

Opening Statement by Mr. Cantu
May 18, 2011

1 THE WITNESS: All right.

2 THE COURT: You've already been sworn; is
3 that right?

4 THE WITNESS: Yes, ma'am.

5 THE COURT: Have a seat. Keep your voice
6 up.

7 THE WITNESS: Okay.

8 THE COURT: All right. You may proceed
9 when you are ready.

10 **KIM NEALY,**
11 having been first duly sworn, testified as follows:

12 **DIRECT EXAMINATION**

13 BY MR. LESLIE:

14 Q. Officer Nealy, can you state your full name for
15 the record?

16 A. I'm Officer Kim Ray Nealy.

17 Q. Can you spell your first name?

18 A. K-i-m; middle name, R-a-y; last name,
19 N-e-a-l-y.

20 Q. Where do you work, Officer Nealy?

21 A. I work at Fondren Station on patrol.

22 Q. Is that with the Houston Police Department?

23 A. Yes, sir.

24 Q. How long have you worked with the Houston
25 Police Department?

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1 A. I've been employed with the Houston Police
2 Department about approximately 13 years now.

3 Q. Did you do anything before you worked for the
4 police department?

5 A. Yes, I worked at H.P.D. Jail System before --
6 oh, before I became a police officer?

7 Q. Yes.

8 A. Yes. I'm a licensed electrician.

9 Q. Oh. And what are your duties right now with
10 the police department?

11 A. I am a patrol officer.

12 Q. And can you tell us what that means.

13 A. I run calls for service and basically do
14 general reports on a daily basis and whatever needs to
15 be done to serve the public.

16 Q. Okay. So, when you say, "calls for service,"
17 what does that mean? Can you tell us a little bit more
18 about that?

19 A. The Dispatch dispatches calls out and I
20 volunteer to take calls or she will dispatch me to a
21 call, wherever she needs me.

22 Q. So, you basically -- if somebody calls 911,
23 they will send you out?

24 A. Yes, that's correct.

25 Q. Is that for any kind of call?

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1 A. Any call.

2 Q. So, it could be a burglary?

3 A. Burglary.

4 Q. And when you say you are dispatched, do you
5 actually hear the 911 calls?

6 A. No, I do not hear the calls coming in.
7 Dispatch receives the call through the call taker and
8 then she distributes them out to each officer as they
9 come up on the screen.

10 Q. Okay. So, when you are dispatched, when you
11 are sent out on a call, do you actually -- does somebody
12 come on the radio and say go to this address or does it
13 show up over a computer screen? How does that work?

14 A. She will either distribute it out or I will
15 volunteer to take the call. And at the top of the call
16 it's titled what type of call it is and she will tell me
17 the basics of the call.

18 Q. And that's on your computer screen --

19 A. Yes.

20 Q. -- inside your car?

21 A. Yes.

22 Q. And as a patrol officer, are you usually in
23 uniform?

24 A. Yes, that's correct.

25 Q. And do you ride in a marked car?

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1 A. Yes, that's correct.

2 Q. Do you work alone or do you usually have a
3 partner?

4 A. From time to time I have a partner. Normally I
5 have a partner only if there is a training officer and
6 he needs somebody to ride with to continue learning on
7 the street. But the majority of the time I'm by myself.

8 Q. What sort of training do you have to go through
9 to become a police officer?

10 A. You have to go through six months of academy
11 training and three months on the street training,
12 different shifts.

13 Q. Do you have any kind of continuing or ongoing
14 training?

15 A. Yes. We have continuing education where we are
16 to review certain things in the academy. We have to
17 have at least 30 hours of class each year -- excuse
18 me -- 40 hours of class each year.

19 Q. Okay. What sort of training is that?

20 A. Just reviews of laws that have changed, new
21 skills that they need to present to the officers, and
22 just sometimes review of old skills that's been updated
23 also.

24 Q. As a police officer, have you ever had to have
25 any kind of specialized training in dealing with

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1 domestic violence?

2 A. Yes. When you are going through the academy,
3 they put on a little demonstration of how you will react
4 to a disturbance if you were to show up on the scene
5 somewhere. And they would demonstrate that, and you
6 would have to voice your opinion on how you would handle
7 the situation.

