

1 THE BAILIFF: All rise for the jury.

2 THE COURT: Twenty till 5:00. Let's
3 resume at 20 till 5:00.

4 (Jury exits courtroom.)

5 (Recess taken.)

6 THE COURT: Both sides ready?

7 MR. MAYR: We are, Your Honor.

8 MS. COOPER: Yes, Judge.

9 THE COURT: All right. Bring them in,
10 please.

11 THE BAILIFF: All rise for the jury.

12 (Jury Panel enters courtroom.)

13 (Open court; defendant and jury panel
14 present.)

15 THE COURT: Be seated, please.

16 Officer Burrow, we're going to pick up
17 where we left off.

18 THE WITNESS: Yes, sir.

19 THE COURT: You may proceed,
20 Ms. Cooper.

21 MS. COOPER: Thank you, Your Honor.

22 **MICHAEL BURROW,**
23 having been first duly sworn, testified as follows:

24 **DIRECT EXAMINATION (continued.)**

25 BY MS. COOPER:

1 Q Okay. Are you the same Officer Burrow that
2 was testifying prior to the defense expert in this
3 case?

4 A Yes.

5 Q Okay. Before we broke your testimony, we
6 talked about the different persons of interest that
7 were developed in this case. And the first one being
8 Howard Ambush.

9 Was he eliminated as a suspect?

10 A Yes, ma'am.

11 Q And then you moved on to Chad Jones.

12 Was he eliminated as a suspect?

13 A Yes, ma'am.

14 Q And in eliminating these two, did you follow
15 through with all the information that you had?

16 A Yes.

17 Q And treat each one as if they were a
18 legitimate suspect?

19 A Yes.

20 Q All right. Now, I want to move to the next.

21 Who was that?

22 A Timothy Hatter.

23 Q All right. I want to show you what has
24 already been admitted into evidence, State's Exhibit
25 No. 107.

1 Who is this?

2 A Timothy Hatter.

3 Q Why did -- or does Timothy Hatter have a
4 nickname?

5 A Yes, he does, Mirawge.

6 Q Mirawge. Do you know how that was spelled?

7 A M-I-R-A-W-G-E.

8 Q And why was Timothy Hatter a suspect?

9 A Timothy Hatter was an associate of the
10 victim. He's a music producer, a local music
11 producer who was recording albums for the victim.
12 The victim's wife brought it to our attention when
13 she had seen some text messages, before her husband
14 died, on her phone -- on the husband's phone, from
15 Mirawge, that were hostile.

16 Q All right. And when you received that
17 information regarding the text messages, did you
18 follow up on that lead?

19 A Yes.

20 Q Did you actually pull the information off of
21 the victim's phone?

22 A Yes.

23 Q Can you explain that to the jury, without
24 going in to anything that you said, or that you saw
25 -- that you read.

1 When you observed the phone, what kind
2 or condition was it in?

3 A What kind of condition was the phone in?

4 Q The phone?

5 A The phone had been washed in the laundry a
6 few days before the victim was killed. So it had to
7 be bought back to life, so to speak.

8 Q Were you able to just turn it on and see
9 what was in the phone?

10 A No. We had to download the contents.

11 Q And were the contents of the phone
12 downloaded?

13 A Yes.

14 Q Did you view those text messages?

15 A Yes, I did.

16 Q And without going in to what was said on
17 those text messages, were -- was Tonie -- what she
18 had relayed to you, was that consistent with what you
19 saw in the text messages?

20 A No.

21 Q All right. And what do you mean?

22 A The way Tonie had relayed it to us, the text
23 message sounded very hostile. And when we actually
24 got the text messages, I would describe them as
25 mildly hostile at best. There was no threats or

1 anything like that.

2 Q All right. Was it clear that there was some
3 ongoing dispute about some kind of music record?

4 A Yes.

5 Q All right. Any physical threats or anything
6 like that made?

7 A No.

8 Q But even though you -- you -- there are not
9 any threatening or hostile text messages, do you
10 still follow up with Timothy Hatter?

11 A Yes.

12 Q Could you -- was there a maroon car that was
13 associated to Timothy Hatter?

14 A No.

15 Q All right. Was Timothy Hatter ever -- well,
16 do you know whether or not Malik Brown knew Timothy
17 Hatter?

18 A Yes, he did.

19 Q How do you know that?

20 A The night of the murder, when I interviewed
21 Malik Brown, I had asked Malik if he knew any of his
22 father's associates. And he described the Music Man,
23 and described where he lived and his physical
24 description, and it matched Timothy Hatter.

25 Q And where does Timothy Hatter live? Or

1 where did he live back in May of 2011?

2 A He lived near the victim, one block to the
3 south on Hartsville.

4 Q Okay. And what kind of house was that?
5 What did it look like.

6 A It's a single story brick house, pretty
7 rundown.

8 Q All right. So Malik refers to him as the
9 "Music Man"?

10 A Yes.

11 Q When you are interviewing Malik on the night
12 of the murder, did you go -- ask him about his dad's
13 friends?

14 A Yes.

15 Q Why did you do that?

16 A Because from what I understood, Keith Brown
17 was home during the day with the kids, seeing the
18 amount of time. And so I thought maybe the kids knew
19 of some associates that his wife did not.

20 Q Okay. And Malik actually provided the Music
21 Man to you that night as one of his dad's friends?

22 A Right.

23 Q Did he indicate to you that that was the
24 person he saw outside the window?

25 A No.

1 Q All right. So was Timothy Hatter -- was he
2 ruled out as a suspect?

3 A He was ruled out as the shooter, yes, and
4 ultimately ruled out as a suspect.

5 Q All right. Why was he ruled out?

6 A Number one, we didn't have any ties to a
7 maroon vehicle between he and Keith.

8 Number two --

9 Q Hold on one second. No maroon vehicle?

10 A Correct.

11 Q Okay. What else?

12 A As has already been said, he doesn't
13 resemble the suspect description and Malik Brown knew
14 him. As I said, when we got the victim's phone
15 download back, the motive that we thought might be
16 there turned out to not be nearly as strong as we
17 thought that it was.

18 Mr. Hatter voluntarily came in and gave
19 us a statement and submitted to a polygraph
20 examination.

21 Q All right. So he doesn't fit the
22 description, Malik knows him, no maroon vehicle.
23 What else -- what else did you say? I'm sorry. I
24 had my back turned to you.

25 A He voluntarily submitted to come in and give

1 a statement and take a polygraph examination.

2 Q All right. Regarding --

3 MR. MAYR: Your Honor, may I approach?

4 THE COURT: Yes.

5 (Bench Conference.)

6 MR. MAYR: Yeah, I know. Okay, Judge,
7 at this point, we've -- this witness has not
8 foreseen, based on the question, has introduced
9 evidence before this jury, that one of the prime
10 suspects submitted to a polygraph examination.

11 Obviously, this Court is aware of the
12 rules of evidence or what the evidentiary standpoint
13 is regarding the admissibility of that, as well as
14 any references to it.

15 I can't think of the cases off of the
16 top of my head. But even just a reference to a
17 person taking or not taking it is clearly, clearly
18 inadmissible.

19 At this time I would, of course, if it
20 came out and so I'm -- rather than stand up and make
21 all this in front of the jury, I'm here in front of
22 the bench. I'm making an objection that that is
23 inadmissible under a clearly established Court of
24 Criminal Appeals precedent, that says that a person
25 taking or not taking a polygraph examination is not

1 admissible.

2 I am going to ask -- I'm going to
3 asking that that objection be sustained. I'm then
4 going to ask for an instruction to disregard, and
5 follow it up with a very serious and well informed --
6 based upon the established precedent. I'm going to
7 have to ask for a mistrial based on that.

8 THE COURT: Okay.

9 MR. MAYR: So, I make my objection at
10 this time.

11 THE COURT: Okay. That's sustained.

12 MR. MAYR: Okay. I'm going to ask for
13 an instruction to the jury to disregard that last
14 comment.

15 THE COURT: The jury will be instructed
16 to disregard that last comment.

17 MR. MAYR: And again, given the weight
18 of that and what Ms. -- what Ms. Cooper is trying to
19 do with this case, and trying to do with this exhibit
20 and with this witness. Given that, I would ask for a
21 mistrial. I feel that the instruction is not capable
22 of repairing any harm caused by the comment.

23 THE COURT: All right.

24 MS. COOPER: And, Judge, he did say
25 that a polygraph was taken. He did not say what the

1 results were. I'm moving on from that. I will not
2 go back into that. But as far as a mistrial, this
3 is -- it's something like a hearsay or something.
4 It's ruled inadmissible and it's -- well, then we
5 tell the jury to disregard. I think telling them to
6 disregard is perfectly fine.

