

1 at the residence?

2 A. I can't say that I recall seeing a specific
3 cell phone, no, sir.

4 Q. Did you conduct any kind of search to
5 determine who was connected to the residence, mail or
6 documents?

7 A. I personally did not.

8 MR. GAISER: I pass the witness.

9 THE COURT: Mr. Rogers?

10 MR. ROGERS: No further questions, Your
11 Honor.

12 THE COURT: All right. Thank you for
13 your time, sir. You can step outside.

14 Call your next witness, please.

15 MR. ROGERS: Your Honor, the State calls
16 Officer Valle to the stand.

17 MAURICIO VALLE,
18 having been first duly sworn, testified as follows:

19 THE COURT: Mr. Rogers?

20 MR. ROGERS: Thank you, Judge.

21 DIRECT EXAMINATION

22 BY MR. ROGERS:

23 Q. Good afternoon. Will you introduce yourself
24 to the Court, please?

25 A. Yes, sir. Good afternoon. My name is

1 Mauricio Valle.

2 Q. And, Officer Valle, how are you employed?

3 A. With the Houston Police Department, sir.

4 Q. How long have you been with the Houston Police
5 Department?

6 A. Just over eight and a half years.

7 Q. And where are you assigned with the Houston
8 Police Department?

9 A. To the narcotics division.

10 Q. What are your responsibilities in the
11 narcotics division?

12 A. Enforce -- I'm on a street-level squad.
13 Enforce complaints, follow up on complaints, serve
14 search warrants, conduct buy/busts as needed and any
15 other complaints that I have assigned to take care of,
16 follow up on investigations.

17 Q. And in brief, do you have training in regards
18 to narcotics particular -- particularized for your job?

19 A. Yes, sir, I do.

20 Q. What kind of training do you have?

21 A. Well, our training starts actually in the
22 academy with the recognition of narcotics. And once we
23 go from there, we gain experience through arrests, past
24 arrests made. It just depends on the street, coming
25 across it. Once we come into the division, the

1 specialized training we receive there as far as how to
2 execute search warrants, certain tactics we use and
3 SOPs within our division as far as how we do things.

4 Q. And do you have any particularized training in
5 regards to detecting the sale or intent to deliver
6 narcotics?

7 A. Yes, sir.

8 Q. Can you briefly speak about that training?

9 A. Well, the training on that comes from, again,
10 being told and experience and being -- coming across
11 it. As far as how we're told when -- what we -- what
12 we come across to suspect to be in possession with
13 intent to deliver or sale, in the manner it's packaged,
14 the type of baggies, the quantity, amount and the type
15 of narcotic that it is. What is the -- if it follows
16 pretty much the guidelines of what we've been told or
17 come across, that's -- that's why we determine if it's
18 -- we believe that the person is in possession with
19 intent to sell or deliver.

20 Q. Can you describe these baggies that you
21 mentioned?

22 A. Well, for instance, if there's a certain
23 amount of narcotic -- for instance, I'll say powder
24 cocaine. If there's a certain amount that's more than
25 a usable amount and it's individually packaged, a lot

1 of times that leads us to believe that the person could
2 be in possession with intent to sell or deliver.
3 That's -- that's one of the factors. It's a totality
4 of the circumstances.

5 Q. How does weight of a narcotic consider into
6 your analysis?

7 A. How much -- how much weight it is -- it's no
8 exact weight per se. It could be a small amount. But
9 if it's individually packaged, then a lot of times
10 that's indicative of -- of a resale. If it's
11 individually packaged, in let's say quarter gram per se
12 -- again, it just depends on the situation. Not every
13 situation is the same. But that's one of the
14 indicative -- is the amount as to personal use. You
15 know, you've got two baggies, we argue personal use.
16 But when you have somebody who's in possession of
17 multiple baggies and they're about the same amount,
18 that looks to be more of an intent to sell or
19 distribute versus a small amount, which might just be
20 one or two baggies or so.

21 Q. And you mentioned the bags. What other kind
22 of paraphernalia, if any, do you come across on these
23 cases where there's an intent to sell?

