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THE COURT: Come forward, sir.

THE BAILIFF: The witness needs to be sworn.

THE COURT: Why don't you come up here to the witness stand and I will swear you in.

(Whereupon the witness is sworn by the Court.)

**OFFICER ALAN WHITLOCK,**

having been first duly sworn, testified as follows:

**DIRECT EXAMINATION**

BY MS. FLADER:

Q. Would you please introduce yourself to the ladies and gentlemen of the jury?

A. My name is Alan Whitlock.

Q. Can you tell us where you are employed?

A. I work for the Harris County Sheriff's Department. I am currently assigned to the Patrol Division, District 2 out in Humble.

Q. Let me back up a little bit. Where were you raised? What part of the country?

A. Just north of Houston, Spring area.

Q. So, you grew up in the Spring area?

A. Yes, ma'am.

Q. Where did you go to school?

1 A. Spring High School.

2 Q. Did you graduate from Spring High School?

3 A. Yes, ma'am.

4 Q. What did you do after you graduated from high  
5 school?

6 A. I spent eleven and a half years with the Texas  
7 Department of Corrections.

8 Q. Where did you work?

9 A. I worked six -- five and a half, six years in  
10 Huntsville; then I worked in Dayton the remainder of the  
11 time.

12 Q. What were your job duties when you worked for  
13 the Department of Corrections?

14 A. I started as a corrections officer, then I  
15 promoted to sergeant, and when I left TDC, I was a  
16 lieutenant.

17 Q. What were your duties? What did you do on a  
18 daily basis?

19 A. Oh, just custody of the inmates. I worked  
20 inside the cellblocks, the daily operations of the jail  
21 actually inside.

22 Q. At some point during your employment there, did  
23 you decide that you wanted to do something else?

24 A. This is something I've always wanted to do is  
25 be a police officer.

1 Q. Did an opportunity arise where you were able to  
2 become a police officer?

3 A. Yes, ma'am.

4 Q. Can you tell the jury about that?

5 A. I left TDC about 2001. At the end of 2000, on  
6 another venture outside of the law enforcement side, that  
7 didn't pan out. So, in 2004, I said, you know, this is  
8 what I've always wanted to do, and I applied with Harris  
9 County in that October of 2004, and I was hired.

10 Q. Why did you always want to work in law  
11 enforcement?

12 A. I believe law enforcement is a calling. It's  
13 just something I've always wanted to do since I was  
14 little.

15 Q. Why do you think it's a calling?

16 A. It takes a certain type, I believe, to be law  
17 enforcement. The stuff we have to see day-in and day-out,  
18 be away from our family, the way we have to be; every  
19 night, leave the house on a nightly basis in a job where  
20 you may not show back up at the house.

21 Q. Why is it so important for you to do that job?

22 A. I believe -- I enjoy helping people, trying to  
23 protect the neighborhood from the crime rate, whether it  
24 goes up, and just to help, just to help the citizens, keep  
25 them safe as I can.

1 Q. I want to back up just a little bit and talk  
2 about your personal life. Are you married?

3 A. Yes, ma'am.

4 Q. And what is your wife's name?

5 A. Gabrielle.

6 Q. Is she in the courtroom today?

7 A. Yes, she is.

8 Q. Would you point to her and identify an article  
9 of clothing that she's wearing?

10 A. She's wearing a black shirt, but I can't see  
11 her because she's behind the box.

12 Q. How long have you been married?

13 A. Nineteen years.

14 Q. Thank you. How old were you when you got  
15 married?

16 A. That's a trick question. I think I was 25. I  
17 guess 25.

18 Q. And while you were married, did you and your  
19 wife Gabrielle start a family?

20 A. Yes, we have.

21 Q. When did you have your first child?

22 A. In October of 1998.

23 Q. And what is that child's name?

24 A. Joshua.

25 Q. Is he in the courtroom?

1 A. Yes, he is.

2 MR. DUARTE: I object at this point, Judge.  
3 This is not relevant and it's improper bolstering.

4 THE COURT: Let's move on.

5 Q. (By Ms. Flader) Is he in the courtroom?

6 A. Yes, ma'am.

7 Q. All right. And do you have any other children?

8 A. Yes, ma'am.

9 Q. What is that child's name?

10 A. Jennifer Nicole.

11 Q. How old is she?

12 A. She's currently six. She will be seven next  
13 Sunday.

14 Q. What is her birthday?

15 THE COURT: I sustained his objection. I  
16 don't know how this is relevant to what we have to do  
17 here. Let's proceed, please.

18 Q. (By Ms. Flader) All right. So, you began  
19 working at the Sheriff's Department in what year?

20 A. 2004.

21 Q. In order to be a sheriff's deputy, did you have  
22 to have certain training and experience?

23 A. Yes, ma'am.

24 Q. Can you tell the jury about that?

25 A. In order to be a deputy, you have to go to the

1 police academy, which is six months long. It was offered  
2 by the Sheriff's Office and it's to license us through the  
3 State of Texas.

4 Q. At the police academy, what kind of things do  
5 you learn?

6 A. We learned the -- just the law, the way the law  
7 applies, the Texas Penal Code, the Code of Criminal  
8 Procedure, traffic law and how to apply it.

9 Q. Do you have any on-the-job training?

10 A. Yes.

11 Q. And when does that happen?

12 A. Once we're assigned to patrol, we spend three  
13 months with FTOs -- a monthly class and then three months  
14 with FTOs.

15 Q. Can you tell the jury what an FTO is?

16 A. FTO is field training officer.

17 Q. Who are the field training officers?

18 A. What do they do? I mean, are they -- I don't  
19 understand the question.

20 Q. Who are they? They just normal deputies?

21 A. Yes, ma'am, they are normal duties. They  
22 usually have a little bit more experience. They've been  
23 trained as far as teaching, doing the job at teaching.

24 Q. So, you do that for three months?

25 A. Yes, ma'am.

1 Q. During that three months, do you ride with that  
2 FTO?

3 A. Yes, ma'am.

4 Q. And do you learn how to do your job?

5 A. Yes, ma'am.

6 Q. When you're a patrol officer, what are your  
7 duties and responsibilities?

8 A. Our duties and responsibilities are typically  
9 calls for service, which is somebody calls in 911 for any  
10 call, we respond to that call with the limited information  
11 we have, handle the situation, traffic -- enforcing  
12 traffic laws, making contacts with citizens.

13 Q. What kind of calls do you get called to?

14 A. It's a wide range. It will be anything from  
15 family disturbances on a nightly basis. We will have  
16 aggravated robberies, we will have shootings, car crashes  
17 we work. Just normal disturbances, and fights,  
18 burglaries, somebody breaks into somebody's house or their  
19 car.

20 Q. And are you the first person that responds to  
21 those calls?

22 A. Yes, ma'am.

23 Q. To 911?

24 A. Yes, ma'am.

25 Q. When you get to a scene, what is your

1 responsibility?

2 A. When we get to a scene, our responsibility is  
3 to usually make contact -- be sure the scene is safe, make  
4 contact, handle the situation. If we need EMS, we will  
5 call medical people. If there is any arrest that needs to  
6 be made, we make an arrest and do a report, if necessary.

7 Q. Also during your shifts, do you -- do you stop  
8 vehicles?

9 A. Yes, ma'am.

10 Q. When you were in your training and experience,  
11 both, in the academy and with your FTO, what were you  
12 taught about conducting a traffic stop?

13 A. Kind of lost? What are you looking for? Are  
14 you looking for the way we do them or --

15 Q. What is important, when you are conducting a  
16 traffic stop, for you to do?

17 A. When we make traffic stops, we are always  
18 cautious. We do try to see the best we can inside the  
19 vehicle. We are taught to position our vehicle typically  
20 a certain distance from the car. We are watching the  
21 movements, using mirrors to see in the car. We watch for  
22 movements in the car. Traffic stops happen to be one of  
23 the most dangerous things we can do because that's just a  
24 random -- not knowing who we are coming across.

25 Q. I want to talk to you about September 1<sup>st</sup> of



1 2011. Do you remember that day?

2 A. Yes, ma'am.

3 Q. Were you going to work that evening?

4 A. Yes, ma'am.

5 Q. What time were you going to work?

6 A. Probably 9:30. I start work at 10:00.

7 Q. How far is your home away from where you have  
8 to report to duty?

9 A. If I had to go get my car, about 12 miles.

10 Q. Before you leave your house, can you tell the  
11 jury the steps that you take, the routine that you have  
12 before you leave to go to work?

13 THE STATE: I object to the routine, Your  
14 Honor. It's not relevant.

15 THE COURT: It's overruled.

16 A. When I -- the first thing I do is I start to  
17 get ready. I get ready pretty much the same way every  
18 night. As I get ready to leave, I'll tell my family -- I  
19 tell my wife or my daughter -- I give them a kiss and tell  
20 them good night; I love them. And if they are awake, they  
21 usually speak back, love you, be safe.

22 MR. DUARTE: Same objection, Your Honor.  
23 Relevance, Your Honor.

24 THE COURT: That objection is overruled. I  
25 will let you discuss your normal routine before you

1 go out. You may proceed.

2 Q. (By Ms. Flader) Go ahead.

3 A. And, then, as I walk past my son's room, he's  
4 usually laying in the bed. I'll tell him I love him and  
5 get the same response from him. Then I'll finish getting  
6 my few things together and I'll leave the house.

7 Q. In terms of your uniform, can you just give a  
8 description to the jury how you put on your uniform every  
9 night? One pant leg at a time?

10 A. I put on one pant leg at a time, just like  
11 everybody else. I'll put my pants on. I'll stand up and  
12 I'll put my vest on, and then my shirt, and my belt, and  
13 make sure everything is in line and ready to go.

