

1 THE COURT: Thank you, ma'am. All right.  
2 You may step down, sir.

3 Call your next witness.

4 MS. MITCHELL: The State calls Stephanie  
5 Wilson.

6 THE BAILIFF: This witness has been  
7 previously sworn.

8 THE COURT: All right. Thank you. Come  
9 forward, please, ma'am. You may have a seat.

10 You may proceed when you are ready.

11 **SERGEANT STEPHANIE WILSON,**

12 having been first duly sworn, testified as follows:

13 **DIRECT EXAMINATION**

14 BY MS. MITCHELL:

15 Q. Would you please introduce yourself to us?

16 A. Sergeant Stephanie Wilson.

17 Q. Where are you currently employed?

18 A. Houston Police Department.

19 Q. How long have you been with the Houston Police  
20 Department?

21 A. Twenty years.

22 Q. What is your current assignment?

23 A. I'm currently assigned to the auto theft  
24 division.

25 Q. Were you assigned to the auto theft division

1 A. Yes, I listed it.

2 Q. -- your report?

3 A. Yes.

4 Q. So, anybody investigating this case could have  
5 went and talked to any of these people to determine who  
6 were all the people that had access to this car, correct?

7 A. They could have.

8 MS. BELL: Pass the witness, Your Honor.

9 THE COURT: Any redirect?

10 MS. MITCHELL: Briefly, Your Honor.

11 **REDIRECT EXAMINATION**

12 BY MS. MITCHELL:

13 Q. Did you break down in your offense report the  
14 vin number of that gold Chrysler 300?

15 A. Yes, I did.

16 Q. Could you please read it into the record?

17 A. The vin number was 2C3HE66G04H664171.

18 Q. And the insurance paper that was found with  
19 April Beckham's name on it, what address was listed for  
20 her?

21 A. It listed 3814 Jacob Field Lane, Houston, Texas  
22 77047.

23 MS. MITCHELL: Pass the witness.

24 THE COURT: All right. Anything else?

25 MS. BELL: No, Your Honor.

1 Q. And you noted that this car didn't, based upon  
2 anything you saw, appear to have been involved in any type  
3 of crime?

4 A. No, ma'am, not at that time.

5 Q. And you ran it, correct?

6 A. Yes.

7 Q. This car was covered by Lloyds Insurance --  
8 that was the insurance provider -- to an April Beckham?

9 A. I don't recall. All I know is that I found a  
10 piece of policy in there with the names, and I took it  
11 down.

12 Q. Would looking at your offense report refresh  
13 your memory to 2.004, fourth line in?

14 A. Okay.

15 Q. And y'all were even given -- you have April  
16 Beckham, you have her address and her zip code, and all  
17 that, correct?

18 A. Yes.

19 Q. And she has insurance on this car, correct?

20 A. It's a piece of insurance paper.

21 Q. Okay. Did anybody try to contact Ms. Beckham  
22 to determine where the car had been, who had access to it,  
23 how many people she let drive it, any of that?

24 A. I didn't do it.

25 Q. But you did list this in --

1 A. Yes, ma'am.

2 Q. Did you have that gun printed?

3 A. No, ma'am.

4 Q. When you got to the car and you did an  
5 inventory of the car, there were several articles of  
6 clothing in the car, correct?

7 A. Uh-huh.

8 Q. And they're women's clothing, correct?

9 A. Yes, ma'am.

10 Q. When you -- you were wanting to determine who  
11 this car belonged to, correct? You ran the vin number to  
12 determine who it belonged to?

13 A. Yes.

14 Q. And the car came back as registered to a Velma  
15 Hines in Richmond, Texas, correct?

16 A. Yes, ma'am.

17 Q. Did you contact Velma Hines?

18 A. No, ma'am.

19 Q. To your knowledge, did anybody contact Velma  
20 Hines to ascertain who had access to that car, how long it  
21 had been out of her possession, who she routinely let use  
22 it?

23 A. At that time, I didn't go that far, because  
24 when I ran the license plate, it didn't come back stolen.  
25 So, we didn't have to go that far, contact that owner.

1                   (Whereupon the following proceeding is  
2                   held in the hearing of the jury.)

3                   THE COURT: I'll give them just a few  
4                   minutes to look over this document real quick.

5                   Q.        (By Ms. Bell) Officer, you said you found a gun  
6 in that car. What kind of gun was it?

7                   A.        It's a 9-millimeter Glock.

8                   Q.        You said you were dispatched out to a  
9 suspicious vehicle call?

10                  A.        Yes, ma'am.

11                  Q.        Did the person also tell you when they called  
12 in -- when that broadcast went out, that there had been  
13 some shooting earlier in the morning?

14                  A.        No, ma'am.

15                  MS. BELL: Judge, may I approach the  
16 witness?

17                  THE COURT: Yes, ma'am.

18                  Q.        (By Ms. Bell) Officer, did you compile an  
19 offense report for this case?

20                  A.        It's not a shooting. I know what you're  
21 talking about. It's not a shooting. She heard some  
22 gunshots, but not a shooting.

23                  Q.        I'm sorry, I did say it all wrong. Sorry about  
24 that. And when you got out there, you saw the gun on the  
25 floorboard, correct?

1 Q. But there could have been more in there. When  
2 you ran the paper tag, did you run it -- were you able to  
3 determine that other people had actually been arrested  
4 driving that car?

5 A. No, ma'am.

6 Q. Did you run the tag?

7 A. Yes, I did.

8 Q. And you ran it for arrests in that car?

9 A. No, ma'am. Can you repeat that question?

10 Q. When you ran the car, you ran the plates,  
11 right?

12 A. Yes, ma'am.

13 Q. And did it show any hits for any other persons  
14 having been arrested in that car?

15 A. No, ma'am.

16 MS. BELL: Judge, may we approach?

17 THE COURT: You need to approach?

18 MS. BELL: Yes, Your Honor.

19 THE COURT: Okay.

20 (Whereupon counsel approached the  
21 bench out of the hearing of the jury.)

22 MS. BELL: I don't have a copy of that  
23 offense report. So, we'd like to have a minute to  
24 get it and read over it.

25 THE COURT: Okay. No problem.

1 safekeeping. In order for us to tag the gun, we have to  
2 have the owner, that way they will be able to contact that  
3 individual to return the gun back to that person.

4 Q. And did you find the owner of the gun?

5 A. No, ma'am. It wasn't my job to find it, but I  
6 was looking for names inside of the vehicle so they would  
7 be able to contact later.

8 Q. You said that when you searched the glove  
9 compartment, you found a number of names, or a number of  
10 pieces of papers that had different names on it; is that  
11 correct?

12 A. Yes, ma'am.

13 Q. What were some of the other names?

14 A. It should be in my report. I found an  
15 insurance policy holder, and the name listed on it was  
16 April Beckham.

17 Q. Okay.

18 A. And also the paper -- the buyer tag would list  
19 Domio Dangeoa.

20 Q. Could you spell that for us?

21 A. D-o-m-i-o, D-a-n-g-e-o-a. Also, the Houston  
22 police citation copy was issued to Patrick Glenn Sowell,  
23 S-o-w-e-l-l-s. That's all.

24 Q. Are those all the names that you found inside?

25 A. To the best of my knowledge, yes.

1 Q. What name did that traffic ticket have on it?

2 A. The name was Patrick Sowell.

3 Q. Whenever you ran the license plate, do you  
4 remember if it was a paper tag or a real plate?

5 A. It was a paper tag.

6 Q. Were you able to get the registered owner from  
7 the paper tag?

8 A. No, ma'am.

9 Q. And then did you generate, I guess, a report  
10 after this?

11 A. Yes, ma'am, I did.

12 MS. MITCHELL: Pass the witness.

13 THE COURT: Cross?

14 MS. BELL: Thank you, Your Honor.

15 **CROSS-EXAMINATION**

16 BY MS. BELL:

17 Q. Officer, when you were dispatched out to the  
18 scene, you said the door was left open?

19 A. Yes, ma'am.

20 Q. And you searched -- first, you secured the gun,  
21 and you searched and found a number of people's names on  
22 the information inside the car?

23 A. Okay. When I found the gun, the procedure was  
24 to check the gun, make sure it's not stolen. When it's  
25 not reported stolen, we are obligated to tag it for



1           A.       At that point, I took custody of the gun and  
2 secured it in the trunk of my car and continued to -- at  
3 this time, I looked through the vehicle to make sure it  
4 was safe and secure.

5           Q.       Did you ever try to find anything in the  
6 vehicle that would, I guess, lead you to the owner, or the  
7 person who had the car?

8           A.       Yes, ma'am. I start doing a little research.  
9 I ran the license plate and the vin serial number to make  
10 sure it's not reported stolen.

11          Q.       Okay.

12          A.       And at that time I contacted my supervisor to  
13 tag the gun. In order for me to tag the gun, I have to  
14 find the owner of the gun so later we can contact the  
15 owner and return the gun back to them. So, I searched  
16 through the vehicle to look for any names. And I looked  
17 through the glove compartment and I found several names  
18 inside the glove compartment, including one of the old  
19 tickets.

20          Q.       What kind of a --

21          A.       Copy of ticket.

22          Q.       What kind of ticket?

23          A.       Violation.

24          Q.       Like a traffic ticket?

25          A.       Traffic ticket.

1           A.       It was inside a parking lot of an apartment  
2 complex.

3           Q.       Do you know the address of that apartment  
4 complex?

5           A.       I can't recall.

6           Q.       Do you need to look at your offense report?

7           A.       Yes.

8           Q.       Okay.

9           A.       The location was 9797 Meadowglen.

10          Q.       And what did you see whenever you arrived?

11          A.       When I get to the location, I saw a gold car in  
12 the parking lot with the door open.

13          Q.       Is that unusual?

14          A.       Yes, ma'am.

15          Q.       Did you approach the car?

16          A.       Yes, I did.

17          Q.       Was there anyone inside of it?

18          A.       No, ma'am.

19          Q.       So, what did you see whenever you approached  
20 the car?

21          A.       I was walking around to see if somebody just  
22 happen to leave their door open. And as I walk around, I  
23 saw what appeared to be a handgun laying on the floorboard  
24 on the passenger side.

25          Q.       Okay. What did you do at that point?

1 stand.

2 You may proceed when you are ready.

3 **SERGEANT VICTOR NGUYEN,**

4 having been first duly sworn, testified as follows:

5 **DIRECT EXAMINATION**

6 BY MS. MITCHELL:

7 Q. Would you please introduce yourself to us?

8 A. My name is Victor Nguyen. I'm a sergeant with  
9 the Houston Police Department.

10 Q. How long have you been with the Houston Police  
11 Department?

12 A. I've been with Houston for 19 years.

13 Q. What's your current assignment?

14 A. I'm at the jail division.

15 Q. Which division?

16 A. Central jail division.

17 Q. What was your assignment March -- in March,  
18 2012?

19 A. I was assigned to the Westside Division.

20 Q. I'd like to take your attention to March 23,  
21 2012. Were you called out to a suspicious vehicle on that  
22 day?