8 Q. Do they give you any kind of training on how to
9 deal with victims of domestic violence?

10 A. Yes. First of all, you would check and see if
11 that victim is injured and if so, you would have to call
12 E.M.S. out to the scene and whether they would accept
13 the treatment or refuse the treatment. Then you go from
14 there and you start taking statements from that victim.

15 Q. Do they teach you to also try and get a
16 statement from the accused?

17 A. Yes.

18 Q. Now, on February 16th, 2011, were you assigned
19 to Fondren patrol?

20 A. Yes, that's correct.

21 Q. Were you on duty that day?

22 A. Yes, that's correct.

23 Q. What shift were you working?

24 A. Evening shift, shift that is 1400 hours to 2200
25 hours.

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1 Q. So, that's 2:00 o'clock to 10:00?

2 A. Yes, that's correct.

3 Q. How did you get involved with the incidents
4 that are at issue here today?

5 A. I was dispatched to that scene, and I took that
6 call. Dispatch gave me the basics of the call. And
7 once I arrived on the scene, I met with the complainant
8 out front.

9 Q. Let me just back up for a second. You said you
10 were dispatched?

11 A. Yes.

12 Q. What sort of calls were you dispatched to?

13 A. An assault call.

14 Q. And how do you respond to an assault call?

15 A. If it's in progress, it's Code 1 one which
16 consists of lights and siren. For instance, if it's a
17 Code 2, which means that the suspect has probably fled
18 the scene, then it's a Code 2 which means get there as
19 fast as you can; but you don't have to use your lights
20 and siren.

21 Q. Do you remember on this day what sort of
22 call -- what code this one was?

23 A. I believe this was a Code 1, sir.

24 Q. So, you responded with lights and sirens?

25 A. Yes.

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1 Q. Do you recall what time that call dropped for
2 you, what time you were dispatched?

3 A. I would say it was close to -- it had to have
4 been close to 8:00 o'clock, anywhere between 7:00 and
5 8:00 p.m.

6 Q. And do you remember the address of the location
7 you were dispatched to?

8 A. Not really. Not exact address, but I know it's
9 across the street from the hospital.

10 Q. Was it 07511 Bissonnet Street? Would it help
11 to refresh your memory --

12 A. I know the hospital is 7600 Beechnut.

13 Q. Would it help to refresh your memory if you
14 took a look at your offense report?

15 A. Yes.

16 MR. LESLIE: Permission to approach, Your
17 Honor.

18 THE COURT: Yes, you may.

19 Q. (BY MR. LESLIE) If you will take a quick look
20 at this. Let me know when your memory is refreshed.

21 A. Okay.

22 Q. So, what was the address that you were
23 dispatched to?

24 A. 75 --

25 Q. Was it 7511 Beechnut Street?

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1 A. Yes. Yes, that's correct.

2 Q. And is that in Harris County, Texas?

3 A. Yes.

4 Q. What sort of location is that? Is that a
5 house? Is it --

6 A. It's an apartment complex. It's a multi --
7 multiple apartments within the same building.

8 Q. Okay.

9 A. Yes.

10 Q. All right. Do you know how long -- how long
11 did it take you to get there from the time --
12 approximately from the time that you were dispatched to
13 the time you arrived?

14 A. Oh, I would say coming from Fondren Station to
15 there, it's about five or six minutes.

16 Q. And can you describe, what was the scene like
17 when you showed up? What did you see?

18 A. Well, when I showed up, I was looking for the
19 complainant and I couldn't find her at first. And there
20 is a gate that kept me from going inside the property.

21 Q. So, what did you do after that?

22 A. I continued to look for her. And I contacted
23 my Dispatch and told her to do a call back to see can
24 the complainant meet me out front.

25 Q. And what happened after that?

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1 A. Eventually she appeared out front.

2 Q. And can you describe her appearance?

3 A. Yeah. She was crying and told me -- she was
4 crying; and she wasn't looking very fresh that day, I
5 can tell you that.

6 Q. Okay. Did you ask her what happened?

7 A. Yes, I did.

8 Q. What did she tell you?

9 A. She said she was assaulted.

10 Q. Did she give any specific details about how she
11 was assaulted?

12 A. Yes.

13 Q. What did she say?

14 A. She told me that the assault had been going on
15 for some time and that she had been choked and beat
16 several times.

