

1 MS. MAGNESS: Thank you, Judge.

2 The State calls Officer Thompkins.

3 THE COURT: Mr. Thompkins, come up,
4 please. I just swore you in. That's right. Have a
5 seat, sir.

6 THE WITNESS: Thank you, sir.

7 THE COURT: You may proceed.

8 **WOODROW B. THOMPKINS,**

9 having been first duly sworn, testified as follows:

10 **DIRECT EXAMINATION**

11 **BY MS. MAGNESS:**

12 Q. Good morning.

13 A. Good morning.

14 Q. Would you introduce yourself to our
15 jury, please?

16 A. Good morning. My name is Woodrow
17 Thompkins. I work for the Houston Police
18 Department.

19 Q. How long have worked for HPD?

20 A. Ten years now.

21 Q. And what division are you currently
22 assigned to?

23 A. I'm back at Northeast Patrol.

24 Q. And previously were you assigned to the
25 Crime Scene Unit?

1 A. Yes, ma'am, for three years.

2 Q. Explain to the jury what your duties
3 entail in the Crime Scene Unit.

4 A. At the time my duties were to proceed to
5 crime scenes, particularly homicides, document and
6 collect all the evidence on scene, photograph,
7 videotape, and just ensure that everything that I
8 see on there can be related to somebody else, that
9 they understand what happened out there.

10 Q. And what kind of specialized training
11 did you receive to qualify you to do that job?

12 A. Special investigative courses,
13 photography classes, some computer programs used to
14 create diagrams, stuff like that.

15 Q. And for this case, were you the primary
16 Crime Scene Investigator?

17 A. Yes, ma'am.

18 Q. How were you notified that you had a
19 scene that needed to be processed?

20 A. At the time I worked at 1200 Travis on
21 the 24th floor. The Homicide Division located on
22 the tenth floor would call us on the 24th floor and
23 advise us when we were needed.

24 Q. And when -- so you're at the office.
25 Who was it that notified you that you needed to

1 proceed to a location?

2 A. It would have been somebody from the
3 Homicide Division. I don't know if I actually
4 documented who that person was. If you'll give me a
5 second to check my notes, I can let you know.

6 Yeah, I didn't list specifics, only
7 Homicide Division.

8 Q. What location were you dispatched to?

9 A. 5430 Madden.

10 Q. And is that location within Harris
11 County, Texas?

12 A. Yes, ma'am.

13 Q. And were you given any information prior
14 to going to the scene as to what you -- what kind of
15 scene it was going to be or what you would
16 encounter?

17 A. Just basically that it was a murder
18 scene in which a pizza delivery man had been
19 possibly shot.

20 Q. And what time did you arrive?

21 A. Let me refer to my notes, please.

22 Q. Uh-huh.

23 A. I left 1200 Travis at 1:00 o'clock in
24 the morning and I arrived on scene at 1:20 that
25 morning.

1 Q. And when you arrived on scene, were
2 there any Homicide investigators that you met with?

3 A. Yes, eventually Sergeant Meeler and I
4 believe now Sergeant French.

5 Q. And give the jury an idea, when you
6 arrive on a scene, what process do you go through
7 before you actually start collecting evidence?
8 What's the first thing you do?

9 A. The first thing you do is meet with the
10 primary officer. That's going to be the officer
11 that, 99 percent of the time, is the first one on
12 the scene. He or she will be the one that can best
13 advise you exactly what kind of scene you're looking
14 at or a general scope of what you can expect in
15 relation to how big the crime scene is, what
16 possible evidence might be on scene and other
17 details in relation to the crime.

18 Q. And after you basically debrief with the
19 Homicide investigator, do you then do a walk-through
20 of the scene and document where physical evidence is
21 positioned?

22 A. Yes, ma'am.

23 Q. In addition do you take measurements in
24 order to create a scene diagram?

25 A. Approximate measurements, yes, ma'am.

1 Q. And prior to collecting evidence, do you
2 photograph the scene to depict how it appears when
3 you arrived?

4 A. Yes, ma'am.

5 Q. Once you photograph the scene, then do
6 you physically collect any evidence that's there?

7 A. I'm sorry. Can you repeat that?

8 Q. Sure. Once you photograph the scene and
9 document where moveable evidence is positioned, do
10 you then physically collect that evidence?

