

1           A     No.

2           Q     About how long -- let me rephrase.

3                     So You saw her for about two or three  
4 minutes, and then what, did you see her again after  
5 that?

6           A     No. She disappeared.

7           Q     She disappeared. About how long was the  
8 time between she disappeared and when the police  
9 arrived?

10          A     It was very quick. I don't know, maybe  
11 two minutes.

12          Q     Was it enough time to walk back to her  
13 apartment?

14                     MRS. GOOCH: Objection as speculative.

15          A     Yes.

16                     MR. VOLKMER: Withdrawn, Your Honor.

17                     Your Honor, pass the witness.

18                     THE COURT: You can step down.

19                     Call your next witness, please.

20                     MR. VOLKMER: Your Honor, the State calls  
21 Officer Deborah Butler.

22                     THE COURT: Proceed.

23                             OFFICER DEBORAH BUTLER,  
24 having been first duly sworn, testified as follows:

25                                     DIRECT EXAMINATION

1 BY MR. VOLKMER:

2 Q Officer, could you introduce yourself to  
3 the jury, please.

4 A I'm Officer Deborah Butler with the  
5 Lakeview Police Department.

6 Q And are you a certified police officer?

7 A Yes, sir.

8 Q And that's with the State of Texas; is  
9 that correct?

10 A Yes, sir.

11 Q How long have you been a certified police  
12 officer?

13 A For six and a half years.

14 Q What kind of training did you have to go  
15 through to become a police officer?

16 A All kinds of law training and training  
17 with my firearm and stuff.

18 Q Does that training include how to respond  
19 to possibly violent situations?

20 A Yes, sir.

21 Q What kind of training would that be?

22 A That kind of training, when you go to a  
23 situation, how far you stand away from somebody, a  
24 tone that you're going to use with somebody, just  
25 how to de-escalate a situation when you get there,

1 whether verbally or physically.

2 Q Do you receive training in how to conduct  
3 investigations?

4 A Yes.

5 Q And what's your current assignment with  
6 the police department?

7 A Patrolman.

8 Q And what does a patrolman do?

9 A We do regular patrols of the city. Also  
10 do traffic stops and answer all calls of service.

11 Q Are you assigned to a particular area of  
12 town?

13 A One day I'll be on one side and -- what we  
14 call the west side or east side.

15 Q How long have you been assigned to patrol?

16 A There for four years.

17 Q Four years?

18 A Yes.

19 Q Did you have any assignments before that?

20 A You mean in another department? Yes, I  
21 worked with another department for two years.

22 Q Good. Now, who certified you? Who are  
23 you certified with?

24 A State of Texas, the TCLEOSE.

25 Q Is the agency the TCLEOSE?

1 A Yes.

2 Q Do they certify all law enforcement?

3 A Yes, sir.

4 Q Now, did you do -- for your training, did  
5 you do field training?

6 A Field training?

7 Q Field training.

8 Did you do classroom training?

9 A Classroom training, yes, sir.

10 Q Did you do live practical field training?

11 A Yes, sir. Yes. Yes, we did.

12 Q Do you -- is there kind of mentoring with  
13 other officers?

14 A Yes. Oh, yes.

15 Q Okay. Now, I'd like to direct your  
16 attention to June 4th of 2012. Were you on duty  
17 that day?

18 A Yes, sir.

19 Q What shift were you working?

20 A I was working the afternoon shift, maybe  
21 from 2:00 p.m. to 10:00 p.m.

22 Q What part of town were you assigned to?

23 A That's the east district.

24 Q While you were on duty, did you receive a  
25 dispatch call for Pelican Reef Apartments?

1           A     A call was dispatched to Pelican Reef. I  
2 actually -- no, I take that back. I was on the west  
3 side. I was backing -- I would be the backup unit  
4 to the east side, sir.

5           Q     What is a backup unit?

6           A     If they need another unit to go out to a  
7 call, then they would call both units out.  
8 Actually, I was the west side that day and backed up  
9 the east side.

10          Q     So another officer received the initial  
11 call?

12          A     The initial call, yes.

13          Q     And you received a backup call?

14          A     Yes.

15          Q     Now, what did you do when you received  
16 that backup call?

17          A     Well, I got there as soon as I could. The  
18 other officer arrived there before me.

19          Q     And what officer is that?

20          A     That's Officer Michael Newton.

21          Q     Can you describe the scene as you arrived?

22          A     I came in through the south side of the  
23 property. When I got there, went around the  
24 building. He was -- the office said that -- they  
25 said that she was -- the subject --

1 MRS. GOOCH: Object to hearsay.

2 THE COURT: Don't testify what anybody  
3 else said. Testify to what you observed.

4 THE WITNESS: Okay.

5 MRS. GOOCH: That's sustained?

6 THE COURT: Sustained.

7 Q (By Mr. Volkmer) Officer, I'm going to  
8 show you the diagram that's already in evidence.  
9 From what direction did you come?

