

1 **BY MR. RUSHING:**

2 Q. Officer, do you recall a few minutes ago that
3 you testified that you were present when Officer
4 Newberry searched Mr. Westbrook?

5 A. Yes.

6 MR. RUSHING: No further questions, Judge.

7 MR. BURDETTE: No questions.

8 THE COURT: Thank you. You may step down.
9 Call your next witness.

10 MR. BURDETTE: State calls Officer Andrew
11 Taravella.

12 THE BAILIFF: Judge, this witness was sworn
13 in earlier.

14 THE COURT: Thank you.
15 You may proceed.

16 MR. BURDETTE: Thank you, Judge.

17 **OFFICER ANDREW TARAVELLA,**
18 having been called as a witness and being first duly
19 sworn, testified as follows:

20 **DIRECT EXAMINATION**

21 **BY MR. BURDETTE:**

22 Q. Good afternoon, Officer Taravella.

23 A. Good afternoon.

24 Q. How are you?

25 A. Well. Thank you.

1 Q. Thank you for being here.

2 Do me a favor and introduce yourself to the
3 members of the jury.

4 A. My name is Andrew Taravella. I'm with the
5 Houston Police Department.

6 Q. Are you a certified peace officer in the state
7 of Texas?

8 A. I am.

9 Q. How long have you been a police officer?

10 A. For 22 years.

11 Q. Where are you from?

12 A. From -- originally from New York. I've grown
13 up most of my life here in Houston.

14 Q. All right. When did you graduate the academy?

15 A. 1992.

16 Q. And after graduating the academy, were you
17 placed on patrol?

18 A. I was. I spent about six years on patrol as a
19 patrol officer and then later as a fingerprint and photo
20 unit, as well as a field training officer and evaluator.

21 Q. Okay. So just give us a brief overview of your
22 career kind of starting with the point you graduated the
23 academy up until now.

24 A. Okay. I graduated the academy, and I was put
25 out at Westside Command Station patrol where I stayed on

1 patrol for a number of years before becoming a
2 fingerprint and photo unit. That was part of patrol
3 duties as well. But within that patrol unit, I
4 specialized in taking fingerprints and photographs from
5 crime scenes. And then I became an evaluator where I
6 trained other patrol officers and eventually landing
7 in -- about 12 years ago, in the Crime Scene Unit of the
8 Homicide Division.

9 Q. Tell us a little bit about the duties and
10 responsibilities of someone such as yourself assigned to
11 the Crime Scene Unit with the Homicide Division.

12 A. Okay. Actually, since we're no longer with the
13 Homicide Division, we're now actually the Identification
14 Division and, in a sense, been taken over, our
15 management, through the Houston Forensic Science Center.
16 So I'm kind of on special assignment to the Houston
17 Forensic Science Center for the time being.

18 But my duties include investigating major
19 crime scenes, mostly aggravated-type crime scenes or
20 homicides. And the duties include going to those scenes
21 where I will document what the evidence is there,
22 collect that evidence, and prepare that evidence to be
23 sent to laboratories or preserve that evidence for
24 court.

25 Q. What training and specializations do you have

1 that allows you to process those scenes, to be a CSU
2 officer?

3 A. The training that I've taken, I've taken basic,
4 intermediate, and advanced courses in everything from
5 photography to bloodstain pattern analysis to trajectory
6 analysis, fingerprinting, videography, a lot of
7 generalized crime scene classes over the years to the
8 points where I now teach a lot of those classes myself.
9 I'm certified as a crime scene analyst, and I'm
10 certified as a forensic photographer through the
11 International Association for Identification, which is
12 one of the largest forensic organizations in the world.

13 Q. Any idea how many crime scenes you've
14 investigated?

15 A. Total crime scenes? In the thousands.

16 Q. Have you testified as an expert before?

17 A. In certain areas, I have. In photography.

18 Q. Have you testified as a crime scene officer
19 before?

20 A. Oh, absolutely.

21 Q. On few or many occasions?

22 A. Many occasions.

23 Q. Well, I want to turn your attention, then, to
24 your specific involvement in this particular case.

25 Okay?

1 A. Sure.

2 Q. So let's go back to April 1st, 2012. Do you
3 remember that day?

4 A. I do.

5 Q. Were you dispatched to a scene?

6 A. I was.

7 Q. And where was that scene?

8 A. 8400 Broadway. Apartment --

9 Q. Okay.

10 A. Sorry. Apartment 38.

11 Q. I'm sorry. In Harris County, Texas?

12 A. It is.

13 Q. And why is it that you were dispatched to that
14 scene?

15 A. I recall the information that I had is it was a
16 sexual assault. It was a burglary that involved a
17 sexual assault.

18 Q. And why is it important to have a Crime Scene
19 Unit officer come out on that type of case?

20 A. Because it was a crime against a person.
21 Normally we are not sent out on a burglary call, but
22 because this involved a crime against a person, the
23 sexual assault and the aggravated nature of the scene
24 and because we were available, we went ahead and made
25 that scene.

1 Q. Do you recall approximately what time you
2 arrived to that scene that day?

3 A. It was 8:01, is when I arrived.

4 Q. 8:01 a.m.?

5 A. In the morning.

6 Q. Upon arrival, kind of walk us through and paint
7 a picture for the jury what you do, how you know where
8 to go, and how to start processing a scene.

