much time passed?

10 A. Approximately 54 minutes.

11 Q. Okay. And explain to the jury what happened
12 when he exited the house.

13 A. He -- he came out the front door walking
14 backwards. He had something in his hand. I guess it
15 was a cell phone. And he just walked backwards toward
16 the front sidewalk. And then he slammed the phone on
17 the yard sidewalk -- the front sidewalk. And then he
18 ran to the left side of the garage door on the side of
19 the yard. He ran to the backyard.

20 Q. How far on the driveway did he get, would you
21 say?

22 A. He got to like right in the immediate area of
23 the sidewalk.

24 Q. Okay. So --

25 A. Towards the grass on the right.

1 Q. Okay. So, close to where that line is?

2 A. Yes, he was right there.

3 Q. Okay. And then what -- and then he ran -- did
4 he run to the right of the house or to the left of the
5 house?

6 A. To the left.

7 Q. Okay. And where -- where were you standing
8 when all this happened?

9 A. I was standing in the front street.

10 Q. Okay. And so, could you see what happened
11 after he ran around the side of the house?

12 A. No.

13 Q. Okay. Did you see him get apprehended?

14 A. No.

15 Q. Did you ever see him again after this?

16 A. Yes.

17 Q. Where?

18 A. In the front of the driveway.

19 Q. Okay. Did you ever go inside of the house?

20 A. Yes.

21 Q. And what was the purpose for going in the
22 house?

23 A. To check if someone else was inside the house.

24 Q. Okay. And is that when you guys found Agnes?

25 A. Yes.

1 Q. Okay. Did you touch anything that was inside
2 the house?

3 A. No.

4 Q. And after you learned it was a homicide scene,
5 at that point did you turn it over to homicide
6 officers?

7 A. Yes.

8 MS. MORNEAU: Pass the witness.

9 THE COURT: Ladies and gentlemen, if
10 you'll please step to the back for a few minutes. It
11 will be about 10 minutes and we'll be back with you.

12 (Jury out).

13 THE COURT: You can be seated.

14 10 minutes.

15 (Court recess).

16 THE COURT: Okay. John, see if they're
17 ready.

18 (Jury in).

19 THE COURT: Please be seated.

20 Mr. Davis?

21 MR. DAVIS: Thank you, Your Honor.

22 THE COURT: Yes, sir.

23 CROSS-EXAMINATION

24 BY MR. DAVIS:

25 Q. Now, Officer, when you first got called to the

1 scene, you -- you heard the 911 tape that was played,
2 right?

3 A. Yes.

4 Q. And you got dispatched through dispatch,
5 correct?

6 A. Yes.

7 Q. And they gave you some information about the
8 scene you were riding up on.

9 A. Yes.

10 Q. You normally get some general information
11 about the scene you're coming upon to help you prepare,
12 right?

13 A. Yes.

14 Q. If you've got a situation where someone's
15 dealing with some type of mental illness, that may be a
16 scene you have to approach differently. True?

17 A. Yes.

18 Q. And if they've given you information that
19 someone is on some type of drugs or may be addicted to
20 drugs, that's some type of scene that you may have to
21 also approach differently, right?

22 A. Yes.

23 Q. In those types of situations, you may have to
24 deal with erratic behavior.

25 A. Yes.

1 Q. You kind of have to expect almost anything,
2 right?

3 A. Yes.

4 Q. And in those types of scenes, you -- a lot of
5 time encounter some strange things. Would you agree
6 with me?

7 A. Yes.

8 Q. And in this particular scene, you encountered
9 some strange things. Would you agree with me?

10 A. Yes.

11 Q. You had a suspect come to the door with an
12 unarmed firearm, right?

13 A. I can't answer that in a yes-or-no fashion.

14 Q. Do you remember writing a report in the case?

15 A. Yes.

16 Q. And do you remember writing the report on
17 December 20th, 2013, right?

18 A. Yes.

19 Q. And you remember writing that report close in
20 time, right?

21 A. Yes.

22 Q. And today it's your testimony that you can't
23 answer that yes or no, right?

24 A. Well --

25 Q. That's what you just said.

1 A. What I said is I couldn't answer your question
2 in a yes-or-no and if I could explain.

3 Q. Well -- well, let me just ask this follow-up
4 question. When you wrote your report on December 20th,
5 2013, which was the day this happened, you documented
6 that the suspect came to the door with an empty
7 firearm. Do you remember writing that?

8 A. Yes.

9 Q. And he ratcheted the firearm three times and
10 attempted to fire three different times.

11 A. Yes.

12 Q. Right.

13 And I think you said three to four times
14 he ratcheted and tried to fire.

15 A. Yes.

16 Q. Right.

17 The firearm never fired the whole time
18 you was there. True?

19 A. No.

20 Q. In fact, when you went inside to sweep the
21 house afterwards -- after he had come out and
22 surrendered, they found the firearm and it was unarmed
23 when was found. It was -- it was unloaded when it was
24 found; isn't that right?

25 A. I do not know as -- as far as all those

1 details.

2 Q. Yes, sir.

3 But when he came to the door -- this
4 might seem inappropriate. But thank you for the
5 restraint you showed.

6 A. Yeah.

7 Q. Because you could have shot him; isn't that
8 right?

9 A. I could have shot him through the door --

10 Q. Absolutely.

11 A. -- but I don't shoot through doors.

12 Q. I understand, sir.

13 But you could have. And there are
14 officers that would have. And you didn't; isn't that
15 right?

16 A. Right.

17 Q. And after he ratcheted that firearm, you knew
18 you were dealing with a situation where someone may
19 have been on drugs; isn't that right?

20 A. No.

21 Q. Okay. So, when you got dispatched, you got
22 information, but you didn't get all of the information
23 about what happened even though that call went into
24 dispatch about the person being on drugs?

25 A. So, what was your question because I --

1 Q. Let me back up. Now, after the person went
2 inside the house, you learned that it was -- his name
3 was Gustavo Vasquez.

4 A. Yes.

5 Q. And after you learned -- you actually talked
6 to his mother, right?

7 A. Yes.

8 Q. And his mother is the person who called in.
9 You heard the 911 call?

10 A. Yes.

11 Q. She's the person who called in and told 911
12 that he was on some type of drugs, right?

13 A. Yes.

14 Q. You encountered this person. And you see this
15 erratic behavior that he's exhibiting. And you
16 actually talk to his mother who is -292/4
17 saying that he's on some type of drugs. And when you
18 have that conversation with her, do you ever ask her
19 why this might be happening and what might be going on
20 with your son?

21 A. At that time --

22 Q. Yes, sir.

23 A. -- it wasn't urgent for me to know.

24 Q. So, now you've got him barricaded inside the
25 house and you're trying to figure out what's going on,

1 right?

2 A. I know what's going on.

3 Q. Yes, sir.

4 You know, he's inside the house
5 barricaded in and his wife is inside the house, right?

6 A. I'm leaning to believe that she's inside
7 because the mom is saying she's inside.

8 Q. Yes, sir.

9 And his mom when you talked to her -- is
10 it your testimony that his mom never told you anything
11 about him being on drugs?

12 MS. MORNEAU: Object to hearsay.

13 THE COURT: Sustained.

14 Q. (BY MR. DAVIS) Now -- so, at some point in
15 time, you -- you take some measures to try to get him
16 to come outside the house, right?

17 A. Yes.

18 Q. He's inside after showing the firearm. You
19 call in for other officers first. True?

20 A. Yes.

21 Q. For backup, right?

22 A. Yes.

23 Q. And a lot of officers respond. Would you
24 agree with that statement?

25 A. Yes.

1 Q. And when the call goes out, the call goes out
2 that a suspect has pulled a weapon on officers, right?

3 A. Yes.

4 Q. And there's several officers that are on
5 different details -- some are even on undercover
6 details and they drop those details and they all come
7 to the scene.

8 Would it -- would it be accurate to say
9 that over 30 or 40 officers responded to the scene?

10 A. I'd say about 25, maybe.

11 Q. 25 officers.

12 So, there are 25 or so police cars that
13 even parked in that area. Would that be accurate?

14 A. Yes.

15 Q. After the house is surrounded, the back and
16 the front, you get over the PA system and announce that
17 the police are there; isn't that right?

18 A. Yes.

19 Q. You tell the person that the house is
20 surrounded, right?

21 A. No.

22 Q. So, you know how we always see it on the -- on
23 TV. The house is surrounded. Come out with your hands
24 up. Wasn't anything like that?

