

1 A. Yes, sir, that's the more common.

2 Q. You know, the vast, vast, vast majority of
3 9 millimeters are the type that spit out the shell casing
4 when you shoot with it; is that correct?

5 A. Yes, sir.

6 Q. All right. Did you find any 9 millimeter shell
7 casings that had been fired in the apartment?

8 A. No, sir.

9 MR. BREWER: Pass the witness, Your Honor.

10 THE COURT: Mr. Anderson.

11 MR. ANDERSON: No further questions, Your
12 Honor.

13 THE COURT: May this witness be excused?

14 MR. ANDERSON: Yes, Your Honor.

15 MR. BREWER: Please, Your Honor.

16 THE COURT: Thank you, Officer. You're free
17 to go. Just remain on call.

18 Call your next witness, please.

19 MS. DOZIER: Officer Lovelace.

20 THE COURT: Right up here, please, sir. If
21 you would, just have your seat. And would you please state
22 and spell your name for my court reporter.

23 THE WITNESS: Lowell Keith Lovelace,
24 L-O-W-E-L-L K-E-I-T-H L-O-V-E-L-A-C-E.

25 THE COURT: You may proceed.

1 MS. DOZIER: Thank you.

2 LOWELL KEITH LOVELACE,
3 having been first duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 Q. (BY MS. DOZIER) Officer Lovelace, can you
6 introduce yourself to the members of the jury now?

7 A. I'm Officer Lovelace, Lowell Lovelace.

8 Q. Are you a Houston -- City of Houston police
9 officer?

10 A. Yes, ma'am.

11 Q. And how long have you been a City of Houston police
12 officer?

13 A. 21 years.

14 Q. Are you sure you're old enough for that?

15 A. Yes, ma'am, I am.

16 Q. Okay.

17 A. Starting my 22nd year this year.

18 Q. Okay. When did you start with the police
19 department? What age?

20 A. 21.

21 Q. Okay. Are you from the Houston area?

22 A. Yes, ma'am.

23 Q. Born and raised?

24 A. Yes, ma'am.

25 Q. Your 21 years with the Houston Police Department,

1 did you have to start out in the academy like everybody
2 else?

3 A. Yes, ma'am.

4 Q. And after that academy, what did you do? What have
5 your assignments been over the past 21 years? You don't
6 have to tell us everything but kind of give us a general
7 overview.

8 A. Couple years patrol, almost ten years working gang
9 unit out of southwest Houston, three and a half years in
10 robbery and the last six in homicide.

11 Q. As a homicide investigator, do you only investigate
12 death cases?

13 A. We -- we investigate death, kidnappings and
14 sometimes major assaults, specifically gang-related major
15 assaults.

16 Q. Do you work with another individual in the homicide
17 division or when you work your cases, do you work them by
18 yourself?

19 A. Usually work with a partner.

20 Q. Okay. And how are you assigned to a case? How
21 does one come to you for your investigation?

22 A. They have a rotation, a call-out rotation, and as
23 the calls come in, whoever's first on the list gets the
24 first call, second gets the second call and on down the
25 line.

1 Q. So, if you -- if a call comes in the middle of the
2 night and you're on the call-out, do you get the call?

3 A. Yes, ma'am.

4 Q. It's not necessarily officers who are sitting in
5 the office waiting for the call; you could actually be
6 called at home?

7 A. Yes, ma'am.

8 Q. Were you involved in the investigation of the
9 capital murder case that took place on March the 11th of
10 2011, at 2757 Briargrove, No. 409?

11 A. I eventually became involved in it, yes, ma'am.

12 Q. Okay. You say "eventually." Were you in town on
13 that day?

14 A. No, ma'am, I was not. I was out of town. I was
15 actually assigned to be working that week; however, I went
16 out of town and had somebody cover for me.

17 Q. Who was your partner at that time?

18 A. Sergeant Bob Odom, Robert Odom.

19 Q. And did he actually make the scene of that
20 homicide?

21 A. Yes, ma'am, he did.

22 Q. Who was covering for you?

23 A. Rick Moreno, investigator.

24 Q. And do you know if he made the scene as well?

25 A. Yes, ma'am, he did.

1 Q. How long after March the 11th did you come back in
2 town, if you remember?

3 A. It was over spring break. It was the end of the
4 spring break for that year.

5 Q. Okay. And since two other homicide investigators
6 had originally made the scene, did those two investigators
7 continue with the investigation up to a certain point?

8 A. Yes, ma'am, they did.

9 Q. At what point did you become involved in this case?

10 A. It was January of 2012.

11 Q. Okay. How was it that you became involved?

12 A. Just going over old cases, make sure all leads had
13 been exhausted. This was one that I took to make sure all
14 leads had been exhausted before we set it in a open pending
15 status. Once it goes there, we're just waiting for
16 information. All leads had been exhausted in the case and
17 all we're doing is waiting for additional information to
18 come in. I just reviewed it to make sure everything had
19 been completed up to that point before doing that.

20 Q. So, up until January of 2012, I guess about nine
21 months, somebody else was handling the investigation?

22 A. Yes, ma'am.

23 Q. When you picked the case up in January of 2012, did
24 you have an opportunity to read reports or supplements
25 prepared by other officers?

1 A. Yes, ma'am.

2 Q. And did you have the opportunity to review either
3 witness statements or summaries of the witness statements
4 taken at or near the time of the offense?

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

6 Q. From what you could tell by looking at the other
7 officers' investigations, did there appear to be any
8 potential suspects? Were there any people who were named as
9 possible suspects that no one had been able to find at that
10 point?

11 A. There was a nickname of South Park that was listed
12 in the report. As of that point, nobody had identified
13 South Park.

14 Q. Okay. And when you say "nobody had identified," no
15 investigators had been able to figure out who South Park
16 was?

17 A. Correct, yes, ma'am.

18 Q. Okay. Was there any information in those other
19 investigators' reports that you thought you might be able to
20 follow up on to try and find South Park?

21 A. Yes, ma'am. It was a name of a lady that lived in
22 the apartment complex where the incident happened that was
23 believed to be friends with South Park's mom. Her name --
24 all they knew her by was Ms. May. I researched her.

25 Q. Okay. When you researched her, were you able to

1 find any information?

2 A. Yes, ma'am. I found a -- the name that was in the
3 report was her name. I pulled a photograph of her to show
4 witnesses to see if she was the friend that they were
5 referring to that Ms. May lived with or possibly Ms. May.

6 Q. And what was the name of that individual, if you
7 recall?

8 A. Essie Clay.

9 Q. So, you actually pulled her photograph up?

10 A. Yes, ma'am.

11 Q. And with her photograph, then what did you do?

12 A. I checked all the witnesses and complainants that
13 were -- that had survived the incident and located one of
14 them and went and spoke with him, presented the photo to
15 him.

16 Q. Who were the witnesses who had survived the
17 incident that you knew of?

18 A. Ieasha Fletcher, Markquis Richard, Malquan King.
19 There was a female that nobody would -- gave a name on.
20 We're still not certain who she was.

