

1 **THE DEFENDANT:** Yes, ma'am. Thank
2 you.

3 **(Jury enters the courtroom)**

4 **THE COURT:** Thank you. Please have a
5 seat. And jurors, thank you for your patience. I'm
6 sorry I had to work on several other cases over the
7 lunch hour and they took much longer than we
8 anticipated. So, thank you for your patience. This
9 officer has been called to the witness stand. Would
10 you raise your right hand, please. Look at the jury
11 so they can see you.

12 **(Witness Duly Sworn)**

13 **THE COURT:** Thank you, sir. You may
14 have a seat right here. Thank you. You may begin.

15 **MR. DRIVER:** Thank you, Your Honor.

16 **JUSTIN WARE,**

17 having been first duly sworn, testified as follows:

18 **DIRECT EXAMINATION**

19 **Q. (BY MR. DRIVER)** Please introduce yourself
20 to the jury and spell your name for the court
21 reporter.

22 A. Officer Justin Ware, J-U-S-T-I-N, W-A-R-E.

23 **Q.** Officer Ware, how are you presently
24 employed?

25 A. Houston Police Department special crimes

1 division family violence unit.

2 Q. And how long have you been employed with
3 the Houston Police Department in total?

4 A. About five years.

5 Q. And how did you become a police officer?

6 A. Went to the police academy and got
7 certified as a peace officer with HPD, and pretty
8 much went through a six-month probation period and
9 patrol, and I passed it and became an officer.

10 Q. Now, have you had any other educational
11 background?

12 A. Yes, I have a master's in criminal justice.

13 Q. Where is that from?

14 A. University of Houston downtown.

15 Q. Do you have an undergraduate degree?

16 A. Yes. Undergraduate in computer information
17 systems from the University of Phoenix.

18 Q. When did you finish your master's degree at
19 the University of Houston?

20 A. This past December.

21 Q. Tell me a little bit about your duties as a
22 police officer now. What do you do?

23 A. Right now I'm assigned to family violence,
24 and I investigate family violence incidents with
25 patrol officers. I make reports, the reports get

1 sent to my office, and my supervisor assigns me a
2 report as a case to work. And I do follow-up
3 investigation, gather up evidence, interview
4 complainants, interview suspects, and I get
5 subpoenas, execute warrants. Just anything I need to
6 do to complete my case.

7 Q. Do you focus on any particular area of town
8 or all over?

9 A. Right now I focus on just the majority the
10 west part of town.

11 Q. Do you recall where you were assigned back
12 in June of 2010?

13 A. I was assigned to the investigative first
14 responder division. It's a uniformed investigative
15 division on the east side of town.

16 Q. All right. Describe this investigative
17 first responder a little bit more to the jury.

18 A. The investigator first responder is a
19 division where we're in uniform, we drive regular
20 patrol cars, not in plain clothes, and we answer
21 calls for service. When somebody dialed 911, we show
22 up, but when we show up, we do the initial report,
23 and we do the ongoing investigation. So, we don't
24 just show up and write a report and send it up for
25 investigation, we do it ourselves.

1 Q. So, whereas another case, normal case,
2 might have some patrol officers respond and then a
3 detective is later assigned to do some follow-up, you
4 take it from the ground up?

5 A. Yes. I do the original report, and I move
6 on from there and do everything that needs to be done
7 for the investigation as opposed to just doing the
8 report and transmitting it and going to the next call
9 like a regular officer does.

10 Q. So, kind of having a patrol officer and
11 detective rolled up into one job?

12 A. Yes.

13 Q. How long did you do that for?

14 A. A little over two years.

15 Q. What other divisions have you been assigned
16 to while in HPD?

17 A. I started in patrol, and then I got
18 promoted to the investigative first responder
19 division, and then I recently got promoted to family
20 violence.

21 Q. I want to draw your attention specifically
22 to June 30, 2010. Were you on duty that day?

23 A. Yes.

24 Q. Do you recall being called out to
25 investigate a burglary or a robbery over on the east

1 side of town that day?

