

1 THE COURT: Sustained. Make it question
2 and answer.

3 Q. (BY MS. FLADER) After you saw it in the
4 defendant's hand, did you ever see it again?

5 A. No.

6 MS. FLADER: I pass the witness.

7 THE COURT: All right. Anything further?

8 MR. STILL: No, Your Honor.

9 THE COURT: You may step down. You may
10 be excused. Thank you.

11 Call your next.

12 MS. FLADER: Call Detective Porter.

13 COREY J. PORTER,
14 having been first duly sworn, testified as follows:

15 THE COURT: All right. Have a seat right
16 here and you can adjust the chair and microphone as you
17 need.

18 You may proceed.

19 MS. FLADER: Thank you, Judge.

20 DIRECT EXAMINATION

21 BY MS. FLADER:

22 Q. Would you introduce yourself to the jury?

23 A. My name is Officer Corey Porter.

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

25 A. Been a police officer for 13 years. Been

1 doing investigations now for about five years. I'm
2 currently assigned to the Westside Family Violence
3 Office where I investigate domestic violence.

4 Q. Did you -- how did you become a police
5 officer?

6 A. First became a police officer in the State of
7 Louisiana where I worked as a police officer in New
8 Orleans for five years. And I've been in Houston since
9 2003 where I've currently been employed.

10 Q. And in order to be a police officer, what did
11 you have to do?

12 A. Well, I went through two different academies
13 -- police academies. Learned the laws, probable cause.
14 Went through specialized training as far as
15 investigations, interviewing and interrogating suspects
16 and documenting incidents as far as domestic violence,
17 as far as photographing, interviewing, looking for
18 signs of domestic abuse.

19 Q. You said you've been with the Westside
20 Domestic Violence Unit for how long?

21 A. I've been there for about three years now.

22 Q. Approximately how many investigations have you
23 done?

24 A. Domestic violence is very big in Harris
25 County. I would say maybe about three to 400 cases.

1 Q. And are there different kinds of cases?

2 A. Yes.

3 Q. Okay. And can you tell the jury about that?

4 A. The real minor ones are -- the minor assault
5 cases that we might have, which might be a pushing or a
6 simple slap, which is something we call a Class C. We
7 get into something bigger where there's injuries or
8 there's pain, which makes it a Class A. And then the
9 state law has changed where choking is something very
10 serious now and it's a state jail felony, where
11 somebody impedes the breathing of a person. Those
12 cases as well. And a lot of cases with weapons as well
13 when a person uses a weapon to threaten or use the
14 weapon in the assault.

15 Q. And do you have cooperative victims and
16 non-cooperative victims?

17 A. Yes.

18 Q. Okay. And does it make it a lot more
19 difficult to investigate a case when someone is not
20 cooperative?

21 A. Yes, it is. It's frustrating.

22 Q. Do you still go forward and try to do what you
23 can?

24 A. Yes, I do.

25 Q. And why do you do that?

1 A. Because that person can be a victim again.
2 And if that person is going to be a victim, it could be
3 someone else is going to be a victim as well.

4 Q. In terms of how a case is assigned to you, can
5 you explain to the jurors how that works?

6 A. They have several ways. One way is that we
7 have a day that we work intake. And that's when you
8 take complainants coming in the office and you get to
9 screen the cases to see whether or not a criminal
10 offense has occurred. And we try to refer them for
11 counseling and sometimes shelters.

12 Because as I say, some victims, when they
13 come to our office, that's the only place they know to
14 go for help. So, sometimes we have to resource them to
15 shelters and things like that. So, we might pick up a
16 case from there. Other ways is through the supervisor
17 reviewing the cases and assigning them. Because we
18 have six investigators in our office. So, he
19 distribute them kind of fairly to each investigator.

20 Q. Okay. And the investigation into the
21 aggravated robbery of Deborah Thomas, how were you
22 assigned that case?

23 A. Through a supervisor in my office.

24 Q. And is aggravated robbery a typical
25 investigation that you would work on?

1 A. No.

2 Q. Okay. And why not?

3 A. 'Cause most robbery cases go to the robbery
4 division. We're -- pretty much would handle family
5 violence cases in which domestic abuse had occurred.

