

1 **OFFICER MICHAEL BURROW,**
2 having been first duly sworn, testified as follows:

3 **DIRECT EXAMINATION (continued.)**

4 BY MS. COOPER:

5 Q Good morning.

6 A Morning.

7 Q Are you same Officer Burrow that testified
8 yesterday?

9 A Yes, ma'am.

10 MS. COOPER: May I approach the
11 witness, Judge?

12 THE COURT: You may.

13 Q (BY MS. COOPER) When we broke yesterday, we
14 were talking about State's Exhibit No. 8.

15 Do you recognize State's Exhibit No. 8?

16 A Yes.

17 Q How do you recognize that?

18 A It's a mugshot photograph of the defendant
19 that was -- the photograph was used in this photo
20 spread.

21 Q Right. And when was that taken?

22 A It was taken on April 23rd, 2011.

23 Q Okay. And when you say a mugshot
24 photograph, do you know what that was for?

25 A It was on an arrest for outstanding traffic

1 warrants, I believe. Class C misdemeanors.

2 Q Okay. So traffic stuff. Do you fairly --
3 does State's Exhibit No. 8 fairly and accurately
4 depict the defendant?

5 A Yes.

6 MS. COOPER: Your Honor, at this time
7 I'm tendering to opposing counsel State's Exhibit
8 No. 8 for any objections, and ask that it be admitted
9 into evidence?

10 MR. MAYR: And just brief voir dire,
11 Your Honor, to clarify something?

12 THE COURT: Sure.

13 **DEFENSE'S VOIR DIRE**

14 BY MR. MAYR:

15 Q And just so we're clear, Investigator
16 Burrow, this -- you weren't involved in the taking of
17 this photograph or when we was just arrested just for
18 traffic warrants; is that right?

19 A No, sir, I was not involved.

20 Q And so this would have been April 23rd. The
21 murder took place on May 19th, this would have been
22 -- is this the closest photo that you were able to
23 locate in relation to that date?

24 A Yes.

25 Q Were you able to locate any other mug shot

1 photographs of the defendant anywhere near that
2 period of time?

3 A No.

4 Q Thank you.

5 MR. MAYR: Judge, I have no objection
6 to State's Exhibit No. 8.

7 THE COURT: All right. State's 8 is
8 admitted.

9 (State's Exhibit No. 8 was admitted.)

10 Q (BY MS. COOPER) I'm showing you State's
11 Exhibit No. 8.

12 Do we see the -- the date -- the
13 booking date reflected on State's Exhibit No. 8?

14 A Yes. Top left-hand corner here, April 23rd,
15 2011.

16 Q All right. And I notice that the
17 defendant's name is misspelled. Is that -- is his
18 name misspelled?

19 A Yes, it's misspelled.

20 Q Okay. But is it -- is the picture the same
21 way that you remember the defendant looking when you
22 interviewed him?

23 A When I interviewed him, he had the goatee
24 that he has now. He has more head growth here, but
25 other than that, yes.

1 Q Okay. So, I want to show you the bottom
2 picture on State's Exhibit No. 8. Can you -- well,
3 is the hair style on the bottom picture in State's
4 Exhibit No. 8 different than the defendant's hair
5 style today?

6 A Yes.

7 Q In what ways?

8 A Today he has hair on the side and back of
9 his head. His hair was longer. The sides and back
10 of his head appear to be bald.

11 Q All right. So the sides and back of his
12 head on April 23rd of 2011, it appears to be bald; is
13 that right?

14 A Yes.

15 Q In all fairness, there is a tiny little bit
16 of hair at the very tip top of his head.

17 Can you see that in like the top
18 picture?

19 A Yes, I can. Yes, that's correct.

20 Q All right. And in this photograph, he does
21 not have a goatee; is that right?

22 A That's correct.

23 Q When you met with him November the 9th of
24 2011, had he grown a goatee?

25 A Yes.

1 Q What -- can you describe the goatee to the
2 jury?

3 A As I recall, it had a thin mustache and it
4 had grown maybe an inch down off of his chin.

5 Q Okay.

6 A Actually, his hair was more grown out on the
7 sides, too.

8 Q I want to -- well, you indicated yesterday
9 to the jury, that you have a degree in psychology; is
10 that right?

11 A Yes, ma'am.

12 Q And you got your degree from where?

13 A My bachelor's degree?

14 Q Yes.

15 A From the University of Texas at Austin.

16 Q And then your -- your -- you also have a
17 master's degree in psychology, as well; is that
18 right?

19 A Yes, ma'am.

20 Q And where did you get that from?

21 A Sam Houston State University.

22 Q When you got your master's degree in
23 psychology, is there -- was there any kind of
24 emphasis on a certain kind of -- of -- or in a
25 certain area of psychology?

1 A Yes. I took a class at Sam Houston State,
2 in the application of psychology to the law.

3 Q Okay.

4 A To legal matters.

5 Q All right. And is the -- is that in like
6 the criminal justice department or is it actually the
7 psychology department?

8 A It's within the psychology department, but
9 they liaise with the criminal justice department.

10 Q Throughout your education, are you -- did
11 you take -- how many -- about how many psychology
12 classes did you take?

13 A Undergraduate or graduate?

14 Q All of them together, combined.

15 A Well, graduate would have been about 70
16 hours worth of course work, four hour per class per
17 semester.

18 Undergraduate, about 60, so 120, 130
19 course hours. Something along those lines.

20 Q Okay. During your formal education, did you
21 study the memory -- human memory?

22 A Yes.

23 Q Did you study -- do you -- eyewitness
24 identification?

25 A Yes.

1 MR. MAYR: Your Honor, may we approach?

2 THE COURT: Yes.

3 (Bench Conference.)

4 MR. MAYR: Do you have the Court's file
5 up there -- the clerk's file?

6 THE COURT: Uh-huh.

7 (Discussion off the record.)

8 MR. MAYR: I can take your word, but I
9 just want to double check.

10 MS. COOPER: Here, let me find it for
11 you.

12 MR. MAYR: Yeah. I think this is where
13 it is.

14 MS. COOPER: I think it's before that.

15 MR. MAYR: Just want to make sure. All
16 right. Judge, at this time it appears that -- at
17 this time it appears that the State is attempting to
18 go into some sort of expert testimony -- or try to
19 elicit an expert opinion from this witness in regards
20 to eyewitness identification, based on his training.

21 I'm going to request a 702 hearing
22 outside the presence of the jury, to make sure. So
23 that the State can meet the -- can meet the standards
24 for expert testimony.

25 I filed the motion requesting this

1 hearing on -- it's been on file with the Court. And
2 at this time, I'd like to exercise that ability to
3 have that outside of the presence of the jury. And
4 in all fairness, Judge, I wasn't anticipating this
5 testimony, otherwise I would have asked for this
6 yesterday.

7 This is -- I knew they had given notice
8 of it, but again, because it -- because he didn't
9 testify about any of this at the eyewitness
10 suppression hearing, I didn't have any reason to
11 anticipate it here today so -- but I would ask for it
12 at this time.

13 THE COURT: Well, are you going to go
14 into this? Are you going to elicit such expert
15 testimony?

16 MS. COOPER: Yes.

17 THE COURT: Okay. We can do that, take
18 him on voir dire.

19 (Bench Conference Concluded.)

20 THE COURT: All right. Members of the
21 jury, we're going to take a break. I've got to
22 handle a legal issue and it's going to take a few
23 minutes.

24 So during this break, remember the
25 instructions. Don't discuss the case. Don't do any

1 kind of independent investigation of whatever nature.
2 Just have a break and we'll resume in a few minutes.

3 THE BAILIFF: All rise for the jury.

4 (Jury exits courtroom.)

5 THE COURT: Be seated, please.

6 All right. Ms. Cooper, you may
7 proceed.

8 MR. MAYR: Sure. You have the burden,
9 so...

10 **DIRECT EXAMINATION**

11 BY MS. COOPER:

12 Q All right. You -- can you -- when did you
13 get your bachelor's degree?

14 A 2001.

15 Q And with a degree in psychology?

16 A Yes.

17 Q And then your master's degree, when did you
18 get that?

19 A 2005.

20 Q And that was also in psychology?

21 A Yes.

22 Q During your psychology -- your educational
23 program, did you take classes regarding human memory?

24 A Yes.

25 Q Did you take classes regarding eyewitness

1 identification?

2 A Yes.

3 Q Can you describe the classes -- or what did
4 you learn in your formal education regarding human
5 memory? What kinds of classes were these that you
6 took?

7 A Well, classes on human perception and
8 sensation, and how information is registered, and how
9 information is stored and recalled.

10 Specific regarding eyewitness
11 testimony. The reliability of eyewitnesses according
12 to laboratory research, how laboratory research is
13 conducted, the findings of the general research
14 community on that subject. The general findings of
15 the research community.

16 Q And during your education, did you learn, or
17 did you have the opportunity to review studies that
18 were conducted, to determine the accuracy of human
19 memory?

20 A Yes. Specific laboratory studies, research
21 reviews, meta-analysis, which are super-studies that
22 are -- they're used to statistically analyze a group
23 of studies on a particular topic, by combining all
24 the data from multiple studies. That way they can
25 reach a broader and stronger conclusion.

1 I apologize. I'll slow down.

2 THE COURT: Excuse me. Y'all need to
3 be quiet over there, please.

4 Q (BY MS. COOPER) And then did you also do and
5 learn in depth about studies -- actual studies that
6 are done -- controlled studies that test the accuracy
7 of memory?

8 A Yes.

9 Q Can you describe those studies? Like what
10 kinds of studies?

11 A Well, most of them are controlled laboratory
12 studies. There's not as much field work as is needed
13 in that area, with actual real life victims of
14 crimes, for example.

15 It's all controlled studies, where
16 research participants are put in a particular
17 situation. It's standardized, usually with
18 manipulation, where one group is exposed to one
19 slightly different set of stimuli than another group,
20 and then compared to determine the reliability.

21 Q And then as far as eyewitness
22 identification, throughout your formal education, did
23 you receive education regarding that topic?

24 A I'm sorry.

25 Q Regarding eyewitness identification?

1 A Yes.

2 Q Can you tell the Court what you learned in
3 your formal education regarding eyewitness
4 identification?

5 A That it's fallible. That it's important to
6 assess the reliability of the witness. It's
7 important to corroborate an eyewitness'
8 identification. And that there are certain factors
9 that more reliably predict when an eyewitness is
10 going to be accurate than others.

11 Q Regarding your formal education, is that
12 something that you use and you take with you in to
13 your practice as a homicide investigator?

14 A Yes.

15 Q In what ways?

16 A Well, particularly with interviewing a
17 witness, the first thing that I'm trying to do is to
18 assess their reliability -- the reliability of the
19 information they're providing. What was their
20 vantage point? How many detail are they able to
21 provide in describing the event? Can they describe
22 their thought process at the time?

23 All those factors weigh in in how much
24 credibility that led into their information.

25 Q In your experience as a homicide detective,

1 have you had the opportunity to work with real
2 victims?

3 A Yes.

4 Q Based on your formal education and all --
5 everything that you've learned regarding eyewitnesses
6 -- the studies involve eyewitness identification and
7 memory, have you had the opportunity to -- well, to
8 work with real victims and -- let me see how to ask
9 this.

10 Have you -- obviously, you've worked
11 with real victims; is that right?

12 A Yeah.

13 Q All right. And you -- what you've learned
14 from the studies involving human memory, have you
15 applied that to your knowledge in working with real
16 victims?

17 A Yes.

18 Q What have you found in your training and
19 experience working with real victims, and how does
20 that compare to the studies -- the controlled studies
21 in a classroom?

22 A It really highlights the need for additional
23 field work to supplement the laboratory research
24 that's been done. Because real world crime victims
25 are not put in control of the situation. They're put

1 in a dynamic ongoing situation. And some witnesses
2 are better than others at being able to describe
3 details of what they saw.

4 It's important to be able to assess the
5 witness. They don't do that in controlled laboratory
6 studies, typically.

7 Q And the -- what do you mean by that, that
8 they don't do that in controlled laboratory studies?

9 A Typically, if they ask the witness questions
10 about details that they saw. Usually, a lot of these
11 studies are structured in such a way that the witness
12 witnesses some sort of event, and they're just simply
13 asked to make an identification from a photo spread
14 or a sequential lineup. And they determine their
15 accuracy based on that.

16 In the real world, it's important to
17 assess beforehand where you think your witnesses is
18 at. What kind of information do you think that they
19 can really give you? What did they really see?

20 I've had adult witnesses that appeared
21 to be unreliable to me. I've had child witnesses
22 that appeared to be very reliable. It just has a lot
23 to do with how much detail they can give you and what
24 thought process was going through their mind at the
25 time.

1 Q You're area -- the area of psychology, is
2 that considered a soft science?

3 A Yes.

4 Q The studies that you have learned about and
5 relied on through your education, are those published
6 studies?

7 A Yes.

8 Q Are they studies that -- are those studies
9 that are peer reviewed?

10 A Yes.

11 Q And are these formal studies that are taught
12 to psychology students?

13 A Yes.

14 Q And as a psychology student, are you sitting
15 in -- in classrooms with psychology professors?

16 A Yes.

17 Q When you went and did your master's degree
18 in psychology, did you have any opportunity to teach
19 any classes?

20 A Yes.

21 Q Can you explain that?

22 A Well, as a graduate student, it's not
23 unusual for you to be assigned to teach undergraduate
24 classes, in order to kind of earn your way through
25 your tuition.

1 Q Did you teach any classes?

2 A Yes, I taught "Introduction To Psychology."

3 Q When did you teach that class?

4 A In about my first year of graduate school
5 and my second year, and my third.

6 Q And was that a -- I'm sorry, I cut you off.

7 A Second and third.

8 Q Is that a college-level class?

9 A Yes.

10 Q And it was titled "Introduction To
11 Psychology"?

12 A Yes.

13 Q What topics did you teach the college
14 students?

15 A It's a general overview course, everything
16 from memory, sensation, perception, to history of
17 psychology, to different over origin psychological
18 theories that are in the field. A wide variety of
19 topics.

20 Q And the information that you gained for your
21 formal education, did you apply that or did you apply
22 that to this case?

23 A Yes.

24 Q What precautions did you take in this case
25 -- or is it important in a criminal case when you

1 have an eyewitness identification, to have
2 corroborating evidence?

3 A Yes.

4 Q What -- did you have -- did you stop at the
5 identification in this case?

6 A No, not at all.

7 Q What corroborating evidence did you have in
8 this case, other than the identification?

9 A A compelling motive for one. Motive is
10 strong corroborating evidence. The defendant's
11 vehicle matched the description of the vehicle that
12 was seen fleeing the scene immediately after the
13 gunshots were fired. And his cell tower locations
14 and call data indicate that he was in the area at the
15 time of the shooting, and left the area immediately
16 after the shooting. And that he was not who he was
17 -- and that he was not with who he said he was with,
18 or where he said he was at the time of the shooting.

19 MS. COOPER: I pass the witness.
20 That's as far into it as I'm going to get with him.

21 THE COURT: All right.

22 MR. MAYR: May I proceed, Your Honor?

23 THE COURT: You may.

24

25

CROSS-EXAMINATION

1
2 BY MR. MAYR:

3 Q Okay. So, Investigator Burrow, the opinion
4 that you want to offer to this jury is that from your
5 experience working with real victims, the studies
6 that are done by people in the field of psychology,
7 they need to be supplemented and take in account more
8 real world situations.

