

1 THE COURT: All right. State, you may
2 proceed. Call your first witness.

3 MS. ANASTASIO: All right. The State
4 calls Officer Steven Bryant.

5 THE COURT: Okay. Officer Bryant.
6 All right. State, you may proceed.

7 OFFICER STEVEN BRYANT,
8 having been first duly sworn, testified as follows:

9 DIRECT EXAMINATION

10 BY MS. ANASTASIO:

11 Q How are you doing today?

12 A Good, ma'am.

13 Q Great. What is your name?

14 A Steven Bryant.

15 Q And where are you employed?

16 A I'm a City of Houston police officer.

17 Q And how long have you been employed with
18 HPD?

19 A 16, almost 17 years.

20 THE COURT: Is that microphone not working
21 at all?

22 MR. GOODHART: Doesn't sound like it's
23 working.

24 THE COURT: Okay. Just keep your voice
25 up.

1 Go ahead.

2 Q (By Ms. Anastasio) So, you have been
3 employed with HPD for 16 or 17 years. What is your
4 current assignment?

5 A I'm currently assigned to the narcotics
6 division.

7 Q And how long have you worked in the
8 narcotics division?

9 A I've been there five years.

10 Q Were you on duty Thursday, April 5th,
11 2012, at about 6:30 p.m.?

12 A Yes, I was.

13 Q At what location were you working that
14 day?

15 A We were in the south central area of
16 Houston, which is the Third Ward area around TSU.

17 Q And that is in Harris County, correct?

18 A Yes, it is.

19 MS. ANASTASIO: Permission to approach the
20 witness?

21 THE COURT: Sure.

22 Q (By Ms. Anastasio) Do you recognize
23 State's Exhibit 1?

24 A Yes, I do.

25 Q How do you recognize it?

1 A It's a map of streets: Dowling, Elgin,
2 and Sampson.

3 Q Okay. And you're personally familiar with
4 the locations contained in the map --

5 A Yes, I am.

6 Q -- that is State's Exhibit 1?

7 A Yes, I am.

8 Q Does this map fairly and accurately
9 represent the location as you personally observed
10 it?

11 A Yes, it does.

12 Q Are the areas marked as 1, 2, and 3 on the
13 map the areas in which you were present, that day,
14 April 5th?

15 A Yes, it is.

16 Q Is the route delineated on the map an
17 accurate representation of the route you traveled to
18 get between those locations?

19 A Yes, it is.

20 MS. ANASTASIO: Your Honor, the State
21 tenders State's Exhibit No. 1 to Defense
22 counsel for inspection and offers it into
23 evidence.

24 MR. GOODHART: No objection.

25 THE COURT: Okay. It will be admitted.

1 (Exhibit admitted.)

2 THE COURT: Do you need it back?

3 MS. ANASTASIO: Sure.

4 Q (By Ms. Anastasio) So, is this the area
5 where you were working that evening?

6 A Yes, it was.

7 Q Excellent. Were you in uniform?

8 A No, ma'am. I was in plain clothes.

9 Q Were you in a marked patrol unit?

10 A No, ma'am.

11 Q Why weren't you in uniform or in a marked
12 patrol unit?

13 A We were working in an undercover capacity
14 doing narcotic street buys.

15 Q Okay. Was it daylight outside?

16 A Yes, it was.

17 Q And was the visibility good?

18 A Yes.

19 Q So, it's fair to say that it would be easy
20 to recognize a person or landmarks because of the
21 daylight?

22 A Yes, ma'am.

23 Q What was your assignment that day?

24 A I was posing as an undercover narcotics
25 street buyer, driving around that area of town.

1 Q Why did you and the other narcotics
2 surveillance officer pick that particular area to
3 work in?

4 A That was the area we were assigned to work
5 on that particular day.

6 Q And why were you assigned to work there
7 that particular day?

8 MR. GOODHART: Objection, speculation.

9 THE COURT: Overruled.

10 A My -- our sergeant assigned us to work
11 this particular area to do narcotics street buys.

12 Q (By Ms. Anastasio) So, it's an area that
13 is known for narcotics transactions?

14 A Yes, ma'am.

15 Q And were you at that time conducting a buy
16 and bust?

17 A Yes, ma'am. We were attempting to conduct
18 buy-bust investigations throughout that area.

19 Q Can you please explain exactly what a buy
20 and bust is?

21 A Well, what we're trying to do is buy
22 narcotics, and then we'll have the marked patrol
23 units come in and arrest the individual that
24 delivered the narcotics. It's a buy and then we
25 bust them at the same time.

1 Q Are these typical for undercover narcotics
2 officers to conduct?

3 A Yes, ma'am. We do these daily.

4 Q So, how many would you say you have done
5 over the six years -- excuse me -- yeah, six years
6 that you have worked in narcotics?

7 A We've done -- I can't give you an exact
8 number, but we've done quite a few.

9 Q Okay. Where do you get the money to
10 complete these transactions?

11 A The City of Houston provides us money to
12 go out and conduct narcotics investigations
13 throughout the city.

14 Q How is it that you decide who will be
15 doing the bust and who will be doing the
16 surveillance?

17 A We normally take turns doing it, and this
18 particular time just happened to be my turn.

19 Q Where did you first go to attempt the buy
20 and bust that occurred around 6:30 p.m. on
21 April 5th, and that is in question today?

22 A We were in the area of Francis and
23 Dowling. I was driving down Francis towards Dowling
24 when I was flagged down.

25 MS. ANASTASIO: Okay. Permission to

1 approach, Your Honor?

2 THE COURT: Sure. You just have to ask
3 the first time.

4 MS. ANASTASIO: Okay.

5 Q (By Ms. Anastasio) Do you recognize
6 State's Exhibit No. 2?

7 A Yes, ma'am. It's a Mobil gas station
8 right at the corner of Francis and Dowling.

9 Q And how do you recognize it?

10 A I've been there numerous times.

11 Q Okay.

12 A From the photograph.

13 Q So, you're personally familiar with the
14 location?

15 A Yes, ma'am.

16 Q Does the picture fairly and accurately
17 represent the location as you personally observed
18 it?

19 A Yes, ma'am.

20 MS. ANASTASIO: Your Honor, the State
21 tenders State's Exhibit No. 2 to Defense
22 counsel for inspection and offers it into
23 evidence.

24 MR. GOODHART: No objection.

25 THE COURT: It will be admitted.

1 (Exhibit admitted.)

2 MS. ANASTASIO: I don't need it back.

3 THE COURT: Can you lay that down over
4 there.

5 Q (By Ms. Anastasio) Where is that Mobil
6 station located?

7 A It's right at the corner of Dowling and
8 Francis.

9 Q Okay. And how would you describe the area
10 around the Mobil station on Dowling?

11 A It's an older neighborhood, predominately
12 African-American area with heavy narcotics
13 trafficking.

14 Q And is that the location marked as "1" on
15 State's Exhibit 1?

16 A Yes, ma'am.

17 Q On April 5th, 2012, did you have occasion
18 to come into contact with Bobby Joseph Johnson?

19 A Yes, ma'am.

20 Q Do you recognize Mr. Johnson in the
21 courtroom today?

22 A I do.

23 Q Would you please point out Mr. Johnson and
24 identify him by an article of clothing?

25 A That is the gentleman there with the

1 orange shirt.

2 MS. ANASTASIO: Okay. Your Honor, please
3 let the record -- Your Honor, please let the
4 record reflect that the witness identified the
5 defendant, Mr. Johnson.