6 Q. So, why did this one get assigned to you?

7 A. The complainant had complained that her former
8 husband had battered her --

9 Q. Okay.

10 A. -- in the robbery.

11 Q. All right. So, you get the case. What's the
12 first thing that you did?

13 A. Try to make contact with the complainant to
14 see if she's safe and see the details of the case.

15 Q. Did you read the initial report that had been
16 generated --

17 A. Yes.

18 Q. -- before you tried to call her?

19 A. Yes. I read the initial report. Looked at
20 her photos. Because her package was already done. So,
21 I looked at her photos, reviewed her sworn statement
22 that she had provided downtown. Then made contact with
23 her via phone.

24 Q. Okay.

25 MS. FLADER: And, Judge, may I approach

1 the witness?

2 THE COURT: You may.

3 Q. (BY MS. FLADER) In your offense report, your
4 supplement was Supplement No. 4; is that correct?

5 A. Yes.

6 Q. Okay. And would you agree with me that the
7 first thing that you did was summarize what the initial
8 officer had -- had done and the information that they
9 had received?

10 A. Yes.

11 Q. Okay. And so, this -- first where it says
12 case summary, that is not the information that you
13 received from the complainant when you spoke to her; is
14 that correct?

15 A. No.

16 Q. Okay. So, that's from the patrol officer?

17 A. Yes.

18 Q. All right. So, you just summarized again what
19 the patrol officer had put in his report.

20 A. Yes.

21 Q. Okay. And then the second portion is
22 follow-up investigations. You then looked at her sworn
23 statement.

24 A. Yes.

25 Q. Okay. And so, then you summarized or you

1 typed in what her sworn statement was to -- to the
2 counselor.

3 A. Yes.

4 Q. Okay. So, that's the second part. And then
5 it says evidence, CD or photo --

6 MR. STILL: Objection. This is
7 testifying from a document that is not in evidence.

8 THE COURT: Sustained as to the form of
9 the question.

10 MS. FLADER: Yes, Judge.

11 Q. (BY MS. FLADER) The next thing is that you
12 indicated that there was some photos -- a CD of photos
13 of the victim, correct?

14 A. Yes.

15 Q. And that also had been received from the
16 counselor.

17 A. Yes.

18 Q. Okay. And then the next section which is
19 about --

20 MR. STILL: Objection, Your Honor.
21 Again, we're just covering the offense report at this
22 time and that's inadmissible.

23 THE COURT: What's the objection?

24 MR. STILL: It's going to be offering
25 evidence -- testifying about evidence that's not in

1 evidence.

2 THE COURT: Sustained.

3 Q. (BY MS. FLADER) Okay. And then what you did
4 was then -- well, let me ask you: What did you do next
5 in your offense report?

6 A. After reviewing the photos, speaking with her,
7 gathering the details and looking at the report and her
8 photos, it appeared that it was a case that really
9 needed to be worked immediately.

10 Q. Okay. In your supplement in the offense
11 report, did you summarize your conversation with
12 Ms. Thomas?

13 A. Yes.

14 Q. Okay. Where is that?

15 A. It's in the second paragraph. If you want, I
16 can read the whole paragraph.

17 Q. I can't -- I can't have you read it because
18 it's a document that's not --

19 A. Okay.

20 Q. -- admissible into evidence.

21 A. Okay.

22 Q. But did you summarize your conversation with
23 Ms. Thomas?

24 A. Yes.

25 Q. Okay. Where is that?

1 A. In the middle of the paragraph toward the
2 bottom in which she stated that she was very afraid
3 that Mr. Thomas was still, you know, not captured and,
4 you know, due to the nature of the assault that
5 occurred.

6 Q. Okay. You said that you spoke with her and
7 you talked to her about all of the things that had
8 happened, right?

9 A. Yes.

10 Q. Okay. And you said you summarized that. Did
11 you put in your report all of the things that she told
12 you about that incident?

13 A. That wind up being put in the probable cause
14 of the affidavit that was presented to the judge.

15 Q. So, that is not in the -- in your part of the
16 report?

17 A. No.

18 Q. Okay. And so, you reviewed the case though.
19 You reviewed the initial report. You reviewed the
20 counselor's notes. And you spoke with Ms. Thomas
21 herself. And then you presented it to the district
22 attorney's office.

