

1 THE COURT: Right up here, please, Officer.

2 THE BAILIFF: This witness has not been sworn.

3 THE COURT: If you would, please, raise your
4 right hand to take the oath.

5 (Witness sworn.)

6 THE COURT: If you would, have your seat,
7 please, sir. And would you please state and spell your name
8 for my court reporter.

9 THE WITNESS: My name is Andrew Wright,
10 A-N-D-R-E-W W-R-I-G-H-T.

11 THE COURT: And you may proceed.

12 MR. OTTO: Thank you, Your Honor.

13 **ANDREW WRIGHT,**

14 having been first duly sworn, testified as follows:

15 **DIRECT EXAMINATION**

16 Q. (BY MR. OTTO) Good afternoon, Officer Wright.

17 A. Good afternoon.

18 Q. We've met before, yes?

19 A. Yes, sir.

20 Q. And how are you currently employed?

21 A. I'm employed by the Houston Police Department.

22 Q. What do you do for the Houston Police Department?

23 A. Currently I'm a police officer assigned to the West
24 Side Divisional Tactical Unit.

25 Q. And how long have you been a police officer?

1 A. Five years.

2 Q. And before you became a police officer, did you
3 have to go through any particular training or evaluations?

4 A. Yes, sir.

5 Q. Tell us a little bit about that.

6 A. We had a six-month police academy where they
7 trained us in various subjects of law and criminal
8 procedure. After that there's a six-month provisional
9 period where you go through three different trainers and two
10 different evaluators that teach you how to practically apply
11 the things that you learned in the police academy to work on
12 the streets and they test you on that and if you pass all
13 that, after the six months, then you're a police officer
14 without the probationary title.

15 Q. Okay. Now, are you originally from Houston?

16 A. Yes, sir.

17 Q. What part?

18 A. Spring Branch.

19 Q. Did you grow up in Spring Branch?

20 A. Yes, sir.

21 Q. Family from there?

22 A. Yes, sir.

23 Q. So you're a Houston boy?

24 A. Yes, sir.

25 Q. Okay. And did you go to the police academy here in

1 Houston?

2 A. Yes, sir.

3 Q. Okay. And do you remember what year you graduated,
4 completed all your evaluations from the academy?

5 A. I finished the academy in April of 2009, and then
6 October 6th of 2009 is when I got off probation.

7 Q. Okay. And that probationary period, that's kind of
8 like a on-the-job training; is that right?

9 A. Right, yes, sir.

10 Q. And after you finished, October, 2009, first place
11 you go, where do you get summoned?

12 A. To the West Side division, night shift patrol.

13 Q. Where is the West Side division patrol?

14 A. Generally it's west of Gessner, south of I-10 and
15 it goes all the way out to, like, Fry Road on the freeway
16 and down on 59 as far as the city extends.

17 Q. That's a pretty big area, huh?

18 A. Yes, sir.

19 Q. Now, do you -- whenever you're on patrol with West
20 Side, do you go through that whole area or are you assigned
21 some sort of subdivision of that area?

22 A. Yeah, I was assigned to a subdivision, the northern
23 half is 20 District and the southern half is 19 District.
24 That's where I'm assigned. And then within that area I was
25 assigned to 19G10's beat, which is one of the more

1 fast-paced areas that is near Bissonnet and Beltway 8.

2 Q. Okay. So, you called it a beat.

3 A. Yes, sir.

4 Q. Is that right?

5 A. Yes, sir.

6 Q. And what is a beat?

7 A. A beat is probably just a geographical area that
8 they've segmented the city into so that there's
9 theoretically officers in each beat; so if a call drops,
10 you're pretty close.

11 Q. Make sure the officers stay spread out?

12 A. Yes, sir.

13 Q. Okay. Now, you also said that you worked the night
14 shift; is that right?

15 A. Yes, sir.

16 Q. What is the night shift?

17 A. Well, the night shift's any shift that starts after
18 8:00 PM and my specific shift at the time was a 10-hour
19 shift starting at 9:00 PM and ending at 7:00 AM.

20 Q. And you started that in October?

21 A. Yes.

22 Q. And are you still on that night shift?

23 A. No.

24 Q. They promoted you out of the graveyard, huh?

25 A. Yes, sir.

1 Q. When did you stop that shift?

2 A. I stopped that shift in the end of October of 2011.

3 Q. Okay. So just a little bit after this case
4 occurred?

5 A. Yes, sir.

6 Q. So let's talk to -- let's talk about October of
7 2011. Were you on patrol on October 16th, the night,
8 October 16th and 17th of 2011?