6 THE COURT: The record will so reflect.

7 Q (By Ms. Anastasio) Had you ever met
8 Mr. Johnson before?

9 A No, ma'am.

10 Q What were the other officers on duty,
11 particularly Officer Jones, doing while you were
12 talking with the defendant at the Mobil station?

13 MR. GOODHART: Objection, speculation. He
14 testified he was alone inside the car.

15 THE COURT: Sustained.

16 Q (By Ms. Anastasio) What do other officers
17 generally do while you are doing the buy and bust?

18 MR. GOODHART: Objection, it's irrelevant
19 what other officers do. It's what he did in
20 this case.

21 MS. ANASTASIO: Your Honor, it is relevant
22 to the case.

23 THE COURT: Because why?

24 MS. ANASTASIO: The other officer is a
25 witness who is performing surveillance, and I

1 just want to establish that other officers are
2 viewing what is going on.

3 MR. GOODHART: If that officer is here, he
4 can testify then to that.

5 MS. ANASTASIO: Okay. That is fine.

6 MR. GOODHART: So, I renew my objection.

7 THE COURT: Okay. Sustained.

8 Q (By Ms. Anastasio) When you first made
9 contact with Mr. Johnson, who initiated the
10 conversation?

11 A He initiated the conversation. I had the
12 windows down, and he flagged me down. I just pulled
13 over and stopped.

14 Q Okay. Did you record audio of your
15 conversation with Mr. Johnson?

16 A No, ma'am.

17 Q Why not?

18 A That type of -- the technology is
19 something we don't use, ever.

20 Q And why would you use that technology?

21 A In this type of investigation, these
22 happen so fast that we don't have that type of
23 technology for these type of investigations.

24 Q If someone were to perform surveillance
25 while you were doing a buy and bust, would they be

1 listening in on your conversation?

2 MR. GOODHART: Objection, speculation.

3 THE COURT: He can answer, if he knows.

4 A There is a way to do it, you know. I may
5 turn on my -- call you on the cell phone and then
6 just -- you know, you can mute your cell phone out,
7 and then you can just listen to the conversation.

8 Q (By Ms. Anastasio) Would you consider that
9 dangerous?

10 A It's -- it's all dangerous anytime you're
11 doing any type of undercover investigation.

12 Q Why would Mr. Johnson flag you down if he
13 didn't know you and had never seen you before?

14 MR. GOODHART: Objection, calls for
15 speculation. She doesn't know what is in his
16 mind.

17 THE COURT: Sustained.

18 Q (By Ms. Anastasio) When Mr. Johnson --
19 what did Mr. Johnson say to you at that point?

20 A When he flagged me down, he came over to
21 the passenger side of the car, and I just told him
22 to go ahead and get in. So, he was sitting in the
23 front passenger seat of the vehicle. I told him
24 what I was looking for. I told him I was looking
25 for crack cocaine, could he help me find it; and he

1 said, Yes.

2 Q Did Mr. Johnson say anything to you
3 besides that?

4 A He was -- you know, we got into a basic
5 conversation. You know, what -- you know, what you
6 looking for?

7 And, so, I just kind of, you know,
8 went straight into what I was looking for was crack
9 cocaine. As an undercover -- well, I didn't tell
10 him I was undercover, but that is what I was looking
11 for.

12 Q Okay. Did you guys drive away from the
13 Mobil station?

14 A Yes, we did.

15 Q The one located at Dowling and Francis?

16 A Yes, we did.

17 Q Where did you go next?

18 A Well, he directed me to drive down Elgin
19 to another Mobil station down by Ennis and -- Ennis
20 and Elgin, and he directed me to stop and park in
21 the parking lot of the gas station.

22 MS. ANASTASIO: Can I approach, Your
23 Honor? Okay.

24 Q (By Ms. Anastasio) Do you recognize
25 State's Exhibit 3 and 4?

1 A Yes, I do.

2 Q How do you recognize it?

3 A They're photographs of the Mobil gas
4 station that he -- that the defendant directed me
5 to.

6 Q Are you personally familiar with the
7 locations indicated in 3 and -- Exhibit 3 and 4?

8 A Yes, ma'am.

9 Q And do those pictures fairly and
10 accurately represent the location as you personally
11 observed it?

12 A Yes, they do.

13 MS. ANASTASIO: Okay. Your Honor, the
14 State tenders State's Exhibit No. 3 and 4 to
15 Defense counsel for inspection, and offers it
16 into evidence -- them into evidence.

17 MR. GOODHART: I must have missed
18 something, Judge. I'm not sure what 3 and 4
19 are. Is it the same place or two different
20 locations?

21 MS. ANASTASIO: It's the same place, two
22 different angles.

23 MR. GOODHART: Okay. No objection.

24 THE COURT: They'll be admitted.

25 (Exhibits admitted.)

1 MS. ANASTASIO: Just for you to look at.

2 THE COURT: Gas was cheaper on that day.

3 Q (By Ms. Anastasio) So, those photographs
4 are a Mobil station?

5 A That's correct.

6 Q And that is not the same Mobil station
7 where you first went?

8 A No, this is a different Mobil station.

9 Q Okay. What route do you take to get
10 there?

11 A We turned on Dowling, then we went down
12 Elgin, and the gas station is on the left-hand side.

13 Q Okay. About how far from the first Mobil
14 station on Dowling is the second Mobil station on
15 Elgin?

16 A Mile, mile and a half, maybe two.

17 Q Once you arrived at the second Mobil
18 station, what happened?

19 A I had already previously discussed, you
20 know, what we were there to buy was cocaine; and he
21 said, Okay.

22 And he went inside the Mobil station
23 and got another person and came outside.

24 Q Had you ever seen the person -- was it a
25 male?

1 A It was male.

2 Q Had you ever seen that man before?

3 A No, ma'am.

4 Q And what did, if anything, this man say to
5 you?

6 A Nothing happened, but I could hear their
7 conversation back and forth. And the unknown male
8 told him, Hey, it's hot.

9 MR. GOODHART: Objection, that is going to
10 be hearsay. He just said he couldn't hear what
11 they were saying.

12 THE COURT: Overruled.

13 A The other man said that it was hot out
14 there, meaning that there was police presence and
15 nothing was going on.

16 Q (By Ms. Anastasio) Okay. What do you mean
17 by "nothing was going on"?

18 A That no dope selling was going to be going
19 on as long as they felt uncomfortable with the
20 potential of being arrested, you know, with police
21 in the area.

22 Q Okay. So, if an area is hot, that means
23 there are police present in the area at the time?

24 A Yeah, that is street terminology for it's
25 hot, we're not doing anything.

1 Q What did Mr. Johnson do next?

2 A Well, he directed me to go further down
3 Elgin and onto Sampson.

4 Q Okay. Did you then leave the Mobil
5 station?

6 A Yes, we did.

7 Q After you left the Mobil station, where
8 did you go?

9 A We went down Elgin and then we turned left
10 on Sampson in the area of Sampson and McIlhenny.

11 Q On the way there, did Mr. Johnson say
12 anything to you?

13 A He had -- he was just -- we were
14 discussing back and forth about the transaction, and
15 he was, like, look, just give me the money, and I'll
16 go get it and come back.

17 Q Okay.

18 A And I agreed.

19 Q Do you recognize State's Exhibits 5, 6, 7
20 and 8?

21 A Yes, ma'am.

22 Q How do you recognize it?

23 A These are the areas of the 2300 block of
24 Sampson.

25 Q And you're personally familiar with these

1 locations?

