

1 Q. And Eugene never hinted at the fact that he  
2 was leasing the property?

3 A. No.

4 Q. So, again, you had no knowledge of anyone  
5 supposed to be living in the house?

6 A. Correct.

7 MS. DOWNING: Pass the witness.

8 THE COURT: Mr. Bundick?

9 MR. BUNDICK: No questions, Judge.

10 THE COURT: All right. Thank you, ma'am.  
11 You may step down and step outside, please.

12 THE WITNESS: Thank you.

13 THE COURT: Call your next witness,  
14 please.

15 MS. DOWNING: State calls Officer  
16 Robinson.

17 THE COURT: All right. If you'll stand  
18 there and raise your right hand and be sworn in as a  
19 witness, please.

20 THE COURT: Ms. Downing?

21 CODY ROBINSON,  
22 having been first duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. DOWNING:

25 Q. Good morning, Officer Robinson.

1 A. Good morning.

2 Q. How are you doing?

3 A. I'm a little tired, but I'm good.

4 Q. Okay. Can you please introduce yourself to  
5 the jury?

6 A. I'm Officer Cody Robinson with the Houston  
7 Police Department.

8 Q. Why are you so tired this morning?

9 A. Because I worked night shifts and the air  
10 support division. I got off at 6:00 o'clock this  
11 morning.

12 Q. Okay. So, it's been a busy morning for you?

13 A. It has.

14 Q. Okay. How long have you been with the HPD?

15 A. I was hired in 2009. I graduated the academy  
16 in November of 2009. And trained in Southeast Houston  
17 for the next six months and then I was on patrol out  
18 there to four years where I was a field trainer and an  
19 evaluator. And I moved into a tactical proactive  
20 position from there. I did that for about a year. And  
21 then I moved into helicopters in July. So, about six  
22 years.

23 Q. Okay. And where were you assigned and what  
24 were your duties in 2000 -- in March of 2014?

25 A. In March '14, I was in the differential

1 response team. It's a division that looks into like  
2 city ordinance complaints, building code violations,  
3 things like that.

4 Q. Are you familiar with landlord/tenant law?

5 A. We get some instruction on that in the academy  
6 and I have a rent house. But we're not trained to  
7 execute civil process type stuff.

8 Q. Okay. Is there any kind of procedure where  
9 you're not supposed to handle any kind of civil stuff?

10 A. We can't handle like evictions, things like  
11 that.

12 Q. Okay.

13 A. We would contact the constable for that or  
14 refer the people to a constable for that.

15 Q. Okay. Are you familiar with a woman by the  
16 name of Geraldine Johnson?

17 A. Yes, I am.

18 Q. And how do you know Ms. Johnson?

19 A. Ms. Johnson contacted the police along with  
20 her daughter, Ms Webster. They went up to the  
21 storefront on Griggs.

22 MR. BUNDICK: Objection as to narrative,  
23 Your Honor.

24 THE COURT: Let's keep it to question and  
25 answer, please.

1 THE WITNESS: That's clear.

2 Q. (BY MS. DOWNING) Explain how you came into  
3 contact with her.

4 A. She contacted an officer up there. That  
5 officer contacted us.

6 Q. Okay. And what was in regards to her  
7 complaint?

8 A. She was stating that she owned a residence at  
9 49 --

10 MR. BUNDICK: Objection, that's hearsay.

11 THE COURT: Sustained.

12 Q. (BY MS. DOWNING) Was she concerned about  
13 something?

14 A. She had some people in her house that she  
15 wanted moved out.

16 Q. Okay. So, what did you do?

17 A. Well, at first I thought it might be a civil  
18 situation.

19 Q. Okay.

20 A. So, I reviewed the paperwork that she gave us.

21 Q. And what kind of paperwork was it?

22 A. She had a living will from her deceased  
23 husband. The daughter was also listed in the will.  
24 That was her father.

25 Q. Okay. It was who's father?

1           A.    It was Ms. -- Ms. Webster's father left the  
2 house to her and her brother.

3           Q.    Are sure that Ms. Johnson -- it wasn't  
4 Ms. Johnson's father?

5           A.    It was Eugene, Sr. I'm not exactly sure on  
6 the relation. It was family -- it was in a trust. The  
7 home was listed in a trust -- the Johnson trust.

8           Q.    Okay. Did she provide you with any additional  
9 paperwork?

10          A.    Yeah. She had a handwritten letter from --

11                   MR. BUNDICK: Objection. He's testifying  
12 about something that's not in evidence.

13                   THE COURT: Well --

14                   MR. BUNDICK: That's hearsay.

15                   THE COURT: He hasn't said any hearsay  
16 yet. So, that's overruled.

17          A.    It was a handwritten letter she provided to  
18 us.

19          Q.    (BY MS. DOWNING) Okay. And based upon those  
20 two documents she provided, was this one of those civil  
21 situations?

22          A.    From the way I was reading it --

23                   MR. BUNDICK: Objection. His answer to  
24 that would be hearsay from something that's not in  
25 evidence, Your Honor.

1 THE COURT: Overruled.

2 A. From what I was given -- the information I was  
3 provided, at that point no, it was not a civil issue.

4 Q. (BY MS. DOWNING) Okay. So, then what did  
5 that investigation turn into?

6 A. Well, from the paperwork I was provided, I  
7 felt like I had a legitimate homeowner. Because I  
8 looked it up on HCAD, the actual home address. It was  
9 listed the same way it was listed in the will they  
10 provided me.

11 Q. Okay.

12 A. And so, from there, knocked on the door hoping  
13 that someone would answer so I could get the other side  
14 of the story.

15 Q. Okay. And did someone answer?

16 A. After about 10 minutes, a black male named  
17 Vincent -- Vincent Williams answered the door.

18 Q. Okay. And is Mr. Williams present in the  
19 courtroom today?

20 A. He is. He's in a white shirt and tie to my  
21 right.

22 MS. DOWNING: May the record reflect the  
23 witness has identified the defendant?

24 THE COURT: It will.

25 Q. (BY MS. DOWNING) And just for the record,

1 where was this address of this home?

