

1 going to hang out here in the courtroom, and that's
2 what's going on. All right.

3 *(Brief recess.)*

4 THE BAILIFF: All rise for the
5 jury.

6 *(Jury seated.)*

7 THE COURT: Being that our floor
8 fire marshal said that you could be fined 500 to
9 \$2,000 for not going by the stairs, I figured your
10 jury tags probably wouldn't cover that so I made
11 y'all stand over there and we stayed in here.

12 All right. Y'all may be seated.

13 That didn't take too long. All
14 right. You may proceed.

15 MR. GILLIAM: Thank you, Judge.

16 **DIRECT EXAMINATION CONTINUED**

17 **BY MR. GILLIAM:**

18 Q. Since we had that interruption, would
19 you introduce yourself again to us?

20 A. Yeah. My name is Michael Lee.

21 Q. And how are you employed, Mr. Lee?

22 A. I'm employed as a detention officer at
23 the Harris County Sheriff's Department.

24 Q. How long have you been a detention
25 officer at the Harris County Sheriff's Department?

1 A. Since 6-1-09, about five and a half
2 years.

3 Q. Do y'all -- how does that work? Do
4 y'all have different assignments over there as
5 detention officers?

6 A. Usually, yes.

7 Q. What's your assignment right now?

8 A. Well, I have -- recently they had a bid
9 change so I recently moved to the third floor and
10 I'm assigned as a rover.

11 Q. What do y'all do or what's your
12 assignment as a detention officer over there at the
13 jail?

14 A. Care, custody and control of the
15 inmates. You just make sure that -- in the rover
16 capacity, we make sure that, you know, that people
17 are fed, the jail stays pretty clean. We assign the
18 workers -- inmates to do -- mop floors and, you
19 know, just keep the jail clean.

20 Q. In your paycheck does it say Harris
21 County on it?

22 A. Yes.

23 Q. I'm going to take you back to December
24 8th of 2014. Where were you assigned at that point
25 in time?

1 A. I'm taking that's the date --

2 Q. Yes, sir.

3 A. Okay. I was assigned as a rover on the
4 second floor.

5 Q. And the second floor of which jail?

6 A. The 1200 Baker facility.

7 Q. And is the 1200 Baker jail facility in
8 Harris County, Texas?

9 A. Yes. Yes, sir. Sorry.

10 Q. So on December 8th of 2014, were you
11 assigned or told to do something with the jail and
12 the cells there?

13 A. Yeah, I'd just come on shift. I work
14 2:00 to 10:00, and it was about -- well, with
15 military time, it was 14:20 or 2:20. So we'd just
16 been on -- on the floor for about 20 minutes. There
17 was a jail inspection going on at the time.

18 MR. SCOTT: I would request
19 question and answer as opposed to narrative, Judge.

20 A. Okay.

21 THE COURT: All right. Sustained.
22 Break it up.

23 Q. (By Mr. Gilliam) So you were assigned,
24 and you said around 2:20. What happened around 2:20
25 p.m.?

1 A. My sergeant had asked us to --

2 MR. SCOTT: May it please the
3 Court, I'm going to object. Any conversation, that
4 would be hearsay between this officer and anyone
5 else. We would object to it.

6 THE COURT: All right. Sustained.
7 Let's just --

8 Q. (By Mr. Gilliam) What was your
9 assignment at 2:20?

10 A. To go in and clean -- to go in and check
11 the cell blocks, make sure they were clean for a
12 jail inspection.

13 Q. And what floor of the jail were you
14 doing that inspection on?

15 A. 2J.

16 Q. And what is -- is there anything special
17 about the 2J?

18 A. 2J was --

19 MR. SCOTT: It if please the Court,
20 I would object unless it's material to this -- some
21 issue in this case as to the speciality of that
22 location.

23 THE COURT: Why don't you rephrase
24 that question?

25 Q. (By Mr. Gilliam) What -- are there

1 inmates housed on 2J?

2 A. 2J is lockdown facility, 23-hour
3 lockdown.

4 Q. And you were instructed or your
5 assignment was to inspect the cells there; is that
6 correct?

7 A. Make sure that paper was off the lights,
8 that the doorway -- there's -- that there was no
9 newspapers on the doors or anything blocking the
10 view inside the cell block.

11 Q. Well, let me ask you, why -- why do
12 y'all care if there's newspapers blocking the
13 windows in the cell?

14 A. For the safety of the inmates. We have
15 to be able to see in there to make sure that the
16 inmates are alive and that we have, like, a small
17 window that we can tell if they're breathing.

18 Q. How many cells are on 2J? How many
19 inmates and how big are we talking about?

20 A. It's 12 cells on the bottom and 12 on
21 top.

22 Q. So is it two stories?

23 A. On the one side and then two sides
24 there's the same 12 and 12, and they're locked down
25 for 23 hours out of the day.

1 Q. In the cells themselves, how many
2 inmates are housed in each cell?

3 A. Just one, one individual per cell.

4 Q. And on that day, on December 8th of
5 2014, did you come into contact with a defendant
6 named Weylin Allford -- with an individual named
7 Weylin Allford?

8 A. Yes, sir.

9 Q. And do you see Mr. Allford in the
10 courtroom today?

11 A. Yes, sir.

12 Q. And will you identify him by an article
13 of clothing he's wearing and where he's sitting?

14 A. He's sitting at the table right here
15 (indicating), and he has an Oxford cloth shirt, gray
16 and burgundy.

17 MR. GILLIAM: Your Honor, may the
18 record reflect the witness has identified the
19 defendant?

20 THE COURT: It will so reflect.

21 Q. (By Mr. Gilliam) So how did you come
22 into contact with the defendant?

23 A. We were going from cell to cell to cell
24 to cell. He was in B cell. We went from A cell to
25 B cell to C cell making sure that the inmates were

1 in compliance with the standards set by TCLEOSE.

2 Q. Now I'm going to show you what's been
3 previously marked as State's Exhibits No. 1, 2 and
4 3. What are State's Exhibits 1, 2 and 3?

5 MR. SCOTT: Please the Court, I'm
6 going to object. Can they be properly identified
7 and admitted into evidence prior to his testimony,
8 Your Honor?

9 THE COURT: Lay the foundation
10 properly.

11 Q. (By Mr. Gilliam) Do those fairly and
12 accurately represent what they purport to show in
13 these photos?

14 A. Yes.

15 MR. GILLIAM: Your Honor, I would
16 offer State's 1, 2 and 3 into evidence and I'm
17 tendering to Defense counsel.

18 MR. SCOTT: We have no objection,
19 Your Honor.

20 THE COURT: No objection, 1, 2 and
21 3 are admitted. You may publish as necessary.

22 (*State's Exhibits No. 1, 2 and 3,*
23 *Photographs, offered and admitted.*)

24 MR. GILLIAM: Thank you, Judge.

25 Q. (By Mr. Gilliam) Okay. When you're

1 inspecting these cells, how do you inspect them?
2 What's the process for the inspection?

3 A. Well, at this time it was -- we were
4 just trying -- the inspectors were on the floor, so
5 our sergeant had asked to make sure that they
6 were -- they were in compliance, that they were
7 clean as best we could.

8 Q. What is in compliance mean?

9 A. Well, not -- not -- not newspapers all
10 over the place, nothing on the floor, just bunks
11 made, nothing on -- covering the windows so we
12 can't -- so we can see through. And then make sure
13 there's nothing covering the lights that darkens the
14 room and you have difficulty seeing in making
15 sure -- to check on.

16 Q. So when you're checking these cells, how
17 many people -- or how many other detention officers
18 are with you while you're checking these cells?

19 A. It varies, but at this time there was
20 about four or five at least.

21 Q. What happens, generally speaking, if you
22 find that one of the cells that you're looking at is
23 not in compliance? What do you do?

24 A. We -- we correct it. We -- we'll pull
25 the paper down. We'll initially ask the inmate to

1 pull the paper down and remove the paper from the
2 light; and if they comply, then -- then we move on
3 to the next cell block.

4 Q. And prior to this incident, had you had
5 any contact with Mr. Allford, the defendant?

6 A. Not me personally, no.

7 Q. And if the inmate in the cell does not
8 comply with your commands to remove the paper and
9 bring the cell into compliance, what do y'all --
10 what steps do y'all take?

11 A. Well, if we can't see into the cell,
12 we'll initially call into the cell and ask -- try to
13 get a response from the inmate. If there's no
14 response, then we -- we have to open the door to the
15 cell block to make sure that they're living. That's
16 our first priority, is the safety of the inmate.

17 Q. And just so we're clear, are you a
18 police officer?

19 A. No. No. I'm a detention officer.

20 Q. So I'm going to show you what we just
21 entered into evidence as State's Exhibit No. 1.
22 Now, this photo was not taken from the day of this
23 incident; is that correct?

24 A. I have -- I have no idea when -- I did
25 not take the photo. So...

1 Q. You didn't take this photo, right?

2 A. No.

3 Q. What does this photo show, though?

4 A. It does show -- at the top you can read,
5 it says 2J, 1E, and then the big 1E is the cell
6 block. It's on bottom level in 1200 Baker J pod,
7 one side.

