

1 on, please. Thank you. Ms. Falk.

2 THOMAS GABLER,

3 After having been duly sworn, testified as follows:

4 DIRECT EXAMINATION (JURY OUT)

5 Q. (By Ms. Falk) Officer Gabler, can you
6 please state your full name for us?

7 A. Thomas Gabler.

8 Q. And where do you work?

9 A. Midwest patrol HPD.

10 Q. When you say HPD, do you mean the
11 Houston Police Department?

12 A. That's correct.

13 Q. And what are -- what's your assignment
14 with HPD?

15 A. Patrol officer.

16 Q. Are you a certified peace officer?

17 A. Yes.

18 Q. Can you explain to us just some of your
19 job duties as a patrol officer in the midwest?

20 A. Just go out there and handle whatever
21 comes along.

22 Q. So, if someone calls 911, would you
23 possibly respond to those calls?

24 A. Yes.

25 THE COURT: Excuse me. Mr. Richie,

1 you have to be quiet, sir, so I can hear the
2 testimony. You'll have plenty of time to talk to
3 your lawyers.

4 Q. (By Ms. Falk) Officer Gabler, how long
5 have you been a police officer?

6 A. Twenty-six years.

7 Q. Have you always been with the Houston
8 Police Department?

9 A. Yes.

10 Q. Have you always been assigned to patrol,
11 or have you ever been assigned to other divisions?

12 A. No, patrol.

13 Q. Just patrol?

14 A. Yes.

15 Q. Now, can you tell me what are the -- you
16 have some like chevrons underneath your HPD badge on
17 your arm. What are those chevrons for?

18 A. Rank of corporal.

19 Q. What does that mean? What additional
20 duties do you have as a corporal?

21 A. Just senior police status.

22 Q. Now, I want to direct your attention to
23 a call that you made on March 22nd 2011 and the
24 reason that we're here today. At some point in your
25 investigation did you have an opportunity to meet

1 with the defendant?

2 A. Yes.

3 Q. And can you tell us what the person's
4 name is that you met with?

5 A. Antone Richie.

6 Q. I'm calling him the defendant, but it
7 may not be clear in this case. Can you please
8 identify Antone Richie by an article of his
9 clothing?

10 A. The gentleman over there in the gray
11 suit and yellow tie.

12 Q. Okay. The yellow tie. Could you point
13 at him too for us?

14 A. Yes, the gentleman right there.

15 MS. FALK: Your Honor, let the
16 record reflect the witness has identified the
17 defendant.

18 THE COURT: Yes, ma'am.

19 Q. Officer Gabler, what day did you come in
20 contact with him?

21 A. It was on that date of -- put my
22 eyeballs on here, March 21st 2011.

23 Q. Just so the record's clear and defense
24 counsel knows as well, are you referring to your
25 offense report --

1 A. Yes, correct.

2 Q. -- when you look down and put on your
3 eyeballs?

4 A. Yes.

5 Q. Now, I don't want you to read directly
6 from it, but if you need to read it to refresh your
7 memory as to a particular date or location, that's
8 fine. Just let us know. Where was it that you were
9 called to?

10 A. It was the 2700 block of Chimney Rock.

11 Q. What part of town is that located in?

12 A. Near the Galleria.

13 Q. And what time were you dispatched to go
14 to Chimney Rock?

15 A. The time was 6:37 in the morning.

16 Q. When you arrived there, what type of
17 location was it?

18 A. Well, that was actually the wrong
19 location. That was the first address I was given,
20 which turned out to be the wrong location.

21 Q. How did you know it was the wrong
22 location?

23 A. I was not able to locate anybody at that
24 location.

25 Q. Were you able to locate somebody at an

1 alternate location?