9 Is that essentially what you're trying
10 to offer?

11 A Sure.

12 Q Okay. And you're -- I want to understand
13 what the basis is for that opinion.

14 A Okay.

15 Q It comes from your working as a homicide
16 detective and talking --

17 A And as a police officer in general.

18 Q Okay.

19 A But specifically as a homicide detective.

20 Q But that's related to your work as a police
21 officer, right?

22 A My real world work, yes.

23 Q Sure. You haven't done any -- any
24 formalized studies, as you would in the field of
25 psychology, to come up to this conclusion, right?

1 A I have not been involved in the construction
2 of the study, no.

3 Q You haven't researched this area, reading
4 what other people have talked about in this area that
5 you're talking about, about real world -- about
6 studies needing to be supplemented with real world
7 victims?

8 A I have read a lot about that, actually.

9 Q Okay. Which studies have you reviewed?

10 A Multiple studies that were conducted back in
11 the early 2000 -- the 2000s range, peer reviewed,
12 reviews of the research that said, look this is the
13 laboratory findings that have been found up to this
14 point. But we need a transition into getting more
15 real world work, such as the review conducted by
16 Wells and Olson, 2003.

17 (Ms. Cooper tenders document to
18 Mr. Mayr.)

19 MR. MAYR: Thanks. Yeah, I've seen
20 this one.

21 MS. COOPER: And for the record, Your
22 Honor, I've tendered to opposing counsel a study
23 that --

24 MR. MAYR: Yeah. And for the record,
25 I've had an opportunity -- I've -- I've reviewed this

1 prior to this. So I'm familiar with the study, as
2 well.

3 THE COURT: All right.

4 Q (BY MR. MAYR) You haven't written any
5 articles or been published in this area, have you?

6 A No, sir.

7 Q All right. And as far as the studies go,
8 I'm trying to remember -- so not having done any
9 studies, not been -- done any -- well, let me ask you
10 this, have you done any further research in this
11 area, since you studied this back in 2000 and --

12 A Between -- overall between about 1999 and
13 2005.

14 Q Okay. But since then -- since you've become
15 a police officer, have you continued to research --
16 do research and to read studies like that?

17 A Not continuously, no.

18 Q Okay.

19 MR. MAYR: All right. I have no
20 further questions, Your Honor.

21 THE COURT: All right. All right.

22 MS. COOPER: I don't have anything else
23 for this witness, Judge.

24 THE COURT: Okay.

25 MR. MAYR: You've got the burden, do

1 you want to -- I'm sorry, Judge. I have nothing
2 further to offer at this point.

3 THE COURT: All right. Regarding this
4 proffer of this witness as an expert witness, the
5 Court finds he's qualified. And that -- and his
6 background goes to the very manner in which the
7 witness could give his opinion. The Court finds also
8 that his testimony is relevant, and that the -- his
9 knowledge, skills, experience, training and
10 education, does require him to give an expert -- give
11 an opinion on that particular subject of eyewitness
12 identification, as set out in this proffer of
13 testimony outside the presence of the jury.

14 And the Court finds that the expert
15 here, who's testimony has taken into account enough
16 of the pertinent facts to be of assistance to the
17 trier of fact on this particular issue.

18 Therefore, the expert's proposed
19 testimony is reliable under 705(c), and it's
20 sufficient to give -- sufficient basis to give an
21 opinion under Rule 702 and 703. Therefore, the
22 opinion is admissible.

23 So, bring in the jury, please.

24 THE BAILIFF: All rise for the jury.

25 (Jury Panel enters courtroom.)

1 (Open court; defendant and jury panel
2 present.)

3 THE COURT: Be seated, please.

4 You may proceed, Ms. Cooper.

5 **DIRECT EXAMINATION (continued.)**

6 Q (BY MS. COOPER) Officer Burrow, you, in
7 addition to your formal education in psychology, both
8 in your bachelor's degree and in undergraduate --
9 your master's degree, have you also had the
10 opportunity to teach psychology courses?

11 A Yes.

12 Q And what courses did you teach?

13 A Introduction to Psychology for
14 Undergraduates.

15 Q For undergraduate college students.

16 A At Sam Houston State, yes.

17 Q And "Introductory (sic) To Psychology" --
18 well, when did you when did have -- when did you
19 teach that class?

20 A Not my first year in graduate school, my
21 second and third year.

22 Q Okay. And is this like full semester long
23 classes?

24 A Yes.

25 Q Okay. During your education, did you have

1 an opportunity to learn about the human memory?

2 A Yes.

3 Q Did you have an opportunity to review
4 studies that involved the human memory?

5 A Yes.

6 Q What did you learn regarding the human
7 memory?

8 A That human memory is fallible, but it's
9 fallible in predictable ways. And that it's
10 important with a witness, to assess the reliability
11 of their information based on detail that they're
12 able to provide, their state of mind at the time, and
13 their vantage point when the witness saw them.

14 Q Okay. And these studies that you've learned
15 about, what kinds of studies are these?

16 A Primarily research studies on eyewitness
17 identification.

18 Q Okay. Can you describe those to the jury?

19 A Controlled laboratory studies, which
20 typically undergraduate students are somewhat --
21 population is used as a research population, and is
22 exposed to some event that they witnessed and
23 sometimes also memory tasks and other types of
24 studies, but it would deal with relevance of the
25 eyewitness ID. It's typically a witnessed event --

1 THE COURT REPORTER: Just one second.

2 (Discussion off the record.)

3 THE WITNESS: Correct.

4 A The studies are usually set up in such a way
5 that there's a control group who does not witness
6 some particular aspect of the event. And then there
7 is a manipulation group -- experimental group, where
8 there is some sort of manipulation in place, some
9 variance between what the control group saw and what
10 they saw.

11 And they use that small difference to
12 examine what other people were reliable in being able
13 to make identifications, and if that small difference
14 made any difference in their reliability.

15 Q (BY MS. COOPER) Are these studies involving
16 real victims to crimes?

17 A No.

18 Q As a homicide detective, have you had
19 experience on multiple occasions to work with real
20 victims of crimes?

21 A Yes, ma'am.

22 Q Have you used your education in psychology
23 to aid you and assist you in investigating homicide
24 cases?

25 A Yes.

1 Q In what ways?

2 A Well, in particular regard to this case,
3 because the eyewitness was a child. It was a boy --

4 MR. MAYR: Your Honor, I'm going to
5 object to him offering any opinions about this case
6 specifically. That's improper expert opinion and it
7 also up invades the province of the jury and it's
8 inadmissible under 705(c) or (b). Sorry.

9 THE COURT: What's your response?

10 MS. COOPER: I'll just ask -- I'm just
11 -- I'm just asking him generally, Judge.

12 THE COURT: All right. Generally.

13 Q (BY MS. COOPER) As a -- generally, as a
14 homicide detective, have you taken the information
15 that you've learned in your psychology profession and
16 applied it to working with real victims?

17 A Yes.

18 Q Have you -- what's the difference in working
19 with real victims in these controlled experiments?

20 A Well, number one, in controlled experiments,
21 the vast majority of them, there is no assessment
22 done on an individual basis with the participants to
23 find out what their state of mind was when they
24 witnessed something, and what their vantage point was
25 when they witnessed something.

1 That part is usually known from the
2 circumstances. But also a test of their reliability,
3 what level of detail can they provide overall about
4 the incident that they witnessed, or the event that
5 they witnessed. And that's not usually incorporated
6 into those studies.

7 Q How is that incorporated into working with
8 real victims?

9 A It's important to assess the reliability and
10 the credibility of your witness, informants also,
11 either case. It's important in either of those
12 parties to try and determine how reliable you think
13 the information that they can provide is.

14 Where were they when they saw this?
15 What were the conditions when they saw this? What
16 were they thinking when they saw this? Did they
17 realize what was happening. What details did they
18 attend to? What kind of details do they remember
19 overall about the incident? Those are all very
20 important.

21 If -- when somebody can remember
22 detailed information, they remember why they were
23 looking where they were looking, when they were
24 looking there, is a good witness.

25 Q In the controlled studies that don't take

1 any of that into consideration, are they just asking
2 everyone?

3 A Very rarely. Very rarely.

4 Q Okay.

5 A Typically it's a situation where they are
6 only comparing the accuracy of their ID, or the rate
7 of the accuracy of their ID.

8 Q What about the studies involving memory and
9 eyewitness identification, how does corroborating the
10 evidence play into that?

11 A It's a very important factor with eyewitness
12 identifications. In the vast majority of DNA
13 exoneration cases, where eyewitness testimony has
14 been involved, most of those cases involved an
15 uncorroborated eyewitness ID. So it's important to
16 have, for operation, to go along with the ID, to show
17 that, yes, this was an accurate portrayal.

18 Q And the studies -- the controlled studies,
19 are you aware of any studies that involve
20 corroborating information, other than just the
21 eyewitness identification? Laboratory environment.

22 A No. That wouldn't be necessary in a
23 laboratory environment. However, the -- most
24 laboratory studies -- most of the research that's
25 come out does encourage the real world incorporation

1 of having corroboration of an eyewitness ID.

2 Q And so how did -- how do these studies
3 relate to actually real world experience in working
4 with real live victims?

5 A The research community, and they've
6 emphasized this -- needs to conduct more field
7 research, more field work with actual real crime
8 victims, to see if the laboratory studies apply in
9 the manner that they believe that they did.

10 Q And then -- okay. I want to move with you
11 to this particular case.

12 MS. COOPER: May I approach the board,
13 Judge?

14 THE COURT: You may.

15 Q (BY MS. COOPER) In the case involving the
16 defendant, Gareic Hankston, we have an
17 identification. We have an eyewitness identification
18 in this case?

19 A Yes.

20 Q And meeting with and working with Malik,
21 was -- was he able to give you information that
22 helped you assess his credibility?

23 A Yes.

24 Q And what information was that?

25 A He was able to give a detailed account of

1 the overall incident, what was going on outside the
2 house, what was going on inside the house, what was
3 going on beforehand, what was going on after the
4 shooting occurred. He was able to give a detailed
5 description of the shooter's clothing, his physical
6 condition, and also things that he saw and heard.

7 And in particular, he was able to give
8 a good account of the fact that the shooter saw him,
9 not just that he saw the shooter.

10 Q Okay. And when -- your knowledge and
11 training in psychology, are you aware -- is every
12 person's memory exactly the same?

13 A No, of course not.

14 Q And what do you mean by that?

15 A Someone's -- well, of course, we all have
16 varying abilities when it comes to memory. Some
17 people are better at perceiving and memorizing than
18 others. But also there's situational variants. Some
19 people are better at remembering things in certain
20 situations than others. Sometimes this -- the
21 situation lends itself better to recall than in
22 others -- than others in a situation.

23 Q And as far as the identification goes in
24 this case, did you just stop with an eyewitness
25 identification?

1 A No.

2 Q Do you have corroborating evidence in this
3 case?

4 A Yes, ma'am.

5 Q Regarding the defendant, Gareic Hankston?

6 A Yes, ma'am.

7 Q What corroborating evidence do you have?

8 A In my opinion, the most important piece of
9 corroborating evidence is the motive.

10 MR. MAYR: I'm going to object to --
11 I'm going to object to the opinions of the officer at
12 this time. It's an improper opinion under 705 --
13 well, 702 and 705.

14 THE COURT: All right. That's
15 overruled at this time.

16 Q (BY MS. COOPER) Why was --

17 THE COURT: As to what's the -- to him,
18 what's the most important corroborating evidence. Go
19 ahead.

20 Q (BY MS. COOPER) Why was the motive the most
21 important piece of corroborating evidence?

22 A Because number one, it's a very compelling
23 motive. It's a reason that I believe most people can
24 identify with for killing someone. And number two,
25 it's extremely timely. The victim was known to have

1 been at the defendant's girlfriend's home only 45
2 minutes to an hour before he was killed.

3 Q And what about -- can you adjust that
4 microphone a little bit. I'm having a little trouble
5 hearing you.

6 A I'm sorry.

7 Q Or just speak into it a little bit.

8 A Okay.

9 Q All right. Okay. So you've got the motive.
10 What else do you have? What other corroborating
11 evidence do you have in this case?

12 A The vehicle that the defendant was known to
13 be driving on the night of the murder, matches the
14 description of the vehicle seen fleeing the scene
15 after the shooting.

16 Q And the original --

17 A Are you looking for the original
18 description?

19 Q Yeah. Hold on one second.

20 The original description that came in
21 for the vehicle on here, it's indicated here in
22 State's Exhibit No. 76, on the call slip, was a
23 burgundy Honda Civic, possibly 2000 to 2006?

24 A Yes.

25 Q The defendant's vehicle, what color is it?

1 A It's burgundy -- maroon.

2 Q All right. And what is the make of the
3 vehicle?

4 A It's a Honda Accord.

5 Q And in all fairness, in November, when these
6 picture taken, I'm showing you State's Exhibit No.
7 112, the front left quarter panel of the vehicle had
8 some black --

9 A Yes.

10 Q Black on it. Were you able to -- without
11 going into what the information was, were you able to
12 find information that led you to believe that this
13 was not a factor in this case?

14 A It was not a factor?

15 Q Well, that the car may have been -- not had
16 the black on it -- but -- in May of 2011?

17 A Yes.

18 MR. MAYR: I'm going to object. That's
19 -- I think that is eliciting hearsay, Your Honor.

20 THE COURT: Sustained.

21 Q (BY MS. COOPER) Did you take into
22 consideration the fact that the burgundy -- the
23 description was a burgundy Honda Civic, but the
24 defendant has a burgundy Honda Accord?

25 A Yes.

1 Q How did that weigh into your investigation?

2 A We examined photographs of Honda Civics and
3 Honda Accords from those years, and they're pretty
4 similar. My wife used to have a Honda Civic and it
5 looked a lot like that.

6 Q Other than the motive and the vehicle, what
7 other corroborating evidence did you have in this
8 case?

9 A The defendant's cellular phone records.

10 Q And the cell phone records, you're -- are
11 you referring to -- well, I first want to talk to you
12 about the frequency analysis that you did?

13 A Yes, ma'am.

14 Q Did the cell phone records -- well, what
15 about the frequency of the cell phone records
16 corroborated -- was corroborating evidence to the
17 eyewitness identification in this case?

18 A The pattern of behavior and frequency in the
19 cell phone records reflects that a significant event
20 occurred with the defendant around 9:32 p.m. the
21 night of the murder.

22 Q And that's based on what?

23 A Based on the fact that in the 23 minutes
24 immediately after the murder, from 9:32 to 9:55 p.m.,
25 he had higher call volume than he did for any other

1 23 minute period in 206 days, according to his phone
2 records.

3 Q What about the calls between the defendant
4 and Crystal Jordan.

5 Did those play into your analysis?

6 A Yes.

7 Q And in what ways?

8 A Well, we know that Crystal called 911
9 regarding the stalking, called around 8:44 p.m. And
10 she also began calling Mr. Hankston around that time.
11 And it appears that he was at her house sometime
12 around 8:48, 8:50, because they're no longer calling
13 each other from 8:48 until 9:16 p.m.

14 Q All right.

15 A And then from 9:16 p.m. until 10:43 p.m.,
16 there's a large number of calls exchanged.

17 Q Between Crystal and the defendant?

18 A Yes.

19 Q All right. What does that indicate to you?

20 A It indicates that they were not together for
21 one thing.

22 Q Regarding the call frequency -- well, let me
23 ask you this: Other than the call frequency, was
24 there anything else regarding -- or what about the
25 cell site information? You can't go into what it is,

1 but does that go into your investigation?

2 A It was relevant, yes.

3 Q Okay. Was the cell site information
4 corroborating evidence in this case?

5 A Yes.

6 Q And that's regarding cell site location --
7 or cell site information regarding the location of
8 the phone at a particular time?