25 A. We tell them come out with nothing in your

1 hands where we can see your hands. Come outside the
2 front door.

3 Q. And that's done over the PA system?

4 A. Yes.

5 Q. And after you make that announcement, nobody
6 responds, right?

7 A. Right.

8 Q. And you're communicating officers who were in
9 the back as well, right?

10 A. Not really, no.

11 Q. So, you aren't holding a command center at
12 this time. You're aren't holding the command post; is
13 that -- is that right?

14 A. Yes.

15 Q. At this time -- were you a sergeant back when
16 this happened?

17 A. Yes.

18 Q. Okay. And so, generally when you're a
19 sergeant, you don't take control over the situation or
20 does someone higher up, like a lieutenant, come and
21 take control?

22 A. No, we -- we do that.

23 Q. Yes, sir.

24 So, as a sergeant, were you the person in
25 charge of this -- this scene --

1 A. Yes.

2 Q. -- until a lieutenant came?

3 A. Yes.

4 Q. So, you make the telephone call inside the
5 house as a sergeant, right?

6 A. Yes.

7 Q. And now, you talk to Gustavo who answers the
8 phone. True?

9 A. I spoke to a male and the way he answered, he
10 said hello.

11 Q. Now, you -- you've never talked to Gustavo
12 Vasquez before.

13 A. Well, I'll take that back. I can't really
14 recall exactly what I said. But I'm sure it was in my
15 conversation that I believed it was Gustavo.

16 Q. Yes, sir.

17 My question is that you've never talked
18 to Gustavo before that day, right?

19 A. Right.

20 Q. You didn't have any interaction with him or
21 know what he normally sounds like. Is that accurate?

22 A. Right.

23 Q. Is that accurate?

24 A. Yes.

25 Q. And so, you wouldn't know if he sounded as if

1 he was under the influence or whether or not he sounded
2 like he wasn't; isn't that right?

3 A. Right.

4 Q. You said that while you were on the phone, you
5 asked him was his wife inside and he answered yes,
6 right?

7 A. Right.

8 Q. And you said you heard a female sounding voice
9 that initially you thought was Agnes that was still a
10 low voice, right?

11 A. Right.

12 Q. The person didn't say -- at least the voice
13 you heard wasn't saying this is Agnes; isn't that
14 right?

15 A. Right.

16 Q. In fact, the voice sounded very similar to the
17 defendant's voice. True?

18 A. True.

19 Q. The reason you thought it may have potentially
20 been somebody else saying something was the manner in
21 which the voice was speaking; isn't that right?

22 A. Not really.

23 Q. Let me put it this way. The words that were
24 being said did not make sense to be coming from the
25 defendant at that time; is that right?

1 A. Ask me that question again because that's not
2 clear to me.

3 Q. Yes, sir. I'll rephrase it and kind of ask it
4 a little differently.

5 MR. DAVIS: If I may, Your Honor?

6 THE COURT: Yes, sir.

7 Q. (BY MR. DAVIS) When you're talking on the
8 telephone, you say you hear sort of a feminine sounding
9 voice, a higher pitched voice. But it sounds like the
10 same low voice that you talked to initially with the
11 defendant; isn't that right?

12 A. Yes.

13 Q. There wasn't some effort to -- to change the
14 voice. The pitch changed. True?

15 A. Yes.

16 Q. And when the pitch changed and you heard that
17 extra voice, you assumed it was Agnes. But the voice
18 never said this is Agnes; isn't that right?

19 A. Yes.

20 Q. Meaning the person never identified themselves
21 that this is Agnes that's speaking; isn't that true?

22 A. Yes.

23 Q. All that was said was why are all those people
24 outside, right?

25 A. Yes.

1 Q. And it was the same voice that was the person
2 that you thought was the defendant's. It was the same
3 voice -- same low voice, but just sound a little higher
4 pitched. True?

5 A. Yes.

6 Q. Now, sir, you've had training with people who
7 have had mental illnesses, who were connected
8 intellectually. True?

9 A. Yes.

10 Q. And dealing with scenes when you're dealing
11 with people who may have mental and intellectual
12 deficits, it's oftentimes that people may hear voices
13 or speak in different voices; isn't that right?

14 A. Yes.

15 Q. When you've got somebody who may be impaired
16 mentally, that's one of the signs that you may know.

17 MS. MORNEAU: Object, this is outside his
18 expertise.

19 MR. DAVIS: He's already testified, he's
20 got training and experience in that area, Your Honor.

21 THE COURT: Overruled.

22 Q. (BY MR. DAVIS) That's some -- something that
23 you may know; isn't that right?

24 A. Repeat the question.

25 Q. When you go to a scene and you hear someone

1 speaking in different voices, if you had some knowledge
2 that it was a situation where a person had some mental
3 deficiencies, schizophrenia or bi-polar disorder, it'd
4 be something that would note. And, in fact, oftentimes
5 might expect to see; isn't that right?

6 A. Yes.

7 Q. And in this case you weren't told anything, I
8 think is what you're saying. You weren't told directly
9 that this was a situation where someone was under the
10 influence of some type of narcotic; isn't that right?

11 A. Yes.

12 Q. And if you had, you might have expected to see
13 behaviors that were irregular in terms of the use of
14 one's voice. True?

15 A. Not -- not true. And I want to explain.

16 Q. Well, I think you're going to say that it
17 depends on the drug, right?

18 A. It's more difficult to ascertain that over a
19 phone where you're not really seeing the person.

20 Q. Yes, sir. I understand.

21 At some point a hostage negotiator comes
22 and talks to Mr. Vasquez, right?

23 A. Repeat that again.

24 Q. At some point a hostage negotiator comes and
25 talks to Mr. Vasquez, right?

1 A. Not really. It was Lieutenant Lee.

2 Q. Yes, sir.

3 Are you aware that Lieutenant Lee is also
4 a hostage negotiator? That that's something he does.

5 A. Since then -- I think that night I was -- I
6 was made aware of that.

7 Q. Yes, sir.

8 And so, Lieutenant Lee, who happens to
9 also be a hostage negotiator comes and he actually
10 speaks with Mr. Vasquez --

11 A. Yes.

12 Q. True?

13 And he talks to Mr. Vasquez. And you
14 would agree with me, when it's a situation where you've
15 got somebody barricaded inside of the house, that it's
16 usually a pretty intense situation, right?

17 A. Yes.

18 Q. Especially if you've got a situation where
19 it's been suggested that the person has pulled a
20 firearm on officers. Would you agree that that would
21 be pretty intense?

22 A. Yes.

23 Q. That -- that officers could be on edge as
24 well, right?

25 A. Yes.

1 Q. That there could be some concern for that
2 person's safety.

3 A. Yes.

4 Q. And Lieutenant Lee gives him specific
5 directions on how to come out, right?

6 MS. MORNEAU: Object to hearsay and
7 speculation.

8 THE COURT: Sustained.

9 Q. (BY MR. DAVIS) You were present when he was
10 -- he was given instructions on how to come out --
11 without saying what those instructions were. You were
12 present to see Lieutenant Lee give him specific
13 directions on how to come out.

14 A. Yes.

15 Q. And is it your testimony that Mr. Vasquez
16 comes out walking backwards and then runs or that he
17 comes out walking forward and then runs?

18 A. I recall him walking backwards.

19 Q. Now, you are -- in your report you don't
20 document one way or the other, how he walks.

21 A. I believe I did document that.

22 Q. Would you like to see your report in terms of
23 the documentation, sir?

24 MR. DAVIS: May I approach the witness,
25 Your Honor?

1 THE COURT: Yes, sir.

2 Q. (BY MR. DAVIS) Got it open to the page of
3 your report. Take a moment and read it. Don't read it
4 out loud.

5 A. Okay.

6 Q. Now, in your report you documented what he was
7 told about coming back. But you don't document how he
8 actually walked out.

9 A. I documented that he walked out. I just
10 didn't -- did not indicate if it was forward or
11 backwards.

12 Q. Now, would it surprise you or would it refresh
13 your recollection if you looked at several other
14 supplemental reports and they documented it? Would
15 that refresh your recollection where every other
16 officer at the scene documented about him walking out?