2 A. Yes, I was.

3 Q. Tell me where you were when the call came
4 in and where you responded to, and that sequence of
5 events.

6 A. Well, at that time, I was -- would have
7 been somewhere in my district, which is called 11
8 District. I don't know exactly where I was when the
9 call came in, but we got the call over the radio. It
10 was a code 1 call of a robbery in progress, which
11 means that we have to get there as soon as possible
12 by using lights and sirens. So, when I got the call,
13 I volunteered for it on the radio, and then I headed
14 that way, you know, as fast as I safely could.

15 Q. And do you recall where you ultimately
16 ended up finding the scene?

17 A. I arrived on the scene at the residence
18 where the scene occurred, because over the radio, the
19 other officers that were assisting had already caught
20 the suspect. He was not at the location. He had ran
21 from the location, so they caught him.

22 Q. Okay. So, the original call sent you to
23 one particular place, but then you hear that they
24 have caught the guy and took him back to the original
25 scene?

1 A. Yes.

2 Q. And is that where you went?

3 A. Yes.

4 Q. And what kind of a scene was that?

5 A. It was a residence where the -- it had
6 appeared that the house had been broken into.

7 Q. And that's a burglary?

8 A. And a burglary in criminal justice
9 parlance, right?

10 Q. What did you do when you first showed up at
11 the scene?

12 A. When I got to the scene, the patrol
13 officers had the suspect in custody and they were
14 bringing him back to the scene, so I went to speak
15 with the complainant and the witnesses.

16 Q. And did you interview every -- all the
17 witnesses and the complainant?

18 A. I -- I believe -- I believe so. I
19 interviewed the neighbor, I interviewed the
20 complainant who owned the residence, and I
21 interviewed the complainant who chased the suspect on
22 his bike.

23 Q. And did you -- do you speak Spanish?

24 A. No.

25 Q. Did you have some assistance, someone who

1 does?

2 A. Yes. One of our supervisors, he spoke
3 fluent Spanish, and he assisted me in interviewing
4 the witnesses.

5 Q. And based on that conversation and their
6 interviews, did you feel like you had a pretty good
7 understanding of what had happened?

8 A. Yes.

9 Q. Did you go into the residence?

10 A. Yes.

11 **MR. DRIVER:** May I approach the
12 witness, Judge?

13 **THE COURT:** Granted.

14 Q. **(BY MR. DRIVER)** When you arrived on the
15 scene, this is State's Exhibit No. 2, does this look
16 familiar to you?

17 A. Yes.

18 Q. Is that the residence that we are -- you
19 were describing earlier?

20 A. Yes.

21 Q. And when you first arrived, did you notice
22 something about the windows?

23 A. The window was damaged and opened.

24 Q. And what kind of damage was done?

25 A. Part of the window was -- glass was

1 shattered and broken.

2 Q. Let me show you State's Exhibit 3. Based
3 on the type of damage you saw, is that consistent
4 with a break-in or a burglary?

5 A. Yes.

6 Q. And did you go on into the residence at
7 that point?

8 A. Yeah, I inspected the inside also.

9 Q. Let me show you State's Exhibit 11. What
10 are we looking at here?

11 A. That's a door to one of the bedrooms inside
12 of the residence, and there is -- there is a padlock
13 that had been screwed into the door and into the door
14 frame to secure it.

15 Q. And that's about in the middle of the photo
16 here where I'm pointing, is that about right?

17 A. Yes.

18 Q. And what was the condition of that padlock?

19 A. It was -- it was damaged.

20 Q. What kind of damage was there?

21 A. The screws that held it to the plane was
22 broken, as if somebody had broke the door in and
23 ripped the screws out the wall.

24 Q. And again, is that consistent in your
25 experience with a burglary or a break in?

1 A. Yes.

2 Q. Let's look at State's Exhibit 12. Do you
3 recognize the contents of State's Exhibit 12?

4 A. Yes.

5 Q. And what are we looking at here?

6 A. That's a TV that's sitting in an
7 entertainment center that is obvious that it has been
8 moved. And looks like somebody was moving it, and
9 then they just stopped for some reason.

