

1 That's outside the scope --

2 THE COURT: Sustained.

3 MS. FLADER: -- of his knowledge.

4 MR. KRATOVIL: No more questions, Judge.

5 THE COURT: All right. You can step
6 down, sir. Thank you.

7 Call your next.

8 MS. FLADER: Call Susan Myers.

9 THE COURT: Step to the seat, adjust the
10 chair and microphone as you need.

11 Folks, at any time during the trial you
12 have trouble seeing or hearing, just let me know and
13 we'll make the adjustments necessary.

14 All right. You may proceed.

15 MS. FLADER: Thank you, Judge.

16 SUSAN MYERS,
17 having been first duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MS. FLADER:

20 Q. Would you introduce yourself to the jury?

21 A. My name is Susan Myers.

22 Q. Can you tell us a little bit about yourself?

23 A. I'm a counselor in the family violence unit of
24 the Houston Police Department.

25 Q. Are you a police officer?

1 A. No. I'm a counselor, civilian.

2 Q. What kind of training do you have to be a
3 counselor?

4 A. I have a Bachelor's degree in sociology and
5 graduate work. And I've been with the family violence
6 unit -- started in 1991 and that's when I have --
7 that's when I started.

8 Q. Are you a little bit nervous today?

9 A. Yes.

10 Q. Okay.

11 A. I'm gasping for air.

12 Q. Just relax. They're very nice people. We are
13 sometimes.

14 So, you work in the family violence
15 division?

16 A. Yes.

17 Q. What are your job duties with the Houston
18 Police Department?

19 A. My main responsibility is to make sure the
20 victims of domestic violence receive information about
21 how to stay safe. That's one of our main concerns.

22 Q. What do you mean by that?

23 A. Because the situations can be so dangerous, we
24 want to make sure that the victims know how to get to
25 shelter, how to get a protective order, things like

1 that that will help them save their lives.

2 Q. What other duties do you have?

3 A. Well, we rotate on the weekends in the
4 homicide division so that there's always a family
5 violence counselor present on Saturday and Sunday.

6 Q. I want to talk to you about Deborah Thomas.
7 Have you had the opportunity to meet Deborah Thomas?

8 A. Yes. Deborah Thomas came to the homicide
9 division on October 16th to pursue charges.

10 Q. Can you tell the jury a little bit about what
11 you observed about Ms. Thomas when she came in to see
12 you?

13 A. First, she was scared. She was very nervous.
14 She had injuries on her face, on her neck, on her eyes,
15 teeth were missing. She had -- was pretty badly
16 beaten. And I took photos of all of her injuries.

17 Q. All right. So, she comes in. And that
18 weekend you're working the homicide desk; is that
19 correct?

20 A. Um-hum.

21 Q. All right. So, she comes in to the homicide
22 desk. And she walks in and you notice that she was
23 scared, nervous. She had bad injuries. It appeared
24 that she had been badly beaten.

25 A. Yes.

1 Q. What's the very first thing that you did?

2 A. Well, the -- one of the first things that I
3 did was sit down with her, give her information about
4 how to stay safe. And then the second step is to have
5 her fill out a sworn statement about what occurred
6 during the incident. And then photos were taken and
7 then everything was placed in a file and transferred to
8 the officer who was going to investigate her case at
9 the Westside Family Violence Unit.

10 Q. Did you do anything else?

11 A. I think in that information that I took, we --
12 she was given a MOEP, magistrates order of emergency
13 protection, to help her being protected.

14 Q. Okay. So, when you give her the sworn
15 statement, do you go through and interview her and find
16 out every single detail about what happened?

17 A. No, not necessarily. That's not my function.

18 Q. Why not?

19 A. My function is to make sure she's going to be
20 safe. I'm a counselor. I'm not a police officer.

21 Q. Okay. And you said that you got a sworn
22 statement from her; is that right?

23 A. She -- she wrote down everything that happened
24 on a sworn statement form, which I presented to her.

25 Q. What instructions did you give her when you

1 gave her that form?

2 A. She was instructed to -- about the perjury
3 clause and that was -- that the case would go forward.
4 There was no way that she could revoke her statement.

5 Q. Okay. When you say that it was a sworn
6 statement and you gave a perjury clause, tell the jury
7 what that is.

8 A. A perjury clause means that you -- you need to
9 tell the truth. If you do not tell the truth, you can
10 be at risk of having charges filed against you.