9 A. On a scene like this, a little different than a
10 homicide scene where we have a big team of
11 investigators. Here, I arrived with the patrol officers
12 that was there. I believe there was only one patrol
13 officer there. Another officer was still on an active
14 search for a suspect. And I would meet with the
15 complaining witness. So, I would do a brief interview
16 with those parties, find out what the scene entailed, if
17 it was localized, if there were other satellite scenes
18 that I didn't know about that maybe had some evidence
19 that I would have to consider, and just kind of set my
20 priorities on how I'm going to handle this.

21 Q. So you meet with the officers that are there?

22 A. I did.

23 Q. But in fairness, you don't know what other
24 officers were doing with regards to a suspect or another
25 scene; is that right?

1 A. That's correct.

2 Q. Okay. So your focus is on the crime scene
3 there at Broadway?

4 A. Correct.

5 Q. Do you do a walk-through with those officers?

6 A. If I can, I will, yes.

7 Q. Did you do one in this case, do you recall?

8 A. I believe I did, yes.

9 Q. And what's the purpose of doing a walk-through?

10 A. A walk-through is just to show me -- because I
11 knew there were other complainants that were present
12 during the offense that were not there for me to
13 interview that maybe the other officers interviewed,
14 they can tell me where they were, where they encountered
15 the suspect, where I might likely find some evidence.
16 So they would show me different parts of the -- in this
17 case, this apartment where they may have had the
18 struggle or they may have taken shelter. And then I
19 would know where to start searching for things.

20 Q. Okay. You don't meet with any witnesses, do
21 you, or --

22 A. In this case, I did. Normally I would not, but
23 in this case, she was still there when I was there. So
24 in this case, I did meet with one of the witnesses. The
25 others had already left the scene.

1 Q. Okay. But that's kind of abnormal, right?

2 A. It is.

3 Q. You don't take recorded statements from them,
4 though, do you?

5 A. I do not.

6 Q. What was the purpose of speaking with the
7 complainant in this particular case?

8 A. For the same purpose of being escorted or being
9 shown where the encounter took place, where the
10 struggles took place, things I would not know if I --
11 and I have to speculate on what I see there if the
12 complaining witness wasn't there to tell me.

13 Q. And does that assist you in knowing where to
14 collect and document evidence?

15 A. Sure. It sure does, yes.

16 Q. What's the first step after walking through
17 that you undergo when processing the scene?

18 A. One of the first steps is beginning to document
19 the scene with photography.

20 Q. Did you do that in this particular case?

21 A. I did.

22 Q. Did you take several photographs?

23 A. I did.

24 MR. BURDETTE: Judge, may I approach the
25 witness?

1 THE COURT: You may.

2 Q. (By Mr. Burdette) All right. Officer
3 Taravella, I'm going to ask you to take a look at
4 State's Exhibits 6 through 21. Tell me if you recognize
5 them (indicating).

6 A. (Witness complies.)

7 I do.

8 Q. Are they fair and accurate?

9 A. They are.

10 Q. Take a look at State's Exhibits 22 through 27.
11 Tell me if you recognize them (indicating).

12 A. (Witness complies.)

13 I do.

14 Q. Are they fair and accurate?

15 A. They are.

16 Q. And lastly, take a look at State's Exhibits 37
17 through 41 and tell me if you recognize them
18 (indicating).

19 A. (Witness complies.)

20 I do.

21 Q. Are they fair and accurate?

22 A. They also are.

23 MR. BURDETTE: State offers into evidence
24 at this time State's Exhibits 6 through 27 and 37
25 through 41. I'll tender to opposing counsel for

1 inspection.

2 **(State's Exhibit Nos. 6 through 27, 37**
3 **through 41 Offered)**

4 MR. RUSHING: No objections, Judge.

5 THE COURT: State's Exhibits 6 through 27
6 and 37 through 41 are admitted.

7 **(State's Exhibit Nos. 6 through 27, 37**
8 **through 41 Admitted)**

9 MR. BURDETTE: Thank you.

10 May I publish these throughout the course
11 of the testimony?

12 THE COURT: You may.

13 MR. BURDETTE: May I re-approach the
14 witness?

15 THE COURT: Yes.

16 Q. (By Mr. Burdette) Officer Taravella, I'm
17 showing you what's been marked as State's Exhibit 3
18 (indicating). I've got an item here. Do you believe
19 that this would aid your testimony to this jury if we
20 were able to refer to this diagram throughout the course
21 of your testimony?

22 A. I do.

23 MR. BURDETTE: Judge, at this time, State
24 offers into evidence for demonstrative purposes only
25 State's Exhibit 3. I'll tender to opposing counsel.

1 **(State's Exhibit No. 3 Offered For**
2 **Demonstrative Purposes Only)**

3 MR. RUSHING: For that limited purpose,
4 Judge, no objection.

5 THE COURT: State's 3 is admitted for
6 demonstrative purposes only.

7 **(State's Exhibit No. 3 Admitted For**
8 **Demonstrative Purposes Only)**

9 Q. (By Mr. Burdette) Okay. Just to give us some
10 perspective here, Officer Taravella, we're going to look
11 at State's Exhibit 3. Can you tell us generally what we
12 have here (indicating)?

13 A. This is a floor plan depiction, bird's-eye view
14 of the apartment, No. 38.

15 Q. We've got the living room here. So,
16 one-bedroom apartment; is that right?

17 A. Yes.

18 Q. This is the bedroom here (indicating)?

19 A. Yes.

20 Q. There's a closet, a bath attached, kitchen, and
21 the dining room; is that right?

22 A. Correct.

23 Q. If at any time you need me to put that back up
24 there to orient yourself, just let me know.

25 A. Okay.

1 Q. Start with State's Exhibit 6. Tell the jury
2 what we have here (indicating).

3 A. This is just a photograph of me standing in
4 front of the front door to the apartment, No. 38, and
5 the apartment door is partially open.