24 A. A lot of times we come across scales. That's
25 one thing. Scales or sometimes even ledgers may have

1 -- may have note it down as far as amounts. The other
2 one would be the suspect -- once they're arrested, if
3 we see that they have previous possession cases, that's
4 another indicative measure that we use. Again, it's
5 just taking in the whole picture as to what we see.

6 Q. And does that include the possible discovery
7 of any kind of firearms?

8 A. Yes, sir.

9 Q. And why do firearms matter?

10 A. Well, most of the times in my personal
11 experience and even in training, when you come across
12 suspects who you believe that are in possession of
13 narcotics with intent to sell or deliver, a lot of
14 times they're armed. And reason being is for their own
15 protection usually from -- from other -- somebody else
16 who may try to steal their narcotics because it is
17 valuable to them.

18 Q. And what about dogs, particularly like a pit
19 bull? Have you seen those in your experience as a
20 narcotics officer?

21 A. Yes, sir. Sometimes with some of these
22 residences that we may serve these search warrants in,
23 they may have dogs that are sometimes chained up,
24 sometimes loose. They'll have multiple dogs. A lot of
25 times, it's a deterrence or it could be there for

1 protection for them as well.

2 One other thing I forgot to mention, sir,
3 is on the -- another measure that we use to determine
4 to -- excuse me -- the intent to deliver or sell would
5 be if we -- when we find money. And the money a lot of
6 times -- especially if it's small baggies, the
7 denomination will be a bunch of small denominations,
8 maybe five's, 10s and 20s. Multiple -- multiple
9 amounts of -- a large amount of money in small
10 denominations is another sign of intent to sell or
11 deliver that we use.

12 Q. And these different things, are these all
13 things that you'll consider when you're conducting
14 these investigations?

15 A. Yes, sir. We take the totality of the
16 circumstances. It's not just one thing per se that we
17 may see. It's the whole picture as to what will
18 determine whether we believe the person is in
19 possession with intent to sell or deliver.

20 Q. And these different things, do they apply just
21 a particularized drug, like cocaine or do they apply to
22 cocaine, methamphetamine and other drugs?

23 A. No, sir. Normally they -- they apply to all
24 -- pretty all drugs.

25 Q. So, Officer, would you have been working on

1 June 18th, 2014?

2 A. Yes, sir.

3 Q. And particularly, would you have been at 12407
4 West Village Drive?

5 A. Yes, sir.

6 Q. And that's located in Harris County, Texas?

7 A. Yes, sir.

8 Q. What was your reason for being there?

9 A. Well, I was assisting officer Elkin in serving
10 a narcotic search warrant.

11 Q. And so, when you say that you were assisting
12 Officer Elkin, particularly what was your -- your job
13 for this case?

14 A. Well, as Officer Elkin is case agent, he'll
15 ask or designate who does what in his unit. And at the
16 time being in his unit, my job was to breach the door
17 for that particular location.

18 Q. To do what?

19 A. Breach the door.

20 Q. And what does that mean?

21 A. Well, what that means is sometimes some of
22 these residences, they're secure with either burglar
23 bars or they'll have obstacles in the way. They'll
24 have multiple doors. So, what I do is I usually have
25 the -- we call it the Moby, but it's a small battering

1 ram. And once -- when we serve these search warrants,
2 I'll break the door in as well, is what I'll do. I'll
3 force it open, is essentially what I do.

4 Q. And do you recall on this particular day, did
5 you have to force the door open?

6 A. No, sir, I did not.

7 Q. And why was that?

8 A. Because as -- right when we made the corner as
9 we were coming to the front door, the defendant was
10 exiting the door. So, therefore, it was open. I
11 didn't have to breach it.