8 Q. So who was housed in this cell back on
9 December 8th?

10 A. Mr. Allford.

11 Q. And will you -- I'm going to zoom in on
12 the door.

13 A. Uh-huh.

14 Q. Will you kind of take us through and
15 explain to us the different parts of this door?

16 A. Okay. We'll go with the panel here
17 (indicating). There's a locking mechanism right
18 above, and then this area here is a panel
19 (indicating). Here we have the window. Right here,
20 this right here is a -- they use that now to -- to
21 keep track of the time. They -- they have an
22 instrument that reads -- that makes sure you do your
23 rounds every 25 to 30 minutes.

24 And obviously the door handle, and then
25 the locking mechanism on the side.

1 Q. How are these doors locked?

2 A. They're mechanical locks and they're
3 keyed -- they're mechanical and they're electronic
4 locks. So 99 percent of the time you're using the
5 electronic locks up in the -- in the Pod Control
6 Center to open and close them. So somebody -- I
7 can't just open that door. I have to signal to
8 someone to open that door.

9 Q. And where is that person that you would
10 signal to to open the door?

11 A. It's, like, a two-story. It's about,
12 like, maybe a story and a half up in the cell block;
13 and it's centrally located between the 24 cells on
14 each side.

15 Q. And if you press the -- I think it's at
16 the bottom.

17 A. The left is one side. The right would
18 be two sides.

19 Q. I'm talking about clearing. On your
20 screen to your right, I think if you touch the
21 bottom, it's the bottom left, it should clear the
22 screen.

23 A. Undo or clear.

24 Q. Bottom left you can clear the screen.
25 There you go.

1 A. Okay.

2 Q. State's Exhibit No. 2, is that showing
3 us -- what is that showing us?

4 A. Again, it's the 2J1E cell block and the
5 stairwell that leads to the upper -- this is the
6 bottom 12 and there's another -- the stairwell right
7 there leads to the second story tier with 12 more
8 cell blocks (indicating).

9 Q. So when you checked on the defendant's
10 cell, was his cell in compliance with what you were
11 looking for?

12 A. No. When I initially showed -- well, if
13 you've got that photo -- when I first came up --

14 Q. I'm just putting on State's Exhibit
15 No. 1.

16 A. Yeah. This -- the window was totally
17 covered with newspapers, and I could not see in the
18 cell block. And I could tell that the light was
19 covered because you could see light on the bottom of
20 the -- you could see if the light's on or off or if
21 they're blocking the light because you can't -- you
22 don't see light underneath the doorway.

23 Q. So after you saw that the defendant had
24 covered his cell window with newspapers, what steps
25 did you take?

1 A. I -- my initial -- I gave instructions
2 for him to uncover the window first.

3 Q. Did he comply with your instructions to
4 uncover the window?

5 A. No, he did not.

6 Q. What did you do after he failed to
7 comply with that instruction?

8 A. I asked -- I asked if he was, you know,
9 okay, is he in there; and I had no response.

10 Q. After you received no response, what did
11 you do?

12 A. I signaled to the PCC, the Pod Control
13 Center, and asked them to open that door.

14 Q. And when you're asking them to open the
15 door, are you down there alone or are there other
16 people with you?

17 A. No, there was -- like I said, myself and
18 four to five other officers.

19 Q. What happened after you had the cell
20 door opened to the defendant's cell?

21 A. I opened the cell block and immediately
22 I just reached in and immediately pulled the paper
23 from the door so that I could see -- so that I and
24 others could see in the cell.

25 Q. What was the status of the light in the

1 defendant's cell?

2 A. It was -- as I expected, it was covered,
3 fully covered to darken the room.

4 Q. So when you opened -- had the door
5 opened and you walked in, where's the defendant when
6 all this stuff is happening?

7 A. I didn't walk in immediately. It's --
8 that's never really a good idea.

9 Q. Okay. So what did you do?

10 A. I just opened the door, reached in,
11 pulled the paper down.

12 Q. So after you pulled the paper down,
13 what's the next step you took?

14 A. Then I saw Mr. Allford standing in the
15 middle of the room with his shirt off and he saw me
16 at that time, too.

17 Q. In State's Exhibit No. 2, does the door
18 open all the way or is that as much as the door
19 opens that we're seeing right here?

20 A. That -- yeah, that's fully opened.

21 Q. Okay. And can you show us where the
22 defendant was standing if you're looking through
23 this cell door right now?

24 A. About right -- about right there
25 (indicating). Like I said, the middle of the cell.

1 It -- it's -- they're not that large. I don't know
2 exactly the precise size, but that's, like, a 6-foot
3 bunk. So if you can imagine, he was right there
4 (indicating). There's still -- there's still a
5 shower over there that you can't see yet
6 (indicating).

7 Q. And I'll show you what we've already --
8 if you'll clear the screen for me again on the
9 bottom right, Mr. Lee.

10 A. (Witness complied.)

11 Q. I'll show you what's already been marked
12 and admitted into evidence as State's Exhibit No. 3.
13 What is this showing us?

14 A. The -- we've got the shower. We've got
15 the commode and sink. We've got a floor drain, the
16 desk, and we've got the bunk area. And Mr. Allford
17 was standing about right in this area (indicating)
18 as I walked in.

19 Q. So you see --

20 A. Well, as I stood at the door, gave him
21 instructions.

22 Q. So you see Mr. Allford, the defendant,
23 in the middle of the cell without his shirt on?

24 A. Uh-huh.

25 Q. What do you do when you see him in that

1 posture?

2 A. I instruct -- gave him instructions to
3 turn around so he could be handcuffed.

4 Q. Did he comply with those instructions?

5 A. No, he did not.

6 Q. After he failed to comply, what steps
7 did you take?

8 A. I -- well, I observed that he had a
9 string around his waist; and at that moment in time,
10 I knew that meant he had a garrotte. I didn't know
11 if he had any other weapon beyond --

12 Q. He had a what?

13 A. Well, like a string is -- it's, like,
14 considered a garrotte. So you could -- a choking
15 hazard. So beyond that I didn't know what he had,
16 but I knew he had at least a weapon at that time.

17 Q. So after you see him with the string,
18 what do you do when you see that?

19 A. Well, I gave him additional instructions
20 to -- to give up the weapon and to turn around and
21 be handcuffed.

22 Q. Did he comply with those instructions?

23 A. He did not comply with those
24 instructions.

25 Q. After he failed to comply with those

1 instructions, what did you do?

2 A. I had my -- I removed my OC capsule, my
3 OC spray.

4 Q. And just for us, is OC spray, is that
5 similar to, like, pepper spray or something?

6 A. Yeah, it would be -- yeah, it'd be like
7 a little bit more potent than pepper spray, I
8 suspect.

9 Q. And so we're clear, when you're working
10 in the jail, do y'all carry a firearm or anything
11 like that?

12 A. No, no firearms. No.

13 Q. What do y'all carry to protect yourself?

14 A. We're allowed to have, like, a small
15 knife, like an inch-and-a-half knife, pepper spray,
16 if you've been qualified. You have to be sprayed
17 with pepper spray and go through training to carry
18 it. You have to be, I think minimum there, a couple
19 of years before you're allowed to have it. I don't
20 know exact. I don't -- most of the deputies that
21 have been or detention officers who've been there
22 longer have it but not your new individuals.

23 Q. Do you remember what you had on yourself
24 on December 8th?

25 A. My -- my OC and the small knife that I

1 used to cut down clotheslines and stuff like that.

2 Q. So after you see the defendant, he's
3 been failing to comply, you get out your pepper
4 spray, what do you do?

5 A. Well, when I move -- I'm still not
6 inside the cell block. At that time I've got other
7 detention officers -- we're kind of all around, just
8 everybody -- I'm just the only one giving
9 instructions at the time but I'm just trying to gain
10 compliance at that time but I do have my OC spray
11 out since he has a weapon and I don't know what his
12 plans are with it.

13 Q. And after you're trying to give him
14 these commands, where does he go, what does the
15 defendant do?

16 A. When I pulled out my OC spray, he
17 grabbed the mat off his -- off his bunk and
18 retreated into the shower area and crouched down.

19 Q. And was there anything that you noticed
20 about the floor of the actual cell?

21 A. Yeah, that it had been -- it had been,
22 like, wet, water and soap, like to make it slippery.

23 Q. So after the defendant goes into the
24 shower and covers himself with a mattress, what do
25 you do?

1 A. Well, I waited momentarily and then I
2 had thought he was in a retreating position so I
3 knew what I needed to do at that time. We
4 weren't -- we really weren't concerned -- I mean,
5 we're always concerned about weapons, but at that
6 moment in time we were trying to get through the
7 cell. I had to go through 48 cells. So he was the
8 fifth one. So I was really trying to get the rest
9 of my duties done. So I was just going to -- I was
10 just trying to get the rest of the cell blocks
11 cleared. So my main concern was actually
12 cleanliness for the inspectors.

13 Q. Okay. And were you able -- or did you
14 try to clean the cell?

15 A. Yeah.

16 Q. What did you do?

17 A. While he was retreated into the cell
18 block or into the shower area, I stepped up on the
19 bunk. I had both feet in the bunk. I had my OC
20 spray in my left hand, my eyes watching the inmate,
21 and I reached -- in that position you can actually
22 reach the ceiling and take the newspaper off the
23 cell block light.

24 Q. So when you're reaching up to take the
25 paper off the cell block light, what does the

1 defendant do?