17 A. Yes, it would.

18 MR. DAVIS: May I approach the witness,
19 Your Honor?

20 THE COURT: Yes, sir.

21 Q. (BY MR. DAVIS) Now, this is -- this is all of
22 the supplements. If you want to flip through them. I
23 don't want to guide to anyone in particular. It starts
24 -- this is the initial report. Take a look at it and
25 see. Okay.

1 MR. DAVIS: May I sit down, Your Honor,
2 while he reviews that?

3 THE COURT: Yes, sir.

4 MR. DAVIS: May I approach the witness,
5 Your Honor?

6 THE COURT: Yes, sir.

7 MR. DAVIS: For the sake of time, I can
8 kind of show you.

9 A. Okay. I appreciate that.

10 Q. (BY MR. DAVIS) That's all right. I'm sorry.
11 I didn't want to -- because it's a lot. Like I said, I
12 didn't want you to have to read through it all. Might
13 waste a bunch of time.

14 Here, that would be a better spot to
15 read.

16 A. (Witness complying).

17 Q. Does that help refresh your recollection?

18 A. Okay. Yes.

19 Q. So, when Mr. Vasquez comes out of the house,
20 he's actually facing the officers. And then throws
21 down his phone and turns around and runs towards the
22 back of his house; isn't that right?

23 A. Yes. Yes.

24 Q. Now, without -- without telling us what he was
25 told to do, based on what you saw and what you observed

1 it was your knowledge that his action were inconsistent
2 with instructions that he was being given; is that
3 right?

4 MS. MORNEAU: I'll object based on
5 hearsay.

6 THE COURT: Overruled.

7 A. Yes.

8 Q. (BY MR. DAVIS) Now, you weren't in the back
9 of the house when he was subdued, right?

10 A. Correct.

11 Q. But you saw him when they brought him back to
12 the front. True?

13 A. Yes.

14 Q. Did you have any contact with him or speak
15 with him after he was brought to the front?

16 A. I was in close proximity to him.

17 Q. Okay. Did you have any opportunity to have a
18 conversation with him?

19 A. No.

20 MR. DAVIS: May I have one moment, Your
21 Honor?

22 THE COURT: Yes, sir.

23 (Brief pause).

24 MR. DAVIS: I don't have any other
25 questions, Your Honor.

1 THE COURT: All right. Thank you.

2 Ms. Morneau?

3 REDIRECT EXAMINATION

4 BY MS. MORNEAU:

5 Q. When you were at the front door with Officer
6 Dinh and the defendant came out with a shotgun, how far
7 away from one another were you?

8 A. From the defendant or from Dinh?

9 Q. How far was the defendant from you?

10 A. Five feet.

11 Q. And how far was the barrel of the shotgun --
12 the end of the barrel of the shotgun from where you
13 were standing?

14 A. I didn't see the end of the barrel.

15 Q. What were you looking at?

16 A. The chamber.

17 Q. Would be fair to say it was less than five
18 feet?

19 A. Yes.

20 Q. If that gun had been loaded and he had
21 successfully fired --

22 MR. DAVIS: Objection, Your Honor, calls
23 for speculation.

24 THE COURT: Finish your question.

25 Q. (BY MS. MORNEAU) If that gun had been loaded

1 and he had successfully fired a shot, with the way the
2 gun was pointed, would it have hit you?

3 MR. DAVIS: Objection, Your Honor, calls
4 for speculation as well relevance.

5 THE COURT: Sustained.

6 Q. (BY MS. MORNEAU) What was the direction the
7 gun was facing?

8 A. Chest high. Like where me and Dinh were
9 standing, it was like chest high. It was right at us.

10 Q. The whole time that you were on the scene, did
11 you hear any other -- any gunshots?

12 A. No.

13 Q. Is this a hard scene for you to talk about?

14 MR. DAVIS: Objection, Your Honor,
15 relevance.

16 THE COURT: Sustained.

17 Q. (BY MS. MORNEAU) Do you still currently work
18 in -- I guess, what area is this -- do you call this?

19 A. Where the incident happened?

20 Q. Yes.

21 A. The southwest patrol area.

22 Q. Okay. Do you still work in southwest patrol
23 area?

24 A. No.

25 Q. How soon after this incident did you transfer

1 away from the southwest patrol area?

2 MR. DAVIS: Objection, relevance, Your
3 Honor.

4 THE COURT: Sustained.

5 A. A year and a half.

6 MR. DAVIS: Objection to relevance. I
7 ask that the jury be instructed to disregard that.

8 THE COURT: Sustained.

9 The jury is instructed to please
10 disregard the last statement of the witness.

11 Q. (BY MS. MORNEAU) While you were on the scene
12 waiting for the defendant to open the door, did you
13 hear any arguing in the house?

14 A. No.

15 MS. MORNEAU: Pass the witness.

16 THE COURT: Mr. Davis?

17 MR. DAVIS: One moment, Your Honor.

18 THE COURT: Yes, sir.

19 RE-CROSS-EXAMINATION

20 BY MR. DAVIS:

21 Q. Now, Sergeant, I would contend that you are
22 someone who is very familiar with the use of firearms.

23 A. Yes.

24 Q. And you're familiar with the use of machine
25 guns, I'm sure, from your service in the military.

1 A. Yes.

2 Q. And you're familiar with the use of shotguns
3 as well.

4 A. Yes.

5 Q. Right.

6 And with shotguns that have a pump,
7 oftentimes if a person pumps it and pulls it and it's
8 unloaded, that would trigger in most normal people the
9 notion that the gun was unloaded, right?

10 A. Yes.

11 Q. Most people who have their normal faculties
12 would know that if they pumped the shotgun two times
13 and tried to fire it, that the gun was definitely
14 unloaded, right?

15 MS. MORNEAU: Object to speculation.

16 THE COURT: Sustained.

17 Q. (BY MR. DAVIS) Based on your training and
18 experience?

19 MS. MORNEAU: Objection.

20 THE COURT: Sustained.

21 MR. DAVIS: Different question, Your
22 Honor.

23 Q. (BY MR. DAVIS) Based on your training and
24 experience after you pump a gun the second time, you
25 know that the gun is unloaded.

1 MS. MORNEAU: Objection to speculation.

2 THE COURT: Well, if you're asking this
3 witness if he knows.

4 MR. DAVIS: Yes, Your Honor.

5 THE COURT: Then that will be overruled.

6 MS. MORNEAU: Then objection is
7 relevance.

8 THE COURT: Overruled.

9 Q. (BY MR. DAVIS) That means you can answer that
10 question.

11 A. I've been carrying weapons, explosives since I
12 was 18 and I'm 54.

13 Q. Yes, sir.

14 A. I don't take that chance.

15 Q. Yes, sir. I understand that you don't take
16 that chance.

17 But if you were trying to shoot something
18 -- someone entered your home and you had a shotgun.
19 And you racked it and you pulled the trigger and it did
20 not fire and you had some notion of how many times you
21 may have loaded this weapon, you would know if the gun
22 was loaded or not loaded, right?

23 MS. MORNEAU: Object to speculation.

24 THE COURT: Overruled.

25 A. I would not say I would know.

1 Q. (BY MR. DAVIS) Tell me this. Now, if you got
2 a firearm that you know holds six cartridges and you
3 fired six shots, wouldn't you know that the gun was
4 unloaded?

5 A. A revolver, yes.

6 Q. All right. What about a shotgun that only
7 held six shots? It can only hold six cartridges and
8 you had fired six times, you would know that the gun
9 was unloaded, right?

10 A. That particular shotgun, I didn't have that
11 knowledge.

12 Q. I understand. I understand. I understand.

13 MR. DAVIS: I don't have any other
14 questions, Your Honor.

15 THE COURT: Ms. Morneau?

16 MS. MORNEAU: Nothing further.

17 THE COURT: All right. Thank you, sir.
18 You may step down and step outside.

19 Call your next witness, please.

20 MS. MORNEAU: State calls Officer
21 Adejumo.

22 THE COURT: All right, sir. If you will
23 stand there and raise your right hand and be sworn in
24 as a witness, please?