10 A I'm on the south side of the building,  
11 right where it says "leasing office."

12 Q Would you touch the screen and kind of  
13 draw a line where you arrived from?

14 A Here.

15 Q And did you visually observe the other  
16 officer?

17 A No.

18 Q All right. Now, what did you do when you  
19 arrived?

20 A Well, because they said the subject may be  
21 headed towards that direction, that's why I came in  
22 through that south side of the building.

23 Q After you arrived, what did you do?

24 A I went around -- I went north and then  
25 went west around the building towards the apartment

1 of the suspect.

2 Q Could you show us which direction you  
3 went? You can just draw a line on there.

4 A Yes.

5 Q At this point did you observe the other  
6 officer?

7 A Yes.

8 Q And that officer's name was?

9 A Michael Newton.

10 Q Where was he?

11 A He came in through this side, and he was  
12 right here.

13 Q And what were you looking for at this  
14 point?

15 A A suspect.

16 Q You were looking for the suspect?

17 A Yes.

18 Q Did you see the suspect?

19 A No.

20 Q Did you see anything else?

21 A No -- well, when I arrived there, because  
22 they said that this suspect may have a weapon in her  
23 hand such as a --

24 MRS. GOOCH: Objection.

25 THE COURT: Sustained.

1                   What did you look for?

2           Q        (By Mr. Volkmer) Officer Butler, without  
3 going into what anyone might have said --

4           A        Uh-huh.

5           Q        -- what did you see when you were driving?

6           A        When I met up with the officer, I saw a  
7 hammer to the left-hand side of me.

8           Q        You saw --

9           A        Through my driver's side door, I saw a  
10 hammer leaned up against the tree.

11          Q        Could you describe that hammer, please.

12          A        Yes, it was -- it had a -- it was a metal  
13 head, and the body was like a yellowish orange  
14 color.

15          Q        And you said it was leaning on something?  
16 Could you describe that, please.

17          A        On a tree -- leaning up against a tree  
18 with the head part down and the handle up against  
19 the tree.

20          Q        On the diagram, could you say  
21 approximately where you saw this hammer?

22          A        Right -- right -- well, somewhere around  
23 here.

24          Q        That's fine. If you will touch at the  
25 bottom left and clear that. Just double click in



1 the bottom left.

2 A Okay.

3 Q I'm sorry. It would be over here. Just  
4 touch on the screen in the bottom left, and it  
5 should clear all that.

6 I'm going to show you this picture here.

7 A Okay.

8 Q Now, could you indicate where you saw the  
9 hammer?

10 A Around this area.

11 Q And what position was it in?

12 A It was with the metal part down, the head,  
13 and then the one part up.

14 MR. VOLKMER: Your Honor, may I approach  
15 the witness?

16 THE COURT: Yes.

17 Q (By Mr. Volkmer) I'm showing you what's  
18 been marked as State's Exhibit 8. Without going  
19 into its contents, do you recognize it?

20 A It looks like the tree, but --

21 Q Do you recognize it?

22 A Yes.

23 Q What is it?

24 A It's a tree.

25 Q What tree is that?

1           A     It's a tree that is right outside the  
2 apartment complex.

3           Q     Is it that tree?

4           A     It looks like that tree.

5           Q     And is it a fair and accurate  
6 representation of the tree at that time?

7           A     Yes, sir.

8           Q     Would it assist the jury in viewing --  
9 understanding your testimony if they were able to  
10 view this?

11          A     Yes, sir.

12                 MR. VOLKMER: At this time, Your Honor, we  
13 move to introduce State's Exhibit 8, offer to  
14 defense counsel.

15                 MRS. GOOCH: No objection to Defendant's  
16 Exhibit No. 8.

17                 THE COURT: It's admitted.

18                 MRS. GOOCH: I mean State's Exhibit 8.

19                         (State's Exhibit 8 offered and admitted  
20 into evidence)

21           Q     (By Mr. Volkmer) Now, Officer, could you  
22 kind of -- could you indicate where the hammer was?

23           A     About right here.

24           Q     It was leaning against the tree?

25           A     Yes.

1 Q What color was it, again?

2 A Like a bright orange,  
3 yellow-orange-looking handle.

4 Q Would you recognize it again if you saw  
5 it?

6 A Yes.

7 MR. VOLKMER: Your Honor, may I approach  
8 the witness?

9 THE COURT: Yes.

10 Q (By Mr. Volkmer) Now, Officer, what is  
11 this?

12 A This is an evidence bag.

13 Q It's an evidence bag. Do you recognize  
14 it?

15 A Yes, sir, I do.

16 Q Could you -- do you recognize the markings  
17 that are on here?

18 A Yes.

19 Q When was the last time you saw this before  
20 today?

21 A When we put the stuff in the bag, and I  
22 was helping put the evidence in the bag.

23 Q What evidence -- what did you do with the  
24 hammer that was on the tree?

25 A I'm not the one who retrieved the hammer

1 initially.