23 A. Yes, ma'am.

24 Q. And what was the location of the suspicious  
25 vehicle?

1 THE COURT: Again, let me admonish you  
2 that, again, this is not the case that the defendant  
3 is on trial for, but it's permitted to help -- well,  
4 it's permitted for purposes of identification to  
5 explain how the defendant was developed as a suspect  
6 in this case. All right. And then, even so, you can  
7 only consider it for that purpose if you believe it's  
8 true. All right. Let's proceed.

9 MS. MITCHELL: Pass the witness, Your  
10 Honor.

11 MR. STILL: May I have a moment, Your  
12 Honor?

13 THE COURT: Yes, sir.

14 (Brief pause.)

15 MR. STILL: We'll pass the witness, Your  
16 Honor.

17 THE COURT: All right. Thank you, sir.  
18 You may step down.

19 Call your next witness.

20 MS. MITCHELL: The State calls Victor  
21 Nguyen.

22 THE COURT: Come forward, sir.

23 THE BAILIFF: The witness has been  
24 previously sworn.

25 THE COURT: All right. You may take the

1 him to stop the car and get out, and he started yelling  
2 that he couldn't because his car was messing up or  
3 something. And he had it in neutral and was revving the  
4 engine. It finally rolled to a stop. We got him out of  
5 the car. My partner had his friend on the -- put him out  
6 on the ground while I dealt with the suspect. We put them  
7 both in custody and put them in the backseat of our car.

8 Q. Who was the friend? What was his name?

9 A. I think it was Joshua -- Joshua Johnson.

10 Q. Did you search for a gun?

11 A. Yes, ma'am, we did.

12 Q. Were you able to locate a gun?

13 A. Yes. A gun was located underneath the car next  
14 to the parking space that Mr. Sowell's was parking at -- or  
15 parked in.

16 Q. And back to the car. Would you mind reading  
17 off the vin number that -- and that's for the gold -- or  
18 the Chrysler 300, correct?

19 A. It's going to be 2 Charles 3 Henry Edward 66  
20 George 04 Henry 664171.

21 Q. Okay. And that was for the car that  
22 Mr. Sowell's was in?

23 A. Yes.

24 Q. That was the Chrysler?

25 A. Yes, ma'am.

1 that we would deal with him there in a little bit and get  
2 more information. We went down there to deal with the  
3 suspects.

4 Q. Okay. Was the person who flagged you down, did  
5 he ever give you a name?

6 A. No, he did not.

7 Q. Did he give you enough descriptions, or was he  
8 close enough to the point that you were able to get the  
9 suspects?

10 A. Yes. He was maybe a hundred yards from where  
11 -- where the suspects were. He pointed at him and he's  
12 like, "That's him. He pulled a gun on me."

13 Q. Okay. Did that person who reported that, did  
14 he stay on the scene?

15 A. No, he did not.

16 Q. When you went to, I guess, talk to the suspect,  
17 what happened?

18 A. I believe the suspect got in his car and  
19 started to pull forward.

20 Q. What type of car was it?

21 A. It was a Chrysler 300.

22 Q. And, so, what happened whenever he started to  
23 pull forward?

24 A. We got out and had our weapons drawn because,  
25 like I said, we were told that he had a gun. I ordered

1 A. John Wilde.

2 Q. And did anything, I guess, unusual happen?

3 MR. STILL: Your Honor, I'd like to renew  
4 my previously made objections to this material under  
5 402, 404, and 403.

6 THE COURT: All right. Your objection is  
7 overruled, but I have put limitations on that.

8 MR. STILL: Thank you. May I have it  
9 running for the duration of the testimony, Your  
10 Honor?

11 THE COURT: Yes, sir.

12 MR. STILL: Thank you.

13 Q. (By Ms. Mitchell) Were you flagged down by  
14 anybody that day?

15 A. Yes, ma'am, I was.

16 Q. Do you remember the address of that location?

17 A. It was 9870 Westpark. It was at the Hottyz  
18 Nightclub.

19 Q. Is that in Harris County, Texas?

20 A. Yes, ma'am.

21 Q. What were you flagged down about?

22 A. We were riding through the parking lot, and a  
23 guy jumped out waving at us, yelling that somebody just  
24 pulled a gun on him. We asked where he was. He pointed  
25 down the driveway. We told him to wait where he was and

1                                   **OFFICER ARMAND SCHATTLE,**  
2 having been first duly sworn, testified as follows:

3                                   **DIRECT EXAMINATION**

4 BY MS. MITCHELL:

5           Q.       Would you please introduce yourself to us?

6           A.       My name is Armand Schattle.

7           Q.       Where are you currently employed?

8           A.       HPD.

9           Q.       How long have you been with HPD?

10          A.       About nine years.

11          Q.       What's your current assignment?

12          A.       Houston mounted patrol.

13          Q.       How long have you been with that assignment?

14          A.       A little over a year now.

15          Q.       What was your assignment back in March of 2012?

16          A.       I was on the crime reduction unit.

17          Q.       What area of town did you patrol?

18          A.       We were citywide gang task force. We went all  
19 over.

20          Q.       Now, I'd like to take your attention to  
21 March 26, 2012. Were you on duty that day?

22          A.       Yes, ma'am.

23          Q.       Were you with a partner?

24          A.       Yes.

25          Q.       Who were you with?



1           A.       Yes, sir. Well, I know they were in the  
2 process of doing a study, and I don't know what the  
3 results -- I know they were trying different forms of  
4 doing photo arrays, but I don't know what the results of  
5 that study are, and I don't know what policy changes were  
6 made.

7           Q.       But somebody who's in the robbery division  
8 currently, or in a division that routinely shows photo  
9 spreads would be far more aware of these changes; is that  
10 fair?

11          A.       I would assume so, yes, sir.

12                   MR. STILL: I pass the witness, Your Honor.

13                   THE COURT: Anything else?

14                   MS. MITCHELL: No, Your Honor.

15                   THE COURT: Thank you, sir. You may step  
16 down.

17                   Call your next witness, please.

18                   MS. MITCHELL: The State calls Armand  
19 Schattle.

20                   THE BAILIFF: This witness has been  
21 previously sworn.

22                   THE COURT: Come forward, sir. You may  
23 have a seat.

24                   You may proceed when you are ready.

25

1 correct?

2 A. Yes, sir.

3 Q. One of the things that is perhaps an  
4 improvement is that the person who is administering photo  
5 spreads currently with HPD is not supposed to know where  
6 the suspect is located in this particular photo spread; is  
7 that correct?

8 A. Like I said, sir, I left the division when they  
9 were in the middle of that. So, I don't know what the  
10 current policy of the photo spread is.

11 Q. Well, is the policy encapsulated in any kind of  
12 general order?

13 A. I don't know if they've clarified it in a  
14 general order yet. It may have come out in what we call a  
15 circular. A circular is a department-wise notice that is  
16 later formulated and put into our rules and regulations  
17 manual. Since I have left the robbery division and have  
18 proceeded onto other activities, if it did come out, I did  
19 not pay much mind to it because I'm not really in the  
20 business of showing photo arrays anymore.

21 Q. Got you. It's not in your -- it's not what you  
22 do anymore, right?

23 A. Correct.

24 Q. So, you're aware that there's a change, but the  
25 details of which you're not certain of; is that fair?

1 Mr. Johnson, it's my client; is that correct?

2 A. Yes, sir.

3 Q. You would agree with me, of course, that that  
4 is a question to be decided by the jury, correct?

5 A. Yes, sir.

6 Q. Now, let's talk about the photo array  
7 procedures. The procedure of creating this type of photo  
8 spread is a procedure that's currently out of favor with  
9 the Houston Police Department; is that correct?

10 A. I'm not really -- I've since left the robbery  
11 division. They were going through some processes. It  
12 wasn't necessarily an HPD decision, as far as necessarily  
13 a State decision. Our department, per se, was -- we were  
14 happy with what we were doing. But from pressure from the  
15 State and other civil organizations, they had done a  
16 study. And I left the division in the middle of the  
17 study. So, I don't really -- I can't speak to the  
18 certainty of it.

19 Q. Okay. What you're suggesting is that State  
20 entities and other civil entities said, you need to change  
21 these identification procedures, right?

22 A. Yes, sir.

23 Q. So, this type of procedure is one that was not  
24 in favor with those State agencies and those civil  
25 agencies that you mentioned in your testimony; is that

1 140; is that correct?

2 A. Yes.

3 Q. You described Ms. Deberry's level of certainty  
4 with regard to her identification in the photo array as  
5 tentative; is that correct?

6 A. Yes, sir.

7 Q. Now, what that means is -- tentative, of  
8 course, suggests something less than a positive  
9 identification; is that fair?

10 A. It can be, yes, sir.

11 Q. Because you have the option of using words when  
12 you describe how the witness identifies people; is that  
13 correct?

14 A. Yes, sir.

15 Q. Because you're the author of the report and  
16 you're the person who's observing the witness look at the  
17 photo array; is that right?

18 A. Yes, sir.

19 Q. And by choosing the word "tentative," what you  
20 are acknowledging in your police report is that there's  
21 some level of doubt by the witness viewing the photo  
22 spread, correct?

23 A. Technically, yes, sir.

24 Q. And you testified it's your lay opinion that  
25 this gentleman on the video, the other suspect is not

1 Q. The other complainant was Mr. Cruse Williams;  
2 is that right?

3 A. Yes, sir.

4 Q. You were not able to catch up with Mr. Cruse  
5 Williams; is that correct?

6 A. No, sir, I was not.

7 Q. Therefore, you were not able to show  
8 Mr. Williams a photo array; is that correct?

9 A. Correct.

10 Q. There was another witness in the report. Her  
11 name was Ms. Kimberly Mace; is that correct?

12 A. Correct.

13 Q. You were not able to speak with Ms. Mace; is  
14 that correct?

15 A. That is correct.

16 Q. Did you try to speak with Ms. Mace?

17 A. Yes, sir, I tried several times to call her.

18 Q. And you failed to speak with her; is that  
19 right?

20 A. Yes, sir.

21 Q. Therefore, you're not able to show her a photo  
22 array of the event; is that correct?

23 A. That's correct.

24 Q. And from your reading of the report, you know  
25 she was in room 138, and this event happened outside of

1 to you that one of the defendants had a weapon?

2 A. Yes, ma'am.

3 Q. And what weapon is that?

4 A. It's a handgun.

5 Q. Okay. And is a handgun a firearm?

6 A. Yes, ma'am.

7 Q. Is that a deadly weapon?

8 A. Yes, ma'am.

9 MS. MITCHELL: Pass the witness, Your  
10 Honor.

11 THE COURT: Cross?

12 MR. STILL: Thank you, Your Honor.

13 **CROSS-EXAMINATION**

14 BY MR. STILL:

15 Q. Lieutenant Parrie, let's talk about the  
16 witnesses that you were made aware of when you reviewed  
17 the report.

