

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.

1 Q. Okay. Did you read this statement?

2 A. I don't really remember reading the statement.

3 Q. Okay. But certainly that's something that's  
4 important to the case, correct?

5 A. Correct.

6 Q. Okay. And there's a little bit more detail in  
7 the statement than what you put in your supplement; is  
8 that correct?

9 A. Correct.

10 Q. All right. And if you read over that  
11 statement, is the knife mentioned in that statement?

12 A. Yes.

13 Q. Okay. And it is -- it is mentioned --

14 A. Yes, it's mentioned.

15 Q. -- in the statement? Okay.

16 MS. FLADER: I pass the witness.

17 THE COURT: All right. Anything further?

18 MR. KRATOVIL: No more questions, Your  
19 Honor.

20 THE COURT: All right. You may step  
21 down. You may be excused. Thank you.

22 Call your next.

23 MS. FLADER: Call Deborah Thomas.

24 JUROR: Your Honor, may I use the  
25 bathroom?

1           THE COURT:  Yes.  Let's take about a  
2 five-minute break.  You-all have to stay together, so  
3 let's -- just wait for the bailiff.

4           (Jury out for recess).

5           THE COURT:  Do you want to bring the jury  
6 in so I can give them their admonishments about their  
7 family and family curiosity?

8           (Jury in).

9           THE COURT:  All right.  Please be seated.  
10           Ladies and gentlemen, it just seems like  
11 good sense to not start a witness that's going to take  
12 maybe an hour when we only have 10 minutes left.  So,  
13 if you want to be mad at somebody, be mad at me.  But  
14 we're going to cut you loose a few minutes early today.  
15 You've already put in a long day and we were well on  
16 schedule -- the schedule we talked about earlier.  So,  
17 I don't feel like we're cutting any corners here.  I  
18 just think it makes more sense.  So, you shouldn't be  
19 required to remember something that you heard for 10  
20 minutes and, you know, have the day off.

21           So, all those things being said, please  
22 remember the admonitions that I give you.  Wear your  
23 juror badge at all times.  If you take public  
24 transportation, if you get a ride with somebody, if you  
25 walk down here, however you get here, as soon as you're



1 within shouting distance of the courthouse, please put  
2 that badge on. It will signify to others that you are  
3 a juror and they won't inadvertently talk about this  
4 case or some other.

5           When you go home, if your family's like  
6 mine, they want to know the scoop. What are you doing  
7 down there? Tell me all about it. Please don't. I  
8 want all of your decisions to be based on what you see  
9 and hear in this courtroom. And if your family is like  
10 mine, they'll immediately have an opinion on it and  
11 they'll express it. So, you can blame it on me. I'll  
12 be glad to be the bad guy. No problem there. Just  
13 please remember those things.

14           We'll ask if you can be back in the  
15 morning so that we can get started at 8:30? So, you'd  
16 have to be here about 8:15. Does that work for you?  
17 That way we can -- we may be able to make some extra  
18 time that way. I'd rather have too much time than too  
19 little. So, if that works for you -- if you have a  
20 problem on the way, Judge Carter's card is in the back  
21 of your juror badge. Just call us and let us know.  
22 We're a full service court. If you get stuck  
23 somewhere, we'll probably come pick you up and give you  
24 a ride. But just let us know if you get in a bind.  
25 We'll be glad to help if we can. And at least we'll

1 know where you are. We can't start till everybody is  
2 here. All right.

3                   So, God bless you for your service today.  
4 Thank you for all you've done. Thank you for working  
5 so hard since whatever time you got here this morning,  
6 7:45 or 7:30. So, find your cars. Drive carefully on  
7 the way home and we'll see you in the morning at about  
8 8:15.

9                   How many of you need a bus pass? Just  
10 one, two, three? Okay. How many need bus passes?  
11 Yes, for Metro or the rail. We've got three. Okay.

12                   And you had a question.

13                   JUROR: Do we meet here?

14                   THE COURT: The bailiff will show you  
15 exactly where she wants you to meet. Good question.  
16 Very good question.

17                   All right. Thank you all again for your  
18 service. We'll have your bus passes here for you.  
19 Drive carefully and we'll see you in the morning.

20                   (Jury excused for the day).

21                   (Proceedings adjourned).

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