

1 (Witness sworn.)

2 THE COURT: Approach, please.

3 **DEANDRE SAMUELS,**

4 having been first duly sworn, testified as follows:

5 **DIRECT EXAMINATION**

6 BY MS. MERIWETHER:

7 Q. Could you please introduce yourself to our  
8 jury?

9 A. Yes, my name is Officer Samuels. I work with  
10 the Houston Police Department. I've been working here  
11 for the last six years.

12 Q. And what is your first name, Officer Samuels?

13 A. Deandre.

14 Q. And, Officer Samuels, are you assigned to a  
15 particular division within HPD?

16 A. Yes, I am. I'm currently assigned to the night  
17 command security operations division.

18 Q. And what does that involve?

19 A. That is the night command security operations  
20 that is basically our security detail division around  
21 the 1200 Travis building.

22 Q. And is 1200 Travis the main headquarters for  
23 the Houston Police Department?

24 A. Yes, ma'am.

25 Q. I want to take you back in a time machine to

1 November of --

2 THE COURT: Hold up just a moment, please.  
3 Could you approach, please?

4 (Bench conference.)

5 THE COURT: This last witness needs  
6 something. (Off the record.)

7 (Discussion between the Court and attorneys  
8 off the record.)

9 Q. (BY MS. MERIWETHER) So, I left off, we were  
10 going back in the time machine to November 21st of 2010.  
11 And you probably do not remember that super well, but  
12 did you have an offense report related to an incident  
13 that occurred that night?

14 A. Yes, I did. At the time of November 21st,  
15 2010, I was working with the Fondren division within the  
16 Houston Police Department that is patrol.

17 Q. And were you assigned to work the front desk?

18 A. Yes, ma'am.

19 Q. And while you were working the front desk, did  
20 you have a walk-in complaint?

21 A. Yes, I did.

22 Q. And during the course of that walk-in  
23 complaint, did you learn that an incident had occurred  
24 and that some folks wanted to report it?

25 A. Yes, I did.

1 Q. And did you take some information from them  
2 about the incident?

3 A. Yes, correct, I did.

4 Q. And did you learn that a vehicle had been  
5 involved in that incident?

6 A. Yes, I did.

7 Q. And how did they describe it?

8 A. The Complainant came into the station; and they  
9 described that they had, I believe, been hit by a driver  
10 driving a white F-350 pickup truck. They attempted to  
11 reach the individual to have them slow down so that they  
12 could exchange information, but what occurred was the  
13 person never did turn around or, matter of fact, they  
14 kept going. And I believe when they attempted to stop  
15 in front of the vehicle and approach that vehicle, a gun  
16 was waved at the Complainant.

17 Q. While you were taking their information, did  
18 that vehicle or a vehicle that sounded like it drive  
19 past the Fondren Police Station?

20 A. Yes, ma'am.

21 Q. And tell us about that?

22 A. Well, when the vehicle drove past the Fondren  
23 Police Station, we were outside. I was outside speaking  
24 with the Complainant as well as the Complainant's wife  
25 and getting their statement and information. Shortly

1 after I was outside, there appeared to be a white truck  
2 that could have been the vehicle or resemblance of the  
3 vehicle drove by and the Complainant mentioned to me  
4 that that was the vehicle. So, there is a couple of  
5 officers that were outside that slowed the vehicle down;  
6 and we approached the vehicle. While approaching that  
7 vehicle, the F-350, we asked the suspect, hey, if he had  
8 a gun in the car. The suspect said that he did not have  
9 a gun in the car. However, one of the officers that was  
10 outside of the police station with me found a  
11 9-millimeter Beretta inside of his vehicle that was  
12 loaded, and I believe a magazine, a 21-round magazine,  
13 also in the vehicle as well.