2 A. Yes.

3 Q. And where was that location?

4 A. That was down the block, bank building,
5 5300 block of Westheimer.

6 Q. So, the 5300 block of Westheimer. You
7 said it was a bank building?

8 A. Yes.

9 Q. Can you describe to us what that area or
10 location looks like? Is it commercial, residential?

11 A. Commercial, bordering on residential
12 neighborhood.

13 Q. And when you made that scene and you
14 found the correct scene off of the 5300 block of
15 Westheimer, who did you first come in contact with?

16 A. There was another Houston Police
17 officer, secondary unit on the scene, and --

18 Q. Where was he?

19 A. He was sitting in his patrol car in the
20 parking lot.

21 Q. You said he was another HPD officer?

22 A. Yes.

23 Q. Was there anyone else at the scene?

24 A. Yeah. There was a security guard and
25 Mr. Richie.

1 Q. Do you remember the security guard's
2 name?

3 A. I believe it was Jones.

4 Q. Can you look at your report to make sure
5 you're accurate on his name, please?

6 A. Johnson, Lee Johnson.

7 Q. So, Mr. Johnson was present, a secondary
8 officer who was in his car and the defendant. Is
9 that all the parties that were present?

10 A. Yes.

11 Q. What did you do when you made the scene?

12 A. The other unit arrived just before I
13 did. I checked with him and handed me the
14 identification that was provided to him by
15 Mr. Richie and --

16 THE COURT: Sir, listen to
17 question. The question was, what did you do?

18 A. I began my investigation.

19 Q. (By Ms. Falk) What was the first step in
20 beginning your investigation? Did you meet with
21 that secondary officer?

22 A. Yes.

23 Q. What, if anything, did he provide you?

24 A. An identification.

25 Q. Whose identification?

1 A. Turned out to be Mr. Richie's.

2 Q. Once you received Mr. Richie's
3 identification, what was the next thing that you
4 did?

5 A. I went over and spoke with the security
6 guard.

7 Q. Upon completing your conversation with
8 the security guard, what did you do next?

9 A. Then I proceeded in speaking with
10 Mr. Richie.

11 Q. Before we talk about what Mr. Richie
12 said, I want to talk about his demeanor. Tell me
13 physically what he looked like.

14 A. He had the appearance of a homeless
15 individual.

16 Q. Did he have any visible injuries that
17 you could observe with your own eyes?

18 A. Yes. He had a bandaged thumb.

19 Q. Do you remember which thumb it was that
20 was bandaged?

21 A. I believe it was his left thumb.

22 Q. Was that a recent bandage or old looking
23 bandage?

24 A. No. It was a fresh one.

25 Q. Were there any other injuries on

1 Mr. Richie?

2 A. None that I saw.

3 Q. You said that he had the appearance of a
4 homeless person. What do you mean when you say
5 that, like, what physically on him gave him that
6 appearance?

7 A. He had clothes that were -- appeared to
8 be old and dirty and used and pushing a grocery cart
9 full of various, you know, miscellaneous items.

10 Q. What was the defendant's demeanor like?
11 How was Mr. Richie -- like how was he talking? How
12 was he acting?

13 A. He was very agitated, angry.

14 Q. When you met with Mr. Richie, you said
15 that you spoke with him, correct?

16 A. Excuse me?

17 Q. You said you spoke with Mr. Richie?

18 A. Yes.

19 Q. Did you speak with him there at the
20 scene, or did you take him somewhere else?

21 A. No, at the 5300 Westheimer.

22 Q. Did you -- where were you when you spoke
23 with him?

24 A. In the parking lot, the office building
25 there.

1 Q. More pointedly, were you out in the
2 open, or were you in your vehicle or another marked
3 unit?

4 A. No. We were both standing out in the
5 parking lot.

6 Q. Was he handcuffed?

7 A. No.

8 Q. When you spoke with him, did you tell
9 him he was under arrest in any fashion?

10 A. No, I did not.

11 Q. Did you ever make any promises to him?

12 A. No, I did not.

13 Q. Did you ever make any threats to
14 Mr. Richie?

15 A. No.

16 Q. Did you imply in any way that he was
17 under arrest?

18 A. No.

19 Q. When you originally had contact with
20 Mr. Richie, tell me how the conversation unfolds.
21 What happens first, or what is said first?

