

1 It's not always the State of Texas' fault.
2 They can only play the cards they're dealt. This road
3 map is going to get you lost. It's not going to get you
4 to where -- toward the direction they want you to go.

5 I look forward to presenting this case,
6 ladies and gentlemen. It's time to get to work. This
7 is a serious matter, serious situation. Thank you.

8 Thank you, Your Honor.

9 THE COURT: Thank you.

10 All right. From the State, call your
11 first witness, please.

12 MR. SANCHEZ: State calls Deputy Anthony
13 Thompson.

14 THE COURT: Thank you.

15 All right, sir. Raise your right hand,
16 please.

17 *(Witness sworn.)*

18 THE COURT: From the State, please.

19 **ANTHONY THOMPSON,**
20 having been first duly sworn, testified as follows:

21 **DIRECT EXAMINATION**

22 BY MR. SANCHEZ:

23 Q. Deputy, will you state your name for the
24 record?

25 A. Anthony Thompson.

1 Q. How are you employed, Deputy Thompson?

2 A. With the Harris County Sheriffs Office.

3 Q. How long have you been with the Harris County
4 Sheriffs Office?

5 A. Since 2003.

6 Q. So that's about 12 years now?

7 A. Yes, sir.

8 Q. What is your current assignment?

9 A. I work in Homicide.

10 Q. How long have you been in Homicide?

11 A. A little over six and a half months.

12 Q. What was your previous assignment?

13 A. I worked in Narcotics.

14 Q. And how long did you work in Narcotics?

15 A. A little over seven years.

16 Q. Now, are you a certified peace officer in the
17 State of Texas?

18 A. Yes, sir.

19 Q. And what kind of narcotics training have you
20 had?

21 A. I did several undercover training ops, several
22 classes throughout my years in narcotics.

23 Q. Have you participated in several narcotics
24 investigations?

25 A. Yes, sir.

1 Q. Have you ever worked as an undercover officer?

2 A. Yes, sir.

3 Q. How many years did you do that?

4 A. Through my seven years, I did several
5 undercover buys.

6 Q. Now, did you also go through the academy?

7 A. Yes, sir.

8 Q. You stay up to date with narcotics issues --

9 A. Yes, sir.

10 Q. -- things like that?

11 A. Yes, sir.

12 Q. Now, I want to talk to you more specifically
13 about a narcotics investigation.

14 A. Yes, sir.

15 Q. How does a typical investigation start?

16 A. Well, either they come through an anonymous tip
17 or if you happen to meet somebody on the street. Once
18 you know someone that's involved in dealing drugs, we
19 start an investigation up. And that entails on finding
20 out exactly who they are, who this person is, what he
21 looks like, where he lives, where he hangs out at and
22 his normal, typical day-to-day operation.

23 Q. Is it ever part of the investigation to conduct
24 surveillance?

25 A. Yes, sir.

1 Q. And how does the surveillance occur?

2 A. Well, if you can find somewhere feasible to
3 park that won't get -- blow your cover, you'll find
4 somewhere. And you don't want to park facing them, you
5 know, because they always have eyes looking. So if you
6 can find somewhere that's kind of thrown off and that
7 it's just not bringing attention to you, you can sit
8 there all day and pretty much conduct surveillance.

9 Q. So after conducting surveillance on a target,
10 what do you do?

11 A. Well, if we see what we believe is drug
12 activity and we think it's a good time for us to go and
13 move in, we will call in the back-up and we will just go
14 ahead and detain everybody we see out there. And if the
15 suspect we are looking at is out there, we make sure we
16 try to get him detained and we will speak with him.

17 Q. And you said when you see drug activity, what
18 does that typically look like?

19 A. Well, when you're dealing with a crack house
20 what we normally see is basically a lot of foot, vehicle
21 and bicycle traffic. And if you sit at a location for a
22 long period of time you'll see someone go in a house,
23 maybe five or ten minutes later, they come back out and
24 leave. And that's what we believe is drug activity.

25 Q. Now, I want to turn your attention to December

1 of 2013.

2 A. Uh-huh.

3 Q. Specifically, December 10, 2013.

4 A. Yes, sir.

5 Q. Did you conduct an investigation on that day?

6 A. Yes, sir.

7 Q. Where did you conduct that investigation?

8 A. It's in -- it's a neighborhood on the east side
9 of Harris County -- East Harris County called McNair on
10 a street called Broad.

11 Q. Do you remember the address of that?

12 A. The target location was 2612, I believe.

13 MR. SANCHEZ: Your Honor, may I approach?

14 THE COURT: You may.

15 Q. (BY MR. SANCHEZ) Deputy, I'm showing you what's
16 been marked as State's Exhibit 1. Do you recognize
17 that?

18 A. Yes, sir.

19 Q. What is it?

20 A. That's a map of Harris County and it's 2612
21 Broad Street.

22 Q. Okay. Does this fairly and accurately
23 represent where you conducted your investigation?

24 A. Yes, sir.

25 Q. Okay. Deputy, is this address located in

1 Harris County, Texas?

2 A. Yes, it is.

3 Q. All right. Deputy, I know it's kind of hard to
4 see on this map. If you touch the screen, you can
5 actually mark where that address is. Would you mind
6 doing that?

7 THE COURT: Has this been offered, by the
8 way?

9 MR. SANCHEZ: Your Honor, State offers
10 State's Exhibit 1.

11 THE BAILIFF: No objection, Your Honor?

12 THE COURT: Thank you. State's Exhibit 1
13 is admitted.

14 THE COURT: And there's a screen behind
15 you, ladies and gentlemen, if you are closer to that
16 screen right there. If it ever comes on.

17 Q. (BY MR. SANCHEZ) All right. Deputy, how did
18 this investigation start at 2612 Broad Street?

19 A. Well, on that particular day it -- I started
20 surveillance. I can't recall the time, but I parked
21 across the street at a church.

22 Q. Let me stop you there. What lead you to start
23 investigating this residence?

24 A. An anonymous tip.

25 Q. What was that?

1 A. Anonymous tip.

2 Q. An anonymous tip?

3 A. Yes.

4 Q. Where did that anonymous tip come from?

5 A. Anyone can call our database or our office and
6 leave information on drug activity.

7 Q. Is there a specific database that was called
8 this time?

9 A. We have a clue database.

10 Q. Is that something like Crime Stoppers?

11 A. Yes, sir.

12 Q. So after receiving an anonymous tip, what did
13 you do?

14 A. Once I found out who the target was, I started
15 to do my homework on who he was and where he lived at.
16 And I already had the target location, I've just got to
17 make sure this is where he hangs out at and where all
18 the drug activity is taking place.

19 Q. So the information you got was not that
20 somebody was doing drugs, it was specifically that the
21 defendant was doing drugs?

22 A. Yes.

23 Q. Is that right?

24 A. Yes.

25 Q. Now, how did you know what he looked like?

1 A. I had to look up a mug shot once I had the
2 name, then --

3 MR. VAN BUREN: Your Honor, I'm going to
4 object. May we approach?

5 THE COURT: You may.

6 *(Reported conference at the Bench.)*

7 MR. VAN BUREN: Your Honor, that's a
8 violation of the Motion in Limine. He said he looked up
9 a mug shot which is indicative of an extraneous offense,
10 he's been arrested. I'm going to ask that you instruct
11 the jury to disregard that and grant my objection.

12 THE COURT: What was your question?

13 MR. SANCHEZ: Oh, it was, How did you know
14 what he looked like?

15 THE COURT: I don't remember your Motion
16 in Limine.

17 MR. VAN BUREN: Yeah, you signed it.

18 THE COURT: I signed the State's Motion in
19 Limine.

20 MR. VAN BUREN: I brought one in, too.

21 MR. SANCHEZ: You did, Judge. I can move
22 on, rephrase the question. Stop it that way.

23 THE COURT: What was your Motion in
24 Limine?

25 MR. VAN BUREN: It was regarding any

1 extraneous offenses, any prior arrests or convictions.
2 And he just stated in front of the jury that he looked
3 up a --

4 THE COURT: A mug shot?

5 MR. VAN BUREN: A mug shot.

6 THE COURT: It's granted. Well, I can
7 tell the jury to disregard, but they might not
8 understand what we have done. It could just draw
9 attention to it. Do you really want me to do that?

10 MR. VAN BUREN: Well, I would just ask --

11 THE COURT: I'll just make sure I can --

12 MR. VAN BUREN: Yeah, for further --

13 MR. SANCHEZ: Sure.

14 THE COURT: Just watch it.

15 *(Return to open court.)*

16 Q. (BY MR. SANCHEZ) All right. Deputy, so after
17 getting the anonymous tip you went to the residence; is
18 that right?

19 A. Yes, sir.

20 Q. Okay. And what did you do?

21 A. I parked at a church right across the street
22 from the target location. I parked my car facing the
23 church, so it looked like I was conducting business at
24 the church. And I would just look out my back window
25 with binoculars. And I observed the activity, what I

1 believed to be drug activity.

2 Q. Prior to December 10, 2013, did you conduct any
3 surveillance?

4 A. Yes, sir. It was mainly -- at that point in
5 time I wasn't doing stationary surveillance, I'd just
6 ride by. If you're not familiar with McNair, if you
7 ride through in a newer car, it kind of -- it will bring
8 out attention.

9 So what I'll do, I just kind of -- I
10 rolled past it and I just kind of look and see who I'm
11 looking for, if my car is out there or not and I'll just
12 kind of drive by.

13 Q. Can you describe McNair, what it looked like?

14 A. It's an older neighborhood. It's a fairly
15 African-American neighborhood. It's been there for
16 years. And it's -- I used to patrol out there back in
17 '07 and '08 -- early '06 and '07, I'm sorry. So I'm
18 familiar with the area, really familiar with the area.

19 Q. Now, are their high levels of drug activity in
20 the McNair area?

21 A. Yes, it is, sir.

22 Q. What type of drugs?

23 A. Mainly crack. Mainly crack, crack cocaine.

24 Q. So whenever you were driving by, how many times
25 would you say you drove by?

1 A. In the week's span, maybe -- in the first
2 couple days, maybe three or four times without --
3 without trying to bring attention to myself. And maybe
4 on that last day I'm finally, Let's go ahead and set up
5 and watch and see if the activity is really taking place
6 and my target was out there. And at that point in time
7 he was out there.

8 Q. And when you did drive by prior to December
9 10th, what did you see?

10 A. It was -- activity was going on and it was
11 basically what we call a "hot" house. It was hot and
12 heavy. It was hot and heavy that day.

13 Q. And did you see the defendant at the residence?

14 A. Yes, I did, sir.

15 Q. On December 10th you decided to be stationary
16 and sit there?

17 A. Yes, sir.

18 Q. How long did you sit there?

19 A. I want to say a little over an hour before I
20 actually -- when I actually observed the target get into
21 a white vehicle, which I thought -- I believed to be
22 leaving, so that's when I called my back up in.

23 Q. During the time that you sat there what did you
24 see?

25 A. I saw drug activity and I saw my target come in

1 and out of the house a couple of times. He would come
2 out of the house and then go back toward the Buick. And
3 he would come out toward the Buick and hang out in front
4 of the house, then go in and then come back out.

5 Q. At that point did you determine whose house it
6 was or who owned it?

7 A. At that point in time I couldn't.

8 Q. And you said you saw the drug activity. Can
9 you describe in a little more detail about what you mean
10 by that?

11 A. Well, what I'm saying is what I believe to be
12 drug activity because I didn't see any hand-to-hand
13 outside; but what I did see is people going inside the
14 house for a brief moment, coming out and leaving. And
15 this is what I've been seeing through my seven years of
16 working narcotics is indicative of drug activity.

17 Q. So that was consistent with what you've seen
18 before as drug activity?

19 A. Yes, sir.

20 Q. And you said you saw people coming in and out.
21 Was it a steady stream or was it --

22 A. It was it steady for a while and then it would
23 slow up.

24 Q. Okay. So after surveilling the area for a
25 while, what did you do?

1 A. Well, once I observed the target leaving and he
2 was going back and getting into the Buick, I called in
3 the back-up to come in and we were going to try to
4 detain everybody on the scene. And at that point in
5 time we had two other suspects run from the location and
6 the main target was detained at the car.