7 THE COURT: The motion for mistrial is
8 denied. One question: Did you write that polygraph
9 on that --

10 MS. COOPER: No, I did not.

11 THE COURT: All right. The record will
12 reflect that Ms. Cooper did not write that word
13 polygraph on her chart, persons of interest. So your
14 motion for mistrial is denied. So, I will instruct
15 the jury to disregard.

16 MS. COOPER: Can I tell him or not?

17 THE COURT: Huh?

18 MS. COOPER: Can I tell him to not go
19 into that again? Because I don't --

20 THE COURT: No.

21 MR. MAYR: I don't -- it's not --

22 THE COURT: Just move on. And I'll
23 instruct him to answer directly.

24 MS. COOPER: Okay.

25 (Bench Conference Concluded.)

1 THE COURT: All right. Jury is
2 instructed to disregard that last comment. And reask
3 your questions, Mr. Cooper.

4 And Officer Burrow, just answer as
5 directly as you can --

6 THE WITNESS: Yes, sir.

7 THE COURT: -- to questions asked.

8 Q (BY MS. COOPER) Okay. So, Timothy Hatter you
9 said was ruled out as a suspect, because he does not
10 have the same kind of vehicle, Malik knows him,
11 obviously would have recognized him.

12 A Right.

13 Q Doesn't fit the description.

14 Did you -- did you talk to him?

15 A Yes.

16 Q Did you -- what was his demeanor like? How
17 was he acting when you talked to him. But you can't
18 go in to what he said. But what was his demeanor
19 like?

20 A He was cooperative.

21 Q Okay.

22 A He was non-evasive.

23 Q Did you also pull cell phone records from
24 Timothy Hatter?

25 A Yes.

1 Q All right. And did you review those
2 records?

3 A I did.

4 Q And was there anything in those records that
5 made you change your mind about Timothy Hatter?

6 A No.

7 Q All right. So was Timothy Hatter ruled out
8 as a suspect?

9 A Yes.

10 Q All right.

11 MS. COOPER: And I'm going to mark this
12 as State's Exhibit No. 115.

13 Q (BY MS. COOPER) Now, in investigating
14 Timothy Hatter and ruling him out, were there --
15 after that, were there any other suspects that were
16 developed?

17 A After ruling out Mr. Hatter, no. Before
18 ruling out Mr. Hatter, yes.

19 Q All right. And who was that?

20 A Christopher Theall.

21 Q I want to show you State's Exhibit No. 6.
22 And what person is in position No. 2? Who is that?

23 A Chris Theall.

24 Q Why was Christopher Theall a suspect?

25 A Upon receiving Mr. Hatter's cell phone

1 records and reviewing them, one of the frequently
2 contacted phone numbers -- we knew that Mr. Hatter
3 could not be the shooter, obviously, because he does
4 not match the description and the witness knew him.

5 So we began looking at associates of
6 his, to see if one of his associates might be
7 involved. We found in Mr. Hatter's cell phone
8 records, a frequently called number that when
9 researched through the police databases, had been
10 used to call 911 by Mr. Theall at some point in time.
11 So, we thought that that might be who was using it.

12 Upon researching Mr. Theall, we found
13 that he approximated the suspect description and that
14 he also owned a maroon -- or drove a maroon Chrysler
15 Sebring.

16 Q What do you mean by "the suspect
17 description"? What -- when we see him here in
18 State's Exhibit No. 6, position No. 2, what about him
19 resembled the description of the suspect in this
20 case?

21 A It's a dark skinned black male, medium
22 build. We did not know if he had been bald at any
23 point in time. We didn't have any photographs taken
24 around the time of the murder to establish that or
25 not establish it.

1 Q Okay. Was -- what did you do, based on
2 developing Christopher Theall as a suspect?

3 A Couple of different things. We -- he was
4 placed in a photo spread that you see there. And I
5 showed the photo spread to Malik Brown.

6 Q I want to talk to you about that?

7 A Okay.

8 Q In -- did you actually -- were you the one
9 that showed Malik the photo spread that contained
10 Chad Jones?

11 A No, I was not.

12 Q Who did that?

13 A Officer Condon.

14 Q And that's State's Exhibit No. 5.

15 And were you involved in the photo
16 spread, State's Exhibit No. 7, where the defendant
17 was shown to Malik Brown?

18 A No, ma'am, I was not.

19 Q Who did that?

20 A Officer Condon.

21 Q Okay. So the only photo spread that you
22 showed was State's Exhibit No. 6?

23 A Correct. If 6 is that one right there.

24 Q Right. Involving Christopher Theall?

25 A Yes.

1 Q When you put this photo spread together --
2 well, do you have procedures with the HPD on how to
3 put photo spreads together?

4 A Of course.

5 Q Okay. Did you -- and you talked a little
6 bit about it earlier, the target in this case, was
7 there any target other than Christopher Theall?

8 A No, ma'am.

9 Q All right. So the fillers, did you -- did
10 you pull the fillers and put in to State's Exhibit
11 No. 6?

12 A Yes, ma'am.

13 Q And how did you do that?

14 A I selected them based on similar
15 characteristics to Christopher Theall.

16 Q When you put them all together, do you --
17 what date -- do you remember the date that you showed
18 Malik Brown the photo spread involving Christopher
19 Theall -- or including Christopher Theall?

20 A October 11th, 2011.

21 Q And although you weren't involved in the
22 photo spread with Chad Jones, do you know the date
23 that that was done?

24 A That was shown on June 15th, 2011.

25 Q Okay. So on October 11th of 2011, where is

1 this photo spread here in State's Exhibit No. 6,
2 where is this done? Where is it shown to Malik at?

3 A At his -- at the house that they were living
4 in. Which I believe is his grandmother's house most
5 of the time.

6 Q Do you go by yourself?

7 A Yes.

8 Q When you get there -- or who's there in --
9 who is present when you show the photo spread to
10 Malik?

11 A Myself, Malik and his mother, Tonie Brown.

12 Q Tonie Brown was a witness to the case; is
13 that right?

14 A Yes.

15 Q Not a witness to the shooter?

16 A Correct.

17 Q But a witness to the case?

18 A Correct.

19 Q Why did you -- why did you allow here to sit
20 in when you showed him the photo spread?

21 A Anytime that I do something like that with a
22 juvenile, if I have a parent who's not a direct
23 witness, I prefer to have them in the room, just so
24 that there's not any misunderstandings and for moral
25 support. Because it is a young child in a difficult

1 situation.

2 Q Okay. And when you mean -- okay. So if --
3 where's the mom at, is she -- or Tonie Brown?

4 A She was just present in the room, sitting.
5 I was facing Malik, he was sitting on the sofa and
6 Tonie was sitting off to the -- I think the dinner
7 table and I was just on the couch, something like
8 that. She was not sitting next him. She was not
9 viewing the photo array.

10 Q Okay. So she's not -- she's not up there at
11 the table with you guys?

12 A No, ma'am.

13 Q Do you know whether or not Malik -- was his
14 back to her or how was that positioned?

15 A As I recall, no, his back was not to her.
16 She -- like I said, if I'm facing Malik, like I'm
17 facing you, Tonie was sitting over here (indicating),
18 at a significant distance away. I mean, between me
19 and Malik and off to the side.

20 Q Okay. When you are showing a photo spread,
21 are there instructions that are given?

22 A Yes, ma'am. It's called an admonishment.

23 Q And are these standard instructions that are
24 mandated by the Houston Police Department?

25 A Yes, ma'am.

1 Q Are there --

2 MS. COOPER: May I approach the
3 witness, Judge?

4 THE COURT: You may.

5 Q (BY MS. COOPER) I want to show you State's
6 Exhibit No. 9.

7 What is this?

8 A This is a copy of the Houston Police
9 Department identification policy that was present --
10 that was in place at the time of the showing.

11 Q All right. And when did this policy take
12 affect?

13 A October 21st, 2009.

14 Q Okay. And so was it in -- was it in policy
15 in 2011, when these photo spreads were shown?

16 A Yes, ma'am.

17 Q As far as the policy, are there certain
18 admonishments or instructions that are supposed to be
19 done in every photo spread?

20 A Yes.

21 Q Every time a photo spread is shown?

22 A Yes.

23 Q And does this, State's Exhibit No. 9, set
24 out all of the requirements when conducting a photo
25 lineup -- a photo spread or a lineup?

1 A Yes.

2 Q All right.

3 MS. COOPER: And, Your Honor, at this
4 time, I'm tendering to opposing counsel State's
5 Exhibit No. 9, for any objections, and then ask that
6 it be admitted into evidence?