2 A. The defendant came out of a crouched
3 position and jumped 3 or 4 feet and got ahold of my
4 legs.

5 Q. What did he do once he got ahold of your
6 legs?

7 A. Well, he tried to tackle me. And
8 they're not supposed to make contact with us at
9 all -- with us at all. And the fact that he had a
10 weapon and he had already assaulted me, I -- you
11 know, it was on at that point in time. Every --
12 people started moving into the cell block to secure
13 the inmate.

14 Q. And did the defendant strike you at all?

15 A. While I was -- yeah, while I was in that
16 time -- that time period, I started to fall back
17 because he had my legs and then I fell forward.
18 Somebody pushed me and I fell into the -- onto the
19 desk area with the inmate -- with Inmate Allford.
20 At that point I grabbed ahold of his -- his head and
21 shoulders.

22 Q. What is Allford doing with his hands
23 while he's assaulting you?

24 A. He was able to get a hand -- as I
25 crouched down, he was able to get a hand -- one hand

1 around my neck and the other he started -- what I
2 thought was just hitting me in the head, repeatedly.

3 Q. So just to be clear, you didn't see him
4 actually stab you with a shank?

5 A. I didn't see -- I didn't see it, and I
6 didn't feel it. It's just when I started bleeding
7 across my head and my ear was cut all the way
8 through. I don't know if it's the adrenaline or
9 what, but I didn't -- or the sharpness of the thing,
10 but I didn't -- I didn't --

11 Q. Needless to say --

12 A. I felt the strikes, but I didn't feel
13 the -- the blood -- cutting me. Otherwise, I would
14 have -- I did learn a lesson there. You know, if --
15 even if --

16 MR. SCOTT: If it please the Court,
17 I'm going to object. This is nonresponsive.

18 THE COURT: Sustained.

19 Q. (By Mr. Gilliam) Needless to say, you
20 were pretty amped up while this was going on?

21 A. Yeah, my adrenaline was probably in full
22 gear.

23 Q. I'm showing you State's Exhibits No. 4,
24 5, 6, 7 and 8. Are these -- do they fairly and
25 accurately represent what they portray?

1 A. Yes.

2 MR. GILLIAM: Your Honor, I'm
3 tendering State's Exhibits 4 through 7 -- or 4
4 through 8 -- excuse me -- to Defense counsel and I'm
5 asking that they be admitted into evidence.

6 MR. SCOTT: We have no objection,
7 Your Honor.

8 THE COURT: No objection, they're
9 admitted. You may publish.

10 *(State's Exhibits No. 4 through 8,*
11 *Photographs, offered and admitted.)*

12 MR. GILLIAM: Thank you, Your
13 Honor.

14 Q. (By Mr. Gilliam) So what injuries did
15 you sustain because of this incident?

16 A. Again, a lacerated ear, all the way
17 through. I had a cut in my eyebrow and a cut here
18 (indicating) and a couple of penetrations in my
19 scalp, neck and back.

20 Q. Did you have to seek any medical
21 attention due to this incident?

22 A. Yes. I initially went to the clinic
23 downstairs and they cleaned me up and cleaned the
24 wounds and then I was taken to the hospital and I
25 received stitches for my ear and my sideburn area

1 and my upper eye.

2 Q. Do you recall approximately how many
3 stitches you received because of this?

4 A. I have no idea.

5 Q. And do you still have the lasting marks
6 from some of these wounds that you got?

7 A. Yes.

8 Q. And where are those scars?

9 A. Well, in particular, my ear, I'm
10 probably going to need to have reconstruct -- I'm an
11 old guy, so I haven't decided whether I'm going to
12 get reconstructive on my ear lobe; but, you know,
13 people -- it depends on how much my co-workers
14 harass me about it.

15 Q. And just to be clear, when you're
16 doing -- when this incident happened, how were you
17 dressed?

18 A. Similar to what I have on today. My
19 white county-issued shirt, my county-issued pants,
20 the boots. I had my 5.11 boots on and white socks,
21 white T-shirt, V-neck.

22 Q. If you'll clear the screen again.

23 A. (Witness complied.)

24 Q. So State's Exhibit No. 4, what is this
25 showing us?

1 A. This was -- this was taken in the
2 clinic; and I had already removed my county-issued
3 shirt because it was kind of covered with blood,
4 like, across in blood. And so they removed that and
5 put it in a hazard bag, like one of the red plastic
6 bags.

7 Q. And it's a little hard to see, but I've
8 zoomed in on State's Exhibit 4. What are all those
9 red marks and stuff on your T-shirt?

10 A. I had no injuries to my chest or
11 anything. So I'm assuming that that blood came from
12 my ear primarily and then maybe some from my brow.

13 Q. State's Exhibit No. 5, what is this
14 showing us?

15 A. This, you can kind of see where the
16 strike marks were with his fist, and that's where
17 one of the -- one cut was.

18 Q. Okay.

19 A. There's a minor cut there (indicating).
20 And then my ear, you can't really -- it's kind of
21 covering up, but basically -- clear that. That --
22 that's where my ear was cut all the way through.

23 Q. And I'll show you a better picture of
24 that. State's Exhibit 6, is this a close-up --

25 A. Of the injuries on my face, yeah.

1 Q. So would you again point out to us where
2 your injuries -- where you were stabbed?

3 A. Right here on the brow that -- going
4 across there (indicating). And then this is
5 where -- right here is where he struck me numerous
6 times (indicating). I lost count but there's where
7 he cut is right there (indicating) and then again my
8 ear right there was cut through (indicating).

9 Q. State's Exhibit No. 7, this is a little
10 harder to see. Did you suffer any injuries that are
11 shown in this photo?

12 A. Just bumps and bruises, cuts from -- I
13 don't think that was from the sharpened weapon, but
14 right there on my elbow you see the laceration.

15 Q. State's Exhibit No. 8, does this show
16 any more of your injuries that you sustained?

17 A. I was -- he cut me right there and got
18 another -- I can't -- I can't say absolutely for
19 sure that cut, if that's from him or not. The only
20 reason is I have numerous skin cancers, so I've got
21 scars kind of all over.

22 Q. So after the defendant starts stabbing
23 you, what does everyone else do once he starts
24 stabbing you?

25 A. Well, they aggressively go after the

1 shank. If they can get -- secure that arm first so
2 that way it minimizes injuries to the officers, if
3 you get the weapon removed. And then we immediately
4 tried to get the inmate to -- we're giving him
5 instructions continuously to put his arms behind his
6 back, stop resisting, and to comply with our orders.

7 Q. Was the defendant compliant with y'all's
8 orders after you started --

9 A. No, he resisted the entire time that I
10 was in the cell block.

11 Q. And when did you -- I guess at some
12 point in time were you able to leave the cell block
13 or get out of the cell?

14 A. Yeah, there was additional officers.
15 There was at least two or three that were able to
16 get in there at a time. So you can have probably as
17 many as three detention officers in there with an
18 inmate before there's just not room to move around.
19 So, you know, we tried to get him down on the ground
20 as quickly as possible, tried to secure his arms and
21 legs; but it -- basically the first thing, the first
22 order of business is get that shank out of there.

23 And it's -- I didn't -- I didn't even
24 know initially when the fight started that he had a
25 shank. It wasn't until later when he said --

1 someone behind me said, "Shank, shank, shank," and
2 then it changes from just a fight to a
3 life-threatening situation at that point. As soon
4 as there's a weapon, the rules change for us. We're
5 allowed to defend -- we can use whatever needs --
6 whatever is necessary to protect ourselves.

7 Q. While this whole incident is happening,
8 is the defendant saying anything at all?

9 A. He was using -- cursing and saying stuff
10 that -- I'd have to look at my statement as to exact
11 words he says. It's been long enough that I don't
12 recall what he said. But if --

13 Q. Is it fair to say he wasn't saying nice
14 things?

15 A. No, no, he was complaining.

16 Q. And what did you do after you were able
17 to get out of that cell?

18 A. As -- as I was leaving, other officers
19 were coming in. That's when I first realized the
20 amount of blood. I didn't know initially that it
21 was my blood. I saw blood across my shirt and I
22 thought it could have been possibly the inmate's or
23 mine but it turned out -- I don't know whose it was
24 for sure, but I know a lot of it was mine from my
25 ear and forehead.

1 MR. GILLIAM: Pass the witness,
2 Your Honor.

3 THE COURT: Defense?

4 MR. SCOTT: May I proceed, Your
5 Honor?

6 THE COURT: You may.

7 MR. SCOTT: All right. Thank you,
8 Judge.

9 **CROSS-EXAMINATION**

10 **BY MR. SCOTT:**

11 Q. Do you have a particular title or are
12 you -- do they call you Detention Officer Lee or how
13 are you addressed?

14 A. I'm a detention officer, but I'm also an
15 advanced detention officer with years and training.
16 You get your intermediate, your advanced, and I was
17 on the list for promotion to sergeant.

