

1 as your punishment goes; is that correct?

2 A. Yes, ma'am.

3 MS. MITCHELL: Pass the witness.

4 MR. STILL: Nothing further, Your Honor.

5 THE COURT: Thank you. You may step down,  
6 sir.

7 Call your next witness, please.

8 MS. MITCHELL: The State calls Lieutenant  
9 Parrie.

10 THE BAILIFF: The witness has been  
11 previously sworn.

12 THE COURT: Thank you, sir. Come forward.  
13 Take the stand.

14 You may proceed when you are ready.

15 **LIEUTENANT MICHAEL PARRIE,**

16 having been first duly sworn, testified as follows:

17 **DIRECT EXAMINATION**

18 BY MS. MITCHELL:

19 Q. Would you please introduce yourself to us?

20 A. My name is Lieutenant Parrie, Michael Parrie,  
21 and that's P-a-r-r-i-e.

22 Q. Where are you currently employed?

23 A. I'm employed with the Houston Police Department  
24 at the Midwest Patrol Station.

25 Q. How long have you been with the Houston Police

1 Department?

2 A. Sixteen-and-a-half years.

3 Q. And what is your current assignment?

4 A. I'm the night commander for the Midwest  
5 Division, which is a district that encompasses the  
6 Southwest Freeway by the Galleria area.

7 Q. What shift do you work?

8 A. I work the night shift.

9 Q. And what hours are those?

10 A. 10:00 p.m. to 6:00 a.m.

11 Q. Okay. So, did you come here straight from  
12 work?

13 A. Yes, ma'am.

14 Q. So, on March 25, 2012, were you assigned to  
15 that division at the time?

16 A. No. At that time, I was a sergeant in the  
17 robbery division.

18 Q. Okay. And how long have you been -- or had you  
19 been with robbery?

20 A. Approximately a year.

21 Q. Okay. Now, you were assigned a case, a robbery  
22 case, that happened on March 25, 2012, correct?

23 A. Yes, ma'am.

24 Q. And do you know what location, where that  
25 occurred?

1 A. The location was -- if I can review my notes.

2 Q. Sure.

3 A. It was at 2960 West Sam Houston Parkway South.

4 Q. Is that in Harris County, Texas?

5 A. Yes, ma'am.

6 Q. Did you make the scene?

7 A. No, I did not.

8 Q. How did the case become yours?

9 A. One of the -- one of my tasks as a sergeant in  
10 the robbery division, I was the admin sergeant, plus I had  
11 my own caseload, plus I supervised a squad of detectives.  
12 I got this case as, basically, a video pickup case. When  
13 there is a scene, or a robbery that happens that there  
14 might be possible video evidence, I would go to that  
15 location and retrieve the video. And then I would either  
16 try to analyze it myself, or we have a video unit in the  
17 robbery division and I transfer it onto them.

18 In this particular case, I had gotten the case file,  
19 and I was reviewing the report when another officer  
20 approached me and said --

21 Q. We'll get to that in a second.

22 A. Okay.

23 Q. So, when you first got this case, did you go  
24 out and try to pick up a video?

25 A. No.

1 Q. Did you ever get the video in this case?

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

3 Q. What did you do whenever you first got this  
4 case?

5 A. Usually, when I first get the case, it comes in  
6 either an inner-office mail or I get an e-mail saying the  
7 case has been assigned to me. I pull up the report, and I  
8 read through it to make sure that the elements of the  
9 crime are there, and if there is any evidence, or I can  
10 kind of judge what I need to do from that point on.

11 It was at that time I was actually reviewing the  
12 physical report when another officer approached me and  
13 said he was aware of the case, and he had already gone to  
14 the location to pick up the video for me.

15 Q. Okay. And did you view the video at that  
16 point?

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

18 Q. Did you make any sort of contact with the  
19 complainants in this case?

20 A. Yes and no.

21 Q. Okay.

22 A. I attempted to contact the complainants. I was  
23 able to get in touch with one of the complainants, but I  
24 could not track down the other.