7 Q. Okay. Now, after -- you said the target was
8 detained, who do you mean?

9 A. Mr. Carr.

10 Q. Okay. And do you see the -- Mr. Carr in the
11 courtroom today?

12 A. Yes, sir.

13 Q. Could you identify him by a distinct article of
14 clothing?

15 A. Gray shirt and black tie and beard.

16 MR. SANCHEZ: May the record reflect that
17 the witness has identified the defendant?

18 THE COURT: The record will so reflect.

19 Q. (BY MR. SANCHEZ) So after detaining the
20 defendant did you talk to him?

21 A. Yes, sir. I told him why I was there. That's
22 something I usually I do. I tell you why I'm there.
23 You know, I try to keep him calm because I know it's
24 already hard -- it can get hot and heavy real fast. I
25 told him why I was there, I told him what was going on

1 asked him a couple questions. And then that's when I
2 went and knocked on the door.

3 Q. Did the defendant say anything to you?

4 A. He said he didn't live there. He said, It's a
5 place we hang out at; but he said he didn't live there.

6 Q. Okay. Did you ask him if he had any
7 possessions in the car?

8 A. Yes, I did. And he said no.

9 Q. Did you ask him who owned the house?

10 A. He said an uncle. I believe his name was Cecil
11 Burton. And after checking with him, I believe he was
12 deceased at the time.

13 Q. But he didn't -- the defendant didn't tell you
14 that he was deceased?

15 A. No, sir.

16 Q. So after getting this information from the
17 defendant, what did you do?

18 A. Well, I went to knock on the door. For officer
19 safety -- because we don't want anyone barging out this
20 house with law enforcement around. So when I knocked on
21 the door -- when I approached the door, actually, it was
22 a cracked window on the north side of the doorway and I
23 smelled the odor of what I believed to be marijuana
24 emitting from outside the doorway -- outside the window.

25 Q. Now you're familiar with the smell of

1 marijuana?

2 A. Yes, sir.

3 Q. Now, after smelling the marijuana, what did you
4 do?

5 A. I went back to Mr. Carr and asked him if anyone
6 was smoking inside the house and he said yes.

7 Q. And what was your next stop?

8 A. I obtained a search warrant for the house.

9 Q. About how long did it take to obtain that
10 search warrant?

11 A. It took a while because I had to draft it and I
12 had my partner, Mr. Domilos, the affiant on the warrant.
13 So it took a while.

14 Q. And during that time where was the defendant?

15 A. He was -- I believe he was detained in the back
16 of the patrol car.

17 Q. All right. Deputy, I'm showing you what's been
18 premarked as State's Exhibit 2 and State's Exhibit 3.
19 Do you recognize State's Exhibit 2?

20 A. Yes, sir. That's the search warrant.

21 Q. Does this clearly and accurately represent what
22 the search warrant looked like?

23 A. Yes, sir.

24 Q. Okay. I'm showing you State's Exhibit 3. Do
25 you recognize this?

1 A. Yes, sir.

2 Q. What is it?

3 A. That's a dash cam video.

4 Q. Okay. And have you seen this dash cam video?

5 A. Yes, sir.

6 Q. What is it a video of?

7 A. It's Mr. Carr and the other suspect in the back
8 seat talking loud and abrupt.

9 Q. Okay. And does this video clearly and
10 accurately represent what happened that day in the
11 patrol car?

12 A. Yes, sir.

13 MR. SANCHEZ: Your Honor, at this time
14 State offers State's Exhibit 2 and 3.

15 THE COURT: You're saying video. Are you
16 meaning video?

17 MR. SANCHEZ: Yes, sir.

18 THE COURT: All right.

19 MR. VAN BUREN: No objection as to State's
20 Exhibit 2.

21 Your Honor, State's Exhibit 3, it's my
22 understanding this is approximately three hours. Is the
23 entire tape being admitted or the entire dash cam being
24 admitted? What portion is being admitted, I guess is
25 the question.

1 THE COURT: Well, let's approach since
2 this is the first I've heard of this.

3 *(Reported conference at the Bench.)*

4 MR. SANCHEZ: I'll clear that up with the
5 witness, Judge. It's a redacted version.

6 THE COURT: Of what?

7 MR. SANCHEZ: Of the video, of the dash
8 cam video with the defendant and his co-defendant in the
9 back and they're chatting.

10 MR. VAN BUREN: It's my understanding it's
11 the first 24 minutes, approximately.

12 MR. SANCHEZ: First 24 minutes.

13 MR. VAN BUREN: Just so that we're clear
14 about it.

15 THE COURT: I thought you told the jury
16 that, You were going hear what they had to say, but they
17 weren't going to see anything?

18 MR. SANCHEZ: That's right. The dash cam
19 video doesn't show anything. It doesn't show much in
20 the front. They're in the back seat so that you can
21 hear them talking, but you can't actually see them.

22 THE COURT: What does the video show?

23 MR. VAN BUREN: Nothing. It's just the
24 dash cam video facing out from the front of the car, but
25 you hear the audio of them in the back.

1 Just to clarify, though, does that stop
2 after 24 minutes is my question so that we don't get
3 back in the jury room and then it goes beyond that.

4 MR. SANCHEZ: I can clear that up with the
5 witness, Judge.

6 MR. VAN BUREN: But does that one stop?

7 MR. SANCHEZ: Oh, it does.

8 THE COURT: We are playing 24 minutes and
9 nothing else?

10 MR. SANCHEZ: That's right, Judge.

11 *(Return to open court.)*

12 THE COURT: All right. Any objection?

13 MR. VAN BUREN: No objection to that, Your
14 Honor.

15 THE COURT: Thank you. State's 2 and 3
16 are admitted.

17 Q. (BY MR. SANCHEZ) Deputy, I just want to clear
18 up a couple of things about the video. Is this the
19 whole video?

20 A. I believe that's the redacted version.

21 Q. Okay. Now you've seen this video, is that
22 right?

23 A. Yes, sir.

24 Q. And you know this video is about 24 minutes
25 long?

1 A. Yes, sir.

2 Q. Whereas the full video is about four hours?

3 A. Yes, sir.

4 MR. SANCHEZ: Your Honor, may I publish
5 State's Exhibit 2 and 3 -- well, actually the State
6 reoffers State's Exhibit 3.

7 THE COURT: I thought I admitted 2 and 3
8 already. And, yes, you may.

9 Q. (BY MR. SANCHEZ) So this is State's Exhibit 2.
10 You said this was a search warrant, is that right,
11 Deputy Thompson?

12 A. Yes, sir.

13 Q. And this is a warrant for 2612 Broad Street?

14 A. Yes, sir.

15 Q. Now, was it signed by a judge?

16 A. Yes, sir.

17 Q. Here in Harris County?

18 A. Yes, sir.

19 Q. Now before we start the video, Deputy, I want
20 to kind of set the stage for this. Now, when you
21 detained the defendant you said that he was with two
22 other individuals; is that right?

23 A. Yes, sir.

24 Q. What happened to the other two individuals?

25 A. We caught one and the -- after they fled, we

1 caught one in a trailer home and we were able to locate
2 the other one.

3 Q. So one of them did get away?

4 A. Yes, sir.

5 Q. You never located him? The other one you
6 didn't locate?

7 A. Yes.

8 Q. Now, you stated that the defendant was the
9 first one put in the patrol vehicle, is that right?

10 A. I believe he was, yes, sir.

11 Q. Was the other person ever put in a patrol
12 vehicle, as well?

13 A. Yes. Once he was captured, yes, he was put in
14 the back of a patrol car with Mr. Carr.

15 Q. Okay. So are we going to hear two voices on
16 this audio?

17 A. Yes, sir.

18 Q. And how can you identify the voices?

19 A. Well, from the jump, Mr. Carr was -- he was
20 pretty loud pretty much throughout the audio.

21 Q. And the other guy, was he a little more
22 soft-spoken?

23 A. Pretty much, yes, sir.

24 Q. And who is the other person?

25 A. It was Morris Williams.

1 *(State's Exhibit 3, video published.)*

2 Q. (BY MR. SANCHEZ) All right. Deputy, let me
3 just because the video is paused at 39 seconds. Can you
4 tell me who's talking right now?

5 A. That's Mr. Carr.

6 Q. Is that the defendant?

7 A. Yes.

8 *(State's Exhibit 3, video published.)*

9 Q. (BY MR. SANCHEZ) All right. Deputy, the video
10 stops at one minute, 52 seconds. We hear a second
11 voice, can you identify who that voice is?

12 A. That is going to be Mr. Williams.

13 *(State's Exhibit 3, video published.)*

14 Q. (BY MR. SANCHEZ) All right. Deputy, right
15 there around 17 minutes you hear the defendant say, "The
16 man say he be seeing me all morning. That's how I know
17 no one's paying attention. He ain't lying. He told me
18 every move I made." Do you know what he's referencing
19 there?

20 A. He's talked to me.

21 Q. Okay. What's he referring to there?

22 MR. VAN BUREN: Your Honor, I object to
23 speculation.

24 THE COURT: If it's in response to
25 questions that this officer asked that he doesn't have

1 to speculate what he was talking about, he can answer.

2 MR. VAN BUREN: I believe the State's
3 asking what he means by what he answers or what he
4 states in that. There's no question or answer. It's
5 just Carr having a conversation with Mr. Williams and
6 wanting the officer to speculate as to what Mr. Carr
7 means in that conversation.

8 THE COURT: Well, I'm certainly not going
9 to allow the officer to tell the jury what he thinks he
10 was talking about. So, you know, rephrase your
11 question.

12 MR. SANCHEZ: Yes, Judge.

13 Q. (BY MR. SANCHEZ) Let me ask you this, Deputy.
14 Did you talk to the defendant?

15 A. Yes, sir.

16 Q. You told him why you were there?

17 A. Yes, sir.

18 Q. Did you tell the defendant about what you saw
19 when you were surveilling him?

20 A. Yes, sir.

21 Q. You mentioned earlier that at a dope house
22 people generally are lookouts, correct?

23 A. Yes, sir.

24 Q. And you hear him say on the audio, "That's how
25 I know no one's paying attention?"

1 A. Yes, sir.

2 Q. That's because you told the defendant every
3 move that he made?

4 A. Yes, sir.

5 *(State's Exhibit 3, video published.)*

6 Q. All right. Deputy, during your time, your
7 seven years in narcotics, as well as your time
8 undercover did you have the opportunity to kind of pick
9 up on some of the lingo?

10 A. Yes, sir.

11 Q. Have you found that people involved with drugs
12 use a different kind of vernacular?

13 A. Yes, sir.

14 Q. I'm going to go over a few of the terms that
15 were mentioned in the video, I just want to clear things
16 up for the jury. During the video you can hear the
17 defendant say, "Things are about to get deeper than
18 rap." Do you understand what that means?

19 MR. VAN BUREN: Your Honor, I'm going to
20 object to speculation as to what someone means.

21 THE COURT: It's overruled. He can
22 testify if he knows what it means.

23 A. It means several things. It could mean --

24 MR. VAN BUREN: Your Honor, now we're
25 going to get into speculation. It could mean several

1 things.

2 THE COURT: Well, if he tells us the
3 several things, Counsel, I'll allow it.

4 Q. (BY MR. SANCHEZ) Can you tell us what that
5 could mean?

6 A. It could mean, I'm going to get into some
7 really deep trouble, or, I might spend some time. You
8 know, several things like that, that's what he's talking
9 about. He knew the search warrant was coming.

10 Q. And let's be clear, the context of that was
11 during the time that he was talking about the search
12 warrant?

13 A. Yes, sir.

14 Q. Now, in the video you also hear the defendant
15 tell Mr. Williams after Mr. Williams informs him that
16 there's some drugs in the car.

17 A. Yes.

18 Q. He says, "That's some rookie-ass shit." Do you
19 know what that means?

20 A. If you're a seasoned dope dealer, you know not
21 to leave dope in the car.

22 Q. They also mentioned drank. Mr. Williams, in
23 the video, asked if he's being charged with drank. What
24 is drank?

25 A. Drank is a slang word for codeine, cough syrup.

1 Q. Is that an illegal drug?

2 A. It's illegal if you don't have a prescription
3 for it.

4 Q. And finally the defendant says, "That's some
5 clutch shit." Do you know what that means?

6 A. That's just several things. That's --

7 MR. VAN BUREN: Your Honor, again, I
8 object to speculation.

9 THE COURT: Again, if he can testify to
10 the several things, I'll allow it.

11 A. It's bull. Not right. Bull crap. That's what
12 that means.

13 Q. (BY MR. SANCHEZ) So let's talk about what
14 happened after you received the search warrant. After
15 receiving the search warrant what did you do?