18 Q. Okay. Well, the question is: When
19 you're addressed, most people call them police
20 officers or Officer Jackson or Officer Something.
21 Do they call you Detention Officer or do they just
22 refer to you as Mike or --

23 A. Just Lee. No, not usually first names
24 ever.

25 Q. All right. How about Mr. Lee?

1 A. Absolutely. That's the way --

2 Q. Is that okay with you?

3 A. I respond to many things.

4 Q. I understand.

5 So, Mr. Lee, what time would you have
6 reported to work on that particular -- that
7 particular day?

8 A. Usually I get in about half an hour
9 before duty, which would have been 1:30.

10 Q. So your shift, then, would be, I gather,
11 2:00 to what?

12 A. 2:00 to 10:00.

13 Q. All right.

14 A. Normally.

15 Q. And that is p.m., correct?

16 A. 2:00 p.m.

17 Q. Or is that a.m.?

18 A. No, I'm sorry. 2:00 p.m. to 10:00 p.m.,
19 14:00 to 22:00.

20 Q. Now I remember.

21 And in relation to that, that cell
22 block, how many other people -- you said you were
23 the rover, correct?

24 A. Yeah. There was myself --

25 Q. All right. You were the rover and how

1 many other people on the floor, not in the
2 observation capsule, the pod, how many people were
3 actually with the department running on the floor?

4 A. It's usually 1 to 48. So I would say
5 anywhere from 19 to 22 people would be assigned to
6 that floor approximately. Again, that's an
7 approximation.

8 Q. And the people that work there, are they
9 all on that floor at the same time or do they --

10 A. No. At that time, I had
11 Friday/Saturdays off. So I was with -- the groups
12 vary. You might have 20 people or 30 people
13 assigned, and they take varying days off.

14 Q. Okay. On that particular day, though,
15 do you remember how many people probably being there
16 with you helping you in your job?

17 A. At that time, like I said, it was -- I
18 believe it was about four or five, not including the
19 three detention officers assigned to that cell
20 block.

21 Q. All right. Now, you said you were
22 instructed -- or your duty at that particular time
23 was to go around and check on, I guess, the neatness
24 or the condition of all the -- all the cells in that
25 area; is that correct?

1 A. Yes, sir.

2 Q. All right. And you would go, then, on
3 first deck and second deck on both sides --

4 A. Yes, sir.

5 Q. -- and do what you were talking about
6 doing in relation to this particular cell, correct?

7 A. Yes. Yes, sir.

8 Q. Did you give the instructions to do the
9 work as to what needed to be done, or is that set by
10 schedules? So when, you know, I come to work,
11 everybody in there knows the first thing we're going
12 to do when Mr. Lee shows up at 2:00 o'clock up here,
13 he's going to be walking up and down seeing if we've
14 got our place picked up?

15 A. That would be -- me being there would
16 not be the norm. Me being in that cell block is not
17 the norm.

18 Q. No, the question is: Do the people
19 housed there -- one, I'm sure they know there's a
20 number of rules. We've got to keep our place neat
21 and squared away, right?

22 A. Yeah, inmate handbook.

23 Q. The handbook tells you all these kind of
24 things you've got to do, right?

25 A. Yes, sir.

1 Q. All right. But you go around and check
2 on that; is that correct?

3 A. Yes, sir.

4 Q. All right. Are your instructions given
5 to do that at a particular time or does the handbook
6 and all the instructions says 24/7 your house, which
7 they call them --

8 A. Uh-huh.

9 Q. -- your cell is to be neat and squared
10 away at all times. Is that accurate?

11 A. Yes, it is. And had first shift done
12 everything there's supposed to do, I would have just
13 kept on going.

14 Q. All right. So -- okay. First shift has
15 the same responsibility basically that you've got?

16 A. Absolutely, yes, sir.

17 Q. Now, first shift would be telling that,
18 they would be checking that, they would be doing the
19 same thing; is that correct?

20 A. Uh-huh. Yes, sir.

21 Q. Now, you showed us on the picture -- and
22 I couldn't tell from the picture -- that button,
23 that timer button.

24 A. Yes, sir.

25 Q. Is it a regular button affixed to the

1 door?

2 A. I'm not sure exactly how it works, but
3 seems like it's a magnetic thing that we have a
4 reader, like a USB reader that you -- it looks like
5 a wand and you press that wand on that and it tells
6 the wand -- that's just like -- I won't say it's a
7 dead piece of metal, but it really is just -- it has
8 an ID and the USB wand has the reader in it.

9 Q. So that is -- once again, I assume that
10 that's a security issue, wouldn't it be?

11 A. Absolutely.

12 Q. Right?

13 A. For the safety of the inmates.

14 Q. Right. So every -- what -- how often
15 you said -- you gave us a time. Every 20 minutes?

16 A. I believe -- I don't work the lockdown
17 that often, but 25 to 30 minutes is by Texas law.
18 So it's not Harris County law. It's Texas law.
19 It's 30 minutes. I think we go beyond that standard
20 to every 25. And when I do work lockdown, I
21 personally go every 20 minutes just because you
22 don't want to get behind because you can get written
23 up or days off. I mean, they don't -- they don't
24 play around. You get days off.

25 Q. All right. So the purpose of that is to

1 make sure really, in essence, under the law that you
2 people do your job, isn't it?

3 A. Absolutely.

4 Q. Right. Okay. But however often you do
5 it, the jail standards, state jail standard says
6 that you people are to walk around and touch that
7 and have some recorded history --

8 A. Uh-huh.

9 Q. -- as to checking on the inmates.
10 That's the only purpose of it basically, right?

11 A. Absolutely, yes, sir.

12 Q. Now, if you needed to -- are there other
13 instructions given to inmates besides just keeping
14 your place clean? Is there such a thing -- like we
15 used to in the Marine Corps, we had to scrub
16 everything and do all that at certain times during
17 the day or is that on an individual basis or how is
18 that done?

19 A. I've not read the inmate handbook
20 recently, but it does extend beyond just keeping
21 stuff off your light. It does talk about the
22 cleanliness.

23 Q. Well, did you give instructions that day
24 to say everybody's got to scrub their floor this
25 afternoon while I'm here or anything like that?

1 A. Negative.

2 Q. All right. Is that kind of thing done,
3 though?

4 A. It should be. I don't know. I mean,
5 yeah, I don't know if I'm presuming that others are
6 doing their jobs as well.

7 Q. Okay. All right.

8 But you don't know if the first group of
9 people said anything to the inmates about, "Okay.
10 There's going to be an inspection on clean floors
11 today," or "Scrub your floors today"? If that
12 happened, you weren't aware of that; is that
13 correct?

14 A. No, sir, I just --

15 Q. Now, the checking mechanism or whatever
16 you want -- the wand --

17 A. Yes, sir.

18 Q. All right. Is there a history that you
19 can see -- where is that recorded that would show if
20 you walked up to do that, say, at 2:00 o'clock or
21 2:05 that was the first place you went after you
22 checked in --

23 A. Right.

24 Q. -- you hit it with the wand and it
25 registered "I hit that door of that particular cell

1 at 2:05," is that recorded somewhere?

2 A. Yes, sir.

3 Q. Where would that be recorded?

4 A. That, I don't know. I'm just on the --
5 I'm the low end. It's above my pay grade, I guess,
6 is what I want to say.

7 Q. All right. But you're of the opinion it
8 is, in fact, recorded somewhere?

9 A. I know it's -- I can't say -- again,
10 I've seen the sergeants take -- collect the wands
11 and they do download them and there's some kind
12 of -- and I think currently it's on a trial basis.
13 I don't even -- I don't know -- beyond that I don't
14 know what all -- again, that's all decided way above
15 me.

16 Q. Did you -- did you have any knowledge of
17 when it had been done right -- the one before you,
18 though?

19 A. No, I have no idea.

20 Q. But it would have been the same 20,
21 25-minute period of time, theoretically, the person
22 before you would have, right?

23 A. Absolutely. I hope so, yes.

24 Q. Okay. But you don't know that either?

25 A. No, I wasn't there so I wouldn't know.

1 Q. So when you talk about the paper being
2 on the window -- which is that oblong window in the
3 door, correct?

4 A. Right. It could have been put up ten
5 days earlier or it could have been put up five
6 minutes before I come in. I have no idea when that
7 paper was put up.

8 Q. Well, let's --

9 A. I just know it was not in compliance
10 when I saw it.

11 Q. So that paper, though, I guess -- I
12 guess we would have to say that whoever was in front
13 of you would not have been doing their job, say, if
14 it had been ten days up there, right?

15 A. If it would have been ten days, that
16 would be an accurate statement.

17 Q. Right. Or if it had been 20 minutes, I
18 mean, it would --

19 A. Yeah.

20 Q. -- yeah, 20 minutes, 25 minutes --

21 A. Yeah, 25, if it was 25, it should have
22 been -- it wouldn't have been in compliance then
23 either.

24 Q. Then either, right? But you don't know
25 how long that might have been up there because that

1 wasn't where you normally worked, right?

2 A. Accurate. That's true.

3 Q. So if there was some -- I guess we'd
4 have to call it leeway or lax conduct on someone
5 that was not as handbook-oriented, say, detention
6 officer, that that might have been there
7 theoretically for ten days, right?

8 A. Different -- I know the individuals have
9 different standards.

10 Q. Yes, sir.

11 A. That's what's required by us by the law.

12 Q. As a matter of fact, you, I'm sure, have
13 had circumstances where you knew darn well that the
14 paper had been on the window for a pretty good
15 while, right?