14 Q. Okay. And who was driving the Ford F-350 on  
15 November 21st of 2010?

16 A. The person that was driving the F-350 was a  
17 Hispanic male suspect.

18 Q. And did you identify him by his name?

19 A. I believe his name was Deleon.

20 Q. Mark Deleon?

21 A. Yes, ma'am.

22 Q. And did you also get the information including  
23 the VIN number and the license plate for that Ford  
24 F-350?

25 A. Yes, ma'am.

1 Q. And did you document that all in a police  
2 report?

3 A. Yes, I did.

4 Q. Now, you mentioned that a Beretta, a  
5 9-millimeter was recovered in the vehicle; is that  
6 correct?

7 A. Yes, ma'am.

8 Q. And that was on November 21st?

9 A. Yes, ma'am.

10 Q. Of 2010?

11 A. Yes, ma'am.

12 Q. Was that Beretta collected and placed into  
13 evidence?

14 A. Yes, ma'am.

15 Q. And charges were filed on Mark Deleon that  
16 evening for the incident as well, correct?

17 A. Yes, ma'am.

18 Q. He was taken into custody?

19 A. Yes, ma'am.

20 Q. Was the gun, excuse me, was the vehicle also  
21 taken in; or was it released to another party?

22 A. I don't recall what happened regarding the  
23 vehicle. I'm not sure to be honest.

24 MS. MERIWETHER: Your Honor, may I approach  
25 the witness?

1 THE COURT: You may.

2 Q. (BY MS. MERIWETHER) I'm going to show you your  
3 offense report and help you -- if you can take a look at  
4 it to help refresh your memory regarding whether or not  
5 the vehicle was --

6 A. Okay, yes.

7 Q. Whether it was towed or released at the scene?

8 A. The vehicle, suspect's vehicle, was released to  
9 his cousin.

10 Q. And at that time did the vehicle come up stolen  
11 in any way?

12 A. No, no, ma'am.

13 Q. Because if it had, you wouldn't have given it  
14 back to them?

15 A. Absolutely not. That's not our policy.

16 MS. MERIWETHER: Your Honor, I'll pass the  
17 witness.

18 MR. ORTIZ: Might I have a moment, Judge,  
19 to review the offense report?

20 THE COURT: Yes, sir.

21 MR. ORTIZ: May I approach the witness,  
22 Your Honor?

23 THE COURT: You may.

24 MR. ORTIZ: Thank you.

25 **CROSS-EXAMINATION**

1 BY MR. ORTIZ:

2 Q. Officer Samuels, maybe I'm -- sorry, sir, I  
3 guess I'm missing it or something, could you show me in  
4 the report where it indicates that the truck was  
5 released to Deleon's cousin?

6 A. It says right here, suspect's vehicle was  
7 released to his cousin, towards the end of that  
8 paragraph.

9 Q. Is there any information here as to the  
10 cousin's name or who that person or the identity of that  
11 cousin?

12 A. No, I don't see that.

13 Q. And so you indicated, told the ladies and  
14 gentlemen of the jury that part of your job obviously  
15 you punched in the VIN number, you punched in the  
16 license plate, correct?

17 A. That would be correct.

18 Q. And it didn't come back stolen at that time,  
19 correct?

20 A. That's correct.

21 Q. Did you later come to find out that truck was  
22 stolen?

23 A. No.

24 Q. Now, there are ways in your experience with  
25 HPD, there are ways that people can either take license

1 plates off of similar vehicles, switch VIN numbers to a  
2 similar vehicle so that if you run the VIN number, it  
3 may pop up a Ford F-350, correct?

4 A. I suspect so.

5 Q. You've never encountered that?

6 A. No, I have not.

7 Q. You didn't work in the auto theft?

8 A. No, I did not.

9 Q. All right. I appreciate it. But as far as you  
10 know, this vehicle wasn't basically a stolen vehicle.  
11 It was released to his cousin; and we've got no  
12 information who this person is, what his identifiers  
13 are, what he looks like, anything like that, correct?

