

1 we've been working on some legal matters with the case. So
2 we have kept the ball rolling and going down field even while
3 you're waiting in the jury room. I want you to be aware of
4 that. Okay? So, the witness from yesterday.

5 Officer, please resume the witness stand.
6 You're still under oath.

7 THE WITNESS: Yes, sir.

8 THE COURT: Ms. Adeygia, it's still your
9 witness.

10 MS. ADEYIGA: Thank you, Judge.

11 **DIRECT EXAMINATION, CONTINUED**

12 **OF**

13 **OFFICER GORDON MITCHELL SULLIVAN**

14 **BY MS. ADEYIGA:**

15 Q. Okay. Officer Sullivan, yesterday when we left off,
16 I showed you a series of photos. So, can you tell us what
17 we're looking at in State's Exhibit 1.

18 A. Yes, ma'am. This is the vehicle the Defendant was
19 driving on the day of the traffic stop.

20 Q. Is this a picture that you took?

21 A. Yes, ma'am.

22 Q. And can you explain why you took the picture, what's
23 the significance of it.

24 A. To document that the Defendant was driving the day
25 that I stopped him.

1 Q. Is there anything that jumped out to you about this
2 car that you felt the need to take a picture of it?

3 A. Just the fact that he was driving it. It's a blue
4 car.

5 Q. Is there any significant to the fact that it's a blue
6 car?

7 A. It's -- he told me that he was --

8 MR. WHITE: Objection, Your Honor, that's
9 hearsay.

10 THE COURT: Overruled.

11 A. He told me he's a former 52 Hoovers-Crips. So, I
12 mean, the color is blue. The car is definitely blue. So,
13 there's a little significance there. At the same, this is
14 kind of the style in Houston and how the cars are. It's
15 popular here in Houston.

16 Q. (BY MS. ADEYIGA) Okay. Can you show us what we're
17 looking at in State's Exhibit 2?

18 A. This is the Texas license plate of the vehicle.

19 Q. And what's the significance in this picture?

20 A. The license plate number.

21 Q. Did you run the Defendant's license plate?

22 A. Yes. And it come back with the registration being --

23 Q. I'm sorry?

24 A. It come back with the registration being expired at
25 the time of the stop.

1 Q. Okay. Did it come back being registered to the
2 Defendant?

3 A. I believe so.

4 Q. Okay. We're now looking at State's Exhibit No. 3.
5 Can you tell us what this is a picture of.

6 A. That's Mr. Washington.

7 Q. And is this how you encountered the Defendant on the
8 day, October 24th, 2011?

9 A. Yes, ma'am.

10 Q. Is there anything significant about this picture?

11 A. Just a picture of his face.

12 Q. Okay. And again, anything else significant about his
13 clothing?

14 A. Like I said, he told me he's a former -- he's a member
15 of 52 Hoovers-Crips and he's wearing blue.

16 Q. So, it's similar to at least the blue on the car we
17 saw on State's Exhibit No. 1?

18 A. Yes.

19 Q. What are we looking at here in State's Exhibit No. 4?

20 A. A side profile of Mr. Washington.

21 Q. Is there a reason why you took a side profile picture
22 of the Defendant?

23 A. That's how we usually do it, front, side.

24 Q. Is that for documenting purposes?

25 A. Just for documenting purposes.

1 Q. Okay. Now, what are we looking at here in State's
2 Exhibit No. 5?

3 A. These here are his tattoos that are on the Defendant's
4 chest.

5 Q. And what is the significance of this photograph?

6 A. A lot of them have gang significance to me.

7 MR. WHITE: Objection, Your Honor, speculation.

8 THE COURT: Overruled.

9 Q. (BY MS. ADEYIGA) Will you please describe -- and you
10 can you feel free to point on the monitor to your right --
11 which tattoos that have gang significance to you.

