

1           A.    I was working in the mayor's office and I was  
2    approached by the sheriff now and he asked me if I  
3    wanted to work for him.  But I always wanted to work for  
4    the City, not for the County.

5           Q.    So at that point, you decided to enroll in the  
6    academy?

7           A.    Yes, sir.

8           Q.    We've heard a little bit of testimony about the  
9    academy.  Did you complete the academy?

10          A.    I did, sir.

11          Q.    Did you complete your probationary period?

12          A.    Yes.

13          Q.    You're certified?

14          A.    Yes.

15          Q.    Give us an idea of what day-to-day operations  
16    are like for you.  What area of town do you patrol?

17          A.    I work in Houston's East End which is --  
18    basically covers 45, Gulf Freeway and Telephone all the  
19    way to 45 and College.

20          Q.    We have heard from Officer Carreon.  Do y'all  
21    patrol the same area?

22          A.    We do, sir.

23          Q.    Is that how HPD is set up?  There is different  
24    substations and then officers assigned to that station  
25    and particular parts of town?

1           A.    Yes, sir.  We have different districts and then  
2 we're each assigned a beat and that's the beat that we  
3 patrol.

4           Q.    How long have you been assigned to that beat?

5           A.    Going on two, almost two-and-a-half years now.

6           Q.    Are you pretty familiar with the area?

7           A.    Yes, sir, I am.

8           Q.    I want to direct your attention to April 12th,  
9 2011.  Okay?

10          A.    Yes, sir.

11          Q.    Were you on duty at that time?

12          A.    Yes, sir, I was.

13          Q.    What were your general duties and  
14 responsibilities that day?

15          A.    That day I was conducting surveillance for a  
16 suspect not related in this case.  He's was wanted for  
17 aggravated assault with a deadly weapon.  I filed a  
18 warrant and I was kind of a surveillance on his  
19 apartment until we can attempt to serve a warrant and  
20 get him in custody.

21          Q.    I know you said.  Just so we're clear, it was  
22 entirely unrelated to this?

23          A.    Entirely unrelated, yes.

24          Q.    That's something you do in your capacity as a  
25 patrol officer?

1           A.    Yes, sir.

2           Q.    So you had an arrest warrant for someone else?

3           A.    I did.

4           Q.    Were you ever able to arrest that person?

5           A.    Not that day, no, sir.

6           Q.    So what was your primary focus the evening of  
7 April 12th, 2011? To serve that warrant?

8           A.    To serve that warrant, yes, sir.

9           Q.    While you're conducting your surveillance, are  
10 you in your vehicle?

11          A.    Yes, sir.

12          Q.    Are calls still dropping, calls still going  
13 out?

14          A.    Yes, sir. Calls over the radio and over my  
15 computer screen.

16          Q.    And so we understand, calls that come over the  
17 radio, are those from dispatch or other officers?

18          A.    Sometimes they're from dispatch. Sometimes  
19 they're from officers.

20          Q.    Over your computer, is that a separate system?

21          A.    No. It's the same system so the dispatcher can  
22 give us verbal commands and send us commands though the  
23 computer.

24          Q.    If someone calls 911 and requests an officer,  
25 dispatch sends out requests for an officer?

1           A.    Yes, sir.

2           Q.    Then is it just first come, first served, or  
3 you acknowledge the call?

4           A.    If it's a type of call where someone's life is  
5 in danger or a suspect is still present on the scene,  
6 she'll dispatch it immediately.  If it is something that  
7 requires less attention at that time, then she'll just  
8 send it over the computer.

9           Q.    When they come out over the computer, those go  
10 to everyone in the beat or in the district?

11          A.    Almost everyone in the district.  Sometimes if  
12 it is a serious enough crime, it will go to everybody in  
13 the city.

14          Q.    Okay.  And at that time officers can scroll  
15 through their computer to see different calls?

16          A.    Yes, sir.

17          Q.    But when you are conducting your surveillance,  
18 are you responding to these calls?

19          A.    No.  I was on a special assignment.  So I  
20 wasn't responding to the calls, but I'm constantly  
21 listening to the radio.

22          Q.    Okay.  In case one of those citywide  
23 emergencies goes out?

24          A.    Yes.

25          Q.    At some point did a call go out about an

1 aggravated robbery that had occurred in the 3000 block  
2 of Broadway?

3 A. Yes, sir, it did.

4 Q. Did you respond to that call?

5 A. No. No, sir.

6 Q. Who did?

7 A. I remember Officer Carreon and Wyssbrod, they  
8 were riding 11H35. They are my beat mates. They  
9 responded to that call for service.

