

1                   THE COURT: All right. So, you are  
2 still on call; but you don't have to come back down  
3 unless they call you to come back down.

4                   THE WITNESS: Yes, ma'am.

5                   THE COURT: All right. Thank you,  
6 sir.

7                   Who's next?

8                   MS. ONCKEN: State calls Officer  
9 Harris.

10                  THE COURT: Right this way, sir.  
11 Raise your right hand, please, sir.

12                  (Witness sworn)

13                  THE COURT: Have a seat.

14                               IRA HARRIS,  
15 having been first duly sworn, testified as follows:

16                                       DIRECT EXAMINATION

17           Q.       (BY MS. ONCKEN) Good afternoon.

18           A.       Good afternoon.

19           Q.       Can you please introduce yourself to the  
20 jury?

21           A.       Officer Ira Harris.

22           Q.       And how are you employed?

23           A.       I'm employed with the Houston Police  
24 Department.

25           Q.       How long have you been working there?

1 A. Five years.

2 Q. And where are you currently assigned?

3 A. Northeast patrol.

4 Q. And have you been working patrol for the  
5 last five years --

6 A. Yes.

7 Q. -- that you've been with H.P.D.?

8 A. Yes, ma'am.

9 Q. Okay. And have you always worked that side  
10 or that part of town, the northeast?

11 A. Yes, my whole career.

12 Q. Okay. And does that include the area off  
13 of 59 like Homestead, Crofton --

14 A. Yes, ma'am.

15 Q. -- Hallshire, that area?

16 A. Yes, ma'am.

17 Q. I want to take you back to March 31st of  
18 2010 and ask if you were working with H.P.D. at that  
19 time?

20 A. Yes, ma'am.

21 Q. And you told the jury that you do patrol.  
22 Can you tell them a little bit of what you might do  
23 in a shift, all the kinds of things that y'all  
24 handle?

25 A. It's a lot. We respond to calls for

1 service. Anything from disturbances to report calls  
2 like burglaries, thefts, delayed assaults. We do  
3 hospital checks. We pick up rape kits from  
4 hospitals. And it's also a bunch of different  
5 things. We respond to burglaries and assaults in  
6 progress. That's the whole fun stuff with lights and  
7 sirens and all that. And we get on-view. You know,  
8 we get called whenever people -- you know, sitting at  
9 a stoplight somebody can come up to us. So, we're  
10 always on the go, for the most part.

11 Q. So, basically you are the men and women who  
12 are out there on the street just looking and  
13 responding for things that happen and try to take  
14 care of it?

15 A. Exactly. Yes, ma'am.

16 Q. And when you say that you get hospital  
17 calls sometimes --

18 A. Yes.

19 Q. -- describe what you mean by that.

20 A. A hospital call can be anything -- like I  
21 said, it could be -- if there's a rape kit to be  
22 picked up, we pick those up. Or if someone's been  
23 assaulted and they make a report, the hospital staff  
24 will call us. Or any time it's dealing with  
25 juveniles, we have to come. That's by protocol. We

1 have to show up any time it's a juvenile. And the  
2 hospital calls us. I'm sorry.

3 Q. When you say when it's a juvenile, do you  
4 mean when it's a juvenile is the person that's in the  
5 hospital being treated?

6 A. Yes, ma'am.

7 Q. Then that pretty much dovetails into my  
8 next question. March 31st, 2010, did you and your  
9 partner receive a call in response to go to L.B.J.  
10 Hospital?

11 A. Yes, ma'am. We received a call from our  
12 dispatch around 7:15 in regards to a juvenile boy who  
13 had gone into cardiac arrest.

14 Q. Okay. All right. So, you get the call at  
15 7:15. Do you know what time y'all arrived?

16 A. 7:30.

17 Q. Okay. And when you get to the hospital,  
18 are you alone or with another officer?

19 A. With another officer. I had a partner.

20 Q. Okay. And what is your partner's name?

21 A. Officer Rodriguez.

22 Q. Are y'all still partnered up?

23 A. Yes. We alternate days on whatever days  
24 off we have still.

25 Q. Okay. Now, when y'all get to the hospital,

1 what is the scene like? Is it kind of chaotic or --

2 A. Yeah. Well, at first it was -- you know,  
3 it's L.B.J. So, it's a lot of people. It's a lot of  
4 call volume that goes through there. But when we get  
5 there, there's -- we run into the H.F.D. guys who  
6 immediately did the call or the original call and  
7 picked up the child.