2 Do you remember the address of the home?

3 A. Whether it was placed on the house.

4 Q. No. Like what was the address?

5 A. Oh, 4930 Hull.

6 Q. Is that within Harris County?

7 A. Yes.

8 Q. Texas?

9 A. Yes.

10 Q. Okay. So, you knocked on the door and the  
11 defendant answered. Did you make any observations at  
12 that point?

13 A. You know, from my training and experience, I  
14 noticed some tattoos on his upper chest area, on his  
15 neck and along with the smell of marijuana that I  
16 noticed, that was -- it was just two clues that kind of  
17 got my attention.

18 Q. Okay. So, what did you do based on the smell  
19 of marijuana?

20 MR. BUNDICK: Your Honor, may we  
21 approach?

22 THE COURT: Yes.

23 (Bench conference on the record).

24 MR. BUNDICK: I'm just here because we  
25 filed -- we made a motion in limine asking the --

1 MS. DOWNING: You're too loud.

2 MR. BUNDICK: It's really difficult for  
3 me not to be loud.

4 We made a motion in limine asking that  
5 the State not refer to any prior bad acts or anything  
6 else that was going on. In my opinion, even the gun  
7 would fall under that. They're about to get into the  
8 search. This information about the tattoos would  
9 certainly be a -- evidence that wouldn't be admissible.  
10 And we would ask that you instruct them not to allude  
11 to it.

12 THE COURT: Well, certainly it --

13 MR. BUNDICK: But she's trying to get  
14 into it as gang affiliation with these tattoos.

15 MS. DOWNING: That was not my intention.

16 MR. BUNDICK: Okay.

17 THE COURT: Y'all tell me when y'all are  
18 done and then I'll talk.

19 MR. BUNDICK: I'm done.

20 THE COURT: Okay. Certainly in this day  
21 and age, I don't believe that tattoos are an extraneous  
22 crime or bad act. So, your objection to that is  
23 overruled. Any mention at this point of marijuana  
24 since you have already informed the Court that you  
25 intend to ask for a probable cause instruction for this



1 jury, the smell of marijuana along with all the other  
2 evidence would be evidence of probable cause, if it  
3 exists, for the jury to consider. So, your objection  
4 to that will be overruled.

5           Regarding the weapon, that is evidence of  
6 this particular offense itself as long as another one.  
7 So, your objection to that at this time is overruled as  
8 long as the proper questions are asked and the proper  
9 way to elicit that testimony, the objections will be  
10 overruled. If they're not asked in the proper way at  
11 the proper time, then I will consider any other  
12 objections you might have at that point. But for now,  
13 they're overruled.

14           (End of conference).

15           Q. (BY MS. DOWNING) Officer, you had mentioned  
16 that you smelled the odor of marijuana. How do you  
17 know that it was marijuana?

18           A. We were trained in the academy to identify the  
19 smells of marijuana and burning marijuana.

20           Q. And does it have a very distinct smell?

21           A. It does.

22           Q. Okay. Based on that smell of marijuana, what  
23 did you do?

24           A. Well, the other thing was, he didn't really  
25 want to clear the doorway. So, I asked him to step

1 outside just so I could see both hand, his full body.  
2 And when I informed him why I was there, he said that  
3 he wanted to get his girlfriend from inside.

4 Q. Okay.

5 A. And tried to step back through the doorway.

6 Q. Okay. So, there was someone else inside?

7 A. That's what he was saying.

8 Q. Okay. And did this concern you?

9 A. Not as much as him trying to step back inside.

10 Q. Okay. And why is that?

11 A. Well, after reading some of the documentation  
12 I was provided, I was under the impression that I was  
13 dealing with a drug house.

14 Q. Okay. And why would that be a concern?

15 A. From my experience and through the things that  
16 I've investigated, a lot of times you find firearms  
17 along with the sale of narcotics.

18 Q. So, you smelled marijuana. He says his  
19 girlfriend is inside. What do you do?

20 A. I detained him in handcuffs and brought him  
21 out to my patrol car.

22 Q. Okay. What was his demeanor?

23 A. He look tired, like he had just woken up. He  
24 wasn't aggressive or unruly or anything like that.

25 Q. Okay. So, after you detain him, what do you

1 do?

2 A. I went back to the doorway and called out that  
3 I was an HPD officer and for that person to come  
4 outside. I think at that point he even provided me her  
5 name, Dominique. So, I was yelling out to her for her  
6 to come outside.

7 Q. Okay. Did she come outside?

8 A. No, she didn't.

9 Q. Okay. So --

10 A. I called two or three, maybe four times. And  
11 with the permission of the homeowner, I went in to find  
12 her along with my supervisor.

13 Q. So, Ms. Johnson gave you consent to search the  
14 home?

15 A. Yes.

16 Q. Do you know if that was written consent or  
17 oral consent?

18 A. It was verbal. Typically we get a written  
19 consent when we're looking for something that could be  
20 -- you know, could hurt the person that's giving us the  
21 consent.

22 Q. Okay. And what you mean by that is like if  
23 you're going to find something incriminating to the  
24 person that's --

25 A. Provided the consent, yes.

1 Q. Okay. And that wasn't the case here?

2 A. I didn't think so because she said that she  
3 had tried to use her key to get into the house and that  
4 all the locks had been changed.

5 Q. So, after you called out to Dominique two or  
6 three or four times, you get consent. What happens  
7 next?

8 A. Me and my sergeant enter the living room.  
9 That was the first room of the house. We made a left  
10 turn to the bedroom where we thought she would be. And  
11 that was based on what the defendant Mr. Williams had  
12 said.

13 Q. Okay. So, she was in the front bedroom?

14 A. Yes.

15 Q. Can you describe to the jury what that bedroom  
16 looked like?

17 A. It was to the left of the main hallway. It's  
18 the north bedroom. It opened up to the right where  
19 there was a bed with a large headboard with shelving.  
20 A dresser on the north wall and a dresser on the  
21 northeast corner of the room. Ms. Levi was asleep in  
22 the bed. On the left side -- my left side facing the  
23 bed of the headboard was a pistol. And then there were  
24 narcotics in baggies and other belongings on both of  
25 the dressers on the north wall.