10 Q. You say riding 11?

11 A. 11H35. That's their unit number. That means  
12 they patrol 11 District and they patrol in 30s beat.

13 Q. Okay. So they answered that call?

14 A. Yes, sir.

15 Q. And at some point after they answered that  
16 call, did they put out a BOLO?

17 A. Yes, sir. They put out a BOLO, be on the  
18 lookout, for a gray Chevy Impala being driven by a black  
19 male who had just robbed somebody in the 3000 block of  
20 Broadway.

21 Q. Okay. Now, the BOLO didn't say gray. Didn't  
22 it say a different color?

23 A. I believe it said silver.

24 Q. Okay. Do you recall it saying beige?

25 A. Maybe tan, but I can remember silver. Tan was

1 later on a different BOLO.

2 Q. Okay. Were you paying much attention to the  
3 BOLO that night?

4 A. No, sir.

5 Q. When it goes out and it gets -- well, when it  
6 goes out, you're still conducting your surveillance?

7 A. Yes, sir. I had my binoculars and staying  
8 about three blocks away from the target location. So I  
9 got binoculars on the location.

10 Q. At what point do you decide to call it quits  
11 and move on to something else?

12 A. Started getting a little late and I saw no  
13 movement at the house. So I decided to come back the  
14 next day.

15 Q. At that point when you abandoned your  
16 surveillance attempt, do you go back to regular patrol?

17 A. Yes. I go back to the regular duties of a  
18 patrol officer.

19 Q. What are some of those duties besides  
20 responding to calls for service?

21 A. When we are not responding to calls for  
22 service, we do more proactive police work. We are  
23 constantly doing random license plate checks, looking  
24 for stolen vehicles or any vehicles involved in a crime.  
25 So we will get a suspicious vehicle hit on the license

1 plate.

2 Q. When you say you run random license plate  
3 checks, tell us what that means.

4 A. It means I run as many plates as I can. So any  
5 vehicle I see, I just run the plate, make sure it's not  
6 stolen or wanted in a separate case.

7 Q. So that's common?

8 A. Yes, sir.

9 Q. How many plates are you running in a shift?

10 A. I presently run at least a hundred more -- more  
11 plates a day.

12 Q. Does that check the vehicle against the DPS  
13 database, too?

14 A. Yes.

15 Q. Did you have the occasion to run a vehicle, a  
16 silver Chevy, on April 12th, 2011? Do you have that in  
17 your report, the license plate that you ran?

18 A. Yes, sir, I do.

19 Q. Can you go ahead and read that into the record?

20 A. It's Boy Henry 3 George 239.

21 Q. So we have B as in boy, H as in Henry?

22 A. Yes, sir.

23 Q. And then 3; is that right?

24 A. Yes, sir. G as in George, and then 239.

25 Q. Okay. And when you ran that plate, did you get

1 a response?

2 A. I did. It came back clear, meaning it wasn't  
3 stolen or wanted, but the registration sticker was  
4 expired.

5 Q. Is that a traffic offense?

6 A. Yes, sir.

7 Q. Is that an offense you can pull someone over  
8 for?

9 A. Yes, sir.

10 Q. Is it an arrestable offense?

11 A. Yes, sir.

12 Q. Did you pull that vehicle over?

13 A. I did.

14 Q. Did you make contact with that driver?

15 A. Yes, sir.

16 Q. How many people were in the vehicle at that  
17 time?

18 A. Just one.

19 Q. When you pulled the vehicle over, what part of  
20 town are you in?

21 A. I'm still in the East End.

22 Q. Do you recall about exactly where you were?

23 A. It's around by the Sellers Brothers, 2000 block  
24 of Broadway.

25 Q. When you pulled the vehicle over, is that



1 typical light, sirens or just lights?

2 A. Just lights. We might get a little bit of  
3 siren if they're not wanting to stop immediately.

4 Q. When you turn on your lights, does the suspect  
5 vehicle pull over?

6 A. Yes, sir. Pulls over almost immediately.

7 Q. Are you able to see this -- okay, this is  
8 State's Exhibit 2.

9 A. Yes, I can see it.

10 Q. Do you recognize it?

11 A. I do.

12 Q. Over here on the left side by Elvera, is that  
13 the Sellers Brothers?

14 A. Yes. That's the Sellers Brothers and then here  
15 is the -- what's called -- it's called Sellers Brothers,  
16 but it's a Shell, a Shell gas station.

