

1 having been first duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MS. MICKELSON:

4 Q. Officer, could you please state your name for  
5 the record?

6 A. Michael Belinoski.

7 Q. And can you spell your name for the court  
8 reporter?

9 A. Last name is B, as in boy, e-l-i-n-o-s-k-i.

10 Q. And we can see that you're wearing a uniform  
11 today. But can you tell us how are you currently  
12 employed?

13 A. Houston police officer.

14 Q. How long have you been with the Houston Police  
15 Department?

16 A. It will be 21 years in October.

17 Q. What is your current assignment?

18 A. Patrol, night shift, Northwest Division.

19 Q. And can you tell me, what part of town -- just  
20 what major freeways -- is the Northwest Division?

21 A. Two major freeways that sit between us are  
22 I-10 and 290 and it's going to be west of 610.

23 Q. Now, can you tell us just briefly, what type  
24 of training did you have to have to become a police  
25 officer?

1           A.   Six months in the academy in law, driving,  
2 handling prisoners, report writing. And then you get  
3 nine weeks on the street, three different shifts of  
4 training and then the final evaluation. And then you  
5 have to ride with a senior officer until you've been in  
6 for a year.

7           Q.   Now, do you have the same assignment today  
8 that you did on July 28th of 2010?

9           A.   Yes, ma'am.

10          Q.   What shift were you working that day?

11          A.   Working night shift. It was a 10:00-to-6:00  
12 shift, 10:00 at night to 6:00 in the morning.

13          Q.   10:00 p.m. to 6:00 a.m. the next day?

14          A.   Yes, ma'am.

15          Q.   At any point were you dispatched out to 9010  
16 or 9014 Laverne Crescent Drive?

17          A.   Yes, ma'am.

18          Q.   Which address were you dispatched to?

19          A.   I was dispatched to 9014.

20          Q.   Were you riding with anyone that night?

21          A.   No, ma'am. Most of the time we ride single.

22          Q.   When you arrived at 9014 Laverne Crescent,  
23 were there any other officers or emergency personnel  
24 already there?

25          A.   Yes, ma'am.

1 Q. Can you tell us who was already there or what  
2 types of law enforcement was already there?

3 A. Mostly HPD.

4 Q. Did you see a fire truck or an ambulance?

5 A. Yes, ma'am. HFD was on the scene. They were  
6 at the location right next to 9014.

7 Q. So, what was the first thing you did when you  
8 arrived at the residence?

9 A. Spoke with the primary officer that was on the  
10 scene to find out what was going on, what we had and  
11 then went to the supervisor on the scene.

12 Q. Who was the primary officer when you arrived?

13 A. That would be Officer Patrick McGill.

14 Q. And then who became the supervising or the  
15 supervisor officer?

16 A. That was a sergeant, Sergeant Chandler.

17 Q. Were individual assignments or like  
18 responsibilities assigned at the scene or how did you  
19 guys divvie up the work?

20 A. Yes, ma'am. Once phone calls were made and --  
21 phone calls, decisions, I was told that I would be  
22 taking photographs of the scene.

23 MS. MICKELSON: Your Honor, may I  
24 approach the witness?

25 THE COURT: You may.

1 MS. MICKELSON: Let the record reflect  
2 that I'm handing the witness what is now State's 2  
3 through 12, 15 through 18 and 20 through 25.

4 THE COURT: Did you say 15 through 18?

5 MS. MICKELSON: Yes, sir.

6 THE COURT: Okay. And then 20 to 25.

7 MS. MICKELSON: Yes, sir.

8 THE COURT: Okay.

9 Q. (BY MS. MICKELSON) Just take a moment and  
10 tell me if you recognize these.

11 A. Yes, I do.

12 Q. Are these photographs a fair and accurate  
13 representation of 9010 and 9014 Laverne Crescent as you  
14 found on it July 28th, 2010?

15 A. Yes, ma'am.

16 Q. And did you actually take these photographs?

17 A. Yes.

18 MS. MICKELSON: Your Honor, at this time  
19 I'll offer to opposing counsel or show opposing counsel  
20 and offer the rest of the photographs at this time.

21 THE COURT: Okay.

22 MR. CHERNOFF: No objection to any of  
23 them.

24 THE COURT: All right. They're admitted.

25 MS. MICKELSON: Three of the photographs

1 that were already admitted, Your Honor, may I publish  
2 to the jury?

3 THE COURT: Yes, ma'am.

4 Q. (BY MS. MICKELSON) Officer, I'd like to go  
5 through these. Here we have State's Exhibit 2. Can  
6 you tell me what is this we're looking at?