16 A. We entered -- made entrance through the back
17 door and we began the searching the house.

18 Q. Why did you make entrance through the back
19 door?

20 A. We didn't have a key and at that point in time
21 it felt like the door was fortified, so we didn't try to
22 force it in. The back door was real loose, so we were
23 able to get in the back door. It was more of a flimsy
24 door.

25 Q. During the search of your [sic] house what were

1 you able to locate?

2 A. Some crack cocaine and some powder cocaine, and
3 a couple of masks, and I believe that was it. I think
4 we got some Ibuprofen; but I'm not sure where we found
5 those at but we did locate them.

6 Q. Now where were did you find the crack cocaine?

7 A. It was in a cereal box.

8 Q. Deputy, what would even make you think to look
9 in a cereal box.

10 A. Well, my time in narcotics, drug dealers being
11 really smart now, they'll start putting them in cereal
12 boxes. They will pull them underneath trash bags,
13 places you wouldn't think to look and anybody visiting
14 wouldn't think they would keep dope in there. We have
15 found dope in bags of cereal that they sealed back up.
16 We've even found dope in flour and -- it will have a
17 false container on the bottom of cans, you unscrew it
18 and the dope will come out.

19 Q. Now, we did hear on the video the defendant
20 make reference to his box. Did you find any other box
21 in the residence that had any other illegal substance in
22 it?

23 A. The shoe box -- I mean, the serial box was
24 where the crack cocaine was in, yes.

25 Q. Were there any other boxes?

1 A. The box with the mask in it.

2 Q. Okay. But the masks aren't illegal?

3 A. No.

4 Q. So the only box you found that had an illegal
5 substance in it was the cereal box?

6 A. Yes, sir.

7 Q. Now, where was that cereal box located?

8 A. I believe it was next to the refrigerator.

9 Let me refresh my memory. It was a real
10 small hole. Yes, it was in the dining room next to -- I
11 can't recall, but it was next to the refrigerator.

12 Q. And just to be clear, what are you looking at
13 there?

14 A. This is my offense report.

15 Q. Okay. Did you draft that offense report --

16 A. Yes, sir.

17 Q. -- immediately after the incident?

18 A. Yes, sir.

19 Q. Now, after finding the crack cocaine what else
20 did you find?

21 A. I found a baggie of powder cocaine in a back
22 room.

23 Q. Okay.

24 A. In a teddy bear.

25 Q. You said it was inside the teddy bear?

1 A. Yes.

2 Q. Can you describe exactly where it was in the
3 teddy bear?

4 A. It was a baggie, approximately, I believe,
5 6 grams. I think it was the main part of the bear, it
6 was partially torn.

7 Q. Okay. Now, how did you know that both of those
8 items were cocaine?

9 A. Well, we field test them. I mean, I have -- on
10 the site, I don't know what I have until I test it. And
11 both of those tested positive for crack cocaine on the
12 scene.

13 Q. Now what is the difference between crack
14 cocaine and powder cocaine?

15 A. Powder cocaine is something you can buy as raw
16 material. And when you make crack cocaine, you can
17 actually double your money from 6 grams to an 1 ounce,
18 or 1.5 ounce. And they can put as much or as less they
19 want to make -- broaden their money.

20 Q. So what you're telling me is powder cocaine is
21 often cut with something else and used to make crack
22 cocaine?

23 A. It's made with baking soda and cold water and
24 they'll let it sit for a while. And if you want to cook
25 it, cook it. And they'll break it up and then cut it up

1 into a little cookie. And then they'll break it off
2 into fours and they can break it off as many times as
3 you want to. They sell it by dimes or 20s. You can
4 sell as many dimes as you want to, but if selling 20s --

5 MR. VAN BUREN: Your Honor, I object to
6 the narrative. Nonresponsive.

7 THE COURT: Sustained.

8 Q. (BY MR. SANCHEZ) Okay. Deputy, what
9 specifically made you believe that this cocaine found
10 was the defendant's cocaine?

11 A. The powder cocaine --

12 MR. VAN BUREN: Your Honor, I'm going to
13 object to speculation.

14 THE COURT: Overruled.

15 Q. (BY MR. SANCHEZ) Either one.

16 A. Well, basically, once we started searching the
17 house I started finding grown men's clothing, mail with
18 the target's name on it. And I believe it was in a
19 living quarter, we found a toothbrush and hair grooming
20 items in the house.

21 Typically when drug dealers -- like I
22 said, this amount of cocaine, you can kind of separate
23 it from personal use to delivery because mainly drug
24 dealers don't do crack cocaine. That's just one thing
25 that I have learned from my time in Narcotics that they

1 do. They stray away from that, they would rather sell
2 it; they know what it makes people turn into.

3 Q. So you said you got mail in the house?

4 A. Yes, sir.

5 Q. Now what room was the powder cocaine?

6 A. Cocaine, in the back room where the male
7 target -- where the target male and the clothes were at.

8 Q. By "target" you mean the defendant?

9 A. Yes, sir. That's right.

10 Q. So it had the name Anthony Carr on it?

11 A. Yes, sir. Yes, sir.

12 Q. And you also saw him coming and going in the
13 house?

14 A. Yes, sir.

15 Q. For a prolonged period of time?

16 A. Yes, sir.

17 Q. And you also became aware that the house
18 actually belonged to his uncle, right?

19 A. Yes, sir.

20 Q. His deceased uncle?

21 A. Yes, sir.

22 Q. Now, I want to talk to you briefly about the
23 amount of cocaine that you found.

24 A. Yes, sir.

25 Q. Now, what is the typical dosage for someone to

1 get high from cocaine?

2 MR. VAN BUREN: Your Honor, I object to
3 speculation.

4 THE COURT: Restate your question, please.

5 Q. (BY MR. SANCHEZ) What is a typical dosage for
6 somebody to get high on cocaine?

7 THE COURT: Excuse me. I didn't say you
8 could answer it.

9 Well, is this guy a physician? How would
10 he know?

11 Q. (BY MR. SANCHEZ) Deputy, do you have experience
12 with drugs? With cocaine?

13 A. No, sir. I've never done it.

14 Q. Okay. You've never done it yourself, but you
15 said you've done some undercover buys?

16 A. Yes, sir.

17 Q. And when you do these undercover buys, how much
18 crack cocaine do you typically buy?

19 A. With me, I usually try to get an ounce or more
20 because, for my size, I don't look like a typical
21 crackhead. So that's a giveaway if I go up and ask
22 for -- Give me a dime. They're going to look at me
23 like, Okay. You're a cop.

24 So I go up and, Okay. Give me a quarter
25 or more.

1 Q. Have you ever been part of an investigation
2 where someone did buy a dime?

3 A. Yes.

4 Q. And what does a "dime" mean?

5 A. It's about a gram or more of crack cocaine. Or
6 less than that, maybe a half gram.

7 Q. And during your time undercover did you have
8 the opportunity to be around people that were using
9 crack cocaine?

10 A. No, sir.

11 Q. Are you familiar with how much crack a crack
12 user would smoke in one instance?

13 MR. VAN BUREN: Your Honor, I would object
14 to relevance.

15 THE COURT: I sustain it.

16 MR. VAN BUREN: And speculation.

17 THE COURT: I sustain it.

18 MR. SANCHEZ: Your Honor, one of the
19 elements of this offense is intent to deliver. So I'm
20 trying to show -- trying to prove that element up by
21 showing how much one dosage is. So it is relevant and
22 germane to the element of the offense.

23 THE COURT: Well, you know, it's a
24 difference between saying what is it that one person
25 would need to get high as opposed to what normally the

1 dosage is that a person would buy for that purpose.

2 MR. SANCHEZ: Okay.

3 THE COURT: So if you would structure it
4 in that way, I probably would allow it.

5 Q. (BY MR. SANCHEZ) All right. Deputy, when a
6 person is buying crack for the intention of getting high
7 maybe just once, how much cocaine do they need to buy?

8 A. They may get half a gram.

9 MR. VAN BUREN: Your Honor, I would object
10 to speculation.

11 THE COURT: That's overruled.

12 Q. (BY MR. SANCHEZ) What was that again?

13 A. They may purchase a half gram to a gram.

14 Q. Okay. And how many grams of cocaine did you
15 seize?

16 A. I believe it was 52.

17 Q. Okay. Does that amount indicate intent to
18 deliver or personal use?

19 MR. VAN BUREN: Your Honor, again, I'm
20 going to object to speculation and also asking for
21 conclusion of law.

22 THE COURT: Restate your question for me.

23 Q. (BY MR. SANCHEZ) Does that amount --

24 THE COURT: Which amount? Which amount?

25 MR. SANCHEZ: 52 grams.

1 THE COURT: Okay. Ask the question.

2 Q. (BY MR. SANCHEZ) Does that amount indicate to
3 you personal use or intent to deliver?

4 A. Intent to deliver.

5 MR. VAN BUREN: Again, Your Honor, my
6 objection was that it's asking for a conclusion of law.

7 THE COURT: It's overruled.

8 Q. (BY MR. SANCHEZ) To just ask the question one
9 more time, Mr. Thompson: Does that amount indicate to
10 you personal use or intent to deliver?

11 MR. VAN BUREN: Objection, asked and
12 answered.

13 THE COURT: Overruled.

14 A. Intent to deliver.

15 Q. (BY MR. SANCHEZ) Okay. Why does that amount
16 suggest intent to deliver to you?

17 A. The way it was bagged up and the way it was
18 already cut, it looked like it was already cut in
19 quarters.

20 Q. All right. The drugs that you seized, did you
21 bring those drugs with you today?

22 A. Yes, sir.

23 Q. Are those drugs in front of you right now?

24 A. Yes, sir.

25 Q. Now, these have already been marked with

1 State's Exhibit 4 and State's Exhibit 5; is that right?

2 A. Yes, sir.

3 Q. Okay. How do you know that these are the drugs
4 that you seized that day?

5 A. These are my property tags on the front.

6 Q. Okay. And what identifying information do you
7 have on these tags?

8 A. I have my name and our report number,
9 13-170523.

10 MR. SANCHEZ: State offers State's
11 Exhibits 4 and 5, tender to defense counsel for
12 inspection. State's Exhibit 4 and 5 and its contents.

13 MR. VAN BUREN: No objection, Your Honor.

14 THE COURT: State's 4 and 5, admitted.

15 Q. (BY MR. SANCHEZ) Deputy, I'm going to hand
16 these back to you just so you can maybe hold them up and
17 show the jury. Now, actually, Deputy Thompson, I'll put
18 them over here. That will make it easier for the jury
19 to see.

20 And first I'm showing you State's
21 Exhibit 4. Can you tell me what that is?

22 A. That's going to be the crack cocaine.

23 Q. Now you said the way that it's presented
24 indicates to you that it was ready for distribution, is
25 that right?

1 A. Yes, sir.

2 Q. Why is that?

3 A. Well, if you look towards the bottom part of
4 it, this would probably have been half of a cookie that
5 he had already cut up. So he was starting to cut up his
6 quarters here in the corner, up in here. And he can
7 actually cut those up even more to make his dimes and
8 his 20s.

9 Q. What's a 20?

10 A. That's a 20-piece, \$20 worth of crack cocaine.

11 Q. Okay. So just one of those pieces is a 20?

12 A. Well, if they're that big, he hasn't put any
13 dope in it. That's real big for a crack cocaine, so it
14 would be much smaller than that.

15 Q. Okay. So looking at this crack cocaine, what
16 is the street value of this amount of crack which you
17 stated is about 52 grams?

18 MR. VAN BUREN: Your Honor, I'm going to
19 object to speculation and relevance.

20 THE COURT: Restate it again, please.

21 Q. (BY MR. SANCHEZ) What is the street value,
22 based on your training and your experience, as an
23 undercover officer of this amount of crack cocaine?

24 THE COURT: Your objection is overruled.

25 A. Okay. In a half an ounce, it's roughly around

1 between 3- and 400 bucks, so probably about 52 -- so
2 about an ounce and a half, so I would say roughly about
3 \$600 worth of crack cocaine.

4 Q. (BY MR. SANCHEZ) \$600 worth of crack cocaine?

5 A. Yes.

6 Q. Okay. Now, let me show you State's Exhibit 5.

7 Now, what is this?

8 A. That's a baggie of powder cocaine.

9 Q. All right. Now is powder cocaine more
10 expensive or less expensive than crack cocaine?

11 A. It depends on the purity.

12 Q. Okay. Let's say it was an average purity.

13 What is the street value, based on your training and
14 experience, of this amount of cocaine?

15 A. 6 grams. So basically -- an eight ball is
16 roughly 3 grams. So a little over 3 grams runs about 55
17 bucks, so I would say that's about -- about \$75 worth of
18 powder cocaine.