1 Q. Okay. So, she's asleep in the bed.

2 A. Yes.

3 Q. And you said there was a headboard with  
4 shelving.

5 A. Yes.

6 MS. DOWNING: Permission to approach,  
7 Your Honor?

8 THE COURT: Yes, ma'am.

9 Q. (BY MS. DOWNING) I'm going to have you draw  
10 that.

11 A. Okay.

12 Q. If you could draw a diagram of the -- Officer,  
13 if you could please draw a diagram of the bedroom  
14 including the bed, the headboard and two dressers.

15 A. That's fine. Okay.

16 Q. So, Officer, I've now marked this as State's  
17 Exhibit No. 21.

18 A. Okay.

19 Q. Is this a diagram that you just drew in  
20 regards to what the bedroom looks like?

21 A. Yes, ma'am.

22 Q. Okay. In pink highlighter, can you please  
23 draw where you found the drugs -- the cocaine?

24 A. (Witness complying).

25 Q. Okay. And --

1 A. Cocaine was on the larger dresser here.

2 Q. Okay.

3 A. And marijuana in both locations.

4 Q. Okay. And is this a fair and accurate  
5 depiction of the bedroom?

6 A. Yes.

7 Q. And do you believe it would be useful to the  
8 jury in understanding your testimony?

9 A. Yes, I do.

10 MS. DOWNING: State would move to admit  
11 State's Exhibit No. 21.

12 MR. BUNDICK: We'll object to this as the  
13 State hasn't laid the proper predicate for introducing  
14 this document.

15 THE COURT: Objection is overruled.  
16 State's 21 will be admitted.

17 MS. DOWNING: Permission to publish, Your  
18 Honor?

19 THE COURT: Yes, ma'am.

20 Q. (BY MS. DOWNING) Okay. Officer, I'm showing  
21 the jury what's been marked and admitted as State's  
22 Exhibit No. 21, your diagram.

23 When you entered the bedroom, this is how  
24 you found it.

25 A. That's correct.

1 Q. Okay.

2 A. The opening on the bottom right would be where  
3 the hallway was that we entered through.

4 Q. Okay. And what happened when you entered the  
5 hallway -- into the bedroom from the hallway?

6 A. It looked as if the female was asleep in the  
7 bed. I can't tell if she was faking it or if she was  
8 actually asleep. But she didn't wake up when we called  
9 her name. I actually had to strobe her with my  
10 flashlight from the doorway.

11 Q. Okay. And for purposes of the record, the  
12 girlfriend is the stick figure that you drew in the  
13 bedroom?

14 A. Yes. Sorry. I apologize for my drawing  
15 skills.

16 Q. That's okay.

17 So, then you found the pistol and you  
18 you've indicated that as the -- half a triangle?

19 A. That's correct.

20 Q. Okay. And then additionally, you've indicated  
21 there were two dressers where you found drugs.

22 A. Yes.

23 Q. Okay. And in regards to the pistol and where  
24 you found it, you found that in the headboard?

25 A. That's correct.

1 Q. In the shelving of the headboard?

2 A. Right.

3 Q. Okay. And as far as the cocaine and -- on the  
4 two dressers, was there anything else that you found on  
5 those dressers to indicate to you who those drugs  
6 belonged to?

7 A. Not immediately. I was talking to  
8 Mr. Williams outside and he asked if I could get his  
9 wallet and his cell phone. So, I reentered the house  
10 after asking him where those might be. He said they'd  
11 be in the bedroom. And I found them on the top  
12 dresser, the one in the north -- the top left of that  
13 drawing. I found his wallet and his ID, his watch and  
14 his cell phone all on that same dresser.

15 Q. Okay. Officer, to the right of you is a  
16 screen.

17 A. Yes.

18 Q. If you tap it, it will draw.

19 A. Okay.

20 Q. So, on the north -- I guess, it's not north.

21 On -- in the picture --

22 A. It's the northeast corner.

23 Q. Northeast corner of that dresser you found his  
24 wallet, his cell phone and his keys?

25 A. Correct.



1 Q. And as far as State's Exhibit No. 21, that is  
2 the same dresser in which you wrote the word cocaine?

3 A. Correct.

4 Q. Indicating that's where you found the cocaine?

5 A. Yes.

6 Q. Okay. Was there anything else on that dresser  
7 or in the dresser that made you believe it belonged to  
8 someone else?

9 A. No.

10 Q. And all of those items were on top of the  
11 dresser in plain view?

12 A. That's correct. I did not go into the drawers  
13 at all.

14 MS. DOWNING: Permission to approach,  
15 Your Honor?

16 THE COURT: Yes, ma'am.

17 MS. DOWNING: Actually one second, if you  
18 don't mind.

19 Q. (BY MS. DOWNING) Officer, once you found the  
20 drugs, what did you do next?

21 A. I typically put on gloves and then start  
22 taking photographs of the locations of them. And then  
23 I take custody of them.

24 Q. Okay.

25 A. With the --

1 MR. BUNDICK: May we approach, Judge?

2 THE COURT: Yes, sir.

3 (Bench conference on the record).

4 MR. BUNDICK: We've had our hearing.

5 You've made your ruling. It is incumbent upon me to  
6 re-object to the introduction of the drugs in this  
7 case. And to re-urge my objection. I'm doing that at  
8 this point. The evidence was illegally seized and it  
9 is not admissible.

10 THE COURT: All right. Same rulings  
11 stand. Your objection is overruled.

12 MR. BUNDICK: But noted.

13 THE COURT: It is noted and you can have  
14 a running objection throughout the testimony.

15 (End of conference).

16 Q. (BY MS. DOWNING) Officer Robinson, did you  
17 take pictures in this case?

18 A. Yes, I did.

19 Q. Of the drugs?

20 A. Yes.

21 Q. Okay. And you had mentioned that you put on  
22 gloves and then you started to process it?

23 A. Correct.

24 Q. Okay. What does that process entail?

25 A. Documenting locations and then narcotics are

1 transferred down to the narcotics unit. They're  
2 weighed there. But initially just bagging things up,  
3 taking pictures, bagging them up and testing for  
4 cocaine.