17 Q. Did she say where he had hit her?

18 A. In the head, in the face, and I believe the
19 stomach area.

20 Q. Did she say he hit her with his fist or with
21 his open hand?

22 A. With his fist.

23 Q. Did you see any signs of that on her?

24 A. I remember her having a scratch on her neck. I
25 remember that much.

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1 Q. Did she have any bruises on her face that you
2 remember?

3 A. Something to the forehead.

4 Q. Okay. Did you verify her I.D. with any kind
5 of -- in any way?

6 A. I asked her -- I can vaguely remember I asked
7 her about I.D. or something. And she said, I think he
8 had my purse or something like that or I.D. or
9 something.

10 Q. And did she tell you what her name was?

11 A. Yes.

12 Q. What did she say her name was?

13 A. Right now, to be honest, I can't remember her
14 name.

15 Q. Would it help refresh your memory if you took a
16 look at the report?

17 A. Yes.

18 MR. LESLIE: Permission to approach,
19 Judge.

20 THE COURT: Yes, you may.

21 Q. (BY MR. LESLIE) Take a look at that. So, did
22 she tell you what her name was?

23 A. Yes.

24 Q. What did she say her name was?

25 A. I believe it is Inekia Gentles.

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1 Q. Did she give you any other identifying
2 characteristics or any other identifying information
3 about herself?

4 A. She told me that she was from Florida.

5 Q. Did she tell you that she lived at that
6 apartment?

7 A. Yes. Also too she told me she had been there
8 for a short while; and because she was living with
9 another friend and that friend ended up going to the
10 hospital and she wasn't able to make contact with that
11 friend anymore, stating that soon after that she met him
12 and moved in.

13 Q. When you say "him," who are you talking to?

14 A. The suspect.

15 Q. Can you identify that person by pointing to him
16 and by an article of clothing?

17 A. Yes. The gentleman there with the black shirt.

18 MR. LESLIE: Your Honor, may the record
19 reflect that he's identified the defendant.

20 THE COURT: Yes, it will reflect it.

21 Q. (BY MR. LESLIE) And did she say who had -- she
22 said she had been assaulted. Did she say who had
23 assaulted her?

24 A. Yes.

25 Q. Who did she say had assaulted her?

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1 A. She said her boyfriend had assaulted her, which
2 is the same gentleman there in the black shirt.

3 Q. She told you that he was her boyfriend?

4 A. Yes.

5 Q. Was he there?

6 A. I believe so, but he wasn't in sight at first
7 when I first showed up on the scene.

8 Q. Okay. Did he come out later?

9 A. Yes.

10 Q. About how long had you been there before he
11 came out?

12 A. I would say approximately three minutes.

13 Q. And did she actually say, This is the person
14 who did this to me?

15 A. Yes.

16 Q. And she said that he was her boyfriend?

17 A. Yes.

18 Q. And did you call for any kind of medical
19 assistance for her?

20 A. Yes, I did call E.M.S. out.

21 Q. And did they show up?

22 A. Yes, they did.

23 Q. About how long did it take for them to get
24 there?

25 A. I would say approximately about four minutes

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1 after I called for them.

2 Q. And did they treat her on the scene or did they
3 take her to the hospital?

4 A. They treated her on the scene, and she refused
5 to go to the hospital. I don't think that the injuries,
6 you know, was so severe that she had to go to the
7 hospital but they treated her --

8 Q. But she went --

9 A. -- on the scene, yeah.

10 Q. And did she say when he had caused these
11 injuries to her?

12 A. Yes. She just told me that evening he had
13 assaulted her. Excuse me. Let me back up.

14 That morning he had assaulted her. That
15 evening he had assaulted her, and right before I got
16 there he had assaulted her.

17 Q. Okay. So, by your understanding, it was on
18 February 16th?

19 A. Yes.

20 Q. And did you talk to -- after the defendant came
21 out, did you talk to him?

22 A. Eventually, when he came out, I did.

23 Q. Okay. What did you say to him?

24 A. I asked him what was going on. And he started
25 trying to defend himself by saying, It's not what it is

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1 or what you think.