19 Q. \$75?

20 A. Yes.

21 Q. You did testify that this amount of cocaine can
22 be used to make a lot more crack cocaine, right?

23 A. Yes, it can.

24 Q. Now, you mentioned earlier that those who
25 actually distribute the narcotics don't typically use

1 the crack cocaine, right?

2 A. Yes, sir. Typically they don't.

3 Q. Is there anything that led you to believe that
4 the defendant was addicted to crack cocaine?

5 A. No, sir.

6 Q. Why not?

7 A. I mean, I've seen crackheads before. You know,
8 and I know the dealers from working in narcotics for so
9 long. So he didn't dress the part as a crackhead, you
10 know. Most of them don't have any teeth, you know, they
11 just look terrible; and Mr. Carr he kept himself up.

12 Q. Have you ever known someone who is addicted to
13 crack, someone who is a crackhead to possess this amount
14 of crack cocaine?

15 A. No, sir; unless they just stole from somebody.

16 Q. Okay. And in your experience, in your
17 undercover experience why do people who actually
18 distribute these drugs not use the crack cocaine?

19 A. Because they know the effect from just seeing
20 other people.

21 MR. SANCHEZ: Pass the witness.

22 THE COURT: Mr. Van Buren, please.

23 MR. VAN BUREN: Your Honor, may I have a
24 brief moment, please?

25 THE COURT: Very brief.

1 MR. VAN BUREN: Thank you, Judge. May I
2 continue?

3 THE COURT: Please.

4 **CROSS-EXAMINATION**

5 BY MR. VAN BUREN:

6 Q. Good morning, Deputy Thompson. How are you?

7 A. I'm doing fine, sir.

8 Q. I want to focus specifically on December 10th
9 and the dates leading up to December 10th. Now, you had
10 received a tip -- you didn't receive the tip personally,
11 is that correct?

12 A. No, sir.

13 Q. Okay. Where was the tip actually received?

14 A. We have a database, a clue database; they just
15 come in randomly.

16 Q. Now, how do they come in? With phone calls?

17 A. Phone calls, yes, sir.

18 Q. And they're recorded phone calls when they
19 come, is that correct?

20 A. Both ways, yes, sir.

21 Q. So when -- you're able when the phone call
22 comes in and it obviously hits the database -- it's
23 recorded when the phone call comes in and it's
24 date-stamped; correct?

25 A. Repeat that, please.

1 Q. It's date-stamped? You're able to find out
2 when the actual tip came in, correct?

3 A. I believe you can.

4 Q. Okay. And when did this tip come in?

5 A. I'm not clear, sir, when that came in.

6 Q. Okay. Did it come in on December 10th, the
7 date of the search warrant?

8 A. I don't think it did, I think it's some I had.

9 Q. Is it possible that it came in the date of the
10 search warrant? Is it possible it came in the date that
11 this investigation began?

12 A. I mean, it could have. They usually have dates
13 on them, but I'm not sure when it actually came in.

14 Q. Okay. So if it came in the date -- you're not
15 certain when it came in, but it's possible that it came
16 in the date that the search warrant was executed would
17 mean that your testimony, to kind of assist and bolster
18 this case that you had several days' of investigation
19 wouldn't be accurate; correct?

20 A. No, I had days to look at it because, first of
21 all, this Broad Street was already a target before.

22 Okay. And the next anonymous tip came in with the
23 target name.

24 Q. Okay. So you were already targeting Broad
25 Street and then this tip came in on top of it?

1 A. Yes, sir.

2 Q. Okay. So it wasn't exactly accurate then that
3 a tip came in and then you started to look at Anthony
4 Carr on Broad Street, correct?

5 A. No, once that tip came in about Anthony Carr,
6 that's when I knew I had to target at that location.

7 Q. Okay. So the tip came in, you had already been
8 targeting Broad Street, not specifically for Anthony
9 Carr. And then you received this tip possibly sometime
10 on December 10th, now you've got target information;
11 correct?

12 A. Yes, sir.

13 Q. Okay. So now you set up surveillance, correct?

14 A. Yes, sir.

15 Q. Okay. So you kind of led the jury to believe,
16 again, to bolster your situation, that for days you had
17 been driving back and forth looking for Anthony Carr.
18 That's not exactly accurate. You were just looking at
19 Broad Street, correct?

20 A. No, sir. I was looking at Broad Street; I seen
21 him before, I just didn't know who he was.

22 Q. Okay. And as you passed by, certainly you're
23 not stopping and looking at any of the streets on Broad
24 Street when you're doing your drive-by, correct? You're
25 just kind of familiarizing yourself with the situation?

1 A. What I said before, sir, you can't stop in
2 front of a house because the car I was driving, it was a
3 brand new Buick La Crosse and that brings attention to
4 everybody.

5 Q. So that sticks out. So you're kind of, more
6 or less -- again, the way it was lead to believe was
7 that you were going back and forth, kind of slowly
8 looking at the house? In other words, you're just
9 driving through the neighborhood, correct?

10 A. Yes, sir.

11 Q. Trying to get a feel of the land, right?

12 A. Well, I already knew the land because I
13 patrolled out there for years.

14 Q. Now, so there wasn't anything specific about
15 Anthony Carr at this location in your drive-bys that you
16 can attest to; correct?

17 A. Other than me seeing him out there?

18 Q. At 2612 Broad Street, other than you seeing him
19 at 2612 Broad Street; correct? It wasn't anything
20 specific about Anthony Carr leading up to December 10,
21 2013? In fact, you didn't know his name; correct?

22 A. No, sir.

23 Q. Okay. And certainly, as a trained narcotics
24 officer, you keep logs of your surveillance; isn't that
25 correct?

1 A. We're supposed to, but I don't -- I probably
2 didn't.

3 Q. And certainly on December 10, 2013, when you
4 specifically did surveillance you kept a log of that
5 surveillance; correct?

6 A. No, sir.

7 Q. You didn't keep a log of that? And what's the
8 purpose for keeping a log? Isn't that for -- in case
9 you have to testify, that you can point specifically?

10 A. Mainly, yes, sir.

11 Q. So that you can bring it to the jury and say,
12 for example, 10:13 AM, I saw subject Anthony Carr make a
13 potential hand-to-hand transaction; correct?

14 A. Yes, sir.

15 Q. So that you remember this? It's important for
16 when you go to trial, correct?

17 A. Yes, sir.

18 Q. And there's no logs made in this case, correct?

19 A. No, sir. I don't make logs.

20 Q. Now, the State has led us to believe that
21 through your testimony that there had been days -- and
22 in their opening -- in fact, which you never did hear --
23 there had been days of surveillance. And you kind of
24 narrowed that down now to December 10, 2013, is when you
25 actually performed some type of surveillance on this

1 2612 Broad Street; correct?

2 A. Yes, sir.

3 Q. And, again, the information that came in was an
4 anonymous tip, correct?

5 A. Yes, sir.

6 Q. Okay. So it's unverified, correct? Couldn't
7 verify it through -- you have no idea who made the call,
8 right?

9 A. No, sir.

10 Q. You have no idea what the intention was of why
11 they made the phone call, correct?

12 A. We usually know why, sir. That's what the
13 database is for.

14 Q. But you don't know why in this situation. You
15 can assume that you know why, but you didn't speak to
16 the person making the tip; correct?

17 A. Actually, I did.

18 Q. You spoke to the person making the anonymous
19 tip?

20 A. Yes.

21 Q. Okay. And what is the person's name that made
22 the anonymous tip?

23 MR. SANCHEZ: Objection. May we approach?

24 THE COURT: You may.

25 *(Reported conference at the Bench.)*

1 MR. SANCHEZ: Your Honor, the State
2 asserts its privilege on the confidential informant.
3 When it was made, it was anonymous.

4 MR. VAN BUREN: Your Honor, at this point
5 I'm going to ask that the jury be removed because this
6 is -- now we're talking about a confidential informant.

7 THE COURT: I thought you did not have a
8 confidential informant?

9 MR. SANCHEZ: It came in as a tip, Judge.
10 *(Return to open court.)*

11 THE COURT: All right. Let's take the
12 jury out for a minute, please.

13 THE BAILIFF: All rise.
14 *(Jury not present.)*

15 THE COURT: Thank you. Please be seated.
16 All right. I don't know where y'all are
17 going, we can just do it up here.

18 MR. VAN BUREN: I'm sorry, Judge. I
19 didn't know you were talking to us.

20 Your Honor, obviously, now in this, the
21 way it's been termed as a confidential informant,
22 certainly, one, that information in and of itself would
23 be Brady if, in fact, there was a confidential
24 informant.

25 THE COURT: Let me stop you. So from the

1 State, what do we mean by that?

2 MR. SANCHEZ: Well, my understanding,
3 Judge, is that the call did come in as an anonymous tip.

4 THE COURT: Well, that's not a
5 confidential informant.

6 MR. SANCHEZ: Right.

7 THE COURT: Is that what the officer is
8 meaning?

9 MR. SANCHEZ: Well, I think at some point
10 he did follow-up and he tried to contact or was able to
11 make contact with her and did talk to her, but that was
12 after the confidential informant or after the tip had
13 already been given anonymously.

14 THE COURT: And so he had conversations
15 with this anonymous tip person?

16 MR. SANCHEZ: I think he did talk to her,
17 I don't know the extent of the conversation.

18 THE COURT: Let's find that out real quick
19 while we're standing here.

20 What was the extent of your conversation,
21 if any, with this person that was at one time an
22 anonymous tip person?

23 THE WITNESS: She just told me where it
24 was coming from, which I knew the location; but I didn't
25 have any names. And that's when she provided the name

1 of this person and that was the extent of the
2 conversation.

3 MR. VAN BUREN: Judge --

4 THE COURT: Was the State aware of that?

5 MR. SANCHEZ: I was not aware until, I
6 think, Friday. All I knew is that he had made contact
7 with her and got the name.

8 THE COURT: Don't you think that's
9 something that the defense ought to know about?

10 MR. SANCHEZ: My understanding, Judge, is
11 that it was an anonymous tip.

12 MR. HENNIGAN: It was an anonymous tip and
13 then later he finds out who she is. It's still
14 privileged information per the Code of Criminal
15 Procedure.

16 MR. VAN BUREN: Your Honor, if I may,
17 that's not the understanding. He got a call, he went
18 out and made contact with the individual. It's at that
19 point that the individual, whoever this woman is, gives
20 the information regarding Anthony Carr. So it's no
21 longer -- the way that it reads in the offense report is
22 there's an anonymous tip, 2612 Broad Street, Anthony
23 Carr. That's exactly the way it reads.

24 According to the officer's testimony right
25 now, there's a tip, I find out who the tip's coming

1 from, I go out and I speak to her. It's at that point
2 that I get the information on Anthony Carr. That's no
3 longer an anonymous tip.

4 THE COURT: Well, it's no longer a
5 confidential informant, either, Counsel.

6 MR. VAN BUREN: Well, nonetheless, I mean,
7 it certainly is Brady. And it certainly sounds as if
8 the officer knew about it from the time he went to do
9 this search warrant.

10 THE COURT: I don't think that's Brady,
11 either. Just because he talks to her, that doesn't make
12 it Brady. If she says something that benefits your
13 client, that makes it Brady. But --

14 MR. VAN BUREN: If she's a witness to a
15 potential defense -- and that's what she's being listed
16 as, now she is. I mean, that's the whole reason for the
17 beginning of the investigation; but the problem is,
18 Judge, the investigation from our understanding -- and
19 you heard the Motion to Suppress -- was all based on
20 just an anonymous tip. That's not the information we
21 have now. It's not an anonymous tip because he knew
22 exactly who it was.

23 THE COURT: When did you make -- when did
24 you find out about this information?

25 MR. SANCHEZ: I knew that he had called

1 the witness. I became aware of this Friday afternoon
2 after jury selection.

3 THE WITNESS: And, Your Honor, I didn't
4 ask her, her name and that's why I tried to keep it
5 anonymous. And I told her, I don't want to know your
6 name. Just tell me what you know. And she --

7 THE COURT: Well, how did you get ahold of
8 her if you don't know her name?

9 THE WITNESS: It was anonymous because
10 sometimes when -- on the database and they put
11 "Anonymous," sometimes they can be found and our clerk
12 will let us know what it is. Sometimes we don't call,
13 but I just happened to call her at the time and she
14 didn't go off on me at all. And she was reluctant to
15 talk to me.