25 ADEKUHLE ADEJUMO,

1 having been first duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MS. MORNEAU:

4 Q. Could you introduce yourself to the ladies and
5 gentlemen of the jury?

6 A. My name is Officer Adejumo.

7 Q. And what do you do for a living?

8 A. I'm a police officer. I'm employed with, HPD,
9 Houston Police Department.

10 Q. How long have you been a police officer?

11 A. I've been an officer for seven years.

12 Q. And what did you do before you were a police
13 officer?

14 A. I was in the military, U.S. Navy.

15 Q. How long did you serve in the Navy?

16 A. Two years.

17 Q. Do you have any college degrees?

18 A. Yes.

19 Q. What are your --

20 A. A Bachelor degree and Master degree.

21 Q. A Bachelor's degree and a Master's degree?

22 A. Yes, ma'am.

23 Q. Okay. I want to talk to you about December
24 20th of 2013. Were you working for the Houston Police
25 Department at that time?

1 A. December what? Can you tell me again?

2 Q. December 20th of 2013.

3 A. Yes, ma'am.

4 Q. And how did you get involved in this case that
5 happened that night?

6 A. I was dispatched to check by with another
7 officer, Officer Dinh, on a disturbance call.

8 Q. Okay. And what address did you go to?

9 A. I was dispatched to check by at 5711 Vendi
10 Drive.

11 Q. And is that in Harris County, Texas?

12 A. Yes, ma'am.

13 Q. Okay. So, when you pull up to the house, what
14 do you see?

15 A. When I pull up to the house on this said day
16 -- I think the house was in a one-story building. I
17 think it was on the south side of the street.

18 Q. Okay. And is it the house that we see here in
19 State's Exhibit No. 14?

20 A. Yes, ma'am.

21 Q. Okay. What time do you arrive?

22 A. I arrive at 1711 hours.

23 Q. Okay. And in layman's time, what time is
24 that?

25 A. Sorry. That's 5:11.

1 Q. 5:11. Okay.

2 Were there any other officers there when
3 you arrived?

4 A. Yes, ma'am.

5 Q. Who was there?

6 A. It was the first officer, Officer Dinh, and my
7 sergeant, Sergeant Jaramillo.

8 Q. Okay. And where physically were they? When
9 we're looking at this picture, where were they
10 standing?

11 A. When I pull up -- because I think -- yeah. I
12 pull up in front of the neighbor's. This was out west
13 of that house. And when I -- when I was pulling up,
14 Officer Dinh was on the east side of the house -- east
15 side of the door. And Sergeant Jaramillo was west side
16 of the door.

17 Q. Okay. So -- in looking at State's Exhibit
18 No. 14, were they up close to the door when you
19 arrived?

20 A. Yeah. When I was arriving -- I think about
21 half a block away from the house, Officer Dinh was
22 actually in front -- they both in front of the door.

23 Q. Okay. And what happened next?

24 A. So, when I stop and I got out of my vehicle, I
25 saw Officer Dinh, he jump and pretty much turn and run

1 east of the house. And Sergeant Jaramillo, he run west
2 of the house.

3 Q. Okay. Did you hear anything?

4 A. I heard like a -- like a pop, pop sound. But
5 I'm not sure if that's a gunshot or I'm not sure.

6 Q. Okay. And you said you saw both of the
7 officers running.

8 A. Yes.

9 Q. And at that the same --

10 A. They run different ways.

11 Q. Okay. And at the same time -- did either of
12 them reach for their weapons?

13 A. Officer Dinh, I'm -- I'm not sure he was
14 trying to reach for his gun 'cause he was pretty much
15 running away. And Sergeant Jaramillo, I think he has
16 his hand to his gun. But I don't think he retrieved
17 his gun because the gun was on -- on the other side. I
18 couldn't tell if he retrieve his gun or not.

19 Q. Okay. So, when you hear all this happening
20 and you see this going down, what do you do?

21 A. So, when Officer Dinh run and Sergeant
22 Jaramillo run to the other side, I think he yelled
23 shots fired, shots fired. And I heard like a -- like a
24 door -- like someone shut the door.

25 And what came to my mind was whoever is

1 in the house, run back into the house. And whoever was
2 -- whoever shot -- 'cause when he said shots fired,
3 shots fired, I thought the guy shot at them.

4 Q. Okay. So, back up. So, at this point you
5 hear a door close.

6 A. Yes.

7 Q. And you hear somebody yell shots fired?

8 A. Before door closed.

9 Q. Okay. Did you ever hear any shots fired?

10 A. I'm -- no. It's not sure if it's a gunshot.
11 'Cause I was about -- I was about 50 feet away from the
12 front door itself.

13 Q. Could it have been a gun racking?

14 MR. DAVIS: Objection, Your Honor, calls
15 for speculation.

16 THE COURT: Sustained.

17 Q. (BY MS. MORNEAU) Have you ever heard a
18 shotgun rack before?

19 MR. DAVIS: Objection to the leading,
20 Your Honor?

21 A. Yes, ma'am.

22 THE COURT: Overruled.

23 Q. (BY MS. MORNEAU) Yes, you've heard a shotgun
24 rack before?

25 A. Yes, ma'am.

1 Q. So, you know what the sound sounds like?

2 A. Yes, ma'am.

3 Q. Okay. Could it have been a shotgun racking?

4 A. It could be because the gunshot is not loud.

5 It's not like a loud gunshot. It's pop, like kind of

6 silent. 'Cause I was not really close to the front

7 door, so I'm not really sure if it was a gunshot or

8 not.

9 But when Sergeant Jaramillo yell shots
10 fired, shots fired, I assumed it was a gunshot.

11 Q. Okay. So, what is your concern acting on that
12 assumption?

13 MR. DAVIS: Objection to relevance.

14 THE COURT: Overruled.

15 A. My concern at that moment was Officer Dinh was
16 shot. That's the first thing that came to my mind.
17 And I look, he was still -- he was still running away
18 from the house.

19 Q. (BY MS. MORNEAU) Okay. So, what did you do
20 after making sure Officer Dinh was okay?

21 A. So, I look and I pretty much see he was okay.
22 And at that moment the door -- the door -- I heard like
23 a door shut. 'Cause I was not really in front of the
24 door itself. 'Cause I was still about -- at this
25 point, I was about 20 to 30 feet away from the door.

1 And, so I went -- after I heard the door
2 shut, I immediately go through a neighbor's yard just
3 to get to the back of neighbor's house. So, I could
4 have a vision of the back of the house.

5 Q. Okay. And why do you want to see the back of
6 this house?

7 A. 'Cause in my mind when I heard the gunshot, I
8 was thinking suspect's going to try and make -- try to
9 run to the backdoor.

10 Q. Okay. And so, you said that you went through
11 the neighbor -- the neighbor's house.

12 A. Yes, ma'am.

13 Q. Okay.

14 MS. MORNEAU: Your Honor, may I approach
15 and retrieve an exhibit?

16 THE COURT: Yes, ma'am.

17 Q. (BY MS. MORNEAU) I'm showing you State's
18 Exhibit No. 17. Is this the neighbor's -- is this the
19 way you went, to the right side of the house?

20 A. That's the neighbor's house, right?

21 Yes, I went through the gate.

22 Q. Oh, sorry.

23 A. I think the gate should be on the west side of
24 the house.

25 Q. Okay. So, what did you do when you went to

1 the back of the house?

2 A. When I went to the back of the house, I went
3 straight to the corner of the property. So, I can have
4 a visual of the back of the suspect backdoor.

5 Q. Okay. I'm showing you State Exhibit No. 18.
6 Is this what their backyard looked like?

7 A. Yes, ma'am.

8 Q. Okay. And where were you in relation to this
9 picture? Were you on this side or are you on this side
10 of the fence?

11 A. I was on this side of the fence.

12 Q. You can -- you can make like a marking, if you
13 look at the screen that's next to you.

14 A. I was on this side.

15 Q. Okay. Were there any other officers back
16 there with you at first?

17 A. No. I was by myself.

18 Q. Okay. How long were you back there alone?

19 A. Seems like a long time, but I would say I'm
20 sure I was there for at least a minute.

21 Q. Okay. And what happened while you were back
22 there alone?

23 A. When I -- when I got to the back of the house
24 -- sorry -- to the back of the neighbor's house. And I
25 was looking through. And I sense a guy there and I got

1 on -- I think it was a small table or chair. I'm not
2 really sure. So, I can pretty much see the back -- the
3 whole back of the house. And someone actually opened
4 the backdoor, not like slightly open the back door.
5 And I think he saw me or no, I don't know. But he open
6 it and he close it back pretty quick.