22 A. I asked him what had happened.

23 Q. What did he tell you had happened?

24 A. He said that he had got into an
25 altercation with a security guard at that location.

1 Q. Did you ask him for anymore details
2 about what had happened or who was involved?

3 A. Yes.

4 Q. What other details did he give you?

5 A. He told me he had gone ahead and he was
6 at another location and he was going to get into the
7 dumpster, trash dumpster.

8 Q. Let me break you there. When you say
9 that he had been at another location, did Mr. Richie
10 tell you what the other location was?

11 A. Yes.

12 Q. What was that?

13 A. It was another parking lot down about a
14 block down the street. It was -- he said there was
15 a club there.

16 Q. What club was that?

17 A. Turned out to be the Roxy club.

18 Q. Did he tell you it was the Roxy, or you
19 learned that it was the Roxy club?

20 A. I learned it was the Roxy club.

21 Q. Now, you said that he, being the
22 defendant, told you he was going through a dumpster
23 at this other location. What was the next thing
24 that Mr. Richie told you?

25 A. That a security guard on the property

1 had approached him and told him to leave the
2 property.

3 Q. What was -- did you ask followup
4 questions, like what else, and what happened next?

5 A. Yes.

6 Q. What did he tell you happened next?

7 A. He said the security guard insisted he
8 leave the property, and he wasn't happy about it.
9 He left.

10 Q. Let me stop you there because I'm
11 unclear. When you say "he", who was unhappy about
12 it?

13 THE COURT: Excuse me. Mr. Richie,
14 I have to be able to hear him, and I can't do that
15 when you're talking. You have a deep voice, and it
16 carries. I have to be able to hear him. Go ahead.

17 Q. (By Ms. Falk) When you say he was
18 unhappy, who was unhappy?

19 A. Mr. Richie.

20 Q. What did Mr. Richie tell you happened
21 next?

22 A. Wound up going ahead and going to the
23 sidewalk area of the property.

24 THE COURT: I'm sorry. Say that
25 again, sir.

1 A. He had gone. He was -- he didn't
2 want -- he went to the property, the edge of the
3 sidewalk.

4 Q. When you say "he", do you mean
5 Mr. Richie?

6 A. Mr. Richie.

7 Q. And what did Mr. Richie say happened
8 next?

9 A. He went ahead and cursed at the -- told
10 me he went ahead and cursed at the security guard.

11 Q. Did he tell you how he cursed to the
12 security guard?

13 A. Told me exactly what he said.

14 Q. Did you put that in your offense report?

15 A. Yes, I did.

16 Q. Can you -- I know it's improper
17 language, but can you please tell us what exactly
18 the defendant said he, the defendant, had said to
19 the security guard?

20 A. Yes. Mr. Richie told me he told the
21 security guard, he said, "fuck you".

22 Q. What did Mr. Richie say happened next?

23 A. He went ahead and made a gesture to --
24 Mr. Richie made a gesture with his finger of fuck
25 you to the security guard.

1 Q. And what did Mr. Richie say happened
2 next?

3 A. Then the security guard asked him what
4 he said and Mr. Richie repeated, told the security
5 guard, "I said, fuck you."

6 Q. Did Mr. Richie tell you what happened
7 after that, the second expletive to the security
8 guard?

9 A. Mr. Richie said the security guard went
10 ahead and struck him.

11 Q. Did Mr. Richie tell you where on his
12 body the security guard struck him?

13 A. He said he struck him to the face.

14 Q. Did you see any visible injuries, any
15 blood, bruising, broken skin, swelling on the
16 defendant's face?

17 A. No, I did not.

18 Q. After he told you that he, the
19 defendant, told you that the security guard struck
20 the defendant, what did he tell you happened next?