7 MR. MAYR: Objection, hearsay, 303,
8 Texas Rules of Evidence, Judge. Is it being offered
9 for the truth of the matter asserted?

10 THE COURT: Let me see that.

11 (Ms. Cooper tenders document to the
12 Court.)

13 (Bench Conference.)

14 MS. COOPER: And -- this is regarding
15 an identification. His expert has already
16 testified -- this is also expert regarding -- there
17 were a lot of things that the expert testified to
18 regarding photo spreads and regarding how things are
19 to be done and instructions. And this is policy that
20 was in place at the time.

21 These are the policies that allows the
22 jury to see the procedures that are required by HPD.
23 And it's not going -- it's not being offered for the
24 truth of the matter. It's being offered to show the
25 officer's state of mind at the time and the -- what's

1 going on in their heads at the time that they're
2 giving these photo spreads.

3 I mean, there's been mention that
4 they're making, you know, subliminal messages and
5 things like that to the kid. And he's actually
6 reading and telling the kid -- or telling Malik the
7 instructions that he gave.

8 MR. MAYR: He can say whatever
9 instructions he gave, but to admit the document, this
10 is just hearsay.

11 THE COURT: You can ask -- that's
12 sustained. You can ask him questions about what he
13 did according to the policy that's on file and it's
14 written and it's provided that they have. And you
15 can review it to refresh his memory if he wants.

16 MS. COOPER: Okay.

17 THE COURT: But you can ask him exactly
18 what he did as procedures here for photo spread and
19 lineup. Forget about the lineup.

20 MS. COOPER: I'm sorry. I didn't hear
21 the last --

22 THE COURT: As to procedures for photo
23 spread and lineup, forget about the lineup. He
24 didn't do a lineup. He didn't do any lineups, so
25 that's completely unnecessary.

1 MR. MAYR: Okay. Sustained.

2 THE COURT: You can tell him.

3 MR. MAYR: Okay.

4 (Bench Conference Concluded.)

5 Q (BY MS. COOPER) Are there certain
6 admonishments or instructions that are required by
7 HPD, that are standard, that are done in every photo
8 spread?

9 A Yes, ma'am.

10 Q And what are those instructions?

11 A The -- they're -- at this point in time
12 there were five. One of them is to -- I don't
13 remember verbatim, but to pay attention, less so to
14 things like facial hair or head hair. Pay attention
15 to the face itself, not characteristics that might
16 change over time.

17 Another admonishment is that they are
18 not obligated to select anyone out of the photo
19 spread. And to only do so if they're reasonably
20 sure.

21 A third one is -- sorry, give me a
22 moment. It's been a while.

23 MS. COOPER: May I approach the
24 witness, Judge?

25 THE COURT: Yes, you can.

1 Q (BY MS. COOPER) Are these admonishments that
2 are read to each witness when you're showing them?

3 A Yes.

4 Q So do you take a sheet with you and actually
5 read it?

6 A Yes, they're read.

7 Q All right. I want to show you State's
8 Exhibit No. 9, that I've marked. If you can just use
9 it to -- does it have the instructions there that are
10 given to every witness?

11 A Yes.

12 Q Okay. And can you tell the members of the
13 jury what those instructions are?

14 A The person who committed the offense may or
15 not be present in the lineup. The witness, as I
16 said, is not obligated to select any individual. And
17 that it's equally important to clear a person who's
18 not involved in the crime from suspicion, as it is to
19 identify the person believed to be responsible for
20 the crime.

21 That the investigation will continue
22 whether or not an individual is identified. That the
23 witness shall not discuss the identification
24 procedure with other witnesses. And individuals
25 present in the photos may not appear exactly as they

1 did on the day of the incident, because features such
2 as head hair and facial hair are subject to change.

3 Q Okay. So when you show Malik Brown this
4 photo spread here in State's Exhibit No. 6, was he
5 told that, not to pay as much attention to things
6 such as hair and facial hair and hair on the head,
7 because they change?

8 A Yes.

9 Q Okay. The initial description that he gave
10 to you on the suspect was that the suspect was bald?

11 A Correct.

12 Q Nobody in State's Exhibit No. 6 is bald.

13 A That's correct.

14 Q Why did you show him that photo spread
15 without a bald person in it?

16 A Because head hair and facial hair can change
17 over time, and this was not a photo dated around the
18 time of the incident.

19 Q Okay. And -- and whenever you gave these
20 instructions to Malik, did he understand -- did he
21 appear to you that he understood them?

22 A Yes.

23 Q Did you tell him that the suspect may or may
24 not be there?

25 A Yes, I did.

1 Q And did you tell him that he wasn't
2 obligated to pick anyone?

3 A Yes.

4 Q And did you tell him that the investigation
5 will continue, even if someone's not selected?

6 A Yes, ma'am.

7 Q Did you put any pressure on him at all to
8 select someone?

9 A No, ma'am, I did not.

10 Q Did you -- well, can you tell the jury
11 how -- do you know how long, or about how long Malik
12 looked at this photo spread?

13 A A few minutes.

14 Q Did his description -- after he looked at
15 this photo spread with the people -- six people that
16 have hair, did his description of the suspect change?

17 A No.

18 Q Has he ever said that the suspect had hair?

19 A No.

20 Q Is it continued to say that he's bald?

21 A Yes.

22 Q Okay. So while you're showing them, do you
23 -- what's going on while Malik is looking at the
24 photo spread?

25 A I was just sitting there quietly waiting for

1 what he may or may not say.

2 Q All right. Any kind of like --

3 A And his mom sat there quietly, and he just
4 sat there and studied the photo array?

5 Q Do you, to your knowledge, make any kind of
6 head nods or do anything to indicate to him which
7 position Christopher Theall is in?

8 A No.

9 Q Does Malik pick anyone out of State's
10 Exhibit No. 6?

11 A No, he did not.

12 Q All right. Did you do -- you said that
13 Christopher Theall, a suspect, was put in a photo
14 spread, he's not identified?

15 MS. COOPER: May I approach the board,
16 Your Honor?

17 THE COURT: You may.

18 Q (BY MS. COOPER) Did you get -- did you pull
19 Christopher Theall's phone records?

20 A No.

21 Q How -- was Christopher Theall ruled out at a
22 suspect?

23 A Yes, he was.

24 Q How was he ruled out as a suspect?

25 A As we just explained, he was not identified

1 by the witness. We were unable to establish any
2 previous contact whatsoever between him and the
3 victim.

4 Q Okay. Anything at all in the victim's phone
5 regarding Christopher Theall?

6 A No.

7 Q Any contact at all between the two of them?

8 A No.

9 Q The number that you originally had, that you
10 believed belonged to Christopher Theall, based on the
11 previous 911 call, were you able to determine whether
12 or not that number actually belonged to Christopher
13 Theall?

14 A Yes, we were. And it was determined that it
15 did not.

16 Q Who did that number belong to?

17 A Curtis Pickett.

18 Q All right. And how did you find that out?

19 A Through our interview with Timothy Hatter.

20 Q All right. During the interview with
21 Timothy Hatter, did you -- did he show you his phone?

22 A Yes.

23 Q Were you able to -- does he have that number
24 plugged into his phone?

25 A He did.

1 Q And were you able to see the contact --
2 person that he was in contact with with that number?

3 A Yes.

4 Q And was that Christopher Theall?

5 A No.

6 Q Okay. Was that Curtis Pickett?

7 A Yes.

8 Q All right. Anything else regarding
9 Christopher Theall?

10 A No. Once Christopher Theall's only possible
11 connection to the victim was via Timothy Hatter. And
12 once Timothy Hatter was eliminated as a suspect,
13 along with all the other factors we just mentioned,
14 that eliminated Christopher Theall, as well.

15 Q Okay. And then you had mentioned something
16 about a -- he had a maroon -- is he the one that had
17 the maroon car?

18 A Yes.

19 Q And that was what kind of car?

20 A A Chrysler Sebring.

21 Q All right. Did you take that in to
22 consideration at all when conducting your
23 investigation?

24 A Yes.

25 Q And why was that eliminated as the vehicle

1 involved in this case?

2 A It was an older model Sebring for one thing.
3 As I recall it was a '91. It didn't resemble the
4 description given of the vehicle seen?

5 Q And then --

6 MS. COOPER: May I approach the board,
7 Your Honor?

8 THE COURT: You may.

9 Q (BY MS. COOPER) All right. So this -- the
10 whole reason he's in the beginning is developed, is
11 because of the vehicle color and the contact with
12 Timothy Hatter?