12 Q. And did you personally see the defendant
13 leaving the residence?

14 A. Yes, sir.

15 Q. And that person that you saw leaving the
16 residence, is he -- do you see him in the courtroom
17 today?

18 A. Yes, sir, I do.

19 Q. And would you identify him by where he's
20 sitting and by an article of clothing he's wearing?

21 A. To my right, sir, in the orange jumpsuit.

22 MR. ROGERS: Your Honor, may the record
23 reflect that the witness has identified the defendant
24 in open court?

25 THE COURT: It will.

1 Q. (BY MR. ROGERS) So, as you rounded that
2 corner, Officer, what happened after that?

3 A. Well, I -- I noticed that the door was open.
4 So, what I did is I dropped -- I dropped -- let me
5 reflect this.

6 As I was dropping the Moby, the battering
7 ram -- as I was dropping that, the other officers were
8 passing me up to go inside the door and then the other
9 ones were detaining the defendant outside. And then
10 once -- once -- as I'm dropping the Moby -- once they
11 pass me up, I try to fall in the stack as quickly as
12 possible.

13 Q. So, what's the goal at this point?

14 A. Well, the goal at this point once -- once we
15 enter the residence is to secure residence and anybody
16 that could be in there or standing around it right
17 outside.

18 Q. How do y'all go about doing that?

19 A. Well, we usually -- we fall in -- as me being
20 the Moby, using the battering ram -- because I don't
21 have a weapon out, I'm usually -- I have to wait till
22 the guys pass me up as I'm dropping off -- as I'm
23 setting it on the ground or dropping it, whichever it
24 may be. And then as coming out with my weapon, then I
25 fall in the stack.

1 Once we go in, then that's what we use
2 the specialized training I was talking about earlier,
3 how to clear -- how to clear structures. Once we go
4 in, somebody may break off into the living room,
5 stairs, cover down on a hallway until we clear a
6 certain section. And we just go from clearing --
7 clearing a residence from there.

8 Q. So, at that point when you say clearing a
9 residence, you-all are trying to see if there's anyone
10 else in the house that potentially may pose a threat;
11 is that right?

12 A. That's correct, sir.

13 Q. During that search, did you find anybody?

14 A. No, sir, not inside the residence.

15 Q. And during that time, do you recall anyone
16 else inside, other than police officers, leave the
17 residence?

18 A. No, sir.

19 Q. So, now once that search is conducted, what is
20 the next step for you?

21 A. Well, next step for us is we'll ask the case
22 agent hey, what do you need? Where do we go from here?
23 And sometimes they will tell us hey, let's wait for a
24 dog. Sometimes they'll say -- in this instance, the
25 narcotics were out in plain view. Let me recover

1 what's in plain view. And then once the dog gets --
2 once the dog gets here, we'll let the dog do the
3 search. And then we'll search after the dog --
4 wherever the dog may alert. And we'll start the
5 residence.

6 Q. Now, if I heard correctly, you said in this
7 case the narcotics were in plain view; is that right?

8 A. Yes, sir.

9 Q. Do you recall where in the residence the
10 narcotics were?

11 A. Yes, sir. As soon as you went in the
12 residence, straight ahead was a -- like a kitchen. And
13 there was a little bar kind of open window and there is
14 where it was sitting on top of the counter.

15 Q. Officer, I'm showing you what's already in
16 evidence as State's 13. Is that the area of the
17 residence that you're talking about?

18 A. Yes, sir.

19 Q. And once seeing this in plain view, what, if
20 anything, does that tell you as an officer?

21 A. Well, that -- being out in plain view and in
22 the open, I mean, it's not even concealed, tells me a
23 couple of things. One is whoever is in the residence
24 is most likely to have knowledge about it because it's
25 -- it's just out in the open. It's not concealed.

1 Two, as you can see what I was talking about earlier,
2 the smaller white -- those are small white crack
3 cocaine rocks. A lot of time when they're like this,
4 that means they're being individually packaged for
5 resale. And then the firearm, of course, that's
6 another indicator of having something for protection.

