

1 Just have your seat.

2 *THE WITNESS:* Yes, ma'am.

3 *THE COURT:* And if you would, please, state  
4 and spell your name for my court reporter.

5 *THE WITNESS:* Gregory Todd Richard,  
6 G-R-E-G-O-R-Y T-O-D-D R-I-C-H-A-R-D.

7 *THE COURT:* You may proceed.

8 *MS. DAVIS:* Thank you, Judge.

9 **GREGORY TODD RICHARD,**  
10 having been first duly sworn, testified as follows:

11 **DIRECT EXAMINATION**

12 Q. (BY MS. DAVIS) Officer Richard, what do you do for  
13 a living?

14 A. I work for the Houston Police Department.

15 Q. And how long have you worked for the Houston Police  
16 Department?

17 A. Ten years.

18 Q. And have you worked for any other police agency?

19 A. No, ma'am.

20 Q. And what sort of training and experience have you  
21 had with Houston Police Department?

22 A. We go through a six-month police academy, we learn  
23 about Texas Penal Code stuff and criminal procedure, how to  
24 investigate some burglaries, robberies, some homicides, do  
25 accident reports.

1 Q. And what is your current role and responsibility in  
2 the police department?

3 A. I work in patrol.

4 Q. And what does that mean?

5 A. You basically run calls for service, you know,  
6 someone that gets involved in an accident, you go out there  
7 and do an accident investigation, do robbery reports,  
8 burglary reports, assault reports, take debris out of the  
9 road, just whatever people call, we pretty much do.

10 Q. And what part of town do you work in?

11 A. Northeast area.

12 Q. What are your hours of service?

13 A. 7:00 to 3:00.

14 Q. Were you on duty on July 25th, 2011?

15 A. Yes, ma'am.

16 Q. What were your hours of duty on that day?

17 A. 7:00 to 3:00.

18 Q. Okay. And did you get a call for service to an  
19 area known as Spence Street?

20 A. Yes, ma'am.

21 Q. Okay. Could you describe to the jury what type of  
22 call were you called out for?

23 A. I was dispatched to a burglary. Actually I went  
24 out there twice that morning. The first time was a burglary  
25 in progress at 2702 Spence and the second time was a

1 burglary that just occurred. That call happened about an  
2 hour, maybe 25 minutes to an hour after the first call at  
3 the same address, at 2702 Spence.

4 Q. Okay. And what part of town is Spence Street in?

5 A. It's on the northeast area. It's off Jensen and --  
6 Jensen and Bennington area.

7 Q. What major highway is around so the jury can  
8 understand what part of town?

9 A. 59, I-10 area.

10 Q. Okay. Is that in Harris County, Texas?

11 A. Yes, ma'am.

12 Q. And Officer Richard, you mentioned that you were  
13 called out twice. How do you get called to a scene?

14 A. Basically what happens, somebody calls the police,  
15 it goes to a call taker which then -- who generates a call  
16 slip, basically, telling -- briefly telling him what  
17 happened, what do they need the police for, that information  
18 is then sent to our dispatcher who then sends the  
19 information to us and we go to the call.

20 Q. Okay. How long of a street is Spence Street?

21 A. I want to say from Jensen to Hardy, it's probably  
22 about a mile.

23 Q. Okay.

24 A. A little over a mile.

25 Q. And you mentioned you were called out twice.

1 A. Uh-huh.

2 Q. Why is that?

3 A. Well, the first time I got the call, went to 2702  
4 Spence, I talked to an older lady -- well, got there,  
5 knocked on the door, talked to an older lady, asked her if  
6 she called the police about a burglary. She said she did  
7 not call. She didn't know what I was talking about. So, we  
8 kind of left it at that. I didn't have any other  
9 information about, you know, if anybody else's house was  
10 getting broken into but I just left it at that.

11 Q. Okay. And then how long until you received the  
12 next call?

13 A. About an hour later. I heard the call go out, I  
14 thought -- you know, I recently left that place. So, let me  
15 see if somebody is playing on the phone or what's, you know,  
16 what's going on. When I got there, talked to the same lady,  
17 she still didn't know what I was talking about. So, I'm,  
18 like, well, either somebody's, you know, giving the wrong  
19 address or playing on the phone. So, I went -- as I was  
20 walking back to my car, I was flagged down by her neighbors  
21 across the street who informed us that, yes, there was a  
22 burglary that took place; it was just two houses down from  
23 the 2702 Spence, which was at -- the burglary occurred at  
24 2610 Spence.

25 Q. Okay. And do you remember the name of the person

1 who flagged you down?

2 A. Patricia Pinkard.

3 Q. Okay. And when Ms. Pinkard flagged you down, what  
4 did you do next?

5 A. She told me that the house had gotten broken into.  
6 I went to 2610 Spence and I noticed that the window unit and  
7 the front of the house, the window unit was missing and the  
8 window was open. So, as I'm looking inside the room that  
9 the window unit was missing from, I could see everything --  
10 things were kind of tossed around and I kind of figured they  
11 probably didn't leave their house like that.

12 Q. Okay.

13 MS. DAVIS: Your Honor, may I approach the  
14 witness?

15 THE COURT: You may.

16 Q. (BY MS. DAVIS) Officer Richard, I'm showing you  
17 what's been premarked as State's Exhibits 1 through 5. Do  
18 you recognize these?

19 A. Yes, ma'am.

20 Q. Do these fairly and accurately depict the scene as  
21 you remember them that day?

22 A. Yes, ma'am.

23 Q. Okay.

24 MS. DAVIS: After tendering to opposing  
25 counsel, State offers 1 through 5.

1                   MR. KISLUK: No objection on Mr. Baines'  
2 behalf, Judge.

3                   MS. GUINEY: No objection on Mr. Malone's  
4 behalf.

5                   THE COURT: 1 through 5 will be admitted.

6                   MS. DAVIS: Your Honor, may I publish to the  
7 jury?

8                   THE COURT: You may.

9           Q.    (BY MS. DAVIS) So, this is 2610 in State's Exhibit  
10 1; is that right?

11           A.   Yes, ma'am.

12           Q.   State's Exhibit 2, is this the front of 2610?

13           A.   Yes, ma'am.

14           Q.   And then you mentioned that there was window units.  
15 Is that where the window units would have been here?

16           A.   Yes, ma'am.

17           Q.   Okay. And so, you mentioned earlier the window was  
18 open. So, what did you do when you saw the window was open?

19           A.   I walked up to the window and I looked inside.

20           Q.   Okay.

21           A.   And --

22           Q.   What did you notice when you looked inside?

23           A.   A whole bunch of things were kind of just tossed  
24 around in the room. It just looked like things was rambled  
25 through, so, very messy.