9 A. Yes, sir.

10 Q. And do you remember -- were you on that same beat
11 that you just talked to us about?

12 A. Yes, sir, at the time, 19G10's beat was my
13 assignment.

14 Q. That's kind of on the southwestern side of the
15 town; is that right?

16 A. Yes, sir.

17 Q. Do you remember, were you alone? Were you with
18 anybody?

19 A. I had a partner at the time.

20 Q. Do you remember who your partner was?

21 A. Yes, Officer Raymond Mason.

22 Q. And are you and Officer Mason, do you normally
23 partner together or is it sort of an assignment that varies
24 from night to night?

25 A. We had partnered together at that time for about

1 six months.

2 Q. You knew each other pretty well?

3 A. Yes, sir.

4 Q. Did you trust each other?

5 A. Yes, sir.

6 Q. Did you make scenes together?

7 A. Yes, sir, we rode in the same vehicle, so.

8 Q. If you know, did he go through the same training
9 and experience that you did?

10 A. He did.

11 Q. Now on that night, did you have an occasion to
12 notice anything out of the ordinary?

13 A. Yes, sir.

14 Q. Okay.

15 A. At about 3:40 in the morning --

16 MR. JOHNSON: Objection, Your Honor,
17 nonresponsive.

18 THE COURT: You want to ask your next
19 question, please.

20 Q. (BY MR. OTTO) What did you notice?

21 A. I noticed a vehicle parked in a parking lot at 3:40
22 in the morning.

23 Q. Okay. So, do you remember whereabouts in that beat
24 that vehicle was?

25 A. Yes, it was in the 9600 block of Plainfield in a

1 parking lot on the west side of the street facing the south.

2 MR. OTTO: May I approach the witness, Your
3 Honor?

4 THE COURT: You may.

5 Q. (BY MR. OTTO) Now, Officer Mason, I'm showing you
6 what's been marked as State's Exhibit 1, 2 --

7 A. I'm Officer Wright.

8 Q. I'm sorry. Officer Wright. I've already gotten
9 myself confused.

10 A. That's okay.

11 Q. State's Exhibit No. 1, No. 2, No. 3 and No. 4.
12 Now, without going into what these are, do you recognize
13 these?

14 A. Yes.

15 Q. Okay. And are they fair and accurate depictions of
16 what they purport to represent?

17 A. Yes.

18 Q. Okay.

19 MR. OTTO: Now, State offers State's 1 through
20 4 and tenders to opposing counsel.

21 MR. JOHNSON: No objection, Judge.

22 THE COURT: State's Exhibits 1 through 4 will
23 be admitted.

24 MR. OTTO: May I publish, Your Honor?

25 THE COURT: You may.

1 Q. (BY MR. OTTO) Officer Wright, I'm going to start
2 with State's Exhibit 1. Now, you have the luxury of having
3 a nice little screen right next to you. We're all going to
4 be looking at these larger TVs if I can get them to work.
5 Technology is always fun to deal with.

6 THE COURT: Are they on? They may not be on.

7 MR. OTTO: I just turned them back on, Your
8 Honor.

9 Q. (BY MR. OTTO) Now, actually, I'll start with
10 State's Exhibit 2. What is this?

11 A. That's a map of the southwest part of Houston.

12 Q. And on this map there's a little red A. Do you
13 recognize where that location is?

14 A. Yes, that's near Bissonnet and 59.

15 Q. Okay. And is that the same location that you just
16 have been talking to us about?

17 A. Yes, sir.

18 Q. And is that location where that red dot is, is that
19 here in Harris County?

20 A. Yes, it is.

21 Q. In Texas, yes?

22 A. Yes.

23 Q. Now, I'm showing you State's Exhibit No. 1. This
24 is a little bit closer view of that same area.

25 A. Yes.

1 Q. Okay. Now, you say you saw a car near the 9600
2 block. If you touch the screen next to you, it will
3 actually make a little mark for us so we can see what you're
4 pointing at. Now, whenever you're coming up to this area,
5 where are you driving?