18 A. Yes, sir.

19 Q. One of the initial things you do is review the  
20 report that was made by the responding officer; is that  
21 correct?

22 A. Yes, sir.

23 Q. And you noticed, of course, that there were two  
24 complainants, not just one, right?

25 A. Yes, sir.

1 No. 4.

2 Q. And that is the person who is Patrick Sowell's?

3 A. Yes, ma'am.

4 Q. So, even with a tentative ID, I guess, was that  
5 enough to get charges?

6 A. Well, if I can expound a little bit.

7 Q. Sure.

8 A. Even when we give the admonishment to people,  
9 one of the things we tell them is, don't feel compelled to  
10 pick somebody out of the photo array. Just because I'm  
11 showing you pictures doesn't mean the person that  
12 committed this crime is going to be there, but by the same  
13 token, don't be afraid to pick somebody if they are there.  
14 Because a lot of times people will be tentative about  
15 picking someone because they don't want to accidentally  
16 put an innocent person in jail.

17 So, what we tell them is that we're not basing this  
18 investigation solely on your identification. There's  
19 other evidence that has led us to focus on this particular  
20 person.

21 Q. Okay. So, in this case, did you feel that  
22 there was enough without her being 110 percent sure, I  
23 guess?

24 A. Yes, ma'am.

25 Q. And in the video -- in the video, did it appear

1 array shown to her?

2 A. Approximately a month.

3 Q. And that's a fair and accurate copy of the  
4 photo array?

5 A. Yes, ma'am.

6 Q. No alterations have been made?

7 A. No, ma'am.

8 MS. MITCHELL: Your Honor, at this time the  
9 State officers State's Exhibit No. 18 after tender to  
10 opposing counsel for inspection.

11 MR. STILL: No objection to the exhibit,  
12 Your Honor.

13 THE COURT: All right. It's admitted.

14 (Whereupon State's Exhibit No. 18 is  
15 admitted into evidence.)

16 MS. MITCHELL: May I publish it to the jury  
17 briefly?

18 THE COURT: Yes, ma'am.

19 Q. (By Ms. Mitchell) I'm showing you what's been  
20 entered into evidence as State's Exhibit 18, and this is  
21 the photo array, correct?

22 A. Yes, ma'am.

23 Q. And which photo did Ms. Deberry identify as  
24 Patrick Sowell's?

25 A. The picture in the lower left corner, photo



1 did you give her any sort of admonishment?

2 A. Yes, ma'am. We gave her a verbal admonishment,  
3 plus a paper admonishment that she can read and sign.

4 Q. If you're looking at the photo array -- I  
5 guess, how does a photo array come together?

6 A. Generally, we try to find people with the same  
7 characteristics as the target person we're looking at.  
8 You just want the same -- similar build, similar hair  
9 style, similar features, that type of thing.

10 Q. And was that done in this case?

11 A. Yes, ma'am.

12 Q. So, the males are all of similar skin tone,  
13 facial hair, hair on top of their heads?

14 A. Yes, ma'am.

15 Q. And was Ms. Deberry able to identify Patrick  
16 Sowell as one of the people who robbed her?

17 A. She was able to give me a tentative ID, yes,  
18 ma'am.

19 Q. What does tentative mean?

20 A. It covers a range, but, usually, if someone is  
21 not, you know, a hundred percent. There may be, you know,  
22 that really looks like the guy, or that -- we give them  
23 some wiggle room, I guess. So, a tentative ID means they  
24 are saying it's him, but there might be, you know --

25 Q. How long after the incident was this photo

1 Q. Would you please identify him by an article of  
2 clothing that he's wearing?

3 A. The gentleman at the defense table in the white  
4 shirt.

5 THE COURT: He's identified the defendant.

6 Q. (By Ms. Mitchell) Were you ever able to show  
7 Ms. Deberry a photo array?

8 A. Yes, ma'am, I was.

9 Q. And did you create that photo array?

10 A. No, ma'am, I did not.

11 Q. Where did you get it?

12 A. When I had received the information from  
13 Detective Wilson regarding the case that they were working  
14 on, Sergeant Jenkins, who was her partner, had already  
15 created the photo arrays.

16 Q. Okay.

17 A. I'm sorry. They are kept in a database which  
18 I'm able to access.

19 Q. I'm showing you what's been premarked as  
20 State's Exhibit No. 18. Do you recognize that?

21 A. Yes, ma'am.

22 Q. What is that?

23 A. That's the photo array that I printed out and  
24 showed to Ms. Lauren Deberry.

25 Q. And whenever you showed the photo array to her,

1 MS. MITCHELL: May I publish to the jury,  
2 Your Honor?

3 THE COURT: You may.

4 Q. (By Ms. Mitchell) Were you able to compare a  
5 previous photo of Mr. Sowell's to the video?

6 A. Yes, ma'am, I was.

7 Q. And did it appear to be the same person?

8 MR. STILL: Objection. Improper opinion  
9 testimony, Your Honor.

10 THE COURT: He can give his opinion looking  
11 at it. It's overruled.

12 A. Yes, ma'am. There were enough features visible  
13 in the video to make me conclude that they were the same  
14 person.

15 Q. (By Ms. Mitchell) Okay. I'm showing you what's  
16 been entered into evidence as State's Exhibit No. 19. And  
17 that's the previous picture of Mr. Sowell's, correct?

18 A. Yes, ma'am.

19 Q. And the still shots are a little blurry, but on  
20 State's Exhibit No. 10, that is the person that you've  
21 identified as Mr. Sowell's?

22 A. Yes, ma'am.

23 Q. Now, do you see the person that you identified  
24 as Mr. Patrick Sowell's in the courtroom today?

25 A. Yes, ma'am.

1 those events?

2 A. Yes, ma'am.

3 Q. And you're familiar with that video?

4 A. Yes, ma'am.

5 Q. And State's Exhibit No. 19, what is that?

6 A. That's the booking photo, previous mug shot of  
7 Patrick Sowell.

8 Q. Is that a fair and accurate depiction of him on  
9 that date?

10 A. Yes, ma'am.

11 MS. MITCHELL: Your Honor, at this time,  
12 the State offers State's Exhibits 4 through 17 and  
13 No. 19 after tendering to opposing counsel for  
14 inspection.

15 MR. STILL: No objection to the exhibits,  
16 Your Honor.

17 THE COURT: Okay, they are admitted.  
18 That's 4 through 19, correct?

19 MS. MITCHELL: Well, not 18.

20 THE COURT: I'm sorry.

21 MS. MITCHELL: It's 4 through 17 and then  
22 19.

23 THE COURT: Okay. Thank you.

24 (Whereupon State's Exhibit Nos. 4-17  
25 and 19 are admitted into evidence.)

1 Q. And did they appear to be similar to you?

2 A. Yes, ma'am.

3 Q. Okay. Did, at any time, you get names of  
4 potential suspects?

5 A. Yes, ma'am.

6 Q. How did you get those names?

7 A. Again, Sergeant Wilson. Through their  
8 investigative efforts, she gave me the information  
9 relating to their suspect. And I was able to get all of  
10 the identifiers, birthdays, driver's license numbers, and  
11 all that kind of stuff. And once I had that information,  
12 I was able to look up their photographs in the system,  
13 look up their booking photos and their driver's license  
14 photos.

15 Q. And were you ever able to print off a picture  
16 of Patrick Sowell's?

17 A. Yes, ma'am, I was.

18 Q. I'm showing you what has been premarked as  
19 State's Exhibit Nos. 4 through 17. If you will, take a  
20 look at those.

21 A. (Witness complies.)

22 Q. What are those?

23 A. Those are stills taken from the video clips I  
24 had been given.

25 Q. And are those a fair and accurate depiction of

1 with?

2 A. I was able to get in touch with Ms. Lauren  
3 Deberry.

4 Q. And was she able to give you a description of  
5 the suspects?

6 A. Initially, the description she gave is what I  
7 went off of, the description she had given in the original  
8 report.

9 Q. Okay. Were you ever able to, I guess, develop  
10 a suspect in this case, or suspects?

11 A. Yes, ma'am, I was.

12 Q. How did that come about?

13 A. I was given information by another  
14 investigator.

15 Q. Who was that investigator?

16 A. Sergeant Stephanie Wilson.

17 Q. Okay.

18 A. Who was also assigned to the robbery division  
19 at that time.

20 Q. What information did she give you?

21 A. She just passed on information on some suspect  
22 that they were developing, and she said that they might  
23 fit the MO of the case I was working.

24 Q. Okay. Did you look at her case?

25 A. Yes, ma'am, I did.

1 Q. Did you ever get the video in this case?

2 A. Yes, ma'am, I did.

3 Q. What did you do whenever you first got this  
4 case?

5 A. Usually, when I first get the case, it comes in  
6 either an inner-office mail or I get an e-mail saying the  
7 case has been assigned to me. I pull up the report, and I  
8 read through it to make sure that the elements of the  
9 crime are there, and if there is any evidence, or I can  
10 kind of judge what I need to do from that point on.

11 It was at that time I was actually reviewing the  
12 physical report when another officer approached me and  
13 said he was aware of the case, and he had already gone to  
14 the location to pick up the video for me.

15 Q. Okay. And did you view the video at that  
16 point?

17 A. Yes, ma'am, I did.

18 Q. Did you make any sort of contact with the  
19 complainants in this case?

20 A. Yes and no.

21 Q. Okay.

22 A. I attempted to contact the complainants. I was  
23 able to get in touch with one of the complainants, but I  
24 could not track down the other.

25 Q. And which complainant could you get in contact

1 A. The location was -- if I can review my notes.

2 Q. Sure.

3 A. It was at 2960 West Sam Houston Parkway South.

4 Q. Is that in Harris County, Texas?

5 A. Yes, ma'am.

6 Q. Did you make the scene?

7 A. No, I did not.

8 Q. How did the case become yours?

9 A. One of the -- one of my tasks as a sergeant in  
10 the robbery division, I was the admin sergeant, plus I had  
11 my own caseload, plus I supervised a squad of detectives.  
12 I got this case as, basically, a video pickup case. When  
13 there is a scene, or a robbery that happens that there  
14 might be possible video evidence, I would go to that  
15 location and retrieve the video. And then I would either  
16 try to analyze it myself, or we have a video unit in the  
17 robbery division and I transfer it onto them.

18 In this particular case, I had gotten the case file,  
19 and I was reviewing the report when another officer  
20 approached me and said --

21 Q. We'll get to that in a second.

22 A. Okay.

23 Q. So, when you first got this case, did you go  
24 out and try to pick up a video?

25 A. No.



1 Department?

2 A. Sixteen-and-a-half years.

3 Q. And what is your current assignment?

4 A. I'm the night commander for the Midwest  
5 Division, which is a district that encompasses the  
6 Southwest Freeway by the Galleria area.

