

1 Call your next witness.

2 MS. EPLEY: State calls Officer Mark
3 Batiste.

4 (Witness sworn.)

5 THE COURT: Ms. Epley.

6 MS. EPLEY: Thank you, Your Honor.

7 M. J. BATISTE,

8 having been first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. EPLEY:

11 Q. Officer, please introduce yourself to the
12 ladies and gentlemen of the jury.

13 A. My name is Mark Batiste.

14 Q. And I see you're in uniform; so, it's Officer,
15 correct?

16 A. Yes, ma'am.

17 Q. Where do you work, Officer Batiste?

18 A. Southwest station, southwest Houston.

19 Q. Okay. For the Houston Police Department?

20 A. Yes, ma'am.

21 Q. How long have you been with HPD?

22 A. Almost 15 years.

23 Q. What's your current title or job?

24 A. Senior police officer, patrol.

25 Q. What does a patrol officer do?

1 A. Canvass the area that I am assigned to, ensure
2 that all the laws are met, try to prevent crime.

3 Q. Do you work a particular shift as a patrol
4 officer?

5 A. The night shift.

6 Q. What hours are the night shift that you work?

7 A. 11:00 p.m. to 7:00 a.m.

8 Q. As a senior officer -- well, do you travel with
9 a partner?

10 A. No, ma'am.

11 Q. Okay. So, as a senior police officer or patrol
12 officer, what kind of calls do you respond to?

13 A. Pretty much everything, from loud noises to
14 more of your heinous crimes. The spectrum is very
15 large.

16 Q. And this is an obvious question. Does that
17 make you a peace officer in the state of Texas?

18 A. Yes, ma'am.

19 Q. Okay. Were you working on May 5th, 2011?

20 A. Yes, ma'am.

21 Q. Okay. Were you working as a patrol officer for
22 HPD on that day?

23 A. That's correct.

24 Q. Do you recall the shift you were working?

25 A. It was the night shift.

1 Q. At some point did you receive a call that
2 brought you into the event that brings us here today?

3 A. Yes, ma'am.

4 Q. Do you know approximately what time you
5 received that call?

6 A. It was approximately 12:01.

7 Q. And have you reviewed anything in order to help
8 you remember that time?

9 A. Yes, ma'am.

10 Q. What was that?

11 A. The offense report.

12 Q. Okay. And a call-for-service slip?

13 A. Yes, ma'am.

14 Q. If you received or were dispatched out to a
15 scene at 12:01, in this case, how long did it take you
16 to get there?

17 A. Approximately six minutes.

18 Q. Officer, do you recall if there were any other
19 officers on the scene when you arrived?

20 A. No. I was the first officer that arrived.

21 Q. Okay. Can you please tell the ladies and
22 gentlemen a little bit about what you saw that night?

23 A. When I first arrived, I saw there was a medical
24 staff, ambulance was there on the scene. They were at
25 that point getting ready to load or put someone in the

1 back of the ambulance. I noticed that it was a male who
2 was -- had been shot. Blood everywhere. People
3 everywhere, running around screaming. A pretty chaotic
4 scene.

5 Q. Now, Officer, I want to break out the chaotic
6 scene a little bit.

7 Let's start first with where you were. Do
8 you recall the address?

9 A. It's 12600 Dunlap.

10 Q. Okay. In Houston, Harris County, Texas?

11 A. Southwest Houston, yes, ma'am.

12 Q. Okay. When you arrive, it's an apartment
13 complex, correct?

14 A. That's correct.

15 Q. Do you know what part of the apartment complex
16 you're at?

17 A. Well, the complex is fairly large; so, this
18 would be actually on the southeast side of the complex.

19 Q. Okay.

20 MS. EPLEY: Your Honor, may I approach the
21 witness?

22 THE COURT: You may.

23 Q. (BY MS. EPLEY) Officer Bastiste, I'm showing
24 you what's been marked at State's Exhibit 2. Without
25 going into its contents, do you recognize this?

1 A. Yes, ma'am.

2 Q. Would you say that it fairly and accurately
3 depicts the map of the part of Houston that it is
4 supposed to depict?

5 A. That's correct.

6 Q. Does it look familiar to you because of
7 May 5th, 2011?

8 A. Yes.

9 *MS. EPLEY:* At this time, State offers
10 State's 2 and tender to opposing counsel for his
11 objection.