7 Q. So, now, what is the team doing at this point?

8 A. Well, at this point -- well, like I said,
9 what's out in plain view, any weapons, narcotics, we go
10 ahead and -- at the direction of the case agent, we go
11 ahead and recover it. And the case agent on this one
12 recovered this. So, he'll secure everything. And once
13 we secure it, we'll just wait for the dog just in case
14 there might be something else that's hidden. Because
15 we don't -- we don't always find everything on the
16 initial -- when we're clearing a house, we may not
17 always seeing everything. There may be other things
18 that are hidden. And then we'll -- once the dog alerts
19 in certain places, then we'll, you know, look there and
20 then look in the rest of the house.

21 Q. So, you said the case agent will secure it; is
22 that correct?

23 A. Yes, sir.

24 Q. What does that involve? What does that mean?

25 A. What he'll do is he'll come in -- actually let

1 me backtrack.

2 We'll take pictures as on this instance.

3 I recall -- I'm not sure, but I believe that my
4 supervisor -- our supervisor at the time took the
5 photographs of the scene. And he'll usually photograph
6 the scene, anything that's out in plain view.

7 Then we'll -- by secure he'll collect,
8 he'll note down, we'll put in -- we have like Ziploc
9 bags. And the common practice for us will be gather
10 the narcotics. We'll start separating it and putting
11 it in Ziploc bags and maybe write down on the bag where
12 it was found. And so, that way it just keeps
13 everything more organized. We know we're all on the
14 same page as far as hey, this was found -- this was
15 found here, just to note it down. And then having the
16 pictures as well.

17 And so, what will happen is we'll secure
18 it. Put in a -- put in our box. We have a tin box we
19 carry. And then we'll keep it together and put it in
20 the van and lock it up.

21 Q. So, who if anyone or -- if you know, who would
22 Officer Elkin give that responsibility to in regards to
23 the narcotics that are found?

24 A. Well, he maintains custody of it up until --
25 throughout the scene. Once we return to the office,

1 usually as a unit -- because there's so much paperwork
2 involved, somebody will -- he'll start designating hey,
3 who can help out with what.

4 So, in this instance, my task was to do
5 the forms and weigh in and testing of the narcotics.
6 So, in this case once we got to the office, I conducted
7 the field-test. I weighed the narcotics. And I sealed
8 it in the envelopes to be tagged at the narcotics lock
9 box down at 1200 Travis.

10 Q. And those envelopes that you mentioned, would
11 that contain your handwriting?

12 A. Yes, sir.

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

14 THE COURT: Yes, sir.

15 Q. (BY MR. ROGERS) I'm showing you what's marked
16 for identification -- well, marked for identification
17 purposes as State's Exhibit 26-A. Can you explain what
18 that is?

19 A. Okay. What this is -- this is the envelope
20 that we use. And then we'll write -- we'll write down
21 the pertinent information. It's -- well, just fill in
22 the blanks. And as you can see here, case number, any
23 defendant -- excuse me -- or suspect at the time we're
24 linking the evidence to the offense what they're being
25 charged with, the location, the date and the time and

1 approximate weight and then the signature.

2 Q. And then this writing that we see, is that
3 your handwriting?

4 A. Yes, sir, it is.

5 Q. And then particularly, if you look inside of
6 State's 26-A and look at State's Exhibit 26, what is
7 that?

8 A. That -- what I was talking about earlier, once
9 we start weighting it, what we'll do is we'll write
10 down the weight of the narcotics. Sometime we'll write
11 it down where it was found. Sometimes we'll write down
12 the weight on it. It just -- it just depends. There's
13 no -- there's no exact -- whoever is preparing it --
14 it's no exact definition of how you have to -- how it
15 has to be done, what you write on there. It's more
16 mainly for notes -- what we'll do.