21 Q. Did you have a first name or a nickname on her?

22 A. We eventually, through the investigation, got a
23 name but I was unable to find anything on her.

24 Q. Do you remember what that name was?

25 A. Armani something.

1 Q. Okay. But you were never able to locate somebody
2 by that name?

3 A. No, ma'am.

4 Q. Okay. So, when you have this photograph of Essie
5 Clay, did you try and contact Ieasha Fletcher, Malquan King
6 or Markquis Richard?

7 A. I located Markquis Richard.

8 Q. And where did you find him?

9 A. Harris County Jail.

10 Q. Okay. That makes it easy for you to find him,
11 doesn't it?

12 A. Yes, ma'am.

13 Q. What did you do when you found that he was in the
14 Harris County Jail?

15 A. I went and visited with him, presented the photo to
16 him and asked him if this was the person he was referring to
17 that Ms. May either lived with or if it was Ms. May and he
18 identified her as the person he knew as Ms. May.

19 Q. Okay. With that information, now you actually know
20 who Ms. May is?

21 A. Yes, ma'am.

22 Q. The mother of South Park; is that correct?

23 A. Yes, ma'am.

24 Q. Is that all that you and Mr. Richard talked about
25 in the jail?

1 A. No, ma'am. He had mentioned that he had viewed a
2 photo array when he was in Louisiana and had circled one of
3 the pictures in the photo array.

4 Q. Were you aware of that when you spoke with him?

5 A. I knew a photo array had been sent to him but I was
6 unaware he had made an identification and circled the
7 picture.

8 Q. When you found out that, what did you do in regards
9 to that information?

10 A. Well, I obtained the photos of the people that were
11 in that photo spread and a couple other photos of males that
12 were similar in appearance and took them back to Mr. Richard
13 and showed him those to see which person he had identified
14 when he was in Louisiana.

15 Q. I want to kind of back you up on that a little.
16 You said you got the photos together that he was shown in
17 Louisiana. Who did you talk with to find out what
18 photographs he had been shown in Louisiana?

19 A. Oh, Investigator Moreno.

20 Q. Okay. Did you try --

21 MR. ANDERSON: I'm sorry. I didn't get the
22 name.

23 THE WITNESS: Moreno.

24 MR. ANDERSON: Oh.

25 Q. (BY MS. DOZIER) Did you try and get the actual

1 photographs or photo spread that Mr. Richard had been shown
2 in Louisiana?

3 A. Yes, ma'am, we did.

4 Q. Was Officer Moreno able to locate that?

5 A. No, ma'am, he was not.

6 Q. Okay. Then how did you go about making sure that
7 the photographs that you took back to show to Mr. Richard
8 were the same photographs that he'd been shown in Louisiana?

9 A. The numbers for the photographs from our database
10 were in the original report as being shown, so I was able to
11 pull those photos back up and then I added a couple others.

12 Q. Okay.

13 A. They were all from one particular gang in Houston
14 and I added a couple other photos of people from that gang.

15 Q. What was the gang?

16 A. South Park Posse.

17 Q. Is that why those photographs were used in the
18 first place, just because of the name of South Park and the
19 gang of South Park Posse?

20 A. Yes, ma'am.

21 Q. And did you verify with Officer Moreno that the
22 photographs that you were showing -- you were going to take
23 to Mr. Richard were, in fact, the ones that he had sent to
24 Louisiana for Mr. Richard to look at?

25 A. Yes, ma'am.

1 Q. Now, you said you added a couple other photographs
2 in there.

3 A. Yes, ma'am.

4 Q. Tell me about that. What was the purpose for that?

5 A. I just wanted to make sure I was fair and impartial
6 with it. I didn't know which ones -- I just wanted to make
7 sure there was no question on what he looked at. There was
8 only, like, eight members of the gang, so I added the other
9 two, just --

10 Q. Okay. And since you didn't have anything to do
11 with the investigation until January, I mean, you're trying
12 to recreate something that had been lost; is that fair to
13 say?

14 A. Yes, ma'am.

15 Q. While you're working on that, did you also try and
16 find somebody who -- a male family member who is associated
17 with Essie Clay?

18 A. Yes, ma'am. I checked Essie Clay through a
19 database that we had accessed at the time and was able to
20 locate a male relative -- excuse me -- that matched in age,
21 height and weight. I was able to run him and find a photo
22 of him and I prepared a photo array with his photo and a
23 photo of five other males similar in appearance.

24 Q. And do you know what his relationship was to Essie
25 Clay or just a male family member?

1 A. I'm not sure of the exact -- I believe he may have
2 been a son but I'm not a hundred percent sure. It's just
3 documented as a relative of Ms. Clay's.

4 Q. And do you recall what that individual's name is?

5 A. Donald Simpson.

6 Q. Okay. Did you compile a photo spread with Donald
7 Simpson's photograph in it along with other photographs to
8 show to the witnesses?

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

10 Q. And did you have an opportunity to go back and meet
11 with Markquis Richard and show him that photo spread, the
12 one containing the photograph of Donald Simpson?

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

14 Q. Was he -- did he make an identification out of that
15 photo spread?

16 A. No, ma'am, he did not.

17 Q. Did you also have an opportunity to show him the
18 different photographs that had been presented to him in
19 Louisiana?

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

21 Q. And when you presented those photographs to him,
22 did he make an identification out of those photographs?

23 A. Yes, ma'am, he did.

24 MS. DOZIER: May I approach the witness, Your
25 Honor?

1 THE COURT: You may.

2 Q. (BY MS. DOZIER) Officer Lovelace, looking at
3 State's Exhibit No. 3, do you recognize that photograph?

4 A. Yes, ma'am.

5 Q. Is this the photograph that Markquis Richard picked
6 out when you met with him an additional time and did he tell
7 you that this was the person he identified in Louisiana
8 about nine months earlier?

9 A. Yes, ma'am.

10 Q. Looking just at these other photographs, were these
11 one, two, three, four, five, six, seven, were these the
12 seven other photographs shown to Markquis Richard at the
13 same time?

14 A. Yes, ma'am.

15 Q. So, he was actually shown eight photographs?

16 A. Yes, ma'am.

17 Q. And he selected the one in State's Exhibit No. 3 as
18 the person who did the shooting?

19 A. Yes, ma'am.

20 Q. And the handwriting at the bottom, is that his
21 handwriting?

22 A. Yes, ma'am, it is.

23 Q. Okay. Now, you said all of these eight photographs
24 were members of the South Park Posse?

25 A. Yes, ma'am.

1 Q. Just so the jury can see, too, State's Exhibit No.
2 3, that's the photograph that Markquis Richard picked when
3 you met with him?

4 A. Yes, ma'am.

5 Q. When was that, if you recall?

6 A. It was in February of 2012.

7 Q. Okay. When you handed him those eight photographs,
8 did you observe him as he went through the photographs?

9 A. Yes, ma'am.

10 Q. And can you describe what you saw him do and how
11 his identification was?

12 A. He was looking through them, he would look at -- I
13 believe it was this photo, he kept looking at it, he went
14 through the others, came back, was studying two of the
15 photos and eventually identified this one as the one -- as
16 the person that did the shooting.