1 Q. What did you do next?

2 A. I went back, talked to the people, Ms. Pinkard  
3 again, asked her, you know, who lives there, you know, what  
4 happened. She told me that some -- the neighbors from that  
5 house, which the next-door house was 2614 Spence, had broke  
6 into this house, which was 2610 Spence. It was kind of --  
7 it was -- she was just kind of pointing, this house and that  
8 house. So, I went back over to 2614 Spence and the door on  
9 the side of the house was already open and I saw a gentleman  
10 there, which turned out to be Mr. Malone. I asked him to  
11 step outside. I asked him if -- is there anybody else in  
12 the house.

13 He said, yes, there was a female. Turned out  
14 to be Ms. Durant, asked her to step outside. As I'm talking  
15 to them, I bring them to the car, go over to -- back over to  
16 Ms. Pinkard's and asked her were those two people involved  
17 in breaking into the house and she said yes. I detained  
18 them and called for an IFR unit, which was an investigative  
19 first responder.

20 Q. You mentioned Mr. Malone. Do you see Mr. Malone in  
21 the courtroom today?

22 A. Yes, ma'am.

23 Q. Could you please point him out and identify him by  
24 an article of clothing?

25 A. The gentleman in the blue colored shirt to my

1 right.

2 MS. DAVIS: Your Honor, may the record reflect  
3 the witness has identified the defendant Harry Malone?

4 THE COURT: The record will so reflect.

5 Q. (BY MS. DAVIS) Okay. Why did you call out for an  
6 IFR unit?

7 A. After briefly talking to the witness, she was  
8 stating that there was several people involved in the  
9 burglary. Given the scope of the investigation needed to  
10 take care of this, that's what the IFR units are for, so.

11 Q. Okay. So, for someone with maybe more experience?

12 A. Yes, yes. They go through extra training as far as  
13 doing investigations.

14 Q. Okay. What does IFR stand for?

15 A. Investigative first responder.

16 MS. DAVIS: Your Honor, may I approach the  
17 witness again?

18 THE COURT: You may.

19 Q. (BY MS. DAVIS) Officer Richard, I'm showing you  
20 what's been premarked as State's Exhibit No. 12.

21 A. Uh-huh.

22 Q. You mentioned the house next door. Does this  
23 fairly and accurately depict the house next door?

24 A. Yes, ma'am.

25 MS. DAVIS: After tendering to opposing



1 counsel for inspection.

2 MR. KISLUK: None from Mr. Baines, Judge.

3 MS. GUINEY: None from Mr. Malone.

4 MS. DAVIS: May I publish this to the jury,  
5 Judge?

6 THE COURT: Hang on. Let me admit it.

7 MS. DAVIS: I'm sorry.

8 THE COURT: It will be admitted.

9 Q. (BY MS. DAVIS) And State's Exhibit No. 12, this is  
10 the home that Mr. Malone was in?

11 A. Yes, ma'am. 2614.

12 Q. And that was the home that you mentioned that  
13 the -- that Ms. Pinkard pointed out that the -- that who  
14 came out of?

15 A. People involved in the burglary.

16 Q. Yes.

17 A. They were at that house. That's what she said.

18 Q. Okay. After you had detained Mr. Malone and  
19 Ms. Durant and you called for an IFR unit, what happened  
20 then?

21 A. Officer Nguyen came out to the scene and he took  
22 over the investigation.

23 Q. Okay. Did you have any other role in the  
24 investigation?

25 A. No, ma'am.

1 Q. Okay. Did you talk to Mr. Malone or Ms. Durant  
2 at -- any further in the investigation?

3 A. No, ma'am, I didn't interview them.

4 Q. Did Mr. Malone or Ms. Durant make any comments to  
5 you at any point?

6 A. No, ma'am.

7 MS. DAVIS: No further questions, Your Honor.

8 THE COURT: Ms. Guiney, are you first?

9 MS. GUINEY: Yes, Judge.

10 THE COURT: Okay.

11 **CROSS-EXAMINATION**

12 Q. (BY MS. GUINEY) Good morning or Mr. -- or Officer  
13 Richard. Is it Richard?

14 A. Good morning, ma'am. Yes, ma'am.

15 Q. My name is Kristin Guiney and I represent Harry  
16 Malone. We have not had a chance to speak; is that right?

17 A. Yes, ma'am.

18 Q. I want to just go over some of your testimony with  
19 you. You got a call from dispatch at approximately what  
20 time?

21 A. I don't remember what time the call was dropped.

22 Q. 9:20 sound roughly about right?

23 A. It was in the morning.

24 Q. Okay. When you get a call from dispatch, what  
25 types of information are you given?

1           A.    Generally they try and get the location of the  
2 offense, what kind of offense it is, the suspect  
3 information, like, if someone's, I guess, let's say, shot,  
4 you know, would tell them where they're shot at, stuff like  
5 that, so kind of your basic information as far as what kind  
6 of call you're going to.

7           Q.    Okay.  So, in this call, both on the first and the  
8 second, you were told that the location of the offense was  
9 2702 Spence; is that correct?

10          A.    That's where the call dropped at, yes, ma'am.

11          Q.    And you were told, though, that it was a burglary  
12 or theft in progress?

13          A.    Yes.

14          Q.    Were you given any suspect identifiers or  
15 information?

16          A.    Not that I recall.  It could have been on the call  
17 slip.  I don't have access to the call slip right now but  
18 not that I recall.

19          Q.    So, you -- if you got something, it was, at most,  
20 very general information?

21          A.    Yes, ma'am.

22          Q.    Fair to say?

23          A.    Yes, ma'am, probably.

24          Q.    You arrived, you went to the 2702 address?

25          A.    Uh-huh.

1 Q. And you spoke with an older woman; is that right?

2 A. Yes, yes, ma'am.

3 Q. Did you come to know that that older woman was the  
4 mother of Clyde Baines?

5 A. Later on, through talking, yes, ma'am.

6 Q. All right. But Clyde Baines was not at that 2702  
7 address?

8 A. No.

9 Q. The first time you came to 2702 looking for a  
10 burglary, you left knowing that there had been no burglary  
11 at 2702, correct?

12 A. No, not at 2702.

13 Q. Okay. And then about an hour later you got another  
14 call to the same address for a burglary.

15 A. Yes, ma'am.

16 Q. When you went back, is that when you spoke to Clyde  
17 Baines' mother?

18 A. I spoke to her both times.

19 Q. Both times.

20 A. But both times she was still with the -- she didn't  
21 know what I was talking about, so.

22 Q. And this was about at 10:00 o'clock, 10:30 in the  
23 morning? Does that sound about right?

24 A. It's about an hour, 45 minutes to an hour after the  
25 first call; so, it was still in the morning.

1 Q. When you spoke to Ms. Pinkard, the woman who waved  
2 you down about the call.

3 A. Uh-huh.

4 Q. Were you given any identifiers about suspects'  
5 descriptions, things of that nature that you might be  
6 looking for?