2 A Yes, ma'am.

3 Q And do these photographs fairly and
4 accurately represent the location as you personally
5 observed it?

6 A Yes, ma'am.

7 MS. ANASTASIO: Your Honor, the State
8 tenders State's Exhibit Nos. 5, 6, 7 and 8 to
9 the Defense counsel for inspection and offers
10 it into evidence.

11 MR. GOODHART: No objection.

12 THE COURT: It will be admitted.

13 (Exhibits admitted.)

14 Q (By Ms. Anastasio) How would you describe
15 the area you were in on Sampson Street?

16 A It's a known narcotics area. There's
17 numerous people hanging outside. It's a public
18 street in the City of Houston.

19 Q When you arrived around the 2300 block of
20 Sampson, what did Mr. Johnson do?

21 A As we were passing a local motel there, we
22 were discussing how the transaction was going to go
23 down. He said, just give me the money. He was
24 going to go get the narcotics and come back. He
25 instructed me to park in front of the Sampson Motel

1 that is close to that intersection.

2 I drove up near the intersection of
3 McIlhenny and Sampson, gave him the money, and let
4 him out of the vehicle.

5 Q So, you did give him money to buy
6 narcotics?

7 A Yes, ma'am.

8 Q Was the amount you gave him between \$50
9 and \$500?

10 A Yes, ma'am.

11 Q How much, exactly?

12 A \$100.

13 Q And why did you give him the money?

14 A So, he could go buy crack cocaine.

15 Q So, at that point, Mr. Johnson took the
16 money and had possession and control over the money?

17 A Yes, ma'am.

18 Q Okay. Was he to return with the money if
19 he was unable to secure the narcotics?

20 A Yes, ma'am.

21 Q What did Mr. Johnson do next?

22 A Well, before he got out of the vehicle, he
23 left his bag so he could come back and get the --
24 after he secured the cocaine to come back and get
25 his bag. He got out of the vehicle and started

1 walking down the street. I then, at that time, made
2 sure that the surveillance units knew exactly where
3 I was, and made the block. And then other
4 surveillance units had observed him and started
5 conducting surveillance of him.

6 Q So, again, what did Mr. Johnson leave
7 behind in the vehicle?

8 A He left a plastic bag with some articles
9 inside.

10 Q Some articles?

11 A Some articles.

12 Q Articles. Okay. Excuse me, I'm sorry.

13 So, why did you tell him to leave
14 something behind?

15 A Just to ensure that he would come back and
16 get his belongings and give me my belongings.

17 Q And why did you want him to come back?

18 A So he could deliver crack cocaine.

19 Q Or?

20 A Or my money.

21 Q Okay.

22 THE COURT: Hang on just a second.

23 Go ahead.

24 Q (By Ms. Anastasio) Have you seen State's
25 Exhibit 30 before?

1 A Yes, I have.

2 THE COURT: Exhibit what?

3 MS. ANASTASIO: I'm sorry?

4 THE COURT: What did you say? Exhibit

5 No. --

6 MS. ANASTASIO: 30.

7 THE WITNESS: 31.

8 MS. ANASTASIO: 31, I'm sorry. Excuse me.

9 Q (By Ms. Anastasio) So, you recognize this
10 bag?

11 A Yes, ma'am.

12 Q How do you recognize it?

13 A That was the bag that was left inside the
14 underconevery vehicle.

15 Q So, that is the first time you saw it?

16 A Yes, ma'am.

17 Q Okay. What did you do with State's
18 Exhibit No. 31 when you saw it?

19 A It just remained on the floor waiting for
20 his arrival to come back and deliver the cocaine.

21 Q What did you do after the transaction
22 failed?

23 A After the transaction failed, I looked
24 inside the bag and observed mail addressed to the
25 defendant.

1 Q What did you do with this when you got
2 back to the station?

3 A We tagged this in the property room.

4 Q How do you know it's the same exhibit you
5 recovered?

6 A That's the -- it's been in the property
7 room until I picked it up today for court.

8 Q Other than the addition of your
9 identifying mark and the State's exhibit sticker,
10 has it, to your knowledge, been altered in any other
11 way?

12 A No, ma'am.

13 Q Is it in substantially similar condition
14 as when you first saw it?

15 A Yes, ma'am.

16 Q And how did State's Exhibit 31 get to the
17 courtroom today?

18 A I picked it up and brought it to court
19 today.

20 MS. ANASTASIO: Your Honor, the State
21 tenders State's Exhibit No. 31 to Defense
22 counsel for inspection and offers it into
23 evidence.

24 MR. GOODHART: Where are the identifying
25 marks?

1 MS. ANASTASIO: They're on here.

2 MR. GOODHART: You just had him testify
3 they're on here. Where are they?

4 Judge, may I take the witness on voir
5 dire?

6 THE COURT: Sure.

7 VOIR DIRE EXAMINATION

8 BY MR. GOODHART:

9 Q Officer, you just testified that your
10 marks, I assume your initials are on this bag. I
11 don't see them. Could you show them to me?

12 A They're not on that bag. They're on top
13 of that box.

14 Q So, you did not mark this particular bag?

15 A Not that particular bag.

16 Q This is an ordinary grocery bag as far as
17 we know, at this time?

18 A It is, but that is the bag that was tagged
19 into the property room.

20 MR. GOODHART: I'm going to object, Judge.
21 There is no identifying marks whatsoever that
22 this bag was the one found inside his UC car or
23 that this is the one that he introduced to the
24 property room. It just has the State's sticker
25 on that, and that is it.

1 THE COURT: Okay. That will be sustained.

2 DIRECT EXAMINATION CONTINUED

3 BY MS. ANASTASIO:

4 Q For demonstrative purposes only, does this
5 look like the bag that you found in your car that
6 Mr. Johnson left behind?

7 A Yes, ma'am.

8 Q Okay. Thank you.

9 Inside a bag that looks almost
10 identical to that bag, what did you find?

11 A There was mail addressed to Bobby Johnson
12 and a raincoat.

13 Q And anything else?

14 A It was like a rain jacket or something in
15 there.

16 Q Okay. Have you seen State's Exhibit 9,
17 10, 11, 12, and 30 before?

18 THE COURT: 9, 10, 11, 12, and 30?

19 MS. ANASTASIO: I didn't know there was a
20 fifth one. I'm sorry.

21 Hold on.

22 THE COURT: No, no, I'm just trying to get
23 the record straight.

24 MR. GOODHART: It's 10, 11 --

25 MS. ANASTASIO: 9, 10, 11, 12, and 30.

1 Q (By Ms. Anastasio) Do you recognize these?

2 A Yes, ma'am.

3 Q How do you recognize them?

4 A These were the envelopes that were left
5 inside my vehicle.

6 Q When and where did you first see them?

7 A They were on the passenger floor of the
8 vehicle. When I opened up the bag, they were inside
9 the bag, the plastic bag that was left in my
10 vehicle.

11 Q Okay. How do you know these are the same
12 exhibits -- these are the same envelopes that you
13 recovered?

14 A These were the envelopes that were
15 recovered and tagged in the property room.

16 Q What did you tag them in?

17 A They were tagged in an envelope and sealed
18 with my initials on the bag.

19 Q Okay. So, you put all of the envelopes
20 that you found in the car into this --

21 A Yes, ma'am.

22 Q -- envelope, and you tagged it into
23 evidence?

24 A Yes, ma'am.

25 THE COURT: When you say "this envelope,"

1 what are you talking about? Is it marked as an
2 exhibit?