13 A Correct.

14 Q And that's the contact in Timothy Hatter's
15 phone to this number?

16 A Yes.

17 Q And then the phone number is not even
18 Christopher's number; is that right?

19 A That's correct.

20 Q Is Christopher Theall ultimately ruled out
21 as a suspect?

22 A Yes.

23 MS. COOPER: I'm going to mark this as
24 State's Exhibit No. 116.

25 Q (BY MS. COOPER) Did you look into anyone

1 else as a possible suspect?

2 A There was one other associate of Timothy
3 Hatter that we looked at briefly.

4 Q Who was that?

5 A Derrick Coleman.

6 Q Who's -- who's -- why was Derrick Coleman --
7 I mean, why did he become a suspect or a person of
8 interest?

9 A The day that we conducted our extended
10 canvas in the area, as we were getting ready to
11 conclude, we saw a white van drive by. And to me,
12 when the white van drove by, the man resembled the
13 sketch. We happened to be pulling in behind him, so
14 we followed him and he parked in front of Timothy
15 Hatter's house.

16 We then got out. That was the first
17 contact we'd made with Timothy Hatter. We spoke to
18 Mr. Coleman. Upon closer inspection, he kind of
19 looked like it, but he was very, very tall. He was
20 over 6 foot 2, his skin tone wasn't consistent.

21 And we took some additional steps
22 beyond that, to make sure he wasn't connected to the
23 victim. But other than that, not much else.

24 Q And was there any connection at all that he
25 had to Keith Brown?

1 A None.

2 Q What about -- anyone else? Did you look at
3 anyone else?

4 A No.

5 Q Okay. What about Tonie Brown?

6 A Oh, early on in the investigation, given
7 that the incident did happen in her home with the
8 wife and kids in the house, we did take some measures
9 to make sure that we -- that Ms. Brown was not
10 possibly involved, yes.

11 Q What measures did you take to determine
12 that?

13 A We questioned Keith's family, of course,
14 about their relationship. We checked history about
15 their relationship. We ordered financial statements,
16 banking records of all their banks, because we
17 knew -- they didn't have a lot of money, so obviously
18 we didn't believe Ms. Brown to be the shooter.

19 If it was a case where she was
20 involved, it would have been probably a murder for
21 hire situation or a boyfriend. And we didn't find
22 any kind of financial anomalies to suggest that she
23 had taken money out to pay anyone or -- we didn't
24 find any unusual expenditures at all. No purchases
25 of firearms, nothing of that nature.

1 Q Was Tonie Brown ruled out as somehow being
2 involved in this?

3 A Yes, very early on.

4 Q All right. Now, how long is this
5 investigation going on before you develop the
6 defendant as a suspect?

7 A Almost six months.

8 Q All right. Now, you mentioned earlier in
9 June of 2011, while you were conducting your
10 investigation, you got a nickname of someone?

11 A Yes.

12 Q Without going into that nickname.

13 A Right.

14 Q You got a nickname of someone that may be
15 involved in this case.

16 Did you also learn about a possible
17 motive at that time?

18 A Yes.

19 Q But were you able -- and you've already
20 testified you weren't able to -- to -- you kind of
21 hit a roadblock with that?

22 A Yes.

23 Q Were you able to associate an actual name
24 with that nickname?

25 A At a later date, yes.

1 Q Okay. But not in -- early on in June of
2 2011?

3 A That's correct.

4 Q So when is it that you actually get the
5 name -- well, let me ask it this way.

6 Do you -- do you get some information
7 in November of 2011 that leads you to the defendant
8 in this case?

9 A Yes.

10 Q Is that -- do you get that information from
11 a person?

12 A Yes.

13 Q And what is that person's name?

14 A Donald Hill.

15 Q And Donald Hill was actually -- did you find
16 out that he had a -- some kind of a relationship with
17 a guy by the name of Herman Jordan?

18 A Yes.

19 Q Did he provide information to you, without
20 going into what he said, did Donald Hill provide
21 information to you that led you to Herman Jordan?

22 A Yes, he did.

23 Q All right. And based on the information
24 that you received, did you speak with Herman Jordan?

25 A Yes.

1 Q When was that?

2 A That was on November 3rd, 2011.

3 Q Do you know how -- if -- whether or not
4 Herman Jordan is related to Crystal Jordan?

5 A Yes. He is her brother.

6 Q Okay. So when you go and --

7 MR. MAYR: Hold on. Hold on. Can we
8 approach real quick?

9 THE COURT: Yes.

10 (Bench Conference.)

11 MR. MAYR: Outside of the presence of
12 the jury, Your Honor, I'd make a Limine Motion at
13 this time, that there not be any going into this
14 discussion of Herman Jordan. That there be no
15 reference that this took place after he was arrested,
16 and that the interview took place in the Harris
17 County jail.

18 Under 403, I feel it would be more
19 prejudicial than probative to discuss -- to show that
20 Herman Brown [sic] was in custody, charged with
21 aggravated robbery, and this was -- it's going to
22 somehow indirectly infer that -- or infers a sort of
23 negative perception on my client. So...

24 THE COURT: Well, I don't know that you
25 can to go into what he's charged with. You can go --

1 MS. COOPER: I wasn't going to go into
2 what he was charged with. I was going to go into the
3 fact that he was in jail, and that he was --

4 THE COURT: If it's not the defendant
5 it's all right. But -- and then that he talked to
6 them and then?

7 MS. COOPER: He talked to them.

8 THE COURT: Hearsay. And then?

9 MS. COOPER: I'm not going to go into
10 what was said.

11 MR. MAYR: Okay.

12 MS. COOPER: But that led him to go
13 talk to Crystal Jordan.

14 MR. MAYR: Okay. That's fine. All
15 right. Okay.

16 (Bench Conference.)

17 Q (BY MS. COOPER) All right. So after speaking
18 with Donald Hill, does that lead you to Herman
19 Jordan?

20 A Yes.

21 Q And do you have a conversation with Herman
22 Jordan?

23 A Yes.

24 Q Does he -- is he able to provide information
25 to you?

1 A Yes.

2 Q Where is that interview -- where does that
3 interview take place?

4 MR. MAYR: Objection. Relevance and
5 403, Your Honor.

6 THE COURT: All right. It's overruled.

7 Q (BY MS. COOPER) Where does that interview
8 take place?

9 A In the Harris County jail.

10 Q Was Herman Jordan in the Harris County jail
11 at that time?

12 A Yes, ma'am.

13 Q Okay. So you go and talk to him. When do
14 you talk to Herman Jordan?

15 A On November 3rd, 2011.

16 Q When you talk to him, does he give you
17 information -- some more info -- or another lead to
18 follow up on?

19 A Yes.

20 Q Are you able to -- do you get -- does that
21 lead you to interview someone else?

22 A Yes.

23 Q And who was that?

24 A Crystal Jordan.

25 Q Okay. After talking to Herman Jordan, and

1 without going into the conversation of what was said,
2 did you become aware of any event that took place
3 involving Crystal Jordan, on May 19th of 2011?

4 A Yes.

5 Q And based on the information that he gave
6 you -- well, did he also give you information -- did
7 he give you the name Gareic Hankston?

8 A Yes, he did.

9 Q Okay. Were you able to link that with a
10 nickname that you had received early on in the
11 investigation?

12 A Yes.

13 Q After talking to Herman Jordan, how long
14 does that interview last, about?

15 A The interview with Herman Jordan.

16 Q Yes.

17 A I don't recall exactly. Thirty, 45 minutes,
18 maybe an hour.

19 Q What's his demeanor like at this point?
20 Does he want to -- I mean, does he act like he wants
21 to talk to you?

22 A No.

23 Q Is he wanting to provide information to you?

24 A No, not really.

25 Q Is he being cooperative with you?

1 A Somewhat. He didn't tell us to go away.

2 Q Okay. After that interview, what do you do
3 with the information that he's given you?

4 A We returned to the homicide offices and
5 began doing research on the information.

6 Q Were you able to locate a police report
7 involving Crystal Jordan and the complainant in this
8 case?

9 A Yes.

10 Q When was it that you located that police
11 report?

12 A On the evening of November 3rd, 2011, after
13 speaking with Herman.

14 MS. COOPER: May I approach the
15 witness, Judge?

16 THE COURT: You may.

17 Q (BY MS. COOPER) Now, this investigation was
18 very lengthy; is that right?

19 A Yes, ma'am.

20 Q There's a lot of dates and a lot of times
21 that events took place; is that right?

22 A Yes.

23 Q Having put together a timeline --

24 MS. COOPER: Mark it as State's Exhibit
25 No. 117.

1 Q (BY MS. COOPER) Have you put together a
2 timeline, to help aid your testimony in -- to the
3 jury, to kind of summarize the different dates at --
4 when certain events took place?