7 Q. What shift do you work?

8 A. I work the night shift.

9 Q. And what hours are those?

10 A. 10:00 p.m. to 6:00 a.m.

11 Q. Okay. So, did you come here straight from  
12 work?

13 A. Yes, ma'am.

14 Q. So, on March 25, 2012, were you assigned to  
15 that division at the time?

16 A. No. At that time, I was a sergeant in the  
17 robbery division.

18 Q. Okay. And how long have you been -- or had you  
19 been with robbery?

20 A. Approximately a year.

21 Q. Okay. Now, you were assigned a case, a robbery  
22 case, that happened on March 25, 2012, correct?

23 A. Yes, ma'am.

24 Q. And do you know what location, where that  
25 occurred?

1 as your punishment goes; is that correct?

2 A. Yes, ma'am.

3 MS. MITCHELL: Pass the witness.

4 MR. STILL: Nothing further, Your Honor.

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

7 Call your next witness, please.

8 MS. MITCHELL: The State calls Lieutenant  
9 Parrie.

10 THE BAILIFF: The witness has been  
11 previously sworn.

12 THE COURT: Thank you, sir. Come forward.  
13 Take the stand.

14 You may proceed when you are ready.

15 **LIEUTENANT MICHAEL PARRIE,**

16 having been first duly sworn, testified as follows:

17 **DIRECT EXAMINATION**

18 BY MS. MITCHELL:

19 Q. Would you please introduce yourself to us?

20 A. My name is Lieutenant Parrie, Michael Parrie,  
21 and that's P-a-r-r-i-e.

22 Q. Where are you currently employed?

23 A. I'm employed with the Houston Police Department  
24 at the Midwest Patrol Station.

25 Q. How long have you been with the Houston Police

1 Q. What narcotics do you use, or were using during  
2 that time period?

3 MS. MITCHELL: Objection, relevance.

4 THE COURT: Well, during this event or--

5 MR. STILL: During this time period, Your  
6 Honor, was my additional -- I realize it was too  
7 broad, and then I narrowed it down to the --

8 THE COURT: To the event here?

9 MR. STILL: Yes.

10 THE COURT: All right. He can answer.

11 A. Marijuana.

12 Q. (By Mr. Still) What else?

13 A. That's it.

14 Q. That's all?

15 A. Yes.

16 MR. STILL: I'll pass the witness, Your  
17 Honor.

18 THE COURT: Any redirect?

19 MS. MITCHELL: Just briefly, Your Honor.

20 **REDIRECT EXAMINATION**

21 BY MS. MITCHELL:

22 Q. Mr. Johnson, you have pled guilty to both  
23 offenses of aggravated robbery, correct?

24 A. Yes, ma'am.

25 Q. And there is no agreement from the State as far

1 right?

2 A. Yes, sir.

3 Q. If you took it to trial, you would clearly lose  
4 because that's you, right?

5 A. Yes, sir.

6 Q. So, all you can really do at this point is plea  
7 bargain, right?

8 A. Yes, sir, I guess that's what you are saying.

9 Q. You are looking at 15 to life, aren't you?

10 A. Yes, sir.

11 Q. You prefer to get 15, right?

12 A. Yeah.

13 Q. Yeah. Because that's better than 20, right?

14 A. Yes, sir.

15 Q. It's better than 30, right?

16 A. Yes, sir.

17 Q. It's better than more than that, right?

18 A. Yes, sir.

19 Q. And that's the reason why you are telling this  
20 jury what the State wants you to tell them, right?

21 A. Yes, sir.

22 Q. Now, let me ask you this too. During any of  
23 these incidents that you were talking to us about, you  
24 were under the influence of narcotics, weren't you?

25 A. Yes, sir.

1 Q. Are you telling this jury that you prefer to  
2 get more punishment as opposed to less punishment?

3 A. No.

4 Q. Right. You want to get the less amount of  
5 punishment -- the least amount that you can possibly get,  
6 correct?

7 A. Not from doing this, though.

8 Q. Are you doing this, Mr. Johnson, out of the  
9 goodness of your heart? Is that what you are telling this  
10 jury?

11 A. I'm telling you that I'm doing this because I  
12 know I was wrong. I know I didn't want to go to trial. I  
13 know the tape says that I did this. So why go up here and  
14 waste their time. That's why I'm doing it.

15 Q. You would agree with me that that is you on  
16 that tape, and it should be clear to anyone who's looking  
17 at it, right?

18 A. Yes, sir.

19 Q. You've looked at it and you know this is me,  
20 right?

21 A. Yes, sir.

22 Q. You realize that you have nowhere to go except  
23 to fall on the mercy of the Court, right?

24 A. Meaning?

25 Q. Meaning you're not going to beat your case,

1 THE COURT: Cross?

2 MR. STILL: Thank you, Your Honor.

3 **CROSS-EXAMINATION**

4 BY MR. STILL:

5 Q. Mr. Johnson?

6 A. Yes, sir.

7 Q. Your cases are not done yet, are they?

8 A. No, sir.

9 Q. You're waiting for the Judge to decide at a  
10 hearing what your punishment is going to be; is that  
11 right?

12 A. Yes, sir.

13 Q. And what happens at that hearing is the State  
14 has an opportunity to argue what your punishment is going  
15 to be; is that right?

16 A. Yes, sir.

17 Q. Your defense attorney has an opportunity at  
18 that hearing to argue what your punishment is going to be,  
19 correct?

20 A. Yes, sir.

21 Q. What you fully expect from your testimony here  
22 today is that it will help you at that hearing get the  
23 lowest amount of punishment that you can get; is that  
24 right?

25 A. No, sir.

1 particular incident, as well, under 402, 404, 403.

2 THE COURT: Okay. That objection is  
3 overruled. It will be admitted, again, for this  
4 limited purpose.

5 MR. STILL: And may I have a running  
6 objection to this material for the duration of the  
7 direct?

8 THE COURT: That's correct, sir, you will.  
9 You will have a running objection. Again, it has a  
10 limited purpose. You may proceed.

11 Q. (By Ms. Mitchell) Who were you with that  
12 evening? Who was arrested with you?

13 A. Patrick.

14 Q. That's Patrick Sowell's?

15 A. Yes, ma'am.

16 Q. And what type of car were you guys in that  
17 evening?

18 A. The same gold car.

19 Q. I would also -- you have previously been  
20 convicted before of burglary of a habitation; is that  
21 correct?

22 A. Yes, ma'am.

23 Q. In 2007?

24 A. Yes, ma'am.

25 MS. MITCHELL: Pass the witness.

1 A. Yes, ma'am.

2 Q. And that's the same Patrick Sowell that you  
3 identified earlier, correct?

4 A. Yes.

5 THE COURT: Let me give the jury a quick  
6 instruction now. The event that they are talking  
7 about is not the event that he's on trial for. And,  
8 so, your instruction is this: That the only purpose  
9 for that being admitted goes to the issue of  
10 identification, because there's some -- a question of  
11 identification. So, that's the only thing you can  
12 use it -- but you cannot, and what the State is  
13 prohibited from arguing is conformity; in other  
14 words, using it as a character, any conform with this  
15 particular character. So, it's only admitted for you  
16 to help you resolve the issue of identity in this  
17 case. You may proceed.

18 MS. MITCHELL: Thank you.

19 Q. (By Ms. Mitchell) And, lastly, I'd like to talk  
20 to you about an arrest that occurred on March 26, 2012.  
21 Were you arrested for possession of marijuana?

22 A. Yes, ma'am.

23 Q. Who were you with that night?

24 MR. STILL: Your Honor, I renew my  
25 objection that I made earlier regarding this



1 A. Two.

2 Q. Did you make them get out of the car?

3 A. Yes.

4 Q. Was either one of those complainants -- were  
5 they made to take their clothes off?

6 A. I don't think so. I can't really remember.

7 Q. So, you don't remember if one was made to take  
8 their clothes off?

9 A. Probably so. I really don't remember.

10 Q. Okay. Do you remember what sort of property  
11 was taken from them? And if you don't remember, that's  
12 okay.

13 A. Yeah, I don't.

14 Q. Was the car taken from them?

15 A. Yes.

16 Q. Who drove away in the complainant's car?

17 A. I did.

18 Q. Okay. And what car, I guess, did you -- when  
19 you first arrived at the apartment complex, what car were  
20 you in?

21 A. The gold car.

22 Q. Do you know what kind it is?

23 A. No.

24 Q. And you stated that you committed that with  
25 Patrick Sowell as well?

1 charged, correct?

2 MR. STILL: Your Honor, at this time, I'm  
3 going to object. I'm going to reurge my previous  
4 objection under 402, 404, and 403, Your Honor.

5 THE COURT: It's overruled.

6 MR. STILL: May I have a running objection  
7 to this material for the duration of the State's  
8 direct?

9 THE COURT: Yes, sir.

10 MR. STILL: Thank you, Your Honor.

11 THE COURT: You may proceed.

12 Q. (By Ms. Mitchell) Who were you with that night?  
13 Who was also charged with you?

14 A. Patrick.

15 Q. What's his full name?

16 A. Patrick Sowell.

17 Q. And what happened in that robbery?

18 A. We robbed -- we left the club.

19 Q. What club?

20 A. I don't remember.

21 Q. Okay. Then what happened?

22 A. We went to these apartments and then jumped out  
23 the car. I jumped out the car and we robbed these dudes.

24 Q. Okay. How many guys were in the complainant's  
25 car?

1 Q. Okay. But you've heard his other nicknames,  
2 right? Yep?

3 A. Yes, ma'am.

4 Q. Now, do you see Patrick Sowell in the  
5 courtroom today?

6 A. Yes, ma'am.

7 Q. Can you please identify him by an article of  
8 clothing he's wearing?

9 A. Collared shirt.

10 Q. And anything else?

11 A. Blue collared shirt.

12 MS. MITCHELL: Your Honor, can the record  
13 please reflect --

14 THE COURT: It will. I'm sorry. Thank  
15 you.

16 Q. (By Ms. Mitchell) Did you and Patrick Sowell  
17 take property from those complainants?

18 A. Yes, ma'am.

19 Q. You didn't give it back?

20 A. No, ma'am.

21 Q. And you would agree with me that having a gun  
22 like that is quite threatening?

23 A. Yes, ma'am.

24 Q. I'd like to also discuss a little bit about the  
25 robbery that occurred on March 23, 2012, where you're

1 they made to take off their clothing?

2 A. Yes, ma'am.

3 Q. Which complainant had to take off their  
4 clothing?

5 A. The dude.

6 Q. The guy?

7 A. Yes.

8 Q. Okay. Now, I'd like to show you what's been  
9 entered into evidence as State's Exhibit No. 3. And I'm  
10 starting the video at 1:40:41. And who is this person in  
11 the blue shirt in the screen?