25 Q. And which complainant could you get in contact

1 with?

2 A. I was able to get in touch with Ms. Lauren  
3 Deberry.

4 Q. And was she able to give you a description of  
5 the suspects?

6 A. Initially, the description she gave is what I  
7 went off of, the description she had given in the original  
8 report.

9 Q. Okay. Were you ever able to, I guess, develop  
10 a suspect in this case, or suspects?

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

12 Q. How did that come about?

13 A. I was given information by another  
14 investigator.

15 Q. Who was that investigator?

16 A. Sergeant Stephanie Wilson.

17 Q. Okay.

18 A. Who was also assigned to the robbery division  
19 at that time.

20 Q. What information did she give you?

21 A. She just passed on information on some suspect  
22 that they were developing, and she said that they might  
23 fit the MO of the case I was working.

24 Q. Okay. Did you look at her case?

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

1 Q. And did they appear to be similar to you?

2 A. Yes, ma'am.

3 Q. Okay. Did, at any time, you get names of  
4 potential suspects?

5 A. Yes, ma'am.

6 Q. How did you get those names?

7 A. Again, Sergeant Wilson. Through their  
8 investigative efforts, she gave me the information  
9 relating to their suspect. And I was able to get all of  
10 the identifiers, birthdays, driver's license numbers, and  
11 all that kind of stuff. And once I had that information,  
12 I was able to look up their photographs in the system,  
13 look up their booking photos and their driver's license  
14 photos.

15 Q. And were you ever able to print off a picture  
16 of Patrick Sowell's?

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

18 Q. I'm showing you what has been premarked as  
19 State's Exhibit Nos. 4 through 17. If you will, take a  
20 look at those.

21 A. (Witness complies.)

22 Q. What are those?

23 A. Those are stills taken from the video clips I  
24 had been given.

25 Q. And are those a fair and accurate depiction of

1 those events?

2 A. Yes, ma'am.

3 Q. And you're familiar with that video?

4 A. Yes, ma'am.

5 Q. And State's Exhibit No. 19, what is that?

6 A. That's the booking photo, previous mug shot of  
7 Patrick Sowell.

8 Q. Is that a fair and accurate depiction of him on  
9 that date?

10 A. Yes, ma'am.

11 MS. MITCHELL: Your Honor, at this time,  
12 the State offers State's Exhibits 4 through 17 and  
13 No. 19 after tendering to opposing counsel for  
14 inspection.

15 MR. STILL: No objection to the exhibits,  
16 Your Honor.

17 THE COURT: Okay, they are admitted.  
18 That's 4 through 19, correct?

19 MS. MITCHELL: Well, not 18.

20 THE COURT: I'm sorry.

21 MS. MITCHELL: It's 4 through 17 and then  
22 19.

23 THE COURT: Okay. Thank you.

24 (Whereupon State's Exhibit Nos. 4-17  
25 and 19 are admitted into evidence.)

1 MS. MITCHELL: May I publish to the jury,  
2 Your Honor?

3 THE COURT: You may.

4 Q. (By Ms. Mitchell) Were you able to compare a  
5 previous photo of Mr. Sowell's to the video?

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

7 Q. And did it appear to be the same person?

8 MR. STILL: Objection. Improper opinion  
9 testimony, Your Honor.

10 THE COURT: He can give his opinion looking  
11 at it. It's overruled.

12 A. Yes, ma'am. There were enough features visible  
13 in the video to make me conclude that they were the same  
14 person.

15 Q. (By Ms. Mitchell) Okay. I'm showing you what's  
16 been entered into evidence as State's Exhibit No. 19. And  
17 that's the previous picture of Mr. Sowell's, correct?