9 A Correct.

10 Q And you had an opportunity to review that
11 information with Officer Brown; is that right?

12 A Yes.

13 Q All right. And then some of the other
14 suspects that were eliminated -- some of the reasons
15 that they were eliminated was because there was no --
16 you couldn't find any links in cell phone records,
17 between the other suspects and the complainant, Keith
18 Brown, in this case?

19 A Yes.

20 Q Did you find any links between the defendant
21 and Keith Brown in this case?

22 A No.

23 Q Why was it different -- can you explain to
24 that to the jury, why that was important regarding
25 the defendant, but not important regarding the other

1 people that were ruled out?

2 A Well, the absence of activity between the
3 defendant and the victim is not especially relevant,
4 but because of the motive in this case.

5 Q What do you mean by that?

6 A Well, the motive was that the victim was
7 stalking and harassing the defendant's girlfriend.
8 So I wouldn't expect the defendant and the victim to
9 be friends and be in regular communication, or even
10 necessarily be associates. In the other cases, I
11 did.

12 Q All right. Such as a disagreement over a
13 recording?

14 A Right.

15 Q Would you expect some kind of communication
16 between the victim -- between the two of them?

17 A Yes.

18 Q Such as a disagreement over a bet, would you
19 expect some kind of communication between the two of
20 them?

21 A Yes.

22 MR. MAYR: Objection, speculation.

23 THE COURT: Well, that's overruled.

24 What he expects.

25 THE WITNESS: I'm sorry, Judge, did you

1 --

2 THE COURT: That's overruled.

3 THE WITNESS: Okay.

4 Q (BY MS. COOPER) So, in addition to the
5 eyewitness -- or the eyewitness identification is not
6 the only thing that you have in this case, is it?

7 A No, ma'am, it's not.

8 Q And was that important to you?

9 A Very.

10 Q Why?

11 A Because I know that the vast majority of
12 exoneration cases involve eyewitness IDs that were
13 uncorroborated.

14 MS. COOPER: Your Honor, at this time
15 State offers State's Exhibit 113, 114, 115, 116 and
16 127 for demonstrative purposes only, Your Honor.

17 MR. MAYR: I have no objection for
18 demonstrative purpose only, Your Honor.

19 THE COURT: All right. One-thirteen,
20 14, 15, 16, and what else -- just 16?

21 MS. COOPER: And 127.

22 THE COURT: And 127.

23 MS. COOPER: Yes, Judge. And that's --
24 I've marked -- these are the pages on the flip chart,
25 Judge.

1 THE COURT: Okay.

2 MS. COOPER: State's 127 relates to the
3 defendant, Gareic Hankston; 113 relates to Howard
4 Ambush; 114 relates to Chad Jones; 115, Timothy
5 Hatter; 116, Christopher Theall.

6 THE COURT: All right. One-thirteen,
7 114, 115, 116 and 127, State's Exhibits are admitted.

8 (State's Exhibits 113, 114, 114, 115,
9 116 and 127 were admitted for demonstrative
10 purposes.)

11 MR. MAYR: Is that for demonstrative
12 purposes only, Your Honor?

13 THE COURT: Yes.

14 MR. MAYR: Thank you.

15 Q (BY MS. COOPER) I want to talk to you about
16 photo spreads. In conducting photo spreads, do you
17 use your education? Or is it important for police
18 officers to conduct photo spreads in a certain way?

19 A Yes.

20 Q What do you mean by that?

21 A It's important to admonish the witness for
22 one thing. We had a standardized admonishment that
23 was in place at the time the photo spreads in this
24 case were shown, and that admonishment was followed
25 each time.

1 And the most important admonishment,
2 which is that the person who perpetrated the crime
3 may or may not be present in the lineup.

4 Q Why is that important?

5 A Well, according to the research studies,
6 that is the most important instruction that has been
7 found to be given to witnesses in laboratory studies.
8 And it cuts misidentification error by over
9 40 percent.

10 Q And what about your -- your demeanor and the
11 way that you're conducting -- your body language in
12 showing photo spreads?

13 A It's important to be neutral. And in most
14 cases to be silent while they're viewing the photo
15 array. So that you're not inadvertently indicating
16 to them where the target might be present on the
17 lineup.

18 Q But was -- obviously Malik was shown three
19 different photo spreads in this case?

20 A Yes.

21 Q In State's Exhibits 5, 6 and 7, was -- to
22 your knowledge, were the admonishments given to Malik
23 in each one of these photo spreads?

24 A Yes, they were.

25 Q In the photo spread that you showed him,

1 were you -- was there anything at all that you did to
2 suggest to him who to pick?

3 A No.

4 Q Are you familiar with Officer Condon?

5 A Yes.

6 Q Have you worked with Officer Condon?

7 A Yes.

8 Q Anything in this case to indicate to you
9 that Officer Condon suggested any -- who to pick in
10 the photo spread?

11 MR. MAYR: Objection, speculation, lack
12 of personal knowledge and improper bolstering.

13 THE COURT: That's sustained.

14 Q (BY MS. COOPER) All right. So the fact that
15 there were three different photo spreads shown,
16 State's Exhibit 5, 6 and 7, to Malik, did that have
17 any weight in your investigation?

18 A Yes.

19 Q In what way?

20 A In my opinion, it bolstered his credibility
21 on his identification, because he never made an
22 identification on the previous two photo spreads.

23 Q And in the previous two photo spreads, was
24 the -- was the defendant present in those photo
25 spreads?

1 A No, he was not.

2 Q Was there any misidentification or anything
3 at all -- any identification made in State's Exhibits
4 5 or 6?

5 A No.

6 Q And by the time Malik looks at State's
7 Exhibit No. 7, how many different people -- or -- in
8 the photo spreads, has he had an opportunity to view
9 at this point?

10 A A total of 18.

11 Q And the only person that he identified was
12 who?

13 A The defendant.

14 Q Why was that important to your
15 investigation?

16 A Well, as I said, to gauge his credibility.
17 And actually the laboratory research bears that out.

18 Q What do you mean --

19 MR. MAYR: Object -- Your Honor, I'm
20 going to object. This is going to the ultimate
21 issue. This goes to the ultimate issue, trying to
22 draw a conclusion about the reliability of this
23 witness. That's for the jury to decide not for this
24 witness to testify to. It's inadmissible under 705?

25 THE COURT: All right. Sustained.

1 Rephrase.

2 MR. MAYR: I'd ask that the jury be
3 instructed to disregard that opinion from this
4 witness.

5 THE COURT: The jury's instructed to
6 disregard that last comment.

7 MR. MAYR: Move for a mistrial?

8 THE COURT: That's denied. Restate
9 your question. Ask your questions.

10 MS. COOPER: Judge, may we approach,
11 briefly?

12 THE COURT: Yes.

13 (Bench Conference.)

14 MS. COOPER: I didn't --

15 THE COURT: One second.

16 MS. COOPER: I didn't hear his last
17 response. I don't know he said. It was objected to,
18 so I just -- I just want to make sure I don't ask it
19 again.

20 THE COURT: Y'all want to come up here?

21 MR. MAYR: I can see from here.

22 THE COURT: Can you see?

23 MS. COOPER: Where are we looking?

24 THE COURT: See? That's your question.

25 MR. MAYR: I just don't want him

1 saying, I think he was credible, I think he was
2 reliable. He keeps doing that. He keeps saying that
3 over and over again.

4 MS. COOPER: Okay.

5 MR. MAYR: He can say -- he can say
6 that there was things that he saw.

7 MS. COOPER: I know. I know.

8 (Bench Conference Concluded.)

9 Q (BY MS. COOPER) Have you continued to
10 investigate and work on this case all -- you know,
11 since the charges were filed?

12 A Yes.

13 Q Have you done any additional investigation,
14 even up until recently?

15 A Yes.

16 Q What was that? You can't talk about what
17 anybody said?

18 A Okay. I located and interviewed Chad Jones,
19 who had been a previous person of interest.

20 Q Okay. And we discussed that yesterday, I
21 believe. What about the defendant's friends. Were
22 you able to locate any of his friends?

23 A Two.

24 Q And who were they?

25 A Jared Jacobi Taylor and Walter Williams.

1 Q And what about a man by the name of Derrick
2 Todd?

3 A He was located. I did not interview him.

4 Q To your knowledge, was he interviewed in
5 this investigation?

6 A Yes.

7 Q Okay. Just not by you?

8 A Correct.

9 Q Did they give you information that you took
10 into consideration in your investigation?

11 A Yes.

12 Q Even up until a few weeks ago?

13 A Yes.

14 Q Is there anything else that you've done in
15 this investigation that we have not discussed?

16 A Not that I can think of.

17 Q Okay. I do want to talk about one more
18 thing.

19 You indicated that there was a canvas
20 of the neighborhood that was on Groton Street that
21 was done on the night of the murder?

22 A Correct.

23 Q In addition to a canvas that was done
24 sometime later?

25 A Yes. An extended canvas.

1 Q Okay. During those canvasses, were -- was
2 there any contact made with the people that live at
3 4214 Groton Drive?

4 A No.

5 Q Do you know who lives in that house?

6 A I don't know who lives there currently, no.

7 Q Well, back in May of 2011, who lived at 4214
8 Groton?

9 MR. MAYR: Objection, based on hearsay.

10 Q (BY MS. COOPER) Well, you did meet with
11 those people; is that right?

12 A Yes.

13 Q Is 4214 Groton two houses down from 4206
14 Groton?

15 A Yes.

16 Q And is that to the left of the complainant's
17 house in this case?

18 A As you're facing his house, yes.

19 Q All right. And that two houses to the left?

20 A Correct.

21 Q During the canvasses, were those people --
22 the canvas on the night of the murder and the
23 extended canvas, was it apparent that there was
24 people there?

25 A I can't speak for the night of the murder.

1 I did not conduct the canvas of the scene the night
2 of the murder. On the extended canvas, no.

3 Q Was it apparent that the house was vacant or
4 they had moved out?

5 A Yes.

6 MR. MAYR: To clarify, are we talking
7 about in May or when the extended --

8 MS. COOPER: The extended canvas.

9 MR. MAYR: Okay. Thanks.

10 Q (BY MS. COOPER) All right. To your
11 knowledge, was there any contact made with the Jordan
12 family on the night of this murder?

13 A No.

14 Q And that's the same night that a canvas was
15 done, which is a door to door knocking on doors; is
16 that right?

17 A Yes, and talking to people who are already
18 outside.

19 MS. COOPER: I pass the witness, Your
20 Honor.

21 THE COURT: All right. Any questions?

22 MR. MAYR: Yes, Judge. Just give me a
23 moment to set up.

24 THE COURT: All right.

25 (Attorneys confer.)

CROSS-EXAMINATION

1
2 BY MR. MAYR:

3 Q Good morning, Investigator Burrow.

4 A Morning.

5 Q On May 19th, that night when you went out to
6 Groton, one of the first individuals that you spoke
7 with was Tonie Brown, right?

8 A Correct.

9 Q Now, you knew from talking with her, that
10 the complainant in this case, Keith Brown, was a drug
11 user?

12 A Yes.

13 Q More specifically that he used PCP?

14 A That's correct.

15 Q And what she told you that night, is that he
16 was in --

17 MS. COOPER: I'm going to object, Your
18 Honor, to hearsay.

19 THE COURT: That's sustained at this
20 time.

21 MR. MAYR: Judge, this is to impeach
22 what's been previously testified, as well as to
23 establish a motive. And I'm sorry, to impeach what
24 the motives are. It's not offered for the truth of
25 the matter asserted.

1 It's also being offered to impeach
2 prior statements by Tonie Brown, as well.

3 MS. COOPER: It's improper impeachment,
4 Your Honor.

5 THE COURT: All right. Would you ask
6 -- ask your questions, don't state what -- don't say
7 what she told him. Ask him what she told him.

8 MR. MAYR: Ask him.

9 THE COURT: Ask him what she told him.
10 Don't tell him that she told him such and such.

11 MR. MAYR: Sure.

12 Q (BY MR. MAYR) I'll give you a moment, because
13 I see you're looking at your notes to refresh your
14 memory.

15 THE COURT: Or if she told him such and
16 such.

17 MR. MAYR: Okay.

18 THE WITNESS: Okay.

19 Q (BY MR. MAYR) Did she tell you that he was
20 an occasional PCP user?

21 A Yes, she did.

22 Q And to your knowledge, what did that -- how
23 frequently did you know at that point, how frequently
24 did you know that Keith Brown used drugs?

25 MS. COOPER: Judge, I'm going to object

1 to hearsay. This was --

2 THE COURT: That's sustained.

3 Q (BY MR. MAYR) Never at that point -- never at
4 that evening at any point, does she ever tell you
5 that he appeared to be on PCP that night, did she?

6 A I don't recall her saying that, no.

7 Q I'm not talking about being an occasional
8 drug user or having used in the past, I'm talking
9 about that night?

10 A I had no reason to believe at that point in
11 time that he had used that night, no.

12 Q Okay. Would you agree with me that that
13 would have been important information to you, to know
14 that he is on PCP that night?

15 A Potentially, yes.

16 Q Because that would have indicated that he
17 would have had to use PCP some point that night?

18 A Possibly, yeah.

19 Q Which would have meant that he had to
20 acquire those drugs from someone that night?

21 A No.

22 MS. COOPER: I'm going to object to
23 speculation.

24 THE COURT: One second. What's your
25 objection?

1 MS. COOPER: Speculation as to when he
2 did --

3 THE COURT: That's sustained, to what
4 he had to do.

5 Q (BY MR. MAYR) In terms of investigating, you
6 talk about all -- about the types of homicides that
7 you investigated. And you talk about the motive in
8 this particular case being somewhat of a common one;
9 is that right?

10 A No. I wouldn't say this exact motive is
11 common. I would say that it's compelling is what I
12 say.

13 Q Compelling. Let's talk about motives that
14 are common. In all the homicides that you and other
15 detectives investigates, would you agree with me that
16 about 75 percent of them involve drugs in one way or
17 the other?

18 A I'm thinking back.

19 MS. COOPER: Judge, I'm going to object
20 --

21 THE WITNESS: No, I would not say that.

22 MS. COOPER: I'm going to object to
23 relevance of what other cases -- motives in other
24 cases.

25 THE COURT: Well, that's overruled,

1 this preliminary question. Go ahead.

2 A I don't -- overruled you said?

3 Q (BY MR. MAYR) Yes.

4 A I would say a fair percentage do involve
5 drugs. I wouldn't say 75 percent.

6 Q What percent would you gave it? And what
7 would you find a sufficient estimation on your part?

8 A Can you define drugs being involved for me?

9 Q And that's -- that's -- again, that might
10 help you a little bit.

11 You frequently investigate homicides
12 where it's one drug dealer and another drug dealer,
13 right? Or it involves --

14 A I have not frequently investigated homicides
15 involving that.

16 Q I'm talking about Houston Police Department
17 investigating homicides in general?

18 A Those cases do happen, yes.

19 Q Okay. You have people -- you have one drug
20 user killing another drug user over drugs?

21 A That's happened, yes.

22 Q You have people stealing and robbing to get
23 drugs?

24 A Yes.

25 Q You have people trying to steal drugs

1 themselves, right?

2 A Sure.

3 Q Okay. And every murder case that you look
4 at, there is in a great majority, at least 75 percent
5 of them, there's some aspect of drugs being involved,
6 right?

7 A In a great many murders there's an aspect of
8 drugs involved, yes.

9 Q I'll use those words. "Great many."

10 And so, if we know that Keith Brown is
11 on PCP that night, that would have meant that he had
12 to get the drugs from somewhere, right? In order to
13 ingest them and become intoxicated?