6 Q. Take a look at State's Exhibit 7 (indicating).

7 A. This is the doorjamb to the same apartment,
8 No. 38, and it's showing where the doorjamb -- we had --
9 I'm sorry. We've got different locks. All three areas
10 where the doorknob, a dead-bolt lock, and an interior
11 dead-bolt lock appear to have been engaged or partially
12 engaged and the doorjamb was kicked open or forced open.

13 Q. Did that appear to be fresh to you?

14 A. It did.

15 Q. Have you investigated scenes with similar types
16 of evidence?

17 A. I have.

18 Q. Look at State's Exhibit 8. What do we see here
19 (indicating)?

20 A. This is just a close-up, more of a close-up
21 view of the actual doorjamb, the doorknob portion of
22 that doorjamb.

23 Q. I don't know if that's better or worse, but is
24 this where it's broken (indicating)?

25 A. That's correct.

1 Q. Normally what would be on the other side of
2 that, on the left side of State's Exhibit 8?

3 A. On the left side would be the other half of the
4 doorjamb and then the casing that holds it together. So
5 another piece of thin wood, essentially, is all that
6 makes up the doorjamb.

7 Q. We have State's Exhibit 9 here. What do we see
8 (indicating)?

9 A. This is what I determined to be -- this piece
10 of wood here and this partial piece of wood there are
11 the two pieces of that door casing and doorjamb.

12 Q. State's Exhibit 10 (indicating).

13 A. This is now standing inside the doorway looking
14 back out into the courtyard through the broken doorjamb.
15 So on the left there is the interior portion of that.

16 Q. And State's Exhibit 11 (indicating).

17 A. Yeah. This is just another view. This is the
18 living room floor, by the way, of this apartment. And
19 it's the door casing and the broken doorjamb.

20 Q. Okay. So the living room floor is right inside
21 the entryway?

22 A. Correct. So that piece of wood that we had
23 here is laying approximately in that location.

24 Q. And this evidence that we've seen was laid out
25 consistent with having a door being forced open or

1 kicked in?

2 A. It is.

3 Q. If you apply a tremendous amount of force to a
4 door, can you actually kick through a doorjamb like
5 that?

6 A. Yes, you can. Very easily, actually.

7 Q. And State's Exhibit 12 (indicating).

8 A. This is -- again, you can see the open door.
9 This is a photograph of the door -- what we call the
10 plate, the jamb plate that holds the doorknob and holds
11 the locking mechanisms together.

12 Q. And we have another close-up to look at.
13 State's 13. Is that the door plate (indicating)?

14 A. It is.

15 Q. Does it appear to be damaged?

16 A. It does. It appears that it was pulled -- the
17 holes look maybe a little elongated as the screw holes
18 were pulled through. And actually it looks a little bit
19 bent on that inside.

20 Q. Would that be consistent with having a door
21 forced open?

22 A. It is.

23 Q. We have State's Exhibit 14. Are we still in
24 the living room here (indicating)?

25 A. This is still in the living room. This is a

1 double mattress or double bed size mattress that's on
2 the floor of the living room. This is in the -- if
3 you're standing in the doorway, it would be to your
4 front right. And then there's another little toddler's
5 bed and a laundry basket on top of that mattress.

6 Q. Okay. So that would put us back in this corner
7 over here (indicating)?

8 A. That's correct. That mattress is approximately
9 in that location.

10 Q. I'll just draw your attention to this area in
11 particular here on the mattress. Do you see that
12 (indicating)?

13 A. I do.

14 Q. Okay. I'll put up a closer image of it.
15 State's Exhibit 15, what do we see here (indicating)?

16 A. It appeared to me -- it's a brownish, darkish
17 red stain. It appeared to me to be a bloodstain. And
18 it has characteristics that appear to me to be fingers.
19 So like it's a handprint, a bloody handprint.

20 Q. Take a closer look at it in State's Exhibit 16.
21 And these characteristics, is that what you're referring
22 to (indicating)?

23 A. That's correct.

24 Q. What was the general condition of that
25 apartment?

1 A. Horrendously filthy.

2 Q. Besides being dirty, was it in disarray?

3 A. It was in disarray. It was -- there were
4 obviously some -- in my mind, I saw signs of a struggle
5 aside from the normal disarray because the apartment was
6 in a state of complete filth. And it was in a state
7 probably somewhat of disarray prior to this incident,
8 but there were signs --

9 MR. RUSHING: Objection to the narrative.

10 THE COURT: Sustained.

11 MR. BURDETTE: I'll move along.

12 Q. (By Mr. Burdette) Let's move into the kitchen
13 that we see here in State's Exhibit 37. You took this
14 photograph, right (indicating)?

15 A. I did.

16 Q. And what do we see there?

17 A. This is just a photograph of the kitchen
18 counter. And particularly there's a set of knives.
19 There's a white-handled butter knife and then a
20 black-handled butter knife that were consistent with
21 other items in and around the area. So I wanted to make
22 note of those.

23 Q. Now, these items here, these knives in State's
24 Exhibit 37 were not tagged into evidence; is that
25 correct?

1 A. That's correct.

2 Q. They were only photographed?

3 A. Correct.

4 Q. Did you later tag some knives into evidence?

5 A. I did.

6 Q. Did you bring those to court today?

7 A. I did.

8 Q. All right. I'm showing you what's been
9 admitted as State's Exhibit 29. Do you see that
10 (indicating)?

11 A. I do.

12 Q. Does that look similar to the knife depicted in
13 State's Exhibit 37?

14 A. It does.

15 Q. I'll also show you State's Exhibit 32
16 (indicating). State's Exhibit 32 you tagged into
17 evidence, correct?

18 A. I did.

19 Q. And brought here to court today?

20 A. I did.

21 Q. But it is not this knife that we see in State's
22 Exhibit 37, is it?

23 MR. RUSHING: Objection. Leading.

24 THE COURT: Sustained.

25 Q. (By Mr. Burdette) Is State's Exhibit 32 the

1 knife that we see in State's Exhibit 37?