11 A. Yes, ma'am. We actually do a video as
12 well prior to collection.

13 Q. Once you collect the physical evidence,
14 what do you do with it to secure it and make sure
15 that it's available for trial?

16 A. It's generally bagged up and -- each
17 piece -- and kept in my vehicle at the time and I
18 maintain care, custody and control until I take it
19 to the HPD property room and tag it there.

20 Q. And when it's tagged into the HPD
21 property room, is that a secure facility?

22 A. Yes, ma'am.

23 Q. And in order to remove that evidence
24 from the property room, does either yourself or
25 another -- another police officer have to check that

1 property out?

2 A. Yes, ma'am.

3 MS. MAGNESS: May I approach this
4 witness, Judge?

5 THE COURT: You may.

6 Q. (By Ms. Magness) I'm going to show you
7 what's been marked for identification as State's
8 Exhibit No. 33. Can you describe what that document
9 is?

10 A. That's the diagram I made of the scene
11 itself.

12 Q. Okay. And so the entries that are
13 contained on this document you personally entered?

14 A. Yes, ma'am.

15 Q. And is this diagram to scale?

16 A. No, ma'am.

17 Q. Okay. I want you to look at State's
18 Exhibits 11 through 30.

19 A. (Witness complied.) Okay.

20 Q. And what are those items?

21 A. The first pictures are pictures of where
22 the actual shooting took place, including the spent
23 shell casings I collected, and the rest of them,
24 they're where the victim's car ended up crashing.

25 Q. And these are photographs that you took

1 personally?

2 A. Yes, ma'am.

3 Q. I'm also going to show you State's
4 Exhibits 30 and 31. Do you recognize those items?

5 A. Yes, ma'am.

6 Q. And where do you recognize them from?

7 A. This is what I collected at the scene.

8 Q. And what are they?

9 A. It's what we call spent shell casings,
10 bullets that had been fired basically.

11 MS. MAGNESS: Tendering State's
12 Exhibits 31, 32 and 33 to opposing counsel and
13 State's Exhibits 11 through 30.

14 (State's Exhibits No. 11 through
15 33, Photographs, shell casings and scene diagram,
16 offered.)

17 MR. CORNELIUS: No objection,
18 Judge.

19 THE COURT: Okay. And what were
20 those numbers, again, Ms. Magness? I'm sorry.

21 MS. MAGNESS: State's Exhibits 11
22 through 30, 31, 32 and 33.

23 THE COURT: Okay. Without
24 objection those are admitted, and you may publish.

25 (State's Exhibits No. 11 through 33

1 admitted.)

2 MS. MAGNESS: Thank you.

3 Q. (By Ms. Magness) All right. Beginning
4 with State's Exhibit No. 33, this is the scene
5 diagram that you created in connection with this
6 case?

7 A. Yes, ma'am.

8 Q. Now, you photographed the scene. Why is
9 it important that you also do a diagram such as
10 this?

11 A. It gives you a general overview of the
12 entire area.

13 Q. And you have here indicated on the
14 diagram a No. 1 and No. 2?

15 A. Yes, ma'am.

16 Q. What is that identifying?

17 A. That's the spent shell casings you
18 showed me.

19 Q. You show here the location at 5400
20 Madden, and you have indicated for us a direction of
21 travel. How did you determine that?

22 A. I believe it was eyewitness statements,
23 ma'am.

24 Q. Okay.

25 A. And actually the only way he could have

1 gotten out of the neighborhood is going through that
2 direction.

3 Q. To where the vehicle eventually ended
4 up?

5 A. Yes, ma'am.

6 Q. All right. Let's start with State's
7 Exhibit 11. What are we looking at here?

8 A. That's the front of the house where I
9 was initially told that the gentleman was delivering
10 the pizzas to.

11 Q. And in looking at this photograph, it
12 appears that there's two light sources, a front
13 porch light and what looks like a light near the
14 garage. Did you use any other artificial lighting
15 to illuminate the scene?

16 A. Just a flash on a camera.

17 Q. How would you describe the lighting
18 conditions? Without the use of a flashlight or
19 anything else, what was the visibility like?

20 A. Not very -- not very bright, not exactly
21 pitch-black, but not very bright either.

22 Q. Were there streetlights and things of
23 that nature that were casting some light on the
24 location?

25 A. Yes, ma'am.

1 Q. Now, in State's Exhibit 12, it's again
2 that residence, but you had placed two markers there
3 in the photograph. What are you marking for us?