7 A. That's going to be an outside shot. It's  
8 going to be facing west into the area where the  
9 incident occurred.

10 Q. Now, can you tell us, this area, in what part  
11 of town is this?

12 A. It's going to be northwest area, Spring  
13 Branch.

14 Q. Now, this part of Spring Branch, this street  
15 that we're on, is this kind of like a townhome  
16 community?

17 A. Yes, ma'am.

18 Q. And can you describe -- is just like a row of  
19 townhomes?

20 A. It's a row of townhomes. It's also a gated  
21 community.

22 Q. So, this was the outside street as you took a  
23 photograph that evening?

24 A. Yes, ma'am.

25 Q. Now I'm going to show you State's Exhibit 3.

1 It's a little blurry. But can you tell me which  
2 townhome are we looking at in this photograph, the  
3 outside of?

4 A. That's going to be 9010.

5 Q. Now, is 9010 -- was this the neighbor's house  
6 or was this Leticia Gracia's house, if you remember?

7 A. That's going to be -- that's going to be the  
8 neighbor's house.

9 Q. Is this where you actually went or did you go  
10 to 9014?

11 A. I went to 9014.

12 Q. Now, in State's Exhibit 4 we have a close-up  
13 there of the entryway. Is this the home where Leticia  
14 Gracia was originally found by the fire department and  
15 EMTs?

16 A. To the best of my knowledge, yes, ma'am.

17 Q. And just for orientation purposes I'm going to  
18 show State's Exhibit 5, inside 9010 Laverne, the  
19 neighbor's house.

20 Can you tell us what part of the home are  
21 we looking at?

22 A. That's going to be back towards the back end  
23 of the house. Those French doors go to the back of the  
24 house. There's a kitchen off to the right-hand side.

25 Q. Now, having had the opportunity to go in both

1 9010 and 9014, would you say that the layout inside  
2 these townhomes was similar, the floor plan?

3 A. It's fairly similar, yes, ma'am.

4 Q. Can you tell me, this door right here that's  
5 open in the photograph of State's Exhibit 5, do you  
6 know what that led to?

7 A. If I remember correctly, that's going to be a  
8 bathroom.

9 Q. I'm going to show you State's Exhibit 6, which  
10 is now the inside of that open door. Is that the  
11 bathroom you were thinking of?

12 A. Yes, ma'am.

13 Q. And what is on the floor there?

14 A. Bloody rags.

15 Q. And do you know if Leticia Gracia was ever  
16 inside that bathroom in her neighbor's home?

17 A. I didn't see her there personally.

18 Q. If you don't have personal knowledge, that's  
19 fine. Thank you.

20 And this is State's Exhibit 8. Is this  
21 just a close-up of the neighbor's bathroom?

22 A. Yes, ma'am.

23 Q. Now, I'm going to take you to State's  
24 Exhibit 9. Can you tell me, if you know, which home  
25 are we looking at now?

1 A. I really can't tell from the glare.

2 Q. Okay. That's okay.

3 Do you know what those two cars were that  
4 were outside of that home?

5 A. If I remember correctly, I think the one to  
6 the left was a van.

7 Q. Do you remember if the van had anything  
8 written on it?

9 A. It had the name of a company on it.

10 Q. I'm going to show you State's Exhibit 10. And  
11 I don't know if it's easier to see the address.

12 But that's that same Nissan Xterra, I  
13 believe. Are you able to see the physical address now?  
14 It's kind of blurred by the light.

15 A. Yes, I can. It shows to be 9014.

16 Q. And do you know if this is Leticia Gracia's  
17 home?

18 A. Yes, ma'am.

19 Q. And I'm going to show you what's State's 11.  
20 And can you tell us which door is that to the home, the  
21 front door or the back door?

22 A. That's going to be the front door.

23 Q. Okay. What room did that lead directly into?

24 A. It leads directly into the living room.

25 Q. And I'm going to show you State's Exhibit 12.



1 And it might be slightly hard to see with the glare,  
2 but can you see anything on the floor in that  
3 photograph?

4 A. Yes, ma'am.

5 Q. What do you see?

6 A. Some muddy -- muddy tracks and some blood.

7 Q. Now, I believe that defense counsel already  
8 showed us State's Exhibits 13 and 14 earlier this  
9 morning. But is this that same -- the front door that  
10 goes into the living room?