8 Q. These are the medical guys that would have  
9 brought the child to the hospital?

10 A. Yes, ma'am.

11 Q. Okay.

12 A. H.F.D., you know, I say "H.F.D." It's like  
13 E.M.S. and firefighters that do both.

14 Q. Okay. They stop you?

15 A. Yes. Yeah. They stopped us, and they  
16 asked us -- I asked them if they were the ones who  
17 dropped the original slip. They said yes and  
18 basically told us what we were running into.

19 Q. And, of course, we can't talk about what  
20 they said to you. But after speaking to the men who  
21 actually brought the baby in and were there, did you  
22 have some concerns that this could be an abusive  
23 situation?

24 A. Yes.

25 Q. Okay. So, did you or your partner try to

1 do any investigation or sort of, I guess, figure out  
2 what do we have?

3 A. Yes, ma'am.

4 Q. Okay. And what did y'all do?

5 A. We initially talked to Mr. Flowers, the  
6 defendant.

7 Q. Okay.

8 A. And --

9 Q. And before we go on, I want to show you --  
10 well, first of all, I guess you kind of looked over  
11 to your left. Do you see Mr. Flowers?

12 A. Yes, ma'am.

13 Q. In the courtroom today?

14 A. Yes, ma'am.

15 Q. Okay. Can you point to him and tell us  
16 what he's wearing?

17 A. He's in the white shirt.

18 Q. Okay.

19 A. To my left.

20 Q. All right.

21 MS. ONCKEN: May the record reflect  
22 he's identified the defendant?

23 THE COURT: Can he be more specific?

24 MS. ONCKEN: Okay.

25 Q. (BY MS. ONCKEN) Is he wearing a jacket or

1 not wearing a jacket?

2 A. No jacket.

3 Q. Okay.

4 *THE COURT:* Record will reflect that  
5 the witness has identified the defendant.

6 *MS. ONCKEN:* Thank you, your Honor.

7 Q. *(BY MS. ONCKEN)* Okay. Did you speak to the  
8 defendant, Mr. Flowers, then at L.B.J. Hospital?

9 A. Very briefly.

10 Q. Okay. And I also want to show you State's  
11 Exhibit 91 and ask if you can recognize the person in  
12 State's 91.

13 A. Yes, ma'am.

14 Q. Okay. Who is that?

15 A. The defendant.

16 Q. Okay. Is that how he appeared, not exactly  
17 on March 31st but at that timeframe what he appeared  
18 like?

19 A. Yeah. Pretty much. Yes, ma'am.

20 *MS. ONCKEN:* State offers Exhibit 91  
21 and tenders to counsel for any objection.

22 *MR. MARTIN:* We have no objection.

23 *THE COURT:* Being no objection,  
24 State's 91 will be admitted.

25 Q. *(BY MS. ONCKEN)* When you then tried to

1 figure out what had happened out there that day, did  
2 you look to see if there was anybody, any family of  
3 the infant that was there at the hospital?

4 A. At the time, I can't recall. I --

5 Q. Well, were you looking to see who's in  
6 charge, who are the parents?

7 A. Yes.

8 Q. Okay.

9 A. Yes.

10 Q. And did you figure that out?

11 A. Yes.

12 Q. Okay.

13 A. He had said he -- the defendant told me he  
14 was the stepfather of the complainant.

15 Q. Okay. So -- and was there the mother of  
16 the baby there?

17 A. Yes, ma'am.

18 Q. Okay.

19 A. She was there.

20 Q. Did you speak to her as well?

21 A. No.

22 Q. Okay. Did you speak to the defendant  
23 briefly?

24 A. Very briefly, yes, ma'am.

25 Q. All right. And did you or your partner in



1 front of you try to ask him what happened?

2 A. Yes.

3 Q. Okay. And what did he say?

4 A. He said he had -- the baby was laying down.

5 He was asleep. The baby began to cry. And when he

6 went in, the baby started to vomit. So, when he

7 picked him up, the baby's eyes started to roll back

8 in his head. And that's when he attempted C.P.R.

9 And after that was unsuccessful, he called the police

10 or called medical staff to come pick up the child.

11 Q. Okay. So, the defendant told you that he

12 called 9-1-1 or some sort of --

13 A. Yes, ma'am.

14 Q. All right. And he said -- did he tell you

15 whether or not he was alone with the child?

16 A. He said he was by himself.

17 Q. Okay. And that the child just started

18 vomiting?