7 A. No. We kind of briefly spoke and she told me what  
8 house was broken into and the house that the people that  
9 supposedly were involved in the break-in, what house they  
10 were in.

11 Q. Okay.

12 A. That house turned out to be in between the 2702 and  
13 the 2610.

14 Q. So, she did not tell you that the people you were  
15 looking for were at 2702?

16 A. No, no, no. No.

17 Q. She told you that the people you were looking for  
18 were in 2614?

19 A. 2614, yes, ma'am.

20 Q. And were you told information about how many people  
21 she had seen burglarizing the home?

22 A. She said it was -- I guess a few. I mean, she  
23 didn't say exactly how many. I knew it was several, as in  
24 more than two.

25 Q. Did she tell you the sexes of the people that you

1 were looking for?

2 A. She said one of them -- I know she said one of them  
3 was a female.

4 Q. Black, white or Hispanic?

5 A. Black female.

6 Q. Any other descriptors about any of the other people  
7 involved in the burglary?

8 A. Not that I recall. She did mention Clyde's name  
9 but at that point in time I didn't know who Clyde was, so.

10 Q. How did she mention Clyde's name?

11 A. She said Clyde. Clyde was also with the people  
12 that broke into the house.

13 Q. But no other subject descriptors about the people  
14 you were looking for?

15 A. Black males. I mean, she didn't say six foot tall,  
16 180 pounds, something -- things like that, no, she didn't.

17 Q. That Spence Street address, is that an address that  
18 is in your normal patrol beat?

19 A. Yes, ma'am.

20 Q. Is that an address that is predominantly -- or that  
21 street or that block, that geographic area, is it  
22 predominantly white, predominantly Hispanic, predominantly  
23 African-American?

24 A. I would say African-American and Hispanic.

25 Q. The descriptors, looking for a black male, not

1 really narrowing it down for that area?

2 A. I guess -- not really. I mean, it -- yes, exactly  
3 what you said. It's not --

4 Q. I'm not trying to put you into a tight spot,  
5 Officer. We're just asking a question about the area.

6 A. Okay.

7 Q. So, you know you're looking maybe for somebody  
8 named Clyde, maybe a black male and a black female. She's  
9 given you those --

10 A. From this address at 2614, yes.

11 Q. All right. So, at that point you go to the 2614  
12 address, right?

13 A. Uh-huh.

14 Q. Let me back up. Ms. Pinkard, when she was telling  
15 you what she had seen, did she give you a distance  
16 estimation as to where she was when she saw what she said  
17 she saw?

18 A. She -- no. She was at home.

19 Q. Okay.

20 A. So.

21 Q. When she flagged you down, where did you guys end  
22 up meeting?

23 A. I walked into her driveway.

24 Q. Was she in her driveway?

25 A. She was in her yard, I mean, in front of her house.

1 MS. GUINEY: Judge, may I approach?

2 THE COURT: Sure.

3 Q. (BY MS. GUINEY) Officer Richard, I'm showing you  
4 what I've marked as Defense Exhibit 1. I will tell you that  
5 these are blow-ups and they represent those. Does that look  
6 like the area that you have been talking about as Spence  
7 Street?

8 A. Okay. This is the white house, right?

9 Q. Uh-huh, exactly.

10 A. This is the mom's house?

11 Q. Uh-huh.

12 A. This is --

13 Q. The house that was burglarized.

14 A. The house that --

15 Q. And this is Pinkards'.

16 A. Yeah.

17 Q. Does that fairly and accurately depict what we've  
18 been talking about?

19 A. Yes. There's no numbers, but yes, ma'am.

20 Q. They're represented down here if you want to  
21 verify. That's the home where the burglary was, the home --

22 A. Okay.

23 Q. -- that -- where the witness came from and the home  
24 where 2614 is.

25 A. Okay.



1 Q. Okay?

2 A. Okay.

3 MS. GUINEY: At this time, Judge, I tender to  
4 opposing counsel and ask that Defense Exhibit 1 be admitted  
5 into evidence.

6 MS. DAVIS: No objections, Judge.

7 THE COURT: Defense 1 will be admitted.

8 MS. GUINEY: May I publish?

9 THE COURT: Do you have any objection to that  
10 also?

11 MR. KISLUK: No, Judge.

12 THE COURT: I'm assuming that you're -- sort  
13 of a joint offer and I probably shouldn't do that.

14 MR. KISLUK: That's fine, Judge.

15 Q. (BY MS. GUINEY) Okay, Officer, this is the same  
16 thing. Can you see it at your screen there?

17 A. Yes, ma'am.

18 Q. Okay. So, just to give the jury kind of an  
19 overview, bird's-eye glimpse of what we're talking about,  
20 this is Spence Street, runs east/west; is that right?

21 A. Yes, sir.

22 Q. The north side of the picture of the home by itself  
23 is 2703 Pinkard -- I mean, Spence Street. Pardon me.

24 A. Yes.

25 Q. Right?

1 A. Yes, ma'am.

2 Q. And that's the address where Patricia Pinkard, the  
3 woman who flagged you down, came from?

4 A. Yes.

5 Q. And then across the street on the south side is the  
6 2610 address that was allegedly burglarized?

7 A. Yes, ma'am.

8 Q. And then next door to it is the 2614, which is the  
9 house where Ms. Pinkard said those people were involved?

10 A. Yes, ma'am.

11 Q. Okay. Would you agree with me that 2703, the house  
12 on the north side of Spence Street, is set fairly far back  
13 from the street?

14 A. Appears to be.

15 Q. Okay. And, I mean, even judging the distance of  
16 the street, average street width is what?

17 A. Like, ten --

18 Q. 12 feet?

19 A. Yeah.

20 Q. I mean, Spence is a two-lane road, right?

21 A. Yes, ma'am.

22 Q. It has to accommodate side-by-side traffic?

23 A. Yes, ma'am.

24 Q. And then the window units -- and we've seen the  
25 picture on State's 1 -- the window units on this 2614 Spence

1 Street are actually at the back of the home, right?

2 A. No, it's at the front side.

3 Q. Okay. So, more up close here?

4 A. Yes, on the other side, though.

5 Q. On the other side, I'm sorry. There's actually a  
6 window unit on the west side as well, isn't there?

7 A. Say what, ma'am?

8 Q. There's actually one window unit on the west side  
9 of that house and two window units on the east side of the  
10 house; is that -- does that ring a bell?

11 A. The one I saw was on the east side of the house.

12 Q. Okay. So, give me a distance estimation from,  
13 let's say, the middle of the driveway on that 2703 Spence  
14 address to the closest-to-the-street window unit. What  
15 would you say that is?

16 A. I mean, based on if that -- the street is 12 feet  
17 and that looks like -- so, times 12 is what? 36?

18 Q. 12 times 3 is 36, yeah.

19 A. About 36 feet, I guess.

20 Q. Okay. So, about 36 feet. Ms. Pinkard didn't tell  
21 you where she was standing at the time she saw the burglary,  
22 right?