16 THE COURT: Okay. So when did you find
17 out about this, again?

18 MR. SANCHEZ: Friday afternoon.

19 THE COURT: Well, Friday afternoon when?
20 Two o'clock? Three o'clock? Four o'clock? One
21 o'clock?

22 MR. SANCHEZ: We talked what time?

23 THE WITNESS: I came in earlier, it was
24 before the suppression.

25 MR. SANCHEZ: It was before the

1 suppression?

2 Because I talked to him on the phone after
3 the suppression hearing. It was before I went to the
4 training so probably about 2 o'clock? 1:30 or 2
5 o'clock?

6 THE WITNESS: Right.

7 THE COURT: Is that when you were first
8 made aware of it?

9 MR. SANCHEZ: Yes, sir.

10 MR. HENNIGAN: And, Judge, he mentioned to
11 me -- I don't know if it was this morning or when, but
12 that he later found out who this woman was. And it was
13 my opinion that that was just privileged information.
14 And it sounds like -- I don't -- do you even know her
15 name at this point?

16 THE WITNESS: No, I don't know her.

17 MR. HENNIGAN: So, yeah, apparently he
18 doesn't know her name.

19 THE COURT: Yeah; but it doesn't matter if
20 you don't know her name or if you know a fictitious
21 name. If you know how to get ahold of her, that's all
22 that matters.

23 MR. HENNIGAN: But I think that
24 information would still be privileged per the Code of
25 Criminal Procedure.

1 THE COURT: How do you figure that
2 somebody that may wind up being a witness to a case is
3 privileged?

4 MR. SANCHEZ: Under the confidential
5 informant statute.

6 THE COURT: So now you're classifying this
7 person as a confidential informant?

8 MR. HENNIGAN: Well, I mean, she's not a
9 signed-up CI.

10 THE COURT: And if she is a confidential
11 informant, I think the defense would certainly have a
12 right to know that.

13 You don't think the defense would have a
14 right to know a name -- not know a name, but know that a
15 confidential informant was involved in developing the
16 case?

17 MR. HENNIGAN: Well, I mean, it's just
18 semantics whether you're calling it a confidential
19 informant or --

20 THE COURT: You called it a confidential
21 informant.

22 MR. HENNIGAN: Well, I'm just saying
23 that's why the information is privileged per that
24 statute. But if you would like, I --

25 THE COURT: Well, I think the statute says

1 something to the effect, if I'm not mistaken, that the
2 confidential informant's name can possibly remain
3 confidential as long as they weren't there at the time
4 of the occurrence of the event. But we haven't even got
5 that far yet.

6 MR. HENNIGAN: Right.

7 THE COURT: So you don't think Mr. Van
8 Buren needed -- should have been made aware of the fact
9 that now we know who this anonymous tip was? You knew
10 there was an anonymous tip?

11 MR. VAN BUREN: That's all I did. There
12 was no other information in the offense report. In
13 fact, I went through a suppression hearing the other
14 day. The officer is testifying now that he gave this
15 information to the State prior to the suppression
16 hearing and nothing was told to me then.

17 I mean, it would have been a whole
18 different line of questioning, a whole different line of
19 handling that -- potentially handling that suppression
20 hearing if you classified it as a confidential
21 informant. Potentially, could have been an in-camera
22 hearing. Reliability, credibility, I mean, there would
23 have been all kinds of information --

24 THE COURT: Again, I don't know.

25 MR. VAN BUREN: And I'm not saying she is

1 a confidential informant, Judge. I'm saying that
2 certainly this information should have been brought to
3 my attention immediately, if not sooner. And if it was
4 known before the suppression hearing --

5 MR. HENNIGAN: Judge, it's my
6 understanding he doesn't even have a name. He just had
7 a phone number that was on the anonymous tip that he
8 called to get more information, never even determined
9 who she was. So that is an anonymous tip at that point.
10 It's just that it came in through the database, he
11 talked to the person. And was this prior to you going
12 out there and doing this investigation?

13 THE WITNESS: Yes.

14 THE COURT: Well, you see, I consider it
15 an anonymous tip as to what she was, somebody, whoever
16 calls in and gives an anonymous tip that something has
17 occurred. That's an anonymous tip and I agree with
18 that.

19 But then when you make contact with that
20 person, and you talk to that person, and then they start
21 providing you information more than what was just an
22 anonymous tip -- because then it's no longer anonymous
23 because you have means to contact the person -- I don't
24 think that is anonymous anymore.

25 MR. HENNIGAN: Is it not anonymous if you

1 still don't know the identity of the person?

2 THE COURT: Suppose they said their name
3 was Fred? You know, if you know how to contact them,
4 you know how to reach them, I don't know, I don't think
5 that's really anonymous anymore because you can continue
6 to get back in touch with them and ask them stuff. If
7 just seems to me that person then becomes a potential
8 witness, which is what I've got to consider as to
9 whether or not that person now becomes a witness,
10 especially when this deputy says that he used that
11 information to assist him in developing this case, if
12 that's correct.

13 THE WITNESS: Yes, sir.

14 THE COURT: So let's take a short break.
15 I'm going to go check on something.

16 *(Recess taken.)*

17 THE COURT: Enunciate for me, if you will,
18 why you believe, if you believe anything that's been
19 presented here during this out-of-jury conference, is in
20 any way Brady.

21 MR. VAN BUREN: Well, Your Honor,
22 everything in the offense report leads me to believe
23 that this is solely an anonymous tip, that we have no
24 indication as to who it was, where it came from, even
25 gender type at this point, whether or not they witnessed

1 anything. It's just a call that comes in.

2 Upon my cross-examination it came to my
3 attention that this is not an anonymous tip. In fact,
4 there have been further investigation that went into
5 this, albeit maybe not the name, but at the very least a
6 phone number as to who it was. This information came
7 in --

8 THE COURT: Let me ask my question again.
9 How is any of that Brady?

10 MR. VAN BUREN: Well, I think the fact
11 that it's no longer -- it could be a confidential
12 informant rather than anonymous tip.

13 THE COURT: Well, I think we've
14 established it was not a confidential informant. It was
15 an anonymous phone call.

16 MR. VAN BUREN: And there was further
17 information that was elicited which potentially could be
18 Brady. I don't know --

19 THE COURT: Potentially could be, but that
20 doesn't mean it was.

21 MR. VAN BUREN: But I would have no idea
22 to know because the only thing that's listed in the
23 offense report is anonymous tip.

24 THE COURT: All right. Your objection is
25 overruled. All right. Let's get the jury back out.

1 *(Jury present.)*

2 THE COURT: All right. Thank you all.
3 Please be seated.

4 Let's continue.

5 Q. (BY MR. VAN BUREN) Regarding the verification
6 of the anonymous tip, were you able to verify whether or
7 not the person who gave the tip had actually physically
8 seen Anthony in possession of narcotics?

9 A. No, sir.

10 Q. So there's no verification of any actual
11 personal knowledge from the person who allegedly gave
12 this tip about Anthony other than they believe, or
13 maybe, or we don't know; correct?

14 A. Yes, sir.

15 Q. We have established before the jury left that
16 leading up to December 10, 2013, there was no direct
17 surveillance on 2612 Broad Street in particular;
18 correct?

19 A. There was surveillance on the address, it
20 just -- I didn't have a suspect target.

21 Q. So you had -- and when you say "surveillance,"
22 there was driving by, familiarizing yourself with the
23 area; correct?

24 A. Driving by looking at the location.

25 Q. Not actually setting up surveillance, using

1 binoculars, watching 2612 Broad Street?

2 A. No, sir. That was the only way I conducted
3 that kind of surveillance.

4 Q. And that brings us to December 10, 2013;
5 correct?

6 A. Yes.

7 Q. And you set up surveillance, I believe your
8 testimony was, for approximately one hour; correct?

9 A. It may have been longer, I'm not sure.

10 Q. All things considered, you've been in the
11 business for a pretty long period of time. It was a
12 pretty short amount of surveillance you conducted at
13 2612 Broad Street, correct?

14 A. That day?

15 Q. That day. Leading up to it, we've already
16 established that there never truly was surveillance, you
17 would drive by. You couldn't slow down because you were
18 in a nice, shiny new car; you didn't want to bring
19 attention. So it would be driving by, correct?

20 A. Yes, sir.

21 Q. So the only actual surveillance, per se, where
22 you sat with binoculars and truly watched any of this
23 alleged activity would have been December 10, 2013?

24 A. Yes, sir.

25 Q. And on that day we have established that your

1 length of surveillance was approximately an hour, maybe
2 an hour and a half?

3 A. Yes, sir.

4 Q. And, of course, we have no log books of any
5 surveillance, so we don't know if you saw anything in
6 particular and at what time; correct?

7 A. Yes, sir.

8 Q. And you didn't conduct any type of video
9 surveillance to bring to this jury for purposes of
10 showing that Anthony Carr was in possession of narcotics
11 at 2612 Broad Street; correct?

12 A. Yes, sir.

13 Q. And there's no photographic evidence that you
14 brought forward to this jury to show that he was in
15 possession of narcotics at 2612 Broad Street; correct?

16 A. No, sir.

17 Q. And more than the audio that we heard, there's
18 no tape recorded conversations with nothing additional,
19 correct?

20 A. No, sir.

21 Q. Okay. And you talked briefly, when the State
22 was kind of leading you through and setting this case
23 up, about how you've worked in this business for a long
24 time and you've done numerous amounts of investigations;
25 correct?

1 A. Yes.

2 Q. Okay. And, in fact, you've done undercover
3 buys; correct?

4 A. Yes, sir.

5 Q. You personally have done undercover buys,
6 correct?

7 A. Yes, sir.

8 Q. And you're not known on the streets of Broad
9 Street, correct?

10 A. I wouldn't think so.

11 Q. In this case you never went out and attempted
12 to do an uncover buy at 2612 Broad Street, correct?

13 A. No, sir.

14 Q. Okay. And you didn't send a confidential
15 informant out to 2612 Broad Street to try to make some
16 type of buy?

17 A. No, sir.

18 Q. Okay. And, of course, a confidential informant
19 is somebody that's reliable and credible that you used
20 whether it be their paid informants who are paid
21 informants, correct?

22 A. Yes, sir.

23 Q. And you have informants that have been caught
24 in situations and ordered to work off a case and they'll
25 try to turn it around and try to flip someone else

1 correct?

2 A. Yes, sir.

3 Q. And it's not unusual when you see what you
4 believe potentially to be a narcotics house to use the
5 confidential informant to build a case, correct?

6 A. Yes.

7 Q. Okay. And there was nothing along those lines
8 done in this case?

9 A. No, sir.

10 Q. And that's something that you had the means to
11 do, correct?

12 A. No, sir. The confidential informants don't
13 come very easily and you have to find the right one,
14 send them to the right area. And McNair is a real tight
15 community, they're smart. They're not just going to --
16 they have their regular drug addicts. And if anybody
17 that they don't know show up, you know, that's a flag.

18 These guys, I mean, drug dealing is drug
19 dealing, but they know what they're doing. McNair is
20 real small. I don't know if you've been through there
21 before, it's a small community. It's real small. And
22 Broad Street is one street that everybody know
23 everybody.

24 Q. Everybody knows everybody on Broad Street,
25 correct?

1 A. I would think so.

2 Q. And it's not unusual for -- in fact, there's a
3 lot of family that lives on Broad Street, correct? A
4 lot of uncles, and nephews, and nieces, grandmothers?

5 A. It may be.

6 Q. Okay. And it's not unusual that they use each
7 other's house? In fact, multiple houses may be on one
8 property, correct?

9 A. I wouldn't know.

10 Q. Well, in fact, in this case you were specific
11 in your offense report to state that on that address
12 there are houses located there, correct?

13 A. Yes, sir.

14 Q. So that would be multiple houses on one
15 property, correct?

16 A. Yes, sir.

17 Q. Okay. And your statement was they're pretty
18 smart out there in the things they do, correct?

19 A. Yes, sir.

20 Q. So it would be even that much more important
21 potentially to build a very strong case, you know,
22 videos or potentially confidential informants, or get
23 somebody inside of the residence at 2612 Broad Street;
24 right?

25 A. If possible.

1 Q. And it certainly would have been possible, you
2 never looked into it; correct? You decided to make your
3 move right away, correct?