6 A. I was driving -- I started off at this end,
7 Plainfield, and I drove south, which would be down on the
8 map and then I made a U-turn down here by where it says
9 "Plainfield Inn" and came back north just north of that
10 Plainfield and Ponderosa.

11 Q. Now this street that's running north/south here in
12 the middle, is that Plainfield?

13 A. Yes, sir.

14 Q. I have bad eyes so I want to make sure I can get
15 that right.

16 And you say that you were coming southbound on
17 that road; is that correct?

18 A. Yes.

19 Q. Okay. Whereabouts on Plainfield did you notice
20 that car?

21 A. It was on the west side. Would you like me to try
22 to touch the screen and have it illuminated?

23 Q. Sure.

24 A. Well, I touched a little bit further left than
25 that, but about that.

1 Q. So that's on -- where you made this mark, for the
2 record, was on the west side of Plainfield north of
3 Ponderosa; is that right?

4 A. That's correct. That Ponderosa street doesn't
5 actually go west through Plainfield anymore.

6 Q. So I'm showing you now what's been marked as
7 State's Exhibit 3. Is this that parking lot that you just
8 made a mark for us on?

9 A. Yes.

10 Q. Okay. I'm going to also show you State's Exhibit
11 No. 4. Is that another view of that same parking lot?

12 A. Yes.

13 Q. Okay. Now, you tell me which one you want, 3 or 4,
14 but can you mark for us where the car that you saw was
15 located?

16 A. 3 is good. The car was right there.

17 Q. So, for the record, you've made a mark on the
18 parking spaces in front of this blue sidewalk about -- is
19 that one, two, three, four, five spaces out? Is that right?

20 A. Yes, sir.

21 Q. Okay. And was that car parked in a space? Was it
22 just sort of out there?

23 A. I don't remember if it was in a space.

24 Q. Was the car on?

25 A. No.

1 Q. Was the shopping center, that big parking lot that
2 we have, was that open at 3:40 in the morning?

3 A. No.

4 Q. Okay. Were there a lot of cars in that parking
5 lot?

6 A. No, that was the only vehicle, at least in this
7 whole section right here.

8 Q. So what drew your attention to that car?

9 A. It was 3:40 in the morning. It was the only car in
10 the parking lot and this is a area where we frequently
11 encounter a lot of late-night criminal activity.

12 Q. So, let's talk a little bit about the area, this
13 Plainfield, Ponderosa area. Is that a area that you drove
14 by a lot?

15 A. Yes.

16 Q. And you said it's a place where you're used to
17 seeing criminal activity?

18 A. Yes.

19 Q. What do you mean by that?

20 A. My partner, Officer Mason and I, had made numerous
21 arrests for prostitution, narcotics, gang members with
22 weapons in that area.

23 Q. Now, just because someone's in that area doesn't
24 mean they're breaking the law, right?

25 A. Right.

1 Q. Okay. But this area, you say there's a lot of
2 prostitution going on in that area. Is there a name for
3 that area that you know of?

4 A. Yeah, they call it the track.

5 Q. And what does "the track" mean?

6 A. It's, I guess -- it's the area that prostitutes
7 will walk up and down that is popular for people to come
8 solicit prostitutes in.

9 Q. And when you say that there's a number of them
10 there, is this every night? Is this --

11 A. Yes, every night from -- I mean, before dinnertime
12 to when the school buses show up in the morning.

13 Q. Is this a well-known area for prostitution?

14 A. Yes.

15 Q. Now, when you first see that car sitting over
16 there, what do you do?

17 A. Well, we -- we're driving southbound and we see the
18 car over there and it appears out of place. So, we continue
19 down Plainfield, turn around and come back to see, you know,
20 if it's moved in the ten seconds that we turned around it or
21 not and when it was still there, we pulled into the parking
22 lot that it was located in.

23 Q. And did you pull into the parking lot using this
24 driveway that we see on State's Exhibit 3?

25 A. Yes, I did.

1 Q. Okay. So, you're coming from Plainfield?

2 A. Yes.

3 Q. And where do you park your car?

4 A. I had parked my car a little bit to the right of
5 the green dot, somewhere probably just a little bit -- well,
6 I can just make a dot. Well, how about that? Yeah. A
7 little bit closer to Plainfield than the car was and a
8 little bit closer to Bissonnet also.