14 Q. Tell us about -- tell us about your vest; is it  
15 really comfortable and easy to wear?

16 A. No.

17 Q. Okay. You seem kind of laid back and stiff.  
18 Can you tell us why that is?

19 A. Because of the vest.

20 Q. Okay. Describe the vest to the jury, how it  
21 feels on.

22 A. It's hot, it's bulky, it doesn't give a whole  
23 lot from the top to the front because it's to cover your  
24 whole upper body. When you are sitting down, it sits on  
25 the belt and rises up on your throat. The main thing is

1 that it's extremely hot.

2 Q. Have there been times during your career where  
3 you thought, man, I don't want to wear this tonight?

4 A. Yes.

5 Q. Nights like probably tonight, for example, when  
6 it's nice and hot outside. Okay.

7 So, you went to work that night. Approximately, what  
8 time did you arrive at the station?

9 A. We don't necessarily go to the station. I  
10 start work at 10:00 or as close.

11 Q. Do you drive the car that you are assigned  
12 home?

13 A. Either to my home or to my car sheriff's house.  
14 That's why I said it depends on where I get my car at.

15 Q. Do you know what you did that night?

16 A. No, ma'am.

17 Q. The car that you are assigned, can you describe  
18 that to the jury? Is it an SUV or --

19 A. It's a Chevy Impala. It's a 2008 Chevrolet  
20 Impala.

21 Q. And does it have the decals like the "Sheriff's  
22 Department"?

23 A. Yes, ma'am. It's a marked patrol unit, lights.

24 Q. It has the lights. Do you have any recording  
25 equipment available in your car?

1 A. No video, no, ma'am.

2 Q. Why not?

3 A. I have an older car. Video wasn't installed at  
4 the time my car was put out.

5 Q. Do you currently have a video recorder in your  
6 car?

7 A. No, ma'am. I'm currently driving the same car.

8 Q. And who determines what units get recording  
9 devices and which units don't?

10 A. The people that deal with actually outfitting  
11 the cars. Most of the new cars have them.

12 Q. You don't say, I want an older car that doesn't  
13 have any recording equipment?

14 A. No.

15 Q. You're just assigned the car you are assigned?

16 A. Yes, ma'am.

17 Q. After you arrived at work, and that was -- your  
18 shift began at 10:00 p.m.; is that right?

19 A. Yes, ma'am.

20 Q. A call -- did you get a call at around  
21 2:00 a.m.?

22 A. Yes, ma'am.

23 Q. What time was that call?

24 A. About 2:00 a.m.

25 Q. Where were you dispatched to?

1           A.       We were dispatched to an apartment complex at  
2 1601 Wooded Pine.

3           Q.       Are you familiar with that area?

4           A.       Yes, ma'am.

5           Q.       Can you describe that to the jury?

6           A.       It's off of Hardy Road.

7           Q.       Is it a house?

8           A.       It's an apartment complex.

9           Q.       Apartment complex?

10          A.       Yes, ma'am.

11          Q.       What kind of call were you being dispatched to?

12          A.       It was a -- it was a disturbance call, but it  
13 was coming in from a third party person.

14          Q.       And when you got to that call, did you check it  
15 out and see if there was anything that needed -- you  
16 needed to do in regards to that call?

17          A.       Yes, ma'am. We made -- we went to the door,  
18 knocked on the dark; no response from the door, no  
19 response on the callback when dispatch attempted to call  
20 again. And, so, it was just listed as unfounded.

21          Q.       After you did your job in determining what was  
22 going on with that call, did something happen?

23          A.       Yes, ma'am.

24          Q.       And what was that?

25          A.       As we were walking back to our vehicles --

1 there were a couple of other units with me. As we were  
2 walking back to our vehicles, we heard several rounds of  
3 gunfire coming from east of us.

4 THE STATE: Your Honor, may I approach the  
5 witness?

6 THE COURT: Yes, ma'am.

7 Q. (By Ms. Flader) I am going to show you what has  
8 been previously marked a State's Exhibit 1. You've  
9 already looked at State's Exhibit 1, correct?

10 A. Yes, ma'am.

11 Q. Is this a fair and accurate depiction of the  
12 area that we are going to be talking about?

13 A. Yes, ma'am.

14 Q. Do you believe that it will assist the jury in  
15 understanding your testimony to look at State's Exhibit 1?

16 A. Yes, ma'am.

17 Q. I'm going to ask you to step off the stand.

18 THE STATE: Judge, may the witness step off  
19 the stand?

20 THE COURT: Yes, go ahead.

21 A. (Witness complies.)

22 Q. (By Ms. Flader) Can you just orient the jury as  
23 to what they are looking at in State's Exhibit 1? You can  
24 come on this side, Officer?

25 Q. First, which way is north?

1 A. North is up here.

2 Q. Okay. And which way is south?

3 A. Down this side.

4 Q. And east?

5 A. And east and west.

6 Q. All right. What is this road close to -- about  
7 quarter of the way down on State's Exhibit 1?

8 A. That's FM 1960.

9 Q. And then a little bit down from that,  
10 approximately the middle of the map, what is this road  
11 right here?

12 A. Bammel Westfield.

13 Q. And on the far left-hand side of State's  
14 Exhibit 1, what is this road that that we see coming up?

15 A. That's Hardy.

16 Q. All right. So, if you would, please circle the  
17 apartment complex that you were at when you first got  
18 called out to the scene?

19 A. Right there.

20 Q. And you said that you heard some shots?

21 A. Yes, ma'am.

22 Q. Could you tell where those shots were coming  
23 from?

24 A. Not exactly, but we knew they were coming from  
25 the east end of this.

1 Q. All right. So, looking to the east of the  
2 location where you were called out at, we see a lot of --  
3 are these parking lots? What is all of this in the  
4 middle?

5 A. This is actually -- it's called the Gulf Coast  
6 Toyota Center. They are all Toyota cars that come in on  
7 the trains. That's where they do the processing before  
8 they ship them out. It's a very large business.

9 Q. And, so, do you think that the shots were  
10 coming from that area?

11 A. No.

12 Q. Okay. Looking further east, we see what  
13 appears to be a neighborhood?

14 A. Yes, ma'am.

15 Q. Is that where you believed the shots were  
16 coming from?

17 A. Yes, ma'am, somewhere around in the  
18 neighborhood. And there are some little apartment-type  
19 deals right here.

20 THE COURT: Excuse me. Mr. Duarte, do you  
21 need to go inside the well here to see?

22 MR. DUARTE: Yes, sir, if you don't mind.

23 THE COURT: Go inside the well so you can  
24 see.

25 (Mr. Duarte steps inside the well



1 area.)

2 THE COURT: There you go.

3 THE STATE: Sorry.

4 A. There are some, like, little -- a small  
5 business center. Some people use it as a residential area  
6 here. So, we weren't sure what we heard.

7 Q. (By Ms. Flader) But it appeared, though, the  
8 noises were coming from that neighborhood?

9 A. Yes, ma'am.

10 Q. I'm going to have -- I'm going to show you  
11 State's Exhibit 2. Do you recognize that?

12 A. Yes, ma'am.

13 Q. And is that a fair and accurate map -- more of  
14 a street map of that same location?

15 A. Yes, ma'am.

16 Q. And do you believe it would aid the jury in  
17 understanding your testimony?

18 A. Yes, ma'am.

19 Q. It's a little heavy. All right. In blue, I  
20 would like for you to draw the path in which you took from  
21 that initial call-out. If you could circle that area  
22 where the initial call-out was again.

23 A. (Witness complies). This would be that area  
24 right here.

25 Q. So, when you left that call, which way did you

1 go?

2 A. Come out the street and I went north on Hardy.

3 Q. If you could continue -- continue drawing. So,  
4 you went north on Hardy?

5 A. This is basically my route.

6 Q. Your route.

7 A. North on Hardy to Westfield Loop.

8 Q. Which way did you turn on Westfield Loop?

9 A. We went right to the east. Made a right turn,  
10 drove down Westfield Loop, comes up and there's a street  
11 here, Essman. I made a right on Essman and went back down  
12 to the south.

13 Q. During that path, did you pass any other  
14 vehicles?

15 A. No.

16 Q. What were you looking for? What were you  
17 trying to see at that time?

18 A. At that point, we were just looking for  
19 anything that could be just suspicious, you know, vehicles  
20 that didn't look normal, whether it be the way they were  
21 driving; something suspicious because we had no calls come  
22 out of the area.

23 Q. And this is approximately what time at night?

24 A. Probably around 2:15-ish.

25 Q. All right. So, when you're driving, it's 2:15.

1 It's an early Friday morning at that point?

2 A. Yes, ma'am.

3 Q. Is it common for a lot of people to be out  
4 driving at that time of night?

5 A. No, not in that area.

6 Q. Why not in that area?

7 A. That area is -- normally, it's not very much  
8 activity in that area. We don't get a lot of calls in  
9 that area. So, it's kind of back roads from 1960. It's  
10 more of a back road area.

11 Q. So, at some point while you were driving, did  
12 you encounter any vehicles?

13 A. Yes.

14 Q. And where were you when you encountered those  
15 vehicles?

16 A. Right in here on Essman, right in that area.

17 Q. Describe to the jury what you observed.

18 A. As I was driving south on Essman, I observed  
19 two vehicles approaching; one was the white Cadillac, and  
20 then another one. They were both driving, appear to be,  
21 slow for that area at that time, under the speed limit.  
22 Another vehicle was a black car that was real close to the  
23 other one. They were following real close. And, at that  
24 point, with what we had just heard, it just appeared kind  
25 of suspicious that those cars were that close together at

1 that time of night. This was the only thing we had seen  
2 on the road.

3 Q. When you say "we," who are you referring to?

4 A. Me and the other deputy in the vehicle behind  
5 me.

6 Q. You each are in your own vehicles?

7 A. Yes, ma'am.

8 Q. When you see those two cars, what did you  
9 decide to do?

10 A. I decided we were going to just see what's  
11 going on, try to check and talk to them, make contact with  
12 them and just talk to them, see if they heard anything,  
13 see if they knew anything.