5 Q. And when you bag them up, do you put any kind  
6 of identifying marks on them?

7 A. I don't write my initials on the envelope in  
8 narcotics until it's sealed there.

9 Q. Do you put -- what kind of baggies do you use  
10 to process or tag the actual drugs?

11 A. It depends on the situation. Typically  
12 there's baggies there. There were baggies on the  
13 scene. If not I carry Ziploc baggies in the trunk of  
14 my patrol car.

15 MS. DOWNING: Permission to approach,  
16 Your Honor?

17 THE COURT: Yes, ma'am.

18 Q. (BY MS. DOWNING) Officer, I'm showing you  
19 what's been marked as State's Exhibit No. 6 and No. 7.  
20 What do you recognize those to be?

21 A. Looks like crack cocaine.

22 Q. And No. 6?

23 A. That's the large envelope that we use to  
24 process narcotics at our narcotics division.

25 Q. Okay.

1           A.    We write the case number and date and things  
2 like that on it to identify them.

3           Q.    All right.  And does this State's Exhibit  
4 No. 6 have the case number and the defendant's  
5 identifying information on it?

6           A.    Yes, it does.

7           Q.    And how did it get there?

8           A.    Those envelopes are given to you by a narcotic  
9 officer once you arrive.  And they have you fill out  
10 the information and you sign it.  Put the contents  
11 inside, seal it, initial it, date it and give it back  
12 to them.

13          Q.    Okay.  And State's Exhibit No. 7, you said it  
14 is crack cocaine?

15          A.    Yes.

16          Q.    Is that the crack cocaine that was found at  
17 the location that day?

18          A.    Yes, it is.

19          Q.    And how do you know that?

20          A.    It's in the baggie that I found it in there  
21 and it has my initials on it.  And I was the only one  
22 that had custody of it.

23          Q.    Okay.  Do they appear to appear changed or  
24 altered in any way?

25          A.    No.

1 MS. DOWNING: State would move to admit  
2 State's Exhibit No. 6 and No. 7.

3 MR. BUNDICK: May I take this witness on  
4 voir dire?

5 THE COURT: Yes, sir.

6 VOIR DIRE EXAMINATION

7 BY MR. BUNDICK:

8 Q. Officer, you indicated that you -- you  
9 collected the evidence, the drugs in this case.

10 A. Yes, sir.

11 Q. And put it in a Ziploc bag; is that right?

12 A. Sometimes I put them in Ziploc bags just to --

13 Q. I'm sorry. I'm asking you about this case in  
14 particular.

15 Did you put the evidence in the Ziploc  
16 bag?

17 A. Not until I got to the narcotics division.

18 Q. What did you put it in?

19 A. I think I carried it on a tray that I found at  
20 the location with some marijuana leaves on it.

21 Q. And you put -- you gave all that in the -- to  
22 the narcotics division; is that right?

23 A. I brought everything down there.

24 Q. Were you present when the drugs were put in  
25 the envelope?

1 A. Yes, sir.

2 Q. This envelope?

3 A. Yes, sir.

4 Q. That would be State's Exhibit No. 7, the  
5 plastic Ziploc bag?

6 A. I placed the narcotics in the plastic bag and  
7 placed them inside the paper bag and then turned them  
8 in.

9 MR. BUNDICK: No objection, Your Honor.

10 THE COURT: With no objection at this  
11 point, State's 6 and 7 will be admitted.

12 CONTINUED DIRECT EXAMINATION

13 BY MS. DOWNING:

14 Q. Officer, how did State's Exhibit No. 6 and  
15 No. 7 make it down here today?

16 A. I had to go to the 25th floor of 1200 Travis,  
17 which is our headquarters building and checked them  
18 out.

19 MS. DOWNING: Permission to publish, Your  
20 Honor.

21 THE COURT: Yes, ma'am.

22 Q. (BY MS. DOWNING) So, Officer, whose name is  
23 written on the outside of that envelope?

24 A. Under suspect name it says Vincent L.  
25 Williams.

1 Q. And is that the defendant in this case?

2 A. Yes, ma'am.

3 Q. And those are, in fact, State's Exhibit No. 6  
4 -- 7 was the drugs that you found on the dresser in the  
5 bedroom?

6 A. Yes, ma'am.

7 Q. Along with his keys, wallet and cell phone?

8 A. Correct.

9 Q. And based on your training and experience as  
10 an officer, what did you believe State's Exhibit No. 7  
11 to be?

12 A. From my training and experience, crack  
13 cocaine.

14 Q. And what is crack cocaine?

15 A. It's a Category 1 Narcotic used to become  
16 intoxicated by smoking it.

17 Q. And how is that different from regular  
18 cocaine?

19 A. They take powder cocaine and cook it in a  
20 certain method. And they bake it into basically a  
21 cookie. That's the street term for the shape of the  
22 crack cocaine. And they divide that up into pieces and  
23 sell it.

24 Q. Do they add additional ingredients to make the  
25 cookie?

1           A.    I'm sure they do.  I don't know exactly what  
2 the recipe would be.

3           Q.    And, Officer Robinson, when you brought  
4 State's Exhibit No. 7, the evidence bag to the  
5 courtroom today -- State's Exhibit No. 6 to the  
6 courtroom today, what condition was it in?

7           A.    The same as when I dropped it off at narcotics  
8 whenever I turned it in.

9           Q.    Okay.  So, it was sealed?

10          A.    Sealed.

11          Q.    And, in fact, we opened it today.

12          A.    Correct.

13          Q.    And retrieved State's Exhibit No. 7 out of it.

14          A.    Yes, ma'am.

15          Q.    Based on the fact that Ms. Levi or Dominique  
16 was found in the bedroom, why did you make the decision  
17 not to charge her with the narcotics?

18          A.    Well, she told me she was a guest in the house  
19 and that the defendant had invited her over the night  
20 before to stay the night.  The way she was positioned  
21 on the bed, she was on the right side, her things were  
22 on that side.  She wasn't claiming to live there.

23                         With regards to the physical, from my  
24 experience -- I have found a lot of guns and I have not  
25 found one on a female --



1 MR. BUNDICK: Objection --

2 (Simultaneous speaking).