11 Q. Because what you're looking for is the truth
12 when you're interviewing people; is that right?

13 A. Right.

14 Q. Okay. And you want to make sure that they
15 know that there are repercussions if they don't tell
16 the truth.

17 A. Exactly.

18 Q. So, you give her the sworn statement and tell
19 her write down what you remember happening; is that
20 right?

21 A. Yes.

22 Q. Okay. Did you give her any instructions about
23 how to be specific about different things?

24 A. No.

25 Q. Did you admonish her as to the ranges of

1 punishment on different charges?

2 A. No.

3 Q. Do you even know the ranges of punishment on
4 different charges?

5 A. No, not really.

6 Q. Okay. So, you didn't tell her, for example,
7 if you allege a knife --

8 MR. KRATOVIL: Objection, Judge. It's a
9 leading question.

10 THE COURT: Overruled.

11 Q. (BY MS. FLADER) If you allege that there's a
12 knife used, then that would make it a higher charge?

13 A. No, I would not know that.

14 Q. Okay. And so, you -- you didn't do that --

15 A. No.

16 Q. -- on that day?

17 All right. So, you tell her to make a
18 sworn statement. Then you took photographs of her; is
19 that right?

20 A. Um-hum.

21 MS. FLADER: Your Honor, may I approach
22 the witness?

23 THE COURT: You may.

24 Q. (BY MS. FLADER) I'm going to show you what has
25 been marked as State's Exhibit 22 through 27. Would

1 you look through those photographs and tell me if they
2 fairly and accurately depict the pictures that -- of
3 Deborah on that day?

4 A. Yes. Yes.

5 Q. Okay.

6 MS. FLADER: Your Honor, at this time
7 State would offer State's Exhibit 22 through 27.
8 Tendering to opposing counsel for any objections.

9 MR. KRATOVIL: No objections, Your Honor.

10 THE COURT: All right. State's
11 Exhibit 22, 23, 24, 25, 26 and 27 will be admitted
12 without objection.

13 MS. FLADER: May I publish some to the
14 jury, Judge?

15 THE COURT: You may.

16 Q. (BY MS. FLADER) Showing you what's marked as
17 exhibit -- State's Exhibit 22.

18 THE COURT: Folks, if it's -- I'm sorry.
19 If it's more convenient, you can certainly view it on
20 that screen. Whichever works for you, you're welcome
21 to use.

22 Q. (BY MS. FLADER) Can you tell the jury about
23 this picture?

24 A. Well, that's her face with the board that I
25 wrote out her name and her HPD incident number. That's

1 the report number and then the date.

2 Q. Okay. Specifically, if we look at her face,
3 do we see that she has some black eyes?

4 A. Yes.

5 Q. Some dark underneath the eyes, at least?

6 A. Yes.

7 Q. All right. Tell the jury what they're looking
8 at in State's Exhibit 23.

9 A. This is the bruising under the chin and on the
10 neck.

11 Q. State's Exhibit 24?

12 A. And that's the other side of the neck and chin
13 bruising.

14 Q. State's Exhibit 25?

15 A. That's the missing teeth.

16 Q. Okay. And what about her lip?

17 A. And the lip.

18 Q. All right.

19 A. Bruising on the lip.

20 Q. State's Exhibit 26?

21 A. And that was the broken foot that had been
22 stomped on.

23 Q. Okay. So, she didn't say that the suspect
24 broke her leg. This was previously injured; is that
25 right?

1 A. Um-hum.

2 Q. Okay.

3 THE COURT: Please say yes or no.

4 A. Yes.

5 Q. (BY MS. FLADER) And State's Exhibit 27?

6 A. And that's the bruising under the jaw line.

7 Q. After you took those pictures, you said that
8 you then transferred the information to the detective.

9 A. Yes.

10 Q. Did you have any more contact with Deborah
11 Thomas after that date on October 16th?

12 A. I did not.

13 Q. Okay. Have you seen her today?

14 A. I've seen her today.

15 Q. All right. Did you go over her testimony with
16 her at all today?

17 A. Not really, no.

18 Q. Okay. What do you mean by that, not really?

19 A. She just told me how she was doing.

20 Q. Okay. Nothing about how she was going to
21 testify or how you were going to testify?

22 A. No.

23 Q. All right.

24 MS. FLADER: I pass the witness.

25 THE COURT: All right.

1 Cross-examination.

2 CROSS-EXAMINATION

3 BY MR. KRATOVIL:

4 Q. Hi, Ms. Myers. My name is Mark Kratovil. I'm
5 just going to ask you a few questions.

6 So, the first time that you met
7 Ms. Thomas was on October 16th of 2010, correct?

8 A. Um-hum. Yes.

9 Q. And when you came into the first meeting with
10 her, it was your understanding that she had been
11 involved in an assault, correct?

