

1 Q. All right, sir.

2 MR. MARTIN: I'll pass the witness.

3 MS. ONCKEN: Nothing further from the  
4 State, your Honor.

5 THE COURT: Thank you, sir. You can  
6 step down.

7 MR. MARTIN: I don't want to excuse  
8 him, your Honor.

9 THE COURT: Please remain outside, and  
10 we'll talk to you when we take our next break.

11 THE WITNESS: Okay.

12 THE COURT: Please call your next  
13 witness.

14 MS. ONCKEN: State calls Sergeant Ben  
15 Williams.

16 THE COURT: Right this way, sir.  
17 Raise your right hand for me, please.

18 (Witness sworn.)

19 THE COURT: Have a seat.

20 BEN WILLIAMS,  
21 having been first duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 Q. (BY MS. ONCKEN) Good morning.

24 A. Morning.

25 Q. Can you please introduce yourself to the

1 jury?

2 A. I'm Sergeant Ben Williams with the Houston  
3 Police Department's homicide division.

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

6 A. About 15 years.

7 Q. Okay. And how long have you been working  
8 in the homicide division?

9 A. About three and a half.

10 Q. And would it be fair to say that over three  
11 and a half years you've worked many homicide cases?

12 A. About 60.

13 Q. Okay. I want to turn your attention back  
14 to March 31st of 2010.

15 A. Okay.

16 Q. And were you working homicide at that time?

17 A. Yes.

18 Q. Did you have a partner?

19 A. Not a regular one at that time.

20 Q. Did y'all rotate partners?

21 A. Yes, sir.

22 Q. And I asked that because I already know the  
23 answer. Is it normal that y'all work a case two of  
24 you together as partners?

25 A. Yes.

1 Q. And what shift were you working?

2 A. Second shift.

3 Q. Okay. What timeframe is that?

4 A. It's 3:00 p.m. to 1:00 a.m.

5 Q. And that shift -- if the case is not solved  
6 by the end of your shift, do you keep working it or  
7 do you pass it on?

8 A. Usually if there's going to be substantial  
9 followup investigation, we pass it to day shift  
10 investigators.

11 Q. I want to talk specifically about a case on  
12 March 31st, 2010. The offense location was 7201  
13 Hallshire. Are you familiar with that case?

14 A. Yes.

15 Q. Well, let's start with when --  
16 approximately what time would you have been made  
17 aware of the case?

18 A. This case I was made aware of just after  
19 7:00 p.m.

20 Q. Okay. And do you know -- I guess the calls  
21 come into the homicide division, correct?

22 A. After patrol arrives, yes, they call us.

23 Q. Okay. That's what I was going to ask. So,  
24 in this case then, would it be a patrol officer who  
25 called y'all?

1           A.     Yes.

2           Q.     Okay.  Is that protocol when a baby is very  
3 sick or dead?

4           A.     It's very common.  Sometimes the hospital  
5 calls us directly.

6           Q.     Okay.  Now, the hospital, will they call if  
7 they have concern about abuse or violence?

8           A.     Yes.

9           Q.     Or in any case?

10          A.     Well, if it's immediately medically  
11 explainable, if the child is under care there, then  
12 often they will not.

13          Q.     But if it's not explainable --

14          A.     Then they call us or they call patrol and  
15 patrol calls us.

16          Q.     Okay.  I guess that would be suspicious  
17 circumstances?

18          A.     Yes.

19          Q.     All right.  So, did you end up responding  
20 to that call to go to the hospital?

21          A.     I did.

22          Q.     Which hospital was it?

23          A.     It was L.B.J.

24          Q.     All right.  And when you arrived, were  
25 there other H.P.D. officers there?

1 A. Yes, there were patrol officers there.

2 Q. All right. And did Sergeant Torres go with  
3 you?

4 A. Yes.

5 Q. And I didn't even ask you again. I'm  
6 jumping because I know the answers. Was Sergeant  
7 Robert Torres your partner that day?

8 A. That day he was, yes.

9 Q. Okay. And when y'all arrived at the  
10 hospital, did you try to get some information from  
11 the patrol officers that were there?