5 A Yes.

6 Q Will this aid your testimony to the jury?

7 A Yes.

8 Q Okay.

9 MS. COOPER: Your Honor, at this time
10 I'm tendering to opposing counsel, State's Exhibit
11 No. 117 and ask that it be admitted into evidence.

12 MR. MAYR: Judge, I have no objection
13 to it being admitted for demonstrative purposes. But
14 it is hearsay, and so therefore I would object to it
15 being admitted into actual evidence at this time.

16 THE COURT: All right.

17 MS. COOPER: Judge, I'm admitting it as
18 a summary of voluminous dates and times. I'm not --
19 I mean, just to --

20 MR. MAYR: That's for business records
21 and other things. But for his testimony --

22 THE COURT: Right. It's -- it's
23 admitted for demonstrative purposes.

24 (State's Exhibit No. 117 was admitted
25 for demonstrative purposes.)

1 MR. MAYR: I don't mind. Thank you.

2 THE COURT: This is what he says he did
3 those days. Just what the witness said happened in
4 those days.

5 Q (BY MS. COOPER) All right. So if we start --
6 and this is a pretty lengthy investigation. And this
7 is the information -- obviously, this is not
8 everything that you did; is that right?

9 A Correct.

10 Q Just kind of some of the things just
11 narrowed down.

12 On May the 19th of 2011, the -- were
13 you able to determine, based on the call slip and the
14 offense report, the time that the 911 call came in
15 on -- when Crystal Jordan called the police?

16 A Yes.

17 Q What time was that?

18 A 8:44 p.m.

19 Q Where did you -- how did you -- or where did
20 you get that information?

21 A From the offense report, I derived a case
22 number, and from the case number, I obtained the 911
23 call reports. I then reviewed them and established a
24 time.

25 Q All right. The call slip, which is similar

1 to the call slip from the homicide investigation,
2 does the call slip pertaining to the stalking
3 investigation that you call it, does it indicate on
4 the call slip the time that the officers were
5 dispatched to the scene?

6 A It does.

7 Q And then also does the actual 911 call
8 itself -- does it say the time that the first call
9 came in?

10 A Yes.

11 Q Okay. And was -- that was at 8:44?

12 A Yes, 8:44 p.m.

13 Q Do you know, by looking at the call slip
14 from the stalking, what time the officers -- the
15 patrol officers cleared the scene?

16 A They cleared the call at 9:31.

17 Q And when you -- by clearing a call, what do
18 you --

19 A I'm sorry, 9:32.

20 Q Okay. Well, that's -- I don't have that one
21 on there? Do you remember?

22 A Do you have the call slip? I'm pretty sure
23 it's 9:31.

24 Q Let me find it.

25 MS. COOPER: Can I have one -- just one

1 second, Judge?

2 THE COURT: You may.

3 Q (BY MS. COOPER) All right. Let me --

4 MS. COOPER: May I approach the
5 witness, Judge?

6 THE COURT: You may.

7 Q (BY MS. COOPER) I'm showing you State's
8 Exhibit No. 100, which is the call slip from the
9 stalking.

10 Are you able to tell the time that the
11 officers cleared the scene?

12 A 9:31 p.m. and 6 seconds.

13 Q Can you tell the members of the jury what it
14 means to clear the scene?

15 A It means that they have dissolved all
16 involvement with the call. They've completed all
17 their work and they're ready to be dispatched to
18 anything else that's available -- any other calls for
19 service that need to be logged.

20 Q All right. Is that -- so, when a call is
21 dissolved and a scene is cleared, what kind of things
22 have to be done or completed before that's done?

23 A Typically, the offense report is completed.
24 The officers that left the scene usually by a good
25 enough amount of time, by the time they clear the

1 call also.

2 Q Okay. So --

3 A And they've gathered all the information
4 necessary if a report needs to be generated, and
5 they've either started the report or completed the
6 report by the time they clear the call.

7 Q Okay. And if -- does it say on there the
8 time that the officers arrived on scene?

9 A Yes. They arrived on the scene at 8:57 p.m.
10 and 20 seconds.

11 Q Okay. So if they get there at 8:57 -- call
12 comes in at 8:44, officers get on scene at 8:57, they
13 clear it at 9:31, but does that mean that's when they
14 left the scene?

15 A No, it does not.

16 Q Does -- do they have to clear the scene
17 before they leave the scene? I mean, do they --
18 forget that.

19 Do they -- what I'm saying is, is that
20 9 -- do you have any idea by looking at the call
21 slip, the time the officers actually left the scene?

22 A No.

23 Q But sometime before 9:31?

24 A Yes.

25 Q And do you have any knowledge at all where

1 the report was written?

2 MR. MAYR: Hold on. I'm going to
3 object. That's assuming facts not in evidence. We
4 don't know when they left the time -- we don't know
5 whether they left before or after. So I'm going to
6 object to facts not in evidence.

7 THE COURT: All right. Restate your
8 question.

9 Q (BY MS. COOPER) You have been a police
10 officer for a long time; is that right?

11 A Yes.

12 Q You're familiar with dispatch and how it
13 works?

14 A Yes.

15 Q Are you familiar with when your supposed to
16 call in, and notify dispatch where you are?

17 A Yes.

18 Q Are you familiar with the -- when you're
19 supposed to clear a scene?

20 A Yes.

21 Q Okay. And following proper protocol,
22 clearing a scene involves -- if the scene is cleared
23 at 9:31 -- or the call is cleared at 9:31, does that
24 mean they left the scene at some point -- you don't
25 know when, at some point prior to 9:31?

1 MR. MAYR: Again, it's speculation,
2 lack of personal knowledge.

3 THE COURT: It's overruled. Is it a
4 general rule regarding the 9:31 clear call. What
5 does that mean in terms of when they left?

6 MS. COOPER: Right.

7 THE WITNESS: Yes. It means that they
8 left the scene prior to 9:31.

9 Q (BY MS. COOPER) All right. But as far as
10 how much before 9:31, you have no idea?

11 A No.

12 Q They don't get there till 8:57?

13 A Correct.

14 Q Okay. And so at some point between 8:57 and
15 9:31, the officers leave the scene?

16 A Yes.

17 Q Okay. Now, the 911 call for a shooting at
18 4206 Groton comes in at what time?

19 A 9:32 p.m.

20 Q And the first patrol unit is on scene at
21 4206 Groton at what time?

22 A 9:40 p.m.

23 Q And they -- how far of a distance is it from
24 Crystal Jordan's house or apartment, I'm sorry, to
25 4206 Groton?

1 A It's about a mile and a half.

2 Q And so in a vehicle, how long does it take
3 to get there?

4 A Just a few minutes.

5 Q Okay. All right. So you get this
6 information, you get the report, what do you do with
7 all that information? The stalking report.

8 A Right. We review the report. We made
9 contact with the patrol officers who had taken the
10 report. And then realizing that the gravity --
11 potential gravity of the report, being so close to
12 the time of the murder, we began to think we were on
13 the right track. We interviewed Crystal Jordan.

14 Q Were you the one that actually interviewed
15 Crystal?

16 A No, my partner, Officer Condon, interviewed
17 her.

18 Q Do you know when that interview was done?

19 A November 4th, the next day.

20 Q So during all this time, we have May 19th is
21 when the murder happens, the stalking happens. The
22 sketch happens when?

23 A The sketch?

24 Q Yes. If you're looking at the timeline
25 here, State's Exhibit No. 117.

1 A Okay. Yeah. This -- the composite sketch
2 was completed on May 26th.

3 Q Okay. You've shown the first photo spread.
4 When was that shown?

5 A On June 15th, 2011.

6 Q And then the second photo spread?

7 A October 11th, 2011.

8 Q All right. And then when you get the
9 information -- the first solid information that leads
10 to Gareic Hankston, what day was that on?

11 A November 3rd, 2011.

12 Q Okay. So it wasn't the 1st -- that when you
13 first get the information?

14 A Well, you said a solid lead.

15 Q Okay.

16 A But, yes, we received the initial
17 information on the 1st that lead to him.

18 Q Okay. And then you -- on November the 3rd,
19 what do you do?

20 A On November 3rd, as I said, Herman Jordan
21 was interviewed at the Harris County jail. And after
22 speaking with him, we found the stalking report that
23 Crystal had made.

24 Q And then when was Crystal interviewed?

25 A The following day after that, November 4th.

1 Q Okay. So that was on the 4th. After her --
2 and you weren't there during that interview?

3 A No, ma'am.

4 Q Were you made aware of the information that
5 was gathered during that interview?

6 A Yes.

7 Q Okay. Based on all of the information that
8 you had at this point, that involved the defendant in
9 this case, what was the next thing that was done?