17 Q. You can actually circle it if you want?

18 A. Oh, okay. Shell gas station.

19 Q. Show us where you stopped the vehicle that had  
20 the expired registration.

21 A. It was right here (indicating).

22 Q. Vehicle pulls over to the side of the street?

23 A. Yes, sir, to the right side of the street.

24 Q. Did you approach the driver? You said there is  
25 one person in the vehicle?

1           A.     Just the driver, yes, sir.

2           Q.     Was the driver doing anything funny?

3           A.     He was a little squirmy.  He was moving around  
4 a little bit, a little shaky maybe.

5           Q.     What does that mean to you as a trained  
6 officer?

7           A.     Well, when we see that, usually it makes us a  
8 little nervous because they have a reason to be more  
9 scared than a regular person would.

10          Q.     Okay.  So at that point, you are just going to  
11 be a little bit more cautious?

12          A.     Yes, sir.  I start looking a little bit more  
13 into what he has around him in his wing span area.

14          Q.     As you approach the driver, does he remain in  
15 the vehicle?

16          A.     Yes, he does.

17          Q.     Did you talk to him?

18          A.     I did.

19          Q.     What did you tell him?

20          A.     I asked for his driver's license and proof of  
21 insurance.

22          Q.     Did he give you his driver's license?

23          A.     He did, sir.

24          Q.     Did he give you insurance?

25          A.     No, sir.  He looked around for it, but he

1       couldn't find it.

2           Q.     Did you ask him who the vehicle belonged to?

3           A.     Yes, sir.

4           Q.     What did he say?

5           A.     He said it belonged to his girlfriend.

6           Q.     Do you see the driver of that vehicle in the  
7       courtroom today?

8           A.     I do.

9           Q.     Could you please point to him and identify him  
10       by an article of clothing for the record?

11          A.     He's sitting right over here wearing a black  
12       suit.

13                   MR. BURDETTE:   Judge, may the record  
14       reflect the witness has identified the defendant, Chad  
15       Collins?

16                   THE COURT:    There are two people in black  
17       suits.   Which one?

18                   THE WITNESS:   The black male in the black  
19       suit.

20                   THE COURT:    The record will reflect.

21          Q.     (BY MR. BURDETTE)   And at that point, what do  
22       you tell him?

23          A.     At that point he is acting a little nervous, a  
24       little shaky, starting to make me a little nervous.   At  
25       that point I took him into custody while he was still

1 sitting in the car.

2 Q. Let me ask you a little bit about how that was  
3 done. So kind of show us the movements that he's making  
4 that are making you nervous.

5 A. He was just moving around like this and kind of  
6 squirmy like that, moving around in his seat a lot.

7 Q. Could you see where his hands were?

8 A. I believe one was on the steering wheel. The  
9 other one, he had a cigarette in his hand.

10 Q. Are you trained to look at where their hands  
11 are?

12 A. Yes.

13 Q. So at that point you said you take him into  
14 custody. Was that for the traffic violation or was he  
15 just being detained?

16 A. He was being detained just for my safety.

17 Q. Did you ask him if he had any weapons?

18 A. Not while he was in the car, no.

19 Q. So based on -- well, you know he has expired  
20 registration?

21 A. Yes.

22 Q. Can you just let him go at that point?

23 A. I could, yes, sir.

24 Q. But, instead, you decided to detain him?

25 A. I decided to detain him to see why he was

1 acting so nervous and he might have had a weapon. He  
2 might have had contraband.

3 Q. Okay. Did you also have to run him and  
4 determine his identity?

5 A. Yes, sir.

6 Q. Did you place handcuffs on him before you did  
7 that?

8 A. No, sir.

9 Q. After you ran him?

10 A. I'm sorry?

11 Q. After you ran his identity, you placed  
12 handcuffs on him or you placed the cuffs on him before  
13 you did that?

14 A. No. I placed handcuffs before. I didn't want  
15 to detain him. I just wanted him in the patrol car  
16 there before giving him a chance to either grab  
17 something or conceal something.

18 Q. So when you placed handcuffs on him, is that  
19 for officer safety?

20 A. Yes.

21 Q. Were you placing him under arrest?

22 A. No, he was not under arrest.

23 Q. Was he cooperative with you?

24 A. He was.

25 Q. Did you have him step out of the vehicle?

1           A.    No, sir.  I had him -- when we have a suspect  
2           that's of a rather large size, we will take them -- we  
3           will handcuff them in the car.  So basically I'll just  
4           have them, Hey, put your hands up for me.  Turn your  
5           body to the side.  And then I'll place his hands behind  
6           his back and I'll place him in handcuffs in the car.  
7           That gives him less of a chance to start a physical  
8           confrontation.  So that's what I did.