17 Q. Okay. Who is the person in this photograph?

18 A. His name's Sharif or something like that.

19 Q. Clarion Cerf?

20 A. Yes, that is --

21 Q. Okay. When he identified that person, did you or
22 somebody else do some investigation regarding Clarion Cerf?

23 A. Yes, ma'am.

24 Q. Were you able to determine whether or not he could
25 have possibly committed the crime?

1 MR. ANDERSON: Your Honor, I object to that.
2 It would call for hearsay on the part of this witness.
3 That's speculation.

4 THE COURT: Sustained.

5 Q. (BY MS. DOZIER) Did you have an opportunity to
6 look at some records from the Texas Department of Criminal
7 Justice-Institutional Division, prison?

8 A. Yes, ma'am.

9 Q. Was Mr. Cerf in prison at the time of the offense?

10 MR. ANDERSON: Excuse me. I'm going to
11 object. Calls again for speculation on the part of this
12 witness and also calls for hearsay.

13 THE COURT: Y'all come on up.

14 (At the bench, on the record.)

15 MS. DOZIER: We've actually got the
16 documentation.

17 THE COURT: That's what I'm wondering. Is
18 it --

19 MR. BREWER: We'll just offer that and then --

20 MR. ANDERSON: It's not going to be
21 self-proving in terms of who this other man is. There are
22 no photographs, there are no fingerprints, nothing connected
23 to that document.

24 MR. BREWER: He can prove up --

25 MR. ANDERSON: Well, that's still based on

1 hearsay, what was told to him. Any information he has was
2 what's told to him.

3 MR. BREWER: No.

4 MR. ANDERSON: Yes.

5 MR. BREWER: I'm not disagreeing with that
6 part. I'm saying he can attach that document to that
7 photograph.

8 MR. ANDERSON: That's based on what he was
9 told.

10 MR. BREWER: No, based on -- okay.

11 MR. ANDERSON: The proper person would be
12 somebody from TDC.

13 MS. DOZIER: Okay. If I got to get them here.
14 They're on the list.

15 THE COURT: Oh, so he was in TDC.

16 MS. DOZIER: He was in prison at the time of
17 the offense.

18 THE COURT: But he's in TDCJ right now, too.

19 MS. DOZIER: Yeah, and has been since 2010.

20 MR. BREWER: Who's the declarant of the
21 hearsay? There has to be a declarant for there to be
22 hearsay. Who is the declarant of the hearsay?

23 MR. ANDERSON: The person he talked to at TDC.

24 THE COURT: Did the --

25 MR. BREWER: Criminal history, yeah. That's

1 what I'm saying is there has to be --

2 MR. ANDERSON: He talked to someone at TDC.
3 That's how he was able to get the information.

4 MR. BREWER: We can ask him a different
5 question: Have you reviewed the criminal history?

6 MR. ANDERSON: No, that's what I'm saying,
7 that's still going to be hearsay, even his criminal history.

8 MR. BREWER: That part I disagree with you on.
9 There has to be a declarant for there to be hearsay. And I
10 agree if he was going to testify about something somebody
11 told him, but the review of the criminal history, that's a
12 database, that's not a declarant -- that's not hearsay.

13 MR. ANDERSON: It's still hearsay.

14 MR. BREWER: That part I disagree with you on.

15 THE COURT: Okay. I guess -- is he on the
16 subpoena list?

17 MS. DOZIER: I think I have him down as TDCJ
18 custodian of records.

19 THE COURT: Okay.

20 MS. DOZIER: So, you know, basically anybody
21 from TDCJ who's a custodian.

22 THE COURT: And this has not been on file?

23 MS. DOZIER: No, no. I just -- oh, no. No,
24 it hasn't. It's been in the file. I don't know if you saw
25 it. It's been in the file.

1 THE COURT: I was looking to see if it's got a
2 business records affidavit on it, so if it was a business
3 record, that wouldn't be a problem. I guess we're just
4 going to have to get them down here.

5 MS. DOZIER: Okay. I am going to ask him a
6 few follow-up questions on this but I know where I can shut
7 down, so.

8 THE COURT: All right. Well, I mean --

9 MS. DOZIER: Yeah.

10 THE COURT: I don't want to tell you what to
11 do.

12 (*End of discussion at the bench.*)

13 Q. (BY MS. DOZIER) Officer Lovelace, did you have an
14 opportunity to speak with somebody in addition to review
15 records from prison regarding Clarion Cerf?

16 A. Yes, ma'am.

17 Q. After you had the opportunity to speak with that
18 individual and review the prison records regarding Clarion
19 Cerf, were you able to eliminate him as a suspect in this
20 case?

21 MR. ANDERSON: Again, I object to his
22 conclusion. It would be based on hearsay, Your Honor, and
23 speculation.

24 THE COURT: Overruled.

25 A. Yes, ma'am, I was.

1 Q. (BY MS. DOZIER) Okay. Once you had that
2 information, what did you do back in regards to Essie Clay?

3 A. We started looking for her, checking all her old
4 addresses.

5 Q. Have any luck with that?

6 A. Eventually we did, yes, ma'am. We were able to
7 locate her. Don't remember the exact address. She had
8 updated her driver's license with a new address. We were
9 able to check that address.

10 Q. Okay. So when you found the new updated address on
11 the driver's license, did you go out to that location?

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

13 Q. When you went out to that location, did you find
14 anybody there?

15 A. Yes, ma'am. We knocked on the apartment door and
16 it was answered by a male that we later identified.

17 Q. Okay. How was that individual acting when you
18 answered the door?

19 A. Very nervous.

20 Q. What do you mean by that?

21 A. You could tell in his voice that -- a nervous
22 voice, kind of refused to answer our questions at first.
23 When we explained we just needed to identify the person we
24 were speaking to for our report, he finally gave us his
25 name. He would only open the door about that much, just

1 enough to look out. My partner asked him where he grew up.
2 He told us in South Park.

3 Q. When you heard that, what did you think?

4 A. That he was possibly going to be the person that
5 Markquis had told us that he knew as South Park.

6 Q. Did he fit the general physical description of
7 South Park?

8 A. Yes, ma'am, he did.

9 Q. And you said that you obtained his identification?

10 A. Well, we just -- he just verbally identified
11 himself to us.

12 Q. And how did he verbally identify himself? What
13 name did he give you?

14 A. Anthony Smith.

15 Q. Once you had that information, what did you do with
16 it?

17 A. Went back, searched -- researched him, was able to
18 obtain a photograph of him and put him in a photo spread
19 with five other individuals that were similar in
20 characteristics.

21 Q. Once you had that photo spread prepared with
22 Anthony Smith's photograph in it, what did you do with it?

23 A. I met with Markquis Richard and presented the photo
24 array to him.

25 Q. When you met with him, was he still in jail or was

1 he somewhere else at this point?

2 A. No, ma'am, he was out. Located him at his mother's
3 house.

4 Q. Okay. When you showed him the photo spread, did
5 you give him any admonishments about the photo spread?

6 A. Yes, ma'am.

7 Q. And did you give him those same admonishments when
8 you showed him previous photo spreads or the group of
9 photographs?