10 A A photo spread was prepared with Gareic
11 Hankston as the target.

12 Q And when was the photo spread -- did you
13 actually prepare that photo spread?

14 A No, ma'am.

15 Q When was the photo spread shown to Malik
16 Brown?

17 A November 4th, 2011, the same day that
18 Crystal Jordan was interviewed.

19 Q Okay. And that's photo spread -- State's
20 Exhibit No. 7. And is that when -- November the 4th
21 of 2011, is that when the defendant in this case was
22 identified as the shooter?

23 A Yes.

24 Q Now, after he's identified as the shooter,
25 do you still continue your investigation?

1 A Yes.

2 Q In what ways?

3 A Well, a warrant was prepared for
4 Mr. Hankston's arrest. He was arrested and
5 interviewed. A search was made of his vehicle and of
6 the location where he was arrested.

7 Q Okay. Let me talk to you about that?

8 A Okay.

9 Q Where was he arrested at?

10 A Crystal Jordan's apartment.

11 Q And is that the same apartment that the
12 stalking report was made from?

13 A Yes, it is.

14 Q When he was arrested, did -- was the -- what
15 kind of vehicle was there on scene?

16 A A 2002 maroon Honda Accord.

17 Q Before you went to arrest him, did you have
18 information of the type of vehicle that he drove?

19 A Yes.

20 Q And I want to show you State's Exhibit No.
21 101.

22 Do you recognize that?

23 A Yes, I do.

24 Q And State's Exhibit No. 112.

25 A Yes.

1 Q Were you the person that actually took these
2 photos?

3 A Yes.

4 Q Okay. Now, you've seen in State's Exhibit
5 No. 112, that there's a black -- I think there's a
6 black --

7 A Quarter panel.

8 Q Were you able to, through research and --
9 were you able to determine whether or not there had
10 been an accident in the -- or this vehicle had been
11 involved in an accident?

12 MR. MAYR: I'm going to object. It
13 calls for hearsay, Your Honor.

14 THE COURT: All right. Sustained at
15 this time.

16 Q (BY MS. COOPER) All right. Did you do
17 research on this vehicle?

18 A Yes.

19 Q Did you look through traffic reports on this
20 vehicle?

21 A Yes.

22 Q Were you able to find some information that
23 aided you in your investigation?

24 A Yes.

25 Q And that information that you received, was

1 it an incident that had occurred after May 19th of
2 2011?

3 MR. MAYR: Objection. This is all
4 based on hearsay, Your Honor.

5 THE COURT: Sustained at this time.

6 Q (BY MS. COOPER) Did the information aid you
7 in your investigation?

8 A Yes, ma'am.

9 Q Did you have any reason to believe that,
10 based on the information that you received, that this
11 was not the car that was involved in this case?

12 A I had no reason to believe that.

13 Q Now, defendant's charged on what day?

14 A On November 9th, 2011.

15 Q When you go out to Crystal's apartment on
16 November the 9th, do you get consent to search the
17 vehicle?

18 A Yes.

19 Q Who gives you consent?

20 A The defendant, Mr. Hankston.

21 Q Is there anything that you found in the
22 vehicle?

23 A No.

24 Q Six months later, were you expecting to find
25 something?

1 A No, not really.

2 Q Did you also get consent to search the
3 apartment?

4 A Yes.

5 Q Who give you that consent?

6 A Crystal Jordan.

7 Q Why -- what's the purpose of going into the
8 apartment.

9 A Purpose was that there might be evidence
10 inside the apartment and we needed to check.

11 Q Okay. Such as what?

12 A Such as a firearm, ammunition, paperwork for
13 a firearm, things of that nature.

14 Q Did you find anything?

15 A No.

16 Q Did that -- did you take that into
17 consideration in your investigation?

18 A Yes.

19 Q Did that have an any impact on -- the fact
20 that you didn't have a firearm, did that have any
21 impact on your investigation and where it was leading
22 you at this point?

23 A No. Because it was six months removed.

24 Q Now, did -- what happened after the
25 defendant was arrested? Where did -- where was he

1 taken?

2 A He was taken to -- we transported to the
3 homicide division to be interviewed.

4 Q And was an interview conducted?

5 A Yes.

6 Q Okay. Without going into anything that was
7 said -- well, if you can kind of set the tone. What
8 -- what time of the evening was it that the defendant
9 was arrested for this murder case?

10 A 12:45 a.m., in the middle of the night.

11 Q And that was November 9th. Crystal had been
12 spoken to on November the 3rd; is that right?

13 A Yes.

14 Q Do you -- what kind of -- when you're going
15 in to make an arrest on a murder case, do you take
16 any precautions -- I mean, did you expect that he may
17 know what was coming?

18 A Sure.

19 Q What made you expect that?

20 A Well, he had -- he was found at his
21 girlfriend's apartment. She knew about the
22 investigation, and it had been six days since we
23 spoke with her.

24 Q Okay. After you spoke -- or after Crystal
25 Jordan was interviewed, was there any contact at all

1 by the defendant -- did the defendant ever reach out
2 and contact you guys?

3 A No.

4 Q To your knowledge, was there ever any call
5 made to homicide by the defendant?

6 A No.

7 Q Did he ever come down there just to talk to
8 you about, hey, you know, I want to talk to you about
9 this?

10 A No.

11 MR. MAYR: Objection, leading.

12 THE COURT: Sustained.

13 Q (BY MS. COOPER) All right. So you bring him
14 in on November 9th of 2011, in the middle of the
15 night. At this point, was he informed that he was
16 charged -- under arrest and charged with murder?

17 A Yes, he was.

18 Q Okay. And you -- so that you got a
19 statement from him?

20 A Yes.

21 Q Without going into anything that he said,
22 what was his demeanor like during that statement?

23 A His demeanor was not what I would have
24 expected. He was not -- he did not appear shocked.
25 He did not appear hostile. He did not appear

1 embarrassed or insulted. He appeared nonchalant.

2 Q After the interview was conducted, was
3 there -- did you still continue to further your
4 investigation?

5 A Yes.

6 Q And what did you do?

7 A Some additional interviews were conducted,
8 and we also obtained the defendant's cellular phone
9 records.

10 Q And were these records obtained by Court
11 order?

12 A Yes.

13 Q And I want to -- State's Exhibit --

14 MS. COOPER: Your Honor, at this time,
15 I'd offer State's Exhibit 109, 110 and 111, which is
16 defendant's cell phone records, that have been on
17 file with a business records affidavit for over 14
18 days. It's actually all one set of records. I've
19 just got it bound in three different -- I've got it
20 marked and bound separately, because it was so large.

21 THE COURT: All right.

22 MS. COOPER: And I offer in to evidence
23 at this time.

24 MR. MAYR: Subject to our previous
25 objection, Your Honor.

1 THE COURT: All right. Same ruling.
2 109 -- State's 109, 110 and 111 are
3 admitted.

4 (State's Exhibit Nos. 109, 110 and 111
5 were admitted.)

6 MR. MAYR: Running objections to all
7 further references.

8 THE COURT: All right. That's noted
9 and accepted.

10 Q (BY MS. COOPER) What was the purpose of
11 ordering the defendant's cell phone records?

12 A To prove or disprove statements made.

13 Q Okay.

14 A By -- can I say by whom?

15 Q Well, just -- were you -- with cell phone
16 records, are you able to obviously, see calls that
17 were made to certain individuals?

18 A Yes.

19 Q Are you also able to see, based on cell site
20 information, where a person was located on a specific
21 date at a certain time?

22 A Approximately, yes.

23 Q Okay. And the cell phone records in this
24 case, when did you receive them?

25 A They were received on December 6th, 2011.

1 Q So even after the defendant is charged with
2 murder in this case, were you continuing to
3 investigate this case?

4 A Yes.

5 Q Is that -- is that what a typical homicide
6 investigation consists of?

7 A Yes.

8 Q All right. Now, when you -- you get the
9 cell phone records in, do you -- what do you do with
10 them?

11 A We review the call data overall in the
12 records, the overall data, as well -- with particular
13 attention to the date of May 19th, 2011, the date of
14 the homicide.

15 Q As far as cell site information, the
16 information that can tell where generally a person
17 was.

18 Is that something that was done by you?

19 A It was ordered, yes.

20 Q Right. But as far as the mapping it and
21 pinning -- putting the locations or finding out where
22 the locations were, is that -- is that something's
23 that's done by you?

