

1           A.    Yes.  Very dim, but, yes, there was a little  
2 bit of lighting.

3           Q.    And do you recall this light being on  
4 (indicating)?

5           A.    No, I can't recall.

6           Q.    But there is a lamppost there, correct?

7           A.    It appears, yes.

8           Q.    Let me show you what's been marked as State's  
9 Exhibit No. 46.  Do you see a lamppost here  
10 (indicating)?

11          A.    Yes.

12          Q.    And would you agree with me there appears to be  
13 light emanating from that lamppost in this State's  
14 Exhibit No. 46?

15          A.    Yes.

16          Q.    With regards to State's Exhibit No. 50, we see  
17 the white piece of paper that you have as your cartridge  
18 casing marker.  There appear to be tire tracks into the  
19 field.  Would you agree?

20          A.    Yes.

21          Q.    Do you know how long they had been there?

22          A.    No, sir.

23          Q.    Have you been to this parking lot recently at  
24 all?

25          A.    No.  No, sir.

1 Q. With regards to State's Exhibit No. 54, I  
2 believe that this shows us the building that is next to  
3 the church, next to the parking lot, correct?

4 A. Yes, sir.

5 Q. And we see that there is grass to the -- what  
6 I'm going to say is the left of it. Do you see the  
7 grassy area that I'm pointing to (indicating)?

8 A. Yes, sir.

9 Q. And there appears to be a -- I'm going to say a  
10 cement divider. Would you agree?

11 A. Yes, sir.

12 Q. And then there's more grass on the other side  
13 of the cement dividers?

14 A. Yes, sir.

15 Q. About how much -- what is the distance there  
16 between the grass on the left-hand side of the cement  
17 dividers and where the pavement is on the parking lot?

18 A. I don't know exactly, sir.

19 Q. Would you agree with me that it might be  
20 something like 4 or 5 feet?

21 A. Somewhere around there, yes, sir.

22 Q. Do you feel comfortable with that?

23 A. Yes, sir.

24 Q. I don't want to put words in your mouth, sir.

25 A. That's -- yes, 4 to 5.

1 Q. Okay. So, in sum, there might be a grassy area  
2 of, let's say, 8 to 10 feet from the edge of the parking  
3 lot to the edge of the building?

4 A. Yes.

5 Q. And I think I asked you this already. What  
6 would you estimate the distance between where the body  
7 is and that casing?

8 A. I would say maybe 5 to 6 feet, roughly.

9 Q. And looking at State's Exhibit No. 52, can you  
10 orient yourself as to this picture and the location  
11 (indicating)?

12 A. Yes, sir.

13 Q. And would you agree with me that Cullen is up  
14 in this area (indicating)?

15 A. Yes, sir.

16 Q. And would the lights be basically in the area  
17 where the strip centers are and these gas stations that  
18 you referred to?

19 A. Yes, sir.

20 Q. And we see here an overhead light as well.  
21 There is another light, correct?

22 A. Yes.

23 MR. WENTZ: Pass the witness, Your Honor.

24 MR. STAYTON: No further questions.

25 THE COURT: You may step down, sir.

1 Call your next witness.

2 MR. STAYTON: State calls Officer Oliphant.

3 THE COURT: All right. Go ahead.

4 THE WITNESS: Good morning.

5 **JASON OLIPHANT,**

6 having been first duly sworn, testified as follows:

7 **DIRECT EXAMINATION**

8 **BY MR. STAYTON:**

9 Q. Would you state your name for the record,  
10 please, sir?

11 A. Jason Oliphant.

12 Q. And how are you employed?

13 A. I'm employed with the City of Houston, Houston  
14 Police Department.

15 Q. Are you a certified peace officer with the City  
16 of Houston Police Department?

17 A. Yes, sir.

18 Q. And for how long -- for how many years have you  
19 been working for HPD?

20 A. I hit my 20-year mark in January.

21 Q. Of this year?

22 A. Yes, sir.

23 Q. All right. And at present, to which division  
24 are you assigned within the Houston Police Department?

25 A. I'm currently assigned to the Identification

1 Division. And that is where my unit works out of. And  
2 I work in the Crime Scene Unit.

3 Q. And for how long have you been assigned to the  
4 Identification Division of the Crime Scene Unit?

5 A. I've been in the Crime Scene Unit for seven  
6 years, roughly. Seven to eight years.

7 Q. And prior -- prior to you working for HPD, did  
8 you have any other law enforcement experience?

9 A. Prior to HPD, I worked for a facility that  
10 housed juveniles on parole and probation.

11 Q. And for how long did you do that, sir?

12 A. I ended that two years before I joined HPD.

13 Q. In July of 2013, specifically on July 18th of  
14 2013, in the early morning hours after midnight, were  
15 you on duty on that occasion?

16 A. Yes, sir, I was.

17 Q. And were you at that time -- I believe you said  
18 you had been working for the last seven years for the  
19 Crime Scene Unit. Were you working for the Crime Scene  
20 Unit at that time?

21 A. Yes, sir.

22 Q. And do you recall an occasion on July 18th,  
23 2013, when you were called out to a scene in Harris  
24 County, Texas at 3941 Almeda Genoa Road?

25 A. Yes, sir.

1 Q. And what was the occasion for you to be called  
2 to that scene?

3 A. A homicide investigation.

4 Q. And when -- we're going to talk about what you  
5 did at that scene --

6 A. Okay.

7 Q. -- as part of your work responsibilities.

8 A. Okay.

9 Q. But let me ask you first, sir, that when you  
10 completed your work responsibilities related to this  
11 capital murder investigation, did you prepare a  
12 supplement to the Houston Police Department offense  
13 report or incident report?

14 A. Yes, sir, I did.

15 Q. And prior to your testimony today right now,  
16 have you had a chance to refresh your memory about this  
17 capital murder investigation and your responsibilities  
18 by reviewing your supplement to this incident report?

19 A. Yes, I reviewed it this morning.

20 MR. STAYTON: May I approach the witness,  
21 Judge?

22 THE COURT: Yes.

23 Q. (By Mr. Stayton) I'm going to show you some  
24 photographs that have already been admitted into  
25 evidence. And I want you just to quickly, again, look

1 through them. I know you've already looked through them  
2 this morning, but would you do that one more time, sir  
3 (indicating)?

4 A. Yes, sir.

5 Okay.

6 Q. All right. Do you recognize those photographs,  
7 sir?

8 A. Yes, sir.

9 Q. And how is it that you recognize them?

10 A. I recall the scene from reviewing my notes and  
11 seeing those earlier.

12 Q. And were you the person that was responsible  
13 for taking these photographs?

14 A. Yes, sir. Yes, sir.

15 Q. And just for the purposes of the record, I've  
16 shown you State's 52 through 50 -- excuse me --  
17 through --

18 MR. STAYTON: What is the last photograph?

19 MS. COLLINS: 77.

20 Q. (By Mr. Stayton) -- through 77.

21 A. Okay.

22 Q. I also want to show you what's been marked as  
23 State's Exhibits 51 and 51-B, as in bravo. Do you  
24 recognize those, sir (indicating)?

25 A. Yes, sir.

1 Q. And how -- what are they that you're looking  
2 at?

3 A. This is a scene diagram and it usually depicts  
4 the scene with a bird's-eye view.

5 Q. And how is it that you recognize the scene  
6 diagrams -- or which one of those documents, which  
7 number, is the scene diagram in?

8 A. Well, it's pretty much all considered the scene  
9 diagram. You have the diagram and then you just have  
10 the legend or the key.

11 Q. Okay. So, on which -- on State's Exhibit 51,  
12 is that the diagram of the scene?

13 A. Yes, 51. Yes.

14 Q. And State's Exhibit 51-B is what you referred  
15 to as the legend?

16 A. That is correct.

17 Q. And what information is contained within the  
18 legend?

19 A. It just has the evidence markers, their  
20 measurement from the reference point and the body, and  
21 what the evidence markers were.