23 A. Yes.

24 Q. Okay. And then you filed what's called a
25 to-be; is that right?

1 A. Yes.

2 Q. Can you explain to the jury what that is?

3 A. A to-be is an affidavit that we send to one of
4 the hearing officers which represent that the person in
5 the affidavit, which would be the defendant, would need
6 to be arrested to hear these charges.

7 Q. And when you presented it to the district
8 attorney's office, what charge were you requesting?

9 A. Aggravated robbery.

10 Q. Okay. And why did you request an aggravated
11 robbery charge?

12 A. In the complainant -- the witness, she said
13 that the defendant used a knife to take her money off
14 her person.

15 Q. And so, in your experience as a police
16 officer, what Ms. Thomas told you fit the elements of
17 aggravated robbery?

18 A. Yes, it did.

19 Q. Is a knife a deadly weapon?

20 A. Yes, it is.

21 MS. FLADER: Pass the witness.

22 THE COURT: All right.

23 Cross-examination.

24 CROSS-EXAMINATION

25 BY MR. STILL:

1 Q. Officer Porter --

2 A. Yes.

3 Q. -- my name is Craig Still.

4 A. How are you doing?

5 Q. We've never met before, I believe.

6 A. No.

7 Q. Let me ask you a few questions about case
8 preparation. Now, you receive cases for follow-up; is
9 that right?

10 A. Yes, I do.

11 Q. And that means that the suspects are gone and
12 there's no arrest that's made at the time by the
13 arresting officer; is that correct?

14 A. Yes.

15 Q. Okay. Now, in this particular case, this was
16 a call-out for an assault. And when it was referred on
17 to family violence, it's assault; is that correct?

18 A. Yes.

19 Q. Okay. Because there's no information on the
20 front side about a weapon being used; is that correct?

21 A. No.

22 Q. There wasn't information about a weapon being
23 used, that's why it's still assault; is that correct?

24 A. Yes, initially.

25 Q. Okay. So, the only development of this

1 aggravated robbery happens later and not on the front
2 side; is that correct?

3 A. Yes.

4 Q. Now, when you're reviewing materials in your
5 cases like the 300 and 400 that you've done, I'm sure
6 that you look for things like consistency because
7 that's important in gauging a witness's or a suspect's
8 credibility; is that right?

9 A. Yes.

10 Q. Okay. So, when you do your case reviews, you
11 look for things that might be different that's said at
12 the time, that's said a little after, that's said maybe
13 even to you; is that right?

14 A. Yes.

15 Q. In this particular case, it was communicated
16 to you that the money was taken out of her left front
17 pocket; is that correct?

18 MS. FLADER: Judge, I would object to any
19 hearsay.

20 MR. STILL: Impeachment, Your Honor.

21 MS. FLADER: It's not this witness.

22 THE COURT: Sustained as to that
23 question.

24 Q. (BY MR. STILL) Now, you collected evidence or
25 -- excuse me -- testimony from the complainant in this

1 case, Deborah Thomas; is that right?

2 A. Yes.

3 Q. And that was on the telephone, right?

4 A. Yes.

5 Q. Now, she explained the facts of that to you
6 then, right?

7 A. Yes.

8 Q. Now, in terms of the money, you discussed
9 where it was taken from; is that right?

10 A. Yes.

11 Q. And that's going to be from her pocket, right?

12 MS. FLADER: Judge, I would object.

13 That's back-door hearsay.

14 MR. STILL: May we please approach on
15 this issue, Your Honor?

16 THE COURT: Yes.

17 (Bench conference on the record).

18 MR. STILL: There's no way to get --
19 there's no way to get at --

20 THE COURT: You remember you were saying
21 something about being able to hear earlier?

22 MR. STILL: Yes, sir. I'm sorry.

23 There's no way to get at the
24 complainant's denial that she told the officers about
25 it coming from her front pocket unless she talked to

1 the person to whom she made that prior inconsistent
2 statement.

3 MS. FLADER: She didn't say she didn't.
4 She said she didn't remember.

5 THE COURT: I'm not disagreeing with you.
6 I'm just saying I sustained that objection.

7 MR. STILL: Okay.

8 THE COURT: All right. I can't say
9 anymore than that without getting in your business and
10 I'm not supposed to do that.

11 MR. STILL: Okay.

12 (End of conference).