24 A No. That was performed by Officer Robert
25 Brown of the criminal intelligence division.

1 Q All right. And is he an expert in cell
2 phones?

3 A Yes.

4 Q Okay. So when -- was that done in this
5 case?

6 A Yes.

7 Q Was cell site information able to be
8 obtained from the defendant's phone in this case?

9 A Yes.

10 Q Did the defendant -- during his -- at some
11 point, were you made aware of the -- his phone number
12 in this case?

13 A Yes, I was.

14 Q Did he provide that information to you?

15 A Yes, he did.

16 Q All right. And is that how you requested
17 the information?

18 A Yes.

19 Q Okay. Now, when the cell site information
20 was obtained by Bob Brown -- Bob Brown, did you
21 review that information?

22 A Yes.

23 Q Were you -- did you -- were you able to use
24 that information to help you with your investigation?

25 A Yes.

1 Q And did it aid you in your investigation?

2 A Yes.

3 Q All right. I want to talk to you about --
4 was there -- other than the cell site information, we
5 will leave that for him, did you go actually
6 physically through the cell phone records?

7 A Yes, ma'am.

8 Q What was your purpose for looking through
9 the call logs and the actual physical records?

10 A To establish what his pattern of behavior
11 was the night of the incident. To see who he was in
12 contact with, and to prove or disprove any statements
13 that he made.

14 Q Did you -- all right. Were you able to --
15 did you have Crystal Jordan's number at that point?

16 A I did.

17 Q And how did you have that number?

18 A It was provided by her to Officer Condon
19 when he interviewed her.

20 Q Okay. And we also have -- did you also have
21 the call slip from the stalking call?

22 A Yes. And it was the same one.

23 Q All right. Now, did you notice anything
24 regarding -- or did anything in the cell phone
25 records stand out to you regarding the defendant's

1 contacts or the calls made back and forth between him
2 and Crystal Jordan?

3 A Yes.

4 Q What was that?

5 A Around the time that the 911 call was made,
6 which would have been 8:44 p.m.

7 Q Okay. And that's -- hold on. The 911 call?

8 A By Crystal Jordan.

9 Q Okay.

10 A About the stalking.

11 Q All right.

12 A When that call was made, she also called the
13 defendant. They exchanged activity back and forth.
14 Quite a bit of activity. That activity ceased around
15 8:48 p.m., just a few minutes later. And his
16 phone -- there was no contact between them from 8:48
17 until 9:16 p.m. -- until 9:16 p.m.

18 Q So, no contact at all between Crystal and
19 the defendant from --

20 A 8:48 p.m. until 9:16 p.m.

21 Q And is that around the time of the -- when
22 the stalking report was made?

23 A Yes, it is.

24 Q All right. Now, does there -- after
25 9:16 p.m., is there anymore calls between the

1 defendant and Crystal Jordan?

2 A There is later on.

3 Q All right. When was that?

4 A Let's see, they had calls that ranged as
5 late as around 10:55 p.m.

6 Q What about around 9:32 p.m.?

7 A Around 9:32 p.m., there had been a lull in
8 activity between 9:24 and 9:32 p.m., where the
9 defendant had no activity whatsoever in his records.

10 And then at 9:32 p.m., there was then a
11 sudden huge flurry of activity, burst of activity, if
12 you will, in which he had 38 telecommunications
13 between 9:32 p.m. and 9:55 p.m.

14 Q All right. 9:32 p.m. and 9:55 p.m. How
15 many minutes is that?

16 A Twenty-three.

17 Q Twenty-three minutes. Were you able to
18 compare that 23 minute period to the other 23 minute
19 period in the defendant's phone?

20 A For seven month's worth of phone records, I
21 went through and compared that 23 minute period to
22 every other 23 minute period, yes.

23 Q What did you find?

24 A I found that that was the busiest 23 minute
25 period in seven month's worth of phone records for

1 the defendant.

2 Q Is that the amount of phone records that you
3 had, is seven months?

4 A Yes.

5 Q So that was the busiest period?

6 A Yes.

7 Q What do you mean by that?

8 A I mean it had the highest volume of
9 activity. There was, as I said, 38
10 telecommunications during that time, 12 outgoing, 26
11 incoming. And compared to the entire rest of the
12 records, there was never a 23-minute period that was
13 as busy as that. And, in fact, there was only three
14 times in seven month's worth of phone records that he
15 had that many telecommunications in a whole hour,
16 much less 23 minutes.

17 There are approximately 12,897, 23
18 minute periods in seven months -- and in 206 days,
19 actually, to be exact. And so the odds of that being
20 the busiest period would be about one in 12,897.

21 Q And during the time -- well, is the
22 defendant, based on his cell phone records, are there
23 a lot of calls that are made?

24 A Yes.

25 Q Or are there a lot of calls -- I mean, is he

1 on his phone a lot?

2 A A fair amount, yes.

3 Q And during -- from 9:24 p.m. until
4 9:32 p.m., you said there's a lull in activity.

5 What does that mean?

6 A That means that there was no incoming or
7 outgoing communications from 9:24 to 9:32. As I
8 said, his phone had been very active since Crystal
9 called him at 8:44. That was the longest period of
10 inactivity. The eight minutes before the homicide
11 was the longest period of inactivity since Crystal
12 had called him about the 911 call.

13 And the 23 minute period immediately
14 after the homicide, was the busiest period -- the
15 busiest phone activity period for -- of that length
16 for seven month's worth of phone records.

17 Q Even more calls during that 23 minute period
18 than were in the 23 minute periods surrounding the --
19 when Crystal called him?

20 A Yes, even busier than that.

21 Q And then -- so there wasn't a lull in
22 activity -- you said there was no activity at all
23 from 9:24 to 9:32?

24 A None.

25 Q Do you -- were you able to -- were there

1 calls -- after 9:32, where there calls to -- back and
2 forth to Crystal Brown -- I mean, Crystal Jordan?
3 I'm sorry.

4 A Yes, there were.

5 Q All right. Do you know the time periods
6 that those took place?

7 A Those took place from 9:32 -- I'm sorry,
8 actually it was 9:16 all the way through 10:43 p.m.
9 they had calls exchanged.

10 Q All right. So except for --

11 A They had a large number exchanged in the
12 period between 9:32 and 9:55.

13 Q Okay. So except for between 9:24 and 9:32,
14 there's no activity. We have activity from 9:32
15 to -- what time did you say?

16 A 9:55.

17 Q That involved calls back and forth to
18 Crystal Jordan?

19 A Yes.

20 Q Also other people, as well?

21 A Right.

22 Q Were you -- did you -- were you able to
23 locate or to figure out, other than Crystal's number,
24 the other people that the defendant was calling?
25 Track those numbers back to any other people?

1 A One other person, yes.

2 Q Who?

3 A Walter Williams.

4 There was more than two numbers,
5 however, yes.

6 Q All right. As far as the other numbers that
7 were there, were you able to track those numbers back
8 to people?

9 A We did not.

10 Q Okay. As far as the defendant's phone
11 records, and not the cell site information, but the
12 actual call logs and the observations that you made,
13 was there anything else in his phone records that was
14 significant or aided you in your investigation?

15 A Excluding any reference to location?

16 Q Right.

17 A Not that I can recall.

18 Q Okay. Now, with regards to the location,
19 you -- did you actually meet with Officer Brown and
20 go over all that location information?

21 A Yes, I did.

22 Q Was that significant in your
23 investigation?

24 A Very.

25 MS. COOPER: May I approach the easel,

1 Judge?

2 THE COURT: You may.

3 Q (BY MS. COOPER) All right. Regarding the
4 defendant in this case, Gareic Hankston, were you
5 able to determine a motive in this case?

6 A Yes.

7 Q Was that motive a strong motive?

8 A Yes.

9 MR. MAYR: Objection and -- objection,
10 argumentative, relevance, leading.

11 THE COURT: That's sustained as to
12 leading. You can ask another question. What kind of
13 motive?

14 Q (BY MS. COOPER) What kind of motive were you
15 able to determine in investigating this case?

16 MR. MAYR: Objection, based on hearsay.

17 THE COURT: Well, I don't know what's
18 it's based on. But based on your personal knowledge,
19 your personal investigation.

20 Q (BY MS. COOPER) Based on your investigation
21 in this case, were you -- did you find -- what kind
22 of motive did you find in regards to the defendant in
23 this case?

24 A A very compelling one.

25 Q All right. Which was what?

1 A That the victim in the case had been
2 harassing and stalking his girlfriend over an
3 extended period of time, ultimately culminating in
4 him showing up at her apartment on the night that he
5 was killed, approximately 45 minutes before he was
6 shot.