9           Q.    And you said he was of a large size.  How tall  
10          are you?

11          A.    I'm five seven.  Five seven and a half on a  
12          good day.

13          Q.    How tall do you recall him being?

14          A.    Pretty tall.  I would estimate maybe six four,  
15          six five.

16          Q.    Was he -- what was his build like at that time  
17          on April 12th, 2011?

18          A.    He was -- to me, he looked like he was in  
19          pretty good shape.  Fit, maybe.

20          Q.    Do you see him here today?

21          A.    I do.

22          Q.    I know he is wearing a jacket.  Does he look  
23          thinner or heavier?

24          A.    Looks heavier.

25          Q.    Noticeably?

1           A.    Yes, sir.

2           Q.    So after you placed handcuffs on him, tell us  
3 what happened.

4           A.    After I placed handcuffs on him, I asked him to  
5 step out of the vehicle. I asked him if he had any  
6 weapons in the vehicle after I handcuffed him. He  
7 stated that he didn't have any weapons. I asked him if  
8 I had consent to search his vehicle.

9                         And he said, Sure, go ahead.

10          Q.    So walk us through what you did.

11          A.    I began patting him down looking for weapons  
12 and/or contraband and that's when I found a credit card  
13 in his pocket.

14          Q.    Do you recall anything else unusual inside of  
15 his pockets?

16          A.    No, sir.

17          Q.    What was unusual about the credit card that you  
18 found in his pocket?

19          A.    The credit card, the name on the credit card  
20 was for an Hispanic male.

21          Q.    Do you recall that male's name?

22          A.    Jose Castillo.

23          Q.    This part of town here where you have the  
24 defendant stopped, is it predominantly Hispanic or  
25 predominantly African-American?

1 A. Hispanic, sir.

2 Q. Do you ask him about the card, about who it  
3 belongs to?

4 A. I do. I asked him.

5 Q. What was the question that you asked him?

6 A. I said, Hey, who is Jose Castillo?

7 MR. BURDETTE: Judge, may we approach?

8 THE COURT: You may.

9 *(At the Bench, on the record.)*

10 MR. BURDETTE: I know -- I wanted to let  
11 you know. I know you ruled earlier. I wanted to give  
12 defense attorney another opportunity if he wants to make  
13 a statement to question who does the credit card belong  
14 to. I don't believe it's res gestae in nature. He  
15 testified he was only detained or he was not under  
16 arrest, which means the statement does not have to  
17 comply with 38.22. Further evidence was only detained.  
18 Going to be testimony he was released. He was not under  
19 arrest. The officer was not looking to elicit a  
20 testimonial response by asking that question.

21 MR. TANNER: Our objection is that the  
22 defendant was under arrest and that the statement he  
23 made was custodial in nature and should not be allowed  
24 for that reason.

25 THE COURT: Okay. So are you making an



1 objection?

2 MR. TANNER: We object to it.

3 THE COURT: Then it is overruled.

4 MR. TANNER: Thank you, Judge.

5 *(End of bench discussion.)*

6 Q. (BY MR. BURDETTE) When you find the credit  
7 card in his pocket, you see the name on it, Jose  
8 Castillo, was that suspicious to you that it was in his  
9 pocket?

10 A. It was suspicious. I think it would be  
11 suspicious, regardless of what race you are from if you  
12 have anybody else's credit card that's not in your name  
13 in your pocket.

14 Q. Did you ask him who it belonged to?

15 A. Yes.

16 Q. What did he say?

17 A. He said, Oh, that's my Mexican homie's credit  
18 card. He forgot it in my car.

19 THE COURT: Would you say that again so  
20 that we can clearly understand you?

21 THE WITNESS: Yes. He said, That's my  
22 Mexican homie's credit card.

23 Q. (BY MR. BURDETTE) Did you say he forgot it in  
24 my car?

25 A. He said, He forgot it in my car. I was going

1 to give it back to him.

2 Q. At that point do you run the credit card?

3 A. I did. At that point I placed him in the  
4 backseat of my patrol car and I asked dispatch to run  
5 the credit card. I gave her the credit card number, the  
6 name on t credit card.

7 Q. Okay.

8 A. So I basically give her all the information.

9 Q. The purpose of giving that information to  
10 dispatch is what? To see if it is stolen?

11 A. Yes, sir. She'll check the database, see if  
12 it's been reported stolen.

13 Q. Was it reported stolen at that time?

14 A. No. At that time the dispatcher advised me  
15 that it was clear.

16 Q. Let me ask you something about reporting stolen  
17 items. If an item is stolen and a person calls the  
18 police to report it, how long can it take for that item  
19 to show up as stolen in the HPD system?