7 Q. Okay. And you weren't able to see who it was
8 who opened that door?

9 A. No.

10 Q. Okay. You just know that the door opened
11 quickly and then shut quickly?

12 A. Yes. As soon as -- as soon as I got to the
13 back of the neighbor's house.

14 Q. And that was while you were still back alone?

15 A. Yes.

16 Q. Okay. And at any point did anybody join you
17 back there?

18 A. Yes. Later some other officers that check by
19 join.

20 Q. And what did you guys do while you were back
21 there?

22 A. While we were there, the first officer that
23 was coming to the scene had pretty much told them --
24 because there was a bayou in the back of the house --
25 in the back of the neighborhood. So, I mean through

1 the back of the neighbor's. And so, I told them to go
2 to the back.

3 Q. Okay. So, I'm showing you State's Exhibit
4 No. 11. You're saying that behind this fence is a
5 bayou?

6 A. Yes. It's like a -- not a big bayou, but like
7 a -- I don't know. It's like a -- like a neighborhood
8 bayou kind of. That's what's in the back.

9 Q. Can you say that again?

10 A. I always call it the bayou or like the
11 neighborhoods -- it's like those subdivisions big
12 gutters that's for pretty much toilet drainage or
13 something like that. It's in the back.

14 Q. Okay. Okay. So, there's like an open field
15 area with a bayou?

16 A. Yes. Yes, you can say that.

17 Q. Okay. So, how long are you back there?

18 A. By myself, before the other officers arrived,
19 I'm pretty sure I was there for a minute by myself.

20 Q. Okay. And once the other officers arrived,
21 how long are you guys back there?

22 A. I'm not sure.

23 Q. Okay.

24 A. Because I'm not keeping time. It seems like
25 it's forever.

1 Q. Was it more than 10 minutes?

2 A. Oh, yeah.

3 Q. Okay. More than 20 minutes?

4 A. Probably.

5 Q. Okay. Did you ever see any movement inside
6 the house while you were back there?

7 A. Yes. When I was back there by myself, other
8 than when he -- whoever was in the house tried to open
9 the backdoor and close it back. And he looked out the
10 -- pretty moved the blind -- the window blind twice and
11 I was there by myself then.

12 Q. So, in State's Exhibit No. 16, are these the
13 blinds that you're talking about?

14 A. Yes. This blind -- the window blind, that's
15 what he moved.

16 Q. Okay.

17 A. Yes. He -- he moved it about twice. I'm
18 pretty much sure before the other officers arrived.

19 Q. Okay. And did he continue to move it as you
20 were back there?

21 A. With the other officers?

22 Q. With the other officers.

23 A. Yes.

24 Q. Okay. And could you see him?

25 A. At the time I -- whoever was in the house,

1 looks like it was someone with light skin. I'm not
2 really sure if he was light-skinned black man or
3 Mexican or Hispanic or white. I'm not really sure at
4 that point.

5 Q. Could you see if he had a firearm?

6 A. Yes. The first time when he moved the window,
7 I saw something that looks like a firearm, like a rifle
8 or -- I don't know if it -- I don't know if it's a
9 shotgun, but it looks like a rifle to me.

10 Q. Okay. And can you describe it?

11 A. Well, it's just a black long, but I'm not
12 sure.

13 Q. Okay. And because you had limited viewpoint,
14 you can't give any more details than that.

15 MR. DAVIS: Objection leading, Your
16 Honor.

17 THE COURT: Sustained.

18 A. Yes, I can see because he was going --

19 MR. DAVIS: Objection, Your Honor,
20 volunteer. There's no question.

21 THE COURT: Sustained. Ask a question,
22 please.

23 Q. (BY MS. MORNEAU) As you're holding the -- as
24 you're holding the perimeter in the back, did you ever
25 see the defendant coming -- does the defendant ever

1 enter the backyard?

2 A. You mean step out of the house to the
3 backyard?

4 Q. Does he ever step out of the backdoor?

5 A. No.

6 Q. Okay. How does he enter the backdoor --
7 backyard?

8 A. I -- I didn't see him in the backyard.

9 Q. He never entered the backyard?

10 A. I mean, he --

11 MR. DAVIS: Objection to asked and
12 answered.

13 A. He entered the backyard when he --

14 (Simultaneous speaking).

15 THE COURT: Hold on. Sir. Sir. Sir.
16 When somebody objects and stands up, you've got to
17 stop.

18 THE WITNESS: Okay, sir.

19 THE COURT: Yes, sir. What were you
20 saying?

21 MR. DAVIS: Objection, asked and
22 answered.

23 THE COURT: Overruled.

24 Ask your question again, please.

25 Q. (BY MS. MORNEAU) After you guys had been

1 waiting and waiting for him to come out, did he ever
2 enter the backyard?

3 A. Yes.

4 Q. Okay. How did he enter the backyard?

5 A. I'm not sure.

6 Q. Okay. Did he come through the backdoor?

7 MR. DAVIS: Objection, Your Honor, asked
8 and answered.

9 THE COURT: Sustained.

10 A. I'm not sure.

11 MR. DAVIS: Objection, asked and
12 answered.

13 THE COURT: Sustained.

14 Q. (BY MS. MORNEAU) Where was he when you saw
15 him in the backyard?

16 A. Can you come again? Can you --

17 Q. What -- where was the -- where was he when you
18 saw him in the backyard?

19 MR. DAVIS: And I object to leading as
20 well as assuming facts not in evidence. The witness
21 has never testified that he saw him in the backyard.

22 THE COURT: Overruled.

23 Q. (BY MS. MORNEAU) Where was he when you saw
24 him in the backyard?

25 A. When I saw him in the backyard was when he

1 surrendered. And he was -- he was right somewhere in
2 here.

3 Q. Okay. And were you in the backyard also or
4 were you behind the fence?

5 A. No. I was behind -- I was still behind the
6 neighbor's -- I was on the neighbor's property. I
7 didn't make it to --

8 Q. Okay. Did you have any contact with him?

9 A. No, ma'am.

10 Q. And did you ever go into the house?

11 A. No, ma'am.

12 Q. Okay. Did you ever hear any gunshots while --
13 the whole time you were on scene in the back with the
14 other officers?

15 A. No, ma'am.

16 MS. MORNEAU: Pass the witness.

17 THE COURT: Mr. Davis?

18 MR. DAVIS: There's no questions, Your
19 Honor.

20 THE COURT: All right. Thank you, sir.
21 You may step down and step outside.

22 Lawyers come up, please.

23 (Bench conference on the record).

24 THE COURT: Whose your next witness?

25 MS. MORNEAU: I've got Flores and Robles

1 and they're both quick.

2 THE COURT: They are? How about Robles?

3 MS. MORNEAU: Well, Ramos is very quick.

4 THE COURT: Is that your next witness?

5 MS. BARD: Robles is the homicide
6 detective.

7 MS. MORNEAU: I'm sorry. Not Robles,
8 Flores and Ramos and they're both quick.

9 MS. BARD: Ramos is quick. I don't think
10 Robles is going to be quick. I'm going to be honest.

11 THE COURT: Well, call your quickest one
12 (End of conference).

13 THE COURT: Call your next witness,
14 please.

15 MS. MORNEAU: State calls Juan Ramos.

16 THE COURT: Ms. Morneau?

17 JUAN RAMOS,

18 having been first duly sworn, testified as follows:

19 DIRECT EXAMINATION

20 BY MS. MORNEAU:

21 Q. Could you introduce yourself to the ladies and
22 gentlemen of the jury?

23 A. Yes, ma'am. I'm Officer Juan Ramos, Houston
24 Police Department.

25 Q. And how long have you been a police officer?

1 A. Approximately two years.

2 Q. And is -- are you a patrol officer?

3 A. Yes, ma'am.

4 Q. And how long have you been working patrol?

5 A. About year and a half.

6 Q. Okay. And I want to -- were you working
7 patrol on December 26th of 2013?

8 A. Yes, ma'am.

9 Q. And on that date, did you get dispatched to
10 5715 Vendi?

11 A. Yes.

12 Q. Why were you dispatched to that location?

13 A. It was an evidence retrieval call.

14 Q. Okay. And what evidence were you called out
15 to retrieve?

16 A. It was a fired bullet.

17 MS. MORNEAU: May I approach?

18 THE COURT: Yes, ma'am.

19 Q. (BY MS. MORNEAU) Showing you what's been
20 marked as State's Exhibit No. 92 and its contents. Is
21 this the bullet that you retrieved from 5715 Vendi?