10 A. Yes, ma'am.

11 Q. What is the admonishment that you give?

12 A. Tell him that it's unknown to me if the person or
13 persons involved in this are in the photos, that only he
14 would know, that he needs to pay attention to the facial
15 features, not the hairstyles or facial hair because all that
16 can change, and the fact that the lighting in some of the
17 photos are not always best, so a person may appear lighter
18 or darker in a photo because of the lighting.

19 Q. Okay. Once you gave him the admonishments, did you
20 show him the photo spread?

21 A. Yes.

22 Q. And what did he do?

23 A. He looked at the photos and immediately pointed out
24 the photo in the No. 4 position, said that he was South
25 Park.

1 Q. Okay. And did you actually have him do something
2 to note that he had identified the person in the photo
3 spread whom he identified?

4 A. Yes, ma'am. I had him circle the photo, put what
5 he had told me, write out what he had told me and then sign
6 his name and put the date.

7 Q. And you had him circle the person he picked out?

8 A. Yes, ma'am.

9 MS. DOZIER: Okay. May I approach the
10 witness?

11 THE COURT: You may.

12 Q. (BY MS. DOZIER) Looking at State's Exhibit No. 4,
13 is this the photo spread that you showed to Markquis
14 Richard?

15 A. Yes, ma'am, it is.

16 Q. And do you see his indication that he identified a
17 particular person in that photo spread?

18 A. Yes, ma'am, written across the top, says, This is
19 South Park.

20 Q. And the person who appears in Space No. 5 in that
21 photo spread, who is that individual?

22 A. Anthony Smith.

23 Q. Okay. And that's the person we see down here at
24 Position No. 5?

25 A. Yes, ma'am.

1 Q. Once he identified Anthony Smith, that's the first
2 person you have at this point who's a legitimate suspect
3 now; is that correct?

4 A. Yes, ma'am.

5 Q. Did you check and make sure Anthony Smith wasn't in
6 prison at the time of the offense?

7 A. Yes, ma'am.

8 Q. Okay. And once you verified that information, what
9 did you do in regards to Anthony Smith?

10 A. Obtained a probable cause warrant for his arrest
11 and the next morning, executed the warrant, arrested him
12 coming out of his mother's apartment complex.

13 Q. Okay. Once he was arrested, what did you do with
14 him? Was he taken straight to jail or did y'all talk with
15 him?

16 A. No, ma'am. He was brought to our office where we
17 interviewed him. He denied any knowledge of this. We
18 terminated the interview, sent him on to the city jail.
19 Later in the afternoon, my partner and I did a mock lineup.

20 Q. What's that?

21 A. It's a lineup where you have multiple people. We
22 had five people involved in this one that are similar in
23 height, age, weight. They come across a stage. You
24 videotape it, you have them do certain things, movements,
25 head up, head down, turn sideways, turn to the back, turn to

1 the side, face the front. I had talked to Malquan and was
2 able to get from him what he had heard one of the suspects
3 say, so I had each participant in the mock lineup repeat the
4 phrase that Malquan had told me they had used.

5 Q. Do you remember what the phrase was?

6 A. Where it at, where it at.

7 Q. Okay. And --

8 A. The -- the lineup was video-recorded onto a CD for
9 future use.

10 Q. Now, how do you go about picking the individuals
11 who will be in the lineup?

12 A. You go to the jail population and find males that
13 are similar in appearance. In this case we were -- you try
14 to use at least six, if you can. Unfortunately we could not
15 find a sixth so we only used five in the lineup, in this
16 one.

17 Q. Okay. And Anthony Smith, he was in the lineup as
18 well?

19 A. Yes, ma'am.

20 Q. How do you determine which position he's going to
21 be in, you know, the No. 1 guy out, 2 guy, 3, 4?

22 A. We afforded him the opportunity to choose his
23 position as he was allowed to choose the position of the
24 other participants in the lineup.

25 Q. Okay. And why is it that you have them turn, you

1 said, head up, head down and turn and say the phrase?

2 What's the purpose?

3 A. To get all views of them, front, side, back and
4 then the voice, voice recognition.

5 Q. You said it was a mock lineup. Why do you call it
6 a mock lineup?

7 A. There was no witnesses present at the time. It was
8 just my partner and I running the lineup. We had no
9 witnesses. If we'd had witnesses there, we would refer to
10 it as a live lineup.

11 Q. Okay. So, actually record it so you can use it
12 later?

13 A. Yes, ma'am.

14 Q. Do you prefer -- and I'm not saying which one's
15 necessarily better but do you prefer using a mock lineup or
16 a live lineup as opposed to a photo spread?

17 A. Yes, ma'am, I do.

18 Q. Why is that?

19 A. I think it gives a victim a better perspective of
20 the person. I think that especially if they start -- if
21 words are exchanged, the hearing the voice and seeing the
22 body, I think it's better for the victim to make an
23 identification.

24 Q. So you think it's easier for somebody to recognize
25 somebody if they can see the whole package?

1 A. Yes.

2 Q. Okay. As opposed to just a face?

3 A. Yes, ma'am.

4 Q. After the lineup was recorded, did Anthony Smith go
5 straight back to the jail or did y'all talk to him again?

6 A. We asked him if he wanted to talk to us. He said
7 he did. We took him to an interview room and talked with
8 him about this after giving him his warnings.

9 Q. You said originally he denied any involvement.

10 A. Yes, ma'am.

11 Q. Did he change his story?

12 A. Yes, ma'am, he did.

13 Q. Did he tell you anything about the case?

14 A. He told us his version of what happened that night
15 and gave us the other person involved with it, that was with
16 him.

17 Q. Does he admit to being there?

18 A. Yes, ma'am, he did.

19 Q. You say he gave you the name of the other person
20 involved. Did he say what part the other person played?

21 A. That he produced a weapon and was the one that was
22 asking, Where it at, where it at, demanding stuff.

23 Q. And this other person that he named, what was the
24 name that he gave you?

25 A. Excuse me. John Smith is the name that he gave me.

1 Q. When he gave you the name of John Smith and told
2 you he was the other person involved, what did you do with
3 that information?

4 A. I researched it through our computer system and I
5 found a person with the name of -- what was it? Let me make
6 sure because there was several of them. Andre Jones and
7 that was an alias for John Smith.

8 Q. Okay. Did you later learn that John Smith had
9 another alias or known by another name of Christopher Lamont
10 Penn?

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

12 Q. You said you actually found a photograph in your
13 database?

14 A. Yes, ma'am.

15 Q. What did you do with that photograph to determine
16 whether or not you found the right John Smith/Christopher
17 Penn?

18 A. Allowed Anthony to view it and he confirmed that
19 was the person he was talking about in his statement.

20 Q. Okay. Did he say if this person was any relation
21 to him?

22 A. Said it was his brother.

23 Q. Once -- so now you have a second suspect; is that
24 correct?

25 A. Yes, ma'am, yes, ma'am.

1 Q. Did you do anything with that information?

2 A. We -- I prepared a photo array with a photo of
3 Christopher Penn and five other males similar in appearance,
4 I gave it to my partner, Sergeant Ruland, to show to
5 Markquis.

6 Q. Okay. Now, just to be clear, you said you prepared
7 a photo array with Christopher Penn's photograph? Is
8 Christopher Penn also John Smith?