12 *MR. MARTIN:* No objection, Judge.

13 *THE COURT:* Then state's Exhibit 2 is
14 admitted without objection.

15 *MS. EPLEY:* Permission to publish?

16 *THE COURT:* You may.

17 Q. (*BY MS. EPLEY*) Officer Batiste, is that the
18 State's Exhibit 2 that I just showed you?

19 A. That's correct.

20 Q. I'm going to zoom in a little bit. What is the
21 roadway here?

22 A. It's Highway 90/South Main.

23 Q. Okay. If I scoot up a little bit and zoom out,
24 would you agree that's an apartment complex around the
25 letter A?

1 A. Yes, ma'am.

2 Q. Do you recognize this apartment complex?

3 A. Yes, ma'am.

4 Q. What do you recognize it to be?

5 A. This is the Pines of Westbury apartment complex
6 where the incident in question took place.

7 Q. Okay. Officer, do you recall when you arrived
8 what portion of the complex you arrived at?

9 A. I arrived in the --

10 THE COURT: You can touch the screen. It
11 will mark it.

12 A. This section.

13 Q. (BY MS. EPLEY) Can you place an X? There you
14 go.

15 A. This section represents the southern part of
16 the complex. I arrived here where I put this arrow,
17 Fonmeadow.

18 Q. Officer, just a moment. I'm going to bring
19 this back up to you.

20 A. Okay.

21 Q. I know I zoomed in right away this around.
22 It's harder to tell; so, I'm going to give you the whole
23 thing.

24 Looking at this here, knowing this is the
25 map and the general legend and Main. Is it possible

1 this is the southeast corner?

2 A. That's the southeast.

3 Q. Okay.

4 *MS. EPLEY:* Permission to publish again,
5 Your Honor?

6 *THE COURT:* You may.

7 Q. (*BY MS. EPLEY*) Officer Batiste, can I get you
8 to touch the bottom left corner of your screen to remove
9 that check mark. And, again, looking at State's Exhibit
10 2, can you tell me where it is that you arrived?

11 A. You want to know when I initially came into the
12 complex?

13 Q. Yes, sir.

14 A. Where I initially came in was here on
15 Fonmeadow. Then I came down this driveway --

16 Q. I see.

17 A. -- and, in turn, stopped here.

18 Q. Okay. When you first arrived, what did you
19 see?

20 A. Initially a lot of people running around
21 screaming, like I say. The ambulance drivers going to
22 and from the person back to the ambulance, getting
23 things situated to transport him to the hospital.

24 Q. Being that you were the first officer there,
25 what does your training and experience tell you you need

1 to be doing?

2 A. Initially to secure the scene as best as
3 possible. In this event, like I said, me being there by
4 myself initially, really trying to find out -- I don't
5 know if there are suspects there, witnesses there or
6 whomever. Initially trying to secure the scene, get
7 everyone away from the body and at the same time
8 question, you know, what's going on and witnesses, who
9 called the police, to try to secure all those people for
10 later.

11 Q. Okay. Let's take this one at a time. You said
12 you would want to check on the victim.

13 A. Correct.

14 Q. In this case where was -- I know you said there
15 were ambulance people running back and forth --

16 A. Yes.

17 Q. -- on the scene there. When you first arrived,
18 are you able to determine where the victim is?

19 A. He's lying on the ground right here by the X.
20 From my understanding, I think it was Apartment 9 -- in
21 front of Apartment 988, right there. It's like an open
22 space sidewalk area that leads into the middle parking
23 lot here. He was lying on the ground there.

24 Q. Officer, I'm going to show you --

25 MS. EPLEY: May I publish more

1 photographs, Your Honor?

2 *THE COURT:* You may.

3 Q. (BY MS. EPLEY) I'm going to show you what's
4 already been marked as State's Exhibit 32. Do you
5 recognize anything else? Do you recognize the
6 stairwell?

7 A. Yes, ma'am. That stairwell was right in front
8 of the apartment that I spoke about.

9 Q. Apartment 988?

10 A. Yes, ma'am.

11 Q. Let me show you State's Exhibit 30. Do you
12 recognize this?

13 A. Yes, ma'am.

14 Q. What is that?

15 A. That's pretty much the scene that I saw with
16 the blood that was on the ground once they removed him.

17 Q. Okay. What condition was the victim in when
18 you arrived?

19 A. Well, he was in horrible condition. I actually
20 thought he was dead.

21 Q. Officer, I'm going to go ahead in the story.
22 When did you find out he was not dead?

23 A. Today.

24 Q. Now, Officer, when you say you thought was
25 going to die or you thought he was dead when you

1 arrived?