20 A. Takes anywhere from eight hours to longer than  
21 that because we're given eight hours to complete an  
22 offense report. So by the time we complete that offense  
23 report and then a detective has to enter that  
24 information to a computer so it could be eight hours or  
25 more.

1 Q. So at that point you don't have any information  
2 that that credit card is stolen?

3 A. No, sir.

4 Q. Do you give it back to the defendant?

5 A. Yes, sir.

6 Q. Do you continue to search the vehicle?

7 A. At that point, no. At that point I was done.

8 Q. Had you searched the vehicle?

9 A. Yes, sir.

10 Q. Did you find anything else?

11 A. There was clothing everywhere, like fast food  
12 trash.

13 Q. Okay. Do you remember seeing a black hoodie  
14 inside of the vehicle at that time?

15 A. Yes, sir.

16 Q. Where did you see it?

17 A. It was laying on top of the backseat on top of  
18 all of the other clothing and rubble.

19 Q. So it was on top, not on bottom?

20 A. Yes, sir. It was on top.

21 Q. Showing you what's been admitted as State's  
22 Exhibit 12. Do you recognize it?

23 A. I do. It struck me fairly odd because most of  
24 the clothing in the car was female clothing and that was  
25 obviously a male's sweater and it was pretty large.

1 Q. Okay. In fact, what's the size of this  
2 sweatshirt here?

3 A. It's size 4XL.

4 Q. Is that pretty big?

5 A. That's pretty big.

6 Q. When you see it, do you do anything with the  
7 sweatshirt at that point?

8 A. I didn't pay much attention other than that.

9 Q. Did you ever locate a firearm or anything in  
10 the car?

11 A. No, sir. No firearm or any other type of  
12 contraband.

13 Q. At that point what do you do with the defendant  
14 once you are finished searching him and searching the  
15 vehicle and everything checks out?

16 A. Once I finished -- once everything checked out  
17 and I finished searching, I went ahead and released him,  
18 gave him a warning for the traffic violation.

19 Q. Why didn't you arrest him for the traffic  
20 violation?

21 A. It's our discretion whether we want to  
22 arrest --

23 THE REPORTER: Repeat that.

24 A. It's our discretion as police officers to  
25 release people for their traffic violations. Usually if

1 people are cooperative with me, I won't give them any  
2 citations.

3 Q. (BY MR. BURDETTE) Okay. And he was  
4 cooperative with you?

5 A. Yes, sir.

6 Q. When you let him go, where does he go?

7 A. As soon as I let him go, he pulls right into  
8 the little Sellers Brothers gas station right here. He  
9 goes right into this very first pump.

10 Q. And are you still there at the scene?

11 A. Yes, sir. I'm right here where the X is  
12 located.

13 Q. When you get back to your vehicle, do you have  
14 paperwork to do based on the stop?

15 A. Yes, sir.

16 Q. What kind of paperwork?

17 A. I usually fill out -- after every traffic stop  
18 by federal law, we're required to fill out what's called  
19 a probable cause. It's basically -- it states the  
20 reason why we pulled somebody over, what time, what  
21 location, what race, gender.

22 Q. For tracking purposes?

23 A. Yes, for tracking purposes, to make sure that  
24 we're not pulling over just the same type of people  
25 every time.

1 Q. And at that point when you enter that  
2 information, are you still looking at your computer?

3 A. Yes, sir.

4 Q. Do you go back through your BOLOs?

5 A. Yes, sir. I'm going back through my messages  
6 and at that point I just start getting the feeling,  
7 start remembering the BOLO that I heard, black male,  
8 type of vehicle, Hispanic complainant. With the area  
9 that we were in, it's not very far from the area where  
10 the crime occurred. At that point I called Officer  
11 Carreon on his cell phone and I asked him, What was your  
12 complainant's name? And he told me it was Jose  
13 Castillo.

14 Q. As soon as you hear that name, Jose Castillo,  
15 what are you thinking?

16 A. I'm thinking, holy -- my gut just dropped. I  
17 got the guy right here and I just let him go.

18 Q. Okay. So what do you do?

19 A. At that point I tell Officer Carreon, I think  
20 the possible suspect is here and he warns me to be  
21 careful and tells me to get extra backup.

22 Q. Did you have time to do that?

23 A. No, sir, because he was standing outside the  
24 vehicle and I didn't want him to see more units arriving  
25 then he would jump back in the vehicle, lead us into a

1 vehicle chase or a possible foot pursuit or physical  
2 confrontation.