21 A. He said he went ahead and pulled out a
22 pocketknife. Mr. Richie pulled out a pocketknife
23 and stabbed the security guard in his arm, and then
24 he went to go ahead -- Mr. Richie went, tried to
25 stab the security guard in his stomach, and I

1 believe, his front area, and the pocketknife that he
2 was using, the blade folded on him and cut
3 Mr. Richie's -- he cut his own hand.

4 Q. When you say the pocketknife folded on
5 him, which "him" do you mean?

6 A. Mr. Richie told me that the pocketknife
7 folded back over on his own hand.

8 Q. And is that consistent with the bandage
9 or fresh injury that you observed on Mr. Richie's
10 hand?

11 A. Yes.

12 Q. Did Mr. Richie tell you if anything else
13 happened, or was that kind of the end of the
14 statement?

15 A. Yes. Then Mr. Richie said he left the
16 property.

17 Q. Once Mr. Richie gave you the statement
18 of what happened, what did you do next?

19 A. He had been treated by the paramedics
20 and appeared to be well enough to go ahead and
21 leave. So, I went ahead and left there and went
22 over to look at the other location, see if I could
23 locate the other party involved.

24 Q. Were you able to find anybody at the
25 other location?

1 A. No.

2 Q. Were you able to find a second scene of
3 any sort?

4 A. No.

5 Q. Did you tell Mr. Richie, you're under
6 arrest. You are not free to leave this scene, being
7 the bank where you had interviewed him?

8 A. No.

9 Q. Did you threaten him in any way?

10 A. No.

11 Q. After you got Mr. Richie's statement
12 from Mr. Richie, did you handcuff him?

13 A. No.

14 Q. Did you ask him about the knife that he
15 had used and injured himself with?

16 A. Yes.

17 Q. When did you ask him about that knife?

18 A. After he went and told the information
19 about he had cut himself and that he had cut the
20 security guard and had cut himself.

21 Q. Tell me how that conversation went or
22 that portion of the conversation. What did you say,
23 and what did he say?

24 A. I went ahead and asked to go ahead and
25 see the knife.

1 Q. And what happened next?

2 A. I believe he handed me the knife, and I
3 retained the knife.

4 Q. What type of knife was it?

5 A. It was a folding pocketknife.

6 Q. Could you see any blood on the knife?

7 A. Yes.

8 Q. Did it appear to be fresh blood?

9 A. Yes.

10 Q. So, what did you do with that knife?

11 A. I retained the knife for possible
12 evidence.

13 Q. Did you eventually tag it into property?

14 A. Yes.

15 Q. When did you do that, compared to when
16 you obtained the knife?

17 A. I did it that same morning.

18 Q. Now, after you go to the second location
19 to look for where this original stabbing had
20 occurred, did you at some point go back over to
21 where Mr. Richie had been interviewed?

22 A. Yeah. I passed back by there.

23 Q. Was Mr. Richie still there?

24 A. No. He had left.

25 Q. When you left Mr. Richie, was he free to

1 leave?

2 A. Yes.

3 Q. Had he been detained or under arrest at
4 any point in y'all's conversation?

5 A. No.

6 Q. When you were speaking with Mr. Richie,
7 did he appear to be like under the influence of any
8 drugs or alcohol?

9 A. I could not determine that.

10 Q. Did he appear to be making sense to you?

11 A. It was sense enough to go and get the
12 information from him.

13 Q. You said that he was agitated, but in
14 response -- I mean, was he responsive to the
15 questions that you asked?

16 A. For the most part, yes.

17 MS. FALK: Judge, I'll pass the
18 witness.

19 THE COURT: Mr. Davis.

20 MR. DAVIS: May I approach the
21 witness?

22 THE COURT: Yes, sir.

23 CROSS-EXAMINATION (JURY OUT)

24 Q. (By Mr. Davis) Sir, can I see the report
25 you brought with you this morning?

1 A. It's not all my report. That's the
2 whole thing.

3 MR. DAVIS: May I proceed, Your
4 Honor?

5 THE COURT: Yes, sir.

6 Q. Officer Gabler, when you arrived at the
7 scene you said another officer was already there?

8 A. Yes.

9 Q. That officer was in his patrol car?

10 A. Yes.

11 Q. And there was a security guard that was
12 also present with Mr. Richie?

13 A. Yes.

14 Q. And those people were standing around
15 Mr. Richie. The security guard was there and the
16 officer was parked close to Mr. Richie; isn't that
17 right?