2 A. No, I thought he was dead. From my experience
3 dealing with scenes of that nature generally, the type
4 of blood, I mean, without going into too much detail,
5 whenever you get the thickness and the clotting of the
6 blood that was there at the scene, generally that means
7 that they struck a main artery, something of that
8 nature, and pretty much 95, 96 percent of the time,
9 those people die. And with the extent of blood I saw, I
10 just assumed he was dead.

11 Q. Officer, have you worked scenes that have some
12 sort of blood evidence greater than a nicked finger?
13 For example, it may sound extreme. Have you worked
14 something with blood on few or many occasions?

15 A. On many occasions.

16 Q. And would you agree with me there was a
17 substantial amount of blood loss between that doorway
18 where the blood pool began and the parking lot?

19 A. Yes, ma'am.

20 Q. After the victim is transported, what else do
21 you need to do?

22 A. Well, I had to remain on the scene. Again, the
23 initial people that I could gather whether they were
24 witnesses, reportees, anyone with possible knowledge of
25 the suspect, now I have to get all of them together

1 again and keep them secure until the homicide detectives
2 come out and then turn them over to them so they can do
3 their investigations.

4 Q. Officer, being that the idea is to collect
5 evidence, preserve evidence, identify witnesses, are you
6 working alone at the scene that night?

7 A. No. At that point I had maybe about seven
8 other officers. Because the scene was so large, I had
9 to get other officers out to help me contain the scene,
10 you know, but not to tamper with the evidence.

11 Q. Were you able to identify -- I know we're going
12 to have a crime scene unit in a moment. So, just
13 generally. Were you able to identify the general area
14 in which evidence was present?

15 A. Yes, ma'am.

16 Q. Can you briefly identify for the jury what
17 areas of this complex you were looking at?

18 A. The initial area --

19 Q. Officer, I hate to interrupt you. I saw you
20 look towards the map.

21 A. Yes.

22 Q. State's Exhibit 2. And I will zoom in. Okay.

23 A. The initial area, of course, was where the main
24 blood pool was. But what I was able to do, I was able
25 to follow the blood and it took me all the way back

1 here, which is the southernmost portion of the complex.
2 And there, I was able to secure shell casings that let
3 me know that some shooting had occurred there.

4 And, so, from there, I walked back up to
5 the initial point and was able to substantially follow
6 the blood trail all the way back up and find the shell
7 casings along the way.

8 Q. Now, if we use the A mark in the center of
9 State's Exhibit 2 as a general proximity for Apartment
10 988 where you said the victim had fallen --

11 *THE COURT:* Would you circle the A mark?

12 A. (Witness complies.)

13 Q. (*BY MS. EPLEY*) I see the blue arrow mark in
14 the bottom left-hand side of the screen.

15 A. Yes, ma'am.

16 Q. You said you found casings there, correct?

17 A. Yes, ma'am.

18 Q. When you say you secured them, did you pick
19 them up and move them?

20 A. No, ma'am. We don't touch anything until the
21 crime scene unit comes in. What we have is identifier
22 cards. They are basically little cards that fold over
23 as such. If I find a shell casing here, I just fold it
24 over, put it over and number it and each number follows
25 in numerical sequence. And every shell casing or

1 anything I find, whether it's a substantial blood trail
2 or something, I just put that down and label it, just
3 give CSU, crime scene unit, a better visual just to help
4 them out somewhat.

5 Q. Officer, in this case, considering that you had
6 found pools of blood and casings, were you trying to
7 mark these out or did you maintain the scene?

8 A. Yes. I'm doing both. At this time the reason
9 I had all the other officers to come out was because I
10 wanted -- we call it roping it off. Basically crime
11 scene tape. I wanted to make sure that I had enough
12 tape up -- again, like I said, it's a very large
13 scene -- had enough tape up so that no one would walk
14 through to contaminate the scene.

15 So, by this time I had to get more
16 officers out there to help me put the tape up. And,
17 again, there is a lot of people out there; so, they had
18 to keep the people back as well.