9 Q. And when you pull up to this car that's in this
10 driveway, do you have your lights on?

11 A. No.

12 Q. Do you have your sirens going?

13 A. No.

14 Q. Okay. Why not?

15 A. Because we don't really know what's going on and a
16 lot of times we find people in this area in the midst of
17 prostitution acts and we don't want to alert them to our
18 presence before we approach.

19 Q. Now, does your -- in your training, your experience
20 and your working with Officer Mason, do y'all have a
21 protocol whenever y'all are going to approach a car like
22 this and you don't really know what's going on?

23 A. Well, we approach it cautiously in a safe manner
24 and usually, you know, if I'm on the left side of our
25 vehicle, I'll go to the left side of the car; and Officer

1 Mason, on the right side of the vehicle, goes to the right
2 side of the car.

3 Q. So y'all approach the car from either side?

4 A. Right, from different sides.

5 Q. Why do you do that?

6 A. For officer safety. We can see who's in there, you
7 know, if there's a weapon or something going on, we can see
8 it, one person can see something, the other one can't. You
9 know, a lot of times they'll see an officer approach on one
10 side and be doing something over here and it's really
11 helpful to know what's going on on the other side.

12 Q. Are you and Officer Mason communicating with each
13 other throughout this process?

14 A. Not really. I mean, we've worked together a lot in
15 the past and just kind of have a rhythm and a pace and a
16 routine of how we do things like that.

17 Q. Now, in this particular instance, do you remember
18 if you approached the driver's side or if you approached the
19 passenger side?

20 A. I approached on the driver's side.

21 Q. Okay. And do you remember which side Officer Mason
22 approached from?

23 A. On the passenger side.

24 Q. Whenever you approached the car, did you see
25 anything?

1 A. Yes. I saw that there were two occupants inside
2 the vehicle.

3 Q. At what point do you see this? Is it still when
4 you're behind the car or once you get up to it?

5 A. Before I got out of my car, I could see there was a
6 silhouette, at least on the driver's side, and then it was
7 probably not until I was all the way up to the window that I
8 could see that there were two people inside the car.

9 Q. And when you get up to the driver's window, explain
10 to us what you see.

11 A. I see the defendant in the driver's seat; he
12 appears sweaty. And I see the complainant in the front
13 passenger seat reclined back.

14 Q. Okay. So let's talk about each one of those. So
15 you say you saw someone you're calling the defendant. The
16 person that you saw in the driver's seat that day, do you
17 see him or her in the courtroom today?

18 A. Yes, I do.

19 Q. And can you identify that person by an article of
20 clothing they're wearing and their location in the
21 courtroom?

22 A. Yes. They're sitting over here at the defense
23 table with a white shirt and a blue vest with glasses on.

24 MR. OTTO: Your Honor, may the record reflect
25 that the witness has correctly identified the defendant?

1 THE COURT: The record will so reflect.

2 MR. OTTO: Thank you, Your Honor.

3 Q. (BY MR. OTTO) And when you saw the defendant
4 sitting in that driver's seat, tell us a little bit how he
5 looked. You said he was sweaty. What do you mean by that?

6 A. Well, I mean, it was 3:40 in the morning and it was
7 not warm out and he had sweat on his face that I could see
8 and just appeared kind of nervous and startled at our
9 presence.

10 Q. And now you say it wasn't warm out. This is
11 November, right?

12 A. October.

13 Q. I'm sorry. October, right.

14 A. Right.

15 Q. So kind of the autumn time?

16 A. Right.

17 Q. We all know from Houston it can be from 30 to 90 in
18 that time of the year.

19 A. Yes, sir.

20 Q. Do you remember, did you have to wear a jacket?
21 Were you in short sleeves?

22 A. I was in short sleeves.

23 Q. Okay. Did that stand out to you as something that
24 was odd?

25 A. Yes.

1 Q. Why is that?

2 A. Because I don't like to sweat. I wouldn't -- at
3 3:40 in the morning, you know, I don't know why someone
4 would be sitting in a car sweating. Just didn't really make
5 sense to me.

6 Q. And did that tie into anything you knew about the
7 area?

8 A. Yes. It's a high prostitution area and
9 prostitution often involves some form of physical exertion.

10 Q. You also mentioned that you saw someone else in the
11 car?

12 A. Yes.

13 Q. Can you tell us a little bit about that person?

14 A. The other person in the car was a black female that
15 appeared to be very young. She was wearing, like, an
16 orangish dress and had black hair.