11 A. Yes, ma'am.

12 Q. And then 14 is showing you a close-up of the  
13 -- into the kitchen from the living room?

14 A. Yes.

15 Q. Now, I'm going to show you State's Exhibit 17,  
16 which is right there in the kitchen. And can you see  
17 anything on the floor in that photograph?

18 A. Yes, ma'am. There are blood drops on the  
19 floor.

20 Q. And I think then in State's 18 -- you took  
21 that as well. Is that just a close-up of what's in 17?

22 A. Yes, ma'am.

23 Q. Now, I'd like to show you what we could not  
24 see earlier this morning. But what are we looking at  
25 in State's Exhibit 20?

1 A. Smearred blood.

2 Q. Can you tell us, what part of the townhome is  
3 that in?

4 A. That's going to be towards the back. You can  
5 see the chairs from that other table on the left-hand  
6 side. And the back door is right behind where the  
7 blood is. That's the back of the house.

8 Q. And are those stairs that we see in the  
9 photograph? Do those lead up to the second story?

10 A. Yes, ma'am.

11 Q. Did you take any photographs of the second  
12 story?

13 A. Not that I can remember.

14 Q. And here we have State's Exhibit 22, which is  
15 a close-up. What -- what was on the floor in State's  
16 Exhibit 22?

17 A. A lot of blood smears and a lot of congealed  
18 blood.

19 Q. Is that your understanding of where the  
20 complainant was standing when she was shot?

21 A. It's my understanding of where she may have  
22 fallen.

23 Q. Now -- and just -- is that -- what is that  
24 back by the door on the floor?

25 A. That's going to be shattered glass from the

1 door.

2 Q. Now, I'd like to show you State's Exhibit 23,  
3 which is basically the door that was right above what  
4 we were previously looking at. And can you tell me,  
5 what is that damage to the mini blinds?

6 A. The holes in mini blinds appear to be damage  
7 from a bullet.

8 Q. When you were there, was the glass still in  
9 the door or had all of it shattered on the floor?

10 A. It was all on the floor.

11 Q. And then in State's Exhibit 25, we have a  
12 close-up of the mini blinds. Was there anything else  
13 on the mini blinds?

14 A. Yes, ma'am. It was also blood.

15 Q. Officer, did you have any other  
16 responsibilities in regards to this case?

17 A. We did -- several police officers did have to  
18 enter the location in order to check to see if one of  
19 the remaining children were still in the residence. We  
20 weren't sure if the shooter was still there. But our  
21 primary focus was the safety of the child. So, we did  
22 enter the location first as basically a search for the  
23 child. And once we found her and did not find the  
24 shooter, we left the location.

25 Q. And so, did that conclude your involvement in

1 this case?

2 A. It was after that point in time when I was  
3 advised that I would be taking pictures.

4 MS. MICKELSON: Pass the witness.

5 THE COURT: Cross?

6 MR. CHERNOFF: Yes. Thank you, Judge.

7 CROSS-EXAMINATION

8 BY MR. CHERNOFF:

9 Q. Officer Belinoski, the pictures that reflect  
10 -- let me ask you first: What time did you arrive at  
11 the scene?

12 A. I'm not sure, sir. It was going to be after  
13 midnight.

14 Q. Okay. If the 911 call came at 12:02, for  
15 instance, would you be five minutes after that?

16 A. Could have been 15 minutes, sir.

17 Q. Okay. Is there a way -- the camera that you  
18 used in this case, is it your personal camera?

19 A. Yes, sir.

20 Q. What kind of camera?

21 A. It's a digital camera, Nikon. Buy it at  
22 Wal-Mart.

23 Q. Do you have it programmed so that it reflects  
24 the time stamp and a date?

25 A. Yes, sir.

1 Q. All right. You took these photos around  
2 12:20, 12:19 a.m.?

3 A. If that's what they show, sir.

4 Q. Do you have any reason to disbelieve it?

5 A. No, sir.

6 Q. Okay. How -- how soon after the pictures were  
7 taken did you leave the scene?

8 A. I don't remember, sir.

9 Q. Could you estimate for us how long you were  
10 there?

11 A. Probably 30, 35 minutes.

12 Q. All right. Would at any point -- now, you  
13 don't -- you don't work for the crime scene unit; is  
14 that right?

15 A. No, sir.

16 Q. Okay. And can you tell us what the crime  
17 scene unit is?

18 A. Yes, sir. Crime scene unit's primary job is  
19 to collect, document and safeguard evidence from a  
20 scene. I worked with them for a year.