2 A. It is not. It is another knife that I
3 collected on scene.

4 Q. Do they look similar?

5 A. To me, they look like they belong in the same
6 set.

7 Q. Let's look at State's Exhibit 38. What do we
8 have here (indicating)?

9 A. This is a photograph of the top of a table
10 that's immediately to the right of the front door if
11 you're looking from the inside at the front door. And
12 there are two knives on top of that table.

13 Q. Were those knives tagged into evidence?

14 A. They were.

15 Q. Are these the items that -- did you bring these
16 items to court today?

17 A. Those two particular knives were not brought to
18 court today.

19 Q. Okay. Now we have State's Exhibit 30. You
20 brought this to court today; is that right (indicating)?

21 A. I did.

22 Q. All right. Now, is State's Exhibit 30 either
23 of the knives there in the State's Exhibit 38?

24 A. It is not.

25 Q. Do they look similar?

1 A. They have similar characteristics, yes.

2 Q. And then this is just a zoomed-out version of
3 those knives on State's Exhibit 39; is that right
4 (indicating)?

5 A. Yes. This is a more -- this is a further-out
6 view of the same photograph that shows the knives and
7 the contents of that table.

8 Q. Was photographing the scene or the inside of
9 the apartment one of the first things you did as far as
10 collecting evidence?

11 A. It is.

12 Q. At that point when you're photographing, do you
13 even know what will become relevant or irrelevant?

14 A. I do not. I have a basic understanding or
15 interpretation of what occurred. So prior to taking
16 photographs, I knew that knives were involved. That's
17 why there was some additional focus on different various
18 knives inside the apartment, but absolutely I'd have
19 no -- without interviewing lots of people and doing
20 things that the investigators do, I don't know what's
21 going to be relevant evidence until it becomes so.

22 Q. Okay. But you make sure you photographed every
23 knife that you see?

24 A. I try and see -- yes, I try and photograph --
25 in addition to just knives, just things that I think

1 might possibly become pieces of valuable interest or
2 items that I'm going to collect later.

3 Q. State's Exhibit 40, what do we have here
4 (indicating)?

5 A. This is another knife that was very similar to
6 the one on the kitchen counter. This one was on the
7 living room floor just a few -- maybe a foot away from
8 the pieces of wood that we saw on the living room floor.

9 Q. Okay. Was this knife tagged into evidence?

10 A. It was.

11 Q. Okay. But was it brought to court today?

12 A. No, it was not.

13 Q. Did you only bring the knives that were found
14 on the defendant to court today?

15 A. I brought the knives that were given to me that
16 were found on the defendant, yes.

17 Q. Okay. And that was pursuant to my request?

18 A. Yes.

19 Q. State's Exhibit 41, what do we have here
20 (indicating)?

21 A. This is a multilevel entertainment center or
22 stand. This was on the wall that had -- that was the
23 front door wall. If you're looking from the inside at
24 the front door, this would be to the left. And this is
25 a stand that I made particular note that it appeared

1 that there was recently some other electronic equipment,
2 maybe a television. Just from the dust and the stains
3 that were there, that gave me the impression that these
4 items are now missing, recently missing.

5 Q. Okay. Due to the state, the way it looks
6 there?

7 A. Yes.

8 Q. Is it odd, also, to have a Play Station and
9 other media devices with no television?

10 A. Yes, it was very odd. That's what gave me the
11 impression, along with the dust pattern, along with the
12 other items. There was a DVD player and some other
13 items, and all the cables to those items were just
14 dangling. So that's what gave me the impression that
15 the TV was missing.

16 Q. We'll talk a little bit about the exterior of
17 the apartment complex. Looking here at State's
18 Exhibit 17, what do we see (indicating)?

19 A. This is the front -- the eastern side of the
20 complex. So as I'm standing there, behind me is
21 Broadway Street, and then there's complexes -- buildings
22 to the left and to the right. And this is the main
23 entry gate to walk through.

24 Q. When you're documenting the scene after you
25 leave the complainant's apartment, did you walk around

1 the apartment complex to see if there were other items
2 of evidence that needed to be documented?

3 A. I did.

4 Q. Did you find other items?

5 A. I did.

6 Q. Let's look at State's Exhibit 18. What do we
7 see here (indicating)?

8 A. This is the southernmost vehicular entrance to
9 the complex. There is an electronic gate, access gate,
10 that was standing in the open position. You can see
11 where that gate is. That delineated the same gate that
12 people would walk through in the previous photograph.
13 So behind me, again, is Broadway Street. To the right
14 is the complainant's apartment complex building. And
15 then further back in that photograph is just public
16 parking.

17 Q. Okay. Of particular interest, what do we see
18 right here (indicating)?

19 A. That just appeared to be a bedsheet.

20 Q. Were there bedsheets on the bed of the
21 complainant's apartment?

22 A. There were not.

23 Q. Take a look at State's Exhibit 19. What do we
24 see there (indicating)?

25 A. This is the same southern entry gate from the

1 previous photograph, only now I'm on the other side of
2 that wrought-iron fence looking back out toward Broadway
3 and paying particular focus on the orange shopping cart.