4 A. The shell casings, ma'am.

5 Q. And State's Exhibit 13, that's just a
6 close-up of the first shell casing that you located?

7 A. Yes, ma'am.

8 Q. Same thing with State's Exhibit 15?

9 A. Yes, ma'am.

10 Q. Now, did you search the area to see if
11 there were any other shell casings around?

12 A. Yes, ma'am.

13 Q. And did you locate any?

14 A. No, ma'am.

15 Q. Now, State's Exhibit 16 is a photograph
16 of another residence. Is this the house that is
17 next door to the -- to 5430 Madden?

18 A. I think -- I thought that one was across
19 the street, ma'am, but --

20 Q. Okay. Let me show you a better view.
21 That might help you.

22 A. Okay. Yes, there we go.

23 Q. So, 5430 Madden is here (indicating).
24 This is the house that's immediately next door?

25 A. Yes, ma'am.

1 Q. And if you know, was that house
2 occupied?

3 A. I don't know.

4 Q. Okay. In State's Exhibit 19 what are we
5 looking at there?

6 A. That's the street corner from Madden and
7 MLK.

8 Q. And if we look closer, what is this here
9 (indicating)? I'm not sure how well you can see
10 that with the lighting.

11 A. I don't -- I think it was crime scene
12 tape, but I cannot be specific, ma'am.

13 Q. Is it -- was there another house or was
14 there an abandoned house next to 5430 Madden?

15 A. Yes, ma'am.

16 Q. Was it immediately next door?

17 A. Yes, ma'am.

18 Q. Okay. And can you describe the
19 condition of that property for the jury, please?

20 A. The abandoned house was torn up. It had
21 been ransacked and stripped of any metals or
22 anything else for that matter, uninhabitable.

23 Q. And you photographed here in State's
24 Exhibit 20 -- the abandoned house is actually 5434
25 Madden. What is it that you're documenting for us

1 here?

2 A. I'm just showing that that house next
3 door was documented by the City -- the City of
4 Houston as being abandoned and in violation of city
5 ordinances.

6 Q. So, the violation notice is basically
7 telling the owner you need to do something about
8 this property?

9 A. Yes, ma'am.

10 Q. And is it considered a public nuisance?

11 A. Yes, ma'am.

12 Q. Now, you had a secondary scene, correct?

13 A. Yes, ma'am.

14 Q. And what was the location of that
15 secondary scene?

16 A. That would have been -- that was in the
17 11200 block of Martin Luther King to the north of
18 where the shooting actually occurred.

19 Q. Before we move to that scene, let me go
20 ahead and review these two items with you. I'm
21 showing you what has been introduced as State's
22 Exhibit No. 31. What are we looking at there?

23 A. A spent shell casing, ma'am.

24 Q. And did you document what caliber?

25 A. Yes, ma'am.

1 Q. And can you tell the jury what caliber
2 that shell casing was?

3 A. .9 millimeter.

4 Q. And in State's Exhibit 32, what do we
5 have there?

6 A. The same spent shell casing, .9
7 millimeter.

8 Q. And are these two shell casings the ones
9 that you retrieved from the driveway at 5430 Madden?

10 A. Yes, ma'am.

11 Q. Okay. Leaving the Madden Street
12 location and going to your secondary scene on
13 Canterway, can you give us an approximate distance
14 between those two residences?

15 A. I measured in my vehicle was 4/10 of a
16 mile.

17 Q. Okay. So to get from the Madden
18 location to the Canterway location, a minute maybe?

19 A. Yes, ma'am, if that.

20 Q. I'm showing you State's Exhibit 21. Is
21 that the residence located on Canterway?

22 A. Yes, ma'am.

23 Q. And, again, in terms of the lighting
24 conditions, we see a light over the front entry, I
25 suppose that is, and the garage area. The

1 additional illumination we see, is it because of a
2 flash on the camera?