23 A. No, ma'am, we didn't really get that detailed into  
24 her account of what happened.

25 Q. Do you recall whether Ms. Pinkard wears glasses?

1 A. I can't recall.

2 Q. Would you agree with me that she's an older lady?

3 A. Yes, yes.

4 Q. In fact, did you get her name, date of birth, that  
5 kind of information?

6 A. Yes, ma'am.

7 Q. She's about 73, 74 years old, something?

8 A. Sounds about right.

9 Q. Okay. When she pointed you in the direction of  
10 that 2614 address, the house on the south side of the  
11 picture on the east, you went to that home?

12 A. Uh-huh.

13 Q. And the door was open.

14 A. The side door.

15 Q. Okay. And from that vantage point through the side  
16 door, what could you see?

17 A. I could see Mr. Malone.

18 Q. What was Mr. Malone doing?

19 A. Standing there.

20 Q. Okay. Were there couches in the room where he was  
21 in the room?

22 A. No, not in part of the house that he was in because  
23 he was standing out in front of the door.

24 Q. Okay.

25 A. So, it seemed as if he was kind of walking out as I

1 was walking by, so, because I know the door was wide open,  
2 unless they just keep it open.

3 Q. And how was he clothed?

4 A. What did he have on?

5 Q. Right.

6 A. I don't remember.

7 Q. Do you recall that he was not wearing a shirt?

8 A. I don't remember.

9 Q. Okay. The black female that you've mentioned,  
10 where was she in relation to Harry Malone?

11 A. I don't recall where she was in the house. I think  
12 we just -- because I never went in the house at that point.  
13 We just summoned her out and she came -- she must not have  
14 been that far from the door because it didn't take her but a  
15 short time to come outside.

16 Q. What did you do with Mr. Malone once he voluntarily  
17 left the house at your request?

18 A. I detained him, I verified that Ms. -- that with  
19 Ms. Pinkard that he was one of the individuals that she was  
20 referring to as the people responsible for breaking into the  
21 house and I called for IFR unit.

22 Q. And how did you do that? How did you verify with  
23 Ms. Pinkard that he was who she had seen?

24 A. He stood outside, I walked across the street,  
25 talked to Ms. Pinkard, is he one of the ones that were

1 responsible, she said yes. So --

2 Q. So, while he was on the front steps of 2614, where  
3 was Ms. Pinkard in relation to him when she said --

4 A. She was still at that house.

5 Q. Okay. So, she's -- she's 36 feet away?

6 A. Yes.

7 Q. Okay.

8 A. Give or take.

9 Q. And he's the only black man standing on the front  
10 steps of the 2614 Spence address?

11 A. Yes, ma'am.

12 Q. You know -- how long have you been an officer?

13 A. Ten years.

14 Q. Okay. What is HPD's policies on the best practices  
15 for identification of suspects in an ongoing investigation?  
16 That was a really lawyerly question. You want me to restate  
17 it?

18 A. I don't even know how to answer that one.

19 Q. How did you learn in cop school how to get suspects  
20 identified in a criminal investigation?

21 A. One way is a photo array.

22 Q. Okay. Tell the jury what a photo array is.

23 A. Basically you get photos of similar -- people that  
24 look alike, I guess, that look similar to each other. You  
25 line them up on a piece of paper and you ask the witness to

1 point out which one is the person that did it.

2 Q. And typically aren't you taught that in doing that  
3 photo array, you give the witness certain instructions  
4 before they even look at the photo array?

5 A. I've never done a photo array but --

6 Q. Okay.

7 A. -- I'm sure there's something.

8 Q. Well, have you ever heard the admonishments that  
9 officers give: You're about to view a photo array, the  
10 person who committed the offense may or may not be in this  
11 photo array. Have you ever heard those admonishments?

12 A. On TV.

13 Q. Okay. But you don't typically do photo arrays,  
14 right?

15 A. I've never -- as a patrol officer, we just rarely  
16 come into that situation where we have to do something like  
17 that.

18 Q. All right. So, we talked about the photo array.  
19 What are some other ways that you know that you can have a  
20 witness identify who they think is responsible for the  
21 crime?

22 A. If it's something like, I want to say, hot pursuit,  
23 if you recall, like if someone was to get their purse stolen  
24 and suspect was to run into a crowd and they said, Okay, the  
25 guy has a red shirt on, you could bring the person with the

1 red shirt out and say, Is this the guy that stole your purse  
2 and if they identify him, then that's usually good enough  
3 evidence that they are guilty of the crime. So, that's the  
4 kind of situation that I had now.

5 Q. And that's called a show-up, right? Are you  
6 familiar with that --

7 A. I don't know what the lawyer term that it would be  
8 called but that's kind of how we've done things on the  
9 street.

10 Q. And you can also do -- are you familiar with -- may  
11 have seen it on TV -- a live lineup where people, six  
12 people, just like in your photo array that look alike, stand  
13 behind glass and a witness would pick them out. You know  
14 that, right?

15 A. I've seen that.

16 Q. And HPD actually does that, don't they?

17 A. I guess so.

18 Q. Can you think of a reason why those types of  
19 identification processes might be less suggestive than  
20 showing a witness one person?

21 A. Excuse me?

22 Q. When I say "suggestive," do you know what that  
23 means in relation to an identification procedure?

24 A. I guess bias?

25 Q. Bias.



1           A.    Uh-huh.

2           Q.    Did you tell Ms. Pinkard before you asked her to  
3 identify Mr. Malone, Hey, I don't know if this is the guy or  
4 not. Is this the guy?

5           A.    I asked her if this the guy.

6           Q.    Okay. But she hadn't given you -- had she given  
7 you any descriptors beforehand?

8           A.    Not that I recall.

9           Q.    I mean, you just knew it was a black guy, right?

10          A.    Yes, ma'am. I mean, she said that she knew the  
11 people; she just doesn't know them, I guess, as in they're  
12 neighbors. So, she's seen them around but she doesn't know  
13 them individually. The only person that she named was  
14 Clyde.

15          Q.    And this ain't Clyde?

16          A.    That's not Clyde.

17          Q.    When you went -- Mr. Malone go with you back to  
18 Clyde's momma's house, that 26 -- 2703 address? 2702,  
19 pardon me. The address that you had initially been  
20 dispatched to, did Harry Malone go with you to speak with  
21 Clyde Baines' mother?

22          A.    Yes.

23          Q.    What was the purpose of taking Harry Malone to  
24 Clyde Baines' mother's home?

25          A.    I think at that time we were looking for Clyde.

1 Q. Was this before or after Ms. Pinkard had made her  
2 identification?

3 A. That was before.

4 Q. So, at that point Harry is assisting you, to some  
5 degree, in your investigation, fair enough?

6 A. Yeah, we're looking for Clyde, yes. He said he  
7 wasn't Clyde.

8 Q. When -- how long would you estimate -- what would  
9 you estimate the time that had elapsed between the second  
10 time when you get out there and really start your  
11 investigation, talk to Ms. Pinkard before Mr. Baines --  
12 Mr. Malone -- pardon me -- was arrested?