14 It's almost rhetorical. But you would
15 agree with that, right?

16 A Yeah, he wasn't manufacturing it in his
17 house. So, yes, he would have had to go get it.

18 Q Good. And again, you searched the house and
19 you didn't find evidence of PCP, right?

20 A No.

21 Q Which would logically lead one to -- lead
22 you as an investigator to maybe think that he had to
23 go somewhere else to get the drugs that he was using
24 that night?

25 A At some point, yes.

1 Q And sure, he could have just found the PCP
2 lying on the street. But it's also possible that he
3 had to go to someone to get those drugs?

4 A Yes. But he didn't have to do it on the
5 night of the murder.

6 Q To be on PCP that night, he would have had
7 to, wouldn't he?

8 A Not if he had purchased it and held onto it.

9 Q True. That's true. But it's also possible
10 that he could have -- that could have happened where
11 he had to come into contact with someone to get those
12 drugs? Maybe --

13 A Sure.

14 Q And even if not that night, it would have
15 had to have been at some other point prior to that?

16 A Right.

17 Q Now, focusing first on that night, May 19th,
18 did you or Investigator Condon or any other
19 investigators that you're working with, attempt to
20 locate where Keith Brown had obtained the drugs that
21 he was on that night?

22 A We didn't know he was on drugs that night.

23 Q So the answer would be?

24 A No.

25 Q At any point in the investigation, do you

1 ever learn that Keith Brown was on drugs that night?

2 A After his toxicology report came back from
3 the medical examiner's office.

4 Q And when did that happen?

5 A I don't know the exact -- toxicology usually
6 takes about a month.

7 Q Okay. So roughly a month later. Then you
8 know, because Tonie Brown hasn't provided that
9 information to you?

10 A No.

11 Q So when you get the autopsy report, that's
12 the first you learn about it, right?

13 A Yes.

14 Q So then moving beyond that night, at any
15 point in your investigation, especially considering
16 the fact that you now know that he was on drugs that
17 night, do you ever try to determine where he acquired
18 those drugs from?

19 A There wasn't much --

20 Q Investigator Burrow, did you attempt?

21 A Attempt, yes.

22 Q To determine where he acquired the drugs
23 from?

24 A Yes.

25 Q Okay. But you were not able to determine

1 who he got those drugs from?

2 A No.

3 Q Let's talk a little bit about cell phone
4 records, which you get a lot of in the course of this
5 investigation, right?

6 A Yes.

7 Q And you got the complainant Keith Brown's
8 cell phone records, right?

9 A Yes.

10 Q Were there any communications -- did you
11 notice any communications, either calls, text
12 messages, that took place say an hour or two before
13 the shooting takes place at 9:30 or approximately
14 9:30?

15 A No. Keith Brown's phone was disabled.

16 Q That's right, because it had been washed,
17 right?

18 A Right.

19 Q Okay. But again, and because of that,
20 there's no way that you can use what you refer to as
21 cell site records to pinpoint where he's at, right?

22 A No.

23 Q Okay. But you know how cell site records
24 work, you're just not the expert in that field?

25 A Correct.

1 Q But just so we have a -- just a general
2 understanding, if you do, you know, good. If you
3 don't, you don't know.

4 A Okay.

5 Q Cell sight records aren't like GPS records
6 that say that this person is right here at this exact
7 location, right?

8 A Not generally, no.

9 Q It's going off of a cell tower, and it's
10 saying that this person was within a five or ten mile
11 radius or whatever radius of that cell tower.

12 That's pretty much all it shows, right?

13 A It's usually a lot narrower than five or ten
14 miles, but, yeah.

15 Q Well, it just depends on the cell tower?

16 A It just provides a region.

17 Q And that's what -- that's my point is you
18 can --

19 A And you can in most cases. I believe there
20 are some cases, some smart phones that actually do
21 provide GPS information.

22 Q But you don't have any of that in this case?

23 A No.

24 Q And so, we're talking about just an area,
25 not a specific location, right?

1 A Correct.

2 Q And because Keith Brown's cell phone is
3 disabled at that time, we can't track where he's
4 moving using these cell site records, correct?

5 A That's correct.

6 Q Now, I want to talk with you about -- I'm
7 going to do this on a separate page.

8 I want to talk to you about Alfie
9 Mitchell. Who's Alfie Mitchell?

10 A He is the victim's brother or half brother.
11 I believe it's his half brother.

12 Q Okay. And in the course of your
13 investigation, you had a lot of contact with him; is
14 that right?

15 A I wouldn't say a lot, some.

16 Q You first -- I guess --

17 A A few occasions.

18 Q Few occasions. And let's -- I'm going to go
19 through those occasions and talk with you about
20 those.

21 MS. COOPER: Judge, before we get
22 there, I'm going to object to defense attorney
23 getting into any hearsay communication between the
24 officer and Alfie Mitchell.

25 MR. MAYR: Well, I'm going to tell you,

1 Judge, that a lot of stuff that I'm going to ask him
2 about is not offered for the truth of the matter
3 asserted, but to expressly -- expressly rebut and
4 impeach what he has previously testified to, and is
5 on these very exhibits that are right here.

6 So it's not being offered for the truth
7 of the matter asserted, it's not hearsay.

8 THE COURT: All right. Go ahead.

9 MS. COOPER: The conversations that we
10 had -- that he had with Alfie Mitchell are hearsay in
11 this case, Your Honor. I mean --

12 THE COURT: Well, I'll listen to the
13 question and I'll entertain the objection. Let's see
14 what's -- question by question basis.

15 Q (BY MR. MAYR) I'm showing you State's Exhibit
16 No. 114.

17 MR. MAYR: Let me get some things ready
18 here.

19 (Attorneys confers.)

20 Q (BY MR. MAYR) Okay. As we see here on
21 State's Exhibit No. 114, one of the things that you
22 noted while you ruled them out, was that there was no
23 recent contact between Chad and Keith Brown, correct?

24 A That's correct.

25 Q However, on June 8th -- look on page 39 of

1 your supplement.

2 Isn't it true that you learned from
3 Alfie Mitchell that the complainant, Keith Brown, had
4 told him --

5 MS. COOPER: I'm going to object, Your
6 Honor, to hearsay.

7 THE COURT: Sustained at this point.

8 Q (BY MR. MAYR) Did you receive information on
9 June 8th from Alfie Mitchell, showing that -- that
10 showed something contrary to this (indicating). That
11 there was no recent contact?

12 A Yes.

13 Q So -- and that was that he had made a bet
14 with --

15 MS. COOPER: I'm going to object to
16 hearsay, Judge.

17 MR. MAYR: Judge --

18 THE COURT: Approach the bench.

19 (Bench Conference.)

20 MR. MAYR: I feel I'm back in evidence
21 101. I'm not offering it for -- to establish that
22 this is what happened, okay? I'm establishing it to
23 rebut what they said is for an alternate purpose,
24 okay?

25 The jury can get limiting instructions,

1 but that's not why I'm offering this. It's to rebut
2 what he says. It's to rebut what they have said this
3 is what -- this is offered to rebut what he believes
4 are motives or opportunities or other things.
5 They're not offer -- I'm not saying -- I'm not trying
6 to establish that.

7 THE COURT: What statement are you
8 trying to get in that will help out? Will help to
9 get in?

10 MR. MAYR: The complainant told Alfie
11 that he had made a bet with Chad Jones before he was
12 killed. Implying that it was recent contact. Now, I
13 don't -- I'm not trying to establish that he actually
14 did that, but it goes to why they -- what -- why did
15 they rule him out or not rule them out? Why -- why
16 did they consider him a suspect, not consider him a
17 suspect?

18 Why did they not follow up on this
19 investigation or follow on this lead? It's to go to
20 all of those things.

21 MR. MORTON: The effect on the
22 listener.

23 MR. MAYR: The effect on the listener,
24 exactly. And the effect on the investigation.

25 MS. COOPER: And, Judge, my argument to

1 that is that just rebuttal is not an exception to
2 hearsay. It's hearsay. If he wants to offer it for
3 impeachment purposes, this is improper impeachment.
4 He's asked him if he got contrary information, he
5 said, yes, I did. As far as going into other
6 statements, if he wants to call Alfie Mitchell, he
7 can call Alfie Mitchell.

8 But as far as talking about statements
9 not only that Alfie Mitchell gave, but these are
10 statements supposedly made by the complainant to
11 Alfie Mitchell, that Alfie Mitchell relayed to the
12 detective, that may or may not even be true. I mean
13 --

14 THE COURT: That may or may not what?

15 MS. COOPER: That may or may not even
16 be true. I mean, he can talk about, did you -- did
17 you get other -- you know, did you follow up on those
18 leads, things like that. But as far as going into
19 specific statements made, that's improper
20 impeachment. That when you impeach someone, you
21 should ask if there was a different -- that's exactly
22 what he's saying he was using it for.

23 MR. MAYR: And, Judge --

24 THE COURT: He's not impeaching -- he's
25 not impeaching this witness. He's trying to get from

1 this witness a statement made to him by another
2 person.

3 MR. MAYR: But not to establish -- but
4 not to establish that fact.

5 THE COURT: Just to say that Chad Jones
6 told Alfie that, you know, that the complainant told
7 Alfie that complainant made a bet with Chad Jones.
8 Isn't that already in front of this jury about a bet?

9 MS. COOPER: There's a bet. Not with
10 Chad --

11 MR. MAYR: Not with Chad Jones. That's
12 the other reason I need to -- that -- that the --
13 I'll go -- you know, there's all of these things --
14 there's all of these things that they've presented,
15 and I'm not offering it again, for the truth of the
16 matter asserted. You know, I --

17 THE COURT: Yeah. He's testified that
18 he limited it -- eliminated him as a -- as a suspect.
19 He said that. And this -- you're trying to say,
20 well, he had this information and he didn't pursue
21 it. And you're trying to say that -- you're trying
22 to rebut what he's saying, that there was no recent
23 contact, in his opinion.

24 MR. MAYR: Exactly.

25 THE COURT: Based on his investigation.

1 So that necessarily is a function of him not either
2 believing Alfie or --

3 MR. MAYR: Just not doing anything.

4 THE COURT: Or just not following it
5 up.

6 Now, is that in the police report?

7 MR. MAYR: Yes.

8 MS. COOPER: Yes.

9 THE COURT: All right. It's overruled.
10 (Bench Conference Concluded.)

11 Q (BY MR. MAYR) You learned that Keith Brown
12 had made a bet with Chad Jones before he was killed?

13 A No, I did not learn that.

14 Q I'm sorry was that Investigator Condon that
15 learned that?

16 A No, I believe this is my supplement. And he
17 and I were both together when we spoke with Alfie
18 Mitchell. But that is not precisely what Alfie
19 Mitchell said. And I don't trust Alfie Mitchell's
20 information.

21 Q You decided not to trust Alfie Mitchell's
22 information?

23 A I don't decide on the spot. I decided over
24 time not to trust Alfie Mitchell's information.

25 Q Alfie Mitchell is a registered -- I think

1 the report says UC, but he's a registered
2 confidential informant who works with narcotics
3 officers, right?

4 A That's my understanding, yes.

5 Q And just so the jury understands that, the
6 narcotics officers will get civilians that will
7 provide them with information about who's using
8 drugs, who's selling drugs, things like that?

9 A Yes.

10 Q So Alfie Mitchell is affiliated with this
11 underworld of drug use that he doesn't tell Tonie
12 Brown about, and that she doesn't know anything
13 about, right?

14 A He's affiliated with the underworld of drug
15 use, yes.

16 Q The same underworld that Keith Brown is
17 going to, to get the PCP that he's using, right?
18 Presumably?

19 A Presumably.

20 THE COURT: All right. Go ahead and
21 mark your spots both sides. We're going to take a
22 break to resume court business to about 11:00 -- to
23 about 12:00 o'clock or sooner.

24 Remember the instructions, members of
25 the jury. Don't discuss the case. Don't let

1 anybody talk to you about the case and don't make any
2 kind of independent investigations of whatever
3 nature.

4 Just have a good break. And we may be
5 here -- we may be back before 12:00. Lunch will be
6 at 1:00 o'clock.

7 THE BAILIFF: All rise. Come this way.

8 (Jury exits courtroom.)

9 (Recess taken.)

10 THE BAILIFF: All rise.

11 (Jury Panel enters courtroom.)

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

14 THE COURT: Be seated, please.

15 All right. You may proceed.

16 MR. MAYR: Okay.

17 **CROSS-EXAMINATION (continued.)**

18 BY MR. MAYR:

19 Q If you look at page 31 of the offense
20 report, which is going to be in supplement No. 10, by
21 Officer Condon -- by Investigator Condon.

22 A Yes, I have it.

23 Q Okay. And that's talking about how on
24 May 24th, just a week later, both you and him went
25 out and did some things. And then on page 31, Alfie

1 also told us he remembers talking to his brother
2 about making a bet, and he thinks it was with a
3 person named Chad Jones, right?

4 A "But he was not sure" is how the sentence
5 ends, yes.

6 Q So he's not sure, right? But you got that
7 he's possibly -- that there may have actually been a
8 bet involving Chad Jones?

9 A That was discussed in the conversation with
10 Mr. Mitchell, yes.

11 Q And then you state here, no recent contact
12 between Chad and KB, Keith Brown. You go to page 39,
13 do you recall Mrs. Brown's telling you that Chad
14 moved away for a while, but had recently shown back
15 up?

16 A My understanding was she had heard that from
17 Alfie Mitchell. She had not seen Chad Jones herself.

18 Q But she had that information though, right?

19 A It was out there, yeah.

20 Q And again, as a homicide investigator,
21 sometimes you -- even if you don't trust something,
22 you still have to pursue a lead as part of your
23 investigation, right?

24 A Yes.

25 Q You're not here to decide what's true and

1 not true. That for the jury to decide?

2 A That's correct.

3 Q Okay. And so, there actually was some
4 information about recent contact and there possibly
5 not being a motive, right?

6 A There was some information.

7 Q All right. Now, let's go back to Alfie
8 Mitchell for a second.

9 A Okay.

10 Q Oh, come on.

11 I want to talk to you about Walt.

12 A Uh-huh.

13 Q Right. Did you ever contact an individual
14 by the name of Walt, with a telephone number that was
15 give to you of (832)450-9338?

16 A I called the number, but I never spoke to
17 anyone.

18 Q Never spoke with this individual? And the
19 reason that you called that individual is because
20 again, there was word from this Walt that Keith Brown
21 was shot over a drug debt, right?

22 A Via Alfie Mitchell, yes.

23 Q Okay. So you have a phone number -- a cell
24 phone number for Walt, right?

25 A Yes.

1 Q How many calls did you make to him?

2 A Probably two or three.

3 Q Two or three? Did you try to get his cell
4 phone records?

5 A No.

6 Q Didn't try to see where he was at?

7 A I researched a number of police databases,
8 but I did not order cell phone subscriber
9 information, no.

10 Q Weren't able to see where he was at?

11 A No.

12 Q And then did you ever try to go out and find
13 any individuals -- did you try and go out and locate
14 any individuals that Keith Brown was known to use
15 drugs with?

16 A As far as we know, Keith Brown used drug
17 alone, so, no.

18 Q Well, this is an e-mail from June 6th from
19 Tonie Germany-Brown where she says --

20 MS. COOPER: I'm going to object, Your
21 Honor, to hearsay.

22 THE COURT: Sustained.

23 MR. MAYR: May I approach the witness,
24 Your Honor?

25 THE COURT: You may.

1 Q (BY MR. MAYR) I'm going to have you take a
2 look at that e-mail right there. That's an e-mail
3 from Tonie Brown to you, on June 6th, 2011; is that
4 right?