16 A. No, I wouldn't know that.

17 Q. Okay.

18 A. Honestly, I mean, when I see them, I ask
19 that they take them down and normally I get pretty
20 good results.

21 Q. Now, in relation to the exhibit, the one
22 that --

23 MR. SCOTT: May I approach, Judge?

24 THE COURT: Yes.

25 Q. (By Mr. Scott) The lighting that you

1 talked about in relation to -- well, let's see --
2 2, 3 -- 1, 2 and 3, is that -- would you call that
3 accurate lighting, the way it appeared to you when
4 you were in there or has that been enhanced for the
5 photograph?

6 A. No, this would probably be with the --
7 with the clear -- with the fluorescent lights clear.

8 Q. Yes, sir.

9 A. You can tell from the P -- from the PCC,
10 you can normally tell whether the lights are covered
11 or not. At least I have enough experience that I
12 can.

13 Q. The -- well, in relation to the exhibit
14 of -- that's what -- that was all what I was trying
15 to do, Mr. Lee, is the way it appears in Exhibit --

16 A. Yeah.

17 Q. -- 2 and 3, this would have looked like
18 normal lighting, right?

19 A. To me, yes.

20 Q. Okay. Not enhanced with a flashbulb or
21 anything like that?

22 A. And that could have been enhanced; but
23 normal lighting, it's going to have a similar
24 appearance. It could have been enhanced in that,
25 but it looks similar to that on a regular day.

1 Q. Now, in relation to the lighting, then,
2 you've talked about a fluorescent tube -- well, let
3 me ask you this. Describe the light to us.

4 A. The light would be two 36 to 48-inch
5 long tubes covered with, like, a somewhat
6 translucent plastic material. Yes, I won't see the
7 lighting in here because -- but just two standard
8 fluorescent sized tubes with a cover.

9 Q. With a -- like a Plexiglass cover,
10 right?

11 A. Yeah. That's what I was looking for.

12 Q. Is there a switch in that -- inside this
13 cell for that light or not?

14 A. No, he cannot shut that off.

15 Q. So the inmate cannot turn off his own
16 light, correct?

17 A. No.

18 Q. The lights are kept on for what period
19 of time, then?

20 A. I don't work the third shift usually, so
21 I don't know exactly when lights out are. But
22 during my -- from 2:00 to 10:00 -- from 2:00 p.m. to
23 10:00 p.m. at night, the lights are supposed to be
24 on.

25 Q. So they would still be on?

1 A. They would be on.

2 Q. I don't notice any windows. There are
3 no windows in that cell, correct?

4 A. Other than on the door, there's none.

5 Q. Yes, sir. The light, then -- the
6 lighting is controlled, then, by some -- either up
7 in the pod --

8 A. Yes, sir.

9 Q. -- observation --

10 A. Yes, sir.

11 Q. -- area, correct?

12 A. Yes, sir.

13 Q. They can't even be shut off from outside
14 the door, can they? They've got to come from the
15 pod, right?

16 A. I believe that to be accurate.

17 Q. But you say that on occasion people
18 cover that up, correct?

19 A. Yes, sir.

20 Q. Is there any other illumination in that
21 cell besides that elongated fixture that you've
22 described to us?

23 A. Let me preface it first by saying there
24 is a night light so when the day lights go off
25 there's still a light on at night. There's --

1 the -- it's a lot less, so for sleeping periods; but
2 there's two tubes and there's another lighting -- I
3 don't know how it works exactly, but there's
4 additional light -- a less bright light for
5 evenings.

6 Q. Would it be more like a glow than a real
7 light?

8 A. Yes, sir.

9 Q. All right. And you refer to it as a
10 night light?

11 A. Yes, sir.

12 Q. And we might or might not have had those
13 in our home, but they're just a dimmer light just
14 for very little illumination basically?

15 A. Right. And that is for -- that is
16 within that fixture.

17 Q. It's all part of the same fixture?

18 A. Yes, sir. That's why I wanted to
19 clarify.

20 Q. Okay.

21 A. So you would have two tubes and then
22 some other lighting device that's less bright or it
23 might be the tubes themselves that are just less
24 bright at night. I don't -- again, I'm not an
25 electrician, and I don't know exactly how they

1 function. I just know when I -- there's no period
2 of time when you shut the lights off that it's ever
3 completely dark.

4 Q. Totally dark?

5 A. It's not.

6 Q. Okay. Once again, I guess from your
7 testimony, you're not able to tell the ladies and
8 gentlemen of this jury how long that light had been
9 covered up either, could you?

10 A. No, sir.

11 Q. Now, you talked about -- you're coming
12 up to the door -- when you walk around, just do you
13 walk around with the other officers?

14 A. Uh-huh.

15 Q. You walk around in a group or do you do
16 it singularly?

17 A. We try to stay in a group; but, you
18 know, there are situations where, you know, one
19 person might get ahead or lag behind just making
20 sure that our instructions get, you know, completed.

21 Q. So you were going down all the rows
22 looking at the windows and checking the people and
23 hitting the --

24 A. Yeah, alphanumerically, just start at A
25 and work my way up to --

1 Q. And then 20 minutes later or 25, you
2 turn around and you go right back through again? Is
3 that how you have to do it?

4 A. Not for me. I was only -- we were sent
5 on a specific task for cleanliness only. I wasn't
6 doing rounds. I wasn't doing any of that stuff. I
7 was only -- I was specifically in there because --
8 just to make sure that we were in compliance
9 because -- you want to be in compliance at all time;
10 but when there's an inspection, hey, it's worth an
11 extra glance. I think that's what their thought
12 process is.

13 Q. Well, you said something about an
14 inspection.

15 A. Yeah.

16 Q. Okay. I didn't understand that. Was
17 that something special or something special was
18 going on, right?

19 A. Yes, sir.

20 Q. Okay. All right. I got it.

21 So once you go over there to make sure
22 everything is fairly clean or neat or however you
23 want to describe that, that was, one, when you
24 noticed that the light must have been covered up at
25 some period of time prior to you showing up,

1 correct, because the light wasn't coming out from
2 under the door?

3 A. The light was off when I got -- when I
4 reached that door.

5 Q. All right. And the window was covered
6 up when you reached the door?

7 A. Yes, sir.

8 Q. And this prompted you, realizing that
9 that wasn't supposed to be the way it was, that
10 something had to be done --

11 A. Yes, sir.

12 Q. -- so you turned and you have the pod
13 people, the observation deck people, whatever you
14 want to call those guys, open this particular cell
15 door, correct?

16 A. After I -- after I got no response from
17 Mr. Allford.

18 Q. Well, yeah, you tried to contact him
19 through there and no response --

20 A. Yeah.

21 Q. -- and then you turn and either tell
22 them or signal them and they open the door, right?

23 A. Yeah. Absolutely.

24 Q. Do all the doors open or they can just
25 selectively open just one, right?

1 A. They can -- yes, sir, they can
2 selectively open just a door.

3 Q. Once you do that, you notice, though, at
4 some point in time that the floor is wet; is that
5 right?

6 A. Yes, sir.

7 Q. Of course, once again, you don't know if
8 Mr. Allford had been told to scrub the floor --

9 A. That's true.

10 Q. -- or have anything to do with the
11 cleanliness of his floor, do you?

12 A. I do not.

13 Q. All right, sir. You opened the door. I
14 think you told us you said you removed the paper and
15 noticed the floor is wet --

16 A. Uh-huh.

17 Q. -- at some point in time?

18 A. Yes, sir.

19 Q. You see Mr. Allford --

20 A. Yes, sir.

21 Q. -- standing in the -- where you told us
22 in the center, right?

23 A. Yes, sir.

24 Q. And you said he was -- he was what? He
25 didn't have his shirt on?

1 A. Yeah.

2 Q. All right. Could you -- did you know
3 whether or not the shower is right at the -- and for
4 clarification -- and I -- hold on just a second.

5 A. Yes, sir.

6 Q. Let me try to do this with the overhead.

7 A. All right. If that works.

8 Q. Okay. All right. Mr. Lee?

9 A. Yes, sir.

10 Q. All right. There is -- it appears in
11 the exhibit, which is State's No. 3, that -- there
12 appears to be a drain in the center -- basically the
13 center of that room; is that correct?

14 A. Yes, sir.

15 Q. And that would be a drain that -- I
16 think, I would assume the floor slopes so that would
17 drain any water that might be on that floor outside
18 of the shower, right?

19 A. I'd like for that to be the case, but
20 that's -- it is absolutely not like that. I wish it
21 was because sometimes the cell blocks get flooded
22 and it goes everywhere. But you'd think that
23 somebody would have done it that way, but they
24 didn't. That's a design flaw.

25 Q. It doesn't slope?

1 A. It might have sloped, but it's not
2 sloped enough for -- for --

3 Q. All right. A low bid to the County?

4 A. Yeah. Yeah.

5 Q. Now, there also is I notice back in the
6 shower and I assume that area that we're looking at
7 beyond the commode would be what you would be
8 referring to as the shower; is that correct?

9 A. Yes, sir.

10 Q. And I think -- and that's what I wanted
11 to show -- to show or have you tell us. Is that the
12 shower head then right there built into the
13 left-hand side as we look at that picture of the
14 shower?

15 A. Yes, sir.

16 Q. All right. And there's a drain there,
17 too, in the shower, correct?

18 A. Yes, sir.

19 Q. All right, sir. Excuse me. The -- the
20 desk is the little green square thing and it looks
21 like it must have a swing-out seat under it; is that
22 right?