13 A. Maybe 20 minutes, something like that.

14 Q. Okay. And when you asked Ms. Pinkard, Hey, is this  
15 the guy, the one black male I got standing on the front  
16 steps, you already knew Harry Malone's name, right?

17 A. I got his name, yes, ma'am.

18 Q. Okay. So, did you have an address where he stayed  
19 or where he lived?

20 A. I don't recall if I asked him that. I think he  
21 said he lived there at the 2614 Spence.

22 Q. You know that you could have -- because you -- at  
23 that point had you already called IFR or RAF or whatever you  
24 call it -- whatever the investigative unit --

25 A. Well, as I start noticing the investigation, I

1 guess, getting more detailed, that's when I decided, well,  
2 maybe this needs an IFR unit here.

3 Q. IFR. Okay.

4 A. Yes, ma'am.

5 Q. Was the I --

6 A. IFR.

7 Q. -- IFR unit called before or after you had  
8 Ms. Pinkard identify the one black man standing on the  
9 porch?

10 A. After.

11 Q. After. Did you ever contemplate maybe I want to  
12 just turn over the entire investigation, have them do a  
13 photo array, have them do a live lineup, anything like that?

14 A. I did turn over the entire investigation to them.

15 Q. Do you know whether they did a lineup?

16 A. I have no idea.

17 Q. When you left the scene, Officer Nguyen had made  
18 the scene, right?

19 A. Yes, ma'am.

20 Q. And he was the investigative unit.

21 A. Yes, ma'am.

22 Q. You had or Officer Nguyen had arrested Harry  
23 Malone?

24 A. I think at that point he was still being detained.  
25 So, I didn't arrest him.

1 Q. Did -- was he detained in the back of the car?

2 A. Yes.

3 Q. Back of the police car, I mean?

4 A. Yes.

5 Q. And you recall Clyde Baines' mother actually  
6 bringing him a shirt?

7 A. Yes, ma'am.

8 Q. So, you would agree with me that at the time he  
9 came out of the house, he was not having a shirt? Because  
10 earlier you said you didn't recall what his clothing was but  
11 you do recall her bringing him a shirt?

12 A. Yeah, I do remember him bringing -- bringing a  
13 shirt.

14 Q. What time did you leave the scene?

15 A. No idea. I don't recall what time I left.

16 Q. Did you drive Mr. Malone downtown to be booked or  
17 did Officer Nguyen?

18 A. I don't think -- I don't know if I did or not.  
19 That was a long time ago. I didn't do a -- I didn't do the  
20 supplement or the report, so.

21 Q. Did you drive Ms. -- the other woman that was found  
22 at that 2610 address or 2614, the address, the white house  
23 there, did you get a name for her?

24 A. Elonia Durant.

25 Q. She's a black woman, right?

1 A. Yes.

2 Q. Did you speak to her?

3 A. Yes.

4 Q. Was she identified by Ms. Pinkard?

5 A. Yes.

6 Q. Did you speak to Dwayne Pinkard, the gentleman that  
7 resides at that 2702 address?

8 A. Briefly. I didn't really interview him.

9 Q. And based on just Ms. Pinkard's 36-foot  
10 identification, they were arrested that day?

11 A. I didn't do the investigation. Based on her  
12 identification, I detained them and then called for an IFR  
13 unit, Officer Nguyen to come out.

14 Q. Were you there when an Officer Nguyen was  
15 conducting his investigation?

16 A. Yes.

17 Q. Did you see him speak to anybody other than  
18 Patricia or Dwayne Pinkard?

19 A. He may have. I don't know. I was trying to find  
20 the residence of 2610 Spence.

21 Q. The home that was burglarized?

22 A. Yes, ma'am.

23 Q. Did Officer Nguyen or any type of crime scene unit  
24 investigation collect forensic evidence or anything like  
25 that at the scene?

1 A. I don't know what kind of evidence he collected.

2 Q. Okay. You didn't see anybody out there with, like,  
3 fingerprint powder, anything of that nature?

4 A. Not that I saw.

5 MS. GUINEY: Katie, where is State's 1? Is it  
6 up here?

7 MS. DAVIS: Right there.

8 Q. (BY MS. GUINEY) Officer Richard, I'm showing you  
9 State's Exhibit 3. This is the east side of that home that  
10 was burglarized. Agree with me?

11 A. Yes, ma'am.

12 Q. And at the time you reported to the scene, those  
13 burglar bars were still intact and on the windows; is that  
14 correct?

15 A. Yes, ma'am.

16 Q. How far are those bars apart?

17 A. What do you mean?

18 Q. What's the width? I can't quite tell on the  
19 picture. Is it three feet? Is it four feet?

20 A. I don't understand what you're saying. How far --  
21 what bars apart?

22 Q. These bars here? There's a bar, there's a bar,  
23 there's a bar. It's a cage unit for an AC unit, right?

24 A. Yes, ma'am.

25 Q. What's the width between those bars? Is it --

1 looks like maybe two feet?

2 A. Could be a good guess. I don't know.

3 Q. Okay. Nobody took measurements?

4 A. No, ma'am.

5 Q. The female, what was her stature? Bigger than me?  
6 Littler than me?

7 A. Probably maybe -- if my memory is correct, she's  
8 probably a little bit bigger than you.

9 Q. A little bit bigger? A lot bigger or a little bit  
10 bigger?

11 A. A little bit.

12 Q. So, you don't recall, though, whether you took  
13 Mr. Malone downtown?

14 A. I don't remember, ma'am.

15 Q. Do you recall whether or not you read Mr. Malone  
16 his Miranda rights?

17 A. I never read him his Miranda rights.

18 Q. But it's possible that you actually took him  
19 downtown?

20 A. Yes, ma'am, I could have transported him.

21 Q. And you -- but though if you took him downtown, you  
22 would not have taken Elonia Durant downtown because that  
23 would have violated procedure, right?

24 A. Well, I wouldn't take both because the southeast --  
25 well, the female jail is off Mykawa and the male jail is off

1 of Lubbock. So, I wouldn't do both, take both.

2 Q. And then assuming that you took Harry Malone  
3 downtown to the jail, that would have been the extent of  
4 your investigation or work on this case?

5 A. Yes, ma'am.

6 Q. Have you been called back to Spence Street or had  
7 any dealings with the Pinkards since this case was  
8 initiated?