19 A. Yes, ma'am.

20 Q. Just spontaneously?

21 A. Yes, ma'am.

22 Q. Okay. What was the defendant's demeanor

23 when you were talking to him?

24 A. It was -- he was here and there. I mean,

25 it was -- he kept trying to walk while he was talking

1 to us and walk off a little. We had to call him back  
2 over there once or twice. And --

3 Q. Did he have, like, nervous energy?

4 A. Yeah. I'd explain it that way. Yeah. It  
5 would be nervous energy. Yes, ma'am.

6 Q. Was he sad?

7 A. I didn't think it was sad. It was more  
8 nervous I'd say.

9 Q. Okay. Was he crying?

10 A. No.

11 Q. Were there other -- were you able to  
12 ascertain at any point if there were other family  
13 members that were there for the baby?

14 A. Yes. Mother and -- I didn't know who the  
15 other one was until later, but it was the grandmother  
16 of Kamron, the child.

17 Q. Did any of the other family members appear  
18 sad, upset about the baby?

19 A. Just the grandmother.

20 Q. Okay. But not the defendant?

21 A. No, ma'am.

22 Q. And are you saying that the mother of the  
23 child didn't appear too upset either?

24 A. Not as far as I think what a mother would  
25 be in that situation with that young of a child.

1 Q. Not what you would believe to be typical?

2 A. Exactly. Yes, ma'am.

3 Q. Did you or your partner ask the defendant  
4 about how the baby hurt his lip?

5 A. Yes. My partner did. I was present while  
6 she did.

7 Q. Okay. So, you were there?

8 A. Yes, ma'am.

9 Q. And what did the defendant say?

10 A. He said that the -- he was feeding the baby  
11 a bottle and the bottle had slipped and hit his mouth  
12 causing swelling and bruising to the upper gum.

13 Q. Okay. And did your partner ask -- okay.  
14 So, he's saying it's the nipple that broke --

15 A. Yes.

16 Q. -- on the bottle?

17 A. Yes, ma'am.

18 Q. Did that make sense?

19 A. No, ma'am. I have three children.

20 Q. Uh-huh.

21 A. And especially at that age, I've never, you  
22 know, seen a bottle -- a nipple slip and break and  
23 injure a child or even slip and break.

24 Q. Well, from your personal experience, I  
25 mean, what is the nipple? It's a soft material,

1 right?

2 A. Yeah. It's very soft. Yes, ma'am.

3 Q. Did your partner follow that up with  
4 another question about, well, what was the bottle  
5 made of?

6 A. Yes. She asked if the bottle was glass or  
7 was it plastic.

8 Q. And what did the defendant say?

9 A. It was a plastic bottle.

10 Q. I'm just calling her your partner. What is  
11 your partner's name?

12 A. Officer Rodriguez.

13 Q. And did Officer Rodriguez continue to talk  
14 to the defendant and ask him more questions?

15 A. Yes, ma'am. I wasn't present when she  
16 asked more.

17 Q. All right. Were y'all there when the  
18 Kangaroo Unit transported the baby to Texas  
19 Children's Hospital?

20 A. Yes, ma'am. I was there before. I was  
21 actually in the room with the child --

22 Q. Okay.

23 A. -- while they were working on him.

24 Q. Were you able to get close enough to  
25 observe the baby's face?

1           A.       Not too close. Not enough. There was a  
2 lot of medical personnel and they were working pretty  
3 hard and I didn't want to get in their way.

4           Q.       Of course. Did you or your partner call  
5 another division of H.P.D. in response to all the  
6 information you gathered?

7           A.       Yes, ma'am, I did.

8           Q.       Who was that?

9           A.       I called our juvenile division. That was  
10 Sergeant Stewart.

11          Q.       Okay. And that would be juvenile victims,  
12 not juvenile offenders?

13          A.       Yeah. Not juvenile offenders.

14          Q.       Okay. What about the homicide division?

15          A.       I had -- after I talked to our sergeant at  
16 the juvenile division, he said to see, you know, if  
17 we can get any more medical information from any  
18 staff and if there's no improvement with the child to  
19 call the homicide division or if it took a turn for  
20 the worse.

21          Q.       And was it taking a turn for the worse?

22          A.       Yes. I had talked to -- I can't remember  
23 by name who it was, but it was medical staff and they  
24 said it was -- the baby had retinal hemorrhaging.

25                   MR. MARTIN: Objection to hearsay.

1                   THE COURT: Sustained.

2           Q.     (BY MS. ONCKEN) All right. Without going  
3 into that, what the doctor said, at some point did  
4 you or someone call the homicide division?