17 Q. Now, when you say she appeared to be young, what do
18 you mean by that?

19 A. She did not look like an adult. I have a younger
20 sister and kind of know what girls and their friends in the
21 realm of 18 look like and she looked younger than that,
22 noticeably.

23 Q. You're saying "noticeably." What do you mean by
24 "noticeably"?

25 A. That she just looked a lot younger. I mean, she

1 didn't -- her face just did not appear to be that of a
2 person that's, you know, 17 or 18 years old.

3 Q. Did you notice anything else about her? You said
4 she had on an orange dress?

5 A. Yes.

6 Q. Can you explain that a little bit?

7 A. Yeah, it was a orange one-piece dress and she was
8 seated in the passenger seat and the seat was reclined back
9 and the dress was not very long.

10 Q. I know this might be a little bit awkward to talk
11 about but what do you mean by "the dress wasn't very long"?

12 A. It seemed like it was a provocative dress, clothing
13 that's similar to girls that are walking along the track and
14 trying to pick up men for prostitution acts would wear.

15 Q. What about the neckline? Do you remember?

16 A. I believe the neckline was pretty close and, you
17 know, you could see a little bit at the top of the cleavage.

18 Q. Now, did you notice anything about how she -- why
19 she might have been reclining?

20 A. Aside from the prostitution in the area, I didn't
21 find any other reason why she would be reclined back in a
22 car in a parking lot at that time.

23 Q. Did she appear to be awake and alert, anything as
24 far as her demeanor?

25 A. She was pretty nervous when we got up there and,

1 you know, didn't really know what to say.

2 Q. Now, we talked a lot about what they looked like.
3 Did you have any reason to believe that when you walked up
4 to the car, they were having sex?

5 A. I know that's a thing that happens a lot in the
6 area. I didn't see any exact sex acts occur. Outside from
7 the sweating by the defendant, nothing that showed that they
8 were having sex.

9 Q. Now, after you saw the defendant and saw the girl
10 in the passenger seat, what'd you do next?

11 A. I began talking to the defendant. He was still
12 seated in the car and I was basically asking him, What's
13 going on, what brings you out to Plainfield at 3:40 AM.

14 Q. What did he tell you?

15 A. He said that he was just hanging out. As usual, I
16 asked him, you know, what the relation is between him and
17 the other person in this car and he told me that it's some
18 girl that he picked up at the Greyhound station within the
19 past few days.

20 Q. Is there a Greyhound station near there?

21 A. No.

22 Q. Did he tell you anything else while you were
23 talking to him?

24 A. He really wanted me to know that he played football
25 and he was a big football guy and he was trying to impress

1 me with that, I guess.

2 Q. Now, what'd you do after that?

3 A. At that point -- well, while I was talking to him,
4 the female was out of the car talking to my partner and so
5 my partner came over and I went and started talking to the
6 female.

7 Q. And after you talked with the female -- let me ask
8 you this. While you were talking to her, did you get a
9 little bit closer look at her?

10 A. Yes.

11 Q. Were you able to evaluate kind of what you thought
12 her age might be?

13 A. Yes, she still seemed young. I thought she was in
14 the age of, you know, 13, 14, 15. And as I started talking
15 to her, her lack of maturity and kind of street savvy was
16 sinking in a lot more.

17 Q. Now, in cases that you suspect that a criminal act
18 might be going on -- let me ask you this. Did you suspect
19 something criminal might have been going on?

20 A. Yes.

21 Q. In a case that you suspect something criminal's
22 going on and someone like this, like this girl appears to be
23 underage, is there a protocol that you follow?

24 A. Yes.

25 Q. Tell us a little bit about that.

1 A. If we believe that there's some kind of sexual
2 activity occurring between an adult and a juvenile, we call
3 juvenile division and they ask for a run-down of what's
4 going on and we give them the information and then if it
5 does sound like that is what's going on, they'll send out a
6 member of the Innocence Lost Task Force to assist in the
7 investigation or to take over the investigation.

8 Q. So at the point in time of an investigation that
9 you think a juvenile might be involved in a sex acts or in
10 some sort of sexual conduct, that's turned over to a
11 different division within HPD?