10 Q. As though they might have been interrupted,
11 perhaps?

12 A. Yes.

13 Q. And let me show you State's Exhibit 18. Is
14 this the individual, a picture of the individual who
15 was detained in the back of the patrolman's car when
16 you arrived at the scene?

17 A. Yes.

18 Q. And do you see that individual here in the
19 courtroom today?

20 A. Yes.

21 Q. Can you point him out for the jury and
22 describe an article of his clothing?

23 A. The gentleman wearing the blue and white
24 striped shirt.

25 **MR. DRIVER:** May the record reflect

1 the witness has identified the defendant?

2 **THE COURT:** Yes, sir.

3 **(Defendant Identified)**

4 **Q. (BY MR. DRIVER)** Did you give the defendant
5 an opportunity to give his side of the story?

6 **A.** Yes.

7 **Q.** During that conversation or whatever took
8 place --

9 **THE COURT:** Approach just a moment,
10 please.

11 **(At the Bench)**

12 **THE COURT:** Are you talking about a
13 conversation in custody?

14 **MR. DRIVER:** I'm not going to ask
15 about anything he said specifically. I'm only going
16 to ask if he -- if he indicated that there was
17 anything about a pawning or anything like that, but
18 I'm not going to ask for a specific comments.

19 **THE COURT:** I know he is supposed to
20 object, but at some point, you know, clearly, a
21 custodial statement and response to custodial
22 interrogation is not admitted, not admissible.
23 Because -- or unless it's in writing or
24 tape-recorded. So --

25 **MR. DRIVER:** It is recorded. But,

1 I -- it is, in fact, recorded. But, he doesn't say
2 anything -- he says he is not going -- he doesn't
3 want to talk. So --

4 **THE COURT:** So --

5 **MR. DRIVER:** Only thing I was going to
6 ask him is did he indicate that there was a pawn, an
7 individual given property or anything like that.
8 That was all. But, I don't have to do it if you are
9 inclined --

10 **THE COURT:** It may be admissible if he
11 takes the stand.

12 **MR. DRIVER:** Understood.

13 **THE COURT:** May be admissible --

14 **MR. DRIVER:** Okay.

15 **THE COURT:** -- in rebuttal.

16 **MR. DRIVER:** All right.

17 **THE COURT:** But, at this time, I'm
18 going to instruct you not to go into any custodial
19 statement, what he did or didn't say.

20 **MR. DRIVER:** Sure.

21 **THE COURT:** Because at that point you
22 have begin to take advantage of the defendant's lack
23 of legal training and knowledge.

24 **MR. DRIVER:** Okay.

25 **THE COURT:** Thank you.

1 **(End of Bench Discussion)**

2 **Q.** **(BY MR. DRIVER)** Were there any other people
3 at the residence where you were investigating?

4 A. Yes. There was the complainant who owned
5 the residence, there was the complainant who chased
6 the suspect on the bike, and there was a number of
7 other police officers, my supervisor, patrol
8 supervisor, one of my partners, and patrol officers
9 came by just, a lot of officers go by to help on high
10 priority calls.

11 **Q.** And once you had taken a look at the scene
12 and once you had had a chance to interview all the
13 witnesses, did you take a look at the property that
14 was recovered from the person of the defendant and in
15 the backpack that was recovered?

16 A. Yes.

17 **Q.** Let me show you State's Exhibit 4. Is that
18 one of the items of property?

19 A. Yes.

20 **Q.** And 5, I guess, is the back side of that
21 same item. Were you able to determine who that
22 property belongs to?

23 A. Yes.

24 **Q.** How -- who -- whose property was it?

25 A. It was the complainant who owned the

1 residence.