23 A. Yes, sir.

24 Q. Now, if the drainage on the floor is
25 what it is --

1 A. Yes, sir.

2 Q. -- is that basically the same drainage
3 as to that shower, that is, it doesn't do a very
4 good job either?

5 A. I would -- I would -- I would agree with
6 that. I mean, it works but it's not ideal.

7 Q. So I don't see a curtain. There's no --
8 is there a shower curtain there?

9 A. No, sir.

10 Q. So if there's no shower curtain and
11 someone were taking a shower, there regularly would
12 be water on the floor of the shower and there could
13 be water on the floor of the cell in particular,
14 correct?

15 A. Yeah, I can see that happening easily.

16 Q. All right. Now, once you go in -- let
17 me -- let me back up.

18 You're giving the instructions when
19 Mr. Allford is still in the center of the room,
20 correct?

21 A. Yes, I'm giving him instructions. Yes,
22 sir.

23 Q. And you're still outside the door or
24 have you stepped in yet?

25 A. I'm still -- I'm not -- I'm out -- more

1 out than in, is what -- I might have put a foot in
2 just --

3 Q. You're just in the opening probably,
4 right?

5 A. Right. Right.

6 Q. And at this particular time, had you
7 removed your spray yet?

8 A. I had not removed my spray until I saw
9 the -- the string wrapped around his waist, the
10 garrotte. I just assumed it was a weapon. If when
11 you see something like that, it's a good idea to --
12 that something is deadly or potentially deadly --

13 Q. When you use the word garrotte --

14 A. Uh-huh.

15 Q. -- you're referring to a garrotte that
16 is a strangulation device; is that accurate?

17 A. Yes, sir. Yes, sir.

18 Q. But in this particular case, though, you
19 described it as a string, right?

20 A. Well, I didn't know whether it was
21 plastic that had been wound tight, a shoelace or
22 anything. I just saw a white -- a white -- he
23 wasn't supposed to have it. It doesn't -- it
24 really -- I mean, it was potentially dangerous to
25 me. That's what I saw. I didn't -- beyond that --

1 Q. It would be under contraband and it
2 would also be under potential weapon, correct?

3 A. Absolutely.

4 Q. All right. Something you're not
5 supposed to have?

6 A. Not supposed to have.

7 Q. But whether or not it's a weapon or not
8 would be in the manner and means as which it was
9 used, correct?

10 A. Yes.

11 Q. All right. So once you see that,
12 though -- and you're how close to the man at that
13 particular time? You're still at the door, I guess?

14 A. Yeah.

15 Q. How far apart are you?

16 A. I would say 3, 4 feet. If it's the
17 middle, I think it's, like, maybe 5, you know,
18 within reaction -- I had pretty good reaction there.

19 Q. All right. So you're that close to him
20 and you see the string or whatever type of --

21 A. Wound around his hand and -- yeah.

22 Q. All right. And that's when you take out
23 your spray that you've been trained how to use,
24 correct?

25 A. Yes, sir.

1 Q. All right. And the purpose of that
2 spray is, of course, to deter any attack or anything
3 like that, correct?

4 A. Absolutely.

5 Q. All right. But at that point in time
6 you tell us that the defendant retreated with his
7 mattress or without his mattress at that time?

8 A. What happens is as soon -- as soon as I
9 pulled out my OC spray, he kind of just grabbed his
10 mattress off his bunk and went back into that area
11 (indicating), like the distance between us. So he
12 was closer to 6 or 8 feet at that time when he
13 crouched down with the mattress over his head.

14 Q. So the mattress would have been laying
15 flat then on that little green bunk that's in there,
16 or was it rolled up at that time? Do you remember?

17 A. I don't recall --

18 Q. Okay.

19 A. -- whether it was -- where that mattress
20 was initially.

21 Q. But he hunkered down under it when he
22 saw you were getting ready to spray him?

23 A. When he thought I might spray him.

24 Q. Right. Okay. And did you spray him?

25 A. No, sir.

1 Q. Did you try to spray him?

2 A. I had my can out ready to spray him.

3 Q. Well --

4 A. But I never deployed my spray.

5 Q. Just got --

6 A. A trigger --

7 Q. Thumb on the trigger or --

8 A. Yeah.

9 Q. All right. But --

10 A. I've got it here if you want to see it.

11 Q. But you never fired it or pressed it or
12 did whatever it does?

13 A. No, sir.

14 Q. All right. Do you have a recollection,
15 then, as to where the other people that were with
16 you, this group of people that was going through
17 there checking on things prior to the inspection, do
18 you have a recollection as to where they were?

19 A. At -- by the time when I started giving
20 instructions, I mean, there was moments that went
21 by. By that time everybody kind of collected up
22 around -- around me beside the door, and there was
23 at least two or three in the doorway and probably
24 people behind us. So there would have been myself
25 and another officer, and I would have been in the

1 threshold. There would have been another officer
2 there at the door waiting. Again, the door was only
3 open maybe 3 or 4 inches at that time when we first
4 walked in. It just kind of popped and I saw him,
5 gave him -- I initially pulled down the paper. That
6 was the first thing I did was to expand my view.

7 Q. When you got in to the point where you
8 were going to deploy your spray, but you did not --

9 A. Right.

10 Q. -- but you were getting ready to, where
11 were the other officers? Were they already in the
12 cell or were they still at the threshold?

13 A. They were at the -- at the threshold.
14 Like I said, I had my spray out and just had it
15 pointed in his direction with my thumb on the
16 trigger. I've had my spray for two and a half years
17 and I've never -- I pulled my can out numerous
18 times, but I've never actually sprayed anyone.

19 Q. Okay.

20 A. It's a lot of paperwork and I don't --
21 you know, I try not to if I can avoid it.

22 Q. All right. But once this happened,
23 though, and you had it deployed or displayed,
24 however you want to phrase it --

25 A. Displayed.

1 Q. At that point in time, you're saying
2 the --

3 A. I was prepared to use it.

4 Q. Right.

5 A. Absolutely.

6 Q. Trained to use it, too, right?

7 A. Trained to use it.

8 Q. And at that point in time, though, were
9 you still on the floor or had you jumped up on the
10 bunk?

11 A. No, I was still on the floor at the
12 threshold --

13 Q. Okay.

14 A. -- but the door was open. I'm in the
15 threshold. My spray can -- my arm -- I'm sure my
16 arm is extended fully into the cell block. Like I
17 said, I had my left -- I'm left-handed. I had it in
18 my left hand.

19 Q. And then you go -- you must go ahead and
20 get in there because you told us you jumped on the
21 bunk at some time, right?

22 A. When he retreated -- what I saw as a
23 retreat, when he retreated, when he grabbed the mat,
24 went into the shower area and had his face covered,
25 my thought process in my head was all I need to do

1 is get that paper off the light and then I can go to
2 the next cell block.

3 Q. You'll be through, then. Basically it
4 would have been inspected and you would have been
5 out of there, right?

6 A. I still would have been searching for a
7 weapon; but I would have brought that to the
8 attention of the pod deputies and my sergeant and
9 said, "Hey, I think E Pod has a weapon in there."

10 Q. Okay.

11 A. But, again, I had not seen anything
12 beyond the string at that point.

13 Q. So you go over --

14 A. And, honestly, until I just -- until
15 today I hadn't even seen the shank. So...

16 Q. So you go into the cell. He's
17 retreated. You think that's all slowed down now --

18 A. Yeah.

19 Q. -- and you're ready to go. You step
20 on -- how you phrased it -- probably must be
21 inaccurate, but you stepped on the bunk --

22 A. Yes, sir.

23 Q. -- with the intent to remove the paper
24 so the place would be --

25 A. Yes, sir.

1 Q. -- totally illuminated. Was there any
2 illumination? You talked about this long light,
3 this night light.

4 A. Yeah.

5 Q. Was it covered then?

6 A. Basically if you use, like, two or three
7 sheets of paper, newspaper, and you tuck it up
8 around it, you can get that room pretty dark --

9 Q. Okay. So your intent --

10 A. -- to the point where you can't see. I
11 mean, if you look into the window, you would not be
12 able to see an inmate in there. I've seen it that
13 dark before.

14 Q. So you get on the bunk and you are in
15 the process of removing that?

16 A. Uh-huh.

17 Q. Had you told -- had you removed it by
18 the time you're saying that the inmate grabbed you
19 around the legs?

20 A. Yes, sir.

21 Q. Okay.

22 A. I had -- I reached up and I grabbed it
23 and as the light -- I was watching the inmate as the
24 light went into the shower area. That's when he
25 reacted.

1 Q. He came out?

2 A. And I -- my assumption was he came out
3 because he was mad that I pulled it down. I don't
4 know his thought process, but my thought on the
5 subject was he was upset and thought I was
6 circumventing him.

7 Q. But there was no -- you told us, I think
8 on direct, Mr. Lee, that you saw him and you told
9 the jurors that you're pretty sure he saw you,
10 correct?

11 A. Yes, sir. I know -- I mean, he reacted
12 to the OC can, I'm pretty sure.

13 Q. So he saw the can, he goes hides, you
14 get on the bunk and you take down the paper and then
15 he comes at you, right?

16 A. Yes, sir.

17 Q. So if he is upset about the paper or
18 scared about the spray or whatever, his conduct was
19 not inconsistent with either one of those, though,
20 is it?