12 A. Yes, sir.

13 Q. Okay. So, you sort of do everything up until then
14 and then let them take over from there?

15 A. Yes, sir.

16 Q. And why is that?

17 A. Well, they take these kinds of offenses very
18 seriously and like it's often the case, night shift,
19 patrolmen have less time on, less experience in
20 investigating these kind of things. I'd only been off
21 probation for two years at the time and, you know, I'd only
22 run into this exact thing a few times before.

23 Q. Did you call that division in this case?

24 A. Yes, I did.

25 Q. Did they send someone out?

1 A. Yes, they did.

2 Q. Do you remember who they sent out?

3 A. They sent out two officers, Officer Bartels and I
4 think the other officer was Officer Harris.

5 Q. Now, did you also -- after you called out these
6 people, did you have an opportunity to look through the car
7 itself?

8 A. Yes, I did.

9 Q. Did you find anything in the car?

10 A. Yes.

11 Q. Of note?

12 A. I found various clothing. There was a cell phone
13 and a hotel receipt in the front area between the driver and
14 passenger seat and a lot of other junk in the car.

15 Q. Let's take those things one by one. You said you
16 found a lot of clothes?

17 A. Right.

18 Q. Can you explain, what do you mean -- where did you
19 find these clothes?

20 A. Everywhere. In bags and on the floor and stuff in
21 the trunk, just a large amount of female clothes, and then I
22 believe some male clothing, also.

23 Q. Were they -- were these female clothes, were they
24 packaged in, like, a suitcase or a bag or do you remember?

25 A. Some of the clothing was packaged in a backpack or

1 a bag and a lot of it was just thrown around like you dumped
2 a laundry basket in there.

3 Q. When you say "a backpack," do you remember what the
4 backpack looks like?

5 A. It's a small backpack about this size with a zipper
6 and two straps on it.

7 Q. Let me ask you this. Is it a -- is it like a
8 backpack that I would have had when I went to school or is
9 it like a backpack that I might take on a trip somewhere?

10 A. Oh, it is like a -- it looks like more of a school
11 backpack. It's not like a hiking backpack or a
12 business-looking backpack. It looks kind of like a child's
13 backpack.

14 Q. Now, you also mentioned that you found a phone in
15 the car; is that right?

16 A. Yes.

17 MR. OTTO: May I approach the witness once
18 again, Your Honor?

19 THE COURT: You may.

20 Q. (BY MR. OTTO) Officer Wright, I'm showing you
21 what's been previously marked as State's Exhibit 5 and its
22 contents. Do you recognize this?

23 A. Yes.

24 Q. Can you explain to us what this is, what we're
25 seeing here?

1 A. That's a label with this case number on it and it
2 says "one sealed envelope with a car cell phone/bluetooth"
3 and it's the kind of thing that is put on something we would
4 put it in the property room.

5 Q. Okay. Now, I'm going to ask you to open this
6 envelope, State's Exhibit 5.

7 Security won't let us through with any of
8 those?

9 A. Well, I have some other things they won't let you
10 through with.

11 Q. Now, do you recognize what was inside -- what is
12 State's Exhibit 5?

13 A. Yes.

14 Q. Okay. And what is it?

15 A. It's a Samsung cell phone.

16 Q. Okay. And is this the same cell phone that you
17 recovered from the scene that night?

18 A. Yes.

19 Q. How do you know that?

20 A. Because I recognize it and it's in this envelope
21 sealed with the officer's initials that tagged it on that
22 date.

23 Q. Okay. Has it been altered or changed any in way
24 that you know of, aside from having the battery out of it?

25 A. Not that I know of, no.

1 MR. OTTO: At this time, State offers State's
2 Exhibit 5 and tenders to opposing counsel.

3 MR. JOHNSON: No objection, Judge.

4 THE COURT: State's Exhibit 5 will be
5 admitted.

6 MR. OTTO: State passes, Your Honor.

7 MR. JOHNSON: Briefly, Judge.

8 THE COURT: Sure.

9 **CROSS-EXAMINATION**

10 Q. (BY MR. JOHNSON) Officer, my name is Jules
11 Johnson. We've never spoken before, have we?

12 A. No, sir.

13 Q. I'm going to ask you some questions today, okay?

14 A. Okay.

15 Q. In that connection, if I ask you a question and you
16 don't understand the question that I'm asking, please stop
17 me and ask me to rephrase my question or restate my question
18 so that I can make sure that the jury knows that the
19 question you're answering is the question that I'm asking.