4 Q. And then State's Exhibit 21 (indicating).

5 A. This is now back on the other side, the
6 Broadway side of that fence, showing the shopping cart
7 from a different angle.

8 Q. And just take a look at this car here. Is this
9 the same car (indicating)?

10 A. From the -- yes. That's the same gate, same
11 car.

12 Q. Okay. So we're looking at a combination of
13 State's Exhibits 18 and 21. Is that where the sheet was
14 found relative to the shopping cart?

15 A. That's correct.

16 Q. Were any TVs or laptops recovered in that
17 shopping cart?

18 A. The shopping cart was empty when it was brought
19 to my attention.

20 Q. After photographing the scene, what did you do?

21 A. Then I began collecting the evidence that I
22 thought would be relevant that the robbery investigators
23 would want to look at further.

24 Q. And what were those items?

25 A. Particularly, the three knives. There was an

1 indication that the knives were used by the suspect to
2 threaten the family or threaten the complainant, so I
3 was hopeful that those knives would possibly contain the
4 suspect's DNA.

5 Q. Okay. Did you swab those items?

6 A. I did.

7 Q. What did you do with those swabs?

8 A. Those swabs were turned over to our crime lab
9 for analysis.

10 Q. Besides swabbing those knives, what else did
11 you do?

12 A. I collected those knives as well.

13 Q. Okay. Did you take any other swabs from the
14 crime scene?

15 A. I did. I took swabs of a closet doorknob. I
16 had indication that part of the family was -- took
17 shelter inside the closet door and was chased there by a
18 suspect. So it was likely that the suspect would have
19 handled those doorknobs. So I swabbed the doorknobs. I
20 swabbed the doorknob of the front main door as well
21 where the forced entry was. I took swabs of the
22 bloodstain on the mattress as well.

23 Q. Did you do anything in particular with the
24 shopping cart that we saw there?

25 A. In addition, once I left that location, I went

1 back to the shopping cart and took additional swabs from
2 the handle of the shopping cart.

3 Q. Did you attempt to obtain any fingerprints from
4 the shopping cart?

5 A. Fingerprints were not attempted on the shopping
6 cart because I was more interested in the DNA swabbing.
7 That's one tradeoff for me. As an investigator, I've
8 got to decide if I'm going to go for fingerprints or for
9 DNA because typically doing one obliterates the other.
10 So in this case, I thought DNA would be more helpful and
11 more relevant on the shopping cart than fingerprints.

12 Q. Did you attempt to recover fingerprint evidence
13 from any location there?

14 A. I did. I considered the entire apartment for
15 fingerprint evidence, given where I thought the
16 complainant -- or the suspect would have traversed the
17 apartment, things that he would have handled. But given
18 the dirt and grime and nature of the apartment itself,
19 and the items that were probably handled were already
20 removed by the suspect, I did not recover any
21 fingerprints.

22 Q. At the time when you're taking these swabs, do
23 you know whether or not they have a suspect in custody?

24 A. I don't believe I knew that at that time, no.

25 Q. When did you find that out?

1 A. I think I found that out when I was getting
2 ready to leave, actually packing up and pulling out, did
3 I learn that a possible suspect was in custody.

4 Q. So as you're processing the scene, you're
5 thinking there's an unknown suspect?

6 A. Correct.

7 Q. Is it better to be overinclusive than
8 underinclusive when processing a scene like this?

9 A. Oh, of course.

10 Q. Why?

11 A. Because you never have a second shot at it.
12 You can't go back to a scene. Once it's released,
13 there's the potential of evidence being contaminated.
14 You can never say what was brought in later. And then
15 we don't know who's going to live there again. We don't
16 know if we're going to go back a day or two later or
17 weeks later. So we strive to get everything in
18 one shot, and we want to be on the safe side. If it's
19 possible that it's going to contain any kind of value,
20 we want to go ahead and collect it then.

21 Q. So you were able to collect swabs. The
22 fingerprints did not have any result -- or any
23 identification, right?

24 A. I didn't collect any fingerprints at all.

25 Q. Okay. That's fair to say. You didn't find any

1 fingerprints?

2 A. I did not.

3 Q. You took photographs?

4 A. I did.

5 Q. Once you were advised that they had a suspect
6 in custody, were you given items of evidence at that
7 time to tag into the property room?

8 A. I was. I was provided with a paper bag that
9 had items from the suspect that they had detained.

10 Q. All right. And these knives here, State's
11 Exhibits 28, 29, 30, 31, and 32, were those items?

12 A. Those were items that were given to me that
13 were on the suspect that was detained.

14 Q. Are you the one that brought these to court
15 today?

16 A. I was.

17 Q. You don't personally conduct any type of
18 forensic testing or anything on any of these items, do
19 you?

20 A. No, I don't.

21 Q. That would be the responsibility of the crime
22 lab; is that right?

23 A. That's correct.

24 Q. Is that automatically done or does a request
25 have to be generated?

1 A. No. A request has to be generated from any
2 number of different sources. A request has to come
3 through before they'll consider testing anything.

4 Q. So either an officer or an investigator or a
5 D.A. or maybe even a defense attorney would have to
6 request some items to be tested?

7 A. That's correct.

8 Q. Do you personally know what items were tested
9 in this particular case?

10 A. I don't.

11 Q. It's not your job?

12 A. It's not.

13 Q. Once you found out the suspect was in custody,
14 were you asked to go document and collect evidence from
15 the suspect?