7 Q Did the timing of the stalking play in to
8 your investigation in the motive in this case?

9 A Oh, yes.

10 Q What kind -- what impact did that have?

11 A I'm not sure I understand the question.

12 Q Well, you said the timing of the stalking
13 in relation to the murder.

14 A Uh-huh.

15 Q What did that -- what kind of impact did
16 that have on your investigation? Did you take that
17 into consideration?

18 A Yes.

19 Q Was that important?

20 A Yes. The timing -- the timing was so close
21 to the timing of the murder, it was almost uncanny to
22 me.

23 Q What about the defendant's physical
24 description? Did it fit the description that was
25 given by Malik Brown in this case?

1 A Yes, ma'am.

2 Q I want to show you State's Exhibit No. 8.

3 Do you recognize the person in State's
4 Exhibit No. 8?

5 A Yes.

6 Q Who is that?

7 A The defendant, Gareic Hankston.

8 Q And is there a date that this photograph was
9 taken?

10 A April 23rd, 2011.

11 Q When is that in relation to when the murder
12 was committed?

13 A A little less than a month.

14 Q Okay. And can you see the defendant's
15 hairstyle in how it looked back in -- very close to
16 the murder, a few weeks before?

17 A Yes.

18 Q And is that different than it is today?

19 A Yes.

20 Q How is it different?

21 A His sides of his head and the back of his
22 head are bald.

23 MS. COOPER: Your Honor, at this time,
24 I'm tendering to opposing counsel State's Exhibit
25 No. 8, and ask that it be admitted into evidence?

1 MR. MAYR: I'd like to take the witness
2 on voir dire, Your Honor?

3 THE COURT: You may.

4 **DEFENSE'S VOIR DIRE**

5 BY MR. MAYR:

6 Q Investigator Burrow?

7 A Sir?

8 Q I'm going to ask some specific questions
9 about these images.

10 These -- this is a color -- this isn't
11 the actual photograph that was taken, or purportedly
12 taken on April 23rd of Mr. Hankston, correct? This
13 isn't the actual -- this is a copy of the photograph;
14 is that right?

15 A I suppose, yes, it's a digital copy.

16 Q It's digital image that's been printed off
17 onto color copy paper; is that right?

18 A Yes.

19 Q And is it fair to say that because it's been
20 transferred and transmitted, that the image is not
21 the most crystal clear image that we could get of the
22 defendant? It's a good one, but it's not crystal
23 clear?

24 A Looks pretty clear to me.

25 Q All right. Well, you weren't present on

1 April 23rd when this picture was taken; is that
2 correct?

3 A No, sir.

4 Q All right. So you wouldn't be able to look
5 at him and see that maybe there was a little bit of
6 hair on the side of his head?

7 A I wasn't there, as I said.

8 Q Okay. So it's possible that even though it
9 looks like it's bald, you can't say without having
10 been there, that it was shaved bald the way that your
11 head is shaved bald, right?

12 It looks like it, but you can't say for
13 certain?

14 A Fair enough, yes.

15 MR. MAYR: Your Honor, I would object
16 that this is a not fair and accurate depiction of the
17 defendant on April 20rd.

18 MS. COOPER: Your Honor, may we
19 approach?

20 THE COURT: Yes.

21 (Bench Conference.)

22 THE COURT: What exhibit number is
23 that?

24 MS. COOPER: This is Exhibit No. 8.

25 THE COURT: Okay.

1 MS. COOPER: This is a photo that --

2 THE COURT: You can come up here.

3 MS. COOPER: It is dated. This is
4 taken of the defendant. I have tiptoed around the
5 fact that it's a mug shot. I can -- I'm not going to
6 get into that. But it was taken as standard
7 procedure when someone is booked into jail. It was
8 taken of the defendant.

9 There has been testimony from Crystal
10 Jordan that the defendant has never had bald hair.
11 That his hair just been a little bit shorter than it
12 is -- has -- is today.

13 I believe it's relevant for the jury to
14 get a picture of the way that his hair looked closer
15 to the time of the murder, which was just a few weeks
16 before.

17 THE COURT: Well, that exhibit is
18 relevant. However, you haven't laid the predicate.
19 Just because it's a -- you say it's a mug shot,
20 doesn't mean it is a mug shot. And he can't testify
21 he looked that way on that particular day. He wasn't
22 there and he didn't see him that day, whether he took
23 it or not.

24 So you haven't laid a proper predicate
25 for its admission. You're going to have to do the

1 business records or something or -- or something
2 else. But he hasn't -- you haven't laid the proper
3 predicate. Not all mug shots are admissible just
4 because they're standard procedure.

5 You need to lay a predicate for it,
6 unless you bring a case to the contrary. And you can
7 do that, because we're going to take a break at 6:00,
8 which is now.

9 MR. MAYR: Okay.

10 THE COURT: All right.

11 (Bench Conference Concluded.)

12 THE COURT: All right. We've come to a
13 stopping point. I told you yesterday we were going
14 to end up today around 6:00 o'clock. We're going to
15 end up at 6:00 o'clock. Tomorrow we're going to
16 start up 10:00, and probably end up around 6:00, as
17 well. Tomorrow will be Thursday. So, we'll have
18 tomorrow and Friday, which could be time within which
19 completes this case or not. But all indications are
20 that it very well could be on Friday.

21 So, during this break and all breaks,
22 do not make any scene investigations, any kind of
23 personal investigations, or let anybody talk to you
24 about the case. Don't read or listen to any kind of
25 reports.

1 And remember you're to base your
2 verdict on the facts and the law, the testimony comes
3 from this witness stand and the evidence that's
4 admitted in open court, and not anything else.

5 So have a good evening. We'll see you
6 tomorrow at 10:00.

7 MR. MAYR: Judge, before may we
8 approach real quickly?

9 (Bench Conference.)

10 MR. MAYR: This may be a little
11 presumptuous on my part, but Juror Number 50,
12 Ms. Maloch has the look of -- Juror Number 15,
13 Ms. Maloch has the look of fear on her face. Is
14 there anyway that we can keep around and let her know
15 that we will accommodate her, since she is going to
16 be leaving out of town and we need to let her know --
17 I don't want her to be --

18 THE COURT: Do we know how long it's
19 going to be?

20 MR. MAYR: What's that?

21 THE COURT: Do we know how long her
22 trip is going to be?

23 MR. MAYR: No. I don't recall.
24 From -- I don't recall. But if we can just -- just
25 to kind of get that information and maybe -- so we

1 can keep that in mind and maybe put her mind at ease
2 a little bit. Because she's got that look of, what
3 do I do about this trip I've got on the 21st?

4 THE COURT: Okay.

5 MR. MAYR: After the jury --

6 MS. COOPER: It might be a little
7 premature. I mean, we're on Wednesday. I don't -- I
8 think we're going to be done before that.

9 MR. MAYR: I just -- I think she's --
10 she's got a look on her face like she's concerned, do
11 I need to cancel reservations and things like that.
12 I think it would be -- I don't think there's anything
13 improper about talking to her about that at this
14 time. So...

15 Number 15.

16 THE COURT: That's prepaid. She leaves
17 on the 21st. That's all we know. Prepaid, leaves
18 on -- she's got a one-way trip -- prepaid, on the
19 21st.

20 MS. COOPER: One-way trip?

21 MR. MAYR: A one-way?

22 THE COURT: That's what it says here in
23 my notes.

24 MR. MAYR: I didn't get that.

25 MS. COOPER: I don't know that either.

1 THE COURT: I don't remember that
2 either, but I marked it down, so...

3 MR. MAYR: Can we explore that topic
4 with her, Judge, just so that we know and just to put
5 her mind at ease?

6 THE COURT: Yeah.

7 MR. MAYR: Because I don't want her to
8 be worried about that and not paying attention to
9 details.

10 THE COURT: All I'm going to say is
11 something generic.

12 MR. MAYR: Okay. Fair enough.

13 (Bench Conference Concluded.)

14 THE COURT: All right. It's come to
15 the Court's attention that there may be a -- someone
16 who's planning -- who already has a trip planned
17 for -- starting the 21st. And we're going to make
18 every effort to schedule and accommodate that person
19 within the bounds of the law.

20 But we are aware of that situation and
21 we have not forgotten. But we will do our best to
22 accommodate that situation or work around it, within
23 the confines and the requirements of the law and due
24 process. So we're aware. So don't worry too much.
25 That all I can tell you at this time.

1 So, if you would, have a good evening
2 and we'll see you tomorrow morning, 10:00 o'clock.

3 THE BAILIFF: All rise for the jury.

4 (Jury exits courtroom.)

5 (Court adjourned.)

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