2 Q Who observed --

3 A It was Officer Newton.

4 Q It was Officer Newton?

5 A Yes, we both observed the hammer there.

6 Q What did you observe Officer Newton do  
7 with the hammer?

8 A He took possession of it and placed it in  
9 evidence.

10 Q Did you observe the tape being placed on  
11 this?

12 A Oh, yes, sir.

13 Q Is it customary for officers to initial  
14 that tape?

15 A Yes.

16 Q Did you observe him do that?

17 A Yes.

18 Q Now, Officer, what's that?

19 A That is a hammer.

20 Q Do you recognize it?

21 A Yes, sir.

22 Q I'm showing you what's been marked as  
23 State's Exhibit 11. Is this the hammer from -- that  
24 you recovered at the scene at Pelican Reef  
25 Apartments on June 14, 2012?

1           A     It was the hammer that was recorded at the  
2 scene.

3           Q     How do you know it's the same one?

4           A     Because we put it into this bag. I helped  
5 him put the evidence into the bag.

6           Q     Is there anything about it that you  
7 recognize?

8           A     Just that that's the object that was  
9 picked up by the tree.

10          Q     Is it in the same or substantially same  
11 condition as when you last saw it?

12          A     Yes, sir.

13               MR. VOLKMER: Your Honor, at this time we  
14 move to introduce State's 11, and tender to offense  
15 counsel for inspection.

16               MRS. GOOCH: Object to improper chain  
17 evidence, Your Honor.

18               MR. VOLKMER: Your Honor, may we approach?

19               THE COURT: Overruled.

20          Q     (By Mr. Volkmer) So could you take the  
21 hammer and show us how it was laying on the tree?

22               THE COURT: Wait just a second.

23               Yes, you may approach the bench.

24               (Conference held at the bench outside the  
25 hearing of the Jury.) ^CAN'T HEAR

1 THE COURT: What's your objection?

2 MS. GOOCH: Chain of evidence, that this  
3 officer was not the officer that recovered the  
4 hammer. The one -- those were the warrant codes  
5 from there.

6 MR. VOLKMER: She is testifying she was  
7 present when placed in the bag observed and the  
8 officer placed those markings on it.

9 MRS. GOOCH: It's customary that the  
10 officer is the one --

11 THE COURT: I know chain.

12 MRS. GOOCH: That's right.

13 MR. MEANS: On the questions she has  
14 testified she saw the hammer.

15 THE COURT: I take it that's the chain  
16 custody?

17 MR. VOLKMER: She obtained the bag from  
18 evidence.

19 THE COURT: I don't know that.

20 MR. MEANS: That's what she testified.  
21 She testified to it.

22 THE COURT: Well, chain --

23 MR. MEANS: She has testified she didn't  
24 see the officer place it in the concealed bag.

25 THE COURT: I don't know what you need to

1 ask her. You need to get chain of custody evidence  
2 in.

3 MR. MEANS: Yes, sir.

4 THE COURT: What you said she was there so  
5 that's custody questions, chain of command.

6 MR. VOLKMER: Absolutely, Your Honor.

7 MRS. GOOCH: The ruling is sustained.

8 THE COURT: Sustained.

9 MRS. GOOCH: Can you clarify that for the  
10 jury, that it's not in evidence.

11 MR. VOLKMER: Your Honor, may I approach  
12 the witness?

13 THE COURT: That hammer has not been  
14 admitted into evidence as yet.

15 MR. VOLKMER: State's 11.

16 Q (By Mr. Volkmer) Officer Butler, you were  
17 there when the hammer was placed in this bag?

18 A Yes, sir.

19 Q Did you see it sealed up with the tape?

20 A Yes, sir.

21 Q Now, you weren't the one writing on here;  
22 but you were observing the writing taking place?

23 MRS. GOOCH: I'll object to leading.

24 THE COURT: Sustained.

25 Q (By Mr. Volkmer) Do you know where this

1 writing came from?