2 Q. Okay.

3 A. And that, you know, that they were living
4 together as boyfriend and girlfriend.

5 Q. So, he did say that to you?

6 A. Yes.

7 Q. Did you ask him how she got those injuries?

8 A. Yes.

9 Q. What did he say?

10 A. He denied them.

11 Q. Okay. And what did you do next?

12 A. Next I detained him.

13 Q. And when you say "detained," what do you mean?

14 A. I put my handcuffs on him.

15 Q. Okay.

16 A. Because he was out of control where his voice
17 was yelling and using profanity on the scene.

18 Q. Okay. So, you would say he was angry?

19 A. Yes.

20 Q. Did you just put him in handcuffs, or did you
21 also put him in your car?

22 A. I put him in my car after that.

23 Q. Okay. What did you do after that?

24 A. After that I went back to her and continued to
25 try to take her information.

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1 Q. And did you call for any kind of backup?

2 A. I believe -- I wasn't -- during the discussion
3 with her and he was interfering with profanity and
4 yelling, after I set him in my car I noticed that the
5 Dispatch was trying to get in touch with me but I didn't
6 answer up right away so she sent another unit to where I
7 was.

8 Q. How long had you been out on the scene before
9 that unit arrived?

10 A. Oh, approximately ten minutes now.

11 Q. And did you write a police report after this
12 incident?

13 A. Yes.

14 Q. When you took the defendant into custody, did
15 you identify him by any kind of I.D. or in any way?

16 A. Yes. I believe I had some type of I.D. as I
17 can remember. Because I would -- you know, anybody that
18 I put in my back seat, I'd check them via the M.D.T. in
19 the car and it would give me information if he had
20 warrants or what have you.

21 Q. Okay. On --

22 MR. LESLIE: No further questions, Your
23 Honor.

24 THE COURT: Mr. Cantu.

25 MR. CANTU: Thank you, Your Honor.

1 **CROSS-EXAMINATION**

2 BY MR. CANTU:

3 Q. So, Mr. Nealy --

4 A. Yes, sir.

5 Q. -- you've told us that you got there about five
6 to six minutes after you got the call --

7 A. Yes.

8 Q. -- computer call?

9 A. Yes.

10 Q. And I notice in your report, your official
11 report that you wrote that very night -- right?

12 A. Yes.

13 Q. -- that you put that Mr. Tarley is the first
14 one that approached you. Do you see that?

15 A. (No response)

16 Q. Why would you put that on your official report
17 that he was the first one that came and talked to you
18 about the incident?

19 A. Well, I remember looking for her and -- well,
20 when I go to a call, I'm looking for the complainant
21 first.

22 Q. Okay.

23 A. And I remember looking for her that night.

24 Q. But let's just talk about what you did this
25 night, not what you normally do.

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1 A. Okay.

2 Q. Because that might change, right?

3 A. Yes. Well, time has lapsed; and I can't
4 remember exactly everything a hundred percent.

5 Q. Absolutely. Absolutely.

6 A. Right.

7 Q. The jury knows that.

8 But you will concede the fact that
9 Mr. Tarley was the first person who approached you
10 pursuant to your -- based on your report, your official
11 report?

12 A. If that's what I have here, sir. That's
13 possible, correct.

14 Q. Let's --

15 A. Oh, I see it.

16 MR. CANTU: May I approach the witness,
17 Your Honor?

18 THE COURT: You may.

19 Q. (BY MR. CANTU) Read it out loud for the jury to
20 hear, sir.

21 A. Officer Nealy arrived at --

22 MR. LESLIE: Object, Your Honor. His
23 offense report is not evidence.

24 THE COURT: Sustained.

25 Q. (BY MR. CANTU) Who was the first person that

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1 arrived to talk to you about your business there that
2 evening? What do you have on there, sir? You don't
3 recall, you said; but what did you write on there that
4 night?

5 THE COURT: You can refresh your memory
6 with what you read, sir, if that helps you answer the
7 question.

8 THE WITNESS: Okay.

9 A. Officer Nealy arrived at 1839 hours, and the
10 complainant and the suspect was waiting outside for
11 officer's arrival. The complainant seemed to be upset
12 at the time and appeared to have been crying.

13 Q. (BY MR. CANTU) Would you read the first
14 sentence of that paragraph to yourself and answer the
15 question: Who was the first person who approached you?
16 If you can tell from reading that, that sentence.