3 MS. ANASTASIO: Not currently. The State
4 offers this as Exhibit No. 32.

5 THE COURT: So, 32 is the brown evidence
6 envelope?

7 MS. ANASTASIO: Yes, ma'am. Yes, Your
8 Honor.

9 Q (By Ms. Anastasio) So, you put this
10 envelope into the evidence room and inside it you
11 placed all of the envelopes that you located in your
12 car?

13 A That is correct, ma'am.

14 Q Okay. Other than your identifying marks
15 on here --

16 THE COURT: "On here," being?

17 MS. ANASTASIO: The evidence envelope.

18 THE COURT: State's Exhibit 32?

19 Q (By Ms. Anastasio) State's Exhibit 32.

20 And the State's exhibit stickers located on the
21 envelope that you found in your car has -- to your
22 knowledge, have these been altered in anyway?

23 A No, ma'am.

24 Q Okay. And how did State's Exhibit 9, 10,
25 11, 12, and 30 get to the courtroom today?

1 A I picked them up from the property room
2 and brought them with me this morning.

3 MS. ANASTASIO: Okay. Your Honor, the
4 State tenders State's Exhibit 10, 11, 12, 30,
5 31 and 32 to Defense counsel for inspection and
6 offers it into evidence.

7 THE COURT: Okay. 31 has already been not
8 admitted. That was the white bag.

9 MS. ANASTASIO: Oh, excuse me.

10 MR. GOODHART: Yeah.

11 THE COURT: Do you mean 9, 10, 11, 12, 30
12 and 32?

13 MS. ANASTASIO: Yes. 9, 10, 11, 12, 30
14 and 32.

15 MR. GOODHART: One quick question, Judge.

16 VOIR DIRE EXAMINATION

17 BY MR. GOODHART:

18 Q Officer, you did not put any type of
19 identifying mark or location -- physical location
20 for these five pieces of mail that were recovered;
21 is that true, on these themselves?

22 A That is correct, sir.

23 MR. GOODHART: Judge, I'm going to object
24 to the introduction of 9, 10, 11, 12, and 30.
25 No objection to 32.

1 THE COURT: Okay. It will be overruled.

2 9, 10, 11, 12, 30, and 32 are admitted.

3 (Exhibits admitted.)

4 DIRECT EXAMINATION CONTINUED

5 BY MS. ANASTASIO:

6 Q In State's Exhibit 9, what does the
7 envelope say, exactly?

8 A It's from the Harris County Hospital
9 District and it's addressed to Bobby J. Johnson at
10 2505 Fannin Street, Houston, Texas 77002.

11 Q So, you've identified the middle initial
12 as "J"?

13 A That's correct.

14 Q And Bobby J. Johnson is the name of the
15 defendant, correct?

16 A Yes, ma'am.

17 Q So, this is a letter that was addressed to
18 Mr. Bobby J. Johnson?

19 A That is correct.

20 Q Okay. What does State's Exhibit 10
21 state -- say, excuse me?

22 A It's a letter addressed to Bobby Johnson
23 at 607 Thornton Road, apartment 153, Houston, Texas
24 77018; and it has a forwarding address sticker from
25 the post office to that same name at 2505 Fannin

1 Street, Houston, Texas 70002.

2 Q Okay. And on State's Exhibit 9, is the
3 address listed here the same as the forwarding
4 address on State's Exhibit 10?

5 A That's correct.

6 Q And on State's Exhibit 11, what does it
7 state?

8 A It's also addressed to Bobby J. Johnson at
9 607 Thornton Road, apartment 157, and it also has a
10 forwarding address to Bobby Johnson at 2505 Fannin
11 Street.

12 Q And that is the same address that is on
13 State's Exhibit 9 and 10?

14 A That's correct.

15 Q State's Exhibit 12, who is that addressed
16 to?

17 A It's addressed to Bobby Johnson at 2505
18 Fannin, Houston, Texas 77002, from Smart Financial
19 Credit Union.

20 Q And State's Exhibit 30 says?

21 A It's addressed from Smart Financial Credit
22 Union. It's address to Bobby J. Johnson at 2505
23 Fannin, Houston, Texas.

24 Q Okay. And what are the dates listed on
25 State's exhibit -- what is the date listed on

1 State's Exhibit 9?

2 A It's postmarked April 2nd, 2012.

3 Q Okay. And this event occurred on
4 April 5th, correct?

5 A Yes, ma'am.

6 Q Okay. What is the date on State's exhibit
7 10?

8 A It's -- it was forwarded on March 31st,
9 2012.

10 Q And what does this date say right here?

11 A April -- it's stamped on there, "Received
12 April 3rd, 2012."

13 Q And this event occurred on April 5th.
14 That would be after April 3rd, correct?

15 A Correct.

16 Q Okay. And State's Exhibit 11, the date?

17 A It's stamped "Received March 26, 2011";
18 and this was forwarded on the forward sticker,
19 three -- March 22nd, 2012.

20 Q Okay. And March 22nd, 2012, is before
21 April 5th?

22 A Correct.

23 Q Did Mr. Johnson tell you his name at any
24 point?

25 A Yes, when we first started the

1 conversation, he stated his name was Oscar.

2 Q To the best of your knowledge, does
3 Mr. Johnson go by the name Oscar?

4 A That is the name he told me on that day,
5 ma'am.

6 Q After Mr. Johnson exited your vehicle,
7 where did he go?

8 A He exited the vehicle and walked up
9 McIlhenny and engaged some individuals outside in a
10 conversation.

11 Q And did Mr. Johnson give you any
12 instructions on what to do while you were waiting
13 for him?

14 A He just told me to turn around and park by
15 the motel that was nearby, and that he would come
16 over there and deliver the crack cocaine to me.

17 Q Do you recognize State's Exhibit 13 and
18 14?

19 A Yes, ma'am.

20 Q How do you recognize them?

21 A This is the motel I was instructed to park
22 at.

23 Q So, you're personally familiar with the
24 location contained in the photographs?

25 A Yes, ma'am.

1 Q Do the photographs fairly and accurately
2 represent the locations as you personally observed
3 them?

4 A Yes, ma'am.

5 MS. ANASTASIO: Your Honor, the State
6 tenders State's Exhibit 13 and 14 to Defense
7 counsel for inspection and offers it into
8 evidence.

9 MR. GOODHART: Looks like a motel. No
10 objection, Judge.

11 THE COURT: It will be admitted.

12 (Exhibits admitted.)

13 Q (By Ms. Anastasio) How would you describe
14 the Sampson Motel?

15 A It's a drug infested motel. It's probably
16 carrying hourly rates, should we say. I mean, it's
17 an older building. It's at the corner of Sampson
18 and Bremond.

19 Q So, Mr. Johnson gave you the instruction
20 to wait at the Sampson Motel while he --

21 A Secured crack cocaine.

22 Q What did you do next?

23 A I drove around the area, and then went and
24 parked near the Sampson Motel. The rest of the
25 surveillance units were attempting to keep up with

1 Mr. Johnson.

2 Q Did you ever see Mr. Johnson again,
3 besides today, after he parked at the Sampson Motel?

4 A No, ma'am.

5 Q How long did you wait for Mr. Johnson to
6 return?

7 A Approximately 25 minutes.

8 Q Did Mr. Johnson return?

9 A No, ma'am.

10 Q Did you give Mr. Johnson permission to
11 keep your money if he could not secure narcotics?

12 A No, ma'am.

13 Q When you first parked, did you think
14 Mr. Johnson would return?

15 A I thought he was going to return, yes.

16 Q When did you suspect he would not return?

17 A After a certain point the surveillance was
18 trying to keep up with him; and, at that point, we
19 decided that he was not coming back, and we
20 attempted to drive around the area to see if we
21 could find him.