19 Q. Officer, between yourself -- and I think you
20 said there were approximately seven officers in
21 addition to yourself.

22 A. Yes, ma'am.

23 Q. So, with you and the seven other officers, do
24 you feel confident that you were able to maintain and
25 secure that scene?

1 A. Yes, ma'am.

2 Q. Do you have any questions as to whether
3 evidence was moved or somewhat tampered with by officers
4 or the witnesses on the scene?

5 A. Let me explain. When you have a crime scene,
6 the other officers basically, they're outside of the
7 tape and get the people back. In a crime scene, if you
8 are the primary officer, you are responsible for
9 everything inside. So, pretty much, you want to make
10 everybody get out of your crime scene and secure the
11 perimeters. You're the only one that's going to be
12 inside so you don't worry about the evidence being
13 tampered with.

14 Q. Okay. Is that what happened in this case?

15 A. Yes, ma'am.

16 Q. Okay. Now, Officer, we have looked at this A
17 here as where the victim had collapsed?

18 A. Yes, ma'am.

19 Q. And this arrow here as where the casings are
20 found. What makes you so sure that the victim ran in
21 this direction as opposed to, for example, this
22 direction? How do you know he went east and north as
23 opposed to north and east?

24 A. Because I followed the blood trail to where he
25 fell.

1 Q. Was there a consistent blood trail?

2 A. Yes, ma'am.

3 Q. How long were you there as a primary officer
4 before the crime scene unit investigators arrived?

5 A. Probably a couple hours.

6 Q. Okay. Can you recall to tell this jury, other
7 than the two casings and the blood that you mentioned,
8 whether or not you found any other items or weapons at
9 the scene?

10 A. There was a hat on the ground. I don't know if
11 it pertained to it, but I know we did mark that as
12 evidence.

13 Q. Do you recall where the hat was found in
14 relation to the casings?

15 A. It was in the southern parking area where the
16 casings -- where you can tell where the shooting began
17 at. The hat was on the ground there in the parking lot.

18 Q. Officer, at the risk of being redundant, I just
19 want to be clear. 12600 Dunlap, that is in Houston,
20 Texas?

21 A. That's right.

22 Q. Okay. Once you arrive to the scene, you make
23 sure the victim is taken to the hospital, you secure the
24 evidence, what do you want to look for in regards to
25 witnesses?

1 A. Well, you want to find someone who actually --
2 initially who saw that a crime was committed. If you
3 can't find someone who saw, maybe someone there heard.
4 If you can't find that person, someone that the
5 complainant may have come in contact with. There is
6 different variations, but basically you are trying to
7 find something to connect something to the actual crime.

8 Q. Okay. In this case, Officer, were there people
9 present who were willing to speak to the police officers
10 about what they saw or what they heard?

11 A. Yes, ma'am.

12 Q. Do you know if their information was taken or
13 if they stayed around the scene in order to speak to
14 those witnesses?

15 A. Yes, I have. That was my responsibility to
16 make sure that they stayed to speak to the
17 investigators.

18 Q. Okay. After the scene is secured and witnesses
19 are identified, what, if anything, do you know about
20 suspects at the scene?

21 A. Well, I vaguely knew what was going on as far
22 as the suspects because the information I got was
23 information that apparently the complainant had given to
24 one of the witnesses at the scene. But I didn't have a
25 direct lead on the suspects. I knew generically that it

1 was black males. The number was kind of off a little
2 bit. I heard three, then I heard four. So, I'm not too
3 sure as a direct link to the suspects.

4 Q. At this point in your investigation, what do
5 you think you're investigating?

6 A. Actually, I think I'm investigating a murder.

7 MS. EPLEY: No further questions.

8 THE COURT: Okay. Mr. Martin.

9 Thank you, Ms. Epley.

10 MR. MARTIN: No questions, Your Honor.

11 THE COURT: Okay. Officer, thank you.

12 You are excused.

13 Is he excused? You're not calling him
14 back?

15 Okay. Then you're excused. Thank you,
16 sir.

17 MS. EPLEY: State calls Officer Pena.

18 THE COURT: Okay. We'll break in 30
19 minutes.

20 (Pausing.)

21 (Witness sworn.)

22 THE COURT: Ms. Epley.

23 MS. EPLEY: Thank you, Judge.

24

25