20 A. Okay.

21 Q. On October 16th, 2011, you saw a car sitting in a
22 parking lot and that car was off, correct?

23 A. October 17th, 2011.

24 Q. October 17th, 2011.

25 A. Yes, sir.

1 Q. At 3:40 in the morning?

2 A. Yes, sir.

3 Q. There was a car sitting in the parking lot,
4 correct?

5 A. Yes, sir.

6 Q. And the car was off, correct?

7 A. Yes, sir.

8 Q. And this is off of Bissonnet, correct?

9 A. Yes, sir.

10 Q. Fairly major thoroughfare, correct?

11 A. Yes, sir.

12 Q. And the weather was warm enough for you to be
13 wearing short sleeves, correct?

14 A. Yes, sir.

15 Q. And you can't recall if the car was in a parking
16 space, correct?

17 A. No, sir.

18 Q. I'm going to venture and guess that you've been
19 driving for a while, correct?

20 A. Yes, sir.

21 Q. Have you ever had the opportunity to have a vehicle
22 stall on you?

23 A. One time when I was driving through water.

24 Q. Have you ever had the opportunity to have to push a
25 vehicle?

1 A. Someone else's vehicle, yes.

2 Q. Pushing a vehicle in warm weather may cause you to
3 sweat, correct?

4 A. Yes, sir.

5 Q. So, simply being sweaty and sitting in a parking
6 lot with a vehicle that's off doesn't necessarily mean any
7 criminal activity's afoot, does it?

8 A. No, sir.

9 Q. Officer, you see people all the time, correct?

10 A. Yes, sir.

11 Q. And when you see those people, you look at them and
12 you may have to make some determination about what their age
13 is, correct?

14 A. Yes, sir.

15 Q. Is it fair to say that some people look older than
16 they actually are?

17 A. Yes, sir.

18 Q. Is it also fair to say that some people look
19 younger than they actually are?

20 A. Yes, sir.

21 Q. Now, when you encountered this vehicle and had the
22 opportunity to go through it, you said that there were
23 clothes all over the vehicle.

24 A. Yes, sir.

25 Q. And you said a majority of those clothes were

1 female clothes, correct?

2 A. Yes, sir.

3 Q. From looking at the clothes, you weren't able to
4 determine the age of the person whose clothes they were,
5 were you?

6 A. No, sir.

7 Q. And what I mean by that is you didn't find any
8 Sponge Bob panties in the car, did you?

9 A. Not that I remember.

10 Q. You didn't find a Sponge Bob backpack in the car,
11 did you?

12 A. Not that I remember.

13 Q. You say you found a backpack that looked like a
14 school-age backpack, correct?

15 A. Yes.

16 Q. By "a school-age backpack," aren't you just talking
17 about one of those backpacks that you can buy at Walmart?

18 A. Specifically one that's more colorful and isn't a
19 backpack that I'd wear around nowadays.

20 Q. Well, do you wear a backpack around nowadays,
21 Officer?

22 A. Sometimes.

23 Q. Okay. Just when you're walking down the street?

24 A. When I'm going to the gym.

25 Q. Okay. And I'm guessing that your backpack probably

1 looks more masculine, correct?

2 A. I'd like to think so.

3 Q. So, would it be fair to say that perhaps a woman
4 would have a backpack that would maybe be more colorful,
5 maybe look more feminine?

6 A. Yes, sir.

7 Q. But there was nothing specifically about this
8 backpack that could determine the age of the person that
9 owned it, correct?

10 A. That's correct.

11 Q. Okay. Again, when you approached this vehicle, you
12 didn't see any sexual activity occur?

13 A. That's correct.

14 Q. You said you pulled up to the vehicle in the -- and
15 you didn't activate your lights and your sirens, correct?

16 A. That's correct.

17 Q. And that was so that you did not alert anybody that
18 you were pulling up, correct?

19 A. For multiple reasons, but, yes.

20 Q. And you know what furtive movements are, correct?

21 A. Yes.

22 Q. I guess kind of the layman's way of saying it is a
23 bunch of scurrying around, like you're trying to hide
24 something, correct?