18 A. Yes.

19 Q. And the officer had Mr. Richie's ID?

20 A. Yes.

21 Q. When Mr. Richie first had contact with
22 that officer, you learned that he got Mr. Richie's
23 I.D. and kept him at the scene; isn't that true?

24 A. Yes.

25 Q. In other words, usually in the course of

1 your investigation, your training and experience,
2 you get people's I.D.'s to collect information,
3 correct?

4 A. Yes.

5 Q. And oftentimes you won't return the I.D.
6 until you finish your investigation, right?

7 A. Yes.

8 Q. And most people don't leave when they
9 don't have their I.D. Would you agree with that?

10 A. Most, yes.

11 Q. Most people think when a police officer
12 is keeping his I.D., they have to stay until they
13 get their I.D. back, isn't that right?

14 A. I would assume so.

15 Q. As a police officer, you ever do traffic
16 duty?

17 A. Yes.

18 Q. When you stop somebody on traffic and
19 you take their I.D. during the course of a traffic
20 stop, you don't give that I.D. back, do you?

21 A. Yes, I do.

22 Q. Okay. I mean, eventually you do, but
23 when you're doing your work, your investigation, you
24 don't give the I.D. back, do you?

25 A. I do give it back to them, yes.

1 Q. In other words, let me ask the question
2 this way, you don't give the I.D. back until you
3 finish your investigation?

4 A. Yes.

5 Q. If you're doing an investigation -- if
6 you're not finished with the investigation, you're
7 not giving the I.D. back, right?

8 A. Yes, right.

9 Q. If a person drives off when you have
10 their I.D., you're going to stop that person and
11 arrest them?

12 A. No.

13 Q. So, it's your testimony if you're during
14 the course of an investigation and you've got
15 somebody's I.D. that that person is free to drive
16 off while you're doing your investigation and while
17 you have their I.D.?

18 A. It's not uncommon for them to go ahead
19 and want to take off without their identification.

20 Q. I'm talking about while you're
21 investigation is going on though. Usually you'll go
22 back to them and say, I'm not going to give you a
23 ticket; I'm going to give you a warning. A person
24 might drive off without getting their I.D., right?

25 A. There are times when they leave without

1 their I.D., yes.

2 Q. If you're doing the investigation, you
3 haven't decided whether or not you're going to write
4 a ticket, you're running the license, you're looking
5 at their vehicle, doing some inspection of
6 everything in the car. If that person drives off,
7 you're going to arrest that person if he leaves
8 before your investigation is complete; isn't that
9 true?

10 A. I'm not going to arrest them. It
11 depends on the situation.

12 Q. Most people wouldn't leave because they
13 would think they're not free to leave at that point,
14 true?

15 A. Most folks, yes.

16 Q. In Mr. Richie's situation, you've got
17 his I.D. He isn't free to leave; isn't that right?

18 A. After getting his information, yes.

19 Q. You go and you've got his I.D. and he's
20 waiting and he's staying there and he's at the
21 scene. He's got an officer who's got his I.D. in
22 the car. And he's waiting for you to come. You
23 come and you question him under those circumstances;
24 isn't that right?

25 A. I question him because Mr. Richie called

1 in for police assistance, yes.

2 Q. You don't ask for --

3 THE COURT: I'm sorry, sir. You
4 said Mr. Richie called in for police assistance?

5 A. Through the security guard, yes. He
6 contacted the security guard, and the security guard
7 contacted dispatcher.

8 Q. Now, you're aware there's a 911
9 operator. You're a corporal now?

10 A. Yes.

11 Q. Been with the force how long?

12 A. Twenty-six years.

13 Q. Twenty-six years, wow. So, during the
14 26 years, you've worked with different components of
15 the Houston Police Department system, so to say,
16 right?