5 A Yes.

6 Q Okay. Take a look at that third paragraph
7 right there.

8 A (Witness complies.)

9 Okay.

10 Q You just told this jury that to your
11 knowledge, Keith Brown used drugs alone.

12 Is that what you just told this jury?

13 A To my knowledge, yes.

14 Q And right there you have information
15 regarding someone, however, that Keith Brown does use
16 drugs with, right? Do you have that --

17 A A drug -- a drug connection.

18 Q Right.

19 A Not necessarily someone he uses drugs with.

20 Q It says right here, he would smoke fry with
21 Keith sometimes. Who is Keith?

22 A Oh, okay. Okay.

23 Q Right.

24 A Sure.

25 Q And she tells you, she doesn't know the

1 person's name, but this is -- I know exactly the
2 house that he lives in, right?

3 A In this e-mail it does say that that changed
4 over time, as well.

5 Q Did you follow up or try to find this person
6 that he was smoking fry with?

7 A We did a canvas in that area, yes. But we
8 did not locate anyone that claimed to smoke fry with
9 Keith.

10 Q You did a canvas on Groton and Leitrim, but
11 did you ever go to this house that was over -- turn
12 left on Ruben, right on Fire Point, my house is the
13 second on your left. Did you ever go to that actual
14 house?

15 A No.

16 Q All right. Let's change gears for a little
17 bit, Investigator Burrow. I want to go back to the
18 investigation on May 19th, the night of the shooting.

19 One of the first things you've
20 testified to -- one of the first things you testified
21 to yesterday is that you've been a homicide
22 investigator for about three years; is that right?

23 A Yes.

24 Q So that means that back in 2011, how long
25 had you been a homicide detective?

1 A For about five months.

2 Q Five months.

3 A Six months.

4 Q How many of those investigations had
5 involved children as witnesses?

6 A I don't know the exact number. I had some
7 others though.

8 Q You did have others?

9 A Yeah.

10 Q Two, three?

11 A Yes. Those aren't the only invest --
12 homicide investigations aren't the only
13 investigations I've done in my career.

14 Q All right. Where you've worked with
15 children is what you're saying?

16 A Yeah. I've interviewed children on numerous
17 occasions.

18 Q Okay. At this point, you have been a
19 homicide investigator for five months. Now, when you
20 first arrive, you talk a little bit about how you're
21 not the first officer to arrive. That there's patrol
22 officers that get called out there and they're the
23 ones who take the initial information, and then
24 contact y'all at homicide to come on down, right?

25 A Correct.

1 Q All right. Who are those officers -- who
2 were the responding officers in this case?

3 A There were several. I'd have to review the
4 report.

5 Q Who was the main one that you all made
6 contact with? That's what you do. When you -- when
7 you first arrive at the scene, you're going to talk
8 to the -- sort of the first --

9 A Always the primary unit and the first
10 officer on the scene, yes.

11 Q Okay. Let's -- I want to just focus on who
12 those individuals are?

13 A Yeah. I believe it was Officer Boles.

14 Q B-O-L-E-S, right?

15 A Yes.

16 Q And who else?

17 A CRU Officers Sneed and Stringfellow.

18 Q Sneed. And what was the other one,
19 Longfellow?

20 A Stringfellow.

21 Q Stringfellow, sorry. Okay.

22 A And Parker.

23 Q And Parker. He was with Officer Boles?

24 A He's with Boles, yes.

25 Q All right. So I'm going to put him next to

1 him.

2 And these are the officers that are
3 going to be responsible for separating the witnesses,
4 and sort of giving you an idea of what happened from
5 the very get go, right?

6 A Yeah, the groundwork, yes.

7 Q All right. Now, I think the jury's heard
8 you explain that the way this works is, it's you and
9 Investigator Condon. And one officer is responsible
10 for the scene, one officer is responsible for talking
11 to the witnesses, right?

12 A Yes.

13 Q And you're on the witness side and
14 Investigator Condon is on the scene side?

15 A Correct.

16 Q But you aren't walled off from each other?

17 A No.

18 Q You are exchanging information. You're
19 telling Officer Condon what you're learning from the
20 interviews with the witnesses. And likewise, he's
21 telling you about the evidence that you find, right?

22 A Yes.

23 Q Because it's going to help both of you all
24 exchange that information?

25 A Yes.

1 Q All right. Now, that night, you knew that a
2 struggle had ensued over the front door of Keith
3 Brown's home, correct?

4 A That was one of the witnesses' that was
5 saying.

6 Q All right. In fact, that was what Tonie
7 Brown said?

8 A Yes.

9 Q And in your interview with Tonie, she
10 actually told you that they were shoving on -- that
11 he was shoving the door, because the shooter was
12 trying to push his way in, correct?

13 A I don't know if she said he tried to push
14 his way in. She said that there was a struggle over
15 the door, yes.

16 Q And that to you makes it, at least
17 reasonably possible, that the shooter would have been
18 pushing on the outside of that door?

19 A Sure.

20 Q That night, and you would have known that
21 that night?

22 A Yes.

23 Q So you knew that the shooter had physically
24 contacted the door, and not just a simple just touch,
25 but was -- there might have been some substantial

1 contact with the door; is that right?

2 A We knew there was a knock on the door.
3 There was contact there.

4 Q Right.

5 A And then we knew that there was some sort of
6 a struggle on the door, yes.

7 Q And the question is this: Did you
8 communicate that information to Investigator Condon,
9 and/or the CSU on the scene, Officer Aguilera?

10 A I believe so.

11 Q To your knowledge, they did not check the
12 door that night for any prints or take any DNA
13 samples that night?

14 A No, sir.

15 Q You actually interviewed Malik, and you
16 described a little bit about his demeanor. That
17 interview took place inside of your vehicle; is that
18 right?

19 A Yes.

20 Q What type of vehicle is that?

21 A It's a Dodge Charger, four door.

22 Q Four door and you got air conditioning and
23 everything else in there?

24 A Yeah.

25 Q At any point, do you recall talking to Malik

1 and recording it while he was seated on the hood of
2 the vehicle?

3 A No.

4 Q No. Okay. You talk a lot about the detail
5 in which Malik gave the description to you?

6 A Uh-huh.

7 Q In the audio recorded interview that you
8 have with him, when you first ask him -- you talked
9 about how you don't want to lead a witness. That you
10 don't want to suggest the answers, right?

11 A Right.

12 Q So you ask him right out from the very
13 beginning, what do you remember about the guy?

14 A I don't believe that was my first question.

15 Q Well, it wasn't maybe your first question,
16 but when you're getting in to trying to get an idea
17 of who the person was that he saw, what did you ask
18 him?

19 A When we got in to description, I believe --
20 I'd have to listen to the recording again, to be
21 exact. But I believe I asked him how he -- he saw
22 the man first of all, and how he saw him. And then I
23 accidentally --

24 Q Well, let me stop you there. So you asked
25 him that.

1 A Uh-huh.

2 Q And the first thing he says. These are his
3 exact words. All I saw was that he was bald, right?

4 A Yes.

5 Q I didn't see any facial hair or nothing,
6 right?

7 A Yeah, that's what he said.

8 Q And then you had to sort of start asking
9 questions to get an idea about whether he saw any
10 tattoos, if he had any facial hair, to try to sort of
11 get that information out of him, right?

12 A To determine if the information was there,
13 yes.

14 Q Sure. And it was there, right?

15 A Yes.

16 Q But the first thing he tells you, without
17 any sort of leading or prompting or anything else, is
18 that the shooter is bald, right?

19 A Yes.

20 Q At any point that night, does he ever
21 suggest, well, he had a little bit of hair on the top
22 of his head?

23 A No.

24 Q He was absolutely positive about that,
25 right?

1 A Well, I didn't ask him specifically if the
2 guy had any hair anywhere on his head. He just said
3 he was bald.

4 Q That he was absolutely positive about that?

5 A Yes.

6 Q It was the first thing he told.

7 Now, he also told you he did not see
8 any tattoos on the individual?

9 A Yes.

10 Q He did describe the shooter as having --
11 wearing a tank-top, right?

12 A Uh-huh.

13 Q Which would mean that he would be able to
14 see his shoulders and part of -- this part of his
15 chest?

16 A Presumably, yes.

17 Q Okay. And he told you he saw all of this --

18 MR. MAYR: You have your exhibits?

19 MS. COOPER: Yes.

20 Q (BY MR. MAYR) He told you that he saw all
21 this from this bedroom window that's shown from the
22 outside here in State's Exhibit No. 2?

23 A Yes. That's it.

24 Q And State's Exhibit No. 3 from the inside,
25 right?

1 A Yes.

2 Q But we see here that State's Exhibit No. 3,
3 that's just -- it's got sheets or curtains over the
4 windows, right?

5 A Some sort of curtain, yeah.

6 Q Did you ever ask Investigator or CSU
7 Aguilera, to take a picture with the shades pulled
8 back, so we could see what the view is like outside
9 of that window?

10 A No.

11 (Attorneys confer.)

12 Q (BY MR. MAYR) I'm going to show you State's
13 Exhibit No. 76. This is the -- this is all the call
14 records related to the 911 call that was made.

15 Can you GB to units. Homicide suspect
16 bald, right?

17 A Uh-huh.

18 Q Thin build, wearing white muscle shirt,
19 driving a burgundy Honda Civic, possibly 2000 to
20 2006, right?

21 A Correct. Unknown plate.

22 Q This is information that's entered by the
23 911 dispatcher, right?

24 A Yes. That a message that I sent to the
25 dispatcher.

1 Q Okay. So you got that information and you
2 gave it to the 911 dispatcher, right?

3 A Yes, sir.

4 Q Who did you get that information from?

5 A Eugene Mohammad, a neighbor who lives near
6 the scene.

7 Q Okay. Right. I want to keep all these
8 names straight.

9 A Okay.

10 Q Is it Mo or Muhammad?

11 A I believe it's Mohammad.

12 Q Okay. Does that look about right?

13 A Yeah. I think it's an AD, but other than
14 that.

15 Q All right. Okay. And you spoke with this
16 Eugene Mohammad, right?

17 A Yes.

18 Q And then you told the jury yesterday that
19 you had also spoke with Officer J. Horn; is that
20 right?

21 A That's correct.

22 Q And he's actually a pretty important person.
23 You actually consider yourself pretty lucky that he
24 had the information that he had that night; would you
25 agree?

1 A Officer Horn or Eugene Mohammad?

2 Q Officer Horn.

3 A Officer Horn provided what we through was a
4 valuable lead, yes.

5 Q That night, right?

6 A Yeah.

7 Q And that was the information pertaining to
8 how Keith Brown got these injuries; is that right?

9 A Yes.

10 Q And essentially what happened was, Officer
11 Horn had come in to contact Mr. Brown a week prior?

12 A Uh-huh.

13 Q And he spoke with him?

14 A Yes.

15 Q And he asked him how he got those injuries?

16 A Yes.

17 Q And I believe you've already testified to
18 this, if -- in fact, I know you testified to this,
19 that the complainant -- that Keith Brown told him
20 that he had won a bet, but when he went to collect
21 his winnings, the guy and 20 of his other friends
22 jumped him; is that right?

23 A That's what he told the officer -- what
24 Officer Horn told me.

25 Q And then he gets in the car with Officer --

1 Keith Brown actually gets in the car with the Officer
2 Horn, and drives him over to 4206 Grassmere?

3 A Uh-huh.

4 Q And said that -- that was where he jumped.
5 I'm sorry, that was where he was jumped, right?

6 A I know he pointed at the vehicle. I don't
7 know if he said that was the location or not. Let me
8 review it.

9 Q Sure. Take your time. You're on 19, right?

10 A Yes.

11 Okay. Yeah. It says here that that
12 was where he was jumped.

13 Q Okay. Do you know who lived at 4206
14 Grassmere?

15 A I researched at the time, but I don't recall
16 right now.

17 Q So, presumably you also never went over
18 there and tried to locate or talk with anyone about
19 this incident where Keith Brown had been jumped?

20 A No.

21 Q And then he also points out the maroon
22 Pontiac Bonneville?

23 A Correct.

24 Q With the license plate number that comes
25 back to Howard Ambush, right?

1 A Correct.

2 Q Now, if Howard Ambush -- clearly he doesn't
3 match the description given.

4 Did you have this by the time you'd
5 started looking at Howard Ambush?

6 A No.

7 Q But you had the description that Malik had
8 given you?

9 A Right.

10 Q And obviously he's not bald?

11 A No.

12 Q So he doesn't match the description. And
13 then we parade his -- the Pontiac was disabled at the
14 time. And you say here, no links to Keith Brown; is
15 that right?

16 A Other than the original link through Officer
17 Horn, yes. I can explain if you like.

18 Q I'll let you -- here's what I want to ask
19 you about is -- because Howard Bush (sic) came
20 down -- actually, go ahead and explain. I'll let
21 you.

22 A Okay. Presumably, if these men had a sports
23 bet, as was alleged in this case, you would assume
24 that they'd know each other and were probably in
25 contact with each other at some point.

1 Nowhere in the complainant's phone
2 records is Howard Ambush's phone number reflected.
3 Nowhere in Howard Ambush's records is Keith Brown's
4 phone number ever reflected. No sign that there was
5 ever any phone contact between the two.

6 Q But nevertheless, you have Officer -- you
7 have Keith Brown -- I'm sorry, you have Keith Brown
8 with Officer --

9 A Horn.

10 Q Here he is. With Officer Horn, a week
11 before he's killed, saying that this car had
12 something to do with it, right?

13 A Yes.

14 Q Did you -- and you had an opportunity to
15 actually interview Howard Ambush?

16 A Yes.

17 Q Did you ask him about that?

18 A Sure. About what specifically?

19 Q About -- did you ask him why is Keith -- did
20 you ever look into why Keith Brown is saying that his
21 vehicle was somehow linked to this assault?

22 A Yes, I did look into that and I -- then I
23 did ask Mr. Ambush about it. And he claimed he did
24 not know Keith Brown.

25 Q All right. And you're -- you like to

1 determine whether people are telling the truth or not
2 telling the truth?

3 A Uh-huh.

4 Q You could have not been telling you the
5 truth, right? I mean, the last --

6 A They could both have not been telling me the
7 truth.

8 Q I mean, the last thing he's going to do is
9 admit to a police officer that, yeah, I was the one
10 who was responsible for jumping that guy a week
11 before he was murdered, right?

12 A Sure.

13 Q He told you, I had nothing to do with that,
14 right?

15 A Right.

16 Q And the information that was again provided
17 to Officer Horn, is that he was jumped not by just
18 one person but by 20 or so guys, right?

19 A And he only got a black eye from it. That's
20 pretty miraculous, but, yes.

21 Q Did you look at any known associates of
22 Howard Ambush?

23 A His brother.

24 Q Who is his brother?

25 A Baldy Wolf.

1 Q All right. Is there any reference to that
2 in your offense report?

3 A No. But it was done.

4 Q All right. So you looked into one person's
5 brother?

6 A Yes.

7 Q Any others related to him?

8 A No.

9 Q Did you look at his cell phone record -- at
10 any of their cell phone records?

11 A Yes. We looked at -- we court ordered
12 Mr. Ambush's cell phone records. We also obtained
13 his brother's cell phone number.

14 Q Get the records for him?

15 A The call records, no. But we had the
16 victim's call records to compare his number to it.

17 Q All right. Cell site records to show where
18 his brother or his had been?

19 A No cell site on the brother. Cell site on
20 Mr. Ambush.

21 Q Right. And then again, you never go back to
22 that 4206 Grassmere to find out if there's anyone
23 else there that knows about or was involved in that
24 assault in any way?

25 A No. We did check calls for service in that

1 area, and we didn't find any reference to any kind of
2 disturbance or assault, if it happened on that street
3 on that day.

4 Q Well, of course, because Keith Brown, if
5 he's high on PCP, is not going to call the police to
6 report that he just got jumped over a bet, is he?