22 A. Yes, ma'am.

23 Q. And how do you know?

24 A. It's marked -- when I tagged it into the --
25 into the property room, it was identified and marked

1 with the case number.

2 Q. Okay. And do you see that unique case number
3 on the envelope today?

4 A. Yes, ma'am.

5 Q. And do you recognize your handwriting as the
6 person who sealed this envelope?

7 A. Yes, I do.

8 Q. Okay.

9 MS. MORNEAU: State offers State's
10 Exhibit No. 92 and its contents into evidence.

11 MS. BECKNER: No objection, Your Honor.

12 THE COURT: All right. State's 92 will
13 be admitted.

14 Q. (BY MS. MORNEAU) Where did you recover this?

15 A. I recovered it from the -- inside the house.
16 The neighbor called and he said that there was a broken
17 glass --

18 MS. BECKNER: Objection, calls for
19 hearsay.

20 THE COURT: Sustained.

21 MS. MORNEAU: Well, Judge, he's already
22 testified --

23 THE COURT: He can't say what a witness
24 said outside of court though.

25 Sustained.

1 Q. (BY MS. MORNEAU) Without getting into what
2 anybody told you, what was the name of that neighbor?

3 A. Isaias -- his first name was Isaias. His last
4 name was -- I can't recall his last.

5 Q. Would it refresh your recollection if you
6 could look at your report?

7 A. Yes, ma'am.

8 MS. MORNEAU: May I approach?

9 THE COURT: Yes, ma'am.

10 A. Isaias Verduzco.

11 Q. Okay. And without getting into anything he
12 told you, were you directed to a location in his house
13 where you could find the evidence?

14 A. I was.

15 Q. And where was that location?

16 A. It was inside the windowsill of the -- of a
17 window. There was broken glass. And I was directed
18 towards the evidence.

19 Q. And did you do any, I guess, investigation of
20 perhaps how that bullet had gotten there?

21 A. I retrieved it with a glove. I was able to
22 look on the outside of the -- of his house. I saw the
23 shattered glass from the window. I looked across to
24 the house where the crime occurred and saw there was a
25 hole.

1 Q. So, by the house where the crime occurred --
2 showing you State's Exhibit No. 17. Are you referring
3 to the house at 5711 Vendi?

4 A. 57 -- yes, ma'am. It's next door.

5 Q. Okay. And how are you familiar with the crime
6 that occurred there on December 20th, 2013?

7 MS. BECKNER: Objection -- objection,
8 Your Honor, calls for hearsay.

9 THE COURT: Overruled.

10 A. I was familiar. I was there that night.

11 Q. (BY MS. MORNEAU) What were you doing when you
12 were there that night?

13 A. Holding the scene.

14 Q. And what's the purpose of holding a scene?

15 A. The suspect was inside. He had not come out
16 yet. And we were on perimeter just in case he came
17 out.

18 Q. Okay. And when you went to go look at the
19 house where the crime had occurred, did you look on the
20 inside or the outside?

21 A. I looked on the outside.

22 Q. What did you see?

23 A. I saw what appeared to be a hole where an
24 object had come out. And directly across was the
25 window where the glass was shattered. And I retrieved

1 the evidence.

2 Q. Do you remember if it was towards the back of
3 the house or the front of the house?

4 A. It was towards the front of the house.

5 MS. MORNEAU: Pass the witness.

6 THE COURT: Ms. Becker?

7 MS. BECKNER: If I could just have one
8 moment, Judge?

9 THE COURT: Yes, ma'am.

10 MR. DAVIS: One moment, Your Honor -- may
11 we have one moment?

12 THE COURT: I thought that's what you
13 were taking.

14 MR. DAVIS: Yes, sir.

15 (Brief pause).

16 MS. BECKNER: Just very briefly.

17 THE COURT: Yes, ma'am

18 CROSS-EXAMINATION

19 BY MS. BECKNER:

20 Q. Officer, when you went out to the house at --
21 on December 26th of 2013, did you take any photos to
22 document your evidence retrieval?

23 A. No, ma'am.

24 Q. Any photos to document the damage to the
25 window or the wall -- excuse me -- to the window of the

1 house?

2 A. No, ma'am.

3 Q. Any damage from the wall of the neighboring
4 house?

5 A. No photos.

6 Q. All right.

7 MS. BECKNER: No further questions. Pass
8 the witness.

9 THE COURT: All right. Ms. Morneau?

10 MS. MORNEAU: Nothing further.

11 THE COURT: All right. Thank you, sir.

12 You may step down and step outside.

13 Call your next witness, please.

14 MS. MORNEAU: State calls Officer Flores.

15 THE COURT: All right, sir. If you will
16 stand there and raise your right hand and be sworn in
17 as a witness, please.

18 Ms. Morneau?

19 MICHAEL FLORES,

20 having been first duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MS. MORNEAU:

23 Q. Could you introduce yourself to the ladies and
24 gentlemen of the jury?

25 A. Yes. My name is Officer Michael Flores with

1 the Houston Police Department.

2 Q. How long have you been a police officer?

3 A. Going on 23 years.

4 Q. And can you tell the jury a little bit about
5 the assignments you've had?

6 A. I went to patrol right out of the academy, the
7 southwest patrol, southwest part of Houston. From
8 there, I went to the Southwest Divisional Gang Unit. I
9 was a gang investigator. And currently I'm at the
10 downtown gang division assigned to the GRET Unit, which
11 is a -- similar to D.A.R.E. It's Gang Resistance,
12 Education and Training. I teach the kids about not
13 joining gangs, using drugs, commit crimes, such things.

14 Q. Okay. Where were you assigned on December
15 20th of 2013?

16 A. I was assigned the Southwest Divisional Gang
17 Unit.

18 Q. Okay. And how did you get involved in this
19 case?

20 A. We were working overtime in 16 District, which
21 is the area where this occurred. And we heard it over
22 the radio. They were asking for assistance for some
23 officers.

24 Q. Okay. And so --

25 A. At the location.

1 Q. Did you get dispatched or did you volunteer?

2 A. No, ma'am. We were an uncontrolled unit. We
3 didn't get dispatched. So, we just volunteered when we
4 heard calls like that. So, I volunteered.

5 Q. And where did you respond to?

6 A. I don't remember the exact address. But it's
7 going to be the -- I'd have to look at the report,
8 ma'am, to tell you the exact address.

9 Q. If I were to tell you it was 5711 Vendi, would
10 that sound familiar?

11 A. Yes, ma'am. I know it was on Vendi. I just
12 couldn't remember the number.

13 Q. And I'm showing you what's been admitted as
14 State's Exhibit No. 14. Does that look like the house?

15 A. Yes, ma'am.

16 Q. What did you -- what time did you arrive?

17 A. Again, I'd have to see the report. I would
18 say probably around 6:20ish, I believe.

19 Q. If you saw the report, would it refresh your
20 recollection?

21 A. Yes, ma'am.

22 MS. MORNEAU: May I approach?

23 THE COURT: Yes, ma'am.

24 Q. (BY MS. MORNEAU) 1722 hours, which is going
25 to be 5:22.

1 Q. (BY MS. MORNEAU) What do you see when you get
2 there?

3 A. When I get there, there are several other
4 units already in front of the house. And I saw a
5 sergeant and several officers. There were more cars
6 than officers. So, assumed the others were around the
7 back.

8 Q. So, what did you do?

9 A. I walked around to the right side of the
10 house, which I believe would be the east side of the
11 house, if I recall correctly. And I walked around the
12 back of the neighbor's yard. And there were
13 approximately three or four other officers already
14 there at the time.

15 Q. Okay. And why did you decide to go around to
16 the backyard?

17 A. There were plenty of officers in the front.
18 And so, I wanted to make sure that the back of the
19 house was covered.

20 Q. And in a situation like this where you have a
21 barricaded suspect, why is it important to have the
22 back covered?

23 A. Well, because they can escape out the
24 backdoor, especially if they have a weapon like the
25 original call said that he pointed a weapon at some of

1 the officers on the -- when the dispatcher dispatched
2 it. That's why we went by.

3 Q. Okay. What did you do once you got to the
4 backyard?

5 A. I walked around the back and I saw some of the
6 other officers like holding onto the neighbor's fence
7 looking over into the backyard where this happened in
8 defendant's backyard. And I just asked them to get off
9 the fence because I didn't think it was very safe.