12 A. Well, he told me -- he self-admitted that he's a
13 former 52 Hoovers-Crips. He has right here a "5" and "2."
14 And up here, he has another "5" and "2" in the dice. It's
15 dice out in the dice "5" and "2." But other than that,
16 there's a couple other ones in here. You can't really see
17 here, "EBK." I just marked over it sorry. I tried to
18 highlight over that here, "Everybody Killa."

19 MR. WHITE: Objection, Your Honor, speculation.
20 He doesn't know what "EBK" stands for. It he could mean
21 anything.

22 THE COURT: Overruled.

23 A. And I can't make this one out here. So, that is just
24 my experience that I've ran into.

25 Q. (BY MS. ADEYIGA) Okay. So, is that your, I guess,

1 depiction of what -- of why you took that picture based on
2 your experience and knowledge --

3 A. Yes, sir -- yes, ma'am.

4 Q. -- while working out in the field working with
5 criminal street gangs?

6 A. Yes, ma'am.

7 Q. Now, what are we seeing here in State's Exhibit
8 No. 6?

9 A. Honestly, I don't think this has any gang affiliation.
10 I'm just documenting these tattoos on the Defendant. He has
11 a little gangster Smurf here.

12 Q. What color Smurf?

13 MR. WHITE: Objection, Your Honor, he just said
14 it has no gang affiliation.

15 THE COURT: Overruled.

16 MR. WHITE: Gang affiliation.

17 THE COURT: Overruled.

18 A. Blue. The Smurfs are blue.

19 Q. (BY MS. ADEYIGA) Okay. What are we seeing here in
20 State's Exhibit No. 7?

21 A. This is the Defendant's back.

22 Q. What's the significance of why you took this picture?

23 A. Again, just to document the tattoos on this defendant.
24 And some more knowledgeable on the tattoos. It has the
25 Houstones' logo there, a couple little things, a joker's face

1 with a joint in his mouth.

2 Q. Okay. Anything else pop out to you with this State's
3 Exhibit No. 7?

4 A. Not to my knowledge.

5 Q. Okay. Now, after you took those photographs of the
6 Defendant, at any point during the stop, did you find
7 marijuana in the car?

8 A. Initially, when we pulled him over, we came up and
9 talked to him. Self-admitted me and nature at the time. We
10 smelled a faint smell of marijuana in the car. We pulled him
11 out and searched the suspect. We searched the car and
12 searched throughout the car. We found seeds, stems, but not
13 to be enough, a useable amount.

14 Q. But without an useable amount, you can't arrest the
15 Defendant; is that correct?

16 A. Yes.

17 Q. Now after you found the trace of marijuana, did you
18 at any point ask the Defendant to sign anything else
19 acknowledging that he was in a gang?

20 A. No.

21 Q. Does your department have any form in place for the
22 Defendant to sign any such form to acknowledge they're in a
23 gang?

24 A. No.

25 Q. Did you write a defendant for anything during the

1 stop?

2 A. No, I didn't. His registration is just a few months
3 expired. His actual mannerism in that whole traffic stop was
4 cooperative, chilled. So, I decided to give him a break.

5 Q. At any point, he did not sign anything else at all
6 during the stop?

7 A. No.

8 MS. ADEYIGA: Pass the witness, Your Honor.

9 **CROSS-EXAMINATION**

10 **BY MR. WHITE:**

11 Q. Officer, Sullivan --

12 A. Yes, sir.

13 Q. -- now, you stated earlier that you are a member of a
14 specialized unit with HPD; is that correct?

15 A. I wouldn't say "specialized." I'm just a member of
16 HPD, yes.

17 THE COURT: Slow it down a little bit, please.

18 MR. WHITE: No problem.

19 Q. (BY MR. WHITE) What's the name of the unit?

20 A. Crime Reduction Unit.

21 Q. And you said -- what's the purpose of that unit
22 again?

23 A. Whenever there's high crime areas to attempt to bring
24 it back down, pretty much. Just going around and make
25 arrests.