17 A. Yes.

18 Q. In other words, you've worked with 911
19 dispatchers before, right?

20 A. Through calls of service.

21 Q. Yes, sir. You know the protocol. You
22 know what they normally do, right?

23 A. Yes.

24 Q. If someone calls in and they talk about
25 a situation where they've been assaulted, usually

1 the 911 dispatch will say, stay there; isn't that
2 right?

3 A. Depends on the situation, yes.

4 Q. Yes, sir. In this situation if officers
5 are responding to the scene and somebody said they'd
6 been cut, wouldn't the 911 dispatcher tell them to
7 stay there as well? Isn't that normal routine?

8 A. It can be, yes.

9 Q. So, he's getting information from
10 someone that he thinks is a law enforcement officer.
11 People call 911 -- even though they may not be law
12 enforcement officers, they may be dispatchers, but
13 normal people know and think they're talking to law
14 enforcement, right?

15 MS. FALK: Objection, Your Honor.
16 This calls for speculation.

17 THE COURT: That's sustained.

18 Q. (By Mr. Davis) If you know.

19 THE COURT: Sustained, Mr. Davis.

20 Q. (By Mr. Davis) So, in normal situations,
21 you were just telling me, 911 dispatchers tell
22 people to stay there?

23 MS. FALK: Objection, Your Honor.
24 It calls for speculation, and it's hearsay.

25 THE COURT: That's already been

1 asked and answered. He's answered that one.

2 MR. DAVIS: I'll move ahead.

3 Q. (By Mr. Davis) In this particular
4 situation, Mr. Richie is on the scene and he's
5 answering your questions, right?

6 A. Yes.

7 Q. You don't record any of the
8 conversation?

9 A. Just on my notepad.

10 Q. I'm talking about a video recorder. You
11 don't video record it?

12 A. No, I do not.

13 Q. You don't audio record it?

14 A. No.

15 Q. Your vehicle is equipped with that type
16 of equipment; isn't that right?

17 A. No.

18 Q. In other words, your vehicle is equipped
19 with the ability to make an audio recording?

20 A. No.

21 Q. So, your vehicle is one of the few that
22 doesn't have the ability to record something going
23 on inside of it?

24 A. Actually, there are very few that have
25 that ability.

1 Q. To record what's going on inside of the
2 vehicle?

3 A. Yes, sir.

4 Q. Not video. I'm talking about audio, to
5 pick up sound.

6 A. We're not equipped with that.

7 Q. You got a radio in your car, right?

8 A. Yes.

9 Q. Generally, your radio allows you to talk
10 to command, true?

11 A. It does.

12 Q. You know things that happen in terms of
13 dispatch from your radio are recorded, right?

14 A. It's recorded, the information, yes.

15 Q. Yes, sir. If I was to send a subpoena
16 to HPD's information unit, I could get a subpoena
17 for all of the things that are said over your
18 dispatch; isn't that right?

19 A. Yes.

20 Q. And I can get a recording of that,
21 right?

22 A. Yes.

23 Q. The radio you have in your car is
24 equipped to be able to record all kinds of things in
25 terms of statements and information that comes out;

1 isn't that right?

2 A. I'm not clear to what extent a recording
3 you're asking me.

4 Q. When you're talking on the radio, that's
5 all being recorded?

6 A. Yes.

7 Q. You could have easily recorded
8 Mr. Richie through the radio in your vehicle?

9 A. No.

10 Q. All right. Bottom line is there's no
11 recording of this?

12 A. No.

13 Q. Meaning there is no recording?

14 A. A recording of --

15 Q. Of Mr. Richie.

16 A. Statement I got from him?

17 Q. His statement.

18 A. Not from me, no, as far as no audio.

19 Q. Yes, sir. In the course of your
20 conversation with him, you're asking him questions,
21 and he's answering questions from you?