3 A. That and the exposure time with the
4 camera.

5 Q. Okay. All right. State's Exhibit
6 No. 22, what are we looking at here?

7 A. The fence of where the victim's vehicle
8 crashed through.

9 Q. Okay. And the street that is here on
10 the right-hand side of the photograph, what street
11 is that?

12 A. That's Martin Luther King Boulevard.

13 Q. And the cross street as we see here,
14 this is entering Canterway?

15 A. Yes, ma'am, 5400 block.

16 Q. Now, in State's Exhibit No. 23, there's
17 what appears to maybe, like, a flower bed with some
18 shrubbery in front of that fence. Did you note the
19 condition of that?

20 A. Just inasmuch as it had been ran over.

21 Q. Okay. As you go through that fence,
22 is -- well, let me just show you the picture. That
23 would be easier.

24 What perspective are you taking this
25 photograph from?

1 A. Pretty much where the car ended up
2 coming to a rest looking back the opposite
3 direction.

4 Q. Okay. So you're looking back towards
5 Canterway from the backyard of that residence?

6 A. Yes, ma'am.

7 Q. What are you showing us here with
8 State's Exhibit 25?

9 A. The continuance of the scene where the
10 car proceeded on and crashing through another fence.

11 Q. And in State's Exhibit No. 26, you have
12 photographed a storage building. Was that damage,
13 was it pre-existing or was that damage actually done
14 by the vehicle?

15 A. Done by the vehicle, ma'am.

16 Q. All right. Now, in State's Exhibit
17 No. 27, what's this down here on the right-hand side
18 of this photograph?

19 A. A chain-link fence which the car drove
20 through as well.

21 Q. Okay. So the vehicle traveled through
22 the flower bed, through the wooden fence, I guess
23 hit the shed and then --

24 A. Another wooden fence and then the
25 chain-link fence.

1 Q. Okay. State's Exhibit No. 28, is that
2 where the vehicle came to rest?

3 A. Yes, ma'am.

4 Q. And in State's Exhibit -- you can see it
5 somewhat in State's Exhibit 28; but in State's
6 Exhibit No. 29, what is this white object that we
7 see there?

8 A. Air bag.

9 Q. And State's Exhibit 30 is a photograph
10 of the interior of that vehicle. What is this item
11 down here on the floorboard on the passenger side?

12 A. That's what they use to keep pizzas warm
13 when delivering them.

14 Q. And did you look in there or were you
15 able to determine whether or not there were any
16 contents in that bag?

17 A. No, ma'am.

18 Q. That's not an item that you collected as
19 evidence, correct?

20 A. No, ma'am.

21 Q. Were you -- were you present when that
22 vehicle was removed from the scene?

23 A. Yes, ma'am.

24 Q. And was there any difficulty in taking
25 it from the scene?

1 A. Extremely. The chain-link fence was
2 caught up underneath it, so it was a struggle to get
3 the car pulled out while trying to get the fence
4 detached from it as well.

5 Q. Other than what you've told us, to this
6 point was there any other investigative role that
7 you played in this case?

8 A. No, ma'am.

9 MS. MAGNESS: I'll pass the
10 witness.

11 THE COURT: Mr. Cornelius.

12 **CROSS-EXAMINATION**

13 **BY MR. CORNELIUS:**

14 Q. Officer Thompkins, my name is Skip
15 Cornelius. We've never met or discussed this case
16 before, have we?

17 A. No, sir.

18 MR. CORNELIUS: Judge, can I use
19 the system?

20 THE COURT: Yes, sir.

21 MR. CORNELIUS: Judge, can I
22 approach the screen?

23 THE COURT: Yes, sir.

24 Q. (By Mr. Cornelius) Officer, when you
25 were out there processing the scene and later making

1 this diagram, this 1 and 2 represent approximately
2 on the diagram where the shell casings were found;
3 is that correct?

4 A. Yes, sir.

5 Q. I'm trying to figure out, is this the
6 post you used to make your measurements from or what
7 did you make your measurements from?

8 A. The City of Houston light pole, that's
9 it.

10 Q. Is that it?

11 A. Yes, sir.

12 Q. Okay. And so tell us what these
13 distances were.

14 A. The approximate distance on No. 1, which
15 was in the street, was 7 foot 5 inches north to
16 south and 17 feet 5 inches east to west. No. 2,
17 which was actually in the driveway, was
18 approximately 7 inches north/south, 25 feet 5 inches
19 east to west.