22 Q. And the scene diagram, State's Exhibit 51, and  
23 the legend for this that -- that accompanies this  
24 diagram in State's Exhibit 51-B, did you prepare these,  
25 sir, following your processing of the scene?



1           A.    Yes, sir.

2                   MR. STAYTON:  I will tender these to  
3 defense counsel and offer them into evidence, also.

4                           **(State's Exhibit No. 51 and 51-B Offered)**

5                   MR. WENTZ:  We have no objection, Your  
6 Honor.

7                   THE COURT:  51 and 51-B?

8                   MR. STAYTON:  Yes, sir.

9                   THE COURT:  Okay.  They're admitted.

10                           **(State's Exhibit No. 51 and 51-B Admitted)**

11           Q.    (By Mr. Stayton) And if you would, Officer  
12 Oliphant, look at what I'm holding in my hand here and  
13 what has been marked -- or what I will mark as State's  
14 Exhibit 51-A for purposes of the record.  And if you  
15 would just do a brief comparison of 51, the scene  
16 diagram, and this enlarged version of the scene diagram  
17 in 51-A (indicating).

18           A.    Yes, those are similar.  Those are the same,  
19 yes.

20           Q.    Is it the same, just an enlarged version of it,  
21 right?

22           A.    Yes.

23                   MR. STAYTON:  Judge, also, I would offer  
24 into evidence State's Exhibit 51-A.

25                           **(State's Exhibit No. 51-A Offered)**

1 MR. WENTZ: No objection, Your Honor.

2 THE COURT: It's admitted.

3 **(State's Exhibit No. 51-A Admitted)**

4 Q. (By Mr. Stayton) There's one more piece of  
5 evidence that I want to ask you about.

6 MR. STAYTON: May I approach, Your Honor?

7 THE COURT: Yes.

8 Q. (By Mr. Stayton) It's an envelope, a sealed  
9 envelope, that's marked as State's Exhibit 78-A, as in  
10 alpha.

11 A. Okay.

12 Q. Do you recognize that envelope (indicating)?

13 A. Yes.

14 Q. And how is it that you recognize it?

15 A. The packaging is sealed. And on the back, it  
16 has my name, incident number, and it says: Fired  
17 20-gauge Remington bullet cartridge, and the date.

18 Q. And the date, also?

19 A. And address.

20 Q. The information that you're referring to that's  
21 written onto the back of this envelope, did you write  
22 any of that information yourself?

23 A. Yes, yes.

24 Q. So, you recognize your own handwriting on this  
25 envelope?

1           A.    Yes, on that.  And I think the property room  
2 did that small part there (indicating).

3           Q.    Would you please open this envelope, too?

4           A.    (Witness complies).

5           Q.    All right.  And now we're looking at the  
6 contents of State's Exhibit 78-A.  I'm putting an  
7 evidence sticker, State's Exhibit 78, on a smaller  
8 sealed envelope that was contained inside of State's  
9 78-A.  Can you describe what's -- what we're looking at  
10 in State's Exhibit 78 (indicating)?

11          A.    This is the recovered -- 20-gauge shell that  
12 was recovered at the scene.  The packaging was -- I  
13 usually put it inside another envelope and then seal  
14 this and put it in there.  So, they removed it from  
15 that, probably the firearms lab, to investigate that or  
16 look at that, so...

17          Q.    Okay.  So, there's a second envelope that --  
18 that's also inside of this bag.  And let's just label  
19 that 78-B, then, as in bravo.

20                         How is it that -- do you see anything on  
21 these items that appears to be in your own handwriting?

22          A.    Yes.

23          Q.    And which exhibit are you looking at?

24          A.    That's going to be 78-B.  And it has the  
25 incident number, address, date, my name, and Evidence

1 Marker No. 1 written on here.

2 Q. You've been referring to the incident number.  
3 And I don't think I've let you say it yet, but just for  
4 purposes of the record, can you read off the incident  
5 number that you wrote onto this -- onto State's Exhibit  
6 78-B?