21 Q. Collects evidence?

22 A. Yes, sir.

23 Q. Things like bullet casings?

24 A. Yes, sir.

25 Q. Blood smears, things like that?

1 A. You would take pictures of those.

2 Q. What about bullet holes?

3 A. You would take pictures of those. It's  
4 difficult to collect the bullet holes.

5 Q. Now, in these pictures that you took, there  
6 are no pictures of bullet holes, correct?

7 A. We have holes that are in the blinds.

8 Q. Okay. Any -- any other bullet holes that were  
9 taken, like -- did anyone check for bullet holes in the  
10 wall?

11 A. Yes, sir.

12 Q. Okay. Who checked for bullet holes in the  
13 wall?

14 A. I looked, Officer McGill probably looked.

15 Q. Okay. And so, you -- but you walked around  
16 and looked for bullet -- bullet holes; is that right?

17 A. I looked -- I walked around looking for  
18 evidence.

19 Q. I mean, it's not your responsibility. You  
20 were asked to take photos, right? Right?

21 A. Okay, sir.

22 Q. You took photos of various things that you  
23 thought might be important, correct?

24 A. Yes, sir.

25 Q. Is it your testimony today that you

1 specifically looked for bullet holes?

2 A. No, sir.

3 Q. Okay. Did you -- did you or anybody  
4 responsible for the investigation look for casings or  
5 shells?

6 A. I'm sure they did.

7 Q. To your knowledge --

8 A. I cannot speak for them, sir.

9 Q. To your knowledge, were any casings or shells  
10 recovered?

11 A. Not that night.

12 Q. Now, one of the -- one of the things that you  
13 testified to was that in this photo we see holes in the  
14 blinds. And clearly we do, right?

15 A. Yes, sir, we do.

16 Q. How many holes do you think were in the  
17 blinds? How many would you estimate?

18 A. It's a fairly blurry picture. I see three.

19 Q. Okay. Now, one bullet wouldn't necessarily  
20 make three holes. It could, right?

21 A. It could.

22 Q. But bursting glass absolutely could make holes  
23 with enough force, right?

24 A. Shattered glass would cause more damage.

25 Q. It could actually cause holes in plastic mini

1 blinds, couldn't it?

2 A. It would cause holes and possibly more damage.

3 Q. Now, let's go back a little bit here. And  
4 let's look at the floor where the glass is. That's a  
5 lot of glass, isn't it?

6 A. Yes, sir, there is.

7 Q. And clearly, that glass came from the window  
8 that was blown out, right?

9 A. The glass came from the window.

10 Q. Okay. Did you happen to take any pictures of  
11 what was on the other side of that door?

12 A. No, sir, I did not.

13 Q. Do you remember what was on the other side of  
14 that door?

15 A. No, sir.

16 Q. Okay. But this glass that was blown out into  
17 the room, you did take pictures of?

18 A. Yes, sir.

19 Q. You considered that to be important evidence  
20 and information?

21 A. Yes, sir.

22 Q. Okay. Who is responsible for -- I'm going to  
23 use slang here. Please forgive me -- bagging the hands  
24 and checking -- doing an atomic absorption test? Who  
25 does that?



1 A. That would have been CSU.

2 Q. They were not called out?

3 A. No, sir, they were not.

4 Q. And CSU would have -- can you explain what an  
5 atomic absorption test is? You know what it is, right?

6 A. Yes. It's a test to detect gunpowder residue.

7 Q. What's important about that?

8 A. It would show that an individual had fired a  
9 weapon or handled one.

10 Q. Okay. And you're familiar with the fact that  
11 an atomic absorption test lasts -- can make that  
12 determination many, many hours after the event.

13 A. Yes, sir.

14 Q. Was anybody in this case to your knowledge  
15 tested in that regard?

16 A. Not to my knowledge.

17 Q. Once again, because there was no CSU unit?

18 A. Yes, sir.

19 Q. Okay. During the search of the apartment or  
20 of this townhome, did anybody look in any of the  
21 cabinets or underneath any of the couches or -- or in  
22 any of the armoires? Anybody do that?

23 A. I didn't personally.

24 Q. Okay. Nobody, to your knowledge, went outside  
25 and looked at what was behind that back door where the

1 gate is?

2 A. To my knowledge.

3 Q. Nobody looked for bullet holes in that area at  
4 all?

5 A. To my knowledge.

6 Q. To your knowledge.

7 I guess you wouldn't know whether the  
8 gate was closed or open in the patio either. Nobody --  
9 nobody bothered to go out there.