2 A From Officer Newton.

3 Q Did you observe him do this writing?

4 A Yes, sir, I did.

5 Q Now did he seal it in your presence?

6 A Yes, sir, he did.

7 Q Are these initials -- do you recognize  
8 them?

9 A Yes, sir.

10 Q Are they initials he wrote at that time?

11 A Yes, sir.

12 Q Now, where -- when did you next see this  
13 bag?

14 A When it was given to me yesterday to bring  
15 here.

16 Q And where was that?

17 A It was in the evidence locker, and I got  
18 it at the station.

19 Q So you obtained it from the evidence  
20 locker?

21 A Yes, from my sergeant. I can't just go  
22 get it. I have to get a supervisor to get the  
23 evidence out of the locker.

24 Q When you obtained it yesterday, was it  
25 sealed?



1           A     Yes.

2           Q     Was it in same condition as when you last  
3 saw it?

4           A     Yes.

5           Q     On June 14th?

6           A     Yes.

7           Q     What did you do yesterday with the bag?

8           A     I went to go pick it up later because --  
9 he let me see that it was there and stuff. Before I  
10 came over here, I picked it up.

11          Q     Who brought it here today?

12          A     I did.

13          Q     Was it sealed when you arrived here today?

14          A     Yes, sir, it was.

15          Q     When did it become unsealed?

16          A     When we were viewing it.

17          Q     When was that?

18          A     Two hours ago.

19          Q     Two hours ago?

20          A     Maybe.

21          Q     Were we in the back room?

22          A     Yes.

23          Q     So you witnessed it being opened?

24          A     Yes, sir.

25          Q     You saw it at that time?

1           A     Yes, sir.

2           Q     And then I took it from that point?

3           A     Yes, sir.

4           Q     All right.

5           MR. VOLKMER: Your Honor, we move to  
6 introduce State's 11.

7           THE COURT: Take the jury out, please.

8                     (Jury leaves the courtroom)

9           THE COURT: Officer, would you mind  
10 stepping down, please.

11          THE WITNESS: Yes, sir.

12                     (Witness leaves the courtroom)

13          THE COURT: Any objections?

14          MRS. GOOCH: Same objection, Your Honor.  
15 Chain of custody has not been met.

16          THE COURT: Just for my edification, if  
17 you will, please, tell me the chain you feel like  
18 you've shown.

19          MR. VOLKMER: Officer Butler was at the  
20 scene. She saw Officer Newton place the hammer into  
21 the bag, seal it up as is Department policy.  
22 Officer Newton was the one that transported it to  
23 the evidence room, but in the exact same condition  
24 as when Officer Butler saw it. He introduced it to  
25 the evidence room. And then she was the one that

1 handed the chain all the way to this point where I  
2 took custody of it.

3 MRS. GOOCH: There's been no testimony as  
4 to who received the custody into the --

5 THE COURT: Let's -- you need to give me  
6 some law. I need to know -- you see, the chain of  
7 custody put it in somebody's hand. Somebody's hand.  
8 I don't know how it got into the evidence locker,  
9 and I don't know who received it, and I don't know  
10 who locked it up.

11 I know that it got in there maybe. Give  
12 me some law on chain of custody.

13 MR. VOLKMER: Yes, Your Honor, we can  
14 certainly work on that. My understanding, from the  
15 testimony, was that she saw --

16 THE COURT: I don't mind her seeing him  
17 put it in the bag.

18 MR. VOLKMER: Yes, sir.

19 THE COURT: I don't know where the bag  
20 went and who put the bag where and who received it  
21 and who locked it up.

22 MR. MEANS: Yes, sir. It was my  
23 understanding she testified that she was with the  
24 receiving officer when they put it into the property  
25 room.

1 THE COURT: That's not what I heard.

2 MR. VOLKMER: Okay.

3 THE COURT: I heard she -- the last I  
4 heard was she saw him initial it.

5 MR. MEANS: Yes, sir. Okay.

6 THE COURT: So what I want to know from  
7 you is law on whether or not that is sufficient to  
8 establish a chain, if it's as I understand it. If I  
9 understand that she saw him put it up and then he  
10 may or may not have taken it to the lockbox.  
11 There's the gap, and so I want to know if what I  
12 have is sufficient.

13 MR. MEANS: Yes, sir. If we were to  
14 re-call her to the stand for the purposes of this  
15 hearing and see if she could testify to that, if she  
16 saw it or not?