7 MS. COOPER: I'm going to object to
8 speculation, Judge.

9 THE COURT: Sustained.

10 Q (BY MR. MAYR) All right. Let's move on.

11 You talk about -- where is it? I
12 guess, it's not on there. I'll take it off. You
13 talked about the motive not making sense. That it
14 would have made sense if these guys would rob Keith
15 Brown and then go back a week later and try to rob
16 him again, right?

17 A Well, I didn't say specifically go back and
18 rob him, again. It just didn't make sense to me that
19 they would go back after they'd already gotten the
20 money.

21 Q Right.

22 A And gotten what they wanted, why go after
23 Keith Brown at his house in front of a bunch of
24 witnesses who might see you?

25 Q Sure. But maybe Keith Brown made more bets

1 with these individuals and got into another dispute
2 related to that. That had something -- that created
3 another difficulty, if you would?

4 A We never received any information about that
5 happening.

6 Q But it's possible, right?

7 A I suppose.

8 Q Are you aware that Howard Ambush is
9 currently in the Harris County jail charged with
10 robbery and assault?

11 MS. COOPER: I'm going to object, Your
12 Honor.

13 THE COURT: What's your objection?

14 MS. COOPER: I would object to
15 relevance.

16 THE COURT: Sustained.

17 MS. COOPER: And I'd ask the jury to
18 disregard?

19 THE COURT: The jury's instructed to
20 disregard the last comment.

21 Q (BY MR. MAYR) Okay. The first photo spread
22 that Malik is shown, is one containing Chad Jones; is
23 that right?

24 A Yes.

25 Q There was something I want to just ask you

1 about -- to clear up. We -- you had mentioned about
2 how this picture that you had of --

3 A Jones.

4 Q Thank you. Had earrings in it, right?

5 A Yes.

6 Q And in order to not have it stand out as the
7 only person with earrings, your program that you all
8 have to construct this, allows you to manipulate, to
9 put earrings on these other individual, right?

10 A Yes, that's right.

11 Q Is it like Photo Shop or is it some high
12 tech?

13 A It is something like that. It's not me that
14 does it.

15 Q Pardon?

16 A It's our photo lab that actually -- we work
17 with them in the construction of -- something like
18 this. And not every photo spread. Just in a case
19 where something special like this, where we would
20 want to try to put earrings on people.

21 Q And that's something that they do -- I'm not
22 going to say frequently, but they're experienced with
23 manipulating these photos so that you can make a
24 match; is that right?

25 A Yeah.

1 Q All right. Now, you're not involved in the
2 showing of that photo spread. Well, we'll talk about
3 the other ones in a little bit, because I want to
4 move on to Timothy Hatter.

5 Let me pull his up here real quick.

6 Again, with Timothy Hatter, we're
7 pretty sure that it's not him because Malik knew him?

8 A Correct.

9 Q And Malik would have easily looked outside
10 and said, oh, my God, it's the Music Man, right?

11 A Yes.

12 Q But there's obviously some dispute between
13 him and Keith Brown; is that right?

14 A Yes. There was some type of dispute.

15 Q One of the things -- you talked a lot about
16 the defendant's cell phone use that night. But isn't
17 it true that you also found a number of telephone
18 calls and text messages being sent and received from
19 Timothy Hatter the night of the shooting?

20 A Sure. His phone was not inactive, if that's
21 what you're asking.

22 Q Right. In your offense report, you call it
23 multiple calls and text messages, right?

24 A Yeah.

25 Q I'll add that here.

1 One of the persons that he had multiple
2 communications and text messages with, you initially
3 thought was Christopher Theall; is that right?

4 A That's correct.

5 Q But it turned out that that number that he
6 was contacting, even though you thought it was
7 Christopher Theall's at the beginning, it turned out
8 to belong to someone else?

9 A Yes.

10 Q Who did it belong to?

11 A Curtis Picket.

12 Q Curtis who?

13 A Picket.

14 Q Did you get Curtis Picket's cell phone
15 records?

16 A No.

17 Q So we don't know -- and that would include
18 no cell site records for Curtis Picket?

19 A Picket, yes.

20 Q Picket. So this person that he is talking
21 with, we don't know, based on the cell site data,
22 where he was at, right?

23 A Correct.

24 Q Even though he's talking a lot with Timothy
25 Hatter the night of the shooting?

1 A Correct.

2 Q The person who had some ongoing dispute with
3 the complainant?

4 A Correct.

5 Q And we talked about some other known
6 associates of Timothy Hatter. We talked about
7 Derrick Coleman; is that right?

8 A Yes.

9 Q Did you get his cell phone records?

10 A No.

11 Q So we wouldn't know, based on his cell phone
12 records, where he was that night?

13 A No.

14 Q Did you look at any other known associates
15 of Timothy Hatter?

16 A No, not that I can recall.

17 Q We've got them all. We've got Derrick
18 Coleman, Christopher Theall and Mr. Picket.

19 Or Crick -- I'm sorry, what's his name?

20 A Curtis Picket.

21 Q Curtis Picket. Right. Those three -- those
22 are the only three associates of this man that you
23 looked at, right?

24 A Correct. Well, we never looked at Curtis
25 Picket as a suspect.

1 Q And that's why you never got his cell phone
2 records, right?

3 A Correct.

4 Q Okay. Now, let's talk about the photo
5 spread. Because this is the one -- the one with
6 Christopher Theall is the one that you put together
7 and you showed Malik; is that right?

8 A That's correct, sir.

9 Q All right. You told the jury a little bit
10 about how you go about preparing that photo spread.
11 You use that program to put it together.

12 This is what you would call -- is this
13 what you would refer as a simultaneous photo spread,
14 State's Exhibit No. 6?

15 A Yes. That is a simultaneous photo spread.

16 Q And what that means is that the witness, in
17 this case, Malik, is looking at these photos
18 simultaneously, right?

19 A That's correct.

20 Q However, another method of showing photos to
21 a witness is in a sequential fashion; is that right?

22 A Yes.

23 Q Which means that you show the pictures --
24 rather than all together, you show them --

25 A One at a time.

1 Q One at a time, right?

2 A Correct.

3 Q And you know, based on your training, that
4 sequential lineups, showing them one at a time, as
5 opposed to simultaneous, is more reliable?

6 A In the empirical research, it has a lower
7 rate of misidentifications than simultaneous, that's
8 correct.

9 Q And you know that based on your training?

10 A Sure.

11 Q You base that known on your educational
12 background?

13 A Yes.

14 Q But you did it that way, because that's just
15 the way that HPD said you were going to do it, right?

16 A That was the policy, yes.

17 Q Has the policy changed since then in regards
18 to the showing?

19 A Yes.

20 Q Tell the ladies and gentlemen of the jury
21 about that?

22 A Well, the policies still include -- still
23 gives the investigator the option of doing a
24 sequential lineup or a simultaneous presentation.

25 But the policy has changed in such a

1 way to try and conform to State law that was passed
2 in 2011, to try to make departments -- police
3 departments, have a -- what's the word I'm looking
4 for? A uniform set of policies. Every department
5 has to have their own policy, so that all lineups are
6 performed in the same way by all the officers in the
7 department.

8 Q But more importantly, that they're done in a
9 way that reduces the risk of misidentification,
10 right?

11 A According to the laboratory research, yes.

12 Q Okay. And that's why HPD now gives you all
13 the option?

14 A Yes.

15 Q Now, the other big change that's been made
16 is in regards to blind versus non-blinded
17 administration, right?

18 A Yes.

19 Q You prepared this photo spread, and you know
20 where the suspect is, and you're the one showing it
21 to Malik?

22 A Yes.

23 Q Which means that you're not blinded?

24 A Correct.

25 Q Blinded would have been you prepare it, you

1 know where the suspect is, but you give it to a
2 different officer who's going to show it to Malik, to
3 see whether he can identify someone?

4 A Another officer who doesn't know the
5 position of the suspect, yes.

6 Q Okay. Those articles that you were
7 testifying about earlier, they talk about the need to
8 do -- or to use blinded administration versus
9 non-blinded, right?

10 A Yeah.

11 Q And that change has been made within your
12 policy, to permit and to encourage you to use the
13 blind method, as opposed to you putting it together
14 and showing it to the witness?

15 A That's correct.

16 Q Because again, that is going to reduce the
17 likelihood of misidentification?

18 A Correct.

19 Q But that wasn't the policy at the time?

20 A No.

21 Q And that's why you're putting it together
22 and you're showing it to Malik?

23 A Yes.

24 Q Now, when you performed this procedure, this
25 was at his grandmother's house; is that right?

1 A Yes.

2 Q There's no recording being made of what's
3 actually taking place?

4 A No.

5 Q No audio recording. You don't have a camera
6 set up there, so we can see and hear exactly what's
7 being said and exactly what Malik is doing, right?

8 A No, there's no recording.

9 Q You talked about reading the admonishments
10 to him -- giving him the admonishments?

11 A Yes.

12 MR. MAYR: If I may have a moment, Your
13 Honor?

14 THE COURT: You may.

15 (Attorney's confer.)

16 Q (BY MR. MAYR) State's Exhibit No. 9 is the
17 procedures, and it contains the admonishments that
18 you give to Malik, right?

19 A Yes.

20 Q And these are the standard admonishments
21 that are given to every single eyewitness that you --
22 that an officer shows a photo spread to?

23 A Yes.

24 Q Prior to being shown a photo spread, a
25 witness must be admonished that the person who

1 committed the offense may or may not be present?

2 A Yes.

3 Q And it also goes on to say that you're not
4 obligated -- the witness is not obligated to select
5 any individual, and that it is equally important to
6 clear persons not involved in the crime from
7 suspicious, as it is to identify the person believed
8 to be responsible for the crime?

9 A Yes.

10 Q Goes on to say individuals present in the
11 photos may not appear exactly as they did on the date
12 of the incident, because feature such as head hair
13 and facial hair are subject to change?

14 A Yes.

15 Q These are the exact words that you read to
16 Malik that day?

17 A Yes.

18 Q Are there any special admonishments that are
19 prepared or discussed to be used for a child?

20 A None that were prepared and discussed.

21 Q Okay. So, you're expecting a 9-year-old to
22 follow the same instructions that you're going to
23 give to a 32-year-old, essentially?

24 A No.

25 Q But they don't change. It's the same for --

1 whether it's a 32-year-old or a 9-year-old?

2 A Well, I changed them somewhat. What I mean
3 by that is, the standard admonishment is read.

4 Q Okay.

5 A And then I make sure to clarify with him, by
6 simplifying some of the points that are in the
7 admonishment, to make sure that he understood that
8 was not obligated to pick anyone.

9 Q All right. But we don't know exactly what
10 was said -- do you know what exactly you told him?

11 A No, I didn't write it down.

12 Q Because -- and again, if it's not recorded,
13 we don't know the words that you're using, right?

14 A Okay.

15 Q And you intend those words to have some sort
16 of effect on Malik before he starts looking at these,
17 right?

18 A Yes.

19 Q Okay. And you talk about -- we talked about
20 how you can -- the photo lab is experienced at
21 manipulating the photographs with State's Exhibit
22 No. 5.

23 Did you ever think to have them
24 manipulate Christopher Theall's photo, to remove his
25 hair and then place him in a photo with fillers that

1 have other individuals without hair?

2 A No.

3 Q In your psychological studies that you've --
4 from UT or Sam Houston, have you learned about
5 something called the misinformation effect?

6 A No.

7 Q Okay. So you're not aware of any studies
8 that have been made in that field, or in that area or
9 topic of -- within the field of psychology?

10 A Not that I can -- not that I can recall, no.

11 Q Okay. All right. Let's fast forward up to
12 November, when you start looking at my client as a
13 possible suspect in this case.

14 A Okay.

15 Q You obtained -- you actually obtained the
16 police report that the officers who went out to
17 Crystal's apartment, you located that offense report;
18 is that right?

19 A Yes.

20 Q Who were the officers -- who were the
21 officers that responded that night?

22 A I don't recall their names off the top of my
23 head.

24 Q Can you check your offense report quick?

25 A That report is not in the materials that I

1 have with me.

2 MR. MAYR: Give me a second, Judge.

3 Q (BY MR. MAYR) The -- do you have supplement
4 number --

5 MS. COOPER: I have the report, Brandt,
6 if you want it.

7 MR. MAYR: Okay.

8 Q (BY MR. MAYR) Do you have Supplement Number
9 26 there? It is. It's your supplement.

10 A Okay.

11 Q Supplement Number 26, page 69 or 2.069.

12 A Yes.

13 Q Okay. Now, go to the second page, second
14 paragraph.

15 Does that help refresh your memory as
16 to the names of those officers?

17 A Second paragraph or third?

18 Q It's the second full paragraph.

19 A Okay.

20 Q Right under "Harassment of Crystal Jordan".

21 A Officer Knockaert.

22 Q Do you have a first initial for him?

23 A M. Knockaert and L. Nguyen (phonetic).

24 Q And Officer L. Nguyen?

25 A Yes.

1 Q Okay. So we know that those are -- when you
2 talk about the call being at 8:44, and officers
3 arrives at 8:57, that's Officers Nguyen and
4 Knockaert, right?

5 A Yes.

6 Q Did the report show that any other officers
7 were dispatched or went out there?

8 A No.

9 Q And again, we don't know when they actually
10 departed that location. We just know they cleared it
11 at 9:31 that night?

12 A Correct.

13 Q Now, when Malik is shown the photo spread
14 containing Mr. Hankston's photo, you weren't actually
15 present at that time; is that right?

16 A No, sir, I was not.

17 Q Probably -- I think you were on a well
18 needed vacation, right?

19 A Yes.

20 Q But you are involved with procuring the
21 warrant and making the arrest of my client after that
22 was done; is that right?

23 A Not procuring the warrant, with the arrest,
24 yes.

25 Q With the actual arrest. And you said that

1 you arrested him at Crystal's apartment?

2 A Correct.

3 Q And when you showed up, he didn't fight you
4 all?

5 A No.

6 Q He didn't try to run?

7 A No.

8 Q He wasn't evasive with you all?

9 A No.

10 Q He was polite?

11 A I don't recall if he was polite, but he was
12 not evasive and he did not -- he's not combative in
13 any way.

14 Q And you asked him, can we search your
15 vehicle, right?

16 A Yes.

17 Q And he gave you permission to search the
18 vehicle?

19 A He did.

20 Q And Crystal gave you permission to search
21 the apartment?

22 A She did.

23 Q And then at that point, you take
24 Mr. Hankston down to the homicide division?

25 A Yes.

1 Q You read him his warnings?

2 A Yes.

3 Q You tell him, you've been charged with
4 murder?

5 A Yes.

6 Q And he agrees to talk with you?

7 A Yes.

8 Q And tell you his side of the story?

9 A He agreed to answer questions, yes.

10 Q This is at 12:45 in the morning?

11 A Correct.

12 Q You had never interacted with Mr. Hankston
13 prior to that, right?

14 A No.

15 Q You don't know what his demeanor's like?

16 A His general demeanor, no.

17 Q You don't. So, you say that he didn't
18 appear shocked, nonchalant. He's a mild, low spoken
19 kind of guy. That could just be normal behavior for
20 him, right?

21 A In that scenario, I don't think so.

22 Q Fair enough. That's -- that's -- well, he
23 doesn't get -- he's -- he answers your questions,
24 right?

25 A He answered some questions, yes.

1 Q Yes. You asked him for his telephone
2 number, he give it to you?

3 A Yes.

4 Q Okay. You asked him if you could see his --
5 if he had any tattoos, right?

6 A Yes.

7 Q Mr. Hankston does have tattoos, right?

8 A He does.

9 Q These aren't gang tattoos or anything like
10 that?

11 A No.

12 Q He's got a tattoo on each one of his
13 shoulders?

14 A If I recall correctly, yes.

15 Q He's got a tattoo on his back?

16 A Yes.

17 Q And they're not small tattoos, they're
18 pretty large, visible tattoos, right?

19 A The one on his back is very large. The one
20 on his shoulder is medium -- medium sized, yes.

21 Q The first thing that you testified --
22 that -- that pretty much covers everything that we
23 testified about yesterday.