16 A. I was.

17 Q. Where did you have to go?

18 A. I went to the jail or detention center at 61
19 Riesner downtown.

20 Q. Did you make contact with the investigating
21 officers at that time?

22 A. I did.

23 Q. Did they provide you with some information
24 about the suspect?

25 A. They did.

1 Q. Did they direct your attention to him?

2 A. They did.

3 Q. Did you photograph him?

4 A. I did.

5 MR. BURDETTE: Judge, may I approach the
6 witness?

7 THE COURT: You may.

8 Q. (By Mr. Burdette) Officer Taravella --
9 actually, I guess these are already in evidence.

10 MR. BURDETTE: May I publish these, Your
11 Honor?

12 THE COURT: You may.

13 Q. (By Mr. Burdette) Is this the suspect you were
14 asked to photograph (indicating)?

15 A. It is.

16 Q. Do you see him in the courtroom today?

17 A. I do.

18 Q. Could you point to him and identify him by an
19 article of clothing?

20 A. The gentleman there in the dark -- or light
21 blue shirt, long-sleeved shirt.

22 MR. BURDETTE: May the record reflect the
23 witness has identified the defendant, Khalon Jovon
24 Westbrooks?

25 THE COURT: The record will so reflect.

1 Q. (By Mr. Burdette) What do you see there at the
2 top of his shirt (indicating)?

3 A. It appears to be bloodstains.

4 Q. And then also on his face?

5 A. That's correct.

6 Q. Let me ask you something based on your
7 training, experience, and your years as a crime scene
8 investigator. If somebody gets tased, what happens to
9 their body?

10 A. From what I've seen, their body usually
11 stiffens up and then collapses to the ground.

12 Q. All right. If somebody is tased and they fall
13 face forward, can they injure their face?

14 A. They can.

15 Q. Do you see here on Mr. Westbrooks' face
16 injuries that could be consistent with being tased and
17 falling to the ground?

18 A. I do.

19 Q. Look at State's Exhibit 23. What do we see
20 here (indicating)?

21 A. This is the photograph of the suspect on the
22 bench as I was directed to him.

23 Q. All right. Did you arrange him in any fashion
24 or anything before photographing him?

25 A. I did not.

1 Q. If you look closely, can you see the condition
2 of the fly on his pants?

3 A. I do.

4 Q. And what is that condition?

5 A. The fly is down.

6 Q. Okay. Knowing the nature of the case, did you
7 ask him to drop down his pants?

8 A. In this case, I believe his pants just fell
9 from standing up, that they were that loose on his body.

10 Q. Do you see a belt?

11 A. Yes.

12 Q. But what is it that we see here towards the
13 bottom of his shirt (indicating)?

14 A. Again, it appears to be bloodstains, again,
15 unknown to me at that time whether those stains would be
16 the complainant's blood or the suspect's blood. Given
17 the injuries that he had and the areas that he had them,
18 it could very likely be either one.

19 Q. Okay. Unknown origin?

20 A. Unknown.

21 Q. And State's Exhibit 26 (indicating)?

22 A. This is just a photograph. Now he's no longer
23 handcuffed. His hands are in front of him. And I'm
24 taking pictures to show some injuries to his knuckles,
25 appearing to me either recently in a fight, very

1 consistent with someone who has just punched something.

2 Q. Could those injuries have been sustained by
3 falling onto the tops of his hands?

4 A. They could have, yes.

5 Q. And State's Exhibit 27 (indicating)?

6 A. This is an injury to his upper left thigh,
7 unknown to us at the time until we started inquiring.
8 He was mentioning that he had an injury. The origin of
9 that injury was unknown to us, and it's looks like it
10 was fairly fresh but had already started healing. So,
11 there was no immediate bleeding.

12 Q. Now knowing there's a suspect for this offense,
13 believing that a sexual assault had occurred, is there a
14 belief that there's additional evidence that may be
15 recoverable on the defendant's body?

16 A. There is.

17 Q. And what is that evidence?

18 A. That evidence would be the DNA of the
19 complainant. Typically, in a sexual assault, if we knew
20 that penetration occurred, that DNA would be located on
21 the suspect's penis.

22 Q. Okay. Did you take a buccal swab from the
23 suspect's penis?

24 A. I took a swab from the suspect's penis.

25 Q. I'm sorry. You took a swab from his penis?

1 A. I did.

2 Q. Did you also take a buccal swab from the
3 defendant?

4 A. I did.

5 Q. And what's a buccal swab?

6 A. The difference being buccal -- the word
7 "buccal" means the inside of the cheek. So, a buccal
8 swab is a swab that we take strictly to identify -- to
9 collect the suspect's DNA from the inside of his mouth.

10 Q. Now, you did not take a sample of the
11 complainant's DNA, did you?

12 A. I did not. At that time, I was already aware
13 that the complainant was going to a hospital to have a
14 complete sexual assault kit collected, at which time
15 that's taking a buccal swab for the complainant's DNA is
16 routine for that exam.

17 Q. All right.

18 MR. BURDETTE: Judge, may I approach the
19 witness?

20 THE COURT: You may.

21 Q. (By Mr. Burdette) Officer Taravella, I'm
22 showing you what's been marked as State's Exhibit 34
23 contained in a package marked 34-A. Can you please take
24 a look at it and tell me if you recognize it
25 (indicating)?

1 A. I do.

2 Q. And where did it come from?

3 A. This is the package that contains the swabs --
4 the buccal swab from the suspect Westbrooks.

5 Q. All right. And how do you recognize it?

6 A. I recognize the -- the cardboard box is our
7 swab box. This is what we put our swabs into. I've got
8 my signature across the seal and a label with the case
9 number, the date, the address, and where it came from.
10 And then the envelope is the same way. I've got a
11 sticker that I've affixed to the outside with the case
12 number, the date, the location, my name. The outside
13 has -- across the seal is my signature, my unit number,
14 and the date that it was sealed inside.