5           A.     Yes.

6           Q.     And did anyone from that division, an  
7 investigator, come to the hospital?

8           A.     Yes, ma'am. I talked to Sergeant Berringer  
9 from our homicide.

10          Q.     Okay.

11          A.     And he said that he was sending a couple of  
12 investigators and all we had to do was sit there and  
13 hold the scene and wait for them to arrive and take  
14 over from us.

15          Q.     And as soon as you knew that homicide was  
16 going to come kind of take over the investigation,  
17 did y'all do any more kind of investigating; or you  
18 just sort of turned that over to them?

19          A.     We just turned it over to them.

20          Q.     Okay. Did you ever go to any other scenes  
21 related to this case, specifically the apartment  
22 where it allegedly happened?

23          A.     No, ma'am.

24          Q.     Okay. Now, what would protocol be in terms  
25 of you've got some concerns about child abuse, you've

1 got the step-dad, the defendant here, who you have  
2 some concerns about. Is there a protocol for you let  
3 him go, you try to talk to him now? Did homicide  
4 tell you how to proceed with that?

5 A. Basically just told us to just hold what  
6 we've got. And as far as any interviewing, then let  
7 them do it or take him somewhere else or anybody else  
8 involved.

9 Q. And the parents, they were not ever under  
10 arrest?

11 A. No.

12 Q. Okay. After homicide arrived, did you aid  
13 them in getting the child's mother and the defendant  
14 to the homicide office for a statement?

15 A. Yes, ma'am. My partner and I, we took the  
16 defendant to the homicide division.

17 Q. Okay. You transported him for homicide?

18 A. Yes, ma'am.

19 Q. And is that typical for a witness? Would  
20 you drive any witness over for them?

21 A. Yes, ma'am.

22 Q. Okay. In other words, that's not because  
23 he was in trouble. It's just because that's your  
24 protocol?

25 A. Yes, ma'am.

1 Q. Was the defendant transported separately  
2 from the child's mother, Ms. Kelly?

3 A. Yes, ma'am.

4 Q. Again, is that protocol?

5 A. Yes, ma'am.

6 MS. ONCKEN: We'll pass the witness.

7 THE COURT: Mr. Martin.

8 CROSS-EXAMINATION

9 Q. (BY MR. MARTIN) Officer Harris, do you  
10 recall if Mr. Flowers was already at L.B.J. when you  
11 got there?

12 A. Yes, sir, he was already there.

13 Q. Did you ever learn how it was that he got  
14 to L.B.J. Hospital?

15 A. No. I don't know that.

16 Q. But he was not under arrest or in any  
17 police officer's custody there at L.B.J., was he?

18 A. No, sir.

19 Q. I mean, when you got to the scene --

20 A. When I got there, no, sir.

21 Q. -- he wasn't under arrest or anything. And  
22 who all was there in the way of family besides  
23 Mr. Flowers? I believe you said grandma and the  
24 child's mother.

25 A. Yes, sir.



1 Q. Was there anybody else there that you  
2 recall?

3 A. Not that I recall.

4 Q. And not just related to the baby. Anybody  
5 else interested in the baby, or just those three?

6 A. As far as I knew, it was just those three  
7 and the E.M.S. guys who transported the child.

8 Q. Right. Were there two E.M.S. guys?

9 A. As far as I can remember, yes, two or  
10 three. There was -- you know, they're all over the  
11 place. So...

12 Q. I guess so.

13 A. Yes, sir.

14 Q. All right. And I believe you testified it  
15 was obvious to you that grandma was upset?

16 A. Yes.

17 Q. But Mr. Flowers didn't seem to be upset to  
18 you particularly?

19 A. No, sir.

20 Q. Full of nervous energy but not sad?

21 A. No. I still say it was nervous energy.

22 Q. And the child's mother wasn't particularly  
23 sad either?

24 A. No, sir.

25 Q. I mean, it was -- her behavior was such

1 that you made a note of it in your report and  
2 remember it here two years later. I mean, her  
3 behavior was that odd, if that's the right word to  
4 use?

5 A. Yes, sir. I mean, it's -- we don't get  
6 injuries to children that often, and especially ones,  
7 you know, that die on us. So, it kind of sits with  
8 us.

9 Q. Do you recall how long it was, as best you  
10 recall, after you talked to Mr. Flowers that two  
11 homicide investigators made it to the scene, made it  
12 to L.B.J.?