20 Q. Let me see if I've got this right. This
21 one is roughly 25 feet from the pole (indicating)?

22 A. Yes.

23 Q. And this one is roughly 17 feet from the
24 pole (indicating)?

25 A. Correct.

1 Q. Okay. So that's a triangle, this
2 hypotenuse. Remember that, seventh grade or
3 whatever?

4 A. Sort of.

5 Q. Any way to figure out the distance
6 between that shell casing and that shell casing?
7 You don't have to figure it out mathematically.
8 Just what do you estimate that to be?

9 A. Let's see. 18 feet. Is that right?

10 Q. No.

11 A. Oh, I'm sorry. I'm looking at the wrong
12 one.

13 Q. If this is 17, then it's got to be less
14 than that. Let me put a picture up and see if that
15 will help you. This is State's 17. Let me put it
16 the other way.

17 A. Oh, I'm sorry. It's approximately --
18 it's going to be approximately -- approximately 7
19 feet.

20 Q. Okay.

21 A. Because if I'm coming north to south,
22 I'm starting here and going north (indicating), from
23 there to there, I measured approximately -- No. 1
24 approximately 7 feet 5 inches. No. 2, from the
25 light pole, which is over in this area here

1 (indicating) was approximately 7 inches. So the
2 distance north/south is going to be approximately 7
3 feet.

4 Q. Okay.

5 A. How far as far as the diagonal goes, I
6 don't know. I couldn't quite tell you.

7 Q. So let's just say we were using -- can
8 you see from where you are this little pad right
9 here?

10 A. Yes, sir.

11 Q. And this -- something like that?

12 A. Yes, sir.

13 Q. Like, 3, 6, 7, something like that,
14 about that far apart?

15 A. Yes, sir.

16 Q. Now, you know that the weapon that
17 ejected those shell casings was a semiautomatic
18 weapon, right?

19 A. No, I've never handled the weapon so I
20 don't know anything about it.

21 Q. Well, it wouldn't have been -- they
22 wouldn't have been ejected if it wasn't a
23 semiautomatic?

24 A. Correct, but I'm saying I --

25 Q. You can't tell?

1 A. I have no knowledge of the gun itself.
2 Yes, it would be ejected that way, but I have no
3 knowledge of the gun itself.

4 Q. Okay. So if we're trying to -- I know
5 you weren't there and didn't see where the person
6 who shot the gun was standing. Well, I guess that
7 would just be speculation on your part. But the
8 shells are about this far apart (indicating), right?

9 A. Correct.

10 Q. And you know about semiautomatic
11 handguns, correct?

12 A. Yes, sir.

13 Q. Do you have one?

14 A. Yes, sir.

15 Q. And the difference between a
16 semiautomatic and a revolver is a revolver -- you
17 know about revolvers, too, I take it?

18 A. Yes, sir.

19 Q. A revolver has a cylinder that rotates
20 and the shells are loaded in that cylinder?

21 A. Yes, sir.

22 Q. And when it's fired the shell casings
23 are not ejected?

24 A. Correct.

25 Q. To reload you have to open up the

1 cylinder, manually eject the shell cases and then
2 put new bullets in there?

3 A. Correct.

4 Q. But with a semiautomatic handgun it has
5 a -- what people generally call a clip or a magazine
6 that usually is in the stock, the butt or handle of
7 the gun, and it's loaded with shells that are
8 spring-fed forward and as the gun is fired, the
9 slide, the top part of the gun, as it's fired goes
10 forward and back to eject the shell casing and
11 reload it with a new bullet, correct?

12 A. Yes, sir.

13 Q. That's why the shell casings go out?

14 A. Correct.

15 Q. And there might be some way to fire a .9
16 millimeter shell out of something other than a --
17 than a semiautomatic handgun, but do you know of any
18 guns that fire .9 millimeter shells that aren't
19 semiautomatic handguns?

20 A. No, sir, not offhand.

21 Q. So, it's not too much of a stretch to
22 conclude that someone fired a .9 millimeter
23 semiautomatic handgun out there in that street or on
24 that driveway and the shell casings were ejected?