2 Q. And is his name Henry Sanchez?

3 A. I don't remember exactly which complainant
4 was which. If I could check my report to make sure.

5 Q. Absolutely.

6 A. Yes, it was.

7 Q. And did Mr. Sanchez show you anything that
8 helped lend credence to what he was telling you was
9 his property?

10 A. Yes. He still had the packages that some
11 of the items came in.

12 Q. So, did you match up some of these
13 electronics with boxes that he still had for the same
14 items?

15 A. Yes.

16 Q. And based on that and his identification,
17 did you give him back his property or did you tag it
18 into evidence? What happened?

19 A. I gave it back -- the property to him.
20 Because, I mean, it was his, and we had recovered it.

21 Q. And looking at State's Exhibit 6 and 7,
22 this is another item that was recovered, correct?

23 A. Yes.

24 Q. And how about items 8, and 9, is that just
25 another item?

1 A. Yes.

2 Q. And then, there is State's Exhibit 10, also
3 some items that he was able to show you that he
4 either had -- they belonged to some of the property
5 that was recovered or maybe to the television or he
6 had boxes for it or something?

7 A. Yes.

8 Q. And you released the property back to its
9 rightful owner?

10 A. Yes.

11 Q. Once you had done that, and you had
12 interviewed the witness, what was your next step?

13 A. After I interviewed the witnesses, and
14 that's when I gave the suspect an opportunity to tell
15 his side and asked, you know, what happened.

16 Q. Okay. And without -- let's not go into
17 anything he may have said. After that happened, what
18 decisions, if any, did you make with regard to the
19 defendant? Did -- in other words, was he under
20 arrest at that point?

21 A. Yes, we detained him until we, you know,
22 called the district attorney's office, and presented
23 all the evidence we had, and they approved charges.

24 Q. And ultimately, he was charged with an
25 offense. And where did he go at that point? Did you

1 take him, did he go with a patrol officer?

2 A. He was in the back of my police car at that
3 point, and a different officer was going to drive him
4 downtown to jail while I completed the charges and
5 the report. So, we took him from my car to my -- one
6 of my partner's cars.

7 Q. Oh. From the time that you arrived on the
8 scene, was the defendant continuously in the custody
9 of the Houston Police Department?

10 A. Yes.

11 Q. And is that area where all this took place
12 in Harris County, Texas?

13 A. Yes.

14 **MR. DRIVER:** Pass the witness, Judge.

15 **THE COURT:** Thank you.

16 Cross-examination, Mr. Morris?

17 **CROSS-EXAMINATION**

18 Q. **(BY THE DEFENDANT)** What is your name, sir?

19 A. Justin Ware.

20 Q. Justin Ware. Detective?

21 A. Just officer.

22 Q. Officer Ware. Officer Ware, at your job,
23 or whatever department you work under?

24 A. Yes, HPD, Houston Police Department.

25 Q. When y'all get these kind of robberies,

1 burglaries and all this other, do y'all not come with
2 equipment and get fingerprints and whatever else?

3 A. There is no concrete rule of what we do
4 with every scene. It's like every -- every scene is
5 dynamic. So, just because one case needs a certain
6 thing, it does not mean a different case needs a
7 certain thing. So, we just go scene by scene and see
8 what we need.

9 Q. Did y'all not do nothing in there -- did
10 y'all not try to take any action as far as finding
11 evidence on maybe -- in any kind of way?

12 A. Well, the evidence that we recovered was
13 all inside of the backpack that was recovered when
14 you were running from the complainant.

15 Q. I mean, that doesn't mean, though, that it
16 could have happened that very moment, right?

17 A. Well, the complainant told me that he --

18 Q. Oh, he --

19 A. He saw you. He said he saw you.

20 Q. Okay.

21 A. And he chased you. Him and his buddy
22 chased you and he -- one of the remote controls, he
23 snatched it away from you while you were running.

24 Q. One of the guys that says that -- he say he
25 chased me and seen me, he couldn't even identify me

1 right now. He didn't identify me.

2 Yeah. I know it. I know. It's
3 getting deep, ain't it? Getting deep.

4 **MR. DRIVER:** Objection to side-bar.

5 **THE COURT:** Sir, don't make comments,
6 just ask questions, please.