3 THE COURT: Well, that objection is  
4 overruled.

5 Q. (BY MS. DOWNING) So, after you tag all the  
6 evidence, what happens next?

7 A. Paperwork. You've got to write a report. You  
8 have to document the scene. You have to upload the  
9 pictures, that sort of thing.

10 Q. Okay. And what happens to the defendant?

11 A. He was booked by another officer that  
12 transported him into the central jail.

13 Q. Based on the fact that Ms. Levi was in the  
14 bedroom where the drugs were found, could you have  
15 charged them both with possession of the narcotics?

16 A. I think it would have been a stretch, just  
17 based on the things that I saw in there. And she did  
18 have some marijuana in her car that she claimed as her  
19 own. She was charged with that.

20 Q. So, once the defendant is booked, what happens  
21 down in booking?

22 A. You know, we're kind of fortunate. We  
23 basically drop them off at our jail and then the  
24 booking process is handled by civilian employees.

25 Q. Is a photograph of the defendant taken?

1 A. Yes.

2 MS. DOWNING: Permission to approach?

3 THE COURT: Yes, ma'am.

4 Q. (BY MS. DOWNING) Now handing you what's been  
5 marked as State's Exhibit No. 9. Can you tell the jury  
6 what it is?

7 A. It's a picture of the defendant showing his  
8 face and neck and a portion of his shoulders.

9 Q. Okay. And is that the same -- does that --  
10 does the defendant in that picture look the same as he  
11 looked that evening?

12 A. Yes, ma'am.

13 Q. Does he have on the same shirt?

14 A. Yes.

15 Q. And does it appear to be changed or altered in  
16 any way?

17 A. No.

18 MS. DOWNING: The State would move to  
19 admit State's Exhibit No. 9.

20 Q. (BY MS. DOWNING) Is it a fair and accurate  
21 depiction?

22 A. It is.

23 MR. BUNDICK: No objection, Your Honor.

24 THE COURT: State's No. 9 will be  
25 admitted.

1 MS. DOWNING: Permission to publish, Your  
2 Honor?

3 THE COURT: Yes, ma'am.

4 Q. (BY MS. DOWNING) As far as State's Exhibit  
5 No. 9, you said you had a good look at him and that's  
6 what he looked like that evening.

7 A. Yes.

8 MS. DOWNING: Permission to approach,  
9 Your Honor?

10 THE COURT: Yes, ma'am.

11 Q. (BY MS. DOWNING) I'm going show you State's  
12 Exhibit No. 4. Do you recognize that?

13 A. Yes, I do.

14 Q. And what do you recognize that to be?

15 A. It's a map of the southeast Houston area from  
16 288 to 610 South.

17 Q. Okay. And in the middle there's a red dot.

18 A. Okay.

19 Q. What is that?

20 A. That is a pinpoint of the address, 4930 Hull.

21 Q. And that's the address of this -- of where  
22 this incident happened?

23 A. Yes.

24 Q. Okay. And it is fair and accurate?

25 A. Yes, it is.

1 Q. Does it appear to be changed or altered in any  
2 way?

3 A. No.

4 MS. DOWNING: State would move to admit  
5 State's Exhibit No. 4.

6 MR. BUNDICK: No objection.

7 THE COURT: State's 4 will be admitted.

8 MS. DOWNING: Permission to publish, Your  
9 Honor?

10 THE COURT: Yes, ma'am.

11 Q. (BY MS. DOWNING) So, the location of the  
12 house is represented by that dot. Is that within  
13 Harris County, Texas?

14 A. Yes, ma'am.

15 Q. Okay. And what are the cross streets as far  
16 as the area of town?

17 A. The biggest major intersection would be Martin  
18 Luther King Boulevard and Yellowstone.

19 Q. And is this that intersection that you're  
20 referencing?

21 A. Yes, ma'am.

22 Q. Okay. And this is the location of where the  
23 offense occurred?

24 A. That's correct.

25 Q. Did you -- did you find Ms. Johnson to be

1 credible?

2 A. Yes, ma'am.

3 Q. Based on what?

4 MR. BUNDICK: Objection, that calls for  
5 speculation.

6 THE COURT: Sustained.

7 MS. DOWNING: Pass the witness, Your  
8 Honor.

9 THE COURT: Mr. Bundick?

10 MR. BUNDICK: Thank you, Judge.

11 THE COURT: Yes, sir.

12 CROSS-EXAMINATION

13 BY MR. BUNDICK:

14 Q. How are you, Officer?

15 A. I'm doing well. How are you, sir?

16 Q. Pretty good.

17 Your name is Officer Robinson?

18 A. Yes, sir.

19 Q. Should I call you sergeant or lieutenant or  
20 just officer while I'm --

21 A. I'm an officer.

22 Q. Thank you.

23 You indicated, I think, that you're on  
24 the differential response team; is that right -- or at  
25 that time you were?

1 A. That's correct, at that time I was.

2 Q. Okay. And tell us what your responsibilities  
3 were under the differential response team?

4 A. We would get complaints from the neighborhood  
5 about buildings that were in violation of building  
6 codes. We would have to do convenience store  
7 inspections, game room inspections, nuisance  
8 complaints, like illegal dumping, things like that.

9 Q. City ordinance violations --

10 A. Yes, sir.

11 Q. -- is that fair?

12 So, you weren't, I guess, a patrol  
13 officer responding to calls for service other than  
14 those type things?

15 A. That's correct. If there was an emergency  
16 call and we were close by, they would want us to  
17 respond. Otherwise were not in the calls for service  
18 loop.

19 Q. Okay. And since you were doing that, did you  
20 have occasion to respond to do evictions in that area  
21 where you were working?

22 A. I've had people approach me for things like  
23 that. And I direct them to the Palm Center where the  
24 constables work out of, Precinct 7.

25 Q. Why is that? Why don't you go ahead and do

1 the evictions?

2 A. Because we're not trained to execute any type  
3 of civil law. We pass that onto somebody else that's  
4 got the training for that.