12 A. That's me.

13 Q. That's you. Okay. And who is this person in  
14 the white shirt, in the white hat with the C on it?

15 A. Patrick.

16 Q. Is it Patrick Sowell's?

17 A. Yes, ma'am.

18 Q. What is Patrick Sowell's nickname in the  
19 community?

20 A. PJ.

21 Q. What else? Is Chetta Champ one of his  
22 nicknames?

23 A. I guess. I don't know.

24 Q. But you've known him for ten years?

25 A. I know him as PJ.

1 Q. Now, you've been charged with aggravated  
2 robbery, correct?

3 A. Yes, ma'am.

4 Q. And you've been charged with aggravated robbery  
5 in two cases; is that true?

6 A. Yes, ma'am.

7 Q. So, the aggravated robbery case that you've  
8 been charged with that took place on March 25, 2012, tell  
9 us a little bit about that robbery. What happened?

10 A. We pulled up to a hotel -- motel, seen a dude  
11 and a chick getting out the car, and then we walked up on  
12 them.

13 Q. Okay. Who had a gun -- or was there a gun?

14 A. Yes.

15 Q. Who had the gun?

16 A. Both of us.

17 Q. Okay. Did you both have guns when you got out  
18 of the car?

19 A. I can't remember.

20 Q. Did you have a gun when you got out of the car?

21 A. Yes, ma'am.

22 Q. And what happened when you got out of the car?

23 A. When we got out the car, we ran up on them. I  
24 was looking out while he went through they stuff.

25 Q. Okay. Was either of the complainants -- were

**DIRECT EXAMINATION**

1  
2 BY MS. MITCHELL:

3 Q. Would you please introduce yourself to us?

4 A. Joshua Johnson.

5 THE COURT: You have to speak up. I had  
6 the mic off.

7 A. Joshua Johnson.

8 Q. (By Ms. Mitchell) How old are you?

9 A. Twenty-six.

10 Q. Where are you from?

11 A. Houston.

12 Q. Have you lived here all your life?

13 A. Yes, ma'am.

14 Q. Now, do you know a Patrick Sowell?

15 A. Yes, ma'am.

16 Q. And how long have you known him?

17 A. Ten years.

18 Q. I'd like to take you back to March 25, 2012.

19 Were you -- what were you doing that day, generally? Do  
20 you work?

21 A. Yes, ma'am.

22 Q. Were you working that day?

23 A. No, ma'am.

24 Q. Were you with Patrick Sowell that day?

25 A. Yes, ma'am.

1 jury.)

2 THE COURT: We are going to take our lunch  
3 break. It's noon. I want the lawyers back at 1:00.

4 (Whereupon the Court stood in recess  
5 for lunch.)

6 THE COURT: Bring in the jury.

7 (Whereupon the defendant and the jury  
8 are present.)

9 THE COURT: When we left off, the State was  
10 still until their case-in-chief.

11 Call your next witness.

12 MS. MITCHELL: The State calls Joshua  
13 Johnson.

14 THE COURT: All right.

15 THE BAILIFF: The witness has not been  
16 sworn.

17 THE COURT: All right. Thank you.

18 Come forward, sir.

19 (Whereupon the witness is sworn by the  
20 Court.)

21 THE COURT: You may take the stand, sir.

22 Thank you.

23 Proceed when you are ready.

24 **JOSHUA JOHNSON,**

25 having been first duly sworn, testified as follows:

1 THE COURT: All right. Any redirect?

2 MS. MITCHELL: Briefly.

3 **REDIRECT EXAMINATION**

4 BY MS. MITCHELL:

5 Q. Do you see one of the suspects in the room  
6 today who robbed you on March 25, 2012?

7 A. Yes, ma'am.

8 Q. Could you please identify him by an article of  
9 clothing he's wearing?

10 A. A light blue colored shirt with a red kind of  
11 bluish striped tie.

12 THE COURT: All right. She's identified  
13 the defendant.

14 MS. MITCHELL: No further questions.

15 THE COURT: Anything else?

16 MS. BELL: No, Your Honor.

17 THE COURT: Okay. You may step down.

18 Perfect time for our lunch break. So,  
19 that's what we will do. We will go ahead and take a  
20 lunch break. We will have Deputy Jackson to come get  
21 you.

22 Deputy Jackson, will you take the jury  
23 back?

24 (Whereupon the following proceeding is  
25 held outside the presence of the



1 back in.

2 (Whereupon the following proceeding is  
3 held in the presence of the jury.)

4 THE COURT: We are going to go a little  
5 longer before lunch, and then we will take a lunch  
6 break.

7 You may proceed, ma'am, Ms. Bell.

8 MS. BELL: Thank you, Your Honor.

9 Q. (By Ms. Bell) Ms. Deberry, when you talked to  
10 the officers, you were trying to be as truthful as  
11 possible, correct?

12 A. Correct.

13 Q. And a short time later -- a couple of weeks  
14 later, they brought you out an identification -- or they  
15 brought you out to make an identification of people,  
16 correct?

17 A. Uh-huh.

18 Q. They brought you a photo array?

19 A. Yes, ma'am.

20 Q. And they brought that to your home?

21 A. Yes, ma'am.

22 Q. And at that time you made a tentative  
23 identification?

24 A. Yes, ma'am.

25 MS. BELL: Pass the witness, Your Honor.

1 true; in other words, a question: Is this the first  
2 time you've ever said that? That puts her in a  
3 difficult position.

4 MS. BELL: Yes, Your Honor.

5 THE COURT: And she wants to answer  
6 truthfully. And her truthful answer would be, no, I  
7 said it in a previous hearing. So, if you ask a  
8 question that opens the door for that kind of  
9 response, then you get what you get.

10 MS. BELL: Yes, Judge.

11 THE COURT: So, you have to be careful with  
12 your questioning.

13 But do not volunteer or try to -- try to  
14 avoid crossing that line.

15 THE WITNESS: Yes, sir.

16 THE COURT: Everybody clear? We good?

17 MR. STILL: Yes, Your Honor.

18 THE COURT: We will let them stretch for  
19 just a second and then bring them back in.

20 (Whereupon the Court stood in a brief  
21 recess.)

22 THE COURT: It's my intention to go as far  
23 as we can with this witness, maybe finish before  
24 lunch; if not, we have to come back after lunch.

25 THE COURT: Let's go ahead and invite them

1 question was, "Is this the first time you ever said  
2 anything like this?"

3 MS. BELL: Anything about tattoos.

4 THE COURT: Yeah, and she answered your  
5 question.

6 MS. BELL: Okay.

7 MS. MITCHELL: And said "last time."

8 MR. STILL: Can we take an opportunity to  
9 admonish the witness about this issue, please, about  
10 the other trial? Because I think once the  
11 questioning gets a little more pointed, it's going to  
12 release a canon anomaly.

13 THE COURT: All right. Let's go ahead and  
14 have the jury step out for just a minute. Please do  
15 not discuss the testimony. I am going to bring you  
16 back in before we go to lunch.

17 (Whereupon the following proceeding is  
18 held outside the presence of the  
19 jury.)

20 THE COURT: There was a -- in the previous  
21 trial that we had, I instructed the lawyers and the  
22 witnesses to inform their witnesses that they can't  
23 refer to a prior trial that we had. But having said  
24 that, if you ask a question that makes it appear that  
25 the witness might be telling something that's not

1 Q. Okay. You've never before even said they had  
2 tattoos, correct?

3 A. Correct, because it's irrelevant.

4 Q. You never mentioned it to the officer, correct?

5 MS. MITCHELL: Objection, asked and  
6 answered.

7 THE COURT: It's sustained.

8 Q. (By Ms. Bell) Are you now today, the first day  
9 ever, saying that you saw tattoos? You just thought they  
10 were irrelevant so you just didn't bother mentioning it;  
11 is that what you're saying?

12 A. No. I said this the last time we were here.  
13 When you brought the tattoo up, I said it was irrelevant.  
14 I did not see it.

15 MS. BELL: Objection, Your Honor. May I  
16 approach, please?

17 THE COURT: For what purpose?

18 MS. BELL: Motion in Limine, Your Honor.

19 THE COURT: Okay.

20 (Whereupon counsel approached the  
21 bench out of the hearing of the jury.)

22 MS. MITCHELL: Your Honor, that motion was  
23 never ruled on; and also, it just says that there was  
24 a prior trial. She did not say trial.

25 THE COURT: I didn't hear it. Your

1 wearing long sleeve shirts. They were wearing shorter  
2 sleeve shorts, correct?

3 A. Right.

4 Q. And you were focusing on things like what color  
5 their shirts were. You noted a C emblem on a hat.

6 MS. MITCHELL: Objection, Your Honor.

7 Counsel is testifying.

8 THE COURT: Sustained.

9 MS. BELL: Yes, Your Honor.

10 Q. (By Ms. Bell) Did you notice the C on the hat?

11 A. Yes.

12 Q. Did you notice the -- a short sleeve shirt?

13 A. Yes.

14 Q. Did you also note the color of a watch that one  
15 of the people was wearing?

16 A. Yes.

17 Q. And we can agree that if you're looking at  
18 things like that, at a watch, you're also looking at the  
19 arm, correct?

20 A. I was not staring at the arm and paying  
21 attention to tattoos. Most black males have tattoos  
22 covering their arms, so it wasn't relevant.

23 Q. But you never -- you never mentioned them to  
24 the officer, correct?

25 A. I mean, why would I?

1 that you had your back against the wall and you were  
2 looking directly at these people for a period of time?

3 A. I was looking at Mr. Williams and what all they  
4 were doing to him as well.

5 Q. Okay. And you were trying to -- although you  
6 were scared, you were trying to get a description together  
7 of what these people looked like?

8 A. I was trying to get the main thing, clothing,  
9 jewelry, hats, things that would stand out.

10 Q. And what description did you give the officer?

11 A. White shirt, baseball cap with a C on it, a  
12 chain.

13 Q. Okay. You didn't mention any tattoos at all to  
14 the officer, did you?

15 A. I wasn't looking for tattoos in the dark on a  
16 dark-skinned person, no.

17 Q. You can agree with me that y'all were standing  
18 under a light, correct?

19 A. Correct.

20 Q. And you can agree with me that that person, or  
21 both of those people -- you know those were people that  
22 were really close to you. You could reach out and touch  
23 them, correct?

24 A. Uh-huh.

25 Q. And you can agree with me that they weren't

1 faculties were there, correct?

2 A. Yes, ma'am.

3 Q. When you got to the hotel, we see you standing  
4 on the sidewalk, and you're standing front to back. Was  
5 this happening right in front of you? About how far were  
6 the people away from you with Mr. Cruse?

7 A. About -- I'd say 5 feet.

8 Q. Okay. So, you had a pretty good view, right?

9 A. Correct.

10 Q. And you were all together. So, you were  
11 looking trying to figure this all out, correct?

12 A. As much as I could.

13 Q. Because you were traumatized?

14 A. There were a lot of things going through my  
15 mind at that moment, yes.

16 Q. We see later on during the video, they bring  
17 you over -- or you said they waved you over to the  
18 situation?

19 A. Yes, when I walked from out of view from the  
20 first video.

21 Q. And on the video, it looked like they were  
22 close enough for you to actually reach out and touch the  
23 people?

24 A. Yes.

25 Q. And while you were there with them, it appeared

1           woke up in the morning.