22 Q How long does it usually take a suspect in
23 one of your buy busts to return with narcotics?

24 MR. GOODHART: Object to how some other
25 type of situation occurs.

1 THE COURT: Sustained.

2 Q (By Ms. Anastasio) Was it unusual that
3 Mr. Johnson was taking so long to return?

4 A Yes, ma'am. These are normally quick
5 and --

6 MR. GOODHART: Objection to same thing,
7 Judge. What happens in other situations is
8 irrelevant here.

9 Q (By Ms. Anastasio) Did you find it unusual
10 that Mr. Johnson, specifically, was taking so long
11 to return?

12 A Yes.

13 Q Why is that?

14 A It's normally a quick transaction. It
15 should be over in just a few minutes.

16 Q Okay. So, how long did you wait for
17 Mr. Johnson?

18 A Approximately 25 minutes.

19 Q Why did you wait for 20 minutes if you
20 didn't think he was coming back, at that point?

21 A Well, I was hoping that he would appear
22 and come back and deliver the crack cocaine; but he
23 didn't. So, we drove around the area attempting to
24 locate him; and, at that point, we just -- we
25 stopped the investigation.

1 Q Did you have any conversation with Officer
2 Jones once you dropped off Mr. Johnson to get the
3 narcotics for you?

4 A Yes. Yes.

5 Q What did that conversation -- what did you
6 say to Officer Jones?

7 A I was just instructing him to -- that --
8 where I was and where he had been let out. And he
9 had said that he was going to --

10 MR. GOODHART: Objection, hearsay.

11 THE COURT: Sustained.

12 Q (By Ms. Anastasio) So, after taking all of
13 the things that you just discussed, you would say
14 Mr. Johnson knowingly took your money without
15 permission to keep it and without any intent to
16 return it?

17 MR. GOODHART: Objection. That's for the
18 Court to decide, not this gentleman to decide.

19 THE COURT: Sustained.

20 Q (By Ms. Anastasio) So, Mr. Johnson
21 deprived you of your money?

22 A Yes, ma'am.

23 Q Did Mr. Johnson make any attempts to
24 return the money after he deprived you of it?

25 A No, ma'am.

1 Q When did you eventually leave the motel
2 where you were to meet up with Mr. Johnson once the
3 transaction was unsuccessfully completed?

4 A We waited there approximately 25 minutes
5 or so, and then we drove -- I personally drove
6 around the neighborhood looking for him to try to
7 locate him, and was unable to locate him and -- as
8 well as the other surveillance units. And, at that
9 time, we stopped the investigation, at that point,
10 and went on to another investigation.

11 Q How long did you and the other officers
12 remain in the area around Dowling, Elgin, and
13 Sampson during your shift?

14 A We were out there approximately four
15 hours.

16 Q So, you never saw Mr. Johnson during those
17 few hours that you remained in the area?

18 A No, ma'am.

19 Q Okay. So, you -- after you were finished
20 in the Dowling, Elgin area, where did you go next?

21 A We went back to the police station, and
22 then I looked inside the bag and observed the
23 letters that were addressed to Mr. Johnson inside
24 the bag.

25 Q Do you recognize State's Exhibit 15?

1 A Yes, ma'am.

2 THE COURT: Did you say 15?

3 MS. ANASTASIO: 15.

4 THE COURT: Okay.

5 A Yes, ma'am.

6 Q (By Ms. Anastasio) You -- are you
7 personally familiar with the picture contained in
8 the photograph?

9 A Yes, ma'am, it's a picture of --

10 Q Okay. I'm sorry?

11 A It's a picture of Mr. Johnson.

12 Q Does this photograph fairly and accurately
13 represent the defendant's photograph as you
14 personally observed it?

15 A Yes, ma'am.

16 Q And this photograph is the photograph you
17 used to identify Mr. Johnson when you returned to
18 the station?

19 A That's correct.

20 Q And you located this photo on your
21 computer?

22 A Yes. We have a data base of all -- of all
23 of the booking photos, and I used his.

24 MR. GOODHART: Objection, Judge. If we
25 were in front of a jury trial, I would move for

1 a mistrial. I think I'll do it right now.

2 THE COURT: Overruled.

3 MS. ANASTASIO: Your Honor, the State
4 tenders State's Exhibit No. 15 to Defense
5 counsel for inspection and offers it into
6 evidence.

7 I'm sorry, it's 15, State's Exhibit 15.

8 MR. GOODHART: Judge, I'm going to object
9 to the introduction of 15. There are no
10 identifying marks. It's a picture of a black
11 male. It could be one of any 6 billion people
12 on earth, at this time. So, there's nothing to
13 identify this is Bobby Jones or a Bobby J.
14 Jones.

15 THE COURT: Sustained at this point.

16 Q (By Ms. Anastasio) And State's Exhibit 15,
17 does this resemble and look like the male in court
18 today, the defendant?

19 A Yes, ma'am.

20 Q In State's Exhibit 15, does this fairly
21 and accurately represent the defendant as you see
22 him today in court?

23 A Yes, ma'am.

24 MS. ANASTASIO: The State tenders State's
25 Exhibit 15 to Defense counsel for inspection

1 and offers it into evidence.

2 MR. GOODHART: I hate to admit, Judge, but
3 I didn't hear a word you just said.

4 THE COURT: She said, does it represent
5 him as he sits in court today.

6 MR. GOODHART: I'm still going to object
7 to the same thing.

8 THE COURT: Sustained.

9 MS. ANASTASIO: No further questions.
10 Pass the witness.

11 THE COURT: Mr. Goodhart.

12 MR. GOODHART: Yes, ma'am.

13 CROSS-EXAMINATION

14 BY MR. GOODHART:

15 Q Is it Officer Bryant?

16 A Yes.

17 Q Okay. My name is Craig Goodhart. Have we
18 ever met before?

19 A Maybe in passing.

20 Q Do you know Bobby Bradley?

21 A Yes.

22 Q Craig Smith who was the Lieutenant at one
23 point?

24 A Yes.

25 Q Okay. But off the top of your head you

1 don't remember any time we may have had
2 conversations about cases or anything along those
3 lines?

4 A No.

5 Q Okay. Are you familiar with the Salvation
6 Army on North Main?

7 A The Salvation Army on North Main, not off
8 the top of my head.

9 Q Okay. Where is North Main in
10 relationship, and I know it's a long road, but just
11 generally. North Main in relation to the location
12 that you were on this particular day, which is that
13 Sampson Inn and the Mobil stations, down in that
14 area?

15 A That -- the incident where this occurred
16 would be Third Ward area of Houston, close to U of
17 H, TSU, that area.

18 Q Right.

19 A North Main would be North Main and
20 Airline, up that way. The loop, somewhere over
21 there.

22 Q Significant number of miles, you think? I
23 mean, five, ten miles, maybe, as the crow flies?

24 A Yes.

25 MS. ANASTASIO: Objection, witness has

1 already stated he's not sure of the distance
2 and relationship --

3 THE COURT: Overruled.

4 MS. ANASTASIO: -- to them.

5 Q (By Mr. Goodhart) Are you familiar with an
6 organization or a place called The Search on Fannin?

7 A I've heard of it, yes.

8 Q Do you know what it is?

9 A Not exactly, no.

10 Q Okay. What if I was to tell you, and you
11 don't have to agree with me, that it is like a
12 clearing house for homeless men and women, that they
13 can find a bed to sleep in and they can pick up
14 their mail at that location. Would that be a fair
15 statement, if it's true?