14 Q. After you saw them, did you get behind them?

15 A. Yes, ma'am. I turned around and got behind  
16 them. I got behind the black car.

17 Q. All right. At some point, did you -- you said  
18 that you turned around. So, then, you're heading  
19 northbound on Essman; is that correct?

20 A. Yes, ma'am.

21 Q. At some point, did you have to turn onto  
22 Essman?

23 A. Yes, ma'am.

24 Q. And this is Humble-Westfield Road here close to  
25 the middle of the map?

1 A. Yes, ma'am.

2 Q. And is that where you turned?

3 A. Yes, ma'am.

4 Q. Okay. So, tell us the order of the cars at  
5 that point.

6 A. At that point, the white one was in front, the  
7 black one was behind it. I was behind the black car, a  
8 distance behind. I turned around. I actually turned  
9 around at the road here. By the time I turned, and I  
10 talked to my partner, we drove by each other. The white  
11 Cadillac made a right on Humble-Westfield, the black car  
12 made a left. I told my partner I would go behind the  
13 white car, for him to go behind the black car.

14 Q. So, if you could draw for the jury exact -- the  
15 exact route that you took.

16 A. When I come through here and we passed them, I  
17 turned here, went back this way. Okay. I met him  
18 somewhere right in the center again. Okay. And then I  
19 told him I would go behind the Cadillac. When the  
20 Cadillac turned, a truck passed also. There was one other  
21 vehicle that come from way over here somewhere passed.  
22 The black car turned left. Then I made a right turn this  
23 way, and then I passed the truck and went in behind the  
24 Cadillac.

25 Q. Now, when the Cadillac passes you, did you --

1 did you take note of who the occupants of that Cadillac  
2 were?

3 A. It was hard to look because it is dark. I  
4 didn't spotlight just somebody driving down the road.  
5 They -- one thing I really noticed is they appeared short.  
6 You could really kind of see the heads. They appeared to  
7 be kind of light skin, whether they were black or white.  
8 I may have said maybe they were black, light skin black.  
9 I don't know. At that point, that's what I possibly  
10 thought they were, just what I'd seen as I drove by.

11 Q. So, you really couldn't get a description.  
12 They appeared short. You couldn't tell if they were men,  
13 women, black, white, Hispanic, nothing?

14 A. They appeared to be males from what I had seen,  
15 but as far as a hundred percent, no.

16 Q. Could you tell how many people were in the car?

17 A. At that time, I don't remember whether I recall  
18 there were four or not.

19 Q. Okay. So, you get behind -- you pass the truck  
20 and you get behind the light car?

21 A. Yes, ma'am.

22 Q. What did you do then?

23 A. At that point, I activated my lights to  
24 initiate the traffic stop.

25 Q. Why did you do that?

1           A.       Just to make contact with them, talk to them,  
2 see if they knew anything else, see if they heard  
3 anything, see if they knew anything; just to make contact  
4 with them trying to investigate because we weren't sure if  
5 somebody was dead somewhere. We didn't know.

6           Q.       After you activated your lights, did you also  
7 activate your siren?

8           A.       No.

9           Q.       Why not?

10          A.       Not at that. We don't usually activate the  
11 siren unless they show us that they are not going to stop.  
12 We don't activate the siren behind -- I don't. A lot of  
13 of us don't. We turn on our lights. At that point,  
14 people that are driving see the lights and they pull over.

15          Q.       Also, you're kind of close to a neighborhood  
16 where people are all sleeping?

17          A.       Yes.

18          Q.       And your siren is loud, I'm assuming?

19          A.       Yes.

20          Q.       So, you don't want to wake up people that  
21 aren't involved?

22          A.       I hope not to.

23          Q.       So, you get behind the car, you activate your  
24 lights. What did that Cadillac do?

25          A.       As we come up here, the Cadillac pulled over on

1 the side of the road right there just south of 1960. He  
2 pulled over.

3 Q. What did you do after the Cadillac pulled over?

4 A. At that point, I pulled in behind the Cadillac.  
5 I called out on the radio. I gave the information, the  
6 Cadillac and license plate number, where we were at.

7 Q. Let me stop you. Why do you do that?

8 A. For safety reasons.

9 Q. What do you mean?

10 A. If something was to happen and the car left and  
11 I couldn't get behind it, if something happened to me,  
12 however that may be, then they would have the information  
13 on that car.

14 Q. That's part of your training and experience?

15 A. Yes, ma'am. Also, it tells us when we call out  
16 on it, they will notify us if the car was stolen. That  
17 would be something we'd like to know as we approach the  
18 car also.

19 Q. Because that's an extra level of danger for  
20 you?

21 A. Yes, ma'am.

22 Q. So, as you're pulling behind the car, you're  
23 running the license plate, do you immediately get out of  
24 your car to approach the white Cadillac?

25 A. No, ma'am.



1 Q. Why not?

2 A. As I pull behind, another thing we look for is  
3 just suspicious activity in the vehicle; mainly, furtive  
4 movements, movement suspicious that -- that wouldn't be  
5 normal if somebody is behind me.

6 Q. Let's compare and contrast. When you have a  
7 normal traffic stop, how do the people in the car appear?

8 A. Normally, they are just sitting there. You are  
9 watching the back of their head. They don't typically  
10 move. They sit there just waiting for you to come up to  
11 the car. Sometimes they may reach, and if you see them  
12 reach, you usually -- you can tell they are reaching for  
13 the insurance. But about 98 percent of the time,  
14 99 percent of time they are going to sit there, and they  
15 are going to wait until you ask them for their stuff to  
16 get it.

17 Q. Contrast that with an unusual call.

18 A. An unusual call is if you pull behind them and  
19 their head is moving and they are ducking, not necessarily  
20 they are reaching for the glove box, but just reaching  
21 down toward the seat, under the seat.

22 Q. Tell the jury when they are making that kind of  
23 movement, what are the things that run through your mind  
24 based on your training and experience?

25 MR. DUARTE: I object to relevance, Your

1 Honor.

2 THE COURT: It's overruled.

3 A. The things we look at, the things we typically  
4 find in those type of traffic stops are drugs and gun.

5 Q. (By Ms. Flader) And, so, with a gun, is that a  
6 big concern for you?

7 A. That's a very big concern.

8 Q. So, when you see people making those movements,  
9 what is going through your mind? Based on your training  
10 and experience, what are you going to do?

11 A. What's going through my mind is to be sure I  
12 keep an eye on them, use even more caution when they are  
13 moving that much; and, typically, as I was preparing to do  
14 that night, is to call for another unit to check by before  
15 I even exit the vehicle to make the approach.

16 Q. At that point, could you see how many people  
17 were in the car?

18 A. Yes, ma'am. There were four at that time.

19 Q. Now, you have in your mind that these people  
20 are making furtive movements?

21 A. Yes, ma'am.

22 Q. Were all of them making furtive movements or  
23 just a few of them?

24 A. All were moving a little bit. It appeared that  
25 the front passenger and the back left passenger were

1 making the most movement.

2 Q. Okay. So, you have people making movements in  
3 the car, you have four individuals, and you are by  
4 yourself. Are those things that are weighing on your mind  
5 and making you think about what you're going to have your  
6 next action be?

7 A. Yes, ma'am.

8 Q. So, you called for another unit at that time?

9 A. Didn't get to that point before they started  
10 moving.

11 Q. Okay. So, you were planning on calling for  
12 another unit to come before you get up and try to make  
13 contact with the individuals in that car?

14 A. Yes, ma'am.

15 Q. But you didn't get a chance?

16 A. No, ma'am.

17 Q. Why not?

18 A. Before I could call for another unit, while I  
19 was going out on traffic -- when I say "going out on  
20 traffic," I was notifying dispatch of my location and  
21 everything -- the vehicle started to roll forward slowly.  
22 It continued rolling forward slowly for a few feet, and he  
23 stopped again, and then he made a left. He drove back  
24 onto the road and started to leave from where we were at.

25 Q. Now, have you had people evade from you in the

1 past?

2 A. Not from me.

3 Q. Not from you?

4 A. I've been involved in a pursuit, but it wasn't  
5 from me typically. But, yes, we have had pursuit, which  
6 is evading.

7 Q. But before this incident, no one had ever  
8 evaded from you after you had stopped them on traffic?

9 A. Not from me personally, no.

10 Q. So, when you see that car starting to go, what  
11 runs through your mind at that time?

12 A. When somebody evades, there's something --  
13 there's something even more suspicious. Your level of  
14 danger and wanting to keep yourself safe rises very high  
15 because they are leaving for some reason. They are  
16 leaving.

17 Q. So, in order to keep yourself safe, what are  
18 the different steps that you take at that point?

19 A. At that point, we go through -- and he ran the  
20 red light. I activated my siren at that point; I did do  
21 that. And we notified dispatch. We notified dispatch  
22 over the radio that they're not stopping, and then we just  
23 give our direction of everywhere we go because other units  
24 are assisting us then, or heading our way.

25 Q. At that point, why don't you just stop and wait

1 for other people to come in order to help you stop this  
2 car?

3 A. Because we don't know where the car is going to  
4 go. We have to keep eyes on the car when we attempt to  
5 stop it because we don't know what they are doing is the  
6 deal. They could have been -- we don't know who's in the  
7 car and why they are evading.

8 Q. All right. So, if you could show us from this  
9 point where you tried to stop the car, where did you go?

10 A. When they left, they went back left on 1960,  
11 and from here they turned right onto Millstone.

12 Q. How far are you behind that Cadillac?

13 A. They weren't going real fast. So, maybe two  
14 car lengths.

15 Q. How fast did they appear to be going?

16 A. Forty, forty-five.

17 Q. Why do you stay so far behind their car?

18 A. Because you don't know what they are going to  
19 do. It's just a safety issue.

20 Q. Do you leave yourself some room to be able to  
21 react to what they do?

22 A. To react, turn, whatever we need to do.

23 Q. As you follow them down Millstone Drive, what  
24 are you doing?

25 A. I was still giving directions, keeping an eye

1 on them. I've got my lights going, my spotlight is still  
2 on from previously; it's still on the car. I'm just  
3 following them, trying to see where they are going; wasn't  
4 sure where they were headed.

