

Syllabus

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Timber & Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

MICHIGAN *v.* BRYANT

CERTIORARI TO THE SUPREME COURT OF MICHIGAN

No. 09–150. Argued October 5, 2010—Decided February 28, 2011

Michigan police dispatched to a gas station parking lot found Anthony Covington mortally wounded. Covington told them that he had been shot by respondent Bryant outside Bryant’s house and had then driven himself to the lot. At trial, which occurred before *Crawford v. Washington*, 541 U. S. 36, and *Davis v. Washington*, 547 U. S. 813, were decided, the officers testified about what Covington said. Bryant was found guilty of, *inter alia*, second-degree murder. Ultimately, the Michigan Supreme Court reversed his conviction, holding that the Sixth Amendment’s Confrontation Clause, as explained in *Crawford* and *Davis*, rendered Covington’s statements inadmissible testimonial hearsay.

Held: Covington’s identification and description of the shooter and the location of the shooting were not testimonial statements because they had a “primary purpose . . . to enable police assistance to meet an ongoing emergency.” *Davis*, 547 U. S., at 822. Therefore, their admission at Bryant’s trial did not violate the Confrontation Clause. Pp. 5–32.

(a) In *Crawford*, this Court held that in order for testimonial evidence to be admissible, the Sixth Amendment “demands . . . unavailability and a prior opportunity for cross-examination.” 541 U. S., at 68. *Crawford* did not “spell out a comprehensive definition of ‘testimonial,’” but it noted that testimonial evidence includes, among other things, “police interrogations.” *Ibid.* Thus, Sylvia Crawford’s statements during a station-house interrogation about a stabbing were testimonial, and their admission when her husband, the accused, had “no opportunity” for cross-examination due to spousal privilege made out a Sixth Amendment violation. In *Davis* and *Hammon*, both domestic violence cases, the Court explained that “[s]tatements are nontestimonial when made in the course of police

Syllabus

interrogation under circumstances objectively indicating that the [interrogation's] primary purpose . . . is to enable police assistance to meet an ongoing emergency," but they "are testimonial when the circumstances objectively indicate that there is no such ongoing emergency, and that the [interrogation's] primary purpose is to establish or prove past events potentially relevant to later criminal prosecution." 547 U. S., at 822. Thus, a recording of a 911 call describing an ongoing domestic disturbance was nontestimonial in *Davis*, where the victim's "elicited statements were necessary to be able to *resolve* [the ongoing] emergency," and the statements were not formal. *Id.*, at 827. But the statements in *Hammon* were testimonial, where the victim was interviewed after the event in a room separate from her husband and "deliberately recounted, in response to police questioning" the past events. *Id.*, at 830. Here, the context is a nondomestic dispute, with the "ongoing emergency" extending beyond an initial victim to a potential threat to the responding police and the public. This context requires additional clarification of what *Davis* meant by "the primary purpose of the interrogation is to enable police assistance to meet an ongoing emergency." *Id.*, at 822. Pp. 5–12.

(b) To make the "primary purpose" determination, the Court must objectively evaluate the circumstances in which the encounter between the individual and the police occurs and the parties' statements and actions. Pp. 12–23.

(1) The primary purpose inquiry is objective. The circumstances in which an encounter occurs—*e.g.*, at or near a crime scene versus at a police station, during an ongoing emergency or afterwards—are clearly matters of objective fact. And the relevant inquiry into the parties' statements and actions is not the subjective or actual purpose of the particular parties, but the purpose that reasonable participants would have had, as ascertained from the parties' statements and actions and the circumstances in which the encounter occurred. P. 13.

(2) The existence of an "ongoing emergency" at the time of the encounter is among the most important circumstances informing the interrogation's "primary purpose." See, *e.g.*, *Davis*, 547 U. S., at 828–830. An emergency focuses the participants not on "prov[ing] past events potentially relevant to later criminal prosecution," *id.*, at 822, but on "end[ing] a threatening situation," *id.*, at 832. The Michigan Supreme Court failed to appreciate that whether an emergency exists and is ongoing is a highly context-dependent inquiry. An assessment of whether an emergency threatening the police and public is ongoing cannot narrowly focus on whether the threat to the first victim has been neutralized because the threat to the first responders and public may continue. The State Supreme Court also did not appreciate that