25 A. Correct.

1 Q. And when you pulled up on this vehicle that day,
2 you didn't see any furtive movements, did you?

3 A. I was not in a very good position to see them but I
4 didn't observe any.

5 Q. How many condoms did you find in the car, Officer?

6 A. I don't remember.

7 Q. Where was the gun in the car?

8 A. I don't remember a gun.

9 Q. How much money did you find in the car?

10 A. No idea.

11 Q. How much prostitution did you see occurring in that
12 car?

13 A. None.

14 MR. JOHNSON: Pass the witness, Judge.

15 THE COURT: Mr. Otto?

16 MR. OTTO: Nothing further, Your Honor.

17 THE COURT: May this witness be excused?

18 MR. OTTO: Yes, Your Honor.

19 MR. JOHNSON: Subject to recall, Judge.

20 THE COURT: On call, of course.

21 MR. JOHNSON: Yes.

22 THE COURT: All right. Thank you, Officer.
23 You're free to go. Please do not discuss your testimony
24 with any of the other witnesses. You can certainly discuss
25 with the lawyers but not with any of the other witnesses.

1 *THE WITNESS:* Yes, Your Honor.

2 *THE COURT:* Thanks so much. Y'all want to
3 come up just a second?

4 *(At the bench, on the record.)*

5 *THE COURT:* How long is your next witness?

6 *MS. JOHNSON:* The next witness will be
7 Investigator T. Pham from the District Attorney's Office,
8 who is the additional forensic examiner who conducted this
9 exam on the phone, so that's what we would be offering next.

10 *THE COURT:* Right, but how long?

11 *MS. JOHNSON:* Other than hit this issue, 30
12 minutes. I mean, I think we'll be done with him probably by
13 the end of the day but the only thing we have to take up is
14 this issue with the Court.

15 *THE COURT:* Okay. All right. And so, and
16 this is your copy?

17 *MR. HOCHGLAUBE:* This is the copy, right.

18 *THE COURT:* Okay. And I don't know what
19 exhibit y'all have it marked as, just for reference.

20 *MS. JOHNSON:* It's going to be No. 7.

21 *THE COURT:* Okay. So I just looked at the
22 basic information. So, is there a way that we can take it
23 out just by marking it through like the other ones?

24 *MS. JOHNSON:* We can.

25 *THE COURT:* Okay. Well, let's do that then.

1 *MS. JOHNSON:* Your Honor, our intention is to
2 have him lay the foundation. We would actually offer two
3 exhibits, one not to go into evidence, just to be
4 demonstrative, so that we have the original, and then the
5 redacted version, if that's the Court's request on redacting
6 the "dates" portion at this time.

7 *THE COURT:* Yeah, let's do that. And we don't
8 have to do it this very minute unless you're going to show
9 it to the jury today.

10 *MS. JOHNSON:* No, but I'll go make a copy real
11 quick.

12 *THE COURT:* Okay. However you want to do it.
13 I mean, I don't know that you have to do that right now if
14 we're not going to show it to the jury yet.

15 *MR. OTTO:* We are going to show the redacted
16 portion to the jury because there's some numbers that are
17 relevant.

18 *THE COURT:* I get that.

19 *MR. OTTO:* But the unredacted portion is only
20 going to be for the record and so that --

21 *THE COURT:* Exactly.

22 *MR. OTTO:* Right, exactly.

23 *THE COURT:* My point was y'all can go through
24 and just mark that and it's easy.

25 *MS. JOHNSON:* Okay.

1 THE COURT: Very good. There's your copy
2 back.

3 (End of discussion at the bench.)

4 THE COURT: Please call your next witness.

5 MR. OTTO: State calls Tuan Pham.

6 THE BAILIFF: He has not been sworn in.

7 THE COURT: Thank you. If you would, please
8 raise your right hand.

9 (Witness sworn.)

10 THE COURT: If you would, please state and
11 spell your name for my court reporter.

12 THE WITNESS: Yes, ma'am. First name is Tuan,
13 T-U-A-N, last name Pham, P-H-A-M.

14 THE COURT: And you may proceed.

15 MR. OTTO: Thank you, Your Honor.

16 **TUAN PHAM,**

17 having been first duly sworn, testified as follows:

18 **DIRECT EXAMINATION**

19 Q. (BY MR. OTTO) Good afternoon, Mr. Pham. How are
20 you doing?

21 A. Good, sir. How are you?

22 Q. I'm doing well. I guess let's start at the
23 beginning. What do you do for a living?

24 A. I work here at the Harris County District
25 Attorney's Office as a computer forensic examiner.