21 A. His -- if you can repeat that.

22 Q. If you're getting the spray, getting
23 ready, not knowing your mind --

24 A. Right.

25 Q. -- but you've deployed the spray or

1 you've got it out --

2 A. Yeah.

3 Q. -- in your hand --

4 A. Yes, sir.

5 Q. -- and you're pointing it at the fellow
6 and if he's been around at all, he knows the effect
7 of that spray probably?

8 A. Yes, sir, potentially.

9 Q. He goes ahead and grabs his mat; and
10 that would be defensive to you spraying him, would
11 it not?

12 A. I would think so. That's what we were
13 speculating.

14 Q. Right. So he's hiding or defensively
15 covering himself so he doesn't get sprayed with this
16 pepper spray/higher degree --

17 A. Yes, sir.

18 Q. And then you take his -- you take the
19 paper off his light --

20 A. Yes, sir.

21 Q. -- and then that's when you get a
22 reaction, correct, basically?

23 A. Absolutely, yeah.

24 Q. All right.

25 A. That's how I saw it.

1 Q. And then you're on the bunk and then we
2 have the struggle and we have all the difficulty
3 from that point on?

4 A. Absolutely.

5 Q. The other fellows come in there to aid
6 and assist you, correct?

7 A. Yes, sir. Someone yelled "shank" right
8 after -- like, it wasn't immediately, but then
9 someone yelled, "Shank, shank, shank," and --

10 Q. All right. There is a Chris Perry. Was
11 he there?

12 A. My sergeant, yes, sir.

13 Q. All right. Thomas Davis, was he there?

14 A. Yes, he was second in the door.

15 Q. Jerry Ringle, was he there?

16 A. Yes, I believe he was behind Davis. I
17 don't know -- I don't know where the people were
18 behind me exactly. I was focused --

19 Q. Napoleon Hartman?

20 A. Hartman -- again, I don't know exactly
21 when they entered the cell block.

22 Q. Ruben Garza?

23 A. They were there, yes, sir.

24 Q. Jacob E. Henderson?

25 A. I know -- I believe Henderson was there.

1 I think he's the one who deployed the OC spray as
2 Mr. Allford started to attack me or -- I don't know
3 exactly when it happened, when it was sprayed before
4 or after, but it was between the shower and the leg
5 grabbing there.

6 Q. Damian Palmer?

7 A. Palmer, yes, sir, he was in there
8 somewhere.

9 Q. Okay.

10 A. And, again, I don't know if they were
11 part of the initial group. I don't know the initial
12 group versus other people. They do make the floor
13 page -- if there's an inmate -- officer, they make a
14 floor page where an inmate -- inmate bites you or if
15 it's inmate/officer fight, they'll make a page and
16 really that's when the calvary, everybody comes
17 hopefully.

18 Q. So we've got some other people, too,
19 though, I guess, huh, besides those people?
20 McDuffy?

21 A. Yeah, McDuffy was actually one of the
22 ones running the pod. So he may have been -- he
23 could have just been doing his rounds while we're
24 doing this, but -- and then showed up as part of
25 that group.

1 Q. So the person, though, that --

2 THE COURT: Okay. Why don't we
3 take a short break here and we'll send y'all back to
4 the jury room, stretch your legs, just take a quick
5 break.

6 THE BAILIFF: All rise for the
7 jury.

8 *(Jury retired.)*

9 *(Brief recess.)*

10 THE BAILIFF: All rise for the
11 jury.

12 *(Jury seated.)*

13 THE COURT: All right. Y'all may
14 be seated.

15 Mr. Scott.

16 MR. SCOTT: Thank you, Your Honor.

17 **CROSS-EXAMINATION CONTINUED**

18 **BY MR. SCOTT:**

19 Q. Mr. Lee?

20 A. Yes, sir.

21 Q. Once you were in the room, you indicated
22 that one of the other officers -- and I thought you
23 told us and now I'm trying to remember which one
24 actually also deployed his spray and used it.

25 A. Yes, sir.

1 Q. And who was that?

2 A. I -- I can't say absolutely, but I
3 believe it was Henderson.

4 Q. Jacob E. Henderson?

5 A. Again, we don't go by first names.
6 There's a lot of guys. I don't know their first
7 names.

8 Q. Henderson?

9 A. Henderson.

10 Q. All right. So Henderson, as opposed to
11 just holding it out there like you did --

12 A. Yeah.

13 Q. -- he actually hit the trigger and it
14 shot spray out, correct?

15 A. Yes, sir.

16 Q. And what did he hit with the spray, do
17 you know?

18 A. I have no idea.

19 Q. Did he hit you?

20 A. No, sir.

21 Q. When he shot -- fired it, sprayed, is
22 that when you were on the -- going on the bunk, the
23 green bunk --

24 A. Yes, sir.

25 Q. -- and the defendant had you around the

1 knees? Is that basically accurate?

2 A. The timing, I don't know exactly when he
3 was behind me. I was up on the bunk focused on
4 Allford. So it was between -- so I don't know if he
5 had me by the legs or was about to grab me by the
6 legs, but within that two or three seconds, yes.

7 Q. That's when he -- that's when he fired
8 it?

9 A. Yes, sir.

10 Q. All right. But where it went, you don't
11 know?

12 A. I don't know if it hit the mat primarily
13 or if he got the inmate at all. I heard missed --
14 that he missed. I mean, the story that I was
15 hearing was that he had missed; but there was plenty
16 of OC spray. Everybody felt there was -- when that
17 OC goes off in such a small area, everybody was
18 breathing it. You don't really have to hit directly
19 in order to get -- yeah, I felt it. Everybody in
20 there --

21 Q. Kind of like tear gas?

22 A. It affects --

23 Q. Kind of like tear gas, right?

24 A. I've never experienced tear gas, but I
25 think it's the same concept.

1 Q. Sounds like the same concept to me.

2 A. Yeah.

3 Q. But through necessity, the inmate must
4 have moved or gotten out from behind the padding,
5 which is his mattress. Really isn't it -- isn't
6 that what it is? You call it a pad, but it's a
7 mattress?

8 A. Yeah, the mattress, the green -- the
9 green mattress, green pad. It's really -- mattress
10 is kind of overstating it, too, if you want to --
11 but that's what they give them.

12 Q. Pad's probably better.

13 A. Yeah.

14 Q. Okay. So he got out from behind his pad
15 where he had been crouched down, I gather, in the
16 shower area?

17 A. Yes, sir.

18 Q. And then was coming at you or at least
19 in that direction?

20 A. Yes, sir.

21 Q. And that's when -- if it was Henderson,
22 went ahead and fired off his canister, right?

23 A. Yes, either -- either he was in the
24 middle or at my legs. It all happened within
25 probably two seconds.

1 Q. Well, the distance -- just looking at
2 that, the distance between the wall to the shower
3 and the edge of the bunk has got to be, what, about
4 3 feet?

5 A. Yeah.

6 Q. Isn't that about right?

7 A. From the top to the bunk to there, 3,
8 4 feet, yeah.

9 Q. Yeah.

10 A. I mean -- yeah. Once again, that --
11 see, I think the bunk is about 3, 3, and then the
12 shower is another 3. So from the shower area to
13 there, you know, 3 to 6 feet. I -- you know, you
14 can touch the walls sometimes, you know, it seems
15 like, you know.

16 Q. Oh, inside the cell?

17 A. Going back and forth, I mean, it's --
18 there's not -- there's absolutely not a lot of room
19 in there. It's what's required by state law.

20 Q. So the time frame, then, in all honesty,
21 to get from the shower where the man was hunkered
22 down around that wall partition that we can see
23 right here --

24 A. Yes, sir.

25 Q. -- and to get to you who would be

1 standing right here would be just -- I mean, it
2 could happen --

3 A. I'd say a second. It was quick. It was
4 more than I -- it was faster than I thought it was
5 going -- I thought I would have more time to prepare
6 if there was a problem.

7 Q. So once he wraps his arms around your
8 legs --

9 A. Uh-huh.

10 Q. -- then you bend over, I assume, to try
11 to immobilize him and grab him or do something with
12 him, right?

13 A. Yes, sir.

14 Q. And how long a struggle do you think it
15 was before you got him disengaged from holding onto
16 you?

17 A. I don't think really -- oh, totally, it
18 was two, maybe three minutes. I mean, he went for
19 my legs and then when I went down to get him off of
20 me, more of a defensive position, then he got ahold
21 of my head and he started with the strikes, what I
22 thought initially were just fist strikes.

23 Q. You told us I thought on direct that
24 you, in fact -- either he and you together or you
25 actually fell down; is that correct?

1 A. I didn't -- I was falling back, and a
2 co-worker pushed me towards that wall. We were on
3 top of the desk kind of. I tried to keep my weight
4 forward on the desk, on top of Mr. Allford.

5 Q. So he would have -- he would have had
6 his back on the desk, this little green desk thing?
7 Is that where this all went?

8 A. He was all -- I mean, precisely at each
9 moment, I don't recall where he was; but initially
10 when he had my legs, I had -- I was on his back and,
11 like I said, his head and shoulders -- initially
12 when I went -- when I went down to get him and in
13 that position I must have fallen -- kind of slipped
14 back a little bit, like he maybe grabbed my legs
15 tighter and I started to go, you know, just until
16 somebody pushed me back up and kind of used the wall
17 to brace myself up.