24 This morning, you come in and you talk
25 about your background in forensic psychology, and how

1 your -- based on a study -- the studies don't --
2 let's say that the studies don't take in account real
3 world experience; is that right?

4 A Most of them don't, no.

5 Q But there are studies that do take that into
6 account, right?

7 A Well, there are studies that have tried to
8 make that transition, but it is a difficult one to
9 make.

10 Q Okay.

11 A It's very hard to capture a real world
12 setting in a research environment without going post
13 hoc. By that I mean, back in time. You're not doing
14 it in real time. You're looking at archival data.

15 Q When's the last time you looked at one of
16 the studies, Investigator Burrow?

17 A Looked at a review on it this morning. But
18 as far as keeping up with the contemporary research,
19 no.

20 Q You're not doing that?

21 A No.

22 Q The way that maybe a college professor would
23 be, right?

24 A Correct.

25 Q And you say that with exonerations, there

1 have been -- there have been no exonerations -- are
2 you saying there's been no exonerations when there's
3 corroborating circumstances?

4 A No. That's not what I said. I said most of
5 the cases that were overturned on DNA evidence that
6 involved misidentification by an eyewitness, also
7 involved lack of corroboration of the ID. That is my
8 understanding.

9 Q But there's also a number of wrongful
10 convictions and people exonerated, where there were
11 corroborating circumstances?

12 A I'm sure there were a few, yes.

13 Q Where there was circumstantial evidence?

14 A Okay.

15 Q That made it clear that that was the person
16 who did it. And the jury found that person guilty.

17 MS. COOPER: I'm going to object to all
18 this, Your Honor. This is not relevant and it's
19 speculation on the part of this officer.

20 MR. MAYR: He's testified. He's
21 testified.

22 THE COURT: Well, it's overruled. Ask
23 your questions -- just ask him your question.

24 Q (BY MR. MAYR) Wrongful convictions, where
25 there was circumstantial evidence that said, this is

1 the person who did it. And yet 25 years later or 15
2 years later, there's evidence to show that it was
3 someone else, right?

4 A I'm sure there are cases like that. I'm not
5 familiar with specific cases that involve the
6 corroboration or what kind of corroboration that they
7 had.

8 Q You talk about there being motive in this
9 case. You talked about the vehicle. The description
10 given is that was it was a Honda Civic; is that
11 right?

12 A Yes.

13 Q And --

14 A A 2000 to 2006.

15 Q Mr. Hankston, when you arrest him, you found
16 him to be using a Honda Accord, right?

17 A I did.

18 Q And that Honda Accord wasn't just any Honda
19 Accord?

20 THE COURT: Excuse me, counsel for both
21 sides. Mark your spots. We'll pick it up with this
22 Honda Accord spot. We'll resume after the lunch
23 break. It's about 1:00 o'clock. We'll resume at
24 1:45.

25 Members of the jury, remember during

1 the break, don't discuss the case at all with anyone
2 or among yourselves. Do not do any kind of
3 independent research or investigation of whatever
4 nature concerning any person, place, issue or thing
5 in this case. Just have a good lunch. 1:45, both
6 sides.

7 THE BAILIFF: All rise.

8 (Jury exits courtroom.)

9 (Recess taken.)

10 THE COURT: Both sides ready for the
11 jury?

12 MR. MAYR: Yes, we're ready, Judge.

13 MS. COOPER: Yes, Judge.

14 THE COURT: All right. Bring them in,
15 please.

16 THE BAILIFF: All rise.

17 (Jury Panel enters courtroom.)

18 (Open court; defendant and jury panel
19 present.)

20 THE COURT: Be seated, please.

21 Both sides ready?

22 MS. COOPER: State's ready, Your Honor.

23 MR. MAYR: We're ready, Your Honor.

24 THE COURT: All right. Mr. Mayr, you
25 may proceed.

1 **CROSS-EXAMINATION (continued.)**

2 BY MR. MAYR:

3 Q We were talking about the defendant's Honda
4 Accord?

5 A Yes, sir.

6 Q State's 112. Has a very distinctive black
7 bumper and black quarter panel on it, correct?

8 A Yes, in that photograph it does.

9 Q As far as the cell records go, just so we're
10 clear, there is no -- you have no knowledge what the
11 contents is of those record? Meaning, there's no way
12 for you to go back and listen to a recording of
13 what's being said on those phone calls?

14 A No.

15 Q There's no way of going back and reviewing
16 text messages that were sent to and from those cell
17 phones?

18 A No.

19 Q And the cell phones themselves, all the data
20 pertains just to the cell phone, not where it's at --
21 I'm sorry, not where the person who's using it at,
22 just shows what the cell phone is doing, right?

23 A Yes.

24 Q All right. And you talked about reviewing
25 seven months of cell phone records?

1 A Yes.

2 Q And you obviously had my client's cell phone
3 number?

4 A Yes.

5 Q He voluntarily give that to you?

6 A Yes.

7 Q You had Crystal Jordan's cell phone number?

8 A Yes.

9 Q You would agree with me, of those thousands
10 and thousands of calls, 80 to 90 percent of them are
11 calls between Gareic and Crystal?

12 A Not 80 or 90 percent, no.

13 Q A large majority of them are between Crystal
14 and Gareic?

15 A At one point I had the exact figure, but I
16 don't recall off the top of my head. But over seven
17 months, I want to say it was something on the order
18 of 2 to 3,000 communications between him and Crystal.
19 There was quite a few.

20 Q That's it. All right.

21 MR. MAYR: No further questions, Your
22 Honor.

23 THE COURT: All right. Anything else?

24 MS. COOPER: Yes, Judge.

25 THE COURT: You may proceed.

REDIRECT EXAMINATION

1
2 BY MS. COOPER:

3 Q Officer Burrow, I want to talk to you about
4 Alfie Mitchell.

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

7 THE COURT: You may.

8 Q (BY MS. COOPER) Showing you State's Exhibit
9 No. 128.

10 Do you recognize the person in State's
11 Exhibit No. 128?

12 A That's Alfie Mitchell.

13 Q Have you talked to him and met with him in
14 person on several occasion?

15 A Yes.

16 Q And does that fairly and accurately depict
17 the person in State's Exhibit No. 128?

18 A Yes.

19 MS. COOPER: Your Honor, at this time
20 I'm tendering to opposing counsel State's Exhibit
21 No. 128 for any objections, and ask that it be
22 admitted into evidence?

23 MR. MAYR: I have no objection, Your
24 Honor.

25 THE COURT: State's 128 is admitted.

1 (State's Exhibit No. 128 was admitted.)

2 Q (BY MS. COOPER) I want to show you State's
3 Exhibit No. 128.

4 Who are we looking at here?

5 A Alfie Mitchell.

6 Q What was the relationship between Alfie
7 Mitchell and Keith Brown?

8 A They were brothers -- half brothers.

9 Q Is it fair to say that there was a lot of
10 contact that you had with Alfie Mitchell during this
11 investigation?

12 A I had several contacts with him, yes.

13 Q All right. And what were the nature -- what
14 was the nature of having contact with Alfie Mitchell?

15 A Typically, it would be when I was
16 corresponding with somebody else from the family and
17 he just happened to be around. At one point we did
18 receive a phone call from him about an item that --

19 MR. MAYR: Objection, hearsay.

20 THE COURT: All right. Sustained.

21 Just got a phone call one time. Next question.

22 Q (BY MS. COOPER) What was his -- could you
23 describe his involvement in the investigation to the
24 jury?

25 A Alfie injected himself into the

1 investigation on at least one or two occasions.
2 Calling people that he shouldn't be calling, trying
3 to conduct his own side investigation. It seemed to
4 us that he wanted to be the one who caught his
5 brother's killer.

6 When he would come up with information,
7 it would be at suspicious times. We would wonder why
8 he hadn't contacted us with information before. And
9 over time, after talking to Keith's family and talking
10 to Alfie on several occasions, we came to believe
11 that none of his information regarding his brother
12 was reliable.

13 Q Why? What did you base that on?

14 A Well, he had many outlandish theories that
15 were not based in fact. One of which is that somehow
16 after the arrest of Mr. Hankston, he proposed a
17 theory --

18 MR. MAYR: Objection, hearsay.

19 MS. COOPER: Your Honor, this is
20 information that the defense attorney has already
21 gone into regarding Alfie Mitchell.

22 THE COURT: All right. It's overruled.
23 It's not offered for the truth of the matter
24 asserted.

25 A One theory offered by Alfie Mitchell was

1 that Chad Jones and the defendant somehow knew each
2 other and were in this together. He also believed
3 that his brother, Keith Brown, was sleeping with
4 Crystal Jordan, the woman that he was stalking.

5 There is no basis in fact for either
6 one of those things.

7 Q (BY MS. COOPER) Is it fair to say that --
8 well, in the beginning, did you follow up on the
9 leads that Alfie Mitchell gave you?

10 A Yes.

11 Q Did you just automatically discount them?

12 A No, not automatically.

13 Q Did it come a point throughout the
14 investigation, that you formed an opinion as to the
15 reliability of the information that Alfie Mitchell
16 was giving you?

17 A Yes.

18 Q What was that opinion?

19 MR. MAYR: Objection, relevance.

20 THE COURT: It's overruled.

21 A Well, my opinion was is that he was full of
22 it.

23 Q (BY MS. COOPER) All right. What do you base
24 that opinion on?

25 A His outlandish theories, the timing of the

1 information that he came up with. The fact that he
2 interjected himself into the investigation on
3 multiple occasions. That he would not call us with
4 the information, that he'd just wait until he saw us
5 and then say -- he'd just throw something out there.

6 There was no -- we talked about
7 evaluating a witness' credibility earlier. Well,
8 over time we -- our evaluation was that Alfie had no
9 credibility.

10 Q Is Alfie a convicted felon?

11 A Yes.

12 Q What is a habitual felon?

13 A An habitual felon --

14 MR. MAYR: Objection, relevance, 403.

15 MS. COOPER: Judge, the defense
16 attorney has made this witness' credibility an issue
17 in this case.

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

19 Q (BY MS. COOPER) What is an habitual
20 offender?

21 A An habitual offender is someone who has
22 numerous felony convictions.

23 Q Was Alfie Mitchell a habitual offender?

24 A Yes.

25 Q Where is Alfie Mitchell today?

1 A He's in the hospital.

2 Q All right. Is he available to be here at
3 this trial?

4 A No, he's not.

5 Q The -- Mr. Mayr asked you specifically about
6 a conversation that Alfie -- that you had with Alfie
7 Mitchell regarding Chad Jones?

8 A Yes, he did.

9 Q I want to talk to you about that specific
10 conversation that you had?

11 A Okay.

12 Q Can you set the tone up for the jury as of
13 how that conversation took place?

14 A We didn't go out seeking Alfie Mitchell. We
15 went -- we ran into him at Keith's mother's house,
16 when we were there talking to Tonie and the kids.
17 Alfie was there. We believed being that he was
18 Keith's brother and that we could tell that Keith had
19 been keeping secrets from Tonie about his activities,
20 that maybe his brother might have more information.

21 So we pulled him aside, and we asked
22 him first off about, did he know about any kind of
23 bet that his brother might have had with somebody.
24 And he said, yeah, I heard something about that. And
25 we said, okay. Do you know who was involved, who did

1 he have the bet with. And he initially said, no.

2 And so we moved on to the next topic,
3 which was Chad Jones. And we asked him if he knew
4 about Chad Jones and his relationship with Keith
5 Brown. And he said, he knew about Chad Jones because
6 they had done music together back in the day.

7 And ultimately, the conclusion he came
8 to was, you know, I think that's who he had the
9 sports bet with. I think I might have heard that.

10 Q Okay. All right. I want to jump to Howard
11 Ambush, which is shown here in State's Exhibit 113.

12 Mr. Mayr talked to you about Howard
13 Ambush. Were Howard Ambush's cell site records
14 obtained?

15 A Yes.

16 Q Was he determined to be in the area of the
17 murder at the time and day that the murder was
18 committed?

19 A No.

20 Q And Christopher Theall is -- originally
21 becomes a suspect because of a phone number in
22 Timothy Hatter's phone; is that right?

23 A Yes.

24 Q All right. And was that phone number
25 determined to belong to someone else?

1 A Yes.

2 Q All right. And that was who?

3 A Curtis Picket.

4 Q Why was Curtis Picket never a real -- or
5 never a suspect in this case?

6 A He did not fit the description given by the
7 witness. He's much older -- he's a much older man.

8 Q And what do you mean by "much older?" How
9 old is he?

10 A I believe he was born in 1964.

11 Q Okay. So in his 50s?

12 A Yes.

13 Q Tonie Brown, although she did not -- she
14 didn't tell you that night that she thought Keith was
15 under the influence of PCP; is that right? On the
16 night of the murder?

17 A No, she didn't say that.

18 Q But did she tell you that -- were you made
19 aware by Tonie Brown that Keith Brown was a frequent
20 PCP user on the night of the murder?

21 A Occasional was the word that was used, but,
22 yes.

23 Q Okay. So that he was a PCP user. Did you
24 have that information on the night of the murder?

25 A Yes, we did.

1 Q And throughout the investigation, did you
2 continue to have contact with Tonie Brown?

3 A Yes.

4 Q And as more time went by, did she provide
5 more information to you regarding Keith Brown?

6 A Yes.

7 Q And did you use that information in your
8 investigation?

9 A Yes.

10 Q To your knowledge, did Tonie Brown have any
11 idea at all that Keith Brown was stalking Crystal
12 Jordan?

13 A None.

14 Q What was her reaction when you told her --
15 did you eventually tell her the motive?

16 A Yes.

17 Q What was her reaction when you told her
18 that?

19 MR. MAYR: Objection, relevance.

20 THE COURT: It's overruled.

21 Q (BY MS. COOPER) You can answer.

22 A She was saddened and she was shocked.

23 Q What was her demeanor like?

24 A A mixture of sadness and anger.

25 MS. COOPER: May I approach the

1 witness, Judge?

2 THE COURT: You may.

3 Q (BY MS. COOPER) There was some talk with
4 Mr. Mayr regarding tattoos of the defendant in this
5 case.

6 Did you observe those tattoos?

7 A I did.

8 Q And when was that?

9 A On the night of his arrest.

10 Q Okay. I want to show you State's Exhibit
11 No. 129 and 130.

12 A Okay.

13 Q Are these picture that were taken on
14 November 9th of 2011?

15 A They were.

16 Q And can you see the tattoos or -- in State's
17 Exhibit No. 129 and 130?

18 A Yes, you can see them.

19 Q Okay. Well, you can see there's tattoos on
20 his arms and he has a tattoo on his back?

21 A Yes.

22 Q And do these pictures fairly and accurately
23 depict the way that the defendant looked on
24 November the 9th of 2011?

25 A Yes.

1 MS. COOPER: Your Honor, at this time
2 I'm tendering to opposing counsel State's 129 and
3 130, and ask that they be admitted into evidence?

4 THE COURT: All right.

5 MR. MAYR: No objection, Your Honor.

6 THE COURT: All right. State's 129 and
7 30 are admitted.

8 (State's Exhibit Nos. 129 and 30 were
9 admitted.)