18 A. Yes, ma'am.

19 Q. And the still shots are a little blurry, but on  
20 State's Exhibit No. 10, that is the person that you've  
21 identified as Mr. Sowell's?

22 A. Yes, ma'am.

23 Q. Now, do you see the person that you identified  
24 as Mr. Patrick Sowell's in the courtroom today?

25 A. Yes, ma'am.



1 Q. Would you please identify him by an article of  
2 clothing that he's wearing?

3 A. The gentleman at the defense table in the white  
4 shirt.

5 THE COURT: He's identified the defendant.

6 Q. (By Ms. Mitchell) Were you ever able to show  
7 Ms. Deberry a photo array?

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

9 Q. And did you create that photo array?

10 A. No, ma'am, I did not.

11 Q. Where did you get it?

12 A. When I had received the information from  
13 Detective Wilson regarding the case that they were working  
14 on, Sergeant Jenkins, who was her partner, had already  
15 created the photo arrays.

16 Q. Okay.

17 A. I'm sorry. They are kept in a database which  
18 I'm able to access.

19 Q. I'm showing you what's been premarked as  
20 State's Exhibit No. 18. Do you recognize that?

21 A. Yes, ma'am.

22 Q. What is that?

23 A. That's the photo array that I printed out and  
24 showed to Ms. Lauren Deberry.

25 Q. And whenever you showed the photo array to her,

1 did you give her any sort of admonishment?

2 A. Yes, ma'am. We gave her a verbal admonishment,  
3 plus a paper admonishment that she can read and sign.

4 Q. If you're looking at the photo array -- I  
5 guess, how does a photo array come together?

6 A. Generally, we try to find people with the same  
7 characteristics as the target person we're looking at.  
8 You just want the same -- similar build, similar hair  
9 style, similar features, that type of thing.

10 Q. And was that done in this case?

11 A. Yes, ma'am.

12 Q. So, the males are all of similar skin tone,  
13 facial hair, hair on top of their heads?

14 A. Yes, ma'am.

15 Q. And was Ms. Deberry able to identify Patrick  
16 Sowell as one of the people who robbed her?

17 A. She was able to give me a tentative ID, yes,  
18 ma'am.

19 Q. What does tentative mean?

20 A. It covers a range, but, usually, if someone is  
21 not, you know, a hundred percent. There may be, you know,  
22 that really looks like the guy, or that -- we give them  
23 some wiggle room, I guess. So, a tentative ID means they  
24 are saying it's him, but there might be, you know --

25 Q. How long after the incident was this photo

1 array shown to her?

2 A. Approximately a month.

3 Q. And that's a fair and accurate copy of the  
4 photo array?

5 A. Yes, ma'am.

6 Q. No alterations have been made?

7 A. No, ma'am.

8 MS. MITCHELL: Your Honor, at this time the  
9 State officers State's Exhibit No. 18 after tender to  
10 opposing counsel for inspection.

11 MR. STILL: No objection to the exhibit,  
12 Your Honor.

13 THE COURT: All right. It's admitted.

14 (Whereupon State's Exhibit No. 18 is  
15 admitted into evidence.)

16 MS. MITCHELL: May I publish it to the jury  
17 briefly?

18 THE COURT: Yes, ma'am.

19 Q. (By Ms. Mitchell) I'm showing you what's been  
20 entered into evidence as State's Exhibit 18, and this is  
21 the photo array, correct?

22 A. Yes, ma'am.

23 Q. And which photo did Ms. Deberry identify as  
24 Patrick Sowell's?

25 A. The picture in the lower left corner, photo

1 No. 4.

2 Q. And that is the person who is Patrick Sowell's?

3 A. Yes, ma'am.

4 Q. So, even with a tentative ID, I guess, was that  
5 enough to get charges?

6 A. Well, if I can expound a little bit.

7 Q. Sure.

8 A. Even when we give the admonishment to people,  
9 one of the things we tell them is, don't feel compelled to  
10 pick somebody out of the photo array. Just because I'm  
11 showing you pictures doesn't mean the person that  
12 committed this crime is going to be there, but by the same  
13 token, don't be afraid to pick somebody if they are there.  
14 Because a lot of times people will be tentative about  
15 picking someone because they don't want to accidentally  
16 put an innocent person in jail.