18 Q. Okay. And the other people, then, were
19 in the room or in the cell by that point in time?

20 A. Absolutely, yeah.

21 Q. All right. And they were starting to
22 aid and assist you, correct?

23 A. Yes.

24 Q. And were you aware of how many times
25 they struck Mr. --

1 A. No.

2 Q. -- Allford?

3 A. I was facing -- I was facing the wall
4 most of the time and I was on -- bracing the wall on
5 his back and I was receiving strikes to the face.
6 So what they were doing, I don't know. Like I said,
7 I responded. I changed my -- from a defensive
8 posture to an offensive posture when I heard
9 "shank," "shank" or "shiv" or "shank, shank, shank"
10 and that changed my attitude towards the situation
11 to aggressive versus --

12 Q. So you're facing him. He comes at you.
13 He grabs you around the knees --

14 A. Uh-huh.

15 Q. -- around the legs?

16 A. Yes, sir.

17 Q. And then you go down to push him off of
18 you or to grab him?

19 A. Yes, sir.

20 Q. You start grabbing him and you say
21 that's when he started hitting you?

22 A. Well, after he stopped grabbing my legs,
23 once he crouched down, he got ahold of my head.
24 That's where I said I learned a valuable lesson
25 there. I wouldn't crouch down again if I was in a

1 situation like that.

2 Q. And you were on his back?

3 A. Yes, sir.

4 Q. He was under you, in essence, because
5 you were on top of him?

6 A. Yes. Yes, sir.

7 Q. And then he pulled back and got some way
8 flipped -- stood back up?

9 A. I don't know if he pulled back or was
10 just able to get an arm under -- around my head and
11 then with one hand around my head and neck and then
12 he was able to strike me. And like I said, I
13 learned a lesson in that I won't close that much
14 distance that an inmate could get their hands on me.

15 Q. So he's got your head down on his
16 back --

17 A. Yes, sir.

18 Q. -- with one arm around your head pulling
19 you down because you're on top of him, right?

20 A. Yes, sir.

21 Q. And then you say he's taken his other
22 hand, whichever hand you want to say, and then some
23 way or another he starts beating on you because
24 you're on top of him, right? Isn't that the way it
25 must have happened?

1 A. What's that?

2 Q. Isn't that the way it must have
3 happened?

4 A. Like I said, he started striking me in
5 the side of my face and I don't know -- I know I was
6 on top of him at that point in time.

7 Q. So, in essence, he's not even looking at
8 you because --

9 A. Oh, yeah, he's just striking.

10 Q. Right. Okay.

11 A. That's why I think he got me -- like, he
12 was able to get me in the back of the neck, the back
13 of the head a couple of shots and then on the side.
14 Like, the one side of my face didn't seem to get any
15 strikes at all, whereas most of it happened on my
16 right side.

17 Q. Were you aware, Mr. Lee, at any point in
18 time that there might have been as many as 50 or 60
19 strikes to Mr. Allford at that time by those other
20 officers?

21 MR. GILLIAM: Objection, Your
22 Honor, speculation.

23 THE COURT: Sustained.

24 Q. (By Mr. Scott) Well, do you know of
25 your own knowledge or could you have witnessed that

1 many strikes against him while you were in the room
2 and watching?

3 A. Again, I was facing the wall. But like
4 I said, I think even in the report folks said that,
5 eight strikes, nine strikes, ten strikes. I'm sure
6 there was -- if there was five people, let's say,
7 nine, ten strikes, that's going to be 50 strikes.
8 But I know some of these strikes happened while I
9 was out of the cell block because he was still
10 combative when I was instructed to leave and go to
11 the clinic.

12 Q. Did you see him when he was pretty well
13 pounded up?

14 A. I was actually -- I didn't see him
15 immediately after. I saw photos, and he was really
16 pounded. We -- yeah, there's no doubt that if you
17 cuff --

18 MR. GILLIAM: Objection, Your
19 Honor, nonresponsive.

20 THE COURT: Sustained.

21 Q. (By Mr. Scott) So you saw photographs
22 that indicated to you that -- the phrase is pretty
23 well pounded up. He was, right?

24 A. In my opinion, yes.

25 Q. All right. I've got to get something

1 written down here and I can't remember what I was
2 writing but let me just ask you. Do you have a
3 recollection of how long all this would have taken
4 from in the door to out the door?

5 A. I don't have a recollection. I don't
6 want to belittle the time or exaggerate the time one
7 way the other. When you're in the heat of the
8 moment, what seems like, you know, a long time is
9 really sometimes a short period of time and what
10 seems like a short period of time -- you know, I
11 have no idea.

12 Q. Okay. Did you ever see -- well, let me
13 ask you what -- did you make an offense report or
14 not? An incident report or whatever you want to
15 call it?

16 A. I think I did a supplement. That's what
17 I was trying to see if I could get that. I did
18 not -- I haven't seen it lately, and I didn't
19 personally -- someone wrote it for me. I came back
20 from the hospital. It was about -- like I said,
21 this happened at 14:20. I came back around 10:00
22 o'clock from the hospital after receiving stitches
23 and we finished up the use-of-force report and I
24 was -- actually I had a --

25 MR. GILLIAM: Objection, Your

1 Honor, nonresponsive.

2 THE COURT: Sustained.

3 Q. (By Mr. Scott) Well, did this
4 use-of-force report, did you draw that -- record
5 something, write something down that would have
6 memorialized what had happened earlier that day?

7 A. Yes, sir, I believe so.

8 Q. Okay, sir. Have you had an opportunity
9 to look at that? Have you seen it since then?

10 A. I saw it at the time, and I haven't seen
11 it in probably -- well, since it was December 8th.

12 MR. SCOTT: May I approach, Your
13 Honor?

14 THE COURT: You may.

15 Q. (By Mr. Scott) Mr. Lee, could you look
16 through this -- the paperwork there from the
17 sheriff's department and see if what you're
18 referring to is even in that?

19 A. I don't think so because I saw a packet
20 similar to this; but it didn't have my supplement in
21 it, which would have been my statement. I've seen
22 this, and this is the -- from the officer.

23 Q. Right. But that's not yours. That's --

24 A. No.

25 Q. All right.

1 A. And then this would be -- this is, like,
2 in the similar format, so I don't see my statement
3 on here at all. Yeah, none of these are my
4 supplement, which would have just been a small
5 portion to the main one.

6 Q. So then as far as the condition of the
7 record, if this is the incident report that pertains
8 to the circumstance we're talking about here, then
9 what you did or what you dictated or wrote or
10 however you did it --

11 A. Yes, sir.

12 Q. -- is not included in that; is that
13 correct?

14 A. Not that I'm seeing.

15 Q. All right. Well, do you ever remember
16 from what you recall, then, that there was some
17 statement about Mr. Allford having a towel in his
18 hand when he was viewed in the center of the room or
19 somewhere in his cell having a towel as opposed to
20 this described as a string?

21 A. I don't know about there being -- I
22 mean, I'm sure he had a towel; but that -- the
23 string was not a towel.

24 Q. Right. Okay. So you're saying that
25 you --

1 A. It could have been towel material, but
2 it was too thin. I could see skin on both sides of
3 the string.

4 Q. Well, we're familiar with -- are they
5 issued towels? Let's start with that.

6 A. Yes, sir.

7 Q. They have towels?

8 A. Yes sir.

9 Q. And it would be a towel that if we were
10 looking at it, you and I could probably both
11 identify it as a towel, right?

12 A. Absolutely.

13 Q. Okay. But you're saying you don't
14 recall ever telling anybody or putting it in a
15 report that at some point in time you saw him and he
16 had a towel in his hand during this time?

17 A. Not that I recall.

18 Q. Okay.

19 A. But, again, it's been two months.

20 Q. All right.

21 A. Or -- yeah.

22 MR. SCOTT: I'll pass the witness,
23 Your Honor.

24 THE COURT: State?

25 MR. GILLIAM: No questions, Your

1 Honor.

2 THE COURT: All right. May he be
3 excused, gentlemen?

4 MR. GILLIAM: Yes, Your Honor.

5 THE COURT: Mr. Scott?

6 MR. SCOTT: I'd like to have him on
7 call.

8 THE COURT: Certainly.

9 Just make sure we have a number in
10 case we need to reach you to bring you back.
11 Otherwise, you're free to go.

12 THE WITNESS: Thank you, Judge.

13 THE COURT: Why don't we go ahead
14 and stop there today, folks. We will start back
15 Monday morning, 9:00 a.m. We can't get started
16 until everybody is here. So the same admonitions
17 apply. Please don't discuss the case with anyone at
18 home. Don't do any research on your own or anything
19 like that.

20 You can tell people that you're on
21 a jury, but don't talk about it with your friends or
22 family or anything over the weekend. And with that,
23 we will see y'all Monday morning.

24 MR. SCOTT: Judge, could I have a
25 moment, please?

1 THE COURT: Yes, sir.

2 *(Proceedings at the bench off the*
3 *record.)*

4 THE COURT: All right.

5 THE BAILIFF: All rise for the
6 jury.

7 THE COURT: See y'all Monday.

8 JUROR: Thank you.

9 *(Jury retired.)*

10 *(Proceedings adjourned.)*

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25