3 Q. Okay. So what did you do?

4 A. At that point I pulled my patrol vehicle behind  
5 his car under the gas pump and I removed my flashlight,  
6 a little carry flashlight, and I placed it in my bag on  
7 the passenger seat. I went up to him where he was  
8 standing by the gas pumps and I said, Hey, did I  
9 leave -- I think I left my flashlight in your car. Did  
10 you see it?

11 He went, No, I didn't see it.

12 I said, Do you mind if I get my  
13 flashlight?

14 He said, Yeah, go ahead and get it.

15 So I said. Let me put you in handcuffs  
16 just to make sure you are not going to try to do  
17 something while I'm in your car.

18 He said, Okay. No problem.

19 So I put him in handcuffs.

20 Q. Okay.

21 A. That's how I talked him into letting me put him  
22 in handcuffs again without him getting suspicious of why  
23 I did that again.

24 Q. You did that more to keep the situation from  
25 becoming volatile?

1           A.    Yes, sir.

2           Q.    Did it work?

3           A.    It worked, yes, sir.

4           Q.    And did you then call Officer Carreon and tell  
5 him?

6           A.    I called him.  I said, Okay, look, I got him in  
7 custody already.

8                        He said, Oh.

9                        By that time, they were already on the way  
10 back to the scene -- to my scene.

11          Q.    Okay.  Did they arrive to the scene?

12          A.    They did.

13          Q.    How long do you think it took?

14          A.    Eight to ten minutes.

15          Q.    So fairly quick?

16          A.    Yes, sir.

17          Q.    When they get to the scene, where is the  
18 defendant?

19          A.    The defendant is in the backseat of my patrol  
20 car.

21          Q.    Do you show the defendant to Officer Carreon or  
22 does he come to look at him?

23          A.    Him and his partner, they come to my vehicle  
24 and they looked at him through the window.

25          Q.    Okay.  Did they make any indication to you that



1 this could be the person?

2 A. Yes, sir.

3 Q. Did anyone contact the complainant at that  
4 point and request his presence?

5 A. Yes, sir.

6 Q. Who was that?

7 A. Officer Carreon called him.

8 Q. At some point did the complainant show up?

9 A. Yes, sir, he shows up.

10 Q. Were you there when the complainant showed up?

11 A. I was.

12 Q. Did you ever speak to him?

13 A. No, sir.

14 Q. What were your duties and responsibilities at  
15 that point when the complainant showed up?

16 A. At that point I was basically just keeping an  
17 eye on the defendant, making sure he wouldn't try to  
18 maybe kick a door out, kick a window out. I was filling  
19 out paperwork.

20 Q. Okay. And he didn't do any of that, did he?

21 A. Who is that?

22 Q. The defendant.

23 A. No, he didn't.

24 Q. But you're watching him?

25 A. Yes, sir.

1 Q. Were you there when the defendant was shown to  
2 the complainant?

3 A. I was, sir.

4 Q. Talk to us -- or tell us about the  
5 circumstances in which the defendant was shown to  
6 Mr. Castillo.

7 A. When Mr. Castillo showed up to the scene, we  
8 had him park and park in a direction where he couldn't  
9 be seen by the defendant. This way no type of  
10 intimidation could be attempted on the complainant.

11 Q. Was the defendant brought out of your vehicle  
12 for identification?

13 A. Yes, sir.

14 Q. And were you talking to Mr. Castillo or were  
15 you there handling the defendant?

16 A. I was with the defendant.

17 Q. Approximately how far was Mr. Castillo from the  
18 defendant at this time?

19 A. Not very far, probably 15 to 20 feet.

20 Q. You see where I am standing in relation to you?

21 A. Yes.

22 Q. Do I need to go forward or backwards?

23 A. Probably a little bit more back.

24 Q. Okay.

25 A. That's good. Around there, yes, sir.

1 Q. I'm just looking for a fair approximation.

2 Why do you keep this distance between a  
3 suspect and a victim?

4 A. We keep a distance so the suspect can't try to  
5 rush at the complainant. We also keep them at a  
6 distance because we're putting the spotlight on the  
7 defendant so the defendant can't see the witness or the  
8 complainant.

9 Q. Okay. And were you there when -- well, let me  
10 ask you this: Did you see Mr. Castillo positively  
11 identify the defendant?

12 A. Yes, sir.

13 Q. Did you hear him make that positive  
14 identification?

15 A. Yes, sir.

16 Q. Did you see him being hesitant in any way?

17 A. No, sir.

18 Q. From what you see -- from what you saw, were  
19 you confident or did he appear confident in his  
20 identification?