9 A. No, ma'am.

10 MS. GUINEY: Nothing further, Judge.

11 THE COURT: Mr. Kisluk.

12 MR. KISLUK: Thank you, Judge. May I approach  
13 the witness, Judge?

14 THE COURT: Sure.

15 **CROSS-EXAMINATION**

16 Q. (BY MR. KISLUK) It is Officer Richard? No "S,"  
17 right?

18 A. No, sir.

19 Q. We haven't spoken before today, have we?

20 A. No, sir.

21 Q. You talked with the prosecutors before you came  
22 down to testify?

23 A. Yes, sir.

24 Q. And they told you -- are you familiar with the  
25 report?



1           A.    I didn't write the report.  I kind of briefly went  
2 over it but all the parts that I did, Officer Nguyen wrote.

3           Q.    Okay.  But the information he wrote in that report  
4 were some of the -- some of the information was gathered  
5 from you?

6           A.    I called him to the scene -- no, he didn't  
7 interview me for anything, no.  He asked me what happened.  
8 I pointed out the witnesses, briefly told them what they  
9 said, told them about the two people I had detained and he  
10 took it from there.

11          Q.    Let me show you what's been marked as Defendant's  
12 Exhibit 12.  It's out of order a little bit but let me --  
13 you had testified earlier that you got the call around 9:20  
14 or 9:30, right?  Is that what you said earlier?

15          A.    Approximately.  I don't know exactly what time I  
16 got the call.  I know it was in the morning, so.

17          Q.    You said the second call was about an hour later,  
18 45 minutes to an hour later, right?

19          A.    Yes, sir.

20          Q.    If you'll take a look at that exhibit and look at  
21 the top lines, look at the dates, July 25th, and look at the  
22 two times you received calls going out to that address.

23          A.    Okay.

24          Q.    And what's the time on there?

25          A.    15 minutes.

1 Q. So --

2 A. This one did --

3 Q. -- not 45 minutes to an hour. It's only 15  
4 minutes, right?

5 A. Okay. Okay.

6 MR. KISLUK: At this time I will --

7 Q. (BY MR. KISLUK) Does this fairly and accurately  
8 depict what a call slip would look like from HPD?

9 A. This?

10 Q. Yes.

11 A. No.

12 Q. It's not a printout from HPD?

13 A. This is not what a call slip looks like.

14 Q. Okay. Would that be a printout of calls for a  
15 certain location?

16 A. Yeah, for a call for a certain location, yes, sir.

17 Q. Any reason to doubt its authenticity?

18 A. No.

19 MR. KISLUK: At this time I would tender to  
20 the prosecutor for objections, if any.

21 MS. DAVIS: Judge, my only objection would be  
22 to redact the other parts of the exhibit that are not  
23 relevant.

24 THE COURT: Okay. Can I see it?

25 MR. KISLUK: Yeah, Judge.

1                   (At the bench, on the record.)

2                   MR. KISLUK: Just the first two is all we  
3 need, first and second response.

4                   THE COURT: Why don't we --

5                   MR. KISLUK: Just cover it?

6                   THE COURT: I think it would be real easy to  
7 just cover it and make a copy of this.

8                   MR. KISLUK: That's fine, Judge. We can do it  
9 at break, if you want.

10                  THE COURT: Yeah, yeah. Exactly.

11                  MR. KISLUK: Okay.

12                  (End of discussion at the bench.)

13                  THE COURT: All right. I'm going to hold off  
14 admitting it until it's in its proper format.

15                  MR. KISLUK: Yes, Your Honor.

16                  THE COURT: Okay. Great.

17                  MR. KISLUK: Thank you, Judge.

18                  Q.    (BY MR. KISLUK) Officer, your times are off a  
19 little bit, right?

20                  A.    Yes.

21                  Q.    When did you know this case was going to trial?

22                  A.    Maybe two weeks ago.

23                  Q.    So, you had two weeks to kind of refresh your  
24 memory by looking over the report and anything else  
25 regarding this case, such as times that you got called to

1 the location, right?

2 A. Yes, sir.

3 Q. And you've been trained to be prepared and come in  
4 and testify and be ready to go, right?

5 A. Yes, sir.

6 Q. You'd agree with me you kind of just dropped the  
7 ball slightly on this issue?

8 A. I didn't do the report.

9 Q. Call slips.

10 A. I didn't look at the call slips, sir.

11 Q. Do you take notes when you go to a scene?

12 A. Excuse me?

13 Q. Do you take any notes when you go to a scene?

14 A. Yes, sir, when I'm about to do the report, yes,  
15 sir.

16 Q. So, if you don't have any active role in writing  
17 the report, you just toss those notes?

18 A. I didn't take any notes at this particular scene.  
19 Once I got the gist of what was going -- what happened,  
20 that's when I called for an IFR unit.

21 Q. Okay. But it's not -- you'd agree with me it's not  
22 very difficult to go by HPD and say, listen, I'm going to  
23 testify next week, can I get those call slips and just kind  
24 of verify the times that I was called out to the scene on  
25 that day. That wouldn't be hard to do, would it?

1 A. No, sir.

2 Q. But you didn't do it here, did you?

3 A. No, sir.

4 Q. When you go to officer school and you get some sort  
5 of training in investigations, how long do you get for the  
6 investigation part of your learning?

7 A. Sorry?

8 Q. For example, when you do investigations for, like,  
9 burglaries, assaults, robberies, at school, police school,  
10 how many hours of training do you get in that, would you  
11 say?

12 A. I couldn't guess. It may take a week, a few days.  
13 I mean, it depends on what part are you talking about.

14 Q. Well, let's talk about simply burglary  
15 investigations. How much time did you spend on those kind  
16 of investigations, what to do, how to do it, when to do it?

17 A. Maybe a day, four hours, something like that.

18 Q. When you went out there the first time, as we found  
19 out, about 9:20 that morning, you went to 2702.

20 A. Yes, sir.

21 Q. Spence.

22 A. Yes, sir.

23 Q. When you first went out there, you spoke with the  
24 old lady, did you introduce yourself?

25 A. What do you mean?

1 Q. Did you tell her what your name was?

2 A. I don't think so. I asked her if she called the  
3 police.

4 Q. Did you ask her her name?

5 A. I probably did. I don't recall, though.

6 Q. One of the things when you make a scene, one of the  
7 things they teach you in police school is to take notes of  
8 who you spoke to, their address and their phone numbers in  
9 case you needed to contact later, right?

10 A. If there is a reason, I guess, if there is  
11 something there that merits, you know, further  
12 investigations if a crime has occurred, yes, sir.

13 Q. Okay. And so you didn't take any information, much  
14 less her name, from the lady you first -- on the first time  
15 you went to 2702 Spence, right?

16 A. No, sir. She said she didn't call the police and  
17 no burglary occurred, so.

18 Q. So, you were there for maybe about a minute or two?

19 A. Something like that.

20 Q. And so you take off. Where did you go from there?

21 A. I went back to patrolling.

22 Q. And then you get a call 15 minutes later, right?

23 A. According to your call slip, yes, sir.

24 Q. And when you go back 15 minutes later, did you ask  
25 the lady this time or introduce yourself to her, say who you

1 were, what your exact name was?