1 Q. So, they send you in just to stop people randomly?

2 A. Mostly, I'd say that. Like I say, there's a lot of
3 gang shootings, what have you, in certain areas. We'll be in
4 that area, saturate that area with police officers, as a
5 deterrent for other people from committing crimes.

6 Q. So, is it fair to say that people in that area would
7 get pulled over for that other people would not get pulled
8 over in other areas?

9 A. Uh-huh. I mean, they are getting pulled over for
10 traffic violations just like by a patrol officer.

11 Q. But it's just to enforce more scrutiny in this
12 particular area; is that correct?

13 A. Yes. We saturate the area with police officers.

14 Q. How long have you worked for this unit?

15 A. I think going on three years now.

16 Q. And in that three-year period, have you been working
17 in that same area, southeast Houston?

18 A. In southeast Houston. I go back there occasionally.
19 Like I said, it -- like I say, if something -- if a shooting
20 happens in southeast, we'll go to southeast. If something
21 happens in southwest, we'll go to southwest.

22 Q. But even during in the rotation, you've been in and
23 out of the southeast area --

24 A. Yes, sir.

25 Q. -- for three year?

1 A. Yes, sir.

2 Q. Have you ever stopped Mr. Washington prior to
3 October 4th, 2011?

4 A. No, sir. That's the first encounter I had with him.

5 Q. And you said you're pretty familiar with that area;
6 is that correct?

7 A. Yes, sir.

8 Q. Have you ever seen Mr. Washington hanging out or
9 associating with other known gang members in that area?

10 A. No, sir.

11 Q. Now, I believe you stated there's some
12 characteristics that you typically look for; is that correct?

13 A. Yes, sir.

14 Q. And these characteristics help you to determine
15 whether or not a person is an alleged gang member?

16 A. Yes, sir.

17 Q. And what are those characteristics again?

18 A. Tattoos, clothing, self-admission, reliable source
19 telling you -- informing you that he's a gang member, a
20 reliable source telling you he's a gang member, graffiti, but
21 you rarely catch them writing graffiti, social networking.
22 That's also one. And there's a few other ones. I can't
23 think of them off the top of my head.

24 Q. Okay. And I believe you stated that you felt it was
25 significant that Mr. Washington was operating a blue

1 automobile on this date; is that correct?

2 A. I just said that since he told me he was a former 52
3 Hoovers-Crips and the colors are blue and the vehicle is
4 blue. So --

5 Q. Which leads to my next question. So, someone
6 operating a blue car, anyone operating a blue car, means they
7 have an affiliation with a gang?

8 A. No, it does not.

9 Q. Have you seen other members of 52 Hoovers-Crips who
10 are not operating blue vehicles?

11 A. Yes, I have.

12 Q. Now, I believe you said that his attire or his
13 clothing was also significant to you. Why is that?

14 A. The color blue is for the Crips and he was wearing
15 blue.

16 Q. And you stated again that this is your first
17 encounter ever with Mr. Washington, correct?

18 A. Yes, sir.

19 Q. Have you ever seen him on any other occasion prior to
20 that day?

21 A. No, sir.

22 Q. Does him wearing blue himself, means he's involved or
23 a member of a gang?

24 A. No, it doesn't necessarily mean it.

25 Q. Is he wearing blue today?

1 A. No, he is not.

2 Q. Now, I believe you also stated the tattoos were
3 significant, correct?

4 A. Yes, sir.

5 Q. And I believe one of the initials you stated was --
6 what was it, "EDK"?

7 A. "EBK."

8 Q. Could "EBK" stand for something else?

9 A. It could very well stand for something else. But as
10 far as my experience and as it's been known as "Everybody
11 Killa."

12 MR. WHITE: Objection, Your Honor,
13 nonresponsive.

14 THE COURT: Sustained. Just answer the
15 question.

16 Q. (BY MR. WHITE) Could "EBK" stand for something else?

17 A. Yes, sir.

18 Q. Now, you also said that there were some other tattoos
19 such as -- I think you said there was "5" "2"?

20 A. Yes, sir.

21 Q. And that was on his stomach?

22 A. Yes, sir.

23 Q. Just because someone had that tattooed on their
24 stomach, does that mean that he's a member of a gang?

25 A. No, sir, doesn't necessarily.

1 Q. Have you seen other people get tattoos that you may
2 have thought were gang relevant and, in fact, weren't in a
3 gang?