22 A. Yes.

23 MR. DAVIS: May I have one moment,
24 Your Honor?

25 THE COURT: Yes, sir.

1 MR. DAVIS: One moment, Your Honor?

2 THE COURT: Yes, sir.

3 Q. Officer Gabler, when Mr. Richie tells
4 you what happened, you don't believe him, do you?

5 A. I had no reason not to believe him.

6 Q. You tell Mr. Richie that you don't
7 believe him. "I don't believe you"?

8 MS. FALK: Objection, Your Honor,
9 relevance and hearsay.

10 THE COURT: What's the relevance to
11 the motion?

12 MR. DAVIS: It goes to what he does
13 afterwards, Your Honor.

14 THE COURT: Let's get to that.
15 That's overruled at this time.

16 Q. (By Mr. Davis) You tell Mr. Richie, "I
17 don't believe you"?

18 A. No, sir.

19 Q. "I'm going to get the security guard's
20 side of the story"; isn't that right?

21 A. No, sir, it's not correct.

22 Q. You tell Mr. Richie you're going to get
23 the security guard's side of the story and you leave
24 from where Mr. Richie is and you go looking for the
25 security guard; isn't that true?

1 A. Yes, sir. There's always two sides to
2 every story.

3 Q. Absolutely. You tell that to
4 Mr. Richie. There's two sides to every story.
5 You're going to get his story and get him charged
6 with assault; isn't that correct?

7 A. No, that's not correct.

8 Q. And, in fact, you tell Mr. Richie, wait
9 right here, and then you go and look for the
10 security guard; isn't that true?

11 A. No.

12 Q. You tell him, don't leave, don't go.
13 You're not free to leave; isn't that correct?

14 A. He was able to go.

15 Q. You don't find the security guard,
16 right?

17 A. That's correct, I do not.

18 Q. You come back and you complete a report;
19 isn't that true?

20 A. Yes.

21 Q. So, now, you finish a report at that
22 point. You put Mr. Richie's information in the
23 report. You don't have any information for the
24 complainant or at least the person who was the
25 security guard at that time; isn't that right?

1 A. That's correct.

2 Q. And in your report you make illusion to
3 somebody else may be a complainant who may come
4 forward at a later time, right?

5 A. I state in the report there's another
6 party involved, yes.

7 Q. You said that person may come forth at a
8 later time as a complainant in your report?

9 A. Correct.

10 Q. Tell me this. You think there might be
11 someone out there who might be a complainant, right?

12 A. Yes.

13 Q. Who might be another complainant, right?

14 A. Yes.

15 Q. Who from your account may have been
16 assaulted with a knife, may be a victim of an
17 aggravated assault, true?

18 A. Yes.

19 Q. So, you have a person who you think
20 might be a suspect as an aggravated assault -- an
21 aggravated assault case, and there may be some
22 complainant out there who you haven't talked to,
23 right?

24 A. Who's supposed to be a suspect?

25 Q. Yeah, who's supposed to be a suspect but

1 could --

2 A. No, I'm asking you who you --

3 Q. That's what I'm asking you. Mr. Richie
4 is someone that could be a suspect in an assault?

5 A. The possibility of one, yes.

6 Q. The possibility. So, you have this
7 person that you have right now who you can put your
8 hands on, who you think might be homeless, who
9 appears to be homeless, who could be transient, who
10 you might not be able to find, true?

11 A. Yes.

12 Q. So, it's your testimony -- you want the
13 Judge to believe that you left him free to leave
14 while you went to look for someone who's a victim --
15 a potential victim of an aggravated assault case?

16 A. I had no reason to hold him any further.

17 Q. If you find this person, if you leave
18 and go right across the street -- literally, you
19 talk about it being a block, but it's literally
20 right across the street, isn't it?