9 A. Correct.

10 Q. And did you at some point meet Christopher Penn
11 alias John Smith or John Smith alias Christopher Penn?

12 A. Yes, ma'am.

13 Q. Do you see him here in the courtroom today?

14 A. Yes, ma'am.

15 Q. Can you point him out and describe something that
16 he's wearing?

17 A. Gentleman here in the blue plaid shirt.

18 MS. DOZIER: Your Honor, may the record
19 reflect that the witness has identified the defendant?

20 THE COURT: The record will so reflect.

21 Q. (BY MS. DOZIER) What was it that your partner,
22 Sergeant Ruland, did with the photo spread?

23 A. He met with Markquis Richard and showed it to him.

24 Q. And do you know whether or not Markquis Richard
25 made an identification in that photo spread?

1 A. He did not.

2 Q. While this was going on, were you making attempts
3 to find any of the other witnesses, specifically the girl
4 named Armani?

5 A. Yes, ma'am. I was running through -- running her
6 through all our databases that we had available to us. I
7 could not find anything with anybody with that name.

8 Q. Okay. From your reading of the files by the other
9 investigators, had anybody else spoken to her?

10 A. No, ma'am.

11 Q. Once you had the opportunity to check with Markquis
12 Richard, did you attempt to locate any of the other
13 witnesses? You said you looked for Armani but you couldn't
14 find her. Did you find any of the other witnesses to show
15 photo spreads or mock lineups to?

16 A. Yes, ma'am. We located Ieasha Fletcher, another
17 one that was in the apartment, in Baton Rouge, Louisiana.

18 Q. You said you located her. Like, did you go out
19 driving out there and find her out there?

20 A. No, ma'am. Made phone calls and got addresses and
21 found that she was in Baton Rouge, back in Baton Rouge.

22 Q. What did you do when you found out she was in Baton
23 Rouge?

24 A. My partner, Sergeant Ruland, and I traveled to her
25 place of residence in Baton Rouge and presented the photo

1 spread of Mr. Penn and the video lineup of Mr. Smith.

2 Q. Okay. Was she able to identify anybody in the
3 photo spread containing the defendant's photograph?

4 A. Yes, ma'am, she did.

5 Q. And did you give her the admonishments that you've
6 spoken of earlier?

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

8 Q. Make sure she did not feel compelled to pick
9 anybody out.

10 A. Right.

11 Q. And when you showed her the photo spread containing
12 the photograph of the defendant, was she able to identify
13 anybody?

14 A. Yes, ma'am, she did.

15 Q. Who did she identify?

16 A. The defendant.

17 MS. DOZIER: May I approach the witness, Your
18 Honor?

19 THE COURT: You may.

20 MS. DOZIER: Now may I approach the witness?

21 THE COURT: You may.

22 Q. (BY MS. DOZIER) Officer Lovelace, looking at
23 State's Exhibit No. 9, do you recognize what that is?

24 A. It's a photo spread I prepared on the defendant.

25 Q. Is this the photo spread you presented to Ieasha

1 Fletcher in Baton Rouge, Louisiana?

2 A. Yes, ma'am.

3 Q. When was it you went out to meet with her in
4 Louisiana to show her this photo spread?

5 A. April of 2012.

6 Q. Okay. And did she identify the defendant?

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

8 Q. And there appears to be some writing on that photo
9 spread on the individual in Position No. 4. Whose writing
10 is that?

11 A. Ms. Fletcher's.

12 Q. So, she actually put her writing on there to
13 indicate that she'd selected that individual?

14 A. Yes, ma'am.

15 Q. And who is that person in Position No. 4?

16 A. Mr. Penn.

17 Q. Okay. The defendant in this case?

18 A. Yes, ma'am.

19 MS. DOZIER: Your Honor, at this time I'd like
20 to offer State's Exhibit No. 9 and I'll tender it to defense
21 counsel for any objections.

22 MR. ANDERSON: No objection.

23 THE COURT: State's Exhibit 9 will be
24 admitted.

25 Q. (BY MS. DOZIER) I'm looking at State's Exhibit No.

1 9. Is the defendant the individual that we see in the
2 bottom left-hand corner? Is that the defendant?

3 A. Yes, ma'am.

4 Q. Okay. And it appears the writing around there
5 says: Shooter, date, looks like 4-19-2012, and there's a
6 time on it, and it looks like Ieasha. So Ms. Fletcher
7 actually put her signature on that photo spread?

8 A. Yes, ma'am.

9 Q. At this point in the investigation, did you have a
10 mock lineup of the defendant?

11 A. No.

12 Q. Okay. So, all you had at this point was the photo
13 spread?

14 A. Yes, ma'am.

15 Q. At this point in the investigation, did you now
16 have a mock lineup of Anthony Smith?

17 A. Yes, ma'am, we did.

18 Q. And you said that you prefer that over the photo
19 spread if you can help it.

20 A. Correct.

21 Q. Is that why you took the mock lineup of Anthony
22 Smith with you to Louisiana, to show to Ms. Fletcher?

23 A. Yes, ma'am.

24 Q. And did you show her that mock lineup?

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

1 Q. Did she identify anybody from the mock lineup?

2 A. Yes, ma'am, she did.

3 Q. And who did she identify?

4 A. Anthony Smith.

5 Q. And what did she -- how did she identify him? What
6 was his part in the robbery?

7 A. He was the person that demanded the phones and
8 tased her when she refused to give the phone up.

9 Q. Okay. Once Ms. Fletcher identified the defendant
10 in this case, Mr. Penn, what did you do with that
11 information?

12 A. We met with a DA and obtained a probable cause
13 warrant for his arrest.

14 Q. Is that an arrest warrant?

15 A. Yes, ma'am.

16 Q. Was that arrest warrant for the defendant?

17 A. Yes, ma'am.

18 Q. Okay. In what name did you obtain that arrest
19 warrant?

20 A. I believe it was under the Andre Jones name.

21 Under Christopher Penn.

22 Q. Okay. And was that for Christopher Lamont Penn?

23 A. Yes, ma'am.

24 Q. Now, you also knew that he had additional aliases.

25 A. Yes, ma'am.

1 Q. But Christopher Lamont Penn was the first name in
2 your system and that's -- is that the reason that you used
3 that name as opposed to Andre Jones or John Smith?

4 A. Yes, ma'am.

5 Q. Once you obtained an arrest warrant for the
6 defendant in this case, what did you do with that?

7 A. I requested assistance from our Gulf Coast Violent
8 Offenders Task Force in locating and arresting him, which
9 they did.

10 Q. Okay. And once they arrested him, what did they do
11 with him?

12 A. They brought him to the homicide office for us to
13 interview him.

14 Q. Did you have an opportunity to meet with the
15 defendant?

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

17 Q. Does he look the same today as he did when you met
18 with him back in -- when was that?

19 A. April of 2012. He's heavier.

20 Q. Heavier today or back then?

21 A. Today.

22 Q. Okay. And when you met with him, did he confess
23 his involvement?

24 A. No, ma'am, he denied involvement.

25 Q. Did he attempt to provide you with an alibi,

1 something to -- where he couldn't have been involved?