12 A. Yes.

13 Q. Okay. And when you first encountered her
14 regarding that foot, that was a preexisting injury,
15 correct?

16 A. Yes.

17 Q. And how long was your meeting "approximately"
18 that first time on the 16th?

19 A. It was just as long as it took her to write
20 out her statement and for me to take photos and briefly
21 give her a packet of information.

22 Q. And so, did you have time to ask her some
23 questions and get details about what had occurred?

24 A. Just briefly.

25 Q. And in the details that were provided to you,

1 you then transcribed those into a report or supplement,
2 correct?

3 A. A supplement.

4 Q. Okay. Do you recall what the contents of
5 those -- that supplement was?

6 A. Yes. Just about --

7 Q. Okay. Would it help you if you saw a copy of
8 it all to remind you --

9 A. Um-hum.

10 Q. -- of a few things?

11 A. Yes.

12 MR. KRATOVIL: Judge, may I approach?

13 THE COURT: You may.

14 Q. (BY MR. KRATOVIL) I'm just going to bring a
15 copy of that supplement up for you here.

16 A. Okay.

17 Q. Just follow along while I ask you couple of
18 questions about it. Okay.

19 There you go.

20 If you could take a second or two to read
21 over that, refresh yourself on it and just let me know
22 whenever you think you're up to speed on that.

23 THE COURT: Can I see you up here,
24 please.

25 (Bench conference on the record).

1 THE COURT: Did you give her the specific
2 area you want to cover?

3 MR. KRATOVIL: Well, no, Judge. It's
4 just about two --

5 THE COURT: I know. But you gave her
6 that specific -- you didn't give her the whole report
7 -- to read the whole report. You just showed her what
8 you wanted her to look at.

9 MR. KRATOVIL: On these paragraphs?

10 THE COURT: Yeah.

11 MR. KRATOVIL: No, Judge, I haven't
12 pointed out a specific part of that, but I can.

13 THE COURT: Okay. Let's just give her
14 the page.

15 MR. KRATOVIL: I -- I gave her the
16 supplement.

17 THE COURT: Oh, okay.

18 MS. FLADER: She's only got like that
19 much.

20 THE COURT: I know. Thank you.

21 (End of conference).

22 Q. (BY MR. KRATOVIL) Okay. So, in the
23 supplement, you put down some details of what
24 Ms. Thomas had told you about the event, correct?

25 A. Correct.

1 Q. And in that supplement, did she relay to you
2 anything about losing consciousness?

3 A. I don't see it written here.

4 Q. Okay. Did she relay anything to you about a
5 knife being involved in that incident?

6 A. I don't see that in here either.

7 Q. Okay. And in looking at that supplement, as
8 far as you can tell, the only thing that she was used
9 to -- to hit with were fists, correct?

10 A. That's -- that's all that's in here, yes.

11 Q. Okay. And would you agree with me that
12 people's memories of events are better the closer they
13 are to the time that the event occurred than farther
14 after it?

15 A. If I'm the victim or --

16 Q. Oh, just anybody in general.

17 A. I would guess so.

18 Q. Okay. And you had Ms. Thomas sign a medical
19 release; is that correct?

20 A. Yes.

21 Q. Did you personally have a chance to review any
22 of her medical records that were involved in this?

23 A. No.

24 Q. Okay. And in your experience, you would defer
25 to the medical findings of nurses and doctors; is that

1 correct?

2 A. As far as?

3 Q. Just --

4 A. I don't investigate the cases. I just --

5 Q. Sure. I understand.

6 A. You know, I'm not a part of the investigation.

7 So, I -- I don't really know how to answer that.

8 Q. But you would agree that nurses and doctors
9 have more medical training than yourself?

10 A. Oh, yes, of course.

11 Q. Okay.

12 MR. KRATOVIL: Pass the witness, Judge.

13 MS. FLADER: Your Honor, may I approach
14 the witness?

15 THE COURT: Yes.

16 REDIRECT EXAMINATION

17 BY MS. FLADER:

18 Q. When you took a statement from the victim --
19 and I haven't marked this because it's not something I
20 can introduce. This is the victim's witness statement;
21 is that correct?

22 A. Um-hum. Yes, it is.

23 Q. Okay. And this is the statement that she made
24 the day that she came in to speak with you?

25 A. Yes.