2                       THE COURT: That's sustained.

3           Q.       (By Ms. Bell) About what time did you get to  
4 work that day?

5           A.       About 8:00 p.m.

6           Q.       Okay. What is your typical day like at work?

7           A.       Typical day is dancing, giving private dances.

8           Q.       I mean like do you -- while you're working, do  
9 you ever drink?

10          A.       No, ma'am.

11          Q.       So, you don't consume any alcohol at all at  
12 work?

13          A.       No, ma'am.

14          Q.       Do you do anything else while you're at work?  
15 Have you ever used illegal substance at work?

16          A.       No, ma'am.

17          Q.       So, on that day, you're working. And about  
18 what time do you think -- what time do you think you met  
19 Mr. Cruse?

20          A.       Probably around -- I'd say maybe midnight.

21          Q.       Okay. And y'all sat and talked for a while?

22          A.       Yes, ma'am.

23          Q.       And then after that, y'all decided to leave?

24          A.       Yes, ma'am.

25          Q.       When you left, you were clear-headed, all your



1 the photo array as far as an admonishment? This top page,  
2 was it read to you?

3 A. Yes.

4 Q. And you had never seen these two guys before,  
5 ever?

6 A. No, ma'am.

7 MS. MITCHELL: Pass the witness, Your  
8 Honor.

9 THE COURT: Cross?

10 MS. BELL: Yes, Your Honor.

11 **CROSS-EXAMINATION**

12 BY MS. BELL:

13 Q. Ms. Deberry, I know this was a traumatic event.  
14 So, if I get too quick with my questions, or you can't  
15 hear anything, please hold your hand up and stop me and I  
16 will take it slower.

17 A. Yes, ma'am.

18 Q. I want to start off at the beginning of the  
19 day. About what time did you wake up that morning?

20 THE COURT: I need you to turn that mic so  
21 it picks you up because I can't hear you very well.  
22 Some of the jury might have trouble.

23 MS. MITCHELL: I object to relevance.

24 THE COURT: Could you be more specific?

25 MS. BELL: I asked her about what time she

1 Q. Were you able to give police officers a  
2 description of the two guys who robbed you?

3 A. Yes, ma'am.

4 Q. Were you at all -- were you also given an  
5 opportunity to review a photo array?

6 A. Yes, ma'am.

7 Q. I'm showing you what's been premarked as  
8 State's Exhibit 18. Do you recognize this?

9 A. Yes, ma'am.

10 Q. And what is this?

11 A. The detective came out to my house weeks later  
12 and showed me a photo lineup and asked me to -- if I  
13 recognized anyone, to circle and initial if I did.

14 Q. Is your signature on here or your initials?

15 A. Yes, ma'am.

16 Q. And were you able to identify someone out of  
17 that photo array?

18 A. Yes, ma'am.

19 Q. And did you put your initials by that to  
20 indicate who you identified?

21 A. Yes, ma'am.

22 Q. And this is a fair and accurate copy of that  
23 photo array?

24 A. Yes, ma'am.

25 Q. Were you given any sort of warnings regarding

1 Q. At this point, you're standing a little bit  
2 outside the hallway. What's going through your mind at  
3 this point?

4 A. Just fear, not knowing what's going to happen  
5 next.

6 Q. I'm going to switch to the other video shot,  
7 and then we'll come back to that. And, also, for the sake  
8 of efficiency, I'm going to fast forward to approximately  
9 one minute and 39 seconds.

10 Now, the man in the white had a bag. Was that your  
11 bag?

12 A. Yes, ma'am.

13 Q. Now, I'd like to flip it back quickly to the  
14 other video we were watching and fast forward it to where  
15 we left off. I'll start it back at approximately 1:40 or  
16 1:00. Now, there's a female that's just stepping into the  
17 driver side of the gold car. That's not you, is it?

18 A. No, ma'am.

19 Q. Where are you after the guy you were with left?  
20 Where did you go?

21 A. I was standing at the same spot you saw earlier  
22 on the other video, against the wall.

23 Q. Did either of the two suspects try to talk with  
24 you after the guy you were with left?

25 A. No.

1 held in the hearing of the jury.)

2 THE COURT: Okay. The objection is  
3 overruled. You may proceed.

4 MS. MITCHELL: May I publish to the jury,  
5 Your Honor?

6 THE COURT: Yes.

7 Q. (By Ms. Mitchell) Ms. Deberry, we're seeing now  
8 what's been entered into evidence --

9 THE COURT: Are those screens on? It might  
10 be easier for some of the jurors.

11 Q. (By Ms. Mitchell) Ms. Deberry, if you could  
12 also hit the left bottom of your screen to clear it.

13 A. (Witness complies.)

14 Q. Thank you.

15 THE COURT: Some of you, it might be easier  
16 to see it on that scene.

17 Q. (By Ms. Mitchell) I apologize. I can't make  
18 this any larger.

19 (Whereupon the video is played at this  
20 time.)

21 Q. (By Ms. Mitchell) Ms. Deberry, I'm going to  
22 pause it just a minute. Is that the car you were in that  
23 we saw the suspect pull up on the screen at approximately  
24 1:39:06?

25 A. Yes.

1 A. The surveillance video.

2 Q. Have you had a chance to look at the video?

3 A. Yes, ma'am.

4 Q. And is it a fair and accurate depiction of the  
5 events as they happened that night?

6 A. Yes, ma'am.

7 Q. It hasn't -- has it been altered in any way?

8 A. No, ma'am.

9 MS. MITCHELL: Your Honor, at this time,  
10 the State offers State's Exhibit No. 3 after  
11 tendering to opposing counsel for inspection.

12 MS. BELL: We object to the improper  
13 predicate, Your Honor.

14 THE COURT: Come forward real quick.

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

17 THE COURT: What is your objection?

18 MS. BELL: Improper predicate. She can't  
19 say that there were no alterations, no anything made.  
20 She didn't see it that night. She doesn't know  
21 exactly what it was recorded on. She doesn't know  
22 what condition it was. And she is not the witness to  
23 lay the proper foundation with it.

24 THE COURT: It's overruled.

25 (Whereupon the following proceeding is

1 They took all of his cash, jewelry, shirt, jeans, belt,  
2 shoes.

3 Q. Okay. And, I guess, once he was stripped down  
4 and taken -- all of his property was taken, what happened?

5 A. He tried to take off running, and there were  
6 two shots fired in his direction.

7 Q. Okay. When the gun was out, was it -- could  
8 you see it clearly?

9 A. Yes.

10 Q. Do you remember what color it was?

11 A. Black.

12 Q. Were you scared?

13 A. Of course.

14 Q. Did you -- were you scared you were going to be  
15 either killed or seriously injured?

16 A. Yes, ma'am.

17 Q. And when the gun was out, what were the  
18 suspects saying?

19 A. "Give me your bags. Give me your purse. Give  
20 me your money," you know, "Don't look at my face." They  
21 told me to go stand by the wall.

22 Q. I'm showing you what's been premarked as  
23 State's Exhibit 3. Do you recognize this?

24 A. Yes, ma'am.

25 Q. What is this?

1 Q. Okay. Had you yet gotten to your room?

2 A. No, ma'am.

3 Q. So, once they got out of the car, what  
4 happened?

5 A. The guy that I was with, he got out. They drew  
6 his attention to them first. I kind of hesitated to get  
7 out because I saw what was going on. And once I got out,  
8 they then drew their attention to me, held the gun at me  
9 and proceeded to tell me to give me -- give them all of my  
10 things.

11 Q. Okay. Was anything taken from you?

12 A. Yes, ma'am.

13 Q. What was taken?

14 A. Clothing, purse, wallet, ID, Social Security  
15 card, cash, car keys.

16 Q. Now, you say clothing. Did they make you take  
17 off any clothing?

18 A. No. I had clothing in a bag. I had a bag, and  
19 then I had my purse as well.

20 Q. Was the gentleman you were with, was he made to  
21 take off his clothing?

22 A. Yes, ma'am.

23 Q. Do you remember what articles of clothing he  
24 had to take off?

25 A. He was stripped down to nothing but his boxers.

1 Q. Now, I'd like to take your attention to  
2 March 25, 2012. Do you remember that date?

3 A. Yes, ma'am.

4 Q. Where were you working on that date?

5 A. At Legends.

6 Q. Okay. And what happened on March 25, 2012,  
7 that, I guess, was out of the ordinary?

8 A. I had left with a gentleman I had met at the  
9 club.

10 Q. Okay.

11 A. We drove to a hotel that was nearby and --

12 MS. BELL: Objection to the narrative.

13 THE COURT: It's overruled.

14 A. When we pulled up, there was a car waiting, and  
15 two guys had jumped out; one had a gun and proceeded with  
16 the robbery.

17 Q. (By Ms. Mitchell) Did you know who these people  
18 were?

19 A. No, ma'am.

20 Q. Do you remember what type of car it was?

21 A. It was a goldish older -- like maybe a  
22 Chrysler.

23 Q. Okay. I guess -- where were you when they got  
24 out of the car?

25 A. I was getting out of the passenger seat.



1 THE COURT: Cross?

2 MS. BELL: No questions, Your Honor.

3 THE COURT: All right. Thank you, sir.

4 You may step down. Thank you. You are excused.

5 Call your next witness, please.

6 MS. MITCHELL: The State calls Lauren

7 Deberry.

8 THE COURT: Come forward, ma'am.

9 THE BAILIFF: The witness has been  
10 previously sworn.

11 THE COURT: Okay.

12 You may take the stand.

13 You may proceed when you are ready.

14 **LAUREN DEBERRY,**

15 having been first duly sworn, testified as follows:

16 **DIRECT EXAMINATION**

17 BY MS. MITCHELL:

18 Q. Would you please introduce yourself to us?

19 A. My name is Lauren Deberry. I'm 23 years of  
20 age.

21 Q. Okay. Where are you from?

22 A. Houston, Texas.

23 Q. Have you lived here all your life?

24 A. I did. My mother moved me to East Texas for a  
25 few years.

1 A. I do.

2 Q. And what is it?

3 A. That's the evidence that she gave me. It's a  
4 spent casing.

5 Q. Okay. And how do you know that this is the  
6 same evidence that you tagged in?

7 A. It has my initials right here on the envelope,  
8 the case markings on the backside, and also the case  
9 numbers on the bag.

10 Q. Is it in the same or substantially similar  
11 condition as when you tagged it?

12 A. Yes, ma'am.

13 MS. MITCHELL: Your Honor, at this time,  
14 the State offers State's Exhibit No. 2 after  
15 tendering to opposing counsel for inspection.

16 MS. BELL: No objection, Your Honor.

17 THE COURT: It's admitted.

18 (Whereupon State's Exhibit No. 2 is  
19 admitted into evidence.)