13 MR. STILL: May I approach the witness,
14 Your Honor?

15 THE COURT: Yes, sir.

16 Q. (BY MR. STILL) Would you agree with me, sir,
17 this is a copy of the offense report in this particular
18 case; is that right?

19 A. Yes.

20 Q. And this is part of your supplement; is that
21 right?

22 A. Yes.

23 Q. Would you please refresh your memory with this
24 supplement?

25 A. What you mean? What part?

1 Q. With the totality of this paragraph.

2 A. Which one, the incident?

3 A. Yes, sir.

4 A. The incident --

5 Q. Don't read it. I just want you to refresh
6 your own memory.

7 A. (Witness complying).

8 Q. Is your memory refreshed, sir?

9 A. Yes.

10 Q. What's your understanding of where that money
11 was found, sir?

12 A. Left front pocket.

13 MS. FLADER: Judge, I would object. This
14 is hearsay.

15 THE COURT: Sustained.

16 Q. (BY MR. STILL) Now, Officer Porter, did you
17 have access to any -- any medical records before you
18 filed charges in this case?

19 A. I don't think so.

20 Q. So, you did -- you were able to view
21 photographs; is that correct?

22 A. Yes.

23 Q. The extent of her injuries, as evaluated by
24 nurses and doctors, was not known to you because you
25 didn't have access to those medical records; is that

1 right?

2 A. Not at the time, no.

3 Q. Did you review the 911 tape in this case?

4 A. No, I didn't.

5 Q. So, you don't know -- you didn't have access
6 to that information when you're gauging the
7 complainant's credibility in her written statement and
8 statements to other officers; is that correct?

9 A. Repeat that again.

10 Q. Sure. You didn't have access to her initial
11 statements on 911 when you're gauging her credibility
12 in your case review; is that right?

13 A. Oh, yes.

14 Q. Would you agree with me, Officer, that when
15 we're talking about witnesses in your cases that you
16 investigate, that it's important or it enhances a
17 witness's credibility when other evidence in a case
18 corroborates what they have to say?

19 A. Yes.

20 Q. Now, what type of weapon was used in this
21 case?

22 A. It was a knife.

23 Q. Okay.

24 A. I'm not familiar with what type of knife it
25 was.

1 Q. Okay. Was it a machete?

2 MS. FLADER: Judge, I would object. The
3 witness has answered.

4 THE COURT: Sustained.

5 Q. (BY MR. STILL) Do you know of any other
6 weapons that were used in this particular case?

7 A. Besides his hands and feet, that's it.

8 Q. Okay. So, your understanding is basically
9 with hands and feet and a kitchen knife; is that right?

10 A. Yes.

11 MS. FLADER: Judge, I would object.
12 That's --

13 A. I don't know what type of knife it was.

14 Q. (BY MR. STILL) But a knife, nonetheless?

15 A. Yes.

16 Q. And that's it?

17 A. Yes.

18 MR. STILL: I'll pass the witness, Your
19 Honor.

20 THE COURT: All right.

21 MS. FLADER: Briefly, Judge.

22 REDIRECT EXAMINATION

23 BY MS. FLADER:

24 Q. Based on your information that you gathered
25 and talking to the complainant, did you believe that

1 she was credible?

2 A. Yes, and looking at the criminal history of
3 the defendant.

4 MS. FLADER: Judge, I would --

5 MR. STILL: Objection --

6 MS. FLADER: -- pass the witness.

7 THE COURT: I couldn't hear what his
8 answer was because --

9 MS. FLADER: I pass the witness.

10 MR. STILL: May we approach, Your Honor?

11 THE COURT: Yes.

12 (Bench conference on the record).

13 MR. STILL: What he just blurted out --
14 what he just blurted out in front of the jury was based
15 on the criminal history of the --

16 THE COURT: What did he say? I think --
17 I couldn't understand him because she talked over him.

18 MR. STILL: This is a -- this is a
19 delicate issue, Your Honor. May we please talk about
20 it without the jury here?

21 THE COURT: You want to send them out?

22 MR. STILL: Yes, sir.

23 (End of conference).

24 THE COURT: Ladies and gentlemen, retire
25 to the jury room. We need to take up something outside

1 your presence real quickly.

2 (Jury out).

3 THE COURT: Please be seated.

4 Now, before we get started, would you
5 read back what his answer was because I