5 Q. So, did you continue to follow them down  
6 Millstone?

7 A. Yes, ma'am.

8 Q. If you could draw that?

9 A. (Witness complies).

10 Q. At some point, did the situation change for  
11 you?

12 A. Yes.

13 Q. And why did it change?

14 A. When we approached that curve, and I went into  
15 the curve, the vehicle was coming out of the curve. The  
16 passenger in the back left side behind the driver leaned  
17 out the window with a gun.

18 Q. All right. Now, tell the jury, when you see  
19 that gun, what's going through your mind?

20 A. Better not say that. It's just -- you go back  
21 to your training. My thing was let's get distance. I  
22 need distance between me and that gun. So, I'm trying to  
23 -- I stomped on the brakes trying to get some cover in the  
24 car, what little bit there may be. But, yeah, when  
25 somebody comes out with a gun, that's not a sight that I'd

1 like to see.

2 Q. Now, when you see the gun, can you tell, is it  
3 the driver or the backseat passenger that is leaning out  
4 with the gun?

5 A. At the angle and at that particular moment, I  
6 think I called it out to be the driver, but the car never  
7 stopped. So, I'm guessing it was the passenger from that  
8 side.

9 Q. So, at the time you say, the driver is shooting  
10 at me?

11 A. Yes.

12 Q. But in retrospect, based on the fact that the  
13 car was still moving as the shots were being fired, you  
14 don't believe it was the driver?

15 A. No, I do not believe it was the driver.

16 Q. When the gun came out, did you still have your  
17 spotlight on the Cadillac?

18 A. Yes.

19 Q. And you said that an individual came out of the  
20 car?

21 A. Yes.

22 Q. How far did they come out of the car?

23 A. Just almost waist level out of the window.

24 Q. Let's use this chair right here.

25 THE STATE: I'm sorry, Rudy.

1 Q. (By Ms. Flader) Okay. I'm going to do it so  
2 you don't have to. All right. So, the passenger would be  
3 sitting like this, and the window is approximately here  
4 where my hand is, about a foot from the chair.

5 THE COURT: Let's do this in reverse so the  
6 jury --

7 THE STATE: I want them to see from his  
8 perspective. Is that okay?

9 THE COURT: That's fine.

10 Q. (By Ms. Flader) So, then, how far -- let's say  
11 that the arm -- the edge of the arm is the window.

12 A. Okay.

13 Q. How far was he leaning out?

14 A. Probably about that far.

15 Q. Okay. And, so, from your perspective, could  
16 you see the basic description of that individual?

17 A. I could see his race.

18 Q. I'm sorry?

19 A. I could see what race he was.

20 Q. Okay. What race did he appear to be?

21 A. Black, a black male. I could tell he was a  
22 black male.

23 Q. Were you certain that it was a black male?

24 A. Yes.

25 Q. Are you still certain it was a black male?



1           A.       Yes.

2           Q.       Other than that, could you tell anything else  
3 about the other passengers of the vehicle at that -- at  
4 that point in the situation?

5           A.       No.

6           Q.       After -- well, let me back up just a second.  
7 After you see him come out with the gun, and you said you  
8 stomped on your brakes, what happened after that?

9           A.       After that, I heard the shots fired. I heard  
10 gunfire. I believe I had my window down. I heard the  
11 gunfire and I felt a slap in my chest.

12          Q.       What did that feel like?

13          A.       I felt like I got hit in the chest with a  
14 hammer.

15          Q.       Okay. And what ran through your mind at that  
16 point, other than curse words?

17          A.       My thought was, you know, I knew I got shot,  
18 and I sat and had to catch my breath because it knocked  
19 the wind out of me. And you really have to sit and think,  
20 okay, they are still leaving, they are driving away. And  
21 I had to process to myself that I wasn't dying is what it  
22 was because I wasn't sure if it actually went through my  
23 vest or not. The point is it didn't feel like it went  
24 through my vest, it hurts, but let's keep going. At that  
25 point, I started going.

1 Q. How bad did it hurt?

2 A. Hard to explain.

3 Q. Had you ever felt pain that much before?

4 A. Maybe when I broke an ankle or something, but I  
5 don't remember. It just felt like I got hit in the chest  
6 with a hammer is what it felt like.

7 Q. So, what did you do?

8 A. At that point, I called dispatch. I let  
9 dispatch know there were shots fired, they were shooting  
10 and that I got hit. They continued. Once I processed it  
11 in my mind that I wasn't -- that it didn't appear that I  
12 was dying, because I still -- at that point, I didn't  
13 know. I didn't have the feeling of it. I continued on  
14 down the street behind them a little further.

15 Q. Make an X where the shooting happened.

16 A. It happened right in this curve. Right about  
17 there. And when they left, they took a left on Old Woods.  
18 They made a left right there. After a few seconds, they  
19 were out of my sight already. I continued on until I got  
20 to the corner right there. That's where I stopped.

21 Q. Could you draw a line to where you stopped?

22 A. (Witness complies).

23 Q. Why did you stop instead of continuing to  
24 follow them down Old Woods Lane?

25 A. Because I didn't know where the road went. And

1 at that particular time, this road actually doesn't extend  
2 that far out. It dead ends here and here. It's a  
3 dead-end road right there. I wasn't sure if it dead-ended  
4 to the left, and because there's an apartment complex  
5 right here, the way they built their wooden fence, I  
6 couldn't see around that corner, and the last thing you  
7 want to do is go around the corner where they are.

8 Q. So, then, you turned around?

9 A. Yes, I turned around.

10 Q. Where did you go from there?

11 A. I turned around, I came back out to 1960. I  
12 came this way, and my car was dinging and yelling at me  
13 because it wasn't running. It actually stopped running,  
14 and I coasted to the gas station right there because my  
15 thoughts were, if it goes into the neighborhood, they are  
16 probably not going to come back the way they just shot at  
17 me; and that was the only other way out of the  
18 neighborhood was where that gas station sat.

19 Q. How did you know that?

20 A. I knew enough about the neighborhood to know  
21 that. I didn't know that road that went into the  
22 neighborhood because we don't patrol that neighborhood.

23 Q. After you got to that gas station, did you  
24 drive anywhere else?

25 A. No.

1 Q. Then let's go ahead and sit down so that Rudy  
2 can get a more comfortable position again.

3 A. (Witness complies).

4 THE STATE: Your Honor, may I approach the  
5 witness again?

6 THE COURT: You may.

7 Q. (By Ms. Flader) I'm going to show you what has  
8 been previously marked as State's Exhibits 4 through 30.  
9 Would you look at those photos and tell me if they fairly  
10 and accurately depict the scene?

11 A. No, I couldn't tell you -- oh, yeah, that's the  
12 car. That is the car.

13 Q. Okay. Flip through them and then you can tell  
14 me then.

15 A. Yes, ma'am.

16 THE STATE: Your Honor, at this time, the  
17 State would offer State's Exhibits 4 through 30 into  
18 evidence. Tendering to opposing counsel for any  
19 objections.

20 THE COURT: All right.

21 MR. DUARTE: 4 through 30?

22 THE STATE: Yes.

23 MR. DUARTE: May I have a minute, Your  
24 Honor?

25 THE COURT: Yes, sir.

1 (Brief pause.)

2 THE STATE: Judge --

3 THE COURT: We need to take a break. Let's  
4 go ahead and take a break.

5 (Whereupon the Court stood in a brief  
6 recess.)

7 THE COURT: Let's go ahead and bring the  
8 jury out.

9 THE COURT: I just want to tell you guys  
10 it's quite fine to just raise your hand when you need  
11 a break because I don't know because I will just go  
12 on, and on, and on. So, you have to do that to me  
13 sometimes. That's fine.

14 You may proceed.

15 MS. FLADER: State had offered State's  
16 Exhibits 4 through 30.

17 MR. DUARTE: Judge, I had previewed those  
18 and I've inspected them this morning, and we have no  
19 objections to 4 through 30.

20 THE COURT: They are admitted.

21 (Whereupon State's Exhibit Nos. 4-30  
22 are admitted into evidence.)

23 MS. FLADER: Your Honor, may I publish  
24 those to the jury at will?

25 THE COURT: Yes, ma'am.

1 Q. (By Ms. Flader) I want to back up and ask you  
2 the silly questions that I have to ask you for the  
3 indictment. The location on Millstone where you were shot  
4 at, was that in Harris County, Texas?

5 A. Yes, ma'am.

6 Q. When the gun was pointed at you, did you feel  
7 threatened with bodily injury?

8 A. Yes.

9 Q. And the weapon that you saw, was it a firearm?

10 A. Yes.

11 Q. Do you know that to be a deadly weapon?

12 A. Yes.

13 Q. And, at the time, were you lawfully discharging  
14 your official duty?

15 A. Yeah.

16 Q. I'm going show you what's been previously  
17 marked as State's Exhibit 4, and if you look to your left,  
18 it should be right there. We see a white Cadillac in  
19 State's Exhibit 4. Is that the car that you saw that  
20 night?