20 Q. (By Ms. Mitchell) After you tagged the shell  
21 casing, did you have any other involvement with the case?

22 A. No. I just wrote a supplement on the case;  
23 that was it.

24 MS. MITCHELL: Pass the witness, Your  
25 Honor.

**DIRECT EXAMINATION**

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BY MS. MITCHELL:

Q. Would you please introduce yourself to us?

A. Officer Tae Kim with the Houston Police Department.

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

A. About five years.

Q. What is your current assignment?

A. The gang unit, crime reduction unit.

Q. Were you with that unit on March 25, 2012?

A. I was.

Q. I'd like to turn your attention to March 25, 2012. Were you called out to 2960 West Sam Houston Parkway South?

A. I was, yes.

Q. What did you do wherever you arrived on scene?

A. I assisted the primary officer, Lisa Wright. I asked her if she needed help. She needed some evidence tagged that she recovered at the scene.

Q. Did you do that?

A. Yes, ma'am.

Q. I'm showing you what's been premarked as State's Exhibit No. 2 and its contents. Do you recognize this?

1 have two black males. One of the suspects was wearing a  
2 white shirt and and a white baseball cap with the letter  
3 C. And the other suspect was also a black male, was  
4 wearing a blue shirt and holding a pistol. And he was the  
5 one that fired the weapon towards Mr. Williams.

6 Q. Is there any information about tattoos, or any  
7 other type of identifying information?

8 A. No, not at that time.

9 MR. STILL: I'll pass the witness, Your  
10 Honor.

11 THE COURT: Anything else?

12 MS. MITCHELL: No, Your Honor.

13 THE COURT: All right. Thank you, ma'am.  
14 You may step down.

15 Call your next witness.

16 MS. MITCHELL: The State calls Officer Kim.

17 THE WITNESS: I'm sorry. May I be excused?

18 THE COURT: Yes, ma'am.

19 Come forward.

20 THE BAILIFF: This witness has been  
21 previously sworn.

22 THE COURT: Thank you.

23 You may start when you are ready.

24 **OFFICER TAE KIM,**

25 having been first duly sworn, testified as follows:

1 Q. That's Mr. Joel Gomez, correct?

2 A. I know I met with a Joel Gomez the next night  
3 because I went back the next night and he was the one  
4 working there. I can't recall whether or not -- I'm  
5 pretty sure it was the same individual working the night  
6 before.

7 Q. So, these individuals that you spoke to,  
8 specifically Ms. Mace, Ms. Deberry, and Mr. Williams, you  
9 recorded their contact information? You recorded their  
10 identifiers, correct?

11 A. I took down their name and their date of  
12 births, correct.

13 Q. And, of course, you indicated in your report  
14 what their information was, correct?

15 A. What their statements were, sure.

16 MR. STILL: May we have a moment, Your  
17 Honor? I apologize for the delay.

18 (Brief pause.)

19 Q. (By Mr. Still) Officer Wright, was there a  
20 general description given of these suspects who were  
21 responsible for the robbery according to the witnesses?

22 A. Yes, there was.

23 Q. Could you tell us what that description was?

24 A. Basically, there was, according -- under the  
25 paragraph that I have for Mr. Williams, Cruse Williams, we

1 to preserve for any detective, or anyone else who's  
2 looking at the case down the road potential witnesses,  
3 correct?

4 A. Correct.

5 Q. You mentioned that you spoke to the occupant of  
6 room number 138; is that correct?

7 A. Yes, it is.

8 Q. That lady's name is Kimberly Mace; is that  
9 correct?

10 A. Yes, that's correct.

11 Q. And Mace is M-a-c-e, correct?

12 A. Yes, sir.

13 Q. And this robbery happened outside of room  
14 number 140; is that correct?

15 A. Yes, sir.

16 Q. So, you also spoke to the complainants in the  
17 case; that would be Ms. Lauren Deberry; is that right?

18 A. That's correct.

19 Q. And you also spoke to Mr. Cruse Williams,  
20 correct?

21 A. Yes.

22 Q. And then you spoke to some people in the  
23 management office about the video; is that correct?

24 A. I believe it was just one individual working  
25 that night.

1 Q. Officer Wright?

2 A. Yes, sir.

3 Q. Is it officer, or do you have another title?

4 A. You can call me officer.

5 Q. Officer Wright, I just want to make sure we all  
6 understand your role here. You were the first responder  
7 to the scene; is that correct?

8 A. Yes.

9 Q. And did any other officers respond to the scene  
10 besides you?

11 A. At a later time there was Officer Kim and  
12 Officer Choe, who were both partners, and they collected  
13 the bullet casing, like I said.

14 Q. The .380, and that's decimal point 3-8-0, shell  
15 casing that you recovered; is that right?

16 A. Let me just double-check. Yes, silver bullet  
17 casing, RP .380 automatic, correct.

18 Q. .380 would be a calibered weapon; is that true?

19 A. Yes, sir.

20 Q. So, there's no arrest that's made that day; is  
21 that correct?

22 A. That's correct.

23 Q. For this robbery, of course, correct?

24 A. Correct.

25 Q. So, it's really important on your end of things

1 that's along the north side right here of the hotel  
2 (indicating). And, so, you can't -- like I said, you  
3 can't really see it from the picture, but there's a little  
4 grassy area between the parking lot and the sidewalk.

5 Q. So, once you met with the complainants, what  
6 did you do after that?

7 A. I met with the complainants, I got their  
8 information, recovered the casing. I checked with the --  
9 the employee, who was working there that night inside the  
10 lobby, to kind of go over whether or not he saw anything.  
11 And there was surveillance video footage of what happened.  
12 So, we reviewed the video. And I asked him to preserve  
13 the video to be collected at a later time because he was  
14 not able to basically copy the video at that time.

15 Q. Were you able to talk with any other witnesses  
16 on the scene?

17 A. I did. I talked to one witness who was staying  
18 in room 138.

19 Q. Okay.

20 MS. MITCHELL: Pass the witness, Your  
21 Honor.

22 THE COURT: Cross?

23 MR. STILL: Thank you, Your Honor.

24 **CROSS-EXAMINATION**

25 BY MR. STILL:



1 the right-hand side just past Westheimer.

2 THE COURT: You can touch that screen --

3 THE WITNESS: Okay.

4 THE COURT: -- if you want to help  
5 demonstrate.

6 A. So, basically, this would be southbound on the  
7 feeder. And you just make a right into the main area of  
8 the parking lot. And right here would be the lobby area  
9 (indicating).

10 Q. (By Ms. Mitchell) Okay. Just so the record is  
11 clear, you made a line on the right side of State's  
12 Exhibit 1, that roadway. And then, I guess, a left  
13 line -- a line that goes left kind of toward the top of  
14 the red roof?

15 A. Yes.

16 THE COURT: Do you know how to clear that  
17 screen? It's on the bottom left. Just touch down  
18 there.

19 THE WITNESS: Okay.

20 Q. (By Ms. Mitchell) Do you remember where exactly  
21 you found the shell casing?

22 A. I don't recall exactly where I found it, but I  
23 know it was in the grassy area. You can't really see it  
24 in this picture. The robbery occurred somewhere outside  
25 of the victim's room, which I believe was room 140, and

1 A. Yes, I do. That's the shell casing.

2 Q. And is it in similar, or substantially similar  
3 condition as when you recovered it?

4 A. Yes, it is.

5 MS. MITCHELL: Your Honor, at this time,  
6 the State offers State's Exhibit 1.

7 THE COURT: All right. Any objection to 1?

8 MR. STILL: No objection, Your Honor.

9 THE COURT: It's admitted.

10 (Whereupon State's Exhibit No. 1 is  
11 admitted into evidence.)

12 MS. MITCHELL: May I publish it to the  
13 jury, Your Honor?

14 THE COURT: Yes, ma'am.

15 Q. (By Ms. Mitchell) I'm showing you State's  
16 Exhibit No. 1. What are we looking at here?

17 A. Like I said, this appears to be maybe Google  
18 Map. I'm not sure. But, basically, a bird's eye view of  
19 the Red Roof Inn. Obviously, a picture of the Red Roof  
20 Inn. On the right side of the screen is West Sam Houston  
21 Parkway South. So, if you imagine taking I-10 westbound  
22 towards Katy, and then you head south on West Sam Houston  
23 Parkway South, you go southbound, and then you exit  
24 Westheimer and you stay on the feeder, and, basically, you  
25 will be coming down this street, and it will be right on

1 Williams, who was a male, and a Lauren Deberry, who was a  
2 female.

3 Q. Okay. Now, you stated that you located a  
4 casing. What is a casing?

5 A. Basically, anytime that you shoot a gun, there  
6 is part of the bullet that goes one place. And your  
7 casing is basically the shell that comes off the bullet  
8 and usually falls on the ground.

9 Q. What did you do once you found that casing?

10 A. I collected it. I put it in a little baggie.  
11 And then another patrol officer who came by the scene, who  
12 was going to be near the evidence room later that night,  
13 took custody of it and tagged it into the evidence room  
14 for me.

15 Q. Now, I'm showing you what's been premarked as  
16 State's Exhibit No. 1. Do you recognize that area?

17 A. Yes. This is basically a bird's eye view of  
18 the Red Roof Inn.

19 Q. And is it a fair and accurate depiction of that  
20 place?

21 A. Yes, it is.

22 Q. And you're familiar with that area?

23 A. Yes, ma'am. That's my beat where I patrolled.

24 Q. And then I'm showing you State's Exhibit No. 2.  
25 Do you recognize this?

1 Q. Were you the first person on the scene?

2 A. Yes, I was. I was the primary responder.

3 Q. And that location, is that in Harris County,  
4 Texas?

5 A. Yes, it is.

6 Q. When you arrived, what was this location?

7 A. This was a motel called the Red Roof Inn.

8 There's a bunch of motels in that general area, but it's  
9 the one that says "Red Roof."

10 Q. And what did you do when you first arrived on  
11 scene?

12 A. When I arrived on scene, I met with the two  
13 complainants who were the victims of the robbery. And I  
14 met with them, got their statements. They gave me a  
15 description of what happened. The suspects at the time  
16 were gone. They had taken off already. So, basically,  
17 what we do as first responders is we just take a basic  
18 account of what happened, the who, what, where, when.  
19 Take their information. And I believe there was one  
20 casing that I recovered from the scene, a bullet casing.

21 Q. Okay. Do you remember the names of the  
22 complainants that you spoke to that evening?

23 A. Do you mind if I refer to my report?

24 Q. That's fine.

25 A. The names that I was given was a Cruse

1 Q. And what hours were you working?

2 A. I was working the night shift hours. I believe  
3 my shift was from 8:00 p.m. until 6:00 a.m.

4 Q. And what sort of training and education did you  
5 have to have in order to become a police officer?

6 A. Basically, I started in 2008. And you do about  
7 one year of training; six months is in the academy where  
8 you go to classes. And you basically go to the academy  
9 every day. You get some classroom training about the  
10 Penal Code and the laws of Texas, and then get some  
11 exposure to some skills-related work. You get driver's  
12 training, firearms training, tactical skills. And once  
13 you graduate from the academy, they put you on the street  
14 for six months for, basically, field training. So, they  
15 partner you up with a more experienced officer who takes  
16 you out and trains you for six months.