25 A. Correct.

1 Q. And they are only about 7 feet apart?

2 A. Correct.

3 Q. Now, the second scene where the car
4 was -- well, no, strike that. Let me stay here.

5 Did you look for any bullet strikes?

6 MR. CORNELIUS: Do you mind if I
7 get up?

8 THE COURT: No, that's fine.

9 Q. (By Mr. Cornelius) Did you look for any
10 bullet strikes out there at the scene?

11 A. Yes, sir.

12 Q. Did you find any?

13 A. No, sir.

14 Q. Okay. Did you look on the ground?

15 A. Yes, sir.

16 Q. Okay. That would be routine habit and
17 custom for you to look for bullet strikes where
18 there's a report that weapons were fired, correct?

19 A. Yes, sir.

20 Q. About how long were you out there at
21 that scene?

22 A. I honestly don't remember, sir. Quite a
23 few hours, three, four maybe, if not more.

24 Q. Was it dark the whole time you were
25 there or were you there when the sun came up?

1 A. It was dark the whole time I was there.

2 Q. Did you go to the second scene and come
3 back to this scene or when you finished this one
4 scene was that the last time you were there?

5 A. I went to the first scene, which is what
6 we're looking at right here, went to the second
7 scene to see exactly what it was I had. Then
8 basically back to the first scene to document it,
9 look for additional evidence, and then go to the
10 second scene and complete that.

11 Q. Okay. So in your mind, even though you
12 didn't see anything happen, you were investigating
13 the potential that these two shell casings
14 represented someone shooting at the car that you
15 found a half a mile away?

16 A. Yes, sir.

17 Q. And you're believing that from what you
18 were told and what it looked like to you where the
19 car was actually found that the car would have gone
20 down east?

21 A. North.

22 Q. North is that way (indicating), right?

23 A. Yes, sir.

24 Q. So it went east and then north?

25 A. Correct.

1 Q. Okay. So I'm sure you looked around in
2 here to see if you could find any other shell
3 casings or bullet strikes, correct?

4 A. Yes, sir.

5 Q. How many bullet strikes -- going to the
6 second scene now -- did you find on the car?

7 A. I believe it was one.

8 Q. And where was that?

9 A. The back passenger window. Let me
10 check. The back left passenger window.

11 Q. Okay. Let me write that down. You took
12 a picture of that I'm sure, correct?

13 A. Yes, sir.

14 MR. CORNELIUS: Linda, do you --
15 oh, never mind. I see it.

16 Q. (By Mr. Cornelius) Let me show you
17 what's in evidence as State's 4. Is that the
18 picture you took?

19 A. Yes.

20 Q. Is that the bullet strike you're talking
21 about?

22 A. That's correct.

23 Q. All right. Isn't that a hole right
24 there (indicating)?

25 A. I'm sorry?

1 Q. Isn't that a hole right there? Or I say
2 it's a hole, as best I can tell.

3 A. From the looks of this, yes, but without
4 it being close-up, I couldn't confirm it.

5 Q. But you were trying to document what you
6 thought was a bullet strike?

7 A. Yes, sir.

8 Q. And you didn't find any other bullet
9 strikes on the car?

10 A. No, sir.

11 Q. Did anybody else process this car, like,
12 go to a print stall or anything?

13 A. It went to the print stall, yes, sir.

14 Q. Other than take prints, do they also
15 process the car for possibly evidence?

16 A. That's correct.

17 Q. All right.

18 MR. CORNELIUS: Pass the witness.

19 THE COURT: Ms. Magness?

20 MS. MAGNESS: No further questions.

21 THE COURT: May this witness be
22 excused?

23 MS. MAGNESS: Yes, sir.

24 MR. CORNELIUS: Yes, sir.

25 THE COURT: You may step down. You

1 are free to go.

2 THE WITNESS: Thank you, sir.

3 THE COURT: Thank you, sir.

4 Go ahead and call your next.

5 MS. MAGNESS: State calls Officer
6 Lujan.

7 THE COURT: Come up, sir.

8 THE BAILIFF: The witness has been
9 sworn, Judge.

10 THE COURT: All right. Have a
11 seat, please.

12 You may proceed.

13 MS. MAGNESS: Thank you.

14 **R. LUJAN,**

15 having been first duly sworn, testified as follows:

16 **DIRECT EXAMINATION**

17 **BY MS. MAGNESS:**

18 Q. Good morning.

19 A. Good morning.

20 Q. And could you introduce yourself to our
21 jury, please?

22 A. I'm Officer Lujan with the Houston
23 Police Department, Homicide Division.

24 Q. How long have you worked for the Houston
25 Police Department?