2 A. Yes, ma'am.

3 Q. What was the alibi?

4 A. That he was in jail at the time.

5 Q. And did you check that alibi out?

6 A. Yes, ma'am.

7 Q. After you checked that alibi out, was he then ruled
8 out as a suspect?

9 A. No, ma'am, he was not.

10 Q. He was still a suspect at this point?

11 A. Yes, ma'am.

12 Q. Okay. And after that, were charges filed on the
13 defendant, Christopher Lamont Penn?

14 A. Yes, ma'am.

15 Q. As a peace officer, do you carry a firearm?

16 A. Yes, ma'am.

17 Q. What type of a firearm do you carry?

18 A. I carry a semiautomatic.

19 Q. And when you fire a semiautomatic firearm, what
20 happens to the empty shell casings after the bullet's
21 ejected out of the gun?

22 A. They're ejected out the side of the weapon, another
23 fresh case is inserted and ready to fire and the shell
24 casings are extracted out.

25 Q. Okay. And so generally if you fire a semiautomatic

1 weapon somewhere, shell casings are going to get left
2 behind?

3 A. Yes, ma'am.

4 Q. That's a deadly weapon, a firearm?

5 A. Yes, ma'am.

6 Q. Do you know of another type of a pistol?

7 A. Yes, ma'am, revolver.

8 Q. Okay. Tell us a little bit about a revolver.

9 A. Revolver has a cylinder in the middle that you put
10 your bullets in, up to six bullets, and as you fire, it
11 rotates and it contains the spent shell casings in that
12 cylinder until you open it and extract them yourself.

13 Q. So, if you fire a pistol at a location one time,
14 two times, three times, however many times that you have the
15 gun loaded for, unless you empty it and empty it out, the
16 shell casings, the empty casings actually stay in the gun?

17 A. Yes, ma'am.

18 Q. Okay. And is a revolver a firearm?

19 A. Yes, ma'am.

20 Q. Is it a deadly weapon?

21 A. Yes, ma'am.

22 Q. Is it capable of causing serious bodily injury and
23 death?

24 A. Yes, ma'am.

25 MS. DOZIER: I'll pass the witness.

1 THE COURT: Mr. Anderson.

2 MR. ANDERSON: Thank you, Your Honor.

3 **CROSS-EXAMINATION**

4 Q. (BY MR. ANDERSON) Officer Lovelace, detective or
5 Investigator Ruland was your partner back during March 11th
6 of 2011?

7 A. He became -- we became partners after that. He was
8 my supervisor.

9 Q. Now, it was because you were out of town was why
10 you were not the, I guess, lead detective or involved in the
11 investigation right from the beginning; is that --

12 A. Correct.

13 Q. All right. But at some point in time you were back
14 into town but still had not taken on the investigation of
15 this case, correct?

16 A. Correct.

17 Q. All right. Now, did I understand correctly that
18 your first involvement in the investigation didn't take
19 place until January of 2012?

20 A. Correct.

21 Q. All right. And would it be a fair statement up
22 until that time there had been no activity on the case at
23 all or there had been some activity?

24 A. To my knowledge, there had been none.

25 Q. All right. Now, at some point in time it sounds

1 like Officer Moreno prepared a photo -- a photo spread and
2 did he contact someone with the FBI office and ask them to
3 go down to Baton Rouge, Louisiana, to meet with any of the
4 witnesses to show them photographs?

5 A. Yes, sir, he did.

6 Q. All right. Now, you didn't -- you weren't
7 personally involved in that. That's information that you
8 received from Officer Moreno?

9 A. Yes, sir.

10 Q. All right. And somewhere in, I guess, the police
11 report, he recorded the numbers of those photographs; I
12 guess it would be ID numbers of those photographs that have
13 been placed in that photo spread, sent to the FBI agent for
14 that agent to show the photo spread to any witness, right?

15 A. Yes, sir.

16 Q. All right. Now, have you personally seen the photo
17 spread that was prepared by Officer Moreno to be shown to
18 the witnesses in Louisiana?

19 A. No, sir.

20 Q. All right. Now, I take it that -- well, let me ask
21 you this. Have you spoken to the FBI agent that showed the
22 photo spread to the witnesses down in Louisiana?

23 A. I did not personally. Sergeant Ruland did.

24 Q. Okay. Now, in talking with -- and only if you
25 know -- when Officer Ruland spoke with the FBI agent, did

1 the FBI agent provide to your partner, Ruland, the photo
2 spread that was shown to the witnesses in Louisiana?

3 A. No, sir, he didn't.

4 Q. All right. Did he have an explanation as to where
5 the photo spread was?

6 A. He said he sent it to the FBI field office here in
7 Houston.

8 Q. All right. And did you or Officer Ruland contact
9 the FBI office here in Houston regarding that photo spread?

10 A. Yes, sir, we did.

11 Q. And were you able to locate it?

12 A. No, sir.

13 Q. All right. Now, have you made any effort to try
14 and locate the whereabouts of that particular photo spread?

15 A. Other than making the inquiries where it would be
16 from the FBI, no.

17 Q. Okay. Based on the numbers, the identification
18 numbers that were recorded in the report, you gathered up
19 the photographs that were placed in the photo spread that
20 had been taken by the FBI agent to Louisiana to be shown to
21 the witnesses, correct?

22 A. Yes, sir.

23 Q. All right. And in terms of the witnesses that were
24 shown, we're only talking about Mr. Richard, who was shown
25 that photo spread by the FBI agent?

1 A. I don't know if -- I don't know if Ms. Fletcher had
2 a chance to observe them or not. I just know that
3 Mr. Richard did, based on his statement to me.

4 Q. All right. Now, there's nothing in the police
5 report that would indicate that Ms. Fletcher was shown
6 the -- that particular photo spread by the FBI agent that
7 showed the photo spread to Mr. Richard, correct?

8 A. Correct.

9 Q. All right. I guess we could assume that had that
10 photo spread been shown to Ms. Fletcher, that would have
11 been documented in the offense report, just as was
12 documented in the offense report when the agent showed the
13 report -- I mean, the photo spread to Mr. Richard, correct?

14 A. Yes, sir.

15 Q. All right. So, I guess we can assume that she was
16 not shown that particular photo spread.

17 A. I guess so, yes, sir.

18 Q. Okay. Now, in addition to those photographs that
19 were in that particular photo spread, you included two other
20 photographs to again be shown to Mr. Richard, correct?

21 A. Yes, sir.

22 Q. All right. And when you met with Mr. Richard and
23 showed him now the eight photographs, they weren't in a
24 photo spread; they were individual, correct?

25 A. Yes, sir.

1 Q. All right. Mr. Richard went through the
2 photographs and picked out the photograph of the person who
3 he identified as the shooter of Mr. Reginald Williams,
4 correct?

5 A. Yes, sir.

6 Q. I mean, you had to make that notation on the
7 photograph itself.

8 A. Yes, sir.

9 Q. All right. Now, the person that he identified from
10 the photographs shown to you was the very same person who
11 Mr. Richard identified out of the photo spread that was
12 shown to him by the FBI agent.