17 Q. And then this handwriting that we see on
18 State's Exhibit 26, do you recognize that handwriting?

19 A. Yes, sir.

20 Q. And whose handwriting is it?

21 Well, let me ask you: Is this your
22 handwriting?

23 A. Sir, I don't recall this being my handwriting.

24 Q. Okay.

25 A. It might have been --

1 MR. GAISER: Object to speculation.

2 THE COURT: Sustained.

3 Q. (BY MR. ROGERS) In regards to State's
4 Exhibits 27-A --

5 A. Yes, sir.

6 Q. Let me show you that. What is that?

7 A. The same thing as that, the envelope with the
8 evidence in it.

9 Q. All right. And do you recognize the
10 handwriting on this --

11 A. Yes.

12 Q. -- which is 27-A?

13 A. Yes, that's my handwriting.

14 Q. All right. State's 28-A?

15 A. Same, my handwriting.

16 Q. And then same thing for State's Exhibits 30-A,
17 State's Exhibit 32 -- and State's Exhibit 32?

18 A. Um-hum. Yes, sir, my handwriting.

19 Q. And these would have all been collected from
20 the residence on that day?

21 A. Yes, sir.

22 Q. Now, these items, would they have been given
23 you by Officer Elkin?

24 A. Yes, sir.

25 Q. And once Officer Elkin gives you these items,

1 what are you to do with them?

2 A. Put them in the --

3 MR. ROGERS: May Your Honor, may I
4 approach?

5 THE COURT: Yes, sir.

6 Q. (BY MR. ROGERS) Officer, we already talked
7 about 27-A, which was the outside. I now want to talk
8 particularly about the inside of it, State's Exhibit
9 27. What do we see here?

10 A. Notes written on the bag.

11 Q. All right. And would this be one of the
12 objects or one of the things that Officer Elkin would
13 have given to you on that day?

14 A. Yes.

15 Q. Same thing for 28-A. You've already
16 identified it by your handwriting; is that right?

17 A. Yes, sir.

18 Q. Then in regards to the contents 28-A --

19 A. Same bag with notes.

20 Q. So, in regards to -- we see State's
21 Exhibit 28. Would this have been given to you by
22 Officer Elkin?

23 A. Yes, sir.

24 Q. And then on Exhibits 32-B and 32-A, what are
25 -- what do we see here?

1 A. Same thing -- well, marijuana. It's the
2 narcotics again with notes written on it. I was saying
3 where it was found, approximate weight.

4 Q. And would these items have been given to you
5 by Officer Elkin?

6 A. Yes, sir.

7 Q. And then finally State's Exhibit 21 -- excuse
8 me -- State's Exhibit 29 and State's Exhibit 30?

9 A. That's the same narcotics with notes written
10 on the bags.

11 Q. And these items, would they have been given to
12 you by Officer Elkin?

13 A. Yes, sir.

14 Q. So, then just to be clear, all these objects
15 that we've -- that you just testified to, they would
16 have been handed directly to you from Officer Elkin?

17 A. Yes, sir.

18 Q. What condition or state would the items have
19 been handed to you?

20 A. I don't understand your question, sir.

21 Q. So, in other words, how are they packaged when
22 they're given to you by Officer Elkin?

23 A. In plastic baggies. We've got different size
24 baggies.

25 Q. And what are you to do once you receive these

1 items from Officer Elkin?

2 A. Well, once I receive them from him, that's
3 when I start completing the forms. The -- this -- that
4 envelope and there's actually another form that goes
5 stapled onto the front. And I complete that. I will
6 complete that form. And it has the same -- the same
7 information that's on there, it's the same thing. It's
8 typed out. It's a -- it's a template and then we fill
9 in all the blanks. And then that goes stapled to the
10 front and that's for the lab.

11 Q. And so, you would have been the one that would
12 have personally filled all this out?

13 A. Yes, sir.

14 Q. And then once you fill that out, what's the
15 next step?

16 A. I just maintain care, custody and control
17 until I go to 1200 Travis. And whether that be right
18 there sitting next to me on the desk or if I leave
19 immediately, I take it with me. And put it in the car
20 next to me and drive down to 1200 Travis and put it in
21 the lock box.

22 Q. And now, when you put it in the lockbox, is it
23 secured in any kind of way?

24 A. Yes, sir, it is.

25 Q. Explain to the Court, how is it secured?

1 A. Okay. Well, first to get into the building,
2 we have to scan into the building to get in. So,
3 that's one measure. So, I scan in. I enter the
4 building. Once I enter the building, there's an
5 officer that's working at the desk. And I have to scan
6 in there again. So, that's another measure of
7 security. Once I do that, I have to go to the window
8 to where the officer is on the back side after I scan
9 in. And I have to tell them what I'm there for.