17 So, what we tell them is that we're not basing this  
18 investigation solely on your identification. There's  
19 other evidence that has led us to focus on this particular  
20 person.

21 Q. Okay. So, in this case, did you feel that  
22 there was enough without her being 110 percent sure, I  
23 guess?

24 A. Yes, ma'am.

25 Q. And in the video -- in the video, did it appear

1 to you that one of the defendants had a weapon?

2 A. Yes, ma'am.

3 Q. And what weapon is that?

4 A. It's a handgun.

5 Q. Okay. And is a handgun a firearm?

6 A. Yes, ma'am.

7 Q. Is that a deadly weapon?

8 A. Yes, ma'am.

9 MS. MITCHELL: Pass the witness, Your  
10 Honor.

11 THE COURT: Cross?

12 MR. STILL: Thank you, Your Honor.

13 **CROSS-EXAMINATION**

14 BY MR. STILL:

15 Q. Lieutenant Parrie, let's talk about the  
16 witnesses that you were made aware of when you reviewed  
17 the report.

18 A. Yes, sir.

19 Q. One of the initial things you do is review the  
20 report that was made by the responding officer; is that  
21 correct?

22 A. Yes, sir.

23 Q. And you noticed, of course, that there were two  
24 complainants, not just one, right?

25 A. Yes, sir.

1 Q. The other complainant was Mr. Cruse Williams;  
2 is that right?

3 A. Yes, sir.

4 Q. You were not able to catch up with Mr. Cruse  
5 Williams; is that correct?

6 A. No, sir, I was not.

7 Q. Therefore, you were not able to show  
8 Mr. Williams a photo array; is that correct?

9 A. Correct.

10 Q. There was another witness in the report. Her  
11 name was Ms. Kimberly Mace; is that correct?

12 A. Correct.

13 Q. You were not able to speak with Ms. Mace; is  
14 that correct?

15 A. That is correct.

16 Q. Did you try to speak with Ms. Mace?

17 A. Yes, sir, I tried several times to call her.

18 Q. And you failed to speak with her; is that  
19 right?

20 A. Yes, sir.

21 Q. Therefore, you're not able to show her a photo  
22 array of the event; is that correct?

23 A. That's correct.

24 Q. And from your reading of the report, you know  
25 she was in room 138, and this event happened outside of

1 140; is that correct?

2 A. Yes.

3 Q. You described Ms. Deberry's level of certainty  
4 with regard to her identification in the photo array as  
5 tentative; is that correct?

6 A. Yes, sir.

7 Q. Now, what that means is -- tentative, of  
8 course, suggests something less than a positive  
9 identification; is that fair?

10 A. It can be, yes, sir.

11 Q. Because you have the option of using words when  
12 you describe how the witness identifies people; is that  
13 correct?

14 A. Yes, sir.

15 Q. Because you're the author of the report and  
16 you're the person who's observing the witness look at the  
17 photo array; is that right?

18 A. Yes, sir.

19 Q. And by choosing the word "tentative," what you  
20 are acknowledging in your police report is that there's  
21 some level of doubt by the witness viewing the photo  
22 spread, correct?

23 A. Technically, yes, sir.

24 Q. And you testified it's your lay opinion that  
25 this gentleman on the video, the other suspect is not

1 Mr. Johnson, it's my client; is that correct?

2 A. Yes, sir.

3 Q. You would agree with me, of course, that that  
4 is a question to be decided by the jury, correct?

5 A. Yes, sir.

6 Q. Now, let's talk about the photo array  
7 procedures. The procedure of creating this type of photo  
8 spread is a procedure that's currently out of favor with  
9 the Houston Police Department; is that correct?