5 Q. Is it -- are you statutorily prohibited from  
6 doing evictions?

7 A. That's correct.

8 Q. Who are the officers that can do evictions?

9 A. Constables would be one example.

10 Q. The State of Texas doesn't let a Houston  
11 police officer do evictions?

12 A. That's correct.

13 Q. Certainly if you knew that this was a  
14 landlord/tenant case when Ms. Johnson approached you,  
15 you wouldn't have investigated or done an eviction,  
16 right?

17 A. That's correct, I would not have.

18 Q. But you were given information that  
19 Ms. Johnson and her brother own the house together.

20 A. Ms. Webster and her brother. And Ms. Johnson  
21 was the mother. As far as what I can remember, it was  
22 her -- it was Eugene, Sr. passed it on to his  
23 relatives. The house is in a trust. And so, I looked  
24 it up on HCAD, on the Harris County Appraisal District  
25 on my phone. And I got the same name. So, the

1 paperwork she provided me matched. I thought I had the  
2 homeowner.

3 Q. You had the homeowner there with you; is that  
4 correct?

5 A. Right.

6 Q. Can a landlord consent to you entering and  
7 searching a leased property?

8 MS. DOWNING: Objection to relevance.

9 THE COURT: Overruled.

10 A. I wouldn't be comfortable with that.

11 Q. Because there's somebody that has an interest  
12 in living there.

13 A. That's correct.

14 Q. You would have to get their consent before you  
15 could search --

16 A. That's correct.

17 Q. -- is that fair?

18 THE COURT: One at a time, please.

19 COURT REPORTER: Can you ask your  
20 question again, please?

21 Q. (BY MR. BUNDICK) You would have to get the  
22 tenant's permission to search before you could enter  
23 and search; is that fair?

24 A. Yes.

25 Q. The information that you were given was that



1 strange people had entered this house without  
2 permission and were living there without permission.

3 A. That's correct.

4 Q. And you knew that because -- the evidence of  
5 that was because the electricity was working and had  
6 been hooked up. That was some of the evidence you had.

7 A. I don't recall noting anything about the  
8 electricity.

9 Q. I'm sorry. Were you -- did Ms. Johnson have a  
10 key to the door to the house?

11 A. She did. It didn't work.

12 Q. So, she didn't have a key to the door; is that  
13 fair?

14 A. She had a key that she thought would work, but  
15 it wasn't the right key.

16 Q. The locks had been changed?

17 A. That's what she was saying.

18 Q. But she was telling you strange people have  
19 moved in and are living in my house without anybody's  
20 permission?

21 A. She had gotten word from her brother that he  
22 was informed there were people in the house. And he  
23 wrote a letter to her stating he was concerned about  
24 it. When she got there to check it out, her key didn't  
25 work. So, she came back and notified us.

1 Q. You didn't have the information -- you had is  
2 strange people were in this house without the owner's  
3 permission?

4 A. Correct.

5 Q. And that's why you were there?

6 A. Yes, sir.

7 Q. That's why you were doing your investigation?

8 A. That's correct.

9 Q. I believe you indicated that you knocked on  
10 the door for about 10 minutes; is that right?

11 A. Yes, sir.

12 Q. And my client answered the door?

13 A. Correct.

14 Q. Did you ask him if he had a right to be there?

15 A. He talked some about it. He said that he knew  
16 Eugene Jr., the one that was in the Harris County jail.  
17 They were friends. Actually first said that he was his  
18 uncle and then he said they were friends.

19 Q. But you believed he was just a stranger to the  
20 house. Is that accurate and fair?

21 A. I didn't disbelieve that he knew the owner  
22 because the owner even mentioned his name.

23 Q. I'm going to have to ask you to answer just  
24 the question that I ask you.

25 A. I'm sorry. Can you repeat it?

1 Q. You believed that he was a stranger to the  
2 house; is that fair?

3 A. Not completely.

4 Q. So, you understood that he had an interest in  
5 the house and he was living there?

6 A. After reading the letter and his name being  
7 mentioned in it and him saying that he knew the person  
8 that may be the owner, I felt like they could have at  
9 least known each other. But that's as far as my  
10 knowledge was of that.

11 Q. Did you ask him if he was renting the house?

12 A. You know, I don't recall if I did or didn't.

13 Q. But if you would have asked him if he was  
14 renting the house and he would have told you yes, then  
15 your investigation would have stopped at that point; is  
16 that right?

17 A. It would have -- it could have gone a  
18 different direction. I would have wanted some kind of  
19 paperwork to prove that or a way to confirm that.

20 Q. It would have certainly given you pause?

21 A. Sure.

22 Q. Because as you said, you're statutorily  
23 prohibited from doing an eviction.

24 A. That's correct.

25 Q. Okay. But if I understood you, you got verbal

1 consent from Ms. Johnson to search the house.

2 A. That's correct.

3 Q. And you did -- and you went more or less  
4 directly to the north bedroom. Is that what I  
5 understood your testimony to be?

6 A. We were searching for people, is what we were  
7 initially searching for. Just to make sure that we got  
8 everybody outside the house that was supposed to be  
9 inside of the house.

10 Q. Why is that?

11 A. Just to identify all the parties at that  
12 point.

13 Q. Okay. And you went in the bedroom and Ms. --  
14 what was the woman's name you found there?

15 A. Dominique Levi.

16 Q. Was in bed -- was in the bed in that bedroom  
17 asleep; is that right?

18 A. Yes, sir.

19 Q. You indicated you weren't sure if she was  
20 awake or not; is that right?

21 A. Her eyes were closed. She was unresponsive to  
22 our verbal commands. I assumed she was asleep.

23 Q. Okay. Well, my understanding of the  
24 implication of the way you said that was that she could  
25 have been maybe not -- maybe so, maybe no. Is that

1 fair?

2 A. Sure.

3 Q. The police are in your bedroom. Maybe you  
4 pretend to be asleep; is that --

5 A. That's possible.

6 Q. Okay. Especially since there are drugs  
7 sitting on the dresser; is that right?

8 A. That's correct.

9 Q. And right next to the bed?

10 A. On the opposite side of the bed.

11 So, she was on the right-hand side of the  
12 bed. The dressers were on the left side.

13 Q. Can you -- can you tell me why you didn't  
14 charge her with possessing the drugs that were on the  
15 dresser on the left side of the bed, in the bed she was  
16 sleeping on?