15 Q. And after you take that swab, is it submitted
16 to the crime lab for testing?

17 A. If a request is made, which I believe in this
18 case -- usually, the buccal swabs are always
19 automatic -- then, yes.

20 Q. Okay. Do you see anything on this envelope
21 that indicates it has been opened by somebody since you
22 sealed it up?

23 A. I do. There's another defect in the envelope,
24 an opening, per se, that's been resealed. It has
25 someone else's date and initials on that seal as well.

1 Q. And is that expected or consistent when a swab
2 is submitted to the crime lab for testing?

3 A. It is. And that is also the case for the box,
4 that there is another person's initials over another
5 seal.

6 Q. And how did State's Exhibit 34 and the package,
7 34-A, get to court today?

8 A. I collected it from the property room and
9 brought it to court this morning.

10 Q. And was it sealed this morning?

11 A. It was.

12 Q. And did you open it in my presence prior to
13 taking the stand today?

14 A. I did.

15 Q. Let's do State's Exhibit 35 contained in
16 package marked 35-A. Take a look at it. Tell me if you
17 recognize it (indicating).

18 A. I do.

19 Q. What is it?

20 A. This the penile swab from suspect Westbrooks.
21 Very, very similar, the swab box is the same. The swab
22 box has my signature across the seal with the case
23 number, location, date, my name. The packaging is the
24 same way. The packaging has, again, my signatures, my
25 unit number, and the data cross the seal.

1 Q. And do you see that it appears to have been
2 opened at some point prior to you bringing it to court
3 today?

4 A. It does. The same as the previous one. Again,
5 it has another opening that was created and sealed with
6 the crime lab or another signature and date across that.

7 Q. Again, is that consistent with an item that's
8 been submitted to the crime lab for testing?

9 A. It is.

10 Q. And how did State's Exhibit 35 get to court
11 today?

12 A. I brought it along with the evidence this
13 morning.

14 Q. Okay. And aside from any testing that may have
15 been done at the crime lab, any reason to believe that
16 these are not in the same or substantially same
17 condition as the time that you took them?

18 A. No.

19 MR. BURDETTE: Judge, at this time, State
20 offers into evidence State's Exhibits 34 and 35 as well
21 as the packaging, 34 and 35-A, 34-A and 35-A.

22 (State's Exhibit Nos. 34, 34-A, 35, and
23 35-A Offered)

24 MR. RUSHING: Judge, I'm going to object.
25 I don't believe that a steady chain of custody has been

1 established from when these were taken to when they were
2 delivered in court. Somebody's signature on there is
3 not established.

4 THE COURT: Response?

5 MR. BURDETTE: Judge, I've established the
6 beginning of the chain. Officer Taravella was very
7 articulate in stating that he took these swabs from the
8 defendant on that day, packaged them up, sealed them,
9 identified his signature on the evidence tape, submitted
10 them into the property room, has explained that
11 additional signatures that appear on tape is consistent
12 with somebody from the crime lab retrieving these items,
13 opening them up, and conducting testing, resealing them.
14 And then he indicated he brought them to court today and
15 they were sealed when he brought them to court.

16 THE COURT: Mr. Rushing, my understanding
17 is that the chain of custody ends when it's received at
18 HPD. So your objection is overruled.

19 MR. RUSHING: Okay.

20 **(State's Exhibit Nos. 34, 34-A, 35, and**
21 **35-A Admitted)**

22 Q. (By Mr. Burdette) Just so the jury understands
23 a little bit more about the swabs, Officer Taravella,
24 tell us how a penile swab is taken.

25 A. Aside from being delicately, it's a -- I use a

1 sterile saline solution where I would moist two, for all
2 intents and purposes, sterile Q-tips. Once those Q-tips
3 are moistened, I would then rub those Q-tips along the
4 penis hoping to collect whatever skin cells may be
5 resting on that skin.

6 Q. Okay. So we're clear, you rub it along the
7 outside. There is not -- you do not go internally?

8 A. Correct.

9 Q. And are you qualified to take that type of swab
10 based on the training and specialization that you
11 received?

12 A. I am.

13 Q. And then a buccal swab, how is that done?

14 A. A buccal swab is very similar, only we don't
15 need to premoisten the buccal swab, because with a
16 buccal swab, we're collecting saliva and the skin cells
17 that are attached to the gums. So, that is already
18 moistened and that will adhere to the same sterile
19 cotton-tip applicators. And that would be done by
20 rubbing those against the gumline and the teeth and
21 sealing those into the same container.

22 MR. BURDETTE: Judge, may I approach the
23 witness?

24 THE COURT: You may.

25 Q. (By Mr. Burdette) Officer Taravella, I'm

1 showing you what's been marked as State's Exhibit 36.
2 Take a look at it and just tell me how this got to court
3 today (indicating).

4 A. I collected it from the HPD Property Room and
5 brought it to court this morning.

6 Q. Okay. Was it sealed this morning?

7 A. It was.

8 Q. Okay. Did you open it in my presence?

9 A. I did.

10 MR. BURDETTE: May I have just a moment,
11 Your Honor?

12 THE COURT: You may.

13 (Pause.)

14 MR. BURDETTE: I'll pass the witness.

15 THE COURT: The bailiffs have told me that
16 the jury's lunch has arrived. So we're going to take
17 our lunch break at this time. You may go with the
18 bailiff.