10 Q. And what did you have them do instead?

11 A. Well, they did that at first. And the
12 defendant walked out in the backyard. That's when I
13 told them to get off the fence. And we ordered him to
14 go -- to lay down on the ground. He went back inside
15 of the house at that time.

16 I told them to get down off the fence.
17 And I instructed them -- I was the senior officer on
18 the scene. So, I instructed them to pull a few of the
19 boards loose where we could get better view of the
20 house without having to put yourself in a bad position.

21 Q. Okay. And is that what we see here in State's
22 Exhibit 11, these missing boards?

23 A. Yes, ma'am. We were on the other side of
24 fence. So, this must be the defendant's house.

25 Q. Okay.

1 A. We were on the east side looking through.

2 Q. Did you have a firearm or were you in a
3 supervisory capacity?

4 A. No. We all had firearms. I had a pistol.
5 There was one officer there with an AR-15.

6 Q. Okay.

7 A. And the others just had their sidearms with
8 them.

9 Q. So, as you were there in the back, what could
10 you see going on?

11 A. From when I first got there?

12 Q. Yes.

13 Q. Well, the officers hanging over the fence like
14 I told -- like I said. And right about -- within a few
15 minutes after I walked out there, that the defendant
16 walked outside.

17 Q. How far out did he walk?

18 A. Not very far, a few steps outside. And I was
19 -- I had a limited vision because I could just see him
20 through the cracks in the fence. You know, I could see
21 enough of his shape, but I couldn't get clear look at
22 him.

23 Q. Could you see if he was holding a firearm?

24 A. I could not. But the officers that were there
25 looking over the fence had a better view than me. So,

1 I can't say what they saw.

2 Q. Okay. And what happened after he went back
3 inside and you guys knocked the fence down?

4 A. I instructed one of the officers to put -- the
5 one with AR-15 -- there's some big stumps in the
6 backyard. We put them there so we would have cover.
7 We were watching the house. And we could observe
8 someone looking through the blinds at us several
9 different times. On the backdoor, there's like blinds
10 going across. They would open them up and look towards
11 us to see if we were out there.

12 Q. And so, showing you State's Exhibit No. 18.
13 They've got blinds on two windows and a door. Which
14 blinds are you talking about?

15 A. It was both of the door and the one to the
16 left side right there. Mostly the door is the one that
17 it happened. It only happened like twice out of the
18 other one.

19 Q. And how often -- the whole time that you were
20 back there, was this something that just happened a
21 couple times or was it something that was consistently
22 happening?

23 A. It was consistently happening.

24 Q. Okay. And how long were you back there just
25 waiting for him to come out of the house?

1 A. I don't recall exactly. It seemed like maybe
2 30 minutes, maybe 45 minutes. I'm not sure.

3 Q. Okay. And while all of this is happening, are
4 you guys -- without getting into anything anyone said
5 -- communicating with the officers who were in the
6 front?

7 A. Yes, ma'am. We have a radio and we can hear
8 what they're putting on the radio.

9 Q. Okay. And at some point, did -- again,
10 without getting into anything that anybody said, did
11 somebody make a statement over the radio describing an
12 event as it was happening?

13 A. Yes, ma'am.

14 Q. Okay. What was that statement?

15 MR. DAVIS: Objection, Your Honor, that's
16 hearsay?

17 THE COURT: Sustained.

18 Q. (BY MS. MORNEAU) Okay. At some point did you
19 hear something over the radio that caused you to
20 believe the defendant may be exiting the house?

21 A. Yes, ma'am.

22 Q. Okay. What did you do?

23 A. Am I allowed to say what I heard on the radio.

24 THE COURT: No, sir.

25 Q. (BY MS. MORNEAU) No.

1 A. Okay.

2 Q. Without getting into anything anyone told --
3 anyone said.

4 A. I knew the suspect was coming around the
5 corner of the house running back toward the back. So,
6 we waited. The defendant came around the back of the
7 house.

8 Q. Okay. Now, when you say that he came around
9 the back of the house -- we can see here in State's
10 Exhibit 13, they've got a side of the house right here
11 and side of the house on the other side of the picture.
12 Which side did he come around?

13 A. It would be on the -- to your right side,
14 which I believe is the west side of the house right --

15 Q. So, over --

16 A. -- there.

17 Q. -- here where this -- I guess, Direct TV
18 satellite thing is?

19 A. Yes, ma'am.

20 Q. Okay. And what happened when he came around
21 the side of the house?

22 A. He ran around the side of the house. I was
23 standing approximately where the window on the left
24 side is right there, along with a couple other
25 officers. When he saw us, he kind of stopped right by

1 the door because the other two officers were up against
2 the fence -- the back fence. You can't see it in the
3 picture, but it would be to the -- kind of to the right
4 of you.

5 And then he tried to make his way toward
6 the door.

7 Q. Okay. And by the door, you mean the backdoor?

8 A. Yes, ma'am. We were ordering him to get down,
9 get down. He stopped and put his hands up, but he
10 would not get down.

11 Q. And were you in uniform?

12 A. I believe I was in plain clothes, but I had on
13 a black raid jacket with the patches that said police
14 all over it.

15 Q. Okay. Were the other officers -- were any of
16 the other officers out there in uniform?

17 A. Yes, ma'am. They were all in uniform.

18 Q. Okay. And how many times did you have to
19 order him to get on the ground?

20 A. Several times.

21 Q. Okay. And what did you do when he did not
22 comply?

23 A. Well, when he started making his way towards
24 the backdoor, I holstered my weapon and grabbed the
25 suspect's hands.

1 Q. Okay.

2 A. The other two officers at that time assisted
3 me in taking the defendant to the ground and tried to
4 handcuff him.

5 Q. Okay. And when he came running into the back,
6 you didn't -- you didn't see a firearm in his hands?

7 A. I did not, no, ma'am.

8 Q. Okay. Do you remember if he was wearing shoes
9 when he ran to the back?

10 A. I don't remember, ma'am.

11 Q. Okay. Do you see the person that you took to
12 the ground in the courtroom here today?

13 A. Yes, ma'am.

14 Q. Can you identify him by an article of
15 clothing?

16 A. Wearing the black jacket, yellow tie.

17 MS. MORNEAU: Let the record reflect that
18 the witness has identified the defendant.

19 THE COURT: It will.

20 Q. (BY MS. MORNEAU) And why did you guys feel it
21 was necessary to take him to the ground?

22 A. He wasn't complying with our orders to go the
23 ground. We knew over the radio that he had already
24 pointed guns at the other officers at the scene. And I
25 didn't know if he had any weapons in his waistband or

1 somewhere I couldn't see. That's why I grabbed his
2 hands and got him down to handcuff him to secure the
3 defendant and make sure he didn't have any weapons on
4 him.

5 Q. And -- so, as you were securing him and
6 dealing with him, did he make any -- did he say
7 anything?

8 A. Yes, ma'am. Even before we put him down, he
9 kept saying I can't do this, I can't do this.

10 Q. Okay. What was his demeanor like?

11 A. He was -- it's kind of hard to describe. I'm
12 trying to think of the proper word. But he was kind of
13 almost like we were an obstacle in his way or
14 something. Like he knew we were there for sure, but he
15 like -- he was just looking for a way to get away from
16 us.

17 Q. Did he appear remorseful to you?

18 MR. DAVIS: Objection, Your Honor,
19 relevance as well as that calls for improper opinion.

20 THE COURT: Sustained.

21 Q. (BY MS. MORNEAU) Did he look intoxicated to
22 you?

23 A. He looked like he was maybe taking some kind
24 of drugs from the way that he was kind of paranoid and
25 looking around. But I would say, I guess, that could

1 be intoxicated -- considered intoxication.

2 Q. Okay. And you're basing that on the way --
3 the way that he was looking around?

4 MR. DAVIS: Objection, leading, Your
5 Honor.

6 THE COURT: Overruled.

7 A. Yes, ma'am.

8 Q. (BY MS. MORNEAU) Okay. At what point did you
9 learn that -- did you ever go inside the house?

10 A. Yes, ma'am.

11 Q. And when did you learn that there was somebody
12 who was deceased inside the house?

13 A. Well, as soon as I got him down -- I didn't
14 know how many people were in the house or if there was
15 someone else that had the weapon. So, I was watching
16 the house. I observed Sergeant Chapman go into the
17 house. And then I heard on the radio that there was a
18 body inside.