16 A If it's true, I don't know.

17 Q Okay. 6:30 in April, you're saying it was
18 light outside or was it dusk?

19 A It was light outside. It was clear
20 visibility.

21 Q Okay. When Mr. Johnson flagged you down
22 as you allege, what was he wearing that day?

23 A Let me see. I don't recall exactly.

24 Q You don't recall any item of clothing he
25 was wearing, correct?

1 A I believe he was wearing -- do you want me
2 to speculate or do you want me to say for certain?

3 Q No, I want you -- only if you're certain
4 what he was wearing?

5 A I'm not certain exactly what he was
6 wearing.

7 Q Okay. And as far as I can tell, you did
8 not note that in your offense report either, what he
9 was wearing that day; would that be a fair
10 statement?

11 A That would be correct.

12 Q You talked about there was a raincoat
13 inside the bag. What was the weather like that day?

14 A It was dry.

15 Q Are you sure?

16 A It wasn't raining when I met him.

17 Q Okay. Did you put in your offense report
18 what the weather was that day?

19 A No, that -- not that I see, sir.

20 Q Okay. You said you'd never seen him
21 before; is that correct?

22 A That would be correct.

23 Q Do you generally do your narcotics
24 activity for a period of time in a central region?
25 For example, the Third Ward, would you just go one

1 day, four hours, or would it be a week or months
2 worth of time on the streets?

3 A Well, it just depends. I mean, we could
4 be out there one day this week and another side of
5 Houston another week.

6 Q Well, you usually stay as long -- until
7 you get burned, right?

8 A Well, that just depends on where we find
9 units.

10 Q Okay. In that area are you familiar with
11 the homeless people that live in that area?

12 A There are homeless people that live in
13 that area, but I'm not familiar with each and every
14 one of them; no, sir.

15 Q So, you've never seen him in that area?

16 A No, sir.

17 Q All right. So, this is a first-time
18 encounter for you, correct?

19 A Yes.

20 Q All right. You can't identify his
21 clothing, you're not sure what the weather was like
22 that day?

23 A No, I'm --

24 Q But when he got in the car, he said his
25 name was Oscar; is that correct?

1 A That's what he said, sir.

2 MR. GOODHART: Okay. Judge, can I get the
3 TCIC NCIC from the State?

4 Q (By Mr. Goodhart) When you were preparing
5 this case, I assume you were getting a warrant for
6 his arrest. Did you run his TCIC NCIC?

7 A I'm sure that I did.

8 Q Did you or didn't you?

9 A Yes.

10 Q Okay. Do you have a copy in front of you?

11 A No.

12 Q On that is a series of alias names. Would
13 you be surprised if I told you that he doesn't have
14 an alias listed, out of eleven different names,
15 Oscar?

16 A Would I be surprised?

17 Q Yeah.

18 A Sir, anybody can -- my name could be
19 Mickey Mouse when I walk out of this courtroom.

20 Q Did I ask you that question, Officer?

21 A No, sir.

22 Q Did I ask you that question?

23 A No, sir.

24 Q I asked you this question: Would you be
25 surprised if the word Oscar or the name Oscar is not

1 on TCIC NCIC anywhere as an alias name for this man?

2 A I wouldn't be surprised.

3 Q All right, sir, thank you.

4 Let's talk about your surveillance --
5 not surveillance, I apologize. Your activity when
6 you're doing UC work. Now, you stated that there is
7 no audio whatsoever of this transaction. Would you
8 agree with me that that would have been something
9 that would have been beneficial to the Court to
10 actually hear the conversation back and forth, if
11 you had the audio?

12 A Yes.

13 Q You said that it's too difficult to do
14 audio. Now, you've been an officer 16 years, I
15 think you said?

16 A Correct.

17 Q Five year in narcotics?

18 A Correct.

19 Q Have you ever used any type of audio or
20 video combination devices in a surveillance
21 situation in your work?

22 A No.

23 Q In 16 years you have never once used any
24 type of audio or surveillance equipment?

25 A In an undercover operation?

1 Q No, I said in the 16 years, ever?

2 A Yes.

3 Q Okay. What type did you use?

4 A A recorder.

5 Q Where did you keep your recorder?

6 A In my pocket.

7 Q On patrol, right?

8 A Yes.

9 Q So, you could stick that in your pocket,
10 you got a traffic stop, you turn it on, it helps
11 cover you in case somebody alleges you did something
12 improper, right?

13 A Yes.

14 Q Now, in an undercover capacity inside of a
15 vehicle, is it possible to wire the car for audio
16 capabilities?

17 A It's possible.

18 Q But you don't want to do that for what
19 reason?

20 A For my safety. I don't want to be
21 detected as a law enforcement official at that time.

22 Q Same thing with a pocket recorder. Could
23 it be secreted at some location inside the vehicle?

24 A Anything is possible, sir.

25 Q I understand that. So, you could have

1 gone ahead and audiotaped what was going on with the
2 alleged Mr. Johnson, at least by recording device;
3 is that true?

4 A It's possible.

5 Q The surveillance team that was out, could
6 they have videotaped the transaction, maybe not an
7 audio, but videotaped this conduct between you and
8 the alleged Mr. Johnson? Could we have done that?

9 A Anything is possible, sir.

10 Q Did they do that?

11 A No.

12 Q So, there is no video. So, we have no
13 idea who the alleged Mr. Johnson really is that got
14 into your car at that time, correct?

15 A There is no videotape or audiotape
16 surveillance.

17 Q Okay. And the reason for neither one of
18 those is what?

19 A I didn't have access at that time to those
20 type of -- that equipment.

21 Q Why did you not have access?

22 A It wasn't issued to me.

23 Q Why didn't you ask for it?

24 A We conduct these surveillance -- these
25 type of operations all of the time, sir, and they're

1 normally not used.

2 Q I understand what is normally not done and
3 I understand --

4 A Okay.

5 Q -- the word of budget crunches and the big
6 world at HPD. But what I'm asking you is, could you
7 have audiotaped or videotaped this individual?
8 Could you?

9 A I don't know. Anything is possible, but I
10 don't think that we had the technology in my office
11 to have an audiotaped car or audio or videotaped
12 car.

13 Q Audiotape?

14 A Audio or video inside the car.

15 Q Okay. And I may agree with you on that,
16 but I want to differentiate. You do have the
17 capabilities to videotape at a distance, don't you?

18 A I haven't been trained or been issued a
19 video recorder.

20 Q Do you not agree that it would be much
21 better for your cases to have the proof on your buy
22 bust or when there is a theft of the city issued
23 money if you had that information there?

24 A It would be beneficial but not -- in this
25 particular case it wasn't used.

1 Q Okay. Why didn't you turn your cell phone
2 on like you told us and just leave it in your pocket
3 so your partner could hear it?

4 A Well, sometimes that -- that is --
5 sometimes we use that method, but sometimes somebody
6 may need to use the phone, like your client, and I
7 may have to give it to him. So, now the phone is
8 on, so we have to hang it up real quick so he can
9 call.

10 Q But, in this case, it is a technique that
11 you have used; but you did not use it in this case,
12 either?

13 A No.

14 Q You talked about at the Mobil station No.
15 2 --

16 A Uh-huh.

17 Q -- that when you got there he went inside
18 and got another male or did he meet the male on the
19 outside already?

20 A No, he went inside.

21 Q Okay. So, he brings the male from inside
22 outside. And is it a black male, white male,
23 Hispanic male?

24 A It's a black male.

25 Q Okay. And this conversation, how far

1 were you from that conversation?