17 THE COURT: Let's -- maybe you can go ask  
18 her whether or not she can testify to that because  
19 she hadn't.

20 MR. MEANS: Yes, sir, I can ask her that.

21 THE COURT: And I don't think she can. I  
22 think he took it there.

23 MR. VOLKMER: Yes, sir. I'll talk to her.

24 (Recess taken)

25 THE COURT: Anybody have a position?

1           MR. MEANS: After speaking with our  
2 appellate division, also the officer, we will  
3 withdraw as State's Exhibit No. 11 and not offer it  
4 into evidence.

5           I spoke with the officer, and she can't  
6 say that she saw him put it into the evidence  
7 locker. She was in the room next to him, but didn't  
8 say that she saw him put it into the evidence  
9 locker.

10           The appellate division feels like it would  
11 be better if we withdraw it as a State's exhibit.  
12 We would ask the Court's permission, with supporting  
13 testimony, to use it as a demonstrative, not as the  
14 hammer that was recovered but as a similar hammer,  
15 if she can testify to that.

16           MRS. GOOCH: I would object and ask for a  
17 mistrial at this time. They have brought it out.

18           THE COURT: What he would do is what I  
19 would do.

20           MRS. GOOCH: I understand, but at this  
21 point you can't unring the bell. It's already been  
22 out --

23           THE COURT: It's not coming in. She can't  
24 testify, "That's the hammer I saw."

25           MRS. GOOCH: I still -- for the record, I

1 would like to --

2 THE COURT: If it's kissing cousins.

3 MRS. GOOCH: I'm saying that, for the  
4 record, I would like to make the objection, move for  
5 a mistrial and -- that it's prejudicial and ask for  
6 a mistrial to be granted.

7 THE COURT: Overruled and overruled.

8 MR. MEANS: For the record, we can admit  
9 it as a demonstrative only; is that right?

10 THE COURT: You can try.

11 MR. MEANS: We'll try, yes, sir.

12 THE COURT: No previews.

13 (Jury enters the courtroom)

14 THE COURT: Be seated when you reach your  
15 chairs.

16 Let's proceed.

17 MR. VOLKMER: Your Honor, may I approach  
18 the witness?

19 THE COURT: Yes.

20 Q (By Mr. Volkmer) Now, Officer, do you  
21 remember the hammer that was seen at the scene?

22 A Yes.

23 Q Do you remember what it looked like?

24 A Yes.

25 Q What color was it?

1           A     Like yellow and orange in color.

2           Q     Now, is this -- what I'm showing you, is  
3 this similar to what you saw that day?

4           A     Yes.

5           Q     It's similar in size?

6           A     And color.

7           Q     Similar in color?

8           A     Uh-huh.

9           Q     Now, you said shape, size, and color are  
10 similar?

11          A     Yes.

12          Q     Would it aid the jury if they were able to  
13 observe this? In its similarities, would it aid  
14 them in understanding your testimony?

15                   MR. VOLKMER: Your Honor, for  
16 demonstrative purposes, we move to introduce  
17 State's 11.

18                   MRS. GOOCH: I object to it being used for  
19 demonstrative purposes, seeing how it's prejudicial  
20 and not proper.

21                   THE COURT: Overruled.

22          Q     (By Mr. Volkmer) Now, Officer Butler,  
23 could you indicate with this demonstrative the  
24 hammer on the scene on that day in June, how was  
25 that hammer that you received at the scene, how was

1 it positioned?