2 A. I don't know if I said my name is Officer Richard.  
3 I said Houston Police but --

4 Q. And did you ask her her name?

5 A. I possibly did, yes.

6 Q. And if you did, would you have written it down?

7 A. No, not at the time.

8 Q. How long did you stay on that second call?

9 A. Maybe a hour, hour and a half, something like that.

10 Q. And how long did you speak to her that second time?

11 A. Maybe five, five minutes, something like that.

12 Q. And you still never got around to remembering  
13 whether or not you asked her her name?

14 A. That was about -- that was last year. I didn't  
15 write her name down. At that particular time I asked her if  
16 she called the police, I asked her, this is the second time  
17 we got a call over here, if there was anything going on.  
18 Usually what I do when I get to a scene, I talk to them and  
19 ask them, briefly go over what happened so if I can  
20 determine whether or not it is a crime and then after that,  
21 that's when I grab -- get their ID and I take down any  
22 information to do an actual report. But if I'm not going to  
23 be the one doing the report, typically I do not write their  
24 information down unless I'm writing it down to either hand  
25 it over to somebody or something like that.

1 Q. Well, you know there's going to be a follow-up  
2 investigation because you called IFR, correct?

3 A. Uh-huh.

4 Q. Yes?

5 A. Yes, sir.

6 Q. She has to hear yes and she can't go uh-huh.

7 A. I'm sorry.

8 Q. She has to take down words, not --

9 A. Oh, okay. I'm sorry.

10 Q. You know you're going to turn this over to IFR?

11 A. Yes, sir.

12 Q. But what are you going to turn over? You don't  
13 have her name?

14 A. He can come out there and he can ask her her name  
15 himself.

16 Q. Did you not think this was your job or duty to get  
17 that information to be able to turn it over to IFR?

18 MS. DAVIS: Judge, at this point I'd object to  
19 asked and answered.

20 THE COURT: Sustained.

21 Q. (BY MR. KISLUK) All right. So, the second time  
22 you come out, you're out there about an hour, you leave  
23 talking to the lady at 2702 and you go over to talk with  
24 Ms. Pinkard or do you go to the burglarized house first?

25 A. I talked to Ms. Pinkard. She flags me down.



1 Q. And when she flagged you down, was she, like,  
2 yelling or screaming or just kind of waving to you?

3 A. Kind of waving. She wasn't yelling at me.

4 Q. Okay. And when you're driving -- if you look at  
5 that exhibit, when you're driving down the street, which  
6 direction are you going?

7 A. I'm heading -- I'm coming from Jensen; so, I'm  
8 heading westbound on Spence.

9 Q. Okay, so.

10 A. So, that's thataway.

11 Q. So, you would have passed 2702 Spence first before  
12 you got to Ms. Pinkard?

13 A. I stopped around right there, where the second dot  
14 is at.

15 Q. That little yellow dot?

16 A. Yeah, yes, sir.

17 Q. Okay. When you talked to Ms. Pinkard, did you ask  
18 her her name?

19 A. Not at that particular time, no, sir.

20 Q. Were you curious as to who she was?

21 A. She said she was a neighbor. She said she lived at  
22 that address.

23 Q. But didn't ask her her name?

24 A. Not at that particular time, no, sir.

25 Q. How long were you talking with her before you

1 decided to ask her her name?

2 A. Maybe 15, 20 minutes.

3 Q. Were you done talking with her before Officer  
4 Nguyen showed up?

5 A. I had already talked to her, yes.

6 Q. You were done with her?

7 A. I mean, I don't understand what you mean by "done  
8 with her."

9 Q. Had you completed all your questions for  
10 Ms. Pinkard before Officer Nguyen arrived?

11 A. Yes, I didn't talk to her again after Officer  
12 Nguyen got there, no.

13 Q. I know but did you finish and there was, like, a  
14 minute or two and then Officer Nguyen arrived or you just --  
15 he kind of simultaneously arrived when you were done?

16 A. I talked to her, I called Officer Nguyen for  
17 Officer Nguyen to come out and investigate the scene.

18 Q. And then you hung around for a while after Officer  
19 Nguyen arrived, correct?

20 A. Yes, sir.

21 Q. What were you doing during that time?

22 A. I was trying to find the residents who lived at  
23 2610 Spence.

24 Q. How were you trying to do that? By phone?

25 A. Yes, sir.

1 Q. Were you able to locate them on the phone?

2 A. Yes, sir.

3 Q. And you advised them what happened and asked them  
4 to come by -- come to the scene, right?

5 A. Yes, sir.

6 Q. When the call comes in from 2702, does it give you  
7 a name? Does dispatch give you a name of the owner of the  
8 house or do they just say the address?

9 A. They just give the address.

10 Q. Now, when you were talking to Ms. Pinkard, did she  
11 kind of give you any indication of where she was when she  
12 observed what she claimed she saw?

13 A. She just said she was outside.

14 Q. She didn't say by a shed?

15 A. Not that I remember, no, she didn't say that.

16 Q. Did you think it was important to ask her?

17 A. Not at that particular time during the  
18 investigation, no.

19 Q. Now, these AC units were on the side of the house,  
20 correct?

21 A. Yes, sir.

22 Q. Did you go up and look at those closely?

23 A. Yes, sir.

24 Q. And did you make any mental notes or any notes that  
25 you passed on to Officer Nguyen about anything you observed

1 about the bars or the cage that was around the window units  
2 there?

3 A. Well, could you put a picture up on it?

4 Q. Yeah, let me do that. I'm new at this; so, give me  
5 a minute to make sure it's right. Does that give you a good  
6 idea of what we're talking about?

7 A. Slide it up there. Yeah, that's right.

8 Q. Right there?

9 A. Yes. I noticed underneath the bars was a wide open  
10 space. So, no, you might not be able to slide in between  
11 the bars but underneath the bars was open.

12 Q. All right. Have you ever been at that house and  
13 observed this area prior to July 25th of 2011?

14 A. No, sir.

15 Q. Did Ms. Pinkard describe how these units were taken  
16 out of there to you?

17 A. No, she didn't.

18 Q. Did you look around the window, both that one -- if  
19 I can slide the same exhibit down -- did you look at both  
20 those windows around the actual window itself and the -- I'm  
21 not sure what it's called, to be honest with you.

22 A. Seal?

23 Q. The frame around it? Did you look around all those  
24 and make any notes about what happened there?

25 A. I noticed that the window was open. I figured they

1 probably just didn't leave their windows open. I know with  
2 the AC unit, you have to open the window to put the AC unit  
3 there, so.