2 A Five feet.

3 Q Your windows were up or down?

4 A Down.

5 Q You stayed inside your car, at the time?

6 A Yes.

7 Q So, you could hear every word that was
8 being said between them?

9 A Pretty much.

10 Q Did you hear every word or did you not
11 hear every word?

12 A I'm not -- I can't say I heard every word;
13 but I heard the words, some of the words.

14 Q You got your offense report up there?

15 A I do.

16 Q Where in the offense report do you
17 describe the trip from Mobil 1 to Mobil 2, to the
18 Sampson hotel, and the conversation at Mobil 2
19 between the defendant and an unknown third party?

20 A Where in the offense report is the -- the
21 trip to Mobil No. 2?

22 Q And the conversation between the defendant
23 and an unknown third party and then the trip to the
24 Sampson Motel?

25 A It's not listed in there, sir.

1 Q There's nothing about any of that, is
2 there?

3 A No, sir.

4 Q That's the first time I've ever heard of
5 it?

6 A Okay.

7 Q Well, when you were in the academy they
8 taught you to write an offense report. What did
9 they tell you to do?

10 A Write down the facts.

11 Q All of the facts that are relevant or may
12 be relevant at some later date, I believe is what
13 the phrase is used at the academy?

14 A Okay.

15 Q Did you write down all of the relevant
16 facts in this case and everything that occurred
17 between point A and, I guess, point C at the Sampson
18 Motel?

19 A I wrote down the facts that could remind
20 me. This offense report is to remind me of what
21 happened.

22 Q That's the mistake that is going on when
23 you come out of the academy and you've been around
24 for a while. Something to remind you, but how about
25 all of the facts so that both the State and the

1 Defense can make a proper assessment of that? It
2 also protects you, doesn't it?

3 A I wrote down the facts as I recalled them.

4 Q And you left out everything that happened
5 after Mobil 1, when you left, until he was gone for
6 25 minutes; is that true? You didn't write that
7 down anywhere, did you?

8 A The Mobil 2 is not discussed in the
9 offense report.

10 Q Nor the conversation that you claimed to
11 have had with him about the purchase of narcotics,
12 and the statement that you had with him at the
13 Sampson Motel, or the statement that you said, leave
14 your bag here so I know you'll return. None of that
15 is in your offense report, is it?

16 A No.

17 Q So, what you have been testifying to about
18 what this man allegedly said, there is no proof of
19 that anywhere; it's just what you're claiming he
20 said?

21 A I'm sorry?

22 Q There is no proof of that any place. You
23 didn't put that down. There is no audio or video
24 recording of it. You're just saying that that's
25 what happened?

1 A That's what happened, yes.

2 Q All right. You've got five pieces of mail
3 that has got a Bobby Johnson or a Bobby J. Johnson
4 on those pieces of mail. Did you submit for prints
5 or DNA any of those five envelopes?

6 A No.

7 Q Why not?

8 A Sir, we've already discussed the budget
9 crunch. I guess you would say that would be part of
10 the DNA. Those were in his possession, that I
11 recovered, that were tagged in the property room. I
12 don't know if he touched them or not.

13 Q Okay. So, because of the budget crunch
14 you decided at that point -- or somebody above you
15 decided that you would not turn in physical evidence
16 that may identify an individual committing a crime;
17 is that a fair statement of what you just told the
18 Court?

19 A The evidence was tagged in the property
20 room. It was not submitted for fingerprints or DNA.

21 Q If it had been and it contained prints or
22 DNA, we probably wouldn't have to argue too much
23 about whose it was, once that person was identified,
24 correct?

25 A The name on the front of the envelope

1 addressed who it was identified to.

2 Q How many Bobby J. Johnson's do you think
3 are in the city and Harris County? Five million
4 people? How many do you think?

5 A I don't know.

6 MS. ANASTASIO: Objection, relevance.
7 Speculation.

8 THE COURT: What is the objection?

9 MS. ANASTASIO: The objection is
10 relevance.

11 THE COURT: Overruled.

12 Q (By Mr. Goodhart) So --

13 A I don't know how many Bobby J. Johnson's.

14 Q A hundred? A thousand?

15 A Sir, I have no idea.

16 Q Would you say it's probably a whole bunch
17 because it's a common name, Bobby Johnson?

18 A I don't know.

19 Q So, if you have the mail for a Bobby
20 Johnson, how many times or how many -- how do we
21 know which Bobby Johnson that mail belongs to?

22 A From his photograph.

23 Q Okay. So, if there was 100 Bobby Johnsons
24 in Harris County, did you get 100 photographs of
25 Bobby Johnson for your photo array?

1 A No.

2 Q Did you create a photo array?

3 A No.

4 Q Did any police officer create a photo
5 array for you to view?

6 A No.

7 Q Did you know that the National Chiefs of
8 Police have issued a new policy that no police
9 officer's to do any identification --

10 MS. ANASTASIO: Objection, relevance.

11 THE COURT: Overruled.

12 Q (By Mr. Goodhart) -- individual
13 identification of suspects. They're to be done so
14 that another officer, who knows nothing about the
15 case, prepares the photo spread for you or another
16 officer to view. Did you know that?

17 A I don't believe that was in effect at this
18 time.

19 Q Okay. If it was, prior to this date, your
20 office policy then was to not follow that. Is that
21 what you're telling us?

22 A No, sir. It was not in effect on this
23 date.

24 Q Is it in effect now? Is that what you
25 follow now?

1 A That is a recent thing that had recently
2 come out in the last week or so.

3 Q Just in the last week?

4 A That is when we got notified.

5 Q Okay. Fair enough. I'm not going to
6 argue with you on that point.

7 Q So, now with this new policy in place, if
8 this was a similar situation, you would have an
9 independent third party who was not familiar with
10 the case prepare the photo spread, and just like any
11 normal citizen --

12 MS. ANASTASIO: Objection, relevance.

13 THE COURT: Overruled.

14 Q (By Mr. Goodhart) Just like any normal
15 citizen, then you would have to identify the correct
16 individual?

17 A This doesn't pertain to this case, sir,
18 because that was prior to.

19 Q No, I didn't ask you that question.

20 THE COURT: No, just answer the question.

21 Q (By Mr. Goodhart) Now, the policy is that
22 a third-party, independent officer unrelated to the
23 case must prepare the photo spread for you or
24 another officer to view to make a positive
25 identification; is that true?

1 A For a citizen, yes.

2 Q No, for a police officer. You just said
3 that is your new policy?

4 A Well, I didn't say it pertained to me as
5 in identification, but it's for an individual. For
6 example, if you were robbed and you needed to do a
7 photo spread, then that would be for you; yes.

8 Q I understand that. You just told us
9 there's a new policy that came out one or two weeks
10 ago. What is the new policy at HPD for photo
11 spreads for police officers?

12 A That that -- that the officer that is
13 doing the photo spread does not know which position
14 the target of the investigation is in.

15 Q Right. That is an independent,
16 third-party police officer who does not know on the
17 photo spread, correct?

18 A Yes and no. Yes -- yes, you don't know.

19 Q And you don't know either because that
20 person is going to show you the photo spread, right?

21 A Yes -- I don't -- I don't know -- if I'm
22 showing the photo spread, I don't know which
23 position the target of the investigation is in.

24 Q Okay. And if another officer shows that
25 photo spread to you, you don't know what position

1 that person is in, of course, right?

2 A If an officer shows -- I don't know
3 either. If I'm -- if I'm the witness that is
4 looking in the photo spread, I wouldn't know.