4 A. I haven't run across it, but I'm sure I will one day.

5 Q. And now I believe you also said social networking and
6 other things are also some of the things you look at,
7 correct?

8 A. Yes, sir.

9 Q. In fact, aren't there certain officers that checks
10 social networkings sites --

11 A. Yes, sir.

12 Q. -- to see if they can identify gang members?

13 Has Mr. Washington ever been identified in one
14 of those web sites?

15 A. As far as I know, no, sir.

16 Q. Has Mr. Washington ever been identified in one of
17 those sites throwing any kind of gang signs?

18 A. No, as far as I know.

19 Q. Now, I believe you said on October 4th, 2011, you
20 initially stopped Mr. Washington because his registration had
21 expired?

22 A. Yes, sir.

23 Q. In fact, did he not explain to you that he was on his
24 way to get his new registration tag?

25 A. That's why I didn't write him a citation.

1 Q. And the registration had only expired by a couple of
2 days; is that correct?

3 A. Yes, sir.

4 Q. Okay. I believe you stated to the State that it was
5 a couple of months?

6 A. Well, a month or two. I really don't -- I'm not sure
7 -- I'm really not sure about it. I just got what I wrote
8 down here.

9 Q. Now, wouldn't it be significant if it was a couple of
10 days or a couple of months?

11 A. I just knew that the registration was expired. For me
12 to say two months or give a specific time line, I'm wrong for
13 saying that.

14 Q. Now, you also stated that you did find some traces of
15 marijuana in the vehicle, correct?

16 A. Yes, sir.

17 Q. In Texas, what's the chargeable offense for
18 marijuana? What's considered the --

19 A. A useable amount is -- I don't know the actual law on
20 that as far as on a certain amount. I don't know if there is
21 a certain amount.

22 Q. Have you ever arrested someone for possession of
23 marijuana before?

24 A. Oh, yes, sir.

25 Q. And, in fact, isn't the Statute "0" to "2" ounces?

1 A. "0" to "2" ounces?

2 Q. Yes, sir.

3 A. Okay.

4 Q. I'm asking you; Is that correct?

5 A. I guess so. Yes, sir.

6 Q. So, that means any amount of marijuana could be
7 considered a useable amount, correct?

8 A. Yes, sir.

9 Q. One gram, is that a useable amount?

10 A. Yes, sir. But I don't think I'm going to get one gram
11 off a shake.

12 THE WITNESS: I'm sorry for --

13 Q. (BY MR. WHITE) Half a gram, is that a useable
14 amount?

15 A. I guess, sir. I don't know. I usually go with
16 talking to the DA getting the amount of the marijuana. I
17 talk to the DA on the phone and say, "This is the amount I
18 have. Is this a useable amount? It's more than -- it's a
19 five bag, a nickle."

20 Q. Have you experienced other officers arresting someone
21 for possession of marijuana less than a gram?

22 A. Myself, no.

23 Q. Did you call the DA's office on the day that you
24 stopped Mr. Washington?

25 A. No, I did not.

1 Q. And you didn't call because in exchange for you not
2 calling, you got him to sign the paperwork --

3 A. No, sir.

4 Q. -- he's a self-admitting gang member, correct?

5 A. No, sir.

6 Q. Did you give him an opportunity to review that
7 paperwork before you him to sign?

8 A. There was no paperwork for him to sign.

9 Q. Now, you said Mr. Washington was extremely
10 cooperative, correct?

11 A. Yes, sir, he was.

12 Q. And in your experience dealing with other gang
13 members or alleged gang members, are they normally very
14 cooperative with you?