Syllabus

an emergency’s duration and scope may depend in part on the type of weapon involved; the court below relied on *Davis* and *Hammon*, where the assailants used their fists, as controlling the scope of an emergency involving a gun. A victim’s medical condition is important to the primary purpose inquiry to the extent that it sheds light on the victim’s ability to have any purpose at all in responding to police questions and on the likelihood that any such purpose would be a testimonial one. It also provides important context for first responders to judge the existence and magnitude of a continuing threat to the victim, themselves, and the public. This does not mean that an emergency lasts the entire time that a perpetrator is on the loose, but trial courts can determine in the first instance when an interrogation transitions from nontestimonial to testimonial. Finally, whether an ongoing emergency exists is simply one factor informing the ultimate inquiry regarding an interrogation’s “primary purpose.” Another is the encounter’s *informality*. Formality suggests the absence of an emergency, but informality does not necessarily indicate the presence of an emergency or the lack of testimonial intent. The facts here—the questioning occurred in an exposed, public area, before emergency medical services arrived, and in a disorganized fashion—distinguish this case from *Crawford*’s formal station-house interrogation. Pp. 14–20.

(3) The statements and actions of both the declarant and interrogators also provide objective evidence of the interrogation’s primary purpose. Looking to the contents of both the questions and the answers ameliorates problems that could arise from looking solely to one participant, since both interrogators and declarants may have mixed motives. Police officers’ dual responsibilities as both first responders and criminal investigators may lead them to act with different motives simultaneously or in quick succession. And during an ongoing emergency, victims may want the threat to end, but may not envision prosecution. Alternatively, a severely injured victim may have no purpose at all in answering questions. Taking into account such injuries does not make the inquiry subjective. The inquiry still focuses on the understanding and purpose of a reasonable victim in the actual victim’s circumstances, which prominently include the victim’s physical state. Objectively ascertaining the primary purpose of the interrogation by examining the statements and actions of all participants is also consistent with this Court’s prior holdings. *E.g.*, *Davis*, 547 U. S., at 822–823, n. 1. Pp. 20–23.

(c) Here, the circumstances of the encounter as well as the statements and actions of Covington and the police objectively indicate that the interrogation’s “primary purpose” was “to enable police assistance to meet an ongoing emergency,” 547 U. S., at 822. The cir-

Syllabus

cumstances of the interrogation involved an armed shooter, whose motive for and location after the shooting were unknown and who had mortally wounded Covington within a few blocks and a few minutes of the location where police found Covington. Unlike the emergencies in *Davis* and *Hammon*, this dispute’s potential scope and thus the emergency encompassed a potential threat to the police and the public. And since this case involved a gun, the physical separation that was sufficient to end the emergency in *Hammon* was not necessarily sufficient to end the threat here. Informed by the circumstances of the ongoing emergency, the Court now turns to determining the “primary purpose of the interrogation” as evidenced by the statements and actions of Covington and the police. The circumstances of the encounter provide important context for understanding Covington’s statements to the police. When he responded to their questions, he was lying in a gas station parking lot bleeding from a mortal gunshot wound, and his answers were punctuated with questions about when emergency medical services would arrive. Thus, this Court cannot say that a person in his situation would have had a “primary purpose” “to establish or prove past events potentially relevant to later criminal prosecution.” *Ibid.* For their part, the police responded to a call that a man had been shot. They did not know why, where, or when the shooting had occurred; the shooter’s location; or anything else about the crime. They asked exactly the type of questions necessary to enable them “to meet an ongoing emergency.” *Ibid.* Nothing in Covington’s responses indicated to the police that there was no emergency or that the emergency had ended. Finally, this situation is more similar to the informal, harried 911 call in *Davis* than to the structured, station-house interview in *Crawford*. The officers all arrived at different times; asked, upon arrival, what had happened; and generally did not conduct a structured interrogation. The informality suggests that their primary purpose was to address what they considered to be an ongoing emergency, and the circumstances lacked a formality that would have alerted Covington to or focused him on the possible future prosecutorial use of his statements. Pp. 23–32.

483 Mich. 132, 768 N. W. 2d 65, vacated and remanded.

SOTOMAYOR, J., delivered the opinion of the Court, in which ROBERTS, C. J., and KENNEDY, BREYER, and ALITO, JJ., joined. THOMAS, J., filed an opinion concurring in the judgment. SCALIA, J., and GINSBURG, J., filed dissenting opinions. KAGAN, J., took no part in the consideration or decision of the case.