2 A With this end to the bottom part here and  
3 the handle was up.

4 Q And who grabbed that hammer?

5 A Officer Newton.

6 Q Officer Newton?

7 A I observed him pick it up.

8 Q I'm going to take this. I don't want this  
9 to fall.

10 A Okay.

11 Q Officer Butler, have you ever made the  
12 scene of a fatality before?

13 MRS. GOOCH: Objection as to relevance.

14 THE COURT: What's the relevance?

15 MR. VOLKMER: Your Honor, I'm going to  
16 describe how the hammer might be used.

17 THE COURT: That would be completely  
18 supposition with regard to this case.

19 MR. VOLKMER: Yes, Your Honor.

20 THE COURT: Sustained.

21 MRS. GOOCH: Thank you, Your Honor.

22 Q (By Mr. Volkmer) In your experience, is a  
23 hammer capable of causing serious bodily injury?

24 A A person with a hammer could cause injury,  
25 yes.



1 Q Would that be a serious bodily injury?

2 A Yes, sir.

3 Q Would that be something that could cause  
4 someone to lose their life?

5 A Yes, sir.

6 Q Did you speak with Miss Cattan that day?

7 A Yes.

8 Q And did she give you a statement?

9 A Yes, she did.

10 Q Did you also speak with Miss Knight?

11 A Yes, I did.

12 Q Did she provide a statement to you and  
13 Officer Newton?

14 A Yes.

15 Q Did you and Officer Newton do an  
16 investigation of the scene?

17 A Yes. Yes, we did.

18 Q Did that investigation include  
19 photographs?

20 A Yes, it did.

21 Q Now, was the defendant at the scene --

22 A No.

23 Q -- when you arrived?

24 But you searched the property for her?

25 A Yes. She was --

1 Q And it was during this search, you didn't  
2 found her.

3 A No.

4 Q But you did find a hammer that was  
5 similar to this hammer?

6 A Yes, sir.

7 MR. VOLKMER: Your Honor, we pass the  
8 witness.

9 CROSS-EXAMINATION

10 BY MRS. GOOCH:

11 Q Officer Butler, right?

12 A Yes, ma'am.

13 Q You work for El Lago Police Department?

14 A No, Lakeview Police Department.

15 Q But when contacted, Lakeview Police  
16 Department -- okay.

17 Is this address located in El Lago, Texas,  
18 or Seabrook, Texas?

19 A It's because the department serves two  
20 cities: Taylor Lake Village and El Lago. One  
21 police department, two cities.

22 Q So is this apartment complex, 3802 Nasa  
23 Parkway, is it in El Lago, Texas, or Seabrook,  
24 Texas?

25 A El Lago.

1 Q Its actual address is El Lago, Texas?

2 A Yes, but they share same zip code.

3 Q Okay. You said you arrived -- what time  
4 was it that you arrived on the scene? Do you know?

5 A I do not -- I do not know what time.

6 Q Do you know what time that the initial --  
7 Officer Newton was dispatched?

8 A No, I do not remember what time.

9 Q What did you review before you came to  
10 testify? Did you review anything?

11 A Well, it wasn't -- I just got called to  
12 this case. It was another officer's -- he's out so  
13 I did look over the report.

14 Q So did you write a supplement to the  
15 report?

16 A No, I did not write a supplement.

17 Q So you looked over somebody else -- that  
18 other officer's report, what they did?

19 A Yes.

20 Q That officer would be?

21 A Officer Michael Newton.

22 Q Why didn't you write a supplement?

23 A I didn't write a supplement.

24 Q But why?

25 A I did not write a supplement.

1 Q Do you have a reason as to why you didn't?

2 A I did not write a supplement.

3 Q There's no reason that -- you have no  
4 reason for why you didn't write a supplement?

5 A I did not write a supplement.

6 Q You just remember from almost a year ago  
7 -- how many months has it been since?

8 A It's since June, 2012.

9 Q How many months has that been?

10 A I don't know.

11 Q You don't know.

12 A No.

13 Q Okay. Well, pretty much over 180 days,  
14 over six months, right? Six months would have had  
15 us in December, right?

16 A Okay.

17 Q Then now we're February, so seven, eight  
18 months. Eight months ago? You remember eight  
19 months ago seeing a hammer laid upside a tree?

20 A Yes, I do.

21 Q Did you write any notes from when that  
22 happened?

23 A No, I did not write any notes.

24 Q How many calls have you been on since --

25 A I've been to hundreds of calls.

1 Q -- since June 14, 2012?

2 A Many calls.

3 Q Many calls?

4 A I don't have an exact number, but many  
5 calls.

6 Q Would that be like -- because Lakeview is  
7 not a big police department, correct?

8 A No, it is not.

9 Q So, I mean, how many police officers do  
10 you have?

11 A About 14 total.

12 Q On average -- that's all patrol or does  
13 that include --

14 A Administration and patrolmen.

15 Q Have you had over a hundred arrests  
16 since --

17 A No.

18 Q You haven't had a hundred?

19 A No.

20 Q How many would you say?

21 A I do not have a number.

22 Q Twenty?

23 A More than that.

24 Q More than that?

25 A Uh-huh.

1 Q Of that, how many do you write reports  
2 for?

3 A If they're arrests, all of them.

4 Q If they're arrests. Well, this one led to  
5 an arrest, right?

6 A Right, but I was the backup officer.

7 Q But you observed evidence, as you said,  
8 out there on the scene, correct?

9 A Uh-huh.

10 Q You also got some direction because, when  
11 you testified, you said that you had heard -- you  
12 came in from northwest entrance, right?