4 A. Yeah, at that point in time I didn't have any
5 video or camera available at that time.

6 Q. You didn't have any with you specifically that
7 morning, correct?

8 A. Yes, sir.

9 Q. And your boss told you, You only have this hour
10 and a half to conduct video surveillance, that's it,
11 you're not going to have any more days; correct?

12 A. No, sir. My boss didn't say anything like
13 that.

14 Q. So you could have pulled out, pulled back, gone
15 and gotten surveillance and done a much longer
16 surveillance; correct?

17 A. If I needed to.

18 Q. Okay. Or if you desired to, not necessarily if
19 you needed to. If you wanted to, if you made the
20 decision that, I need to make a stronger case, you could
21 have made that decision; correct?

22 A. Well, let me go ahead and answer that question.
23 At this point in time it's hard, you can't determine
24 when that house is going to be active. This particular
25 day the house was active and this was the day to move on

1 it.

2 Q. So you just got lucky on that day, you pulled
3 up and this was just drug traffic flowing in and out
4 December 10, 2013? It is Christmas at that address,
5 right?

6 A. Pretty much.

7 Q. But, of course, we have to take your word for
8 it because there's not one bit of evidence to point to
9 that other than your testimony; correct?

10 A. Yes, sir.

11 Q. Okay. And you had stated that when you call in
12 there's a white car parked at the residence, correct?

13 A. A Buick.

14 Q. The Buick?

15 A. I believe it's in the back, yes, sir.

16 Q. The La Crosse?

17 A. Yes, sir.

18 Q. And that's the vehicle that Anthony walks out
19 of the house to go get into, correct?

20 A. Yes, sir.

21 Q. Okay. And at the same time that he walks out,
22 at least we know of one other individual, Morris
23 Williams, also leaves the house to go get into that
24 vehicle; correct?

25 A. I didn't know who he was at the time. I just

1 know -- I don't know what direction he came from. I
2 don't even know if he's still in the car, already in the
3 car.

4 Q. We know that he was headed to the car, correct?

5 A. Yes, sir.

6 Q. And we also know that another individual
7 that -- we know Morris Williams, correct?

8 A. Yes, sir.

9 Q. And then there's another individual that came
10 out of the house and was headed to the car with those
11 two?

12 A. I don't know if that individual came out of the
13 house, sir.

14 Q. Okay. The car was parked on the property?

15 A. Yes, sir.

16 Q. Okay. You were doing surveillance on the
17 house, correct?

18 A. Yes, sir.

19 Q. Okay. You saw the white vehicle, correct?

20 A. Yes, sir.

21 Q. Had a clear view of the white vehicle at the
22 time, correct?

23 A. It was parked in the back, I saw in the back.

24 Q. But you knew it was there, you saw it?

25 A. Yes.

1 Q. And you saw three individuals coming out of
2 what appeared to be the back of the house heading
3 towards the white vehicle?

4 A. No, sir. I didn't say they came out of the
5 back of the house, I just saw them getting into the car.

6 Q. So they were all on the property getting into
7 the car, right?

8 A. Yes, sir.

9 Q. You didn't see them -- you had a clear view of
10 the property, you didn't see them standing on the
11 property leading up to that; correct?

12 A. I saw them standing on the property, but I
13 didn't know who Morris Williams and the other guy was.
14 I know and identify Mr. Carr; so I did know who he was,
15 that's who I paid my attention to.

16 Q. And did you ever see Morris Williams or the
17 other individual in the -- going into the house?

18 A. No, sir.

19 Q. Okay. So they just stayed outside the house?

20 A. I saw different people going in and out, which
21 I believe was indicative to drug activity; but I didn't
22 see -- because I didn't know who they were. So I
23 couldn't pinpoint who they were going in the house, if
24 they did go in the house.

25 Q. So you didn't see whether --

1 A. What I did see was someone going in, possibly
2 making a buy, not sure if it was making a buy; but
3 they'd come out within five minutes and leave.

4 Q. You didn't see -- you can't testify whether
5 they were in the house or out of the house, you just
6 know they were on the property; correct?

7 A. Yes, sir. And at that point in time I still
8 couldn't identify who Mr. Morris and the other guy was.

9 Q. Well -- and Mr. Morris had no intentions of you
10 identifying him at any point, correct? He ran?

11 A. Yes, sir. I don't know why he ran.

12 Q. As soon as you guys pulled up he ran?

13 A. Yes, sir.

14 Q. And that certainly is indicative of him being
15 concerned -- that he was involved in narcotics activity;
16 correct?

17 A. He was involved -- he ran for something.

18 Everybody runs for something, sir.

19 Q. Okay. And the other individual ran and he must
20 have been quick because he got away?

21 A. Yes, sir.

22 Q. Okay. So that's pretty indicative that he's
23 doing something wrong, correct?

24 A. Could be.

25 Q. And Mr. Carr didn't run?

1 A. No, sir.

2 Q. Okay. Mr. Carr stayed right there on the
3 scene, correct?

4 A. Yes, sir.

5 Q. And then Anthony told you that he smokes
6 marijuana in the residence, correct?

7 A. Yes, sir.

8 Q. And he didn't have any money on him, correct?

9 A. I didn't -- I don't believe I searched
10 Mr. Carr. My partner did.

11 Q. Well, you've got the offense report there.

12 A. We didn't seize any money, I don't believe.

13 Q. Okay. So there's no money seized, there's no
14 notation of small bills or small denominations. Isn't
15 that normally what you see from somebody selling a lot
16 of narcotics, right?

17 A. Yes, sir.

18 Q. So you've got people coming and going on
19 Christmas -- well, the 2B Christmas of Broad Street for
20 the hour and a half that you were there yet Mr. Carr
21 doesn't have one dollar on him, correct?

22 A. Yes, but I also know most dope dealers don't
23 keep their cash on them because the jack man is always
24 coming around, which is the man that rips off dope
25 dealers.

1 Q. And you searched his house, correct?

2 A. Yes, sir.

3 Q. And can you point to where you found his large
4 denominations of money that you located in his
5 residence?

6 A. We didn't find it, sir.

7 Q. So you didn't find any money in his residence,
8 you didn't find any money on Anthony; correct?

9 A. No, sir.

10 Q. During that hour and a half the jack man didn't
11 come through, did he?

12 A. Not while I was there.

13 Q. Because you certainly would have arrested the
14 jack man if he had jacked you?

15 A. Yes, sir.

16 Q. Okay. So the bottom line is if he's out there
17 selling these narcotics for that period of time there,
18 he doesn't have any money; correct?

19 A. Not on his person; no, sir.

20 Q. Or in his house?

21 A. That we can find.

22 Q. Okay. He didn't have a key to the location to
23 get into the house, correct?

24 A. He said he didn't have it on him, it was
25 somewhere.

1 Q. He didn't have it on him, correct?

2 A. No, sir.

3 Q. Okay. And couldn't go through the front door
4 because you wanted to point out to the jury that it
5 appeared to be barricaded, right?

6 A. That's what it was seemed to be because it was
7 pretty tight.

8 Q. So when you went in through the back and then
9 came through the front, in all honesty it was just
10 locked?

11 A. Locked, yes, sir.

12 Q. Okay. Locked up doesn't sound nearly as good
13 as barricaded, though, does it?

14 A. Well, it was pretty tight.

15 Q. It was closed, the door was shut?

16 A. It was locked.

17 Q. It was locked. Now, the State wants to bang on
18 or wants to speak to you about Mr. Carr's actions when
19 you come out to the scene or when you guys approached.
20 You don't casually roll up on him, isn't that correct?
21 I mean, you come in almost like the jump-out boys,
22 right? You're sending a squad of people in?

23 A. Yes, sir.

24 Q. Okay. And Anthony at that point is getting
25 into a vehicle, all these officers come rushing in;

1 correct?

2 A. Yes, sir. We didn't rush him in like that,
3 sir. It was we entered the parking lot and drove to the
4 back.

5 Q. It was enough that the other two individuals --

6 A. They got excited and they ran off.

7 Q. They took off, right.

8 And that's the same, at least the same
9 Morris Williams, of course, that the jury has the
10 opportunity to go back and listen to the audio because I
11 know the State finds it very important, some of the
12 things that was discussed. Williams is -- and the very
13 beginning of that audio, you've listened to it, I'm
14 sure; correct?

15 A. Yes, sir.

16 Q. Multiple times. Williams is very concerned
17 about them getting into the house, correct?

18 A. He was concerned about the car.

19 Q. He was also --

20 MR. VAN BUREN: Your Honor, may I approach
21 with a copy of the transcript?

22 THE COURT: You my.

23 Q. (BY MR. VAN BUREN) The very beginning of the
24 conversation -- and this is a copy of the transcript
25 just for you to refresh your memory. Morris Williams --

1 and you don't have to read it out loud.

2 A. Okay.

3 Q. Morris Williams is concerned immediately about
4 them getting into the house, correct?

5 A. That was -- that was a question.

6 Q. They tried to go in the house?

7 A. He asked a question.

8 Q. They tried to go into the house?

9 So he's --

10 A. So he's talking to Mr. Carr.

11 Q. He's talking to Mr. Carr about the house. He's
12 concerned or seems to be concerned about them going in
13 the house, correct?

14 A. Yes, sir.

15 Q. And he continues to state later on -- I think
16 it's about three minutes, almost four minutes into the
17 audio -- that he's got additional dope and money in that
18 trunk? Carr says that -- or I'm sorry, Morris Williams
19 says that?

20 A. Yes, sir.

21 Q. Dope and money in that trunk. Kind of blew
22 over that aspect and wanted to turn to Carr calling that
23 rookie-ass shit because -- he's saying, Rookie-ass
24 shit -- is more important than someone making an
25 admission that they've got the dope and money in the

1 car?

2 A. Well, he didn't say -- he didn't say additional
3 dope and money, he said dope and money.

4 Q. Okay. So he inquired about the house first,
5 okay, and now he's saying he's got dope and money in
6 that trunk. Again, to reiterate, no money is found on
7 Anthony Carr; correct?

8 A. No, sir.

9 Q. And apparently the car was never even searched?

10 A. I don't believe we searched the car.

11 Q. Good thing for Morris Williams, right, because
12 according to Morris, even after listening to this, he's
13 admitting that he's got dope and money in that trunk.
14 So there's no doubt that based on admissions of Morris
15 Williams, one absolute that we know through all of this
16 is Morris Williams, at the very least, has dope and
17 money --

18 A. Yes, sir.

19 Q. -- that he's taking possession, correct? Okay.

20 A. If I recall, sir, he said, There's dope and
21 money. He didn't say, My dope and money.

22 Q. Dope and money in that trunk?

23 A. Yes, sir.

24 Q. -- is what the transcript says.

25 He's acknowledging. And certainly Anthony

1 has no knowledge because his next statement, it says, In
2 your car? In your car? Right?

3 You'll agree with me Anthony says, Where?
4 In the trunk.

5 In your car? Okay. So Anthony has no
6 knowledge of what's going on with Morris Williams,
7 you'll agree with me, correct?

8 A. Yes, sir.

9 THE COURT: All right. I'm going to stop
10 you there because your lunch is here.

11 Ladies and gentlemen, your lunch has
12 arrived. We are going to take a short break for lunch.
13 Do not discuss anything about the case while you're at
14 lunch. You cannot discuss the case until you're
15 deliberating.

16 So, have your lunch. When you're finished
17 in approximately about 30 minutes, buzz us and we will
18 get back started. Thank you so much.

19 THE BAILIFF: All rise.

20 *(Luncheon recess.)*

21 THE BAILIFF: All rise.

22 THE COURT: All right. Thank you so much.
23 All right. Let's all please be seated. Hope you
24 enjoyed your lunch. And with that, let's continue.

25 Mr. Van Buren.

1 MR. VAN BUREN: Thank you.

2 Q. (BY MR. VAN BUREN) Deputy, I've been scolded by
3 the court reporter, so I'm going to slow it down. I
4 think you better, as well, or she's going to scold you.

5 A. Yes, sir.

6 Q. I want to get back to our discussion about
7 Morris Williams and his continued proclamations on the
8 audiotape of his involvement in narcotics and things
9 along those lines. Okay?

10 A. Yes, sir.

11 Q. And I know when we ended we were talking
12 about -- an admission by Mr. Williams that at the very
13 least he had dope and money in the vehicle that was on
14 the property?

15 A. Yes, sir.

16 Q. And the property, so the jury has a better
17 idea, you didn't take any pictures of the property at
18 the time; correct?