15 A. No. No, they're not.

16 Q. Okay. And did Mr. Washington have any type of
17 uniform or extra clothing in his car that day?

18 A. Not to my recollection. I can't recall.

19 MS. BUESS: Judge, may I'm going to object
20 relevance.

21 THE COURT: Overruled.

22 Q. (BY MR. WHITE) Did you ask him where he was employed?

23 A. Yes, sir.

24 Q. And what did he say?

25 A. He actually gave me the name of MED Security

1 University General.

2 Q. And did he say if he was employed either full-time or
3 part-time?

4 A. I can't recall.

5 Q. So, he told you he's employed as a security officer?

6 A. Yes, sir.

7 Q. And in your experience in dealing with other members
8 or alleged gang members, are they typically working full-time
9 jobs?

10 MS. ADEYIGA: Judge, I'm going to have to object
11 relevance again.

12 THE COURT: Sustained.

13 Q. (BY MR. WHITE) As far as you know, do most gang
14 members go to work every day?

15 MS. ADEYIGA: Judge, objection, relevance.

16 THE COURT: Sustained.

17 Q. (BY MR. WHITE) Now, I believe you stated that you
18 input Mr. Washington's information in the Gang Tracker; is
19 that correct?

20 A. Yes, sir.

21 Q. What are the policies concerning gang trackers, as
22 far as inputting someone?

23 A. You got to meet two of the eight criteria to be
24 processed in the system. I then put him into the system and
25 it's ultimately checked by a person that runs the whole Gang

1 Tracker. The two officers that bring in all the incoming log
2 information, like we're putting in people all the time. All
3 the time, they're the two that look over the information. If
4 they meet the criteria. They'll boot them out, if they don't
5 meet the criteria.

6 Q. Now, is Gang Tracker only for active members of a
7 gang?

8 A. No, sir. It's for formers as well. If they stay
9 clean for three years, then it gets booted out.

10 Q. Now, when you're inputting information into the Gang
11 Tracker, is there a separate database for an active member or
12 a former member?

13 A. Yes. Actually, there's a little thing that you can
14 put it on "former" or "active."

15 Q. And when input Mr. Washington's information in
16 allegedly, you put that he's a former member, correct?

17 A. Former.

18 Q. Did you click "former" --

19 A. Yes, sir.

20 Q. -- when you put in his information?

21 A. I put in former information. Former 52 Hoovers-Crips.

22 Q. So, anyone who works for HPD -- is HPD the only
23 agency that has access to this Gang Tracker?

24 A. I think other agencies have to it.

25 Q. So, anyone who were to stop Mr. Washington, would

1 have access to that, correct?

2 A. Yes, they would.

3 Q. Now, these gang criteria, okay, that you say you use
4 to analyze whether or not someone's -- should be put into
5 the Gang Tracker, what do these gang criteria derive from?

6 A. They are clothing, tattoos, self-admission. Is that
7 the same thing before?

8 Q. Yeah.

9 A. Yeah. Same thing, the eight criteria. Like --

10 Q. I'm asking, what do the criteria derive from. Is
11 there a written policy, a written manual, anything like that
12 as far as HPD?

13 A. Pretty much experience and classes.

14 Q. What type of classes?

15 A. Gang recognition classes, they'll come out with every
16 now. And then a class for certain gangs, like the Aryan
17 Brotherhood, Hoovers-Crips, Bloods. And you take those
18 classes. It's on your own time if you decide to take those
19 classes. It's an elective. But the division that we work
20 for is CRD, Crime Reduction Gang Division. It would behoove
21 you to take the classes pretty much, is what I'm told.

22 Q. And how many of those classes have you taken?

23 A. Like I stated, I've taken over a dozen.

24 Q. And is the information provided always accurate in
25 with every circumstance or with every individual that you run

1 into?

2 A. Well, it's just or -- well, yeah, a lot of it has
3 relevance with each other with the people that I run into in
4 the streets. But like I said, there will be rare occasions
5 now and then.