21 A. Yes, ma'am.

22 Q. I'm showing you State's Exhibit 5. Would you  
23 tell the jury what that is a photograph of?

24 A. That's a photograph of the street sign at  
25 Millstone at the 1960 exit.

1 Q. And then State's Exhibit 6, what are we looking  
2 at there?

3 A. That's a shot of Millstone from across 1960.

4 Q. And when I zoom in, is that the entrance of  
5 Millstone?

6 A. Yes.

7 Q. State's Exhibit 7, can you tell the jury what  
8 that is a picture of?

9 A. That's down Millstone, and those are the  
10 apartments that are on either side of the road.

11 Q. And what is important for the jury to note in  
12 that photograph? Is it very dark in that photograph?

13 A. Yeah, it's dark.

14 Q. And is that location dark like that?

15 A. Yes, ma'am.

16 Q. However, in State's Exhibit 8, we see it's much  
17 more lit; is that correct?

18 A. Yes, ma'am.

19 Q. And would that have been the perception that  
20 you had with your lights and your spotlight on that night?

21 A. Yes, ma'am.

22 Q. Let me flip onto State's Exhibit 10. Can you  
23 tell the jury what they are looking at in State's  
24 Exhibit 10?

25 A. That's the curve where the shooting actually

1 occurred.

2 Q. And do you see -- when you were describing  
3 earlier the fence that prevented you from being able to  
4 see around that corner, is that in that picture?

5 A. It's further down that picture. It's close to  
6 where the other car is.

7 Q. All right.

8 A. But it's a high fence, and it's cut at that  
9 angle like that?

10 Q. All right. Describe to the jury what they are  
11 seeing in State's Exhibit 11.

12 A. That's my shirt with a bullet hole in it.

13 Q. State's Exhibit 14?

14 A. That's my vest with a bullet hole in it.

15 Q. All right. What are we seeing in State's  
16 Exhibit 16?

17 A. That's my car. That's my patrol car that's at  
18 the gas station.

19 Q. And that's the way it appeared that night?

20 A. Yes, ma'am.

21 Q. State's Exhibit 18, what are we looking at  
22 there?

23 A. Looks like a spot of blood that came off from  
24 my hand, or something, from when I was bleeding.

25 Q. State's Exhibit 19?



1           A.       That's the windshield.  That's where the  
2 windshield was struck with the bullet.

3           Q.       And 20?

4           A.       That's a close-up of the same hole.

5           Q.       All right.  I'm going to show you State's  
6 Exhibit 22 now.  What are they looking at in State's  
7 Exhibit 22?

8           A.       That's the driver seat of the car.  It's a  
9 radio and a computer.

10          Q.       And State's Exhibit 24, what are we looking at  
11 there?

12          A.       That's the microphone for the radio and the  
13 blood drops on it from my hand.

14          Q.       State's Exhibit 25, can you describe to the  
15 jury what they are looking at there?

16          A.       Me.

17          Q.       All right.

18          A.       I had already taken my shirt and my vest off.  
19 I'm bleeding from the face from glass shattering on my  
20 face and, obviously, the blue deal on my arm are the leads  
21 from EMS checking.

22          Q.       Tell the jury at this point how you're feeling?

23          A.       My adrenaline is still pumping.  It's still  
24 kind of -- it hadn't really set in.  It was still new.  
25 This was probably 30 minutes after, maybe a little more.

1 But my face is stinging and my chest is still throbbing.

2 Q. Are you in shock at that point a little bit?

3 A. Still a little bit.

4 Q. State's Exhibit 26, what are we looking at  
5 there?

6 A. That's me without my shirt on and the red spot  
7 from the impact of the bullet.

8 Q. If you press on that screen right next to you,  
9 you can make a mark. If you can circle where that red  
10 spot is.

11 A. (Witness complies).

12 Q. And that's where the bullet hit you?

13 A. Yes, ma'am.

14 Q. And exactly where is that?

15 A. It's right above -- right at the heart area,  
16 right above the heart.

17 Q. If you touch the right-hand corner, it will  
18 erase.

19 A. (Witness complies).

20 Q. And what are we looking at in State's  
21 Exhibit 27?

22 A. That's my left cheek where a piece of glass  
23 hit. I had one stitch.

24 Q. And is that what created all of the blood,  
25 both, in your car and on your car?

1 A. Yes.

2 Q. What about State's Exhibit 28?

3 A. That's a picture of my arm, close-up of my arm.  
4 It's because of glass shattering -- glass was being  
5 shattered and striking me in the arm.

6 MS. FLADER: Your Honor, may I approach the  
7 witness again?

8 THE COURT: Yes, ma'am.

9 Q. (By Ms. Flader) I'm going to show you what has  
10 been marked as State's Exhibit 31. Do you recognize these  
11 items included inside of State's Exhibit 31?

12 A. Yes, ma'am.

13 Q. And is this the shirt and vest that you were  
14 wearing the night of this incident?

15 A. Yes, ma'am.

16 MS. FLADER: Your Honor, at this time, the  
17 State would offer State's Exhibit 31 into evidence.  
18 Tendering to opposing counsel for any objections.

19 THE COURT: 31?

20 MS. FLADER: And its contents.

21 THE COURT: All right. Let's do this.  
22 Let's do 31. Let's mark those contents as A, B and  
23 C, or whatever, so that way there's no confusion in  
24 the record.

25 MR. DUARTE: For me, there was, Judge.

1           What was the number, 31, just A, B and C?

2                   THE COURT: Did you say there were two  
3 items or three items?

4                   MS. FLADER: I'm going to change that for  
5 the record, Judge. I'm going to change it to State's  
6 Exhibit 32, and then I will make the shirt 32-A and  
7 the vest 32-B.

8                   THE COURT: That will work fine.

9                   MR. DUARTE: There's no objection, Judge.

10                  THE COURT: All right. They are admitted.

11                           (Whereupon State's Exhibit Nos. 32-A  
12 and 32-B are is admitted into  
13 evidence.)

14                  MS. FLADER: Your Honor, may I publish them  
15 for the jury?

16                  THE COURT: Please do.

17           Q.        (By Ms. Flader) If you would, Deputy Whitlock,  
18 would you show the jury, generally, how State's  
19 Exhibit 32-B, the vest, how it is worn?

20           A.        Actually put it on?

21           Q.        Yes, please.

22           A.        (Witness complies ). It's worn under the  
23 clothes. I've got two on now.

24           Q.        Now you are really hot. If you could remove  
25 it.

1 A. (Witness complies.)

2 Q. And, then, if you could deconstruct it and show  
3 the jurors how the vest is put together.

4 A. (Witness complies).

5 Q. If you could just describe it to them, the  
6 whole thing.

7 A. It consists of several parts. It's the cover,  
8 and then there's the actual ballistic panel inside, and  
9 then in here we have two other panels. We have a soft  
10 plate and a harder plate. And this one stays inside the  
11 pouch. This is the hard plate that was struck. And this  
12 one sits behind it. It's damaged. These actually come  
13 out. It comes out like that.

14 Q. Okay. And so, then, is the back plate very  
15 similar to that?

16 A. Yeah, the back plate is just a solid plate that  
17 goes in there.

18 Q. Without the chest plate?

19 A. Yes, ma'am.

20 Q. All right. And we can show the jury State's  
21 Exhibit 32-A, which was your shirt. Can you show them  
22 where the bullet struck in the shirt?

23 A. Do you want it on?

24 Q. Pardon me?

25 A. Do you want it on?

1 Q. No, just show them.

2 A. It was struck. There are several holes in it,  
3 I guess, from glass. But right here, right where the  
4 velcro is. It sits right where I was hit.

5 Q. Right at the heart?

6 A. Yes, ma'am.

7 Q. And we also see some liquid that's dried on the  
8 collar. What is that from?

9 A. Blood.

10 Q. And is that from your face?

11 A. Yes, ma'am.

12 Q. I'll put this back together later.

13 We've met before to talk about this case, right?

14 A. Yes, ma'am.

15 Q. And when we talked about this case, we talked  
16 about how you were able to see who the individual was that  
17 shot at you, correct?

18 A. Yes, ma'am.

19 Q. And we met to go over that testimony, correct?

20 A. Yes, ma'am.

21 Q. And can you tell the jury about that, when and  
22 where?

23 A. Which one, the last one?

24 Q. Correct.

25 A. There was -- when you came out at night?

1 Q. Yes.

2 A. I met her out on the actual -- on Millstone,  
3 actually where the shooting occurred, and it was at night.  
4 I don't remember what time exactly, 30:11. It was at  
5 night. It was dark outside. The conditions would have  
6 been about the same as it was the night of the shooting.

7 Q. And when we got there, what did we do?

8 A. We -- we had two cars. We had estimated the  
9 approximate distance I would have been in the approximate  
10 area, very similar area to where I was at when the  
11 shooting occurred, and we took photos showing the basic  
12 light conditions that there would have been that night,  
13 and had somebody hang out the window so we would be able  
14 to see whether -- you know, what it would look like with  
15 the light conditions that were there.

16 Q. Okay. So, I'm showing you State's Exhibit 29.  
17 Do you know the distance from the car that would have been  
18 your car and the car that was parked -- or that was  
19 driving away from you when we created this? Do you know  
20 the distance between the cars bumper to bumper?

21 A. About 59 feet.

22 Q. All right. And did that appear to be the  
23 approximate distance when the individual came out of the  
24 car with the gun and began shooting at you?

25 A. Yes, ma'am.

1 Q. I'm showing you State's Exhibit 30. Is this  
2 another deputy leaning out of the window so that we can  
3 see if you would have been able to tell what ethnicity the  
4 person was?

5 A. Yes, ma'am.

6 Q. All right. For the record, what is the  
7 ethnicity of that deputy?

8 MR. DUARTE: Objection. That's been asked  
9 and answered, Your Honor.

10 THE COURT: What's your objection, sir?

11 MR. DUARTE: I object that it's been asked  
12 and answered already, Judge.

13 THE COURT: It's overruled.

14 Q. (By Ms. Flader) What is the ethnicity of this  
15 deputy?

16 A. He's white.

17 Q. All right. When we were out there and we took  
18 the pictures, did it appear in the pictures as it did in  
19 your vision from what you could see versus the picture?

20 A. I'm sorry, I missed --

21 Q. Was the picture able to capture exactly what  
22 you were able to see?

23 A. Exactly? Not exactly, but it was very similar.

24 Q. Why do you say not exactly?

25 A. The distances may not have been exactly the



1 same, the light conditions. The situation was very  
2 similar; they weren't exact.