4 Q. Did you notice anything about any marking around  
5 the windowsill or the trim around the window at all?

6 A. You mean like --

7 Q. Any kind of marking that looked like somebody pried  
8 something through there to get something out?

9 A. No. My clue was just that the window was open, so.

10 Q. I know, but you went back and looked around the  
11 window itself, the frame, right?

12 A. Yes, sir.

13 Q. Didn't notice anything about any pry marks or  
14 anything with a crowbar or hammer or anything to loosen that  
15 window unit from there, did you?

16 A. No, sir. All you have to do is push them in.

17 Q. But did you not see markings on there?

18 A. No, I didn't see anything like that.

19 Q. Okay. Now, the only two folks that were at that  
20 house at 2614 were Mr. Malone and Ms. Durant, correct? When  
21 you arrived?

22 A. Yes, sir, to my -- I think so.

23 Q. Was there anyone else in the house?

24 A. Not that I remember right now.

25 Q. And going back to the house here that was

1 burglarized, the first responder, which is you, what you're  
2 supposed to do, would you agree, is provide -- preserve the  
3 integrity of the crime scene, right?

4 A. Yes, sir.

5 Q. And so, if you're supposed to preserve the crime  
6 scene but you're not there doing it, there's no tape around  
7 here showing this has been marked off and nobody should  
8 cross that line to look at the house, right?

9 A. We never put up any tape, no, sir.

10 Q. And there's you dealing with Mr. Malone and this  
11 other female, right?

12 A. Uh-huh.

13 Q. Yes or no?

14 A. Yes, sir. I'm sorry.

15 Q. Okay.

16 A. I'm sorry.

17 Q. So, if you're doing that, who's watching the crime  
18 scene?

19 A. I had another unit there, Officer Polka.

20 Q. How do you spell his last name?

21 A. P-O-L-K-A.

22 Q. Polka?

23 A. Yes.

24 Q. When did he arrive?

25 A. Maybe a few minutes after me.

1 Q. And what was he doing?

2 A. Looking at the house, I guess. Making sure nobody  
3 went in and came out. Because we all were just kind of  
4 standing in the street. There was no crowd or anything to  
5 worry about somebody, you know, going up to the house to  
6 tamper with the house or anything like that.

7 Q. So, you're at the front of the house?

8 A. Yes.

9 Q. Not around the back -- the back of the house is not  
10 secure?

11 A. No, sir.

12 Q. You said "while we were there," okay. There's  
13 Officer Polka and you. Who else?

14 A. That's it.

15 Q. That's it?

16 A. I think.

17 Q. I'm sorry?

18 A. I think that's it.

19 Q. You're not sure?

20 A. Maybe somebody went by that didn't get on the call  
21 slip, that dispatch didn't tell to go there but, you know.

22 Q. But if they came, they'd have to check in with you  
23 to let you know they're there?

24 A. Not necessarily have to check in. They just show  
25 up, they just, you know, kind of start helping out.

1 Q. Now, when you talked with Ms. Pinkard, she  
2 mentioned several individuals that live at 2614 Spence,  
3 right?

4 A. Yes.

5 Q. Did she indicate to you that Mr. Baines was  
6 actually involved in the burglary or he just lived there?

7 A. Mr. Who?

8 Q. Mr. Baines.

9 A. Is that Clyde?

10 Q. Yes. I'm sorry. Clyde Baines, yes, sir.

11 A. Okay. All I got was his name was Clyde. I didn't  
12 know his last name. I'm sorry. What was your question  
13 then?

14 Q. Did she indicate to you that he was involved in the  
15 burglary or simply that he lives at 2614 Spence?

16 A. She mentioned his name. She said he did it. I  
17 don't know what particular part in the burglary he did.

18 Q. Did she tell you whether or not she saw him go into  
19 the house?

20 A. She didn't say.

21 Q. Did she say whether or not she took -- he received  
22 anything from the house?

23 A. Not to me. I didn't --

24 Q. And how long did you talk with her? For about five  
25 or ten minutes?



1 A. Yes, sir.

2 Q. And she's a pretty spirited lady, right? Pretty  
3 spirited? Talkative? She'll tell you something?

4 A. I guess.

5 Q. But she never mentioned that he went in the house  
6 at 2610 Spence Street, right?

7 A. Not that I remember, from myself talking to her,  
8 no.

9 Q. And when you knocked on the door, was there any  
10 other -- at the 2614 Spence Street, did you go into the  
11 house at all?

12 A. I never had to knock on the door. The door was  
13 open.

14 Q. No. Did you ever go inside the house, though?

15 A. Yes. Later on that day, yes, we did go in the  
16 house.

17 Q. And did you determine then when you later went in  
18 the house that there was other people in the house?

19 A. I think there was a Hispanic lady there. I don't  
20 remember who she was.

21 Q. That was listed as Hispanic female?

22 A. To my knowledge.

23 Q. No kids or anything like that? Young men or  
24 anything?

25 A. I don't remember.

1 Q. So, there's nothing about this information that you  
2 gathered that you turned over to Officer Nguyen or any other  
3 officer at the scene, correct?

4 A. I may have wrote down -- I've told him what  
5 basically I had. So, I didn't tell him, you know, this guy  
6 did this, this guy did that. I told him there was a  
7 burglary that occurred, the witness is across the street, we  
8 have two people detained, she said they were involved in it,  
9 and that's pretty much it.

10 Q. And the information you gathered was from  
11 Ms. Pinkard?

12 A. Yes.

13 Q. And do you recall -- she didn't say exact number of  
14 people involved, did she?

15 A. No.

16 Q. Did you ask her how many people were involved?

17 A. She said it was several. I didn't ask her, you  
18 know, was it three, two, five, six, something like that, no.

19 Q. And then you spoke briefly with her husband,  
20 Mr. Pinkard; is that right?

21 A. He was kind of more standing there.

22 Q. Next to her?

23 A. Yes. At one point, yes.

24 Q. And was he standing next to her when you were  
25 interviewing his wife?

1           A.    No.  Not initially when I first walked over there  
2           and talked to her, but he was -- I guess he was in the area.  
3           He did get close enough, you know, throughout the interview  
4           and then at one point he was standing by.

5           Q.    And he was standing by when she was giving you  
6           information about what she observed?

7           A.    Yes.

8           Q.    And one of the things that you learned in cop  
9           school is you kind of separate the witnesses and talk to  
10          them individually so they can't be, you know, kind of  
11          tainted what they're going to say, right?

12          A.    Yes, sir.

13          Q.    But you didn't do that here?

14          A.    No.

15                   MR. KISLUK:  Pass the witness.

16                   THE COURT:  Ladies and gentlemen, we're going  
17                   to take our morning break at this time.  We'll be in recess,  
18                   let's say, until 25 till 12:00.  Lunch break will probably  
19                   be about 12:30.  So, if you want to go downstairs and get  
20                   something to drink or eat and bring it back up with you,  
21                   you're welcome to do that.

22                            (*Jury not present.*)

23                            (*Recess.*)

24                            (*Jury present.*)

25                   THE COURT:  Be seated, please.  All right,