13 A No. From the south side.

14 Q The south side. That would have been what  
15 street?

16 A Nasa.

17 Q Nasa Road 1?

18 A Nasa Parkway.

19 Q Nasa Parkway. Is that also Nasa Road 1,  
20 or is that something different?

21 A It used -- it's one and the same. They  
22 just changed the name recently.

23 Q So let me clear this off. All right.

24 So Nasa Road 1 right here -- or right  
25 here, you came off that into this way?

1           A     Yes, ma'am.

2           Q     Because you heard from, I assume,  
3 Officer Cattan that the subject ran that way?

4           A     We don't have an Officer Cattan.

5           Q     I mean -- not Cattan -- Newton.

6           A     From?

7           Q     The person who gave you background?

8           A     From the dispatch.

9           Q     From the dispatch. Did they give you a  
10 description of what this person was wearing?

11          A     What the person was wearing? Yes.

12          Q     What was that description?

13          A     Bikini top and some bottoms, like long  
14 pants or something.

15          Q     So it wasn't a T-shirt -- baggy T-shirt?  
16 It was just a bikini top, right?

17          A     Right.

18          Q     That's what you reviewed when you came,  
19 right, when -- before you came, this officer's  
20 report, correct?

21          A     Yes.

22          Q     You had spoken with -- you were the  
23 officer that spoke with Pauline Cattan and Cheryl  
24 Knight, correct?

25          A     Yes, ma'am.

1 Q Were you the one that took their  
2 statement?

3 A I took their statements.

4 Q During their statements, neither one of  
5 them said that they saw any color like a bright  
6 color, yellow in the suspect's hand, correct?

7 MR. VOLKMER: Objection, Your Honor,  
8 hearsay.

9 THE COURT: Overruled.

10 THE WITNESS: I'm sorry, can you repeat  
11 the question?

12 Q (By Mrs. Gooch) In their statement when  
13 you talked to them, neither one of them said they  
14 saw a hammer in the suspect's hand, did they?

15 A No.

16 Q Neither one of them mentioned any bright  
17 orange color, correct?

18 A No.

19 Q All right. And you would agree with me  
20 that --

21 What time was it? I don't think I  
22 remember you giving me the answer.

23 A I didn't.

24 Q What time was it when you got to the  
25 scene?



1           A     I said I do not remember the time that I  
2 got there -- when I got there.

3           Q     Was it daytime?

4           A     It was in the afternoon. My shift is  
5 between 2:00 and 10:00.

6           Q     So 2:00 and 10:00. This was in June so  
7 afternoon, about what time?

8           A     I do not remember, ma'am.

9           Q     Well, did you look at the statements that  
10 you wrote to see what time you took their  
11 statements?

12          A     No, I did not look at time.

13          Q     Do you have a copy of the officer's report  
14 that you reviewed before coming to testify?

15          A     Yes, I just looked over it.

16          Q     Do you have it with you up on the stand?

17          A     No, I do not have it with me.

18          Q     Well, perhaps looking at it will refresh  
19 your memory as to when you were dispatched, correct?

20          A     Okay.

21          Q     All right. I'm showing you what is marked  
22 for identification purposes only Defendant's  
23 Exhibit 3 just for identification purposes only.

24                    Will you look at this, please.

25          A     Uh-huh.

1 Q Do you recognize that?

2 A Yes.

3 Q All right. Is that the offense report, is  
4 it, that you reviewed before you came to testify?

5 A Yes.

6 Q And at what time did you arrive or did  
7 y'all approximately get dispatched out there?

8 A It says 2:33.

9 Q 2:33 in the afternoon?

10 A Uh-huh.

11 Q So that was daylight, right?

12 A Yes.

13 Q What were the weather conditions? Do you  
14 remember?

15 A It was hot and it was sunny.

16 Q Clear day?

17 A Yes.

18 Q You would agree with me there's not any  
19 trees or anything there distracting any views,  
20 right, from where they said this offense happened,  
21 that little walkway from that building to the  
22 office?

23 A Right.

24 Q And none of them mentioned any color  
25 flashing in a hand, right? Seeing any color --

1 anything colorful in their hand, right?

2 A No.

3 Q In fact, when you talked to  
4 Officer Newton, he informed you that the defendant  
5 was standing with the leash -- dog in her hand when  
6 he arrived on the scene, correct?

7 A He said that he saw her -- he commanded  
8 her to stop and she ran.

9 Q And then she had a leashed dog in her -- a  
10 leashed animal with her, a leashed dog, in her hand,  
11 correct?

12 A There was a dog present, yeah.

13 Q And that she had a leash in her hand,  
14 correct?

15 A Yes.

16 Q All right.

17 A Uh-huh.

18 Q All right. So that was part of the  
19 description that you got when you left -- when you  
20 arrived to see where you could found her, right?