19 (Lunch recess.)

20 (Open court, defendant and jury present.)

21 THE COURT: Thank you. Please be seated.

22 MR. BURDETTE: Judge, if I may, I have one
23 additional item for Officer Taravella.

24 THE COURT: All right.

25 MR. BURDETTE: May I approach the witness?

1 THE COURT: You may.

2 Q. (By Mr. Burdette) Officer Taravella, I'm
3 showing you what's been marked as State's Exhibit 42.
4 Would you take a look at it (indicating)?

5 A. Yes.

6 Q. Do you recognize it?

7 A. I do.

8 Q. Is it fair and accurate?

9 A. It is.

10 MR. BURDETTE: Judge, at this time, State
11 offers State's Exhibit 42 into evidence. I'll tender to
12 opposing counsel for inspection.

13 **(State's Exhibit No. 42 Offered)**

14 MR. RUSHING: No objections.

15 THE COURT: State's 42 is admitted.

16 **(State's Exhibit No. 42 Admitted)**

17 MR. BURDETTE: May I publish this, Your
18 Honor?

19 THE COURT: Yes, you may.

20 Q. (By Mr. Burdette) Officer Taravella, we saw
21 pictures of the living room, and now we're looking at
22 State's Exhibit 42. What do we see here (indicating)?

23 A. This is a photograph of the bedroom. This is
24 the bed that's against the same wall as the other bed,
25 back-to-back on the same wall. So, the living room is

1 on the other side of this wall here. The doorway to
2 this bedroom is just to the right of that humidifier.

3 MR. BURDETTE: Okay. No further questions.
4 Pass the witness.

5 THE COURT: Mr. Rushing, you may proceed.

6 MR. RUSHING: Thank you, Judge.

7 **CROSS-EXAMINATION**

8 **BY MR. RUSHING:**

9 Q. Officer, you had described this apartment as
10 being in disarray; is that correct?

11 A. I believe I did use that word, yes.

12 Q. Had you been there before this incident?

13 A. I had not.

14 Q. So you don't know what it normally looked like?

15 A. No. And I think I defined that statement by
16 saying that it was kind of hard to tell, but there were
17 some obvious signs of a recent struggle. It was hard to
18 tell what was old and what was new because the apartment
19 really was just horrifically filthy and in shambles.

20 Q. And you do this -- scene investigations for a
21 living; is that right?

22 A. I do.

23 Q. And you just said that it was hard to tell what
24 was old and new?

25 A. Correct. Yeah. There were some things like --

1 MR. RUSHING: Objection. Nonresponsive.

2 THE COURT: Sustained.

3 Q. (By Mr. Rushing) Now, Officer, your
4 investigation didn't tell you anything of the
5 defendant's mental state or intoxication or whether any
6 intoxication was voluntary or involuntary, did it?

7 A. I'm sorry. Rephrase that.

8 Q. That was kind of a compound question.

9 Your investigation didn't tell anything of
10 the defendant's mental state, did it?

11 A. Actually, it somewhat did.

12 Q. Did it address his intoxication?

13 A. It addressed a -- he had a memory lapse when he
14 was asked questions about his injuries, which implied to
15 me that maybe there was a level of intoxication during
16 the incident.

17 Q. Okay. And were you clear on this memory
18 lapse -- do you have any training in DRE?

19 A. I do not.

20 Q. And are you clear -- or did you understand the
21 memory lapse to be during this entire incident?

22 A. No. There was the one injury, like the injury
23 to his thigh, he had told me that he did not remember
24 how he got that, but he believed he was shot. And that
25 just kind of seemed a little unusual that someone would

1 not remember being shot or how they were shot.

2 Q. And before you were a crime scene investigator,
3 you said you were a patrol officer?

4 A. Yes.

5 Q. And did you experience people -- in both the
6 Crime Scene and as a patrol officer, did you experience
7 people who were intoxicated?

8 A. I did.

9 Q. And based on your experience, was that
10 something that indicates intoxication, memory loss?

11 A. To a certain degree, yes.

12 Q. And based on your understanding, this defendant
13 exhibited memory loss of the event of entering the
14 apartment and sexually assaulting the complainant; is
15 that correct?

16 A. No. I said he had memory loss of how he
17 received the injury to his thigh, which was actually
18 maybe the night before. Like I said, it was an injury
19 that was already starting to heal. So, no, I didn't
20 question him about the incident itself. That was --
21 anything he volunteered from that was just denials of
22 not being there, not being involved. Different from
23 memory loss.

24 Q. Okay.

25 MR. RUSHING: I'll pass the witness, Judge.

1 THE COURT: Anything further, Mr. Burdette?

2 MR. BURDETTE: Nothing from this witness,
3 Your Honor.

4 THE COURT: May he be excused?

5 MR. BURDETTE: No objection.

6 MR. RUSHING: No objection.

7 THE COURT: Thank you, sir. You may step
8 down and be excused.

9 THE WITNESS: Thank you, Your Honor.

10 THE COURT: Call your next witness.

11 MR. BURDETTE: State calls Officer Anna
12 Laura.

13 THE BAILIFF: This witness has not been
14 sworn.

15 (Witness sworn.)

16 THE COURT: Have a seat, please.

17 You may proceed.

18 MR. BURDETTE: Thank you, Judge.

19 **OFFICER ANNA LAURA,**

20 having been called as a witness and being first duly
21 sworn, testified as follows:

22 **DIRECT EXAMINATION**

23 **BY MR. BURDETTE:**

24 Q. Good afternoon, Officer Laura.

25 A. Good afternoon.