12 A. Sure. We talked to them first.

13 Q. So, after they briefed you, what, if  
14 anything, did you do?

15 A. Well, we determine -- usually in these  
16 scenes one investigator will take what we call  
17 "witness side," one will take what we call "scene  
18 side."

19 Q. Okay. Which one did you take?

20 A. This day I took scene side.

21 Q. Okay.

22 A. And that meant that Sergeant Torres was  
23 going to be conducting interviews of the people he  
24 had access to that day that he believed he needed to  
25 speak with. And I would go with the crime scene unit

1 to the location that the child had been before  
2 transport to the hospital, and we would process the  
3 scene there. I would basically supervise her as she  
4 did her job.

5 Q. Okay. And was that Officer Sherry Rowe?

6 A. Right.

7 Q. The C.S.U. that day?

8 A. Yes.

9 Q. And where was the scene location?

10 A. The house was located on the Hallshire  
11 address, 7201.

12 Q. Okay. And let's see. Apartment Number  
13 235; is that correct?

14 A. Yes, that's correct.

15 Q. Okay. And when I ask you about the scene  
16 location, what does that mean to you? The scene.  
17 The crime scene?

18 A. Yes. That's whatever incident occurred  
19 that required that the child be transported to the  
20 hospital, that a 9-1-1 call was made, that's the  
21 scene.

22 Q. And really I guess it's fair at that point  
23 you didn't know if it was a crime or not; is that  
24 right?

25 A. That's correct.

1 Q. Okay. So, did you then have occasion to  
2 actually go through the apartment on Hallshire with  
3 Officer Rowe?

4 A. Yes.

5 Q. Okay. And did you observe her documenting  
6 the scene in any way?

7 A. Yes. She took pictures, video, like she  
8 always does, like any C.S.U. would.

9 Q. Okay. And before y'all were allowed to go  
10 inside the apartment, did you obtain consent from  
11 anyone to do so?

12 A. Yes. We got a written consent.

13 Q. And did you, in fact, sign as a witness on  
14 that consent form?

15 A. I haven't seen that form in awhile, but  
16 that would be standard. Yes.

17 Q. And you might --

18 MS. ONCKEN: May I approach?

19 THE COURT: Yes.

20 Q. (BY MS. ONCKEN) This is pretty hard to see.  
21 Can you --

22 A. I can see my signature, yes.

23 Q. Can you see your signature?

24 A. Yes.

25 Q. Okay. And let me, I guess, point over

1 here. This signature line, whose signature would  
2 that be on one of these forms? The person you're  
3 asking consent from?

4 A. Yeah. That would be a resident, yes.

5 Q. Okay. And do you recall the individual  
6 that y'all got consent from?

7 A. That was the child's mother, Shara Kelly.

8 Q. Shara Kelly?

9 A. Yes, ma'am.

10 Q. And then these two lines right here where  
11 it says "witnesses," this top one?

12 A. That's me.

13 Q. Okay. And then below, who --

14 A. That looks like Sherry's signature, Sherry  
15 Rowe.

16 Q. Okay. Thank you. When you were briefed at  
17 L.B.J. Hospital by the patrol officers, did you  
18 receive information that led you to look for any  
19 bottles, baby bottles, or broken glass at the  
20 apartment?

21 A. Yes. We were told that --

22 MR. MARTIN: Objection to hearsay.

23 THE COURT: Sustained.

24 Q. (BY MS. ONCKEN) Without going into what was  
25 said, was there an indication that maybe a bottle or



1 broken glass was part of this situation?

2 A. Yes. We were going to look for that.

3 Q. Okay. And did you find anything like that?

4 A. No.

5 Q. Okay. Did you find -- in that apartment  
6 did you see any baby bottles that were glass?

7 A. No.

8 Q. You see any broken glass in the apartment?

9 A. No.

10 Q. Did you just do a cursory look for that, or  
11 did you search even other places like trash?

12 A. No. We look through trash. Again, Sherry  
13 was doing most of the photographing and observing;  
14 and I was helping her and supervising her.