10 A. Sir, I did not bother to go out there. I  
11 cannot state for the officers.

12 Q. Well, what other officers were out there,  
13 Sergeant?

14 A. Officer McGill, Sergeant Chandler.

15 Q. Okay. Estrada?

16 A. Officer Estrada, Officer -- I think there was  
17 an Officer Lopez, but I'm not sure what part he was  
18 playing in this.

19 Q. So, maybe they went out there?

20 A. I don't know, sir.

21 Q. Okay. But you know for sure that if --  
22 whoever -- whoever -- you were the only person in this  
23 case that took photographs; is that right?

24 A. Yes, sir.

25 Q. There aren't any photographs taken by -- by

1 Sergeant Chandler, for instance?

2 A. No, sir.

3 Q. Just you. Okay.

4 You said you saw a van outside.

5 A. Yes, sir.

6 Q. All right. And do you understand -- did you  
7 understand that van to be significant in some way?

8 A. My understanding was it belonged to a person  
9 from that location.

10 Q. Okay. Did -- did you search that van?

11 A. No, sir.

12 Q. Did anybody search the van?

13 A. To my knowledge, no, sir.

14 Q. All right. Did anybody -- but it was  
15 certainly there at the scene when you arrived, correct?

16 A. Yes, sir.

17 Q. Did anybody find any keys in the apartment  
18 that were significant?

19 A. No, sir.

20 Q. Cell phones?

21 A. No, sir.

22 Q. Clothing of some sort, shoes, for instance?

23 A. Not to my knowledge.

24 Q. You did take a picture of what you say in  
25 State's Exhibit 12, muddy -- muddy shoe prints.

1                   Once again, we have glare problems. But  
2 these are -- is this a picture of muddy footprints you  
3 took?

4           A. Muddy footprints, yes.

5           Q. Okay. And you said you were taking photos of  
6 thing you thought were significant.

7           A. I was taking photos in sequence from the front  
8 of the house towards the back where the incident  
9 occurred.

10          Q. Is there anything about the muddy footprints  
11 you thought was important?

12          A. The blood was next to them.

13          Q. These footprints, were they shoe prints?

14          A. They were not clear -- they weren't clear as  
15 to what they were.

16          Q. Okay. They were just muddy prints of some  
17 sort?

18          A. Yes, sir.

19          Q. Okay. Was there any other mud in the house  
20 that you saw?

21          A. No, sir.

22          Q. Just right here at the door?

23          A. From the door towards the other room, yes,  
24 sir.

25          Q. Kind of the sort of thing that somebody would

1 track mud inside the house.

2 A. Yes, sir.

3 Q. Not leaving the house?

4 A. Yes, sir.

5 Q. That's a yes, sir, I'm right about that, not  
6 leaving the house?

7 A. The prints show that somebody walked in from  
8 that direction.

9 Q. Okay. Did you have occasion, Officer  
10 Belinoski, to -- to speak with Ms. Gracia?

11 A. No, sir.

12 Q. Did you have occasion to see her?

13 A. No, sir. HFD was already with her. And like  
14 I said, our primary call was where the incident  
15 occurred and the child.

16 Q. And that's why you didn't get any photos of  
17 the injury. You just never even got to see her, right?

18 A. That's correct, sir.

19 Q. Okay.

20 MR. CHERNOFF: One second, Judge, please.

21 THE COURT: Yes, sir.

22 Q. (BY MR. CHERNOFF) With regard to the photos  
23 that you took, Officer Belinoski, very quickly, the van  
24 -- the security van that you believed belonged to a  
25 suspect in this case, is this what we're talking about

1 right here?

2 A. Yes, sir.

3 Q. Where I'm pointing to?

4 A. Yes, sir.

5 Q. Do you know what happened to that van after?

6 A. That van was left at that location, sir.

7 Q. It wasn't towed away?

8 A. No, sir. We were advised not to tow it. It  
9 was on private property.

10 Q. All right. Thank you.

11 MR. CHERNOFF: I have no more questions.

12 THE COURT: All right. Anything else,  
13 ma'am?

14 MS. MICKELSON: No, Your Honor. May this  
15 witness be excused?

16 THE COURT: All right, sir. You may step  
17 down. Thank you.

18 Call your next witness.

19 MS. MICKELSON: Yes, sir. At this time  
20 the State calls Officer McGill.

21 THE COURT: Come forward, sir. I didn't  
22 swear you in earlier?

23 THE WITNESS: No, sir.

24 THE COURT: Okay. Please raise your  
25 right hand.