3 Q. That's not what I'm asking you. From the  
4 picture versus what you were able to see when we're out  
5 there taking those pictures, were the pictures --

6 A. Oh, I'm sorry.

7 Q. Were the pictures the same as your vision?

8 A. That night, yes, ma'am.

9 Q. Okay.

10 A. The pictures are similar to what I saw, yes.

11 Q. Were you able to see things more clearly than  
12 the picture was able to depict?

13 A. Yes.

14 Q. Explain that to the jury.

15 A. A picture is just -- a picture, you only see --  
16 it's flat, 2D, or whatever they call it, to where when you  
17 see normal, you see complete -- you know, colors are  
18 better. Just the visualization is better. It's hard for  
19 me to explain it.

20 Q. So, the night of the actual incident when  
21 you're being shot at, would you say that you were able to  
22 see the person coming out of the car even more clearly  
23 than we were able to depict in the picture?

24 A. Yes.

25 Q. And is there any doubt in your mind what

1 color -- what ethnicity that individual was when they came  
2 out of the car with the gun?

3 MR. DUARTE: I object as to bolstering,  
4 Your Honor. She's testifying.

5 THE COURT: It's asked and answered. So,  
6 sustained.

7 Q. (By Ms. Flader) After the shooting and you get  
8 to the Shell Station, did things happen very quickly?

9 A. Yes, pretty -- well, people started showing up  
10 and everything. Yeah, things happened rather quick.

11 Q. And describe to the jury how you're feeling at  
12 that time as things are happening?

13 A. It's just an adrenaline -- I mean, adrenaline  
14 is rushing. You're still in shock. Everybody -- you're  
15 trying to let everybody know what's going on, where the  
16 last place you seen them was. I couldn't go back into the  
17 neighborhood. I had to stay where I was at. So, I was  
18 just trying to relay the information. It happened very  
19 quick, people are showing up very quick, and just the  
20 adrenaline and the stress and just the -- it's hard to  
21 explain. Just the emotion that's going on at the time.

22 Q. Did you give a description to the other  
23 deputies about the individuals that were in the car?

24 A. The description of the black male that was  
25 shooting out of the window.

1 Q. Did you say that the other passengers were  
2 males, as well?

3 A. I believe they were.

4 Q. And did you believe they were all black at that  
5 time?

6 A. At that time, they were light skin, but I  
7 couldn't -- I believe I put out that they were black  
8 males.

9 Q. Did you get as good of a look at the other  
10 passengers of the car as you did of the person that leaned  
11 out of the car pointing the gun at you?

12 A. No.

13 Q. After this incident, did you go down to give a  
14 statement about what you remembered regarding the  
15 incident?

16 A. Yes.

17 Q. And did you make a statement?

18 A. Yes.

19 Q. Have you had time to review that statement?

20 A. Yes.

21 Q. Was everything that you said in that statement  
22 correct?

23 A. Yes.

24 Q. And is it the same thing that you testified  
25 before the jury today?

1 A. Yes.

2 Q. Were you ever shown a photo spread of six  
3 individuals that were in what we call a photo spread?

4 A. For an identification?

5 Q. Yes.

6 A. No.

7 Q. You were not?

8 A. No.

9 Q. Did you believe that you were going to be able  
10 to pick out the person that shot at you?

11 A. No.

12 Q. Why not?

13 A. There's just -- once -- it's hard to explain.  
14 When you're in that situation, you're traveling 40 miles  
15 an hour or so. The light is illuminating the area, and  
16 once somebody leans out of a window with a gun, you really  
17 lose all focus of a face, or anything else, because you're  
18 concentrating on the gun and trying to react to whatever  
19 is happening. It's a hard situation to explain if you've  
20 not been in it. But I just -- the emotions and the stress  
21 that hits when a gun is pointed at you, and then you hear  
22 the rounds started being fired, it's just -- you get no  
23 concept of really a good description to be able to  
24 identify somebody at that distance.

25 Q. Has this situation changed how you do things?

1 A. Yes.

2 Q. How so?

3 MR. DUARTE: I object, Your Honor. It may  
4 call for irrelevant impact, Your Honor.

5 THE COURT: It's sustained.

6 Q. (By Ms. Flader) I want to go back over the  
7 timeline to make sure that I'm certain about what time  
8 things happened. After you started your shift at 10:00,  
9 what is the time that you responded to the 911 call over  
10 -- off of Wooded Pine Drive?

11 A. About 2:00 a.m.

12 Q. And what time did you hear the gunshots?

13 A. About 2:25.

14 Q. What time did you see the white Cadillac for  
15 the very first time?

16 A. About 2:29.

17 Q. What time did you attempt to stop that  
18 Cadillac?

19 A. About 2:33.

20 Q. And what time were the shots fired from the  
21 white Cadillac at you?

22 A. About 2:34.

23 Q. How do you know all of these times?

24 A. They should be logged, but we went over the  
25 timeline.

1 Q. From the dispatch?

2 A. Yes, ma'am.

3 MS. FLADER: Your Honor, at this time, the  
4 State would offer State's Exhibit 3 into evidence.  
5 Tendering to opposing counsel for any objections.

6 MR. DUARTE: There's no objection, your. I  
7 previewed it and I have no objection.

8 THE COURT: All right, it's admitted then.

9 (Whereupon State's Exhibit No. 3 is  
10 admitted into evidence.)

11 MS. FLADER: Your Honor, may I publish it  
12 to the jury?

13 THE COURT: Yes, ma'am.

14 (Whereupon State's Exhibit No. 3 is  
15 played for the jury at this time.)

16 Q. (By Ms. Flader) Can you tell the jury what you  
17 just said?

18 A. I was calling out the license plate of the  
19 vehicle and the location where we were at when I got ready  
20 to stop the vehicle initially.

21 Q. So, this is when you first tried to stop the  
22 white Cadillac?

23 A. Yes, ma'am.

24 (State's Exhibit No. 3 is continued at  
25 this time.)

1 Q. (By Ms. Flader) What are you saying at this  
2 point?

3 A. At that time, we're giving -- I'm giving the  
4 direction we are headed, and I notified them that it was  
5 occupied four times, the vehicle.

6 Q. At this point, is the white Cadillac evading  
7 from you?

8 A. Yes, ma'am. That's when I told them he wasn't  
9 stopping.

10 (State's Exhibit No. 3 is continued at  
11 this time.)

12 Q. (By Ms. Flader) Can you describe what's going  
13 on to the jury?

14 A. That's when -- that's when he come out of the  
15 window and he started shooting, and I put out that shots  
16 were fired and that I had been hit.

17 Q. Do you remember saying all of that?

18 A. Yes.

19 (State's Exhibit No. 3 is continued at  
20 this time.)

21 Q. (By Ms. Flader) Was that the information you  
22 were able to give to the dispatch about where you were and  
23 what you saw?

24 A. Yes, ma'am.

25 MS. FLADER: Pass the witness.

1 THE COURT: All right. Cross-examination?

2 MR. DUARTE: Yes, Your Honor. Thank you.

3 **CROSS-EXAMINATION**

4 BY MR. DUARTE:

5 Q. Good morning Deputy Whitlock?

6 A. Good morning.

7 Q. You and I have never met before, have we?

8 A. No, sir.

9 Q. We never had a case before -- we never had a  
10 case before in court, you and I?

11 A. No, sir.

12 Q. We talked very briefly this morning; is that  
13 correct?

14 A. Yes.

15 Q. Just a few questions. Again, so, on that -- on  
16 September 1, 2011, you started your shift around 10:00; is  
17 that correct?

18 A. Yes, sir.

19 Q. And you worked -- what do you call that region  
20 out there? Would that just be north Houston, north Harris  
21 County?

22 A. North Harris County.

23 Q. North Harris County region, I guess?

24 A. District 2 is what we call it.

25 Q. District 2. All right. So, you started your



1 beat, your region, District 2, about 10:00 at night. We  
2 will just go straight to where we need to be.

3 So, around 2:00 in the morning, I guess you and  
4 Deputy Holman?

5 A. Holman.

6 Q. Y'all are out at this area on the map near the  
7 Toyota distribution center where maybe you hear some  
8 shots?

9 A. Yes, sir.

10 Q. At that point, had y'all already been  
11 dispatched to that area, or were y'all just doing your  
12 normal routine?

13 A. Where the shots were coming from?

14 Q. Yes, sir.

15 A. No, sir. We were just doing -- once we heard  
16 them, we decided to in-service the area because it wasn't  
17 one round of shots, it was several shots, then a pause,  
18 then several more shots.

19 Q. So, over by that -- is it accurate to call it  
20 kind of a Toyota distribution area?

21 A. They were off in a distance, but it was to the  
22 east back behind there.

23 Q. So, y'all were in service already. You weren't  
24 sent to that area to look for a discharge of firearm at  
25 that point?

1 A. No, sir.

2 Q. So, while y'all are there, you happen to hear  
3 some gunfire?

4 A. Yes.

5 Q. And then y'all decide to investigate a little  
6 more, both you and Deputy Holman, correct?

7 A. Yes.

8 Q. Y'all hit a couple of streets, y'all turn on  
9 Essman. Is it on Essman, is that the right name?

10 A. Yes.

11 Q. Is that the point where you and Deputy Holman  
12 did see the Cadillac and the black vehicle --

13 A. Yes.

14 Q. -- together? Now, the sequence of the vehicles  
15 at first was what; the black vehicle in front or the white  
16 vehicle behind? What was the sequence?

17 A. The black vehicle was behind the white, the  
18 Cadillac.

19 Q. So, at that point, what were they doing when  
20 y'all first spotted them?

21 A. They were just driving. It appeared to be  
22 slow. Like I said, they appeared to be short, or kind of  
23 hunched down. The black vehicle was in very close  
24 proximity to the other vehicle.