21 A. Not right across the street, no.

22 Q. It's like across the street and maybe 30
23 yards up?

24 A. Further than that.

25 Q. A little further than 30 yards?

1 A. It was down the block.

2 Q. But it's a view -- you can see it. You
3 can look at it. If you're standing at the
4 Prosperity Bank corner, you can look at the scene
5 where this is alleged to have occurred?

6 A. No, I was not able to.

7 Q. You were not able to see?

8 A. It was dark outside.

9 Q. I see. All right. At about 6:30 in the
10 morning, I guess it could be dark, but at that time
11 you could go across the street, wasn't some place
12 you had to drive. It was a place you could easily
13 walk, right? It wasn't a place where you had to
14 drive. You could easily walk?

15 A. A person could walk.

16 Q. You can go over here and find this
17 potential complainant who may have been stabbed or
18 may have been a stabbing victim and see what's going
19 on, and you're telling the Court you were going to
20 let him leave, that he was free to leave?

21 A. He was, yeah. He gave me a statement.

22 MR. DAVIS: One moment, Judge. I
23 don't have any other questions.

24 MS. FALK: Redirect, Your Honor.

25 THE COURT: Yes, ma'am.

1 REDIRECT EXAMINATION (Jury out)

2 Q. (By Ms. Falk) Just on one issue, the
3 issue of the identification. When, if ever, was the
4 defendant given back his identification card?

5 A. After I obtained his statement.

6 Q. Okay. So, after you speak with him, you
7 give him back his identification. And what exactly
8 do you tell him about his need to stay at that scene
9 or his ability to leave?

10 A. At that point he's able to go. I didn't
11 have enough information to confirm the event
12 actually took place.

13 Q. At any point did you arrest the
14 defendant in connection with this incident?

15 A. No.

16 MS. FALK: Pass the witness.

17 THE COURT: Mr. Davis.

18 MR. DAVIS: Very briefly, Your
19 Honor.

20 RECROSS-EXAMINATION (Jury out)

21 Q. (By Mr. Davis) You said you didn't have
22 enough information to confirm it, right?

23 A. Right.

24 Q. You complete your investigation before
25 you make that decision, true?

1 A. At the scene -- at the time -- at which
2 point are you talking about?

3 Q. I'm talking about before you make that
4 decision whether or not you have enough information
5 to confirm whether or not something occurs, right?

6 A. I -- on Mr. Richie's information that
7 wasn't enough to confirm the incident took place.

8 Q. Well, you knew that this incident is
9 like walking distance away, that you're
10 catty-cornered from the building. I've been to this
11 scene many times.

12 MS. FALK: Objection, Your Honor,
13 sidebar, asked and answered.

14 THE COURT: Sustained.

15 Q. (By Mr. Davis) In other words, you knew
16 that you don't have to travel very far to go to
17 where this is.

18 MS. FALK: Objection, asked and
19 answered.

20 MR. DAVIS: I'll move on, Judge.

21 Q. (By Mr. Davis) You even go over to the
22 scene, right, to confirm. You go over to the scene
23 to confirm. You're saying you let Mr. Richie go
24 before you're able to confirm it, but then you say
25 in the same sentence that you give him his I.D. back

1 after you were able to confirm or weren't able to
2 confirm it. Do you see the inconsistency I'm
3 struggling with?

4 A. I see you're struggling.

5 Q. On one hand you're saying you're not
6 going to let him go until you've confirmed something
7 happens or not happened. On the same token you say
8 you let him go first and then you go over and
9 confirm whether or not something happened. Do you
10 see the inconsistency?

11 A. It's not inconsistent to me.

12 Q. I understand. I understand.

13 MR. DAVIS: I don't have anything
14 else, Your Honor.

15 MS. FALK: I have no further
16 questions, Judge.

17 THE COURT: You may stand down,
18 sir. Please return to the hall.

19 THE WITNESS: Thank you. Can I get
20 my report back?

21 THE COURT: We'll make sure you get
22 your report back.

23 THE WITNESS: Do I get it now?

24 THE COURT: No, sir. Return to the
25 hall.