17 Q. So, I'd like to turn your attention to  
18 March 25, 2012. Were you called out to 2960 West Sam  
19 Houston Parkway South?

20 A. Yes. I was dispatched to a robbery that night.

21 Q. Okay. Do you remember approximately what time  
22 it was?

23 A. I don't know the exact time. I have to refer  
24 to my notes, but I think it was around 2:00 a.m. in the  
25 morning.

1 THE COURT: All right. You are under oath,  
2 ma'am. You may take the stand. You may proceed when  
3 you are ready.

4 OFFICER LISA WRIGHT,  
5 having been first duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MS. MITCHELL:

8 Q. Would you introduce yourself to us, please?

9 A. My name is Officer Lisa Wright.

10 Q. And where are you currently employed?

11 A. I work with the Houston Police Department. I'm  
12 currently in the homicide division.

13 Q. How long have you been with the homicide  
14 division?

15 A. For about two years now. I started in 2012.

16 Q. And are you doing anything else; going to  
17 school?

18 A. I actually just graduated from law school, from  
19 the University of Houston.

20 Q. Are you studying for the bar at this time?

21 A. Yes, I am.

22 Q. So, were you assigned to the homicide division  
23 with the Houston Police Department on March 25, 2012?

24 A. No. Back then I was actually still on patrol  
25 at that time.

1 in this case with Lauren Deberry as the complainant,  
2 she was shown this photo array. And you will hear  
3 that she did not make a positive identification of my  
4 client, Mr. Sowell. What that identification was  
5 labeled as is tentative, which is less than positive.

6 There are two additional witnesses that  
7 Detective Parrie could have spoken to at the scene,  
8 but he did not, and you will hear that from his  
9 testimony as well.

10 So, for these reasons, no positive photo  
11 spread identification and no video, I'm going to ask  
12 you to find my client not guilty of this charge.

13 THE COURT: Thank you.

14 At this time, State, would you call your  
15 first witness.

16 I just want to inform the jury that I've  
17 sworn in most, if not all of the witnesses already.  
18 So, they will come in and take the stand, but they  
19 have been sworn in. They are under oath to tell the  
20 truth, the whole truth, and nothing but the truth so  
21 help you God.

22 So, go ahead and call your witness.

23 MS. MITCHELL: The State calls Lisa Wright.

24 THE BAILIFF: This witness has been  
25 previously sworn.

1 robbery that's been charged by the State. What  
2 you're going to see is as plain as day Joshua Johnson  
3 is on that video. He's unmistakable. If you see  
4 Mr. Johnson -- I don't know if he's going to testify  
5 or not -- you will be able to see as plain as day  
6 that one of the suspects in that video is Joshua  
7 Johnson, who was also charged with aggravated  
8 robbery.

9 The other suspect, however, that's who the  
10 State is saying is my client, Mr. Sowell. Looking  
11 at it with your own two eyes, you're not going to be  
12 able to tell. Frankly, it's blurry and you can't  
13 tell who that second suspect is. That's why you have  
14 to rely, the State wants you to, on the investigation  
15 that's done.

16 Let me tell you something. You know what a  
17 photo array is? That's a series of photographs that  
18 are shown to potential witnesses so they can maybe  
19 make an identification of suspects that are in a  
20 case.

21 MS. MITCHELL: I object, Your Honor.  
22 That's argument.

23 THE COURT: That's argument.

24 MR. STILL: In this particular case, a  
25 photo array was put together by the detectives. And



1 actually had been arrested using that car on  
2 March 26th.

3 She also sees that on March 23rd there's a  
4 report of a suspicious vehicle, and it's a gold  
5 Chrysler 300. And that officer goes, looks in the  
6 car, tries to determine who's car it is. He sees a  
7 traffic ticket with the defendant's name on it. So  
8 now we have a name.

9 When she runs Mr. Sowell's through the  
10 system, she gets a photo, puts him in a photo spread.  
11 And the complainants in both cases are able to  
12 identify Mr. Sowell's, as well as his co-defendant,  
13 Joshua Johnson, as the people who robbed them on  
14 those nights.

15 Now, it's very, very easy to get lost, the  
16 forest from the trees in this case, but stick with  
17 it. It will all become very clear once the witnesses  
18 start to testify. At the end, I will ask you to find  
19 Mr. Sowell's guilty.

20 THE COURT: What say the defense?

21 MR. STILL: May I proceed, Your Honor?

22 THE COURT: Yes.

23 **OPENING STATEMENT THE DEFENSE**

24 MR. STILL: You-all are going to get to see  
25 some surveillance video in this case of this primary

1 have any suspects at this point. They don't know who  
2 these people are. They just have a description of  
3 the vehicle, they have surveillance video, but that's  
4 about it.

5 So, a follow-up investigator, Sergeant,  
6 Parrie, was given this case. And he's contacted by  
7 another sergeant in the robbery division who says,  
8 you know what? I'm working on another robbery case,  
9 and I have two potential suspects, because the facts  
10 in my case are very similar to the facts in your  
11 case.

12 In Sergeant Wilson's case, they -- that's  
13 the other detective with the robbery division. They  
14 -- the two suspects go up to two men who were coming  
15 back from a strip club, follow them home. They get  
16 out of the car, force the complainants out of the  
17 car, make one of the complainants take off his pants,  
18 shoes, his belt, and take all the property. And then  
19 they take the complainant's car in that case.

20 The complainant's car in that case is later  
21 found. And Sergeant Wilson does a little digging.  
22 And those complainants were able to give a  
23 description of the car. It was a gold Chrysler 300.

24 So, she runs that through the system, and  
25 she sees that someone has been arrested. Two guys

1           The State, would you like to give an  
2 opening statement?

3           MS. MITCHELL: Briefly, Your Honor.

4           THE COURT: All right. You may proceed.

5           **OPENING STATEMENT BY THE STATE**

6           MS. MITCHELL: On March 25, 2012, Lauren  
7 Deberry was working at a nightclub called Legends.  
8 She had met a customer there, and that night they  
9 were going back to a motel room. And on their way  
10 there, they were followed by someone. And when she  
11 gets out of the car, as well as her friend, the two  
12 black suspects come out, and one has a gun. And they  
13 chase them down and bring them back into a hallway  
14 area of the Red Roof Inn.

15           The suspects then tell them to give them  
16 all of their property. They make the gentleman she's  
17 with take his pants off, take his belt off, take his  
18 shoes off, and they take his property. They take her  
19 purse, and then they run.

20           Once they get outside and get back to their  
21 car, you can see the gentleman that she was with  
22 tries to run, and one of the defendants then fires a  
23 weapon at him. He misses him, but he still fires a  
24 weapon at him.

25           So, officers are called out. They don't

1                   courtroom.)

2                   THE COURT: Right there is fine. If I can  
3 get you all to come in. Raise your right hand.

4                   (Whereupon the witnesses are sworn in  
5 by the Court.)

6                   THE COURT: Thank you. You are sworn  
7 witnesses. You can't discuss the case. You are  
8 under the rule. You can talk to the lawyers about  
9 your case, but you can't talk to any other witnesses  
10 or any potential witnesses. And, of course, you  
11 can't talk to anybody that has testified. Thank you  
12 -- about their testimony. Thank you.

13                   (Whereupon the witnesses exit the  
14 courtroom.)

15                   THE COURT: Let's bring in the jury.

16                   (Whereupon the following proceeding is  
17 held in the presence of the jury.)

18                   THE COURT: We are going to proceed now  
19 with the opening statement. Opening statement is a  
20 roadmap of what the lawyers believe the evidence in  
21 the case will be.

22                   As you know, the defense has no burden of  
23 proof; therefore, they are not required and don't  
24 have to give an opening statement if they choose not  
25 to; of course, they may.



1 THE COURT: Yeah. I mean, as long as the  
2 jury is instructed appropriately that it's only for  
3 purposes of identification, then I think it will be  
4 fine. But the jury has to understand how your client  
5 was developed, and it's unfortunate for him that that  
6 development came through a similar aggravated  
7 robbery.

8 MR. STILL: Yes, sir. Last time we tried  
9 the case, there was -- I believe Ms. Mitchell put on  
10 Sergeant Wilson for all of the extra information. Is  
11 that going to be the limit of it this time?

12 MS. MITCHELL: I have the complainant here  
13 to testify and --

14 THE COURT: If I recall, this is my  
15 recollection, you guys had a chance to speak to that  
16 other jury?

17 MS. MITCHELL: Yes, sir.

18 THE COURT: So, I had envisioned the State  
19 calling an additional witness.

20 MR. STILL: I understand, Your Honor.

21 THE COURT: But, again, as long as those  
22 persons in the jury are admonished appropriately,  
23 then that's --

24 MR. STILL: May I formally take care of  
25 this in advance, as we're talking about this extra

1           MR. STILL: I will have it for the record.  
2 I understand how this is going to play, but I will  
3 have a 402, 404, 403 probative value is substantially  
4 outweighed by the prejudicial effect objection to  
5 that; but understanding that will be overruled, that  
6 would be my suggestion about how to handle the  
7 information.

8           THE COURT: Okay. All right. Are we good?

9           MS. MITCHELL: Yes, sir.

10          MR. STILL: Just the other aggravated  
11 robbery, Your Honor. I think we know where that's  
12 headed as well, because there are two aggravated  
13 robberies here.

14          THE COURT: Right.

15          MR. STILL: Same objections that I would  
16 have to that information. You heard that information  
17 from earlier.

18          THE COURT: Yeah. Again, the State can  
19 offer it for identification.

20          MS. MITCHELL: And in that case, I do  
21 intend on saying something about how similar the  
22 robberies are. And that's what she saw -- she saw  
23 the robbery in the system, and they were very, very  
24 similar by the way they were committed, and going  
25 into sort of the facts of the similarities.

1           made, I'm going to allow those statements also.

2                   MR. STILL: Thank you, Your Honor. At this  
3 time, can we get to the bottom of maybe how we're  
4 going to play the extraneous offense, how it's going  
5 to play out in our case and the case-in-chief for the  
6 State?

7                   THE COURT: Okay. Again, these things go  
8 to identification, and you can use those for  
9 identification. The problem is that the codeine is  
10 suppressed. But that doesn't mean -- they are  
11 suppressed unless the defense gives the State the  
12 opportunity to bring that information in for some  
13 other purpose.

14                   MR. STILL: My thought on the State's  
15 case-in-chief was regarding this March 26th incident  
16 with the felon in possession of a weapon with the  
17 codeine. Although we had to flush out facts here, I  
18 was hoping it could be something limited to, from  
19 Sergeant Wilson's perspective: I discovered an  
20 arrest in which Mr. Sowell and Mr. Johnson were  
21 associated with a Chrysler 300.

22                   MS. MITCHELL: And that was my intent, Your  
23 Honor, is to only say that he was arrested.

24                   THE COURT: That sounds fair. That sounds  
25 clean.