13 A. That I do not know. It's unclear in the report
14 which one he actually identified. I'm going to assume that
15 since he identified him a second time, it is, yes. He told
16 me it was.

17 Q. You, in fact, asked him, Is that the same person
18 you identified to the FBI agent as the person who did the
19 shooting?

20 A. Yes, sir, I did, yes, sir.

21 Q. All right. And he told you, yes, that was the same
22 person who he identified to the FBI agent as being the
23 person who was the shooter.

24 A. Yes, sir.

25 Q. All right. And there had been some time that had

1 passed between when the FBI agent showed Mr. Richard the
2 photo spread and the time in February, I guess -- I think it
3 was February 6th, 2012, when you showed the series of
4 photographs to Mr. Richard. Some time had passed.

5 A. Yes, sir.

6 Q. Okay. All right. Now, when Mr. Richard identified
7 the photograph that you showed him, which is State's Exhibit
8 No. 3, he did not indicate that that didn't look like the
9 person or this might be the one who did the shooting. He,
10 in fact, said that was the shooter of Reginald Williams.

11 A. Yes.

12 Q. Okay. Now, at some point in time during the
13 investigation, you talked about you eventually located
14 Ms. May, Ms. Essie who ended up being the mother of a
15 individual by the name of Anthony Smith and you did your
16 research on Anthony Smith, you prepared a photo spread of
17 Anthony Smith and Mr. Richard identified him as the person
18 who he knew as South Park, correct?

19 A. Yes, sir.

20 Q. All right. Now, again, as the State asked, up
21 until that point in time, Anthony Smith was the only suspect
22 that you had?

23 A. Yes, sir.

24 Q. Right? But based upon Mr. Richard identifying
25 Anthony Smith, you did your pocket warrant for the arrest of

1 Mr. Smith, you eventually arrest him, I believe you
2 indicated the next day, you walked him to the gate or
3 something like that, but he's taken into custody and brought
4 down to homicide division and interviewed.

5 A. Yes, sir.

6 Q. All right. Now, the first interview, he denied any
7 knowledge, swore to you he had nothing to do with the case
8 that you were investigating, right?

9 A. Yes, sir.

10 Q. And I would take it that you kind of gave him some
11 indication as to what the case was about that you had placed
12 him under arrest for and what the investigation involved,
13 correct?

14 A. Yes, sir.

15 Q. I mean, you didn't go in a lot of detail but at
16 least he had some idea of what it was you were talking
17 about.

18 A. Yes, sir.

19 Q. All right. He denied any type of involvement?

20 A. Yes, sir.

21 Q. All right. You then place him in a mock lineup,
22 you indicated, for purposes of showing the mock lineup to
23 persons later on and it was at that time that you
24 reinterview Mr. Smith.

25 A. Yes, sir.

1 Q. All right. Now, how long did that interview last,
2 approximately?

3 A. 45 minutes maybe.

4 Q. And was it just you and Mr. Smith doing the
5 interview or was it you, Officer Ruland or some other
6 detective and Mr. Smith?

7 A. Sergeant Ruland, myself and Anthony Smith.

8 Q. And this occurred at the homicide --

9 A. No, sir. It was at the old central hold area, 61
10 Riesner or --

11 Q. And that interview was audiotaped?

12 A. Yes, sir.

13 Q. And videotaped, correct; or do you know if it was
14 videotaped?

15 A. I think it was just audio.

16 Q. All right. And I take it when you were talking to
17 Mr. Smith, you advised him that the interview was being
18 taped.

19 A. Yeah, the audio recorder's sitting on the table.
20 He's aware of it, yes.

21 Q. And you gave him his warnings and everything,
22 correct?

23 A. Yes, sir.

24 Q. And you talked for about 45 minutes.

25 A. Yes, sir.

1 Q. All right. Now, based on -- he gave you the name
2 of his brother, John Smith. Based on that information, you
3 then prepare a photo spread with the photograph of
4 Mr. Smith, my client, in it, correct?

5 A. Yes, sir.

6 Q. Okay. And I think it's the photo spread that's up
7 on the -- is that the photo spread?

8 A. Yes, sir.

9 Q. All right. Now, after you prepared that photo
10 spread, do you then get the pocket warrant and place
11 Mr. Smith, my client, under arrest?

12 A. After preparing that photo spread, Sergeant Ruland
13 and I drove to Louisiana and met with witness Fletcher.

14 Q. Okay. Ieasha.

15 A. Yes, sir.

16 Q. Okay. At that time you knew that, along with the
17 name of John Smith, my client also used the name of
18 Christopher Penn, also had the name of Andre Jones, correct?

19 A. Yes, sir.

20 Q. All right. Now, when you went to Louisiana, you
21 met with Ms. Fletcher. You showed her this photo spread,
22 correct?

23 A. Yes, sir.

24 Q. And she identified my client.

25 A. Yes, sir.

1 Q. All right. Now, you had her do the marking on that
2 photo spread, correct?

3 A. Yes, sir.

4 Q. Which is the same thing that was done with other
5 photo spreads that were presented during the course of this
6 case.

7 A. Yes, sir.

8 Q. All right. Now, at some point in time after
9 showing the photo spread to Ms. Fletcher, do you show the
10 same photo spread to Markquis Richard?

11 A. I believe it was actually shown before but I'll
12 check my dates.

13 Q. Okay. Well --

14 A. It was eventually shown to him, yes, sir.

15 Q. Well, it may not matter whether you showed it
16 before or after but the same photo spread was shown to
17 Mr. Richard?

18 A. Yes, sir.

19 Q. All right. Now, actually, I mean it was a copy of
20 the same photo spread, correct?

21 A. Yes, sir. I wouldn't show the one that's marked
22 up, no, sir. It's a copy that had no writing on it
23 whatsoever.

24 Q. All right. Now, when you showed the photo spread
25 to Mr. Richard, which would be the copy of the exhibit

1 that's on the monitor, and Mr. Richard looked at that photo
2 spread, did you have him make any markings on the photo
3 spread?

4 A. Sergeant Ruland --

5 Q. I'm sorry.

6 A. -- showed it and not myself. And no, sir, he
7 didn't have him make any markings on it.

8 Q. You weren't present when the photo spread was
9 shown?

10 A. No, sir.

11 Q. Is Officer Ruland still part of the Houston Police
12 Department?

13 A. Yes, sir.

14 Q. I take it you talked with Officer Ruland regarding
15 the showing of that photo spread to Mr. Richard?

16 A. Yes, sir.

17 Q. All right. And would it be a fair statement that
18 in terms of the procedure that was followed, as far as you
19 know, in terms of procedure that was followed in terms of
20 admonishing a witness prior to them looking at the photo
21 spread, making sure that, you know, whatever they do, they
22 do it based upon what they observed, that that was followed?

23 A. Yes, sir.

24 Q. All right. Excuse me. You know, you nor Officer
25 Ruland would do anything that would influence a witness in

1 terms of making an identification?

2 A. No, sir, I would not.

3 Q. You would just present the photo spread to them,
4 right?

5 A. Yes, sir.

6 Q. Based on your conversation with Detective Ruland,
7 when Mr. Richard looked at the very same photo spread that
8 Ms. Fletcher looked at, he did not identify anyone from that
9 photo spread, correct?