17 A. From that sentence that I just read, it doesn't
18 tell me who approached me first.

19 MR. CANTU: May I approach the witness,
20 Your Honor, to refresh his notes?

21 THE COURT: You may.

22 Q. (BY MR. CANTU) Let's see if we have the same
23 notes.

24 A. Right here in my narrative.

25 Q. Does it describe it as officer's actions?

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1 A. Oh, okay.

2 Q. Officer's actions.

3 A. Okay.

4 Q. And starting there. That's the first sentence.
5 Just read it.

6 A. Okay. Officer Nealy arrived on the scene, and
7 the suspect was the first to approach Officer Nealy.
8 Officer Nealy directed the suspect to go and get the
9 complainant.

10 Q. Okay. Thank you, sir.

11 A. Uh-huh.

12 Q. So, in fact, Mr. Tarley was the first one to
13 come to you and tried to explain what was occurring?

14 A. Yes.

15 Q. And you said you didn't want to talk to him.
16 You wanted to talk to the person that was listed in the
17 911 computer message, right?

18 A. Yes.

19 Q. Okay. That being Ms. Gentles?

20 A. Yes.

21 Q. And did she tell you or did you write in this
22 report that she was trying to get into that apartment
23 that evening? Do you recall that?

24 A. I know something about being locked out or what
25 have you and she had her belongings on the inside.

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1 Q. Did you write that in the report, sir, so that
2 we have a better clarity as to that?

3 MR. LESLIE: I want to renew my objection.
4 The report is not evidence, Your Honor.

5 THE COURT: Sustained. You can read your
6 report to yourself to refresh your memory, sir. Don't
7 read it out loud.

8 THE WITNESS: Okay.

9 Q. (BY MR. CANTU) Did you find anything as to
10 that, sir?

11 A. I'm still continuing.

12 Q. So the jury is aware, as you are looking, that
13 this is a multiple-page report that you are looking at?

14 A. Yes.

15 Q. That's why it's taking you a few minutes to do
16 this?

17 A. Yes.

18 Q. And this is your report, no one else's?

19 A. Yes, it's my report.

20 Q. Well, let me ask you this question while you're
21 thinking about that.

22 A. Okay.

23 Q. Do you take Ms. Gentles anywhere other than
24 that apartment that night? Do you deliver her anywhere
25 else?

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1 A. Not that I remember.

2 Q. Okay. Are you there by yourself? Are there
3 any other officers taking charge of this investigation
4 on this night?

5 A. I'm the first to appear on the scene.
6 Eventually another officer appears on the scene.

7 Q. Does he take control of the investigation?

8 A. No.

9 Q. You are still in control?

10 A. Yes.

11 Q. So, if she had been taken anywhere else, you
12 would have known it because they would have conveyed
13 that information for you to put in your report? Is that
14 a correct statement?

15 A. No. Because once I leave the scene, if
16 officers are still on the scene, he would have to --

17 Q. Supplement?

18 A. Yeah, supplement my report.

19 Q. Were there officers still on the scene when you
20 left?

21 A. Again, time has elapsed; and it's possible that
22 an officer was still on the scene.

23 Q. Okay. To me that means it's possible or that
24 they were or not at the scene, right?

25 A. Yeah, it could go both ways. I didn't stay

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1 around to pay attention to see if there was anybody left
2 on the scene.

3 Q. If they had been at the scene, it would have
4 been pretty well lit up, right, that area? You would
5 have at least recalled it, the area was lit, do you
6 recall, as you left?

7 A. As I left the area, I guess -- in that area,
8 it's partially lit. I guess, you know, it's dark but
9 it's lit --

10 Q. From the hospital, you think, right?

11 A. -- from the hospital and possible lights
12 outside the apartment.

13 Q. Okay. So, you left her there as far as you can
14 recall. And you do recall that she's from Florida. Did
15 she tell you anything else about her family on this
16 particular night?

17 A. No, not that I recall, no.

18 Q. That you would have written down in your
19 report?

20 A. At that time, sir, I'm seeking information on
21 this particular call. And if she was to tell me
22 something, whether I thought it was important, I would
23 have put it in my report.

24 Q. Right.

25 A. Yeah.

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1 Q. Did she tell you that they had had multiple
2 incidents at that apartment?