19 A. Yes, sir.

20 Q. Now at lunch you've had an opportunity to
21 review with the state and kind of figure things out a
22 little bit better and you've looked at some photos of
23 the property; correct?

24 A. Yes, sir.

25 Q. And we can assume the State is going to now

1 admit pictures that they downloaded today of the
2 property; correct?

3 A. Yes, sir.

4 Q. There are multiple residences on that property,
5 correct?

6 A. Yes, sir.

7 Q. Different addresses, but it's -- and it's hard
8 to describe for the jury a little bit different.
9 They'll be -- it's the best way to describe it and tell
10 me if I'm incorrect is family may own one lot, but
11 they'll put multiple residences on it, correct?

12 A. It could be.

13 Q. Okay. And, in fact, we know that Anthony's
14 address is actually 2618 Broad Street, correct?

15 A. That's what he told me.

16 Q. And -- let me get back to that in a second.
17 Getting back to Mr. Williams, in the audio Anthony
18 expresses that he has no money in his pocket, he doesn't
19 have anything; correct?

20 A. He didn't tell me that unless he spoke to
21 another officer.

22 Q. Well, it's on the audio --

23 A. On the audio, yes.

24 Q. -- if you recall that?

25 A. Yes, sir.

1 Q. Okay. In the beginning of the audio, about
2 minute five, about minute six, I believe, it is. And if
3 in you need to refresh your memory with a transcript.

4 I don't know, is there an extra copy of
5 the transcript that you have in front of you?

6 A. Yeah, I remember him saying that.

7 Q. Okay. All right. And William specifically
8 goes into another rant where he says, I put that shit --
9 I put that shit -- but we don't know where, we don't
10 know where he put that shit; but he's saying that he put
11 something somewhere; correct? Do you recall that?

12 A. Yes, sir.

13 Q. He talks about how he stashed hit?
14 Mr. Williams talks about how he stashed shit, do you
15 recall that?

16 A. I must have missed that one there.

17 Q. Okay. Would you like to review?

18 A. Yes, sir.

19 MR. VAN BUREN: Your Honor, may I
20 approach?

21 THE COURT: You may.

22 Q. (BY MR. VAN BUREN) He states --

23 So you would agree with me he's talking
24 and continues to talk about how he is stashing shit,
25 correct?

1 A. Yes, sir.

2 Q. And we can assume and I think the jury can
3 assume, as well, that when we say "shit" and I guess
4 both apologize to the jury for having to use this
5 terminology, but it's kind of what we have been given --
6 we don't literally mean shit, right?

7 A. Exactly.

8 Q. And we talked a little bit about street
9 terminology and things and different ways that words can
10 be interpreted. In this situation you would agree with
11 me that "shit" probably means narcotics?

12 A. Yes, sir.

13 Q. Okay. So Morris continues to say, continues to
14 talk about "stashing shit" or "shit here" or narcotics
15 somewhere; correct?

16 A. Yes, sir.

17 Q. And he goes on so speak about the house key,
18 correct?

19 A. Yes, sir.

20 Q. Okay. And, in fact, he says, "Who got the
21 house key?" Remember that?

22 A. Yes, sir.

23 Q. Okay. And then he states, "I don't think I got
24 that bitch. Huh-uh. I don't think I got that bitch,"
25 which would be indicative of he's not sure if he has the

1 house key on him or not; correct?

2 A. Yes, sir.

3 Q. And you will agree with me from the perspective
4 of the audio that we are listening to, there certainly
5 are some distinctive links, affirmative links between
6 Morris Williams and that residence that he has admitted
7 to; correct?

8 A. That's what it may seem like, but he could have
9 gave him the key once he locked the door.

10 Q. We don't know?

11 A. Yes, sir.

12 Q. That's why we continue to gather evidence in
13 cases like this, correct?

14 A. Yes, sir.

15 Q. But one interpretation, you would agree with
16 me, is that Morris Williams is concerned about shit in
17 the house potentially that he stashed?

18 A. No, sir. He didn't say that. He said on the
19 floor. He could have been talking about the floorboard
20 of the car.

21 Q. Or he could be talking about the floor of the
22 house, we don't know?

23 A. Yeah.

24 Q. We don't know, correct, because Morris Williams
25 was never charged with this criminal offense; correct?

1 A. No, sir.

2 Q. But you'll certainly agree with me he is
3 concerned about where his key is to the house?

4 A. Where the key is, not his key.

5 Q. And, again, that's up for interpretation and we
6 don't know, we are just going by the audio?

7 A. Yes, sir.

8 Q. And he continues to talk about narcotics,
9 correct, Williams does just about every time that he has
10 the opportunity to speak? In fact, he states, "ain't no
11 more fucking drugs on my body?"

12 A. Well, they both continue to say that, just
13 along with Mr. Carr was talking about "no money." If
14 you're talking about no money, no one just says, I don't
15 have any money on me. I mean, why would I not have any
16 money on me? Just because you have a few dollars and
17 you're a dope dealer. So you don't have to keep
18 repeating why you don't have any money on you.

19 Q. Okay. And you would agree with me that he
20 admitted to smoking marijuana at the residence, correct?

21 A. Yes, sir.

22 Q. And smoking marijuana, at least for the time
23 being in Texas, is still illegal; correct?

24 A. Yes, sir.

25 Q. So he admitted to committing a criminal

1 offense, correct?

2 A. Yes, sir.

3 Q. Okay. And it was -- certainly was the smell of
4 marijuana, correct?

5 A. Yes, sir.

6 Q. Okay. So, certainly appeared as though Anthony
7 was being honest that he was smoking marijuana, correct?

8 A. Yes, sir.

9 Q. Okay. And your position again was that there
10 was all of this foot traffic during that hour and a half
11 that you just happened to be there early in the day, yet
12 Anthony had no money, correct? We agree to that?

13 A. Yes, sir.

14 Q. Okay. And there was no money found in the
15 house, correct?

16 A. No money found in the house. Part of the
17 mystery.

18 Q. And I would assume that when you do a search of
19 the house you do a pretty extensive search of those
20 houses? Once you go in you're looking, you're not there
21 to kind of glance around, you're digging; right?

22 A. Yes, sir.

23 Q. Now, let's turn to what happens once you get
24 into the house. There's no photographs for the State --
25 for the jury to see what the inside of the house looks

1 like; correct?

2 A. No, sir. We didn't have a camera available at
3 that time.

4 Q. The department doesn't have any cameras
5 available?

6 A. They do. We didn't have one at the time.

7 Q. Well, you spent a significant period of time,
8 three hours waiting for a search warrant; correct?

9 A. Was it that long?

10 Q. Approximately three hours, two and a half to
11 three hours?

12 A. Yes, sir.

13 Q. During that period of time, knowing that you
14 were at that point in the evidence fact-finding stage of
15 your investigation, correct?

16 A. Yes, sir.

17 Q. Okay. Would have given you the opportunity to
18 go and get a video camera or a regular camera to assist
19 in your investigation, correct?

20 A. Sir, our office is way on the other side of
21 town. We didn't have that type of time.

22 Q. Well, you had the time to draft a search
23 warrant, correct?

24 A. Yes.

25 Q. You had the time to take a warrant to a

1 magistrate, correct?

2 A. Yes, sir.

3 Q. Had the time to have the magistrate read the
4 warrant, verify whether or not he believed probable
5 cause existed; correct?

6 A. Yes, sir.

7 Q. That's a pretty ample amount of time to go and
8 locate a camera if you so desire, correct?

9 A. At that time, sir, we was working with limited
10 personnel. So that's why he had to draw up the search
11 warrant and had another officer go get it signed because
12 we had a hostile crowd out there. And like I said, if
13 you never been to McNair, when there's police activity
14 everyone comes out.

15 Q. So your position is it just was not feasible to
16 go and get a camera?

17 A. We was not leaving that location to leave one
18 officer there just to go retrieve a camera; no, sir.

19 Q. And it wouldn't have been feasible to have the
20 officer who delivered the search warrant to the
21 magistrate to say, Hey, by the way, stop. Let's pick up
22 a camera so that we can notate everything in case this
23 case gets to trial and we are trying to take Mr. Carr's
24 liberty away?

25 A. Yes, sir. At that time it wasn't feasible

1 because we wanted to get it done and get out because it
2 was getting hostile out there.

3 Q. Because you're not concerned, in all honesty,
4 with showing the jury anything because you can just
5 testify to it; correct?

6 A. We are concerned, sir; but I'm concerned more
7 about our safety.

8 Q. So we have got no video of inside the house, we
9 have got no still photos of inside the house.

10 THE COURT: I think you've asked, add --
11 or made that statement several times. So let's try to
12 move on, please.

13 Q. (BY MR. VAN BUREN) And the surveillance that
14 you conducted, we have established only lasted about an
15 hour to an hour and a half that day; correct, during
16 daylight hours?

17 A. Yes, sir.

18 Q. There was no surveillance done the evening
19 before, correct?

20 A. No, sir.

21 Q. There was no surveillance done bright and early
22 that morning to see who is first to come out of that
23 house, who slept at that house; correct?

24 A. The only stationary surveillance that took
25 place was on the 10th, sir.

1 Q. Now, you stated that you found numerous amounts
2 of mail addressed to Anthony Carr?

3 A. Yes, sir.

4 Q. And did you bring any of that mail with you
5 today?

6 A. It's in Property.

7 Q. Okay. And did any of that mail get introduced?
8 Do you have the mail to introduce as evidence?

9 A. No, sir. I was only asked to bring the drugs,
10 the property. Everything else --

11 Q. So as far as the jury is concerned, we don't
12 have any articles of mail or anything along those lines?

13 A. I have it listed on the property report, if you
14 want to see it.

15 Q. Okay. But we don't have anything to look at
16 that verifies what you listed, correct?

17 A. Not with me, no, sir.

18 Q. And that mail that you have is not listed to
19 that address, correct, I would assume?

20 A. Only one part was listed to the 2612, and it
21 was -- I can't recall what it was, but it was -- it's in
22 property, though.

23 Q. The insurance card?

24 A. I don't know if it was insurance. I don't know
25 which one it was, but the other piece was listed for the

1 house behind him which I believe was his grandmother's.

2 Q. And when you did -- searched the house through
3 your testimony with the state, one of the affirmative
4 links that you're trying to bolster this case with is
5 the fact that there was clothing in the residence,
6 correct?

7 A. Yes, sir.

8 Q. And there was nothing to verify that it was
9 Anthony's clothing, correct?

10 A. Well, the clothing was next to the mail.

11 Q. Okay. But nothing to verify that it was
12 Anthony's clothing, correct?

13 A. No, sir.

14 Q. Okay. We don't know sizes, we don't know
15 anything along those lines. We don't even have pictures
16 of the clothing, correct?

17 A. No, sir.

18 Q. We don't even have pictures of the mail, right?

19 A. Well, I have the mail.

20 Q. We don't have the mail here for purposes of
21 trial, for Anthony being on trial, potentially losing
22 his freedom; correct?

23 A. Yes, sir.

24 Q. And you stated that you didn't find any
25 photographs in the house, correct? No family photos?

1 A. No, sir.

2 Q. Okay. And you stated that narcotics were found
3 in a Fruit Loops box, is that correct?

4 A. Yes.

5 Q. Okay. Do we have the Fruit Loops box here?

6 A. No, sir. We just removed the contents from it,
7 which is the crack cocaine.

8 Q. Did they ever take any type of fingerprints off
9 of the box?

10 A. No, sir.

11 Q. Or attempt to take fingerprints?

12 A. No, sir.

13 Q. Was that ever a thought in your mind to take
14 fingerprints?

15 A. Sir, I take fingerprints from a food box from
16 the store which everybody hands have been on, no, sir,
17 it wouldn't be have been feasible.

18 Q. Potentially, it could come up as something
19 positive or something negative; right?

20 A. Yes, sir.

21 Q. Okay. But we don't because it wasn't done,
22 right?

23 A. No, sir.

24 MR. VAN BUREN: Your Honor, may I have a
25 brief moment?

1 THE COURT: Briefly, please.

2 MR. VAN BUREN: Your Honor, I'll pass the
3 witness.

4 THE COURT: Redirect, please.

5 MR. SANCHEZ: Thank you, Judge.

6 **REDIRECT EXAMINATION**

7 BY MR. SANCHEZ:

8 Q. Deputy, I want to clear something up very
9 quickly.

10 MR. SANCHEZ: Your Honor, may I approach?

11 THE COURT: You may.

12 Q. (BY MR. SANCHEZ) Mr. Van Buren alluded to the
13 fact that Morris Williams stated that he "stashed some
14 shit in the floor," is that right?