17 A. Well, I ran both of the suspects' information  
18 into our computer. Based on criminal --

19 MS. DOWNING: Permission to approach,  
20 Your Honor?

21 THE COURT: Yes, ma'am.

22 (Bench conference on the record).

23 MS. DOWNING: Sorry, Your Honor. I just  
24 wanted to stop that line of questioning.

25 THE COURT: Right.

1 MS. DOWNING: Probably need to admonish  
2 him about getting into any type of extraneous.

3 THE COURT: I shouldn't have to do that.

4 MS. DOWNING: I agree.

5 (End of conference).

6 THE COURT: Why don't you ask your next  
7 question, Mr. Bundick, or rephrase your question?

8 Q. (BY MR. BUNDICK) If I understood your  
9 testimony earlier, you were able to charge her with  
10 possessing the marijuana?

11 A. Correct.

12 Q. Wouldn't the same evidence allow you to charge  
13 her with possessing the cocaine?

14 A. Well, potentially. The marijuana was in her  
15 vehicle that was registered to her. And based on her  
16 statements, she was only there for the night. I didn't  
17 really believe, based on my investigation, that she  
18 moved all that stuff in for the night. And he was  
19 actually living there. He had his clothes there and  
20 things like that.

21 Q. Someone can possess cocaine in a home and not  
22 own the home though certainly, right?

23 A. That's possible.

24 Q. Proximity to the drugs is evidence of  
25 possession of those drugs, is it not?

1           A.    From where she was laying in the bed, she  
2 wasn't within an arm's span of the --

3           Q.    Five feet, four feet, six feet?

4           A.    She was probably six to eight feet away from  
5 the northeast dresser.

6           Q.    How far was the front door of the home to that  
7 northeast corner of that bedroom?

8           A.    30 or 40 feet, maybe.

9           Q.    And that's where you met my client at the  
10 front door; is that right?

11          A.    That's correct.

12          Q.    So, certainly she was a lot closer to the  
13 drugs than he was?

14          A.    Correct.

15          Q.    And she may or may not have been asleep when  
16 you came into the bedroom.

17          A.    I have no way of knowing.

18          Q.    You have no way of knowing which side of the  
19 bed she was laying on before you entered the home, do  
20 you?

21          A.    No idea.

22          Q.    You have no idea whether she or anyone else is  
23 the one who put those drugs on the dresser?

24          A.    I have no idea who put them there.

25          Q.    You indicated -- and I wrote this down -- it

1 would have been a stretch to charge her; is that right?

2 A. I think so.

3 Q. And you were already able to charge her with  
4 possessing the marijuana?

5 A. Correct.

6 Q. If someone enters a home without permission,  
7 what charge do you usually file charges on that person  
8 for?

9 A. You can get a trespass -- criminal trespass  
10 charge.

11 Q. Or a burglary charge?

12 A. Could be. But you have to show some type of  
13 intent to remove property or damage property or commit  
14 assault. There's more to that crime than would be  
15 trespassing.

16 Q. Okay. But -- but in those set of facts, you  
17 could either file a misdemeanor trespassing charge or a  
18 burglary charge, depending on what particular things  
19 you discover; is that right?

20 A. That's correct.

21 Q. But in this case, you didn't decide to file  
22 either one of those charges?

23 A. With the trespass charge, you typically need a  
24 previous warning or a sign that says no trespassing or  
25 things along those nature. Usually we can't get a



1 charge of trespassing if somebody is just at a location  
2 if they're willing to leave.

3 Q. And did you seize my client's keys?

4 A. No.

5 Q. Were they there at the house?

6 A. They were at the house.

7 Q. Did he have a key to the door?

8 A. I didn't try the key to the door.

9 Q. But somebody living in the house had changed  
10 the locks?

11 A. Correct.

12 Q. You didn't immediately find any -- his wallet.  
13 Is that what you said?

14 A. I didn't notice it at first.

15 Q. But you went out and got permission from him  
16 to -- where was he at that point?

17 A. He was in the backseat of a patrol car.

18 Q. And so, you went back outside and got  
19 permission from him?

20 A. He asked me to retrieve his wallet and his  
21 cell phone.

22 Q. Had you discovered the drugs already?

23 A. Yes.

24 Q. So, you had searched the room?

25 A. When I went in to get Ms. Levi, the drugs and

1 the gun were in plain view. So, I observed them, but I  
2 hadn't -- I was only trying to get the people out at  
3 that point when I saw them.

4 Q. They were in plain view where anybody could  
5 see them?

6 A. That's correct.

7 Q. Certainly Ms. Levi laying in the bed six to  
8 eight feet away would have been able to see them?

9 A. Yes, sir.

10 Q. Did you charge anybody with owning the drugs?

11 A. No, possessing.

12 Q. Possessing -- possession and ownership is  
13 different, right?

14 A. There's different definitions for that.

15 Q. If I'm in a room and the drugs are six to  
16 eight feet from me in plain view where anyone can see  
17 them, aren't I possessing them?

18 A. Potentially.

19 Q. But you were able to charge her with  
20 possessing the marijuana?

21 A. That was in her vehicle, yes.

22 MR. BUNDICK: Pass the witness.

23 THE COURT: Ms. Downing?

24 MS. DOWNING: Just a few questions, Your  
25 Honor.

## 1 REDIRECT EXAMINATION

2 BY MS. DOWNING:

3 Q. Officer Robinson, when you -- when you spoke  
4 to the defendant about his knowledge of Eugene, Sr.,  
5 was that before or after you had already searched the  
6 house?

7 A. It was -- it was probably after I went in and  
8 got Ms. Levi out.

9 Q. Okay. So, any knowledge of his interaction  
10 with Eugene, Sr. would have been after you had already  
11 seen the drugs?

12 A. That's correct. Then from the letter that I  
13 read, I didn't immediately recognize his name.

14 MR. BUNDICK: Objection, nonresponsive.  
15 Object to the narrative.

16 THE COURT: Let's keep it question and  
17 answer, please.

18 Q. (BY MS. DOWNING) When you went into the  
19 house, you didn't have knowledge of them knowing each  
20 other?

21 A. No.

22 Q. Okay. And at this point, did he say that he  
23 was allowed to be there?

24 A. After I got both of them out and talking to  
25 them more, he said that Eugene was a friend -- actually

1 was his uncle. And so, through a family relationship,  
2 I would assume maybe he would have a right to be there.  
3 And then he said later that it was his friend.