21 A Well, that's in his report. He just told  
22 me that he saw her running, that she had her dog.  
23 He didn't say what she had in her hand. Okay. What  
24 the report says there, ma'am, and what he told me --

25 MRS. GOOCH: Objection.

1 THE COURT: What's your question?

2 MRS. GOOCH: I'm getting ready to ask it.  
3 I'm sorry.

4 Q (By Mrs. Gooch) In this report doesn't it  
5 say that he saw Holly Hughes standing with a leashed  
6 dog in her hand?

7 A In the report.

8 Q Right.

9 A But you're asking me if he told -- asked  
10 me that there, he told me. In his report, it might  
11 say there was a leash in her hand, but --

12 Q But that's what it says in the report,  
13 correct?

14 A In the report.

15 Q All right.

16 A He just told me he saw her run from the  
17 scene when he commanded her to stop.

18 Q But in the report, it says she had a  
19 leashed dog in her hand?

20 A In the report, it says that.

21 Q Okay. Now, in part of your training as a  
22 police officer, it is important to document the --  
23 make a documentation or offense report, right?

24 A Right.

25 Q When you come out on the scene and

1 whatever work you do out there, correct?

2 A Right. Uh-huh.

3 Q You didn't do that, right?

4 A No. I was a backup unit.

5 Q Even as a backup unit, if you --

6 A If they ask.

7 Q If you do some work, like you --

8 MR. VOLKMER: Objection, Your Honor, asked  
9 and answered.

10 THE COURT: Finish the question so I can  
11 rule.

12 Q (By Mrs. Gooch) You talked to witnesses  
13 and took statements?

14 A Right.

15 Q And you also searched for the defendant,  
16 correct?

17 A Right.

18 Q Then at that point you would make a  
19 documentation of what the work you did on that  
20 investigation, correct?

21 MR. VOLKMER: Objection, Your Honor, renew  
22 our objection. Asked and answered.

23 THE COURT: I guess the question is did  
24 you make the documentation, "yes" or "no"?

25 THE WITNESS: I did not document it

1 because I did not make a supplement report.

2 THE COURT: Correct.

3 Q (By Mrs. Gooch) And that's part of what  
4 you learned in your training to implement the work  
5 that you do on an investigation, correct?

6 A If an officer asks me, if a supervisor  
7 asked me to, yes.

8 MRS. GOOCH: Pass the witness.

9 MR. VOLKMER: Your Honor, very briefly.

10 REDIRECT EXAMINATION

11 BY MR. VOLKMER:

12 Q Officer Butler, is it common for officers  
13 to assist other officers on call?

14 A Yes.

15 Q Is it common in possibly violent  
16 situations for additional officers to be called in?

17 A Yes, sir.

18 Q Is this actually for officer safety?

19 A Yes, sir.

20 Q Is that why you were called into this at  
21 Pelican Reef Apartments?

22 A Yes, sir.

23 Q Now, is it required to create a supplement  
24 report?

25 A No.

1 Q It's not required?

2 A It's not required.

3 MR. VOLKMER: Your Honor, pass the  
4 witness.

5 MRS. GOOCH: Just briefly.

6 RE-CROSS-EXAMINATION

7 BY MRS. GOOCH:

8 Q Officer Butler, after you came in and took  
9 the oath, you went back and you sat in the witness  
10 room, correct.

11 A Yes.

12 Q Who was sitting in that witness room with  
13 you when you went back there?

14 A Pauline.

15 Q When you came back -- when we went for a  
16 break, the DA's -- both DA's came in and began  
17 talking with you, correct?

18 A Yes.

19 Q Y'all talked in there for a while, right?

20 A Yes.

21 Q And then y'all left?

22 A Left where?

23 Q Out of that room. You, the DA's, and the  
24 witnesses all talked together in that room?

25 A No. I was taken to another room.

1 Q Okay.

2 MRS. GOOCH: Pass the witness.

3 THE COURT: Anything else?

4 MR. VOLKMER: No, Your Honor.

5 THE COURT: You're excused.

6 Anything else from the State?

7 MR. VOLKMER: No, Your Honor. State

8 rests.

9 THE COURT: Defendant have anything?

10 MRS. GOOCH: Yes, I have a motion outside

11 the presence.

12 THE COURT: Step out of the room, please.

13 (Jury leaves the courtroom)

14 MRS. GOOCH: At this time the defense

15 moves for a directed verdict in that the State has

16 failed to make a prima fascia case showing that this

17 defendant, with intent to threaten and harm Pauline

18 Cattan, threatened her with murder of serious bodily

19 injury.

20 THE COURT: Overruled.

21 You going to have any witnesses?

22 MRS. GOOCH: No, Your Honor.

23 THE COURT: You're going to rest?

24 MRS. GOOCH: Yes.

25 THE COURT: Bring them out. We'll take a