10 The officer recognizes me. So, he knows
11 what I'm there for. So, then he'll reach into the
12 counter that's behind the glass where I'm at. And so,
13 he'll reach in and grab a key. He'll put the key in
14 the tray that goes under a window. And then there's a
15 sign-in log. So, once you get the key from him, you've
16 got to sign your name and where you work, your payroll
17 number. And you've got to sign the time in.

18 Once I -- once I do that, I go with the
19 key. Go down the hallway. There's a room that's
20 locked at all times and you need the key to get in.
21 Once you enter that room, once again, there's a --
22 there's one box where small envelopes or boxes may fit.
23 And then there's like larger boxes -- metal boxes as if
24 you have any larger items. And so, what you do from
25 there -- there's -- there's another log in there. You

1 have to again sign your name, date and time, case
2 number and how many envelopes or boxes you're
3 submitting into that -- the tag-in box for that
4 particular incident. And once you're done with that,
5 you've got to go and sign back out and return the key.

6 Q. Do you recall if you would have done all of
7 those things in this particular case?

8 A. Yes, sir.

9 Q. Do you recall off the top of your head on what
10 date that would have been? If you recall.

11 A. Well, if I tagged it after midnight, it would
12 be the next -- the log would read the next date.

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

14 THE COURT: Yes, sir.

15 Q. (BY MR. ROGERS) Again, showing you those same
16 exhibits. On the back here on -- just to be clear for
17 exhibits, 27-A, 28-A, 32, 26-A, 30-A, on the back of
18 each one of those what do we see?

19 A. What that is is the -- once I put the evidence
20 in there and -- that's the last step to seal it up.
21 Close the lip on it. I put tape. And then I've got to
22 sign my initials and the date that I completed this.

23 Q. Okay. And so, is that what we see here on
24 these exhibits?

25 A. Yes, sir.

1 Q. And those letters, are those your initials?

2 A. Yes, sir.

3 Q. So, the date that we see, would be the date
4 that you would have dropped it off at 1200 Travis?

5 A. Well, again, sir, if I dropped it off after
6 midnight, it wouldn't -- on the log in, it would read
7 the 19th. Because sometimes that can happen if we run
8 a search warrant in the evening and it may carry -- say
9 the 18th. And by the time we get done with paperwork
10 and go down to tag it, it may be midnight or it maybe
11 12:30 and the log would read the 19th.

12 Q. Okay. And so, what date do we see here?

13 A. The 18th, sir. The 18th is the day that I
14 completed this.

15 Q. And in particular, is that June 18th?

16 A. Yes, sir.

17 Q. 2014?

18 A. Yes, sir.

19 MR. ROGERS: Pass the witness, Your
20 Honor.

21 MR. GAISER: I'd like to reserve
22 cross-examination of this witness, Your Honor.

23 THE COURT: All right. If you'll step
24 outside, please. Thank you.

25 THE WITNESS: Thank you.

1 THE COURT: Call your next witness,
2 please.

3 MR. ROGERS: Your Honor, the State calls
4 Mona Colca to the stand.

5 MONA COLCA
6 having been first duly sworn, testified as follows.

7 THE COURT: Mr. Rogers?

8 MR. ROGERS: Thank you, Judge.

9 DIRECT EXAMINATION

10 BY MR. ROGERS:

11 Q. Good afternoon. Will you introduce yourself
12 to the Court, please?

13 A. My name is Mona Colca.

14 Q. And, Ms. Colca, how are you employed?

15 A. I'm a forensic analyst with the Houston
16 Forensic Science Center.

17 Q. How long have you been with the Houston
18 Forensic Science Center?

19 A. In August it will be 10 years.

20 Q. And what kind of training and education did
21 you have to have to become -- to work with the Houston
22 Forensic Science Center?

23 A. I have a Bachelor's Degree in chemistry from
24 Texas State University. I also received training with
25 the Houston Police Department Crime Laboratory,