21 A. Yes, sir, he did.

22 Q. Did he relay any more information to either you  
23 or Officer Carreon at the scene as he made his  
24 identification?

25 A. The only thing he mentioned was that his

1 clothing was different.

2 Q. And did you hear the description he gave when  
3 he said the clothing was different?

4 A. Yes, sir. He said he was wearing the black  
5 sweater with white designs on it and shorts, tan-colored  
6 shorts, I think.

7 Q. Was that consistent with what you found here?

8 A. Yes, sir. That was the sweater that was laying  
9 in the backseat.

10 Q. Do you recall the color of -- well, do you  
11 recall whether the defendant was wearing pants or  
12 shorts?

13 A. It was shorts. They were very long shorts,  
14 reached almost to his ankles.

15 Q. Do you recall the color?

16 A. Blue.

17 Q. Not tan?

18 A. No.

19 Q. Did you ever tell Mr. Castillo that you found  
20 the credit card, his credit card, in the defendant's  
21 pocket?

22 A. No, sir. Before today, I had never spoken to  
23 Mr. Castillo.

24 Q. Okay. When you found -- when did you tell  
25 Officer Carreon that you had found his credit card in

1 his pocket? Was that when you spoke to him on the cell  
2 phone?

3 A. Yes, sir, on the cell phone.

4 Q. Who took possession of the credit card after  
5 you detained him at the Sellers Brothers there?

6 A. I gave the custody of the credit card to  
7 Officer Carreon.

8 Q. So it would have been him who gave it back to  
9 the victim?

10 A. Yes, sir.

11 Q. Did you in any way suggest to Mr. Castillo he  
12 needed to pick out the defendant, Chad Collins, there at  
13 the scene?

14 A. No, sir.

15 Q. Did you observe any other officer suggest to  
16 him he needed to pick out the defendant?

17 A. No, sir.

18 Q. Did you observe him to identify anyone else or  
19 say, Well, I don't know; it's not him?

20 A. No, sir. He was clear about his  
21 identification.

22 Q. Now, without getting into anything that was  
23 found at this point, did you also find other items  
24 inside the defendant's vehicle after Mr. Castillo  
25 identified him?

1 A. Yes, sir.

2 Q. And did you document some of those things?

3 A. I did, sir.

4 MR. BURDETTE: May I have a moment, Judge.

5 THE COURT: You may.

6 (Pausing.)

7 Q. (BY MR. BURDETTE) Officer Duran, did you  
8 personally write a report under this case number?

9 A. No, sir, I didn't.

10 Q. But did you generate a report at all?

11 A. For this case number?

12 Q. Well, without regards to a case number. Did  
13 you generate a report?

14 A. Oh, yes, sir.

15 Q. Did you give information with regards to this  
16 case number to Officer Carreon and Officer Wyssbrod for  
17 inclusion in their report?

18 A. Yes, sir.

19 Q. Okay. And is that what you have there in front  
20 of you?

21 A. This is their case. This is -- yeah, this is  
22 Officer Carreon's case.

23 Q. That's right. And you had given him  
24 information about the stop and everything?

25 A. Yes.

1 Q. And he put that in his report?

2 A. Yes, sir.

3 Q. And have you reviewed that?

4 A. Did I review it? Yes, sir.

5 Q. Have you used it to refresh your memory?

6 A. I did.

7 Q. I want to turn your attention to page 2005.

8 You have that there?

9 A. Yes.

10 Q. Starting with -- could you just read that to  
11 yourself?

12 A. Okay. Okay.

13 Q. At any point prior to stopping this defendant  
14 for expired registration, did you observe him or his  
15 vehicle in this area?

16 A. In the 200 block of Fennel?

17 Q. Well, in this area, period. Broadway, Fennel,  
18 Concord?

19 A. No, sir.

20 Q. Later did you receive information from anyone  
21 that the defendant had been in that area?

22 A. Yes, sir.

23 Q. Who was that from?

24 A. From the wrecker driver we called to the scene  
25 to tow the vehicle.

1 Q. I don't want to get into what he said, but he  
2 had -- did he indicate to you he recognized the  
3 defendant?

4 A. Yes, sir. He stated he observed the vehicle  
5 earlier.

6 Q. So not only the vehicle but the defendant also?

7 A. Yes, sir.

8 Q. In what area?

9 A. In the 1200 block of Fennel.

10 Q. Take a look at State's Exhibit No. 1. Here we  
11 have Elvera and Broadway. That's the Sellers Brothers,  
12 right?