7 **Q. (BY THE DEFENDANT)** Do you remember all the
8 things that you recovered from me?

9 A. I don't remember everything or every item.
10 It's in my report. I wrote all of them down.

11 **Q.** Can you -- you don't have them with you?

12 A. Are you asking me to read off the items
13 that I recovered?

14 **Q.** I mean, everything that you recovered.
15 Everything. All the equipment, and my clothes, and
16 my bag. Everything. Could you -- the knife and
17 everything. Could you --

18 A. I'm sorry, I don't understand what you're
19 asking me.

20 **Q.** Everything that you recovered, y'all
21 recovered from me, do you have a list of all of that?

22 A. Yes. I have it here in my report.

23 **Q.** Could you read it off?

24 A. We recovered a Phillips antenna, TV
25 antenna, also a Zenith converter and a Sony DVD

1 player. And there was also a 2inch knife was in that
2 black bag.

3 Q. Can you tell me what happened to that
4 2-inch knife in the black bag?

5 A. No, I can't.

6 Q. There was no gloves? Y'all didn't recover
7 no gloves from me?

8 A. Not that I recall.

9 Q. No gloves. Okay.

10 **THE DEFENDANT:** I'm through.

11 **THE COURT:** Thank you. Any redirect,
12 Mr. Driver?

13 **MR. DRIVER:** Just briefly, Judge.

14 **REDIRECT EXAMINATION**

15 Q. **(BY MR. DRIVER)** You did take some evidence
16 from the inside of the residence, right?

17 A. Correct.

18 Q. Namely, you took photographs?

19 A. Yeah. Yes, pictures, yes.

20 Q. Now, I -- you're describing the scenes as
21 fluid and we need just to pick and choose where we
22 use our resources, is that kind of what you are
23 saying?

24 A. Yes. Every scene does not need every
25 resource that we offer.

1 **Q.** Would it, in your opinion, have been useful
2 to have had fingerprints in this case where a citizen
3 following the defendant from the point of the crime
4 to where he was arrested?

5 **A.** No, there was no need for fingerprints.

6 **Q.** Was there any doubt about the identity of
7 the person who had accomplished the crime?

8 **A.** No.

9 **Q.** And is the point of getting fingerprints to
10 establish the identity of a person who committed a
11 crime?

12 **A.** Yes. Whenever the person that committed
13 the crime is not there, we need fingerprints to find
14 out if he was. But, when we, you know, catch him in
15 the act, we don't need fingerprints.

16 **MR. DRIVER:** Pass the witness, Judge.

17 **THE DEFENDANT:** Can I?

18 **THE COURT:** Yes, sir.

19 **RECROSS-EXAMINATION**

20 **Q.** **(BY THE DEFENDANT)** Okay. So, you're
21 telling me, though, if there is no witness that seen
22 you go in there, come out, or even seen you right
23 there in the apartment, and he might even have the
24 stuff?

25 **THE COURT:** Sir, excuse me, that

1 question is he getting to be too long. So, can you
2 simplify it? Getting to be what we call a
3 multifarious question. So, if you can just make --
4 ask one question at a time.

5 **Q. (BY THE DEFENDANT)** I mean, how can you
6 point that on somebody if nobody seen him get that?
7 The property that y'all obtained, that y'all got, how
8 can you say that it was -- just because I had the bag
9 and had all that stuff in it, how could you say that
10 I went in there and got it if nobody seen it? Y'all
11 ain't got no fingerprints, how can you say that?

12 **A.** One of the witnesses saw you enter the
13 house.

14 **Q.** Okay. That's he say/she say. What is she
15 talking about? The one that couldn't -- one said it
16 was face to face with me that didn't even know it was
17 me sitting here just earlier, is that one of the ones
18 you're talking about, Ramirez? Or which one are you
19 talking about?

20 **A.** I don't know which witness said what to you
21 today. I wasn't in the courtroom.

22 **Q.** Okay.

23 **THE DEFENDANT:** I'm through.

24 **THE COURT:** Redirect?

25 **MR. DRIVER:** No more questions, Judge.