10 A. I'm not really -- I've since left the robbery  
11 division. They were going through some processes. It  
12 wasn't necessarily an HPD decision, as far as necessarily  
13 a State decision. Our department, per se, was -- we were  
14 happy with what we were doing. But from pressure from the  
15 State and other civil organizations, they had done a  
16 study. And I left the division in the middle of the  
17 study. So, I don't really -- I can't speak to the  
18 certainty of it.

19 Q. Okay. What you're suggesting is that State  
20 entities and other civil entities said, you need to change  
21 these identification procedures, right?

22 A. Yes, sir.

23 Q. So, this type of procedure is one that was not  
24 in favor with those State agencies and those civil  
25 agencies that you mentioned in your testimony; is that



1 correct?

2 A. Yes, sir.

3 Q. One of the things that is perhaps an  
4 improvement is that the person who is administering photo  
5 spreads currently with HPD is not supposed to know where  
6 the suspect is located in this particular photo spread; is  
7 that correct?

8 A. Like I said, sir, I left the division when they  
9 were in the middle of that. So, I don't know what the  
10 current policy of the photo spread is.

11 Q. Well, is the policy encapsulated in any kind of  
12 general order?

13 A. I don't know if they've clarified it in a  
14 general order yet. It may have come out in what we call a  
15 circular. A circular is a department-wise notice that is  
16 later formulated and put into our rules and regulations  
17 manual. Since I have left the robbery division and have  
18 proceeded onto other activities, if it did come out, I did  
19 not pay much mind to it because I'm not really in the  
20 business of showing photo arrays anymore.

21 Q. Got you. It's not in your -- it's not what you  
22 do anymore, right?

23 A. Correct.

24 Q. So, you're aware that there's a change, but the  
25 details of which you're not certain of; is that fair?

1           A.       Yes, sir. Well, I know they were in the  
2 process of doing a study, and I don't know what the  
3 results -- I know they were trying different forms of  
4 doing photo arrays, but I don't know what the results of  
5 that study are, and I don't know what policy changes were  
6 made.

7           Q.       But somebody who's in the robbery division  
8 currently, or in a division that routinely shows photo  
9 spreads would be far more aware of these changes; is that  
10 fair?

11          A.       I would assume so, yes, sir.

12                   MR. STILL: I pass the witness, Your Honor.

13                   THE COURT: Anything else?

14                   MS. MITCHELL: No, Your Honor.

15                   THE COURT: Thank you, sir. You may step  
16 down.

17                   Call your next witness, please.

18                   MS. MITCHELL: The State calls Armand  
19 Schattle.

20                   THE BAILIFF: This witness has been  
21 previously sworn.

22                   THE COURT: Come forward, sir. You may  
23 have a seat.

24                   You may proceed when you are ready.

25

1                                   **OFFICER ARMAND SCHATTLE,**  
2 having been first duly sworn, testified as follows:

3                                   **DIRECT EXAMINATION**

4 BY MS. MITCHELL:

5           Q.       Would you please introduce yourself to us?

6           A.       My name is Armand Schattle.

7           Q.       Where are you currently employed?

8           A.       HPD.

9           Q.       How long have you been with HPD?

10          A.       About nine years.

11          Q.       What's your current assignment?

12          A.       Houston mounted patrol.

13          Q.       How long have you been with that assignment?

14          A.       A little over a year now.

15          Q.       What was your assignment back in March of 2012?

16          A.       I was on the crime reduction unit.

17          Q.       What area of town did you patrol?

18          A.       We were citywide gang task force. We went all  
19 over.

20          Q.       Now, I'd like to take your attention to  
21 March 26, 2012. Were you on duty that day?

22          A.       Yes, ma'am.

23          Q.       Were you with a partner?

24          A.       Yes.

25          Q.       Who were you with?