7 A. B. That would be 89033513 "F" as in Frank.

8 Q. And the items that we're looking at, do they --  
9 other than what you've described as -- that may have  
10 been done by other police officers, further testing that  
11 may have been done, is there anything that looks like  
12 what you've done has been altered?

13 A. No.

14 MR. STAYTON: I will offer into evidence  
15 what's been marked as State's Exhibits 78, 78-A, and  
16 78-B, after tendering to counsel.

17 **(State's Exhibit No. 78, 78-A, and 78-B**  
18 **Offered)**

19 MR. WENTZ: And we have no objection, Your  
20 Honor.

21 THE COURT: 78, 78-A and B are admitted.

22 **(State's Exhibit No. 78, 78-A, and 78-B**  
23 **Admitted)**

24 Q. (By Mr. Stayton) Officer Oliphant, let's talk  
25 about State's Exhibit 78, the contents of the envelope

1 that you just opened here in court and which has now  
2 been admitted into evidence.

3           The -- you referred to it as a shell  
4 casing. Could you describe it again? What kind of  
5 shell casing is it, sir?

6           A. This is going to be a Remington -- Remington,  
7 looks like a dove shot. It's a 20-gauge shotgun shell.

8           Q. Okay. I want to show you three separate  
9 photographs that you've already indicated that you took  
10 these photographs at the scene as part of your  
11 responsibilities with the Crime Scene Unit. This is --  
12 what I'm showing you here is State's Exhibit No. 56.  
13 And do you recognize what we're looking at here, sir  
14 (indicating)?

15           A. Yes.

16           Q. And the individuals that we see in this scene,  
17 there are two men with white shirts on and one with a  
18 hat. And then there's a -- there's a body that's on the  
19 ground and then there's a third person to the side over  
20 there. Do you know -- can you tell us who those  
21 individuals are, if you recall?

22           A. This is Investigator Avila with the Homicide  
23 Division. This is Investigator Sosa. And I think this  
24 is going to be the medical examiner, Matt Doyle  
25 (indicating).

1 Q. And the first investigator that you named,  
2 Investigator Avila --

3 A. Yes.

4 Q. -- is he -- in that photograph, is he the one  
5 that's --

6 A. He's the one with the --

7 THE REPORTER: In that photograph -- can  
8 you repeat that?

9 Q. (By Mr. Stayton) Just wait until I finish the  
10 question.

11 THE REPORTER: Repeat the question, please.

12 Q. (By Mr. Stayton) The individual in the  
13 photograph that's wearing the hat, who is that, sir?

14 A. That is Investigator Avila.

15 Q. And the individual with the white shirt and the  
16 dark pants with no hat?

17 A. That would be Investigator Sosa.

18 Q. All right. Also, I want to direct your  
19 attention in this photograph, State's Exhibit 56, two  
20 items that are marked with the Nos. 1 and 2 and are  
21 yellow in color. Do you see those objects (indicating)?

22 A. Yes, sir.

23 Q. And can you tell us what those are?

24 A. Evidence Marker No. 1 was the fired bullet  
25 cartridge casing. And 2, I think, was a cigarette.

1 Q. Evidence Marker 1, you said that it was a fired  
2 bullet casing. Is it --

3 A. A cartridge case.

4 Q. Or cartridge casing.

5 Is it the same one that you've been  
6 testifying about that's marked State's Exhibit No. 78?

7 A. Yes, sir.

8 Q. Or that's contained within that bag that's  
9 marked 78?

10 A. Yes.

11 Q. Okay. And Evidence Marker No. 2, you said, was  
12 a cigarette. Was it an unused cigarette, or do you  
13 recall, or a partial cigarette, or do you have any  
14 recollection?

15 A. I don't recall.

16 Q. Was it something that had already been  
17 discovered prior to your arrival or was it something  
18 that you discovered?

19 A. I think we found it after -- after the fact.  
20 After being there, I think we found it.

21 Q. Now, you've been doing that job for many  
22 years --

23 A. Yes.

24 Q. -- working for the Crime Scene Unit. Why would  
25 it be significant for you to mark a cigarette butt or a