13 A. Yes, sir.

14 Q. Can you show us where, approximately, the 1200  
15 block of Fennel?

16 A. Yeah. That would actually be right about here.

17 Q. Okay.

18 MR. BURDETTE: I'll pass the witness at  
19 this time.

20 THE COURT: Thank you, Mr. Burdette.

21 Mr. Tanner.

22 MR. TANNER: Thank you, Judge.

23 **CROSS-EXAMINATION**

24 **BY MR. TANNER:**

25 Q. Officer, how are you?



1           A.    I'm fine, thank you, sir.

2           Q.    Just a few questions.  You say that when  
3 Mr. Castillo was brought back to the scene and saw this  
4 gentleman, he immediately identified him, no sweat?

5           A.    Yes, sir.

6           Q.    Just immediately, sweat, no sweat, That's him?

7           A.    Yes, sir.

8           Q.    Now, even the other officers never called  
9 robbery division about setting up a lineup or a photo  
10 spread, correct?  You just did it this way?

11          A.    Yes, sir.

12          Q.    Have the guy come to the scene?

13          A.    Yes, sir.

14          Q.    Now, you stated earlier that you just were  
15 doing random license check?

16          A.    License plate check, yes, sir.

17          Q.    And came across this vehicle?

18          A.    Right.

19          Q.    And stopped the vehicle and ended up searching  
20 the vehicle, correct?

21          A.    Yes, sir.

22          Q.    Just stopped him on a tag and still searched  
23 the whole vehicle, right?

24          A.    Yes, sir.

25          Q.    What were you looking for?

1           A.    Looking for any type of contraband, weapons,  
2           drugs.

3           Q.    Drugs, guns, anything?

4           A.    Yeah.

5           Q.    You couldn't find anything in there?

6           A.    No, sir, I didn't find anything.

7           Q.    Now, did you expect to find any guns or drugs  
8           in there at that point?

9           A.    From the way he was acting, his behavior, I  
10          expected a possibility he might be carrying something  
11          illegal.

12          Q.    You just stopped him on registration sticker  
13          and searched the whole car?

14          A.    Yes, sir.

15          Q.    And you have reviewed the report here, correct?

16          A.    Yes, sir.

17          Q.    And did you tell the other officers, Carrier  
18          (sic) and his partner, that before the suspect was  
19          stopped on a motor vehicle stop, that suspect had pulled  
20          over at a house at the 1200 block of Fennel and was  
21          talking to an unknown black male. Okay? Did you say  
22          this to these other officers? Did you ever report that  
23          to them?

24          A.    I believe what happened was I was told by the  
25          wrecker driver. I told them and they messed that up and

1 they thought that I observed it myself.

2 Q. So you are saying you never observed him at  
3 some house, 1200 block of Fennel? Is that a pretty  
4 tough neighborhood?

5 A. Yes. General area is a pretty tough  
6 neighborhood.

7 Q. Lot of drugs, right, in that area?

8 A. Yes, sir.

9 Q. Is it predominantly white, black or Hispanic?

10 A. Hispanic.

11 Q. What percent would you say was Hispanic, if you  
12 had to guess?

13 A. Ninety-eight percent Hispanic.

14 Q. And black?

15 A. Maybe, I guess, one.

16 Q. Okay. White?

17 A. One.

18 Q. Now -- and after you pulled someone over on a  
19 traffic violation like you're supposed to do a report  
20 for racial profiling, correct?

21 A. Yes.

22 Q. So you're telling us under oath that you never  
23 saw him pull over at the house on Fennel?

24 A. Correct, never saw him.

25 Q. But you were told that by someone else?

1           A.    Yes, sir.

2           Q.    Now, from the time the actual robbery happened  
3 to the time you first stopped the defendant, would you  
4 guess an hour passed, an hour and a half, or are you not  
5 sure?

6           A.    I'm going to guess 40, 45 minutes.

7           Q.    Could it have been more?

8           A.    I don't think so, sir. It didn't take me, you  
9 know, that long to get back where I was conducting  
10 surveillance.

11          Q.    Were you and the other officers surprised when  
12 you never found the gun when you searched the vehicle a  
13 second time? Did you search again?

14          A.    Yes, sir.

15          Q.    Never found a gun, correct?

16          A.    No, sir. And I was not surprised.

17          Q.    Were other officers surprised?

18          A.    No. It's common practice. People get rid of  
19 weapons and evidence.

20                   MR. TANNER: Could I approach the witness,  
21 please?

22                   THE COURT: You may.

23                   MR. TANNER: Could I have this marked,  
24 please.

25                   May I approach, Your Honor?