10 Q (BY MS. COOPER) I want to show you State's
11 Exhibit No. 129.

12 All right. Can you see -- can you
13 point out to the jury the tattoos on the defendant's
14 arms?

15 A Here and here (indicating.)

16 Q You got to speak up.

17 A Here and here (indicating). And one on the
18 shoulder here. And looks like one on the shoulder
19 here, too (indicating.)

20 Q Did you actually observe these tattoos in
21 person?

22 A Yes.

23 Q Did you ask him to show them to you?

24 A Yes, I did.

25 Q All right. Whenever you observed them --

1 well, can you explain to the jury the difference in
2 this picture and the actual looking at the tattoos?

3 A Well --

4 Q In person.

5 A Looking at tattoos in person, you can
6 actually make out what they are.

7 Q Okay. Are you -- are they bright tattoos?

8 A No, they're not colorful, no.

9 Q Are they?

10 A They're just your basic dark green tattoos.

11 Q Well, what are they? Are they pictures,
12 words?

13 A I don't recall all of them at this point.

14 Q Okay.

15 A There's some words there, there's some
16 pictures, but I don't remember what the words and
17 pictures are.

18 Q All right.

19 A I do remember the one on his back, but not
20 the one on his arms.

21 Q Which is State's Exhibit No. 30.

22 Can you see the tattoo on his back?

23 A I can.

24 Q And the defendant -- obviously his skin is
25 dark; is that right?

1 A Yes.

2 Q Was -- are the tattoos -- do the tattoos
3 stand out on him?

4 A No.

5 Q Mr. Mayr also talked to you about the
6 frequency of calls on the night of the murder,
7 regarding Timothy Hatter. Regarding Timothy Hatter,
8 shown here in State's Exhibit No. 115.

9 Did you have an opportunity to review
10 his cell phone records?

11 A I did.

12 Q And regarding the frequency of calls, were
13 there calls made from Timothy Hatter's cell phone
14 records on the night of the murder?

15 A Yes.

16 Q Just like you did with the defendant, were
17 you able to look at a pattern of calls through, of
18 course, of some period of time on Timothy Hatter's
19 phone?

20 A Yes.

21 Q Did you notice anything at all that stood
22 out to you regarding the calls or the call pattern on
23 the night of the murder?

24 MR. MAYR: Objection, hearsay. Calls
25 for hearsay.

1 MS. COOPER: Your Honor, the defense
2 attorney went in -- specifically addressed this
3 issue. I'm rebutting the issue that he's already
4 addressed.

5 MR. MAYR: But beyond -- but -- but
6 beyond that night, Your Honor, it's both relevance
7 and it's both -- it's also hearsay.

8 THE COURT: Beyond that night?

9 MR. MAYR: Beyond that night, yes.

10 MS. COOPER: Your Honor, this is
11 rebuttal to what he -- may we approach?

12 THE COURT: You may.

13 (Bench Conference.)

14 MS. COOPER: During cross-examination,
15 Mr. Mayr had talked to this officer about Timothy
16 Hatter's cell phone records, and about there were a
17 lot of calls that were made on the night of the
18 murder.

19 Well, because of that, the subject
20 matter that he crossed him on, I'm now in rebuttal,
21 trying to establish that there is nothing different
22 about the calls that were made that night in relation
23 to any other night on his phone.

24 He has opened the door to that. He
25 went into the cell phone records. There's nothing

1 different about May 19th than any other night.

2 THE COURT: As to Hatter's phone?

3 MS. COOPER: As to Hatter's phone.

4 MR. MAYR: Well, there is, because
5 unlike my client's cell phone records, which are on
6 file with a business records affidavit, these have
7 not and are -- can properly be testified to as not --
8 which would ordinarily be hearsay, because they're on
9 file with a business records affidavit, they can talk
10 about my client's records. But there's no evidence
11 before this Court regarding what the other -- what
12 the other calls were like on the other nights.

13 I think -- and I made my question very
14 specific, just to that night. Then for them to come
15 in here -- they've got some way to authenticate it
16 and get it around the hearsay rule, then I'm all for
17 it. But they can't -- without me having the
18 opportunity to review those records, see those
19 records, know what's going on, it violates hearsay,
20 it violates confrontation laws.

21 So, no, I don't want -- that night,
22 okay, because I brought it up, but as to what -- a
23 comparison on how he was calling on other nights,
24 uh-uh.

25 MS. COOPER: And, Judge, it's not

1 offered for the truth of the matter asserted. It's
2 offered to rebut the questioning of -- the defense
3 attorney asked.

4 THE COURT: Well, I hear you. But I
5 think you're doing both. But anyway, that's
6 sustained.

7 MR. MAYR: Thank you, Judge.

8 (Bench Conference Concluded.)

9 Q (BY MS. COOPER) Regarding May 19th of 2011
10 and Timothy Hatter's cell phone records, other than a
11 lot of calls, was there anything that got your
12 attention?

13 A No.

14 Q That night?

15 A No.

16 Q Any kind of burst of calls at a certain
17 time?

18 A No.

19 Q Any time where there were no calls at all
20 around the murder, like there is in --

21 MR. MAYR: Objection, leading.

22 THE COURT: It's overruled. Directing
23 his attention to a timeframe.

24 A No. His call pattern was consistent
25 throughout the day. There was nothing distinct about

1 the time of the murder.

2 Q (BY MS. COOPER) After following up on all of
3 the leads and going down all these avenues with all
4 these different suspects, after your investigation
5 with complete, was there any indication that some
6 kind of drug dealing was the motive in this case?

7 A No.

8 Q Why wasn't a -- on the night of the murder,
9 you said that you went into the bedroom that Malik
10 Brown was in and looked out the window?

11 A Yes.

12 Q Why was -- didn't you take a picture?

13 A No. Why didn't I?

14 Q Right.

15 A That issue was discussed between myself and
16 the CSU. We did not think, because it's nighttime,
17 that you have to use a flashbulb, which would have
18 shown an unfair advantage to the witness. And if he
19 didn't use a flashbulb, the camera wouldn't
20 accurately depict the level of lighting the witness
21 was actually seeing. So I didn't want to take an
22 unfair depiction one way or the other, so we did not
23 take a photograph.

24 Q Okay. And have you taken -- or taken
25 pictures at nighttime before?

1 A Yes.

2 Q Even if you see something clearly at night
3 with cameras, do you often have to use a flash to
4 actually depict the image in the camera?

5 A Yes.

6 Q Can you use a flash in front of a window?

7 A No.

8 Q Why?

9 A Because it will glare off of a window --
10 will reflect.

11 Q Okay. Despite not taking a picture, did you
12 want to make sure that you saw what Malik Brown saw,
13 his vantage point?

14 A Yes.

15 Q And did you do that that night?

16 A I did.

17 Q And how clearly could you see?

18 A Very.

19 Q Anything about the vantage point when you
20 looked through that window, that made you question
21 the credibility of Malik?

22 A No.

23 MS. COOPER: I pass the witness.

24 THE COURT: All right. Anything else?

25

RECROSS-EXAMINATION

1
2 BY MR. MAYR:

3 Q Does Alfie Mitchell know how you feel about
4 him?

5 A Probably not, but I imagine he will soon.

6 Q But as a homicide investigator, you know you
7 take the witnesses as you find them, right?

8 A You take them as you find and you evaluate
9 them, yes.

10 Q Right. And even though you had some
11 questions about him.

12 A Uh-huh.

13 Q He's involved in drugs?

14 A Yes.

15 Q Keith Brown was involved in drugs?

16 A Yes.

17 Q This is the one -- this person is the one
18 link that you know that's available to this life of
19 Keith Brown's that he kept secret from everyone,
20 right?

21 A Yes. The one potential link.

22 Q Right.

23 (Attorneys confer.)

24 Q (BY MR. MAYR) When Ms. Cooper showed you
25 these, State's Exhibit 129, your exact words is, you

1 can't make out what they are, right?

2 A No. You can't make what they are exactly.

3 Q And that's because?

4 A Well, because they're dark colored tattoos
5 on a dark colored background, and it's a photograph,
6 and I'm not standing right next to him looking at
7 them.

8 Q Right. And it's a photograph that -- it's a
9 little pixilated. It's not a high quality resolution
10 image, right?

11 A I don't know about the quality or
12 resolutions. But seems to me you can see them pretty
13 clearly.

14 Q Right. But it does make -- but you can't
15 say that that's exactly how it looks, the way you saw
16 it in person that night that he was arrested, right?

17 A No.

18 Q And the night he was arrested, he wasn't
19 just wearing a shirt, he actually had a T-shirt on
20 over this, right?

21 A He did.

22 Q Okay. So this is when he took off that
23 T-shirt, he had this shirt underneath it?

24 A Correct.

25 Q But again, it is what it is. It's a

1 photograph that tries to clearly capture the photos
2 of the tattoos as best as it can, right?

3 A Yes.

4 Q Just like State's Exhibit No. 8. Again, the
5 photo's showing what a photo could capture, right?

6 A I'm not sure what you're asking, but I
7 think, yes.

8 Q Just like with -- you talked about that
9 night, how cameras can't capture exactly how you see
10 things, because flashes and resolution and all these
11 other things. It's the same thing with this picture?

12 A Well, it's particularly true in the dark,
13 actually.

14 Q All right. But even in person, the
15 resolution and the copy and everything like that,
16 doesn't show it as clearly as you would be able to
17 see it in person?

18 A No.

19 Q And here, it looks like his head is freshly
20 cut. Meaning it's cut very short along the sides,
21 right?

22 A Yes.

23 Q And that's on April 23rd, right?

24 A Yes.

25 Q Ms. Cooper talked to you about you getting

1 more information from Tonie Brown as the
2 investigation proceeded.

3 You did get more information from her,
4 correct?

5 A Yeah, bits and pieces here and there.

6 Q But that information never included her
7 telling you, I saw him that night. He looked like he
8 was on PCP?

9 A No.

10 Q You made a couple of phone calls, but you
11 never made any significant strides to really try to
12 find out where Keith was getting his drugs or who he
13 was using his drugs with?

14 A We never made any significant strides. What
15 I gathered is that he probably bought drugs from
16 multiple locations.

17 Q I just asked whether you made any
18 significant strides.

19 A Okay.

20 Q You didn't make any, did you?

21 A No.

22 MR. MAYR: No further questions, Your
23 Honor.

24 THE COURT: All right.

25 MS. COOPER: Just briefly.

1 May I approach the witness, Judge?

2 THE COURT: You may.

3 **FURTHER REDIRECT EXAMINATION**

4 BY MS. COOPER:

5 Q I want to show you State's Exhibit No. 131.

6 What is this?

7 A This is a map showing the locations of Keith
8 Brown's residence, Crystal Jordan's residence and the
9 address of 4206 Grassmere.

10 Q What's at 4206 Grassmere?

11 A That is the address that Keith Brown took
12 Officer Horn, to point out Howard Ambush's vehicle.

13 Q Okay. Did he --

14 A Saying that that was the person he had had
15 trouble with.

16 Q Okay. Did he point out a person or give a
17 name?

18 A No, he did not.

19 Q Did he -- was it only just a vehicle?

20 A Yes.

21 Q Okay. And that was the maroon?

22 A Pontiac Bonneville.

23 Q Bonneville. All right. Did you do research
24 on that area?

25 A Yes.

1 Q Find out where it was located?

2 A Yes.

3 Q Did you -- were you able to determine where
4 that address was in relation to Crystal Jordan's
5 apartment?

6 A Yes.

7 Q Where was it?

8 A One block away.

9 Q Okay. And in here in State's Exhibit
10 No 131, does that show the location of 4206
11 Grassmere, in reference to Crystal Jordan's apartment
12 and the house of Keith Brown?

13 A It does.

14 MS. COOPER: Your Honor, at this time
15 I'm tendering to opposing counsel State's 131 for any
16 objections that he may have, and ask that it be
17 admitted into evidence?

18 MR. MAYR: I have no objection, Your
19 Honor.

20 THE COURT: State's 131 is admitted.

21 (State's Exhibit No. 131 was admitted.)

22 Q (BY MS. COOPER) All right. If we look at
23 State's Exhibit No. 131, was this done as -- going
24 from one location to another location to a third
25 location?

1 A Yes.

2 Q All right. Do you know if this is punched
3 in as walking distance, driving distance or anything
4 like that?

5 A No, I don't know.

6 Q Okay. I want to -- B down here is what?

7 A That's Keith Brown's residence.

8 Q Okay. I want to go --

9 A 4206 Groton.

10 Q All right. I want to go up to A and C.

11 Can you tell the members of the jury
12 what we're looking at here?

13 A A is the address of Crystal Jordan's
14 apartment and C is that address of 4206 Grassmere,
15 where he took Officer Parker -- where Keith Brown
16 took Officer Parker.

17 Q All right. And showed him a maroon vehicle?

18 A Yes.

19 Q Was that a house or -- is 4206 Grassmere,
20 what kind of establishment is that?

21 A It's like a duplex house.

22 Q Okay. And then the -- where Crystal Jordan
23 lives, is that an apartment complex?

24 A It's an apartment complex, yes.

25 Q Okay. So does it help much of -- like the

1 area, is it a large apartment complex or a small
2 apartment complex?

3 A Pretty good size.

4 Q Okay. And the distance between the two
5 locations was -- I mean, how far away was that?

6 A A couple hundred meters.

7 MS. COOPER: I pass the witness.

8 THE COURT: All right.

9 **FURTHER CROSS-EXAMINATION**

10 BY MR. MAYR:

11 Q Are you trying to imply that my client was
12 somehow part of that group that was responsible for
13 beating up on Keith Brown a week before?

14 A I was just pointing out locations.

15 But do I think it's possible? Is that
16 what you're asking?

17 Q Sure.

18 A Yes.

19 Q Any other theories you want to throw out
20 there?

21 A No.

22 MR. MAYR: Pass the witness.

23 MS. COOPER: Nothing further, Judge.

24 THE COURT: All right. May Officer
25 Burrow be excused?

1 MS. COOPER: Yes, Judge.

2 MR. MAYR: He may, Your Honor.

3 THE COURT: All right. Thank you, sir.

4 Remember the Rule has been invoked and
5 you may or may not be called back.

6 THE WITNESS: Thank you, Judge.

7 THE COURT: All right. What says the
8 State?

9 MS. COOPER: State calls Officer
10 Condon.

11 THE COURT: Officer Condon.

12 MS. COOPER: Do you mind if I clean all
13 of this up?

14 (Discussion off the record.)

15 THE BAILIFF: He has not been sworn for
16 this trial, Judge.

17 THE COURT: Good afternoon.

18 (Witness sworn.)

19 THE WITNESS: Yes, sir.

20 THE COURT: All right. Feel free to
21 adjust the chair and microphone. And the Rule has
22 been invoked. You know all about that, right?

23 THE WITNESS: Yes, sir.

24 THE COURT: You know about that?

25 THE WITNESS: Yes, sir.

1 THE COURT: All right. If you would,
2 just feel free to adjust the chair and microphone,
3 make yourself comfortable, and answer as directly as
4 you can.

5 THE WITNESS: Yes, sir.

6 THE COURT: You may proceed.

7 **OFFICER M. CONDON,**
8 having been first duly sworn, testified as follows:

9 **DIRECT EXAMINATION**

10 BY MS. COOPER:

11 Q Can you introduce yourself to the members of
12 the jury, please.

13 A I'm Officer Condon with the Houston
14 homicide.

15 Q Can you tell the members of the jury a
16 little bit about your background?

17 A I've been a police officer for 17 years.
18 I've been in homicide for -- right at three years.
19 Before that, I was in a division called IFR,
20 Investigator First Responder, which is basically,
21 you're detectives in uniform. I was there for about
22 two years. And then before that, patrol for 12
23 years.

24 Q What about before the police department,
25 what did you do?