13 A. I don't recall exactly how long, but it  
14 wasn't -- it was maybe an hour or so.

15 Q. Okay. And Mr. Flowers and Kamron's mother  
16 waited there at the hospital that whole time, right?

17 A. Yes, sir.

18 Q. They were not in custody or under arrest,  
19 right?

20 A. Not in custody or under arrest, but they  
21 were still detained.

22 Q. They were what?

23 A. Detained.

24 Q. You had your eye on them?

25 A. Yes, sir.

1 Q. Did you tell them, "You're detained and you  
2 can't leave"?

3 A. Not that I recall or remember telling them.

4 Q. Wouldn't you remember if you told a  
5 witness, a mother and a father or a step, "You cannot  
6 leave. Stay here until homicide comes"?

7 A. During that time it was -- it was either me  
8 or my partner. And I don't recall telling them that.

9 Q. Okay. You never handcuffed them or put  
10 them in a room and locked the door where they  
11 couldn't get out?

12 A. No, sir.

13 Q. Okay. When you transported Mr. Flowers  
14 down to the police station for whatever homicide  
15 wanted to do, did you handcuff him then?

16 A. Yes.

17 Q. And put him in the back of your patrol car?

18 A. Yes, sir.

19 Q. Okay. Would you say he was under detention  
20 at that time when he's handcuffed?

21 A. Yes, sir. Well, that's our protocol. Even  
22 if we take people and we transport them, they don't  
23 have to necessarily be under arrest. That's just for  
24 our safety to handcuff.

25 Q. Okay. So, every time you transport a

1 witness down to the police station, you cuff them?

2 A. Yes, sir.

3 Q. All right. And where did you take them?

4 A. At least I do.

5 Q. I'm sorry?

6 A. At least I do.

7 Q. Okay. That's who we're asking.

8 A. Yes, sir.

9 Q. When you got to the station, where did you  
10 take him?

11 A. 1200 Travis. We took him to our homicide  
12 division.

13 Q. 1200 Travis right downtown here?

14 A. Yes, sir.

15 Q. One of the skyscrapers that H.P.D. has?

16 A. I guess. Yeah, there's a lot of them.

17 It's definitely that one.

18 Q. And you took him to H.P.D. homicide?

19 A. Yes, sir.

20 Q. Okay. And do you recall who you turned him  
21 over to, so to speak?

22 A. Torres. Officer Torres, I think.

23 Q. Who is a homicide detective?

24 A. Yes, sir.

25 Q. All right. Thank you, Officer.

1 MR. MARTIN: I pass the witness.

2 THE COURT: Anything else?

3 MS. ONCKEN: Just briefly.

4 REDIRECT EXAMINATION

5 Q. (BY MS. ONCKEN) I just want to clarify that  
6 H.P.D.'s policy mandates that you have to cuff  
7 anybody that you put in your patrol car?

8 A. Yes, ma'am.

9 Q. That does not mean that person is being  
10 arrested or detained?

11 A. No, ma'am.

12 Q. Okay. And is it your testimony that the  
13 defendant was not being arrested?

14 A. No, he was still not under arrest.

15 Q. Did you stick around to -- was it you that  
16 transported the defendant back to wherever he needed  
17 to go after the interview or after he was finished  
18 talking to Sergeant Torres, or would that be someone  
19 else?

20 A. It was probably somebody else. It wasn't  
21 us.

22 Q. All right.

23 MS. ONCKEN: Pass the witness.

24 THE COURT: Anything else?

25

1                                   REXCROSS-EXAMINATION

2           Q.    (BY MR. MARTIN) Do you tell everybody that  
3 you handcuff and put in the back of the patrol car,  
4 "You're not under arrest. This is just the way we do  
5 it at H.P.D."?

6           A.    Not everyone. Some people know they're  
7 under arrest and some people, you know, we have to  
8 explain.

9           Q.    Some people have been there before and know  
10 the drill?

11          A.    Well, not even before. The first time  
12 they've been arrested, you know, hey, you know.

13          Q.    Okay.

14          A.    They don't really give us any problems when  
15 they know they're under arrest.

16          Q.    Okay. Thank you, Officer.

17                           MR. MARTIN: Pass the witness, Judge.

18                           THE COURT: Anything else?

19                           MS. ONCKEN: Nothing further.

20                           THE COURT: Thank you, sir. You can  
21 step down.

22                           Who's next?

23                           MS. ONCKEN: Alex Acosta. May I  
24 approach briefly?

25                           THE COURT: Yes.