15 Q. Okay. And, now, there aren't -- we don't  
16 actually have any photographs of, like, the trash?

17 A. Right.

18 Q. But do you remember this from your own  
19 recollection?

20 A. Yes.

21 Q. Okay. And is it, in fact, also documented  
22 in your report that y'all looked for that and didn't  
23 find it?

24 A. Right.

25 Q. Do you recall if a key holder or one of the

1 occupants of the apartment came and let y'all in?

2 A. Yes. Ms. Kelly arranged for, I believe, it  
3 was her brother-in-law, Alex Acosta, to meet us there  
4 and let us in.

5 Q. And did he do that?

6 A. Yes, he did.

7 Q. And then in addition to doing the scene  
8 investigation and the walk through of the apartment,  
9 did you interview any witnesses that were there in  
10 the apartment complex?

11 A. Yeah. I wound up in contact with the  
12 reportee, the man who called 9-1-1 who was a  
13 neighbor; and I spoke with him briefly.

14 Q. Okay. Mr. Christopher Robinson?

15 A. Yes. That's right.

16 Q. And after that, was there anything else  
17 that you personally did on this case?

18 A. I don't believe so. We just -- Sergeant  
19 Torres and I, when we returned to the office,  
20 prepared the case to be handed off to day shift  
21 investigators.

22 Q. Okay. That was the standard protocol?

23 A. Yes.

24 Q. So, another team took over from there?

25 A. Right.

1 Q. Let me ask you: When you're documenting a  
2 scene -- and I say "you" -- both you and the C.S.U.,  
3 are y'all basically tearing the house apart, throwing  
4 over mattresses; or are you basically just doing a  
5 visualization of exactly how the scene looked at the  
6 time?

7 A. Well, of course it's going to depend on  
8 what kind of scene we're investigating.

9 Q. Okay.

10 A. And in this instance, no, we didn't tear  
11 the place apart.

12 Q. Did you have any specific information that  
13 would cause you to dig through closets, look through  
14 hampers, anything like that?

15 A. No. At this time we didn't even know if we  
16 were dealing with a crime yet.

17 Q. Okay. Was there any apparent blood that  
18 you could see anywhere in the apartment?

19 A. I don't recall seeing any blood, no.

20 MS. ONCKEN: All right. I'll pass the  
21 witness.

22 THE COURT: Mr. Martin.

23 CROSS-EXAMINATION

24 Q. (BY MR. MARTIN) Sergeant, did you go to the  
25 hospital where the baby was?

1 A. Initially, yes.

2 Q. All right. And is that where y'all divvied  
3 up responsibilities?

4 A. Correct.

5 Q. And then you went to the scene with the  
6 C.S.U. Officer Rowe --

7 A. Yes.

8 Q. -- Langford now?

9 A. Right.

10 Q. Okay. Did y'all meet anybody there? Was  
11 anyone already at the apartment when y'all got there?

12 A. Well, Mr. Acosta met us there and let us  
13 in.

14 Q. Okay. Was it just the three of you in the  
15 apartment during the time you and Officer Rowe were  
16 doing y'all's investigation?

17 A. Yes. I believe so.

18 Q. So, Mr. Acosta would have been inside with  
19 y'all the whole time?

20 A. Well, not while we were taking photographs  
21 and such. No. He let us in. As soon as we were  
22 done with the entry room, I believe he was allowed to  
23 come in and sit down in there.

24 Q. Okay. And he stayed there while y'all  
25 looked around?

1           A.     Correct.

2           Q.     Do you recall about how long you and  
3 Officer Langford were there while she took all these  
4 pictures?

5           A.     No, but I will say that it wasn't as long  
6 as a standard scene.  Again, we didn't know even if  
7 we were dealing with a crime yet.  So, it was  
8 probably about two hours.

9           Q.     Okay.  And I believe you said y'all did go  
10 through the trash?

11          A.     Yes.

12          Q.     Looking for various -- any type of evidence  
13 you might find?

14          A.     Right.

15          Q.     And, of course, Officer Langford could move  
16 stuff around to take pictures if she wanted to,  
17 correct?