4 MR. BUNDICK: Objection as to narrative.

5 THE COURT: Overruled.

6 Q. (BY MS. DOWNING) But again, that happened  
7 after you had already gone into the home and found the  
8 drugs?

9 A. That's correct. And never at any point did I  
10 hear I'm renting the house.

11 Q. Okay. You had mentioned earlier on cross that  
12 you believed that you had the homeowner.

13 A. That's correct.

14 Q. And defense counsel gave you a hypothetical in  
15 regards to the home owner being a landlord and giving  
16 consent to search.

17 A. Correct.

18 Q. Your response was that you wouldn't be  
19 comfortable.

20 My question is: Isn't a trespass kind of  
21 different than a landlord/tenant situation?

22 A. Yes, it is.

23 Q. So, the homeowner in that situation in a  
24 criminal trespass can give consent?

25 A. Correct.

1 Q. And that's what you thought was happening that  
2 day.

3 A. Correct.

4 Q. And it was your belief that the defendant was  
5 living there.

6 A. That's correct.

7 Q. Why?

8 A. I saw a lot of belongings that looked like  
9 they were male clothing, his wallet, his keys. His  
10 cell phone was plugged into a cord into the wall. Both  
11 sides of the bed, the covers appeared to be disheveled.

12 Q. You had mentioned initially when the defendant  
13 opened the door you had smelled the odor of marijuana.

14 A. Yes.

15 Q. Did that smell continue throughout the house?

16 A. The only place I found it was in the bedroom,  
17 but you could smell it emitting from the house.

18 Q. And in regards to State's Exhibit No. 21, can  
19 you tell me again where the marijuana was found?

20 A. On the tops of both of the dressers.

21 Q. So, on both dressers?

22 A. That's correct.

23 Q. And do you recall as to how much marijuana was  
24 recovered?

25 A. It was a felony amount. So, it was more than

1 120 something grams. I've got it written right here,  
2 123.9 grams. Two of those grams though were Ms. Levi's  
3 from her car. So, 121.9 grams.

4 Q. Can you describe how they were packaged?

5 A. Some of it was loose on the dresser. There  
6 were individual baggies. From my training and  
7 experience, looks like what would be bagged up for sale  
8 -- for selling.

9 Q. So, separate individual baggies?

10 A. Correct.

11 Q. Okay. In regards to the defendant's or  
12 defense counsel's hypothetical about charging both of  
13 them. Because Ms. Levi was in the room, you could have  
14 charged both of them with possessing everything that  
15 was in there?

16 A. Well, to clarify, we don't do the charging.  
17 We kind of do the investigation. We call the DA's  
18 office.

19 But from my investigation, my  
20 interpretation of the scene, the room kind of appeared  
21 to be divided to me. Her stuff was on the right-hand  
22 side of the room. His stuff being on the left-hand  
23 side of the room.

24 Q. And based on --

25 A. I'm sorry. Had I found something of hers

1 mixed in the things on left side, then I would probably  
2 have pushed for that charge.

3 Q. But based on the information you had, you only  
4 charged the defendant?

5 A. That's correct.

6 MS. DOWNING: Pass the witness.

7 THE COURT: Mr. Bundick?

8 MR. BUNDICK: Thank you, Judge.

9 RECROSS-EXAMINATION

10 BY MR. BUNDICK:

11 Q. You were able -- you were able to charge her  
12 with possessing marijuana?

13 A. That's correct.

14 Q. And she indicated to you that she didn't live  
15 there; is that right?

16 A. That's correct.

17 Q. That she was a guest. Is that the word you  
18 used?

19 A. Yes, sir.

20 Q. Certainly her car was in the driveway?

21 A. That's correct.

22 Q. Did she have a key to the door?

23 A. I do not know if she did or didn't.

24 Q. My client did, but you don't know if she did?

25 A. I don't know if either one of them did.

1 Q. Okay.

2 MR. BUNDICK: Pass the witness.

3 THE COURT: Ms. Downing?

4 MS. DOWNING: No further questions, Your  
5 Honor.

6 THE COURT: All right. Thank you, sir.  
7 You may step down and step outside.

8 Ladies and gentlemen, it is time for our  
9 morning break. So, I'm going to ask you to step to the  
10 back with the bailiff. As soon as you have had a  
11 sufficient break and I've got all my business done,  
12 then we will check and make sure y'all are ready to go.  
13 Once I've concluded my business and y'all are ready to  
14 go, we will get started back after our break.

15 Go with the bailiff, please.

16 (Jury out).

17 (Court recess).

18 (Jury in).

19 THE COURT: You may be seated.

20 I'm sorry about the delay, ladies and  
21 gentlemen. As things tend to happen when I'm dealing  
22 with other folks, it take a little longer than I  
23 thought sometimes. But we're ready to go on now.

24 Call your next witness, please.

25 MS. DOWNING: The State calls Keri



1 Hoffman.

2 THE COURT: And just so you'll know,  
3 ladies and gentlemen, this witness was sworn in front  
4 of me right before y'all came in. So, y'all won't see  
5 that happen, but it's already been done.

6 THE COURT: Ms. Downing?

7 MS. DOWNING: Thank you, Judge.

8 KERI HOFFMAN,  
9 having been first duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. DOWNING:

12 Q. Ms. Hoffman, would you please introduce  
13 yourself to the jury?

14 A. Yes. My name is Keri Hoffman.

15 Q. And how are you currently employed?

16 A. I'm employed by the City of Houston in the  
17 controlled substance section. And I'm managed by the  
18 Houston Forensic Science Center.

19 Q. Okay. And can you tell the jury what that is?

20 A. The Houston Forensic Science Center was --  
21 it's a local government corporation that was  
22 established by the mayor. She appointed a board of  
23 directors. And it's a government-controlled  
24 corporation. It's kind of a new experiment in the  
25 United States. And we are formally the Houston Police