6 Q. Let me rephrase it. Maybe I didn't make it clear.

7 A. I'm sorry.

8 Q. That's fine. The characterizes that are taught to in
9 that class, are they always accurate identifiers of gang
10 members or alleged gang message?

11 A. Yes, sir.

12 Q. They're always accurate?

13 A. As far as I know.

14 Q. Have you ever --

15 A. -- and as far as I've experienced.

16 Q. So, you've never had an occasion where those
17 characteristics that were taught had been accurate or where
18 they led you to someone who is not a gang member?

19 A. No, not yet.

20 Q. Now, on these stops, how many of these proactive
21 stops per day, would you say you do on average?

22 A. I work an 8-hour shift. It just depends if I make an
23 arrest or not between stops. Let's say, I have a dry day. I
24 don't have anybody that day. I make at least eight to ten
25 stops a day.

1 Q. So, at least eight to ten stops every day?

2 A. No, not every day. If I make an arrest that takes
3 time.

4 Q. Okay. And tell me, what do you think are some
5 characteristics of a gang member, just in your experience in
6 dealing with gang members and being on the streets every day
7 what are some characteristics?

8 A. Tattoos, clothing, wearing the colors. A lot of them
9 -- they'll wear the colors on the -- back pocket that will
10 display it out there for the world to see it. A lot of times
11 when I run into them, they're committing a crime. So, crime
12 can be another characteristic, I guess.

13 Q. Okay.

14 A. That's generally it. I mean, I could keep on going, I
15 guess.

16 Q. Now, as far as far as Mr. Washington, was he
17 committing any kind of crime that day that you know of?

18 A. Just the traffic violation. That's it.

19 Q. As far as you know of, had he ever committed any kind
20 of a crime?

21 MS. ADEYIGA: Objection, Your Honor.

22 THE COURT: Overruled.

23 A. Before the stop, no.

24 Q. (BY MR. WHITE) Do most gang members have clean
25 records or never been arrested or convicted of any kind of a

1 crime?

2 MS. ADEYIGA: Objection, Your Honor, relevance.

3 THE COURT: Sustained.

4 Q. (BY MR. WHITE) In the gang members that you've
5 identified, the previous gang members that you've identified,
6 do they have criminal records?

7 MS. ADEYIGA: Objection, Your Honor, relevance.

8 THE COURT: Overruled.

9 Q. (BY MR. WHITE) You can answer.

10 A. Yes.

11 Q. They had criminal records?

12 A. They had criminal records, yes.

13 Q. So, would it be fair to say, normally having a
14 criminal record or being involved in criminal activity, is
15 also a characteristic, like you said, of being a gang member,
16 correct? Mr. Washington had not of those on October 4, 2011;
17 is that correct?

18 A. I didn't do a report on the case. So, I don't really
19 know.

20 Q. I'm just asking, I'm sure you ran his criminal
21 history when you stopped him?

22 A. Oh, yes, I did.

23 Q. And --

24 MS. ADEYIGA: Objection, Your Honor,
25 speculation.

1 THE COURT: Sustained.

2 Q. (BY MR. WHITE) Now, you stated that when you entered
3 his information in the Gang Tracker, you made sure you
4 flagged him as a former gang member; is that correct?

5 A. Yes, sir.

6 Q. Is it normally HPD's policy or procedure to punish
7 someone for past decisions?

8 A. No.

9 Q. Is that normally the policy of any agency to punish
10 someone for their past mistakes or past decisions?

11 A. No.

12 Q. So, why would you enter him in the system as a former
13 gang member?

14 A. Because he self-admitted to me and he's wearing
15 colors. It's two of the two criteria.

16 Q. Did you go out to his home and see if he was still
17 wearing colors?

18 A. No.

19 Q. So, you base your criteria on one time, one day and
20 one encounter with Mr. Washington, correct?

21 A. That's correct.

22 MR. WHITE: No further questions for this
23 witness, Your Honor.

24 THE COURT: Redirect?

25 MS. ADEYIGA: No redirect, Your Honor.