18          A.     If she needed to.

19          Q.     All right.  I think there was one instance  
20 where there was a car seat.  She took a picture of it  
21 covered with a blanket and all.  Then she moved the  
22 blanket and took a picture of the car seat?

23          A.     Correct.

24          Q.     Y'all could have done that as many times as  
25 you wanted to because you had permission to be there?

1           A.     We did have permission to be there, yes.

2           Q.     And you could have opened up any closet  
3 door that you wanted to, open any cabinet that you  
4 wanted to, to look inside and take a picture if you  
5 saw something that you thought was relevant?

6           A.     Yes.

7           Q.     All right. And y'all were in this  
8 apartment for at least two hours?

9           A.     Probably about two hours.

10          Q.     I believe you said that at the scene you  
11 talked to Christopher Robinson; is that right?

12          A.     Yeah. Outside, yes.

13          Q.     That would have been that night while y'all  
14 were there?

15          A.     Yes.

16          Q.     Do you recall if you talked to any other  
17 neighbors or witnesses?

18          A.     I don't believe I talked to anyone. I  
19 didn't document it.

20          Q.     Okay. Do you recall when you -- how was it  
21 that you bumped into Christopher Robinson?

22          A.     He was standing with the patrol officer who  
23 was securing the apartment when we got there.

24          Q.     All right. Now, I forgot to ask you that.  
25 H.P.D. patrol would have secured the scene and stayed

1 there until you guys got there?

2 A. Yes.

3 Q. That would be standard H.P.D. protocol?

4 A. Yes.

5 Q. To protect the integrity of the scene until  
6 the homicide investigators got there?

7 A. Correct.

8 Q. That would be to prevent people from  
9 removing stuff or anything like that?

10 A. Yes.

11 Q. When you were at the hospital -- was this  
12 L.B.J. Hospital?

13 A. Yes.

14 Q. That's where the child was taken?

15 A. Yes.

16 Q. Did you note what family members were  
17 there, who was there with the child?

18 A. I remember that the mother was there. I  
19 believe several members of her family were there. I  
20 think the grandmother. Again, being that we had  
21 determined that I would work the scene side, I wasn't  
22 interacting with the family very closely.

23 Q. Yes, sir. I understand. Do you recall if  
24 Mr. Flowers was at the hospital?

25 A. I believe he was, yes.

1           Q.     All right, sir.  And then your partner who  
2 talked to witnesses would be the officer who would  
3 have interviewed Mr. Flowers or any other witnesses  
4 he wanted to interview?

5           A.     Correct.

6           Q.     And who was that?  Sergeant --

7           A.     Torres.

8           Q.     Torres.  Okay.  And, of course, you and the  
9 C.S.U. officer, y'all would have taken pictures of  
10 anything that caught your attention in this  
11 investigation?

12          A.     Yes, and pictures of the general layout of  
13 the residence.

14          Q.     Sure.  And, in fact, I believe she secured  
15 some items and took them down to H.P.D. to the crime  
16 lab or something?

17          A.     Yes.  We did collect several items, yes.

18          Q.     And that would be again part of standard  
19 H.P.D. protocol in a situation like this?

20          A.     Yes.

21          Q.     Since you had consent of an owner and a  
22 resident, you had legal authority to pick up and take  
23 anything that you thought was relevant and material  
24 to H.P.D.?

25          A.     Yes.



1 Q. And y'all, in fact, did that?

2 A. With a few things, yes.

3 Q. Few things?

4 A. Yeah.

5 Q. Thank you, Sergeant.

6 MR. MARTIN: Pass the witness.

7 THE COURT: Anything further?

8 MS. ONCKEN: Nothing further. We pass  
9 the witness.

10 THE COURT: Thank you. You can step  
11 down. Please remain outside until we take a break.  
12 Then we'll tell you if you need to stick around or  
13 not.

14 Who's next?

15 MS. ONCKEN: State calls Christopher  
16 Stoneham.

17 THE COURT: Members of the jury, we're  
18 going to work until about 1:00, 1:15, and then send  
19 you off to lunch at that time.

20 Right this way, sir.

21 (Witness sworn.)

22 THE COURT: Have a seat.  
23  
24  
25