25 Q. Did -- when y'all drove up, were any of the

1 occupants of either vehicle out of the black vehicle or  
2 the white Cadillac?

3 A. No.

4 Q. So, they were all -- as far as you know, all  
5 the occupants were in both vehicles?

6 A. Yes.

7 Q. So, at that point, do you-all have any type of  
8 emergency lights on --

9 A. No.

10 Q. -- to stop those vehicles?

11 A. No, sir.

12 Q. So, you are driving -- y'all come up behind the  
13 vehicles or to the front of the vehicles?

14 A. When we first approached them?

15 Q. Yes, sir.

16 A. We were coming towards each other.

17 Q. Coming towards each other?

18 A. We passed each other.

19 Q. And Holman is in front of you? Deputy Holman  
20 is in front of you?

21 A. He's behind me.

22 Q. He's behind you. That's when you-all branch  
23 out. Deputy Holman follows the black vehicle, right?

24 A. Correct, after we turned around.

25 Q. And then you follow the white Cadillac?

1 A. Yes, sir.

2 Q. So, then, there's a point in that sequence  
3 again that that vehicle, the white Cadillac that you're  
4 following, that it comes to a near stop or a complete  
5 stop?

6 A. At what point?

7 Q. I guess initially before 1960.

8 A. When I initiated the traffic stop?

9 Q. Yes, sir.

10 A. It did stop.

11 Q. It was a complete stop?

12 A. Yes.

13 Q. And you testified at that point that you maybe  
14 saw people moving around a little bit inside the vehicle?

15 A. Yes, they were moving around.

16 Q. Did you have an opportunity at that point to  
17 exit your cruiser, your patrol car?

18 A. No, sir.

19 Q. So, at that point, we heard -- just heard the  
20 dispatch where you gave the Charlie Tom four Norma. Is  
21 that when you are giving the plate information at that  
22 point?

23 A. Yes, sir.

24 Q. That's off of Humble-Westfield and 1960?

25 A. Yes, sir.

1 Q. So, you give the dispatch -- let me ask you.  
2 You have a little microphone radio on your right shoulder.  
3 Is that what -- is that your dispatch radio?

4 A. It's our handheld radio. That's what we use  
5 when we're outside the car.

6 Q. So, when you made this plate description to  
7 dispatch, you used that radio or the one inside your  
8 patrol car?

9 A. The one inside the patrol car.

10 Q. So, you give this dispatch -- you give dispatch  
11 this plate number, and then the Cadillac, does it burn  
12 rubber out of there or just kind of slowly starts rolling  
13 again?

14 A. Start to slow roll, very slow.

15 Q. All right.

16 A. It stops, and then he immediately makes a left  
17 into the turn lane at 1960, and then runs the red light.

18 Q. When you stopped there at the corner -- I'm  
19 going to call it a corner -- of Humble-Westfield and 1960,  
20 how close were you to the -- to the white Cadillac?

21 A. Probably -- my car was probably about 10 or  
22 15 feet off of their bumper.

23 Q. So, less than a length of a patrol car?

24 A. Yes.

25 Q. It was closer?

1 A. Yes.

2 Q. So, at that point, you can't really see inside  
3 to tell the sex of the individuals inside the car; is that  
4 accurate?

5 A. I could see nothing but the back of their  
6 heads. The windows weren't tinted, so I had a good look  
7 inside the car. But I couldn't tell the sex, no. All I  
8 could see was just the tops of their heads.

9 Q. You said they were all kind of hunkered down?

10 A. They were either short or hunkered down. All I  
11 know is they were just moving.

12 Q. At Humble-Westfield and 1960 -- your patrol car  
13 is equipped with a white spotlight. What do you call  
14 that?

15 A. Spotlight.

16 Q. Spotlight. So, at that point, when you came up  
17 on 1960, did you have your white spotlight illuminating  
18 the Cadillac?

19 A. Yes.

20 Q. You did. So, you had some good illumination on  
21 at that point. At that point, none of the heads had  
22 turned around to see the positioning of any of the  
23 individuals inside the car, correct?

24 A. Not that I could see.

25 Q. And, at that point, none of the individuals had

1 gotten out of the car?

2 A. No.

3 Q. So, he starts to slow roll, makes you,  
4 obviously, all things considered, pretty nervous. So, you  
5 call and say, you know, they are rolling and they are  
6 going northbound on Millstone, correct?

7 A. Yes, sir.

8 Q. So, you're going on Millstone and you heard the  
9 dispatch. You're -- at that point, you're in constant --  
10 pretty constant communication with dispatch, correct?

11 A. Yes, sir.

12 Q. You hear, "Shots fired at me," correct?

13 A. Yes, sir.

14 Q. So, Ms. Flader just showed the jury -- you went  
15 out to that area where the shooting occurred and y'all did  
16 a reconstruction, correct?

17 A. Yes, sir.

18 Q. Where the vehicles would have been at the time  
19 of the shooting. On this morning on the second -- when  
20 the Cadillac is going around the curve, all right, and you  
21 relay to dispatch, "Shots fired. He's shooting at me,"  
22 did you have your emergency lights on at that point?

23 A. Yes.

24 Q. You had your emergency lights on. So, what was  
25 the speed the Cadillac at that point?

1 A. At that point, I mean, I wasn't looking.

2 Probably anywhere from 30 to 40.

3 Q. Okay.

4 A. Because they sped up a little bit ahead of me  
5 before they got to the curve.

6 Q. So, it wasn't a super-high rate of speed?

7 A. No.

8 Q. And you're, I guess, appropriately going 30 or  
9 40 also trying to pace them, correct?

10 A. Yes, sir.

11 Q. So, when you go around the curve, do you have  
12 the white spotlight on the vehicle at that point?

13 A. I believe it was still on, yes.

14 Q. It was still on. All right. So, you went  
15 through the dispatch call just now, and at that point you  
16 said, "Driver got out shooting on us with the rifle." You  
17 heard that, didn't you?

18 A. Yes, sir.

19 Q. And you didn't say, backseat passenger got out  
20 shooting at us. You said the driver got out shooting at  
21 us, correct?

22 A. Yes.

23 Q. There's no dispute about that?

24 A. No.

25 Q. Thank you. So, then, after you got hit, okay,



1 your car became disabled, didn't it?

2 A. Yes.

3 Q. And you went on to a Shell Station; is that  
4 correct?

5 A. Yes, sir.

6 Q. A Shell Station. And that's where you-all, I  
7 guess, set up, I'm going to call it command; is that  
8 right, at that point?

9 A. Yes.

10 Q. You are there -- how long are you there before  
11 you have assistance that comes up on you?

12 A. It was several minutes. It seemed like  
13 forever, but it wasn't that long before my first unit got  
14 there.

15 Q. So, from -- let me ask you this. From the  
16 moment that the shooting occurred, and I think on that  
17 tape would be 2:34, I believe, to the time that you went  
18 up to the Shell Station, how long were you at the Shell  
19 Station before you were taken somewhere else, or you went  
20 somewhere else?

21 A. Probably maybe 25, 30 minutes, maybe, before I  
22 went back over. They took me back over so I could show  
23 the Crime Scene Unit exactly where the incident occurred.

24 Q. So, did an ambulance personnel come out to  
25 Shell?

1           A.     Yes, sir. They checked me before they let me  
2 go do that.

3           Q.     So, we saw on that picture you had a couple  
4 little stickies on the side of your body, correct?

5           A.     Yes.

6           Q.     And we heard your voice on the dispatch. It  
7 sounded after, of course, the initial impact and the  
8 initial shock, you sounded like you were kind of back to  
9 normal as far as your voice was concerned, correct?

10          A.     Okay.

11          Q.     In fact, you told the dispatch, "I'm okay. I  
12 was hit in the vest," correct?

13          A.     Yes, sir.

14          Q.     Now, you were taken to Memorial Hermann  
15 Hospital out in The Woodlands?

16          A.     St. Luke's.

17          Q.     St. Luke's Hospital out in The Woodlands. What  
18 time did you get there; do you remember?

19          A.     Five, maybe. I'm not sure.

20          Q.     Did you go in an ambulance or you went --  
21 another deputy took you?

22          A.     Ambulance.

23          Q.     In the ambulance. All right. So, how long  
24 were you at the hospital?

25          A.     A few hours.

1 Q. A few hours. They checked you out. You had a  
2 stitch put in your left cheek?

3 A. Yes, sir.

4 Q. Left cheek. And that was due to glass that had  
5 shattered from the entry of the bullet through the wind  
6 shield, correct?

7 A. Yes, sir.

8 Q. And you weren't wounded, what would have caused  
9 blood anywhere on your chest, correct?

10 A. No, sir.

11 Q. And then you had, I guess, some glass fragments  
12 called shrapnel glass fragments on your wrist or your  
13 forearm, correct?

14 A. Yes.

15 Q. So, back to the point where the shooting  
16 occurred, and you said, "The driver got out, shot upon  
17 us." At that point, how instantaneous was it, seconds?  
18 How long did it take? When you saw the driver shoot, what  
19 was your first response?

20 A. You're talking about from the time I saw the  
21 movement?

22 Q. Yes, sir.

23 A. The angle of the vehicle -- the movements  
24 were -- it appeared at that time -- between the adrenaline  
25 and the movement, that's when it came out as the driver.

1 But the car continued to move. It was a matter of -- I'd  
2 say from the time the person popped out of the window with  
3 the rifle until they started shooting was a matter of less  
4 than a second.