14 A. Correct.

15 MR. ORTIZ: Pass the witness.

16 MS. MERIWETHER: No additional questions,  
17 Your Honor.

18 THE COURT: You may stand down. Any  
19 objections to this witness being excused?

20 MS. MERIWETHER: No, Your Honor.

21 MR. ORTIZ: No, Your Honor.

22 MS. MERIWETHER: At this time the State  
23 will call Corporal Boughter.

24 THE COURT: This is the last witness you  
25 intend to call today, correct?



1 MS. MERIWETHER: It is, Your Honor.

2 MR. ORTIZ: May we approach, Judge?

3 THE COURT: Yes, sir.

4 (Bench conference.)

5 MR. ORTIZ: Is this the one witness with  
6 the body camera?

7 MS. JOHNSON: It is.

8 THE COURT: This is the what?

9 MR. ORTIZ: The officer that showed up with  
10 the body camera, after first responders and paramedics  
11 arrived.

12 THE COURT: Is this an objection?

13 MR. ORTIZ: Yeah, it's going to be a 403  
14 objection with the finding of this officer videotaping  
15 the Complainant on the sidewalk outside.

16 THE COURT: The Complainant what?

17 MR. ORTIZ: Recording the Complainant  
18 outside on the sidewalk. It's substantially outweighs  
19 prejudicial effect.

20 THE COURT: I haven't seen it, so how can I  
21 rule on it?

22 MR. ORTIZ: You want to ask the jury to --

23 THE COURT: How long is this going to be?

24 MR. ORTIZ: It's about five, six minutes.

25 MS. MERIWETHER: I was intending to stop it

1 when he goes into the ambulance.

2 THE COURT: You were intending to stop it  
3 when?

4 MS. MERIWETHER: When he's loaded into the  
5 ambulance.

6 THE COURT: You've seen it and I haven't.

7 MR. ORTIZ: I just ask the Court review it  
8 for our 404.

9 (End of bench conference.)

10 THE COURT: All right. Ladies and  
11 gentlemen, if you would please stand up and go with the  
12 bailiff back to the jury room for a couple of minutes.  
13 We have to take up something outside your presence.

14 THE BAILIFF: All rise for the jury.

15 (Jury exits courtroom.)

16 THE COURT: Boughter, please, come on up,  
17 please. Everybody else can be seated. You were  
18 previously sworn?

19 THE WITNESS: Yes, sir.

20 THE COURT: Have a seat. Let's stay off  
21 the record for a moment.

22 (Discussion between the Court and attorneys  
23 off the record.)

24 THE COURT: We're back on the record now.  
25 The jury has been excused for a few minutes. The

1 Defendant is still present with his Counsel, and we're  
2 proceeding outside the presence of the jury with this  
3 witness as to the contents of a body cam, I think. And  
4 are you a deputy or an officer?

5 THE WITNESS: I'm an officer. I was a  
6 deputy at the time.

7 MS. MERIWETHER: He was a deputy with  
8 Precinct 5, now he's a Corporal.

9 THE WITNESS: Now I'm a Corporal with  
10 Jersey Village on evening shift.

11 THE COURT: Okay, proceed.

12 MS. JOHNSON: Judge, do you want us to do  
13 any sort of set up; or would you like to just review the  
14 video?

15 THE COURT: Well, if we can all agree, it  
16 appears this is Deputy Boughter, who is currently a  
17 corporal with Jersey Village PD but at the time of this  
18 offense on December 31, 2010, he was with the  
19 Constable's office and he, I guess, within his Precinct,  
20 his area arrived at the scene and had a body cam and  
21 we're interested in what's on the body cam because the  
22 Defense has seen it, and they have an objection as to it  
23 being --

24 MR. ORTIZ: Under 403, Judge, just that the  
25 probative value is substantially outweighed by the

1 danger of unfair prejudice. This officer arrives after  
2 first responders have already been there, primary units  
3 have arrived, paramedics are already on scene. He's not  
4 part of EMS or was not there to treat. You do hear him  
5 narrating the video. You do see him with what appears  
6 to be latex gloves on pointing out where the bullet hole  
7 is and talking to the Complainant. But he apparently  
8 was not part of the EMS crew that was there to provide  
9 him any type of medical treatment. What the video shows  
10 is that the Complainant is loaded on a stretcher or flat  
11 board by EMS, put into an ambulance, taken to Ben Taub  
12 where he's pronounced deceased a few hours after.