19 Q. Okay. And did you see it yourself?

20 A. Yes, ma'am.

21 Q. Okay. And while you were inside the house and
22 clearing the house, did you touch or move any of the
23 evidence that was inside?

24 A. No, ma'am.

25 Q. The entire time that you were on the scene,

1 did you hear any gunshots?

2 A. No, ma'am.

3 Q. And at that point once you realized that there
4 was a -- somebody who had been deceased in the house,
5 was the scene turned over to homicide investigators?

6 A. Yes, ma'am. They did come prior to that
7 though. The neighbor had told us that there was a
8 small child who lived in the house.

9 MR. DAVIS: I object to hearsay, Your
10 Honor.

11 THE COURT: Sustained.

12 Q. (BY MS. MORNEAU) What was one of the -- what
13 were you looking for when you guys were going through
14 the house?

15 A. We wanted to make sure there were no other
16 victims in the house.

17 Q. Okay. Were there?

18 A. No, ma'am.

19 Q. What's behind the house?

20 A. There was a fence behind it. And then I
21 believe there's like an easement or maybe a power line
22 or something behind the house. I could see other
23 officers looking over the fence from the back side.
24 And I told them to get down --

25 Q. Okay. So --

1 A. -- prior to just taking the defendant into
2 custody.

3 Q. Is there any body of water that you're aware
4 of behind the house?

5 A. I really don't know. It could have a bayou or
6 something. I couldn't see over the fence until they
7 busted through the -- moved some pickets from there
8 also. But I didn't get a very clear view.

9 MS. MORNEAU: Pass the witness.

10 THE COURT: Mr. Davis, are you going to
11 have questions? And I'm not trying to rush you. Is it
12 going to be a bit or --

13 MR. DAVIS: No, Your Honor. It's not
14 going to be a bit. It will be fairly brief.

15 THE COURT: All right. Go ahead then.

16 CROSS-EXAMINATION

17 BY MR. DAVIS:

18 Q. Officer Flores, how are you doing?

19 A. Good, sir.

20 Q. I want to tell you, I think you guys have been
21 doing great work with GRET. I'm familiar with your
22 program.

23 A. Thank you, sir.

24 Q. Thank you for the work you're doing.

25 A. Appreciate it.

1 Q. I want to ask you some questions about what
2 happened on that night. Now, you responded to the
3 scene. And you said something about an AR-15.

4 A. Yes, sir.

5 Q. Can you tell the jury what an AR-15 is?

6 A. An AR-15 is a rifle. But we only carry the
7 sidearms. But if you're certified with a shotgun or an
8 AR-15, you're able to carry that.

9 Q. So, is an AR-15 like an assault rifle?

10 A. I guess it could be. It's not -- they're
11 fully automatic. So, I wouldn't consider it an assault
12 rifle.

13 Q. It's a semiautomatic firearm?

14 A. So, is my pistol, yes, sir.

15 Q. Yes, I understand.

16 But this one is one that carries a little
17 more punch than a pistol. Would you agree?

18 A. Yes, sir, it does.

19 Q. And there were officers who were behind the
20 house who had an AR-15.

21 A. I observed one, yes, sir.

22 Q. Yes, sir.

23 And you talk a little bit about -- about
24 Mr. Vasquez -- I don't know if you know that's his
25 name. But his name is Mr. Vasquez, the gentleman who

1 you encountered at the house.

2 A. Okay.

3 Q. You talked about when he came around the back,
4 that -- that you ordered him several times to get down.

5 A. Yes, sir.

6 Q. Right.

7 Initially when you're ordering him to get
8 down, officers have weapons drawn on him.

9 A. Yes, sir.

10 Q. Right.

11 He's -- he appears to be unarmed, right?

12 A. We did not see a weapon on him, no, sir.

13 Q. He had his hands in the up position.

14 A. He had his hands up, yes, sir.

15 Q. And apparently he had been talking to
16 negotiators before he ran to the back.

17 A. I wouldn't know that, sir.

18 Q. Yes, sir. I understand.

19 But you encounter him in the back. Guns
20 drawn. His hands are up. And they're ordering him to
21 the ground. And he doesn't go down to the ground.

22 A. Yes, sir.

23 Q. He's still moving or making his way, trying to
24 go towards the house; isn't that right?

25 A. Yes, sir.

1 Q. In fact, he's within arm's length of a couple
2 of officers at that point in time. Would you agree
3 with that?

4 A. He was between me and the other officers. I
5 wouldn't call it arm's length. We was close enough
6 that we could get to him. But we couldn't touch him,
7 no, sir.

8 Q. Yes, sir.

9 You put your -- your gun in the holster
10 and then you grabbed him, right?

11 A. Yes, and the other officers still had him
12 covered.

13 Q. Yes, sir.

14 And then you took him down?

15 A. Yes, sir.

16 Q. So, he was close enough for you to get a hold
17 of him?

18 A. I moved toward him after I put my pistol back
19 in my holster for safety. I didn't want --

20 Q. Yes, sir.

21 A. -- it to be a factor.

22 Q. Yes, sir.

23 He was close enough for you to get to him
24 though, right?

25 A. After I placed my pistol in my holster, I took

1 two or three steps and grabbed him. Yes, sir.

2 Q. Yes, sir.

3 Okay. So, he wasn't a great distance
4 away --

5 A. No, sir.

6 Q. -- at that -- all right.

7 And he even though officers had their
8 guns drawn, he still didn't seem to be able to comply?

9 A. He was looking around. He wasn't really even
10 looking at us. He was looking at the fence and looking
11 at the door, back and forth, back and forth, saying I
12 can't do this.

13 Q. That was weird, wasn't it?

14 A. He looked like he wanted to get away.

15 Q. Yes, sir. I understand.

16 But it was a situation. Wouldn't you
17 agree?

18 A. It -- I -- it wasn't any different than what I
19 normally see, sir, to be honest with you when they're
20 trying to run from us.

21 Q. Yeah.

22 You talked to him -- that he appeared to
23 be under the influence of some type of substance?

24 A. Yes, sir, I would say that.

25 Q. Right.

1 You have some training in dealing with
2 people who are under the influence of certain
3 substances.

4 A. I have dealt with people under certain
5 circumstances. I'm not a narcotics officer or anything
6 else, sir.

7 Q. I understand.

8 So, you don't have any particular
9 training in terms of dealing with it?

10 A. Not more than what a standard gang officer
11 would have, no, sir.

12 Q. I see.

13 MR. DAVIS: I don't have any other
14 questions.

15 THE COURT: All right. Ms. Morneau?

16 MS. MORNEAU: I have nothing further,
17 Judge.

18 THE COURT: All right. Thank you, sir.
19 You can step down and step outside.

20 Ladies and gentlemen, we're going to go
21 ahead and stop here now. I'm going to ask you to
22 please remember all the instructions that I've given
23 you to this point. Let's shoot for 8:30 again
24 tomorrow.

25 We've made some good progress today. I

1 want to make sure we try to do that again tomorrow.
2 So, 8:30 tomorrow let's try to be ready to go. As soon
3 as you're all here and ready to go, buzz us and we will
4 get started as close to that time as possible.

5 Y'all have a safe trip home and a good
6 evening. We'll see you tomorrow morning. Step to the
7 back, please.

8 (Jury excused for the day).

9 THE COURT: Anything we need to talk
10 about before tomorrow?

11 MR. DAVIS: No, Your Honor.

12 THE COURT: All right. See you tomorrow.

13 (Proceedings adjourned).
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1 THE STATE OF TEXAS)

2 COUNTY OF HARRIS)

3 I, Trisha Matthews, Official Court Reporter in
4 and for the 230th District Court of Harris County,
5 State of Texas, do hereby certify that the above and
6 foregoing contains a true and correct transcription of
7 all portions of evidence and other proceedings
8 requested in writing by counsel for the parties to be
9 included in this volume of the Reporter's Record, in
10 the above-styled and numbered cause, all of which
11 occurred in open court or in chambers and were reported
12 by me.

13 I further certify that this Reporter's Record
14 of the proceedings truly and correctly reflects the
15 exhibits, if any, admitted by the respective parties.

16 WITNESS MY OFFICIAL HAND this the 26th day
17 of May, 2015.

18

19

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21

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25

/s/ Trish Matthews
Trisha Matthews, Texas CSR#6606
Expiration Date: 12/31/15
Official Reporter, 230th District Court
Harris County, Texas
Houston, Texas 77002