5 Q Right. And that is the new policy at HPD,
6 correct?

7 A Yes.

8 Q You can't just pick up a photo and say,
9 That's my guy and there it is. You don't do that
10 anymore, right?

11 A Well, as far as citizens. As far as a
12 police officer, I don't believe we can do that
13 anymore; but that doesn't pertain to this particular
14 case.

15 Q I understand that, you just looked at a
16 photo of somebody named Bobby Johnson and said, he's
17 the one that did it?

18 A After I had a conversation with him, who
19 rode in my car.

20 Q You did not follow what is now an adopted
21 procedure for identification; is that true?

22 A This case was before that policy.

23 THE COURT: But at the time, this is
24 not -- that is not the procedure you followed,
25 right?

1 THE WITNESS: Correct.

2 THE COURT: Okay.

3 Q (By Mr. Goodhart) Let's go to the Sampson
4 Motel. You pull up to the Sampson Motel or in the
5 vicinity of it. Are you actually in the parking
6 lot, or are you on the street on Sampson when you
7 are having the last conversation?

8 A When -- before I dropped him off?

9 Q Yes, sir.

10 A We were on Sampson.

11 Q Okay. How far are you from the Sampson
12 Motel?

13 A About a block.

14 Q All right. And does he give you an idea
15 where he is going to go?

16 A He says he will be right back.

17 Q So, you let him out of the car about a
18 block away from the Sampson Motel?

19 A That is correct.

20 Q Which direction did he travel?

21 A He waked on McIlhenny going -- going west.

22 Q That is a crossroad at Sampson?

23 A Correct.

24 Q So, west. What I'm saying -- let's make
25 it simple for all of us. Did he go left or right?

1 He goes down Sampson, goes left or right?

2 A When we're going down Sampson towards the
3 Gulf Freeway, he goes left.

4 Q On McIlhenny?

5 A Correct.

6 Q When he makes that turn on McIlhenny, how
7 long could you still see him?

8 A Well, I went up one more block and went
9 left as well, and then looped around back by him.

10 Q Okay. So, did you follow and take a left
11 on McIlhenny?

12 A No.

13 Q You went down further and took another
14 left turn?

15 A Yes.

16 Q So, how long did you have him in sight
17 before you lost him, and you turned left?

18 A Thirty seconds.

19 Q Okay. When you made the next turn, what
20 street was it?

21 A It's Bremond, then McIlhenny, and then
22 Hadley. So, I must have turned -- I turned left on
23 Hadley.

24 Q Did you write that in the offense report
25 or is this just what you're remembering?

1 A This is what I'm remembering, sir?

2 Q You didn't write it in the offense report?

3 A This is what I'm remembering, sir.

4 Q I asked you did you write it down in the
5 offense report?

6 A No, sir.

7 Q When you made that turn you continued for
8 30 seconds, and you lost sight of him; is that
9 correct?

10 A When he took off walking down McIlhenny, I
11 made a left on Hadley.

12 Q Did you lose sight of him?

13 A Yes.

14 Q Did you ever see him again?

15 A I saw him once again because I turned back
16 down McIlhenny.

17 Q All right. Where did you see him on
18 McIlhenny?

19 A He was on McIlhenny in between Sampson and
20 Tierwester.

21 Q Was he still walking?

22 A At that time, yes, sir.

23 Q How long did you see him, at that point?

24 A Just long enough for me to drive by him.

25 Q Couple of seconds?

1 A Five to ten seconds.

2 Q What was your speed?

3 A It's a small, residential street; I don't
4 know exactly.

5 Q You don't know what your speed was?

6 A No.

7 Q You lost sight of him after that. Did you
8 ever see him again?

9 A No, sir.

10 Q How many people were on the surveillance
11 team?

12 A Five.

13 Q Where were they located, each one?

14 A I don't know about each individual's
15 position because I couldn't see them all.

16 Q Did you write that down in your offense
17 report?

18 A No.

19 Q Did any of them file a supplement
20 delineating where they stood and what they saw?

21 A No.

22 Q So, there's five other narcotics officers
23 in that group out there with you on a buy bust and
24 nobody writes anything down about what they did or
25 what they saw; is that a fair statement?

1 A Yes.

2 Q Were you in contact with any one of the
3 five?

4 A Yes.

5 Q Which ones?

6 A I believe I had out my radio, so I could
7 just talk to all of them, in general.

8 Q Which radio?

9 A Police radio.

10 Q Where was your police radio?

11 A In the car.

12 Q Where in the car?

13 A Probably under the seat.

14 Q Why didn't you turn it on and record the
15 conversation and let somebody else listen to it?

16 A That type of radio does not record, and
17 it's only -- you can only speak into it when you're
18 holding the button.

19 Q Fair enough. So, now you pull the radio
20 out and you're talking to which officer?

21 A Officer Jones.

22 Q Okay. Where was Officer Jones located?

23 A I don't know.

24 Q Did anybody tell you they had eyes on him?

25 A Yes.

1 Q How many officers?

2 A One.

3 Q Which is?

4 A Officer Jones.

5 Q So, the other four surveillance officers
6 never even saw the defendant, did they?

7 A Get out of the vehicle, or period?

8 Q Get out of the vehicle and period. I
9 don't care. Pick one.

10 A I don't know what they saw. You would
11 have to speak to them.

12 MS. ANASTASIO: Objection, calls for
13 speculation.

14 THE COURT: Sustained.

15 Q (By Mr. Goodhart) Did any of them file an
16 offense report or a supplement to your offense
17 report in which they identified the defendant, or
18 that they saw the defendant, or that they surveilled
19 the defendant at any time?

20 A No.

21 Q Okay. The point at which the loss of
22 contact with the defendant occurred, about how long
23 after your last sighting of him?

24 A I last saw him?

25 Q And then you said there was surveillance

1 on him by an Officer Jones?

2 A Correct.

3 Q I assume at some time you all lost
4 surveillance?

5 A That's correct.

6 Q How long was that period of time? When
7 did Officer Jones lose site?

8 A You would have to ask Officer Jones.

9 Q Did he write that down, or did you ask him
10 that question to put in your offense report?

11 A No.

12 Q Okay. You say that the defendant deprived
13 you of your money. Is it possible that he walked
14 down the street, walked around the corner and got
15 mugged, and the money was stolen from him and he was
16 too scared to come back and bring it to you?

17 A Sir, anything is possible.

18 Q I thought you would say that. I
19 appreciate it.

20 A But likely not.

21 Q No, I didn't ask you that part, did I?

22 A Okay.

23 Q I just want to make sure. You knew the
24 rules.

25 MR. GOODHART: Pass the witness, Judge.

1 THE COURT: Anything further from the
2 State?

3 REDIRECT EXAMINATION

4 BY MS. ANASTASIO:

5 Q Officer Bryant, is the man sitting here in
6 court today the same man that you had a conversation
7 with that you gave money to to go buy narcotics on
8 April 5th, 2012?

9 A Yes, ma'am.

10 Q And did he ever attempt at any point to
11 come back and make contact with you or report a
12 mugging or report a robbery of some sort?

13 A No.

14 MS. ANASTASIO: No further questions, Your
15 Honor.

16 REXCROSS-EXAMINATION

17 BY MR. GOODHART:

18 Q Well, Officer Bryant, you said you left
19 the location 25 minutes after he didn't return and
20 you went on to other duties to do narcotics. What
21 if he returned 26 minutes later to that same
22 location; would you have been there?

23 A We would have been driving around the
24 area.

25 Q Would you have been at that location where