13 THE COURT: All right. You ready to run  
14 it? We've got the set up for it, go ahead. You may  
15 proceed, go ahead.

16 (Publishing video.)

17 THE COURT: Is that police or paramedics  
18 with the blue gloves? They're cutting away his shirt.

19 MS. MERIWETHER: It's the officer and  
20 paramedics.

21 THE WITNESS: I have blue gloves on. I'm  
22 assisting.

23 THE COURT: Paramedics are the ones doing  
24 the cutting.

25 THE WITNESS: Right. I was the first to

1 start rendering aid to him.

2 MS. MERIWETHER: He is there with blue  
3 gloves on.

4 THE COURT: Is that basically it?

5 MS. MERIWETHER: It is, Your Honor.

6 THE COURT: I find that the probative value  
7 of this evidence is not outweighed by any prejudicial  
8 effect.

9 MR. ORTIZ: Judge, we'd ask that if the  
10 video is going to be published to the jury that it be  
11 published without audio due to comments the officer is  
12 making about the offense itself and what --

13 THE COURT: Well, about them thinking that  
14 he's a customer, or what specifically? I didn't hear  
15 anything, I don't think.

16 MR. ORTIZ: I don't recall the line  
17 specifically, but he does talk about the robbery or  
18 about some suspects or about getting shot or about  
19 something. I just ask that his narrative be kept out.

20 THE COURT: Be more specific.

21 MR. ORTIZ: There was some mention this  
22 officer making a comment on the video about how he  
23 thought the Complainant got shot, or when at what point  
24 he thinks the Complainant got shot. Obviously, he was  
25 not one of the first responders. I don't believe he was

1 one of the main officers involved in the investigation.

2 THE COURT: I don't know, and it's -- all I  
3 could hear was that they thought he was a customer,  
4 which is what the testimony has been so far.

5 What have y'all got? I'm sure you probably  
6 don't have a transcript.

7 MS. MERIWETHER: No, there's no transcript.  
8 It's simply him saying he believes that he's a customer  
9 that he was coming out of the store, something to that  
10 effect.

11 THE WITNESS: Someone asked me if he was a  
12 customer; and I said I have no idea, I guess.

13 THE COURT: That's where I heard the thing  
14 about the customer.

15 MR. ORTIZ: Object to hearsay, also other  
16 comments, statements being made, people talking on  
17 there.

18 MS. MERIWETHER: I think it's a present  
19 sense impression, Your Honor. It's happening at the  
20 time.

21 THE COURT: Yeah, I don't see anything  
22 prejudicial about that what you're objecting to.

23 Let's bring in the jury.

24 So State's Exhibit No. 3 is what I'm ruling  
25 on.

1 (A recess was taken.)

2 (Open court, Defendant present.)

3 THE BAILIFF: All rise for the jury.

4 (Jury enters courtroom.)

5 THE COURT: Please be seated.

6 State, call your next witness, please.

7 MS. MERIWETHER: Your Honor, the State  
8 would call Corporal Boughter.

9 THE COURT: Ladies and gentlemen, this  
10 witness was previously sworn.

11 Proceed, please.

12 MS. MERIWETHER: Thank you.

13 **JASON BOUGHTER,**

14 having been first duly sworn, testified as follows:

15 **DIRECT EXAMINATION**

16 BY MS. MERIWETHER:

17 Q. Could you please introduce yourself to our  
18 jury?

19 A. My name is Corporal Jason Boughter with Jersey  
20 Village PD.

21 Q. And were you previously with a different  
22 agency?

23 A. Yes, ma'am. I was contract patrol deputy with  
24 Harris County Precinct 5 Constable's Office in  
25 Sharpstown.