15 A. Yes, sir.

16 Q. And that the defendant immediately says, that's
17 where you was?" Right?

18 A. Yes, sir.

19 Q. And then he says, Yeah, that's where they
20 caught me."

21 A. Yes, sir.

22 Q. So is it safe to say that he stored -- he
23 stashed the stuff in the floor where he was caught?

24 A. Which was in the car.

25 Q. Isn't it true that he was actually caught in a

1 trailer?

2 A. Oh, yeah in the trailer.

3 Q. Several hundred feet away?

4 A. Yes, sir.

5 Q. So is it safe to say that he actually stashed
6 whatever it was in that trailer several hundred feet
7 away?

8 A. Exactly.

9 Q. Which is not in the house?

10 A. No, sir.

11 Q. Now, Deputy, we have been talking a lot about
12 the house and what it look likes and I thought it would
13 just be easier to actually show you the picture. I'm
14 show you what's been marked as State's Exhibit 12, 13,
15 14 and 15. Do you recognize reasons these photos?

16 A. Yes, sir.

17 Q. Okay. Can you tell me what they are?

18 A. This is a photo of the suspect's house and I
19 don't -- I'm not hour who stays here. And I believe
20 that's his grandmother's house.

21 Q. Okay. So, Exhibit 12 is a picture of the
22 house; is that right?

23 A. Yes, sir.

24 Q. Exhibit 13 is what?

25 A. The church.

1 Q. Is that the church that you parked at?

2 A. Yes, sir.

3 Q. Okay. Exhibit 14 is also the house?

4 A. Yes, sir.

5 Q. Exhibit 15 is also the house?

6 A. Yes, sir.

7 Q. Okay. And do these photos accurately represent
8 what the house and what the church looked like on the
9 day of the incident?

10 A. Yes, sir.

11 Q. Okay.

12 MR. SANCHEZ: State tenders to defense
13 counsel State's Exhibits 12 through 15.

14 MR. VAN BUREN: No objection, Judge.

15 THE COURT: 12 through 15, State's
16 Exhibits admitted.

17 MR. SANCHEZ: Your Honor. May I publish?

18 THE COURT: You may.

19 Q. (BY MR. SANCHEZ) What are we looking at here,
20 Deputy?

21 A. This is the target location.

22 Q. And this is State's Exhibit 15. It's the
23 target location?

24 A. Yes, sir.

25 Q. Now, I'm going to show you another photo, this

1 is State's Exhibit 14. This shows a little more. Which
2 house is the target location in this photo?

3 A. The one on the right side, small red house.

4 Q. Okay. I want to show you State's Exhibit 13.
5 What is this?

6 A. It's the church where I was conducting
7 surveillance.

8 Q. Okay. And where were you parked at the church?

9 A. I parked right in the front and then I moved
10 over here to the corner.

11 Q. Again, you can actually mark there if you want.

12 A. Okay. I started off right here and then I
13 moved right here, then I moved on the side.

14 Q. Now, where is this church in relation to the
15 house?

16 A. Right across the street.

17 Q. So I'm going to leave this up here when we talk
18 about it. Why were you moving so often in the church
19 parking lot?

20 A. Well, so I could get a good view of what I'm
21 looking at. And, also, I just get out and I walk around
22 the church like I was a grounds keeper and just kind of
23 checking stuff. Trying to play the part and kind of
24 looking, but they never did. You know, I don't think
25 they would have suspected, otherwise -- usually somebody

1 will ride by on a bike and then they'll see who you are.
2 And if they think you're the cops, you know, business
3 will shut down. And also I didn't bring any attention
4 to myself so I stayed pretty much at the end.

5 Q. Let's talk quickly about the lack of money that
6 was found on either one of the defendants. You stated
7 that people who are dope dealers often don't have money
8 on them and that's because of a jack man. What did you
9 mean by that?

10 A. When you live in a community like McNair it's,
11 like, they all know who the drug dealers are so they
12 know sometimes they will catch them with a lot of money,
13 sometimes they won't. To deter that, they won't keep
14 the money on them at all. And for the reason that --
15 the fact is that myself, the cops, if we come catch
16 them, we are going to seize that money.

17 So what they usually do is keep that money
18 in a separate location, usually at a grandmother's
19 house, someone that they know that's pretty much, Oh,
20 it's her money, so we wouldn't suspect her of being a
21 drug dealer. So when he does go to jail, if he goes to
22 jail, that's when he needs his bail money. If he gets
23 caught with the money in hand, he know that money can't
24 be used to help out. So they keep that money in a
25 separate location that we can't find it. And once they

1 need it, they will get it. So it's not uncommon for
2 them to not have any money on them.

3 Q. Okay. I'm referring back to the transcript of
4 the audio. Now do you remember in minute 16 where
5 Morris Williams says to the defendant, "She say Blue got
6 the money." Is that right?

7 A. Yes.

8 Q. And he says, "Hey, I ain't worried about none
9 of that shit, man. That's petty shit. Those people are
10 trying to get in there." Is that right?

11 A. Yes, sir.

12 Q. And he's talking about the house?

13 A. Yes, sir.

14 MR. VAN BUREN: Your Honor, I object to
15 speculation.

16 Q. (BY MR. SANCHEZ) That's what he says, isn't it?

17 THE COURT: It's overruled.

18 A. Yes.

19 Q. (BY MR. SANCHEZ) Now, Mr. Van Buren brought up
20 the suggestion that the dope inside the house might have
21 been Morris Williams' dope; is that right?

22 A. Yes, sir.

23 Q. But in this audio we know where Morris' dope
24 is, right?

25 A. Yes, sir.

1 Q. And where is it?

2 A. It's in the car.

3 Q. He explicitly says that on the audio, right?

4 A. Yes, sir.

5 Q. And then the defendant tells him that that's a
6 rookie mistake?

7 A. Yes, sir.

8 Q. He is not smart enough to store the crack in a
9 Fruit Loops box?

10 A. Obviously not.

11 MR. VAN BUREN: Your Honor, I object to
12 speculation.

13 THE COURT: Restate your question.

14 MR. SANCHEZ: I'll withdraw the question,
15 please.

16 THE COURT: Thank you.

17 MR. VAN BUREN: Your Honor, I ask that you
18 instruct the jury to disregard.

19 THE COURT: Jury will disregard.

20 Q. (BY MR. SANCHEZ) Now, in your experience,
21 Deputy, is it common for someone to leave this much
22 crack cocaine just lying around?

23 MR. VAN BUREN: Your Honor, I'm going to
24 object to speculation and relevance.

25 THE COURT: I sustain it.

1 Q. (BY MR. SANCHEZ) Now suffice it to say, Deputy,
2 that for a drug dealer, someone's drug is their biggest
3 commodity?

4 A. Yes, sir.

5 Q. It's what they make their living on?

6 A. Yes, sir.

7 Q. Is it likely they're going to leave that lying
8 around?

9 A. Not in the open.

10 Q. In someone else's house.

11 A. No, sir.

12 Q. Now, Deputy, you weren't the only officer
13 searching the house; were you?

14 A. No, sir.

15 Q. There were several officers there?

16 A. Yes, sir.

17 Q. And they all were there when you discovered the
18 crack cocaine?

19 A. Yes, sir.

20 Q. When you discovered the powder cocaine?

21 A. Yes, sir.

22 Q. Now, Mr. Van Buren brought up the fact that the
23 defendant didn't run, right?

24 A. No, sir -- yes, sir. He did.

25 Q. Now, you know, if he made any kind of attempt

1 to run?

2 A. From -- I couldn't see it from my point of
3 view, but from what the other officers said, he did make
4 an attempt --

5 MR. VAN BUREN: Your Honor, I object to
6 hearsay.

7 THE COURT: Sustained.

8 Q. (BY MR. SANCHEZ) Now, you didn't apprehend the
9 defendant?

10 A. No, sir.

11 Q. You didn't take part in it?

12 A. No, sir.

13 Q. So you didn't know what kind of activity he
14 did?

15 A. No, sir.

16 Q. Now, Mr. Van Buren also brung up the fact that
17 you didn't conduct hours and hours and days and days of
18 surveillance, right?

19 A. Yes, sir.

20 Q. But after getting the anonymous tip, is what
21 you saw at the house consistent with drug activity?

22 A. Yes, sir.

23 Q. And were the defendant's reaction to your
24 investigation consistent with someone who might be
25 hiding something?

1 A. Yes, sir.

2 Q. And did you actually find drugs in the house?

3 A. Yes, sir.

4 Q. And did you need hours and hours of
5 surveillance to do that?

6 A. No, sir.

7 MR. SANCHEZ: Pass the witness.

8 MR. VAN BUREN: Your Honor, if I may?

9 **CROSS-EXAMINATION**

10 BY MR. VAN BUREN:

11 Q. Of course, the key aspect to that last question
12 were the defendant's actions. In other words, there
13 were multiple people known to be at that residence;
14 correct? And you agreed with the statement, defendants'
15 plural, multiple people?

16 MR. SANCHEZ: Objection, Your Honor. That
17 was a possessive term that I used, not a plural.

18 THE COURT: All right. Sustained.

19 Q. (BY MR. VAN BUREN) And it's not uncommon for
20 several people to hang out in one location, correct?

21 A. Yes, sir.

22 Q. And specifically in this trade, correct?

23 A. Yes, sir.

24 Q. And the key is, as an officer when you have
25 several people hanging out, is to determine who is

1 responsible for the narcotics when there's several
2 people hanging out; correct?

3 A. Yes, sir.

4 Q. And you stated that drug dealers often don't
5 have money on them. That's not correct, is it?

6 A. If you sling a lot, yes, it is correct most of
7 the time.

8 Q. Well, isn't it one of your greatest pieces of
9 evidence in your experience is when you catch someone
10 with small denominations of bills in their pocket?

11 A. They're usually small-time dealers, yes, sir.

12 Q. In this instance your testimony has been one of
13 the greatest reasons that there's drug activity going on
14 is all of the foot traffic, correct?

15 A. Yes, sir.

16 Q. You would agree with me that they're not moving
17 kilos of cocaine in that foot traffic, correct?

18 A. Yes, sir.

19 Q. So these are what we would consider small-time
20 instances, people coming in and purchasing small amounts
21 of narcotic, correct?

22 A. Yes, sir.

23 Q. Which would equate to small denominational
24 bills, correct?

25 A. Yes, sir.

1 Q. And if you have somebody who is just selling
2 small amounts of narcotics with small denominational
3 bills it's not unusual for them to have that money on
4 them; correct?

5 A. Yes, sir. If it's taking place inside of the
6 house, he can also stash it in his house.

7 Q. You continued to state or you stated in that
8 picture that we just got today that that is the
9 suspect's house, correct?

10 A. Yes, sir.

11 Q. But there is no direct evidence that states
12 that that is the suspect's house?

13 A. No, sir. The house is not in his name. No,
14 sir.

15 MR. VAN BUREN: Pass the witness, Your
16 Honor.

17 MR. SANCHEZ: No further questions for
18 this witness.

19 THE COURT: Is he to be excused?

20 MR. SANCHEZ: Yes, Judge.

21 THE COURT: Any objection?

22 MR. VAN BUREN: No, sir.

23 THE COURT: You are excused, sir. Thank
24 you for your testimony.

25 Call your next witness, please.

1 MR. SANCHEZ: State calls Will Domilos.

2 THE COURT: Thank you.

3 (Witness sworn.)

4 THE COURT: All right. From the State,
5 please.

6 **WILL DOMILOS,**

7 having been first duly sworn, testified as follows:

8 **DIRECT EXAMINATION**

9 BY MR. SANCHEZ:

10 Q. Would you state your name for the record?

11 A. Will Domilos.

12 Q. How are you employed, Officer Domilos?

13 A. I'm a patrol officer with the City of Humble.

14 Q. What is your current assignment with the City
15 of Humble?

16 A. Day shift patrol.

17 Q. How long have you been with the City of Humble?

18 A. 16, 17 years, approximately.

19 Q. Now, I want to turn your attention to December
20 of 2013. Were you working an investigation that day?

21 A. Yes, sir.

22 Q. Okay. What kind of investigation was that?

23 A. I was assigned to the Harris County Narcotics
24 Task Force.

25 Q. And when you say "task force" what do you mean?