3 A. It wasn't the first time that him and her
4 had --

5 Q. You learned that from her --

6 A. Yes.

7 Q. -- that night?

8 A. Yes.

9 Q. Did you speak with anyone at the apartments
10 other than Mr. Tarley who lived there and Ms. Gentles --
11 Miss Gentles?

12 A. I spoke to his brother. I believe that's who
13 it was.

14 Q. And they responded by telling you that they
15 lived there?

16 A. Well, he responded by telling me that --

17 THE COURT: The question was: Did he
18 respond by telling you he lived there?

19 A. I don't believe he lived there.

20 Q. (BY MR. CANTU) Okay. Did you ever ascertain
21 who in fact lived at that apartment, who was paying the
22 contract price for that -- to live monthly at that
23 apartment?

24 A. To my knowledge, I remember him telling me that
25 he's supported by his brother. Yes.

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1 Q. Does that tell us that they had a contract for
2 that apartment? Did you find that out, though?

3 A. I didn't find it out for sure.

4 Q. Okay. So, you are telling us that this other
5 person, the brother, supported him? Therefore, you are
6 implying that they lived there? Is that what you are
7 telling this jury?

8 A. I'm telling you that I believe -- this is what
9 I believe -- I believe that the apartment was gotten by
10 his brother; but he lived there as in control of that
11 apartment.

12 Q. Well, in your report you did put that address
13 as Mr. Tarley's address, did you not?

14 A. Yes.

15 Q. And now you've got the complainant there.
16 You've got her name. You've got her age. You have her
17 there with no phone. Did you put an address down?

18 A. Under her name?

19 Q. Yes, sir.

20 A. I think. Let's see. Yes, I did put her listed
21 as an occupant, yeah.

22 Q. Where? Occupant where?

23 A. I put her address under her name and the
24 complainant's statement.

25 Q. What was the address?

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1 Your Honor?

2 THE COURT: You may.

3 Q. (BY MR. CANTU) Let's see what we have. If I
4 could lead you to the correct page.

5 A. Page 2.004.

6 Q. Okay. Where is that?

7 A. It's 2.004, right here.

8 Q. Okay. Let me see if I have this correct.

9 A. Right here (indicating).

10 Q. Okay. Yes, there, there. You wrote that?
11 That's also immediate, right, to that report? You have
12 that information --

13 A. Yes. Yes.

14 Q. Now, after looking at that, do you recall what
15 she said about you taking photos of her injuries?

16 A. Well, I recall at that time -- even though I
17 called the investigative unit to come out, because he
18 has the cameras, and even though I probably put it in my
19 statement here, I'm not the one that probably asked her
20 to take pictures. I'm looking at him trying to take
21 pictures of her and she's denying.

22 Q. She denied or refused photos of herself?

23 A. Yes.

24 Q. Now, it's fair to say that Mr. Tarley tried to
25 explain that, the incident, that night; and you rejected

1 that incident? Is that a fair statement?

2 A. No, I wouldn't reject an incident. I would
3 hear the complainant's side, and then I would go to the
4 suspect and ask him what's his statement.

5 Q. And after hearing his statement, you arrested
6 him, right?

7 A. Yes.

8 Q. So you believed her more than him at that point
9 in time?

10 A. Well, at that time, yeah, I did believe her.

11 Q. Thank you. Not to be rude, but that's all I
12 needed or wanted, a yes or no, sir.

13 MR. CANTU: I will pass the witness, Your
14 Honor. Thank you.

15 MR. LESLIE: Briefly, Your Honor.

16 THE COURT: Okay.

17 **REDIRECT EXAMINATION**

18 BY MR. LESLIE:

19 Q. Officer, can you tell us: What is the purpose
20 of an offense report?

21 A. The purpose of an offense report is to gather
22 the information from a complainant, explaining what the
23 officer sees -- I mean, what the complainant states what
24 happened, what the officer sees at the time that he
25 appears on the scene and what the suspect, the actions

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1 of a suspect in your report and what actions was done by
2 the officer.

3 Q. Is it intended to be used as evidence in trial?

4 A. No. But in most trials -- this is the only
5 thing that lawyers, I guess, defense and prosecutors
6 have to go by.

7 Q. So, this happened on February 16, 2011, right?

8 A. Yes.

9 Q. How many calls would you say that you've
10 responded to since then?

11 A. Since then?

12 Q. Just estimate.

13 A. I would say since February, I would say
14 approximately probably 300 calls by then.

15 Q. How many domestic assault cases' calls would
16 you say you've responded to, just an estimate, since
17 February 16?