5 Q. Less than a second. All right. And, again,  
6 you believed you had your spotlight on at that point,  
7 correct?

8 A. Yes.

9 Q. And, so, the bend in the road would have been a  
10 leftward bend; is that correct?

11 A. Yes.

12 Q. A leftward curve. And you're on the left side  
13 of the car, correct?

14 A. Yes.

15 Q. And then you're following this white Cadillac,  
16 you know, 30 miles an hour, you know. And the  
17 reconstruction, you told Ms. Flader that it was 59 feet.  
18 That's pretty accurate measurements there. So, it could  
19 have been closer than that, or further than that, or --

20 A. During the reconstruction?

21 Q. Yes, sir.

22 A. No, it was measured just to have a record of  
23 it.

24 Q. So, your recollection of the actual shooting,  
25 were you closer than that or further than that?

1 A. My recollection, I don't recall.

2 Q. That's fair.

3 A. Probably closer. I don't know.

4 Q. That's fair. So, I think a cruiser -- a patrol  
5 car -- what's the standard length of a patrol car?

6 A. I don't know.

7 Q. 30 feet -- 30 feet long you think?

8 A. Maybe.

9 Q. So, 30 and 30 makes about 60 feet. So, it was  
10 about two car -- two cruiser lengths away you think?

11 A. Yes, sir.

12 Q. So, left-hand bend, you are driving, of course,  
13 left-hand side. You have a spotlight on the car you are  
14 trying to stop that is moving, correct? And, "I've been  
15 hit. I'm okay. I got hit in the chest. But the  
16 driver -- at that time you said the driver is the one that  
17 was shooting on us, correct?

18 A. Yes, sir.

19 Q. So, you did -- as Ms. Flader did say, you gave  
20 a statement later on that morning, correct?

21 A. Yes.

22 Q. So, later on that morning, about 11:00 in the  
23 morning -- do you recall what time that statement was  
24 given?

25 A. I don't recall.

1 Q. You have a copy of your statement?

2 A. Yes, sir.

3 Q. Would it help you -- would it aid you in  
4 refreshing your recollection if you review it to see what  
5 time you gave that statement?

6 A. About 11:50.

7 Q. About 11:50. So, approximately nine hours  
8 after the fact that you would have put out the dispatch  
9 call that said the driver is the person that was shooting  
10 on us, then at that point was the first time that you  
11 would have said that the black male leaned out of the  
12 driver side of the Cadillac, and it was the black male  
13 shooting from the backside; is that correct?

14 A. Yes.

15 Q. Do you remember who you gave your statement to?  
16 Deputy Jason Brown, does that sound about right?

17 A. Yes.

18 Q. As far as the investigation in this case, you  
19 didn't have any part to do with it; is that correct?

20 A. No, sir.

21 Q. Other than being the person that was shot that  
22 night, correct?

23 A. Yes, sir.

24 Q. And then you were taken over from Shell --  
25 after the event, you were taken to the hospital. You were

1 released ambulatory; is that correct?

2 A. Yes.

3 Q. Did you go to work the next day?

4 A. No, sir.

5 Q. You didn't. Okay. Deputy, you never saw my  
6 client, Kirby Hall, shoot at you that night; is that  
7 correct?

8 A. I couldn't identify him, no.

9 MR. DUARTE: I pass this witness.

10 THE COURT: Any redirect?

11 MS. FLADER: Yes, Judge, briefly. First of  
12 all, can we approach just quickly? There was a mixup  
13 in the numbers. Ms. Waters had an older --

14 THE COURT: Come forward.

15 (Whereupon counsel approached the  
16 bench out of the hearing of the jury.)

17 THE COURT: I had the vest as 31. Is that  
18 what you are talking about?

19 MS. FLADER: Yes.

20 THE COURT: So, you want to make --

21 MS. FLADER: So, it should be -- what I'm  
22 going to do is I'm going to switch the box and the  
23 medical records. So, I'm going to make the medical  
24 records 31. I just wanted to clear it up with you.

25 THE COURT: That's fine.

1 MR. DUARTE: No objection.

2 MS. FLADER: Your Honor, may I approach the  
3 witness?

4 THE COURT: Yes.

5

6 **REDIRECT EXAMINATION**

7 BY MS. FLADER:

8 Q. I'm going to change this to State's Exhibit  
9 No. 31. Do you recognize these items?

10 A. The medical records.

11 MS. FLADER: Your Honor, at this time, the  
12 State would offer State's Exhibit 31 into evidence.  
13 Tendering to opposing counsel for any objections.

14 MR. DUARTE: There's no objection to  
15 State's Exhibit 31, Judge. They have been on file at  
16 the appropriate legal time and I've had a chance to  
17 inspect them --

18 THE COURT: You can put them on the  
19 reporter's side desk there.

20 MR. DUARTE: -- at the clerk's office,  
21 Judge. No objection.

22 THE COURT: They are admitted.

23 (Whereupon State's Exhibit No. 31 is  
24 admitted into evidence.)

25 Q. (By Ms. Flader) Defense counsel just asked you



1 some questions, and I want to make it a little bit  
2 clearer. When you are giving the information to the  
3 dispatcher, you say, "The driver is shooting at me"; is  
4 that right?

5 A. Yes, ma'am.

6 Q. And then when you give your statement, your  
7 sworn statement to Deputy Brown, you said that a black  
8 male leaned from the driver side of the Cadillac?

9 A. Yes, ma'am.

10 Q. So, in your statement -- in your sworn  
11 statement you're saying "driver side." Why is there a  
12 difference? Why was there the initial, "It's the driver"  
13 to "It's coming from the driver side"?

14 A. During the actual incident, it occurs very  
15 fast. The adrenaline -- like I say, the adrenaline is  
16 going, you see movement, and somebody just pops out at the  
17 angle of the car, whatever it is, and leans out of the  
18 window and points backwards. I couldn't tell which window  
19 it was coming out of at the time; I'm just putting it out  
20 over the radio that somebody got out and shot me, or  
21 leaned out the window and shot me.

22 You start -- when I went to the hospital, I got home,  
23 tried to catch a nap before I had to go down and give my  
24 statement. You start processing a little different,  
25 looking at it, realizing the car never stopped moving.

1 The car never stopped moving, so it couldn't -- I would  
2 have suggested it was the driver at that point; however,  
3 that's why it came out as the driver side of the vehicle  
4 because it did come out of the driver side of the vehicle.

5 Q. So, after you had time to process the  
6 information, knowing how a car works, you realized that as  
7 far out as the person was leaning to shoot at you, it  
8 would be impossible for someone to drive and to do that at  
9 the same time?

10 A. It would have been very difficult for anybody  
11 to lean that far out on the driver side.

12 Q. All right. So, in your mind, you made the  
13 deduction that it had to have been somebody on the driver  
14 side, not the driver?

15 A. Yes.

16 Q. And that's after you had time to process what  
17 happened?

18 A. Yes. Because that information was given just  
19 after the shots were fired and I was hit.

20 Q. Did your information to the dispatcher, or in  
21 the sworn statement, or to this jury ever change that it  
22 was a black male that shot at you?

23 A. No.

24 MS. FLADER: I pass the witness.

25 THE COURT: Any redirect? -- I mean

1 recross?

2 MR. DUARTE: Yes. Thank you.

3 **REXCROSS-EXAMINATION**

4 BY MR. DUARTE:

5 Q. Again, the initial description that you put out  
6 as far as -- that was put out based upon the information  
7 you provided was that there were four black males inside  
8 the four-door Cadillac, correct?

9 A. Yes, sir.

10 Q. And, in fact, you provided information that it  
11 was a four-door vehicle, correct?

12 A. Yes.

13 Q. Four-door, white Cadillac?

14 A. Yes.

15 Q. And you never put out any other information  
16 that it was any Hispanic individuals in the car, but it  
17 was four black males, correct?

18 A. That's what all it appeared at that time,  
19 because the only time I got a look at them is when I  
20 passed them originally.

21 Q. And when you -- the only time you got a look at  
22 them when you passed them, that was on Essman Street?

23 A. Yes, sir.

24 Q. So, when you passed them, is that the closest  
25 that you would have gotten to the four-door Cadillac?

1           A.       Yes.  As far as seeing all the occupants, yes,  
2 other than the back of their head.

3           Q.       So, you would have passed them side-by-side?

4           A.       Yes.

5           Q.       One going one direction, one going the other  
6 direction?

7           A.       Yes.

8           Q.       You would have been the width of your patrol  
9 car, patrol car, to seeing the four individuals in the  
10 Cadillac as y'all passed.  Is Essman a single lane or a  
11 four-lane road?

12          A.       It's two lanes.

13          Q.       Two-lane.  Pardon me.  Two-lane road.  So, one  
14 lane one way, one lane the other way.  You're driving.  
15 And, so, the width of your car, the car passes by and you  
16 are able to see four black males, correct?

17          A.       They were light skin, it appeared.  It was dark  
18 in that area also.

19          Q.       So, then -- and that's when you -- that's when  
20 they split up and you follow that same vehicle?

21          A.       Yes.

22          Q.       At that point, in your mind, you see four black  
23 males, correct?

24          A.       Okay.  I don't remember.  I remember putting  
25 out on the radio four black males, but that's the only

1 time it was put out, that I remember. I know I put out  
2 that it was four males -- like four times, four males  
3 after that on the radio.

4 MR. DUARTE: I pass this witness, Judge.

5 THE COURT: Thank you. What we are going  
6 do do now is we are going to take a lunch break.  
7 Remember the rules. You can't discuss the testimony  
8 or anything like that. So, we will see you after  
9 lunch. We will pick up with the State's case.

10 THE COURT: Let me ask the lawyers, is the  
11 deputy excused, or do you need him for anything else?

12 MS. WATERS: He's excused, Judge.

13 MR. DUARTE: He's excused.

14 THE COURT: You are excused.

15 (Whereupon the Court stood in recess  
16 for lunch.)

17 THE COURT: Are you going to be the State's  
18 next witness?

19 MS. FLADER: Yes, Judge.

20 THE COURT: All right. Come forward, sir.  
21 Raise your right hand.

22 (Whereupon the witness is sworn by the  
23 Court.)

24 THE COURT: Sir, you may take the stand.

25 (Whereupon the following proceeding is