10 A. No, no, sir.

11 Q. All right. He didn't say that there's somebody
12 there that looked like the person who did the shooting.

13 A. No, sir.

14 Q. Okay. He didn't say there was anybody that might
15 be the person that did the shooting. He could not identify
16 anybody from that photo spread, correct?

17 A. That is correct.

18 Q. All right. Now, at some point in time my client's
19 arrested. I mean, he's charged with the offense of capital
20 murder. Do you do the same thing with him that you did with
21 Andre -- Anthony Smith, his brother, do you hold a mock
22 lineup?

23 A. Yes, sir.

24 Q. Okay. And was it recorded similar to the same way
25 you recorded that of Anthony Smith?

1 A. Yes, sir.

2 Q. Okay. And was that mock lineup shown to anyone?

3 A. No, sir, it was not.

4 Q. When was the mock lineup conducted involving my
5 client?

6 A. It was either the afternoon that he was arrested or
7 the next day.

8 Q. Okay. Now, if the arrest was April 23rd, 2012, the
9 mock lineup would have been held that same afternoon?

10 A. Either that afternoon or the next -- I think it was
11 the next day.

12 Q. And on April 23rd, 2012, you still had the location
13 of Mr. Richard, correct?

14 A. Yes, sir.

15 Q. Okay. He was not shown the mock lineup.

16 A. No, sir.

17 Q. Okay. You still had information or knowledge as to
18 where Ms. Fletcher was located, correct?

19 A. Yes, sir.

20 Q. Okay. She was not shown the mock lineup.

21 A. No, sir.

22 Q. You talked about trying to locate another person
23 that was described by Mr. Richard as being present, that
24 being someone by the name of Armani.

25 A. Yes, sir.

1 Q. All right. Now, you weren't present when Officer
2 Ruland presented the photo spread of my client to
3 Mr. Richard. You've had an opportunity to talk with him
4 afterwards, correct? After the showing of the photo spread?

5 A. I have not personally spoken with him since then,
6 no, sir.

7 Q. No. To Investigator Ruland about this case?

8 A. Oh, yeah. Oh, I'm sorry. Yeah, I thought you were
9 asking about Markquis.

10 Q. I'm sorry.

11 A. Yeah, I --

12 Q. I'm sorry. And I guess, just like you would have
13 done in terms of preparing a supplement outlining your
14 details, do you know if Officer Ruland did the very same
15 thing?

16 A. No, sir, I included it in the supplement that I was
17 writing.

18 Q. Have you reviewed it?

19 A. Have I reviewed it?

20 Q. The supplement.

21 A. Yes, sir.

22 Q. Doesn't it say in there that Markquis Richard gave
23 Officer Ruland the name of the female who left before the
24 police arrived, gave Officer Ruland a name of Armani
25 Mizraha, spelled M-I-Z-R-A-H-A, described as a white female,

1 age 26 or 27?

2 A. Yes, sir.

3 Q. And that was information that was given to Officer
4 Ruland by Mr. Richard?

5 A. Yes, sir.

6 Q. The first name, last name and description.

7 A. Yes, sir.

8 Q. Okay.

9 MR. ANDERSON: I'll pass the witness. Thank
10 you, sir.

11 THE COURT: Anything further?

12 MS. DOZIER: Yes, Your Honor.

13 **REDIRECT EXAMINATION**

14 Q. (BY MS. DOZIER) Officer Lovelace, do you know
15 there's a designer named Armani?

16 A. Yes, ma'am.

17 Q. A designer named Mizrahi, I think it is?

18 A. No, I was not aware.

19 Q. Isaac Mizrahi?

20 A. No, ma'am.

21 Q. Is there a possibility -- I mean, have you
22 investigated cases where people use nicknames or aliases?

23 A. Yes, ma'am.

24 Q. I mean, in this case we have an alias or more than
25 one name the defendant's known by, right?

1 A. Yes, ma'am.

2 Q. Okay. With the information that you did receive
3 regarding this other female who was in the apartment, Armani
4 Mizrahi or Mizrahi, did you attempt to try and locate her?

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

6 Q. Did you run that name through databases to try and
7 see if you could find a hit on that name anywhere?

8 A. Yes, ma'am.

9 Q. Were you ever able to locate an individual who had
10 a name like that?

11 A. No, ma'am.

12 Q. Okay. I mean, you didn't just say, well, that's a
13 fake name; I'm not going to even bother looking?

14 A. Until you pointed it out, I didn't know the second
15 name was a clothing designer. I knew the first one was,
16 but.

17 Q. Okay. Now, at the point you did a mock lineup,
18 having the defendant participate, did you do it the same way
19 that you did with his brother, Anthony Smith, multiple
20 individuals coming out, being videotaped, and allow him to
21 pick the position that he wanted to be in?

22 A. Yes, ma'am.

23 Q. At that point Ieasha Fletcher had already
24 identified him in a photo spread, hadn't she?

25 A. Yes, ma'am.

1 Q. And Markquis Richard had already not identified him
2 in a copy of that same photo spread.

3 A. Yes, ma'am.

4 Q. So, what's the purpose of creating a mock lineup at
5 this point if you've already -- if these two witnesses have
6 already made their identification or not made an
7 identification of the defendant, what's the purpose of doing
8 the mock lineup?

9 A. There was a third witness that had not been
10 presented either photo spread of either person or the mock
11 lineup on Anthony Smith. Excuse me. At the time he was
12 away in New Jersey, was supposed to make arrangements with
13 me the next time he came to Houston.

14 Q. Was that Malquan King?

15 A. Yes, ma'am.

16 Q. And were you ever able to get together with
17 Mr. King to show him the mock lineup or a photo -- or photo
18 spreads in this case?

19 A. No, ma'am.

20 Q. Do you even know where he is today?

21 A. No, ma'am, I do not.

22 Q. You said that he was in New Jersey but supposed to
23 come to Houston at some point. When was he supposed to come
24 to Houston?

25 A. He told me he was going to be coming in May.

1 Q. Okay.

2 A. I talked to him, I guess, around April, first part
3 of April of 2012. He informed me he'd be in Houston
4 sometime in May, didn't know exactly when.

5 Q. Did you ever hear from him again?

6 A. No, ma'am.

7 Q. Were you ever able locate him to show him the photo
8 spread or photo spreads created in this case of the
9 defendant and his brother or the mock lineups of the
10 defendant and his brother?

11 A. No, ma'am.

12 MS. DOZIER: I'll pass the witness.

13 THE COURT: Mr. Anderson?

14 MR. ANDERSON: No further questions, Your
15 Honor.

16 THE COURT: May this witness be excused?

17 MR. ANDERSON: Yes, Your Honor.

18 MS. DOZIER: Yes, Your Honor.

19 THE COURT: Thank you, Detective. You are
20 free to go. Just remain on call. Thank you so much.

21 THE WITNESS: Yes, ma'am. Thank you.

22 THE COURT: Call your next witness, please.

23 MS. DOZIER: Ieasha Fletcher.

24 THE COURT: Right up here, please, ma'am.

25 Right around up here. If you would, just have your seat.