18 A. Since February 16, I would say approximately
19 about close to a hundred.

20 Q. And just to go back, a few details, just to
21 clear up the living situation, did the complaining
22 witness tell you that she lived in that apartment?

23 A. That's correct.

24 Q. Did the defendant -- did he live in that
25 apartment?

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1 A. That's correct.

2 Q. Did the defendant tell you that she was his
3 girlfriend?

4 A. That's correct.

5 Q. And did she say that he was her boyfriend?

6 A. That's correct.

7 Q. And did she tell you that he beat her?

8 A. That's correct.

9 Q. And did you see any injuries on him at all?

10 A. None.

11 Q. Did you look for them?

12 A. I looked at him, observed him.

13 Q. Did he make any claims that she had beat him or
14 attacked him?

15 A. No.

16 Q. Did he say anything about what had happened
17 that night or that day?

18 A. Yes. He admitted striking her.

19 MR. LESLIE: No further questions, Your
20 Honor.

21 THE COURT: Mr. Cantu.

22 MR. CANTU: Thank you.

23 **RECROSS-EXAMINATION**

24 BY MR. CANTU:

25 Q. Been striking her? At what period of time are

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1 you talking about?

2 A. He admitted striking her when I was on my way
3 to the jail with him. He admitted to me then.

4 Q. I understand. But you said he admitted
5 striking her. That could be, you know, day 1 to day 30?

6 A. No.

7 Q. What day is this?

8 A. He admitted striking her that night.

9 Q. You are saying that night?

10 A. Yes.

11 Q. Okay. Did he admit all was occurring at the
12 apartment? Did he not?

13 A. Yes.

14 Q. But you didn't go to the apartment --

15 A. No.

16 Q. -- to determine whether his position -- what he
17 stated to you might be some truth in what he said? You
18 didn't go to the apartment where it all happened, did
19 you?

20 A. No. No, because they met me out front.

21 Q. But it didn't happen out front. It happened in
22 the apartment, didn't it?

23 A. That's correct.

24 Q. And you didn't check any windows to see if they
25 were broken or shattered or needed to be closed or

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1 anything of that sort, did you?

2 A. No.

3 Q. You don't have any of that in your report, do
4 you?

5 A. Not that I know of.

6 Q. That you did that?

7 A. I -- I remember her telling me something about
8 the door was locked, and she had belongings inside that
9 apartment.

10 Q. Okay. She didn't have keys to this apartment?

11 A. Not that I know of, sir.

12 Q. People inside had keys to the apartment. She
13 didn't have keys to the apartment, did she?

14 A. No.

15 Q. She didn't show you any keys, did she?

16 A. No.

17 Q. Sounds like a person that's got ownership to
18 that apartment without keys?

19 A. Ownership?

20 Q. Yes, sir.

21 A. Well, I know she had belongings inside that
22 apartment, sir. That's what I was told.

23 Q. That's what you were told because you didn't go
24 in there?

25 A. No, I didn't.

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1 Q. And was it Ms. Gentles that told you this?

2 A. Yes.

3 Q. Okay.

4 MR. CANTU: Pass the witness, Your Honor.

5 THE COURT: Mr. Leslie?

6 MR. LESLIE: Nothing further, Your Honor.

7 THE COURT: May this witness be excused?

8 MR. LESLIE: Yes, Your Honor.

9 THE COURT: Sir, you may be excused. Step
10 down. Thank you for coming down. Call your next
11 witness.

12 MR. LESLIE: State calls Officer Berry.

13 THE COURT: If y'all need a break, just
14 raise your hand. Anybody need a break?

15 THE JURY: (Shakes head side to side.)

16 THE COURT: Come on up, sir. This officer
17 has already been sworn. Have a seat and keep your voice
18 up for us.

19 You may proceed when you are ready.

20 MR. LESLIE: Thank you, Judge.

21 **LEE BERRY,**

22 having been first duly sworn, testified as follows:

23 **DIRECT EXAMINATION**

24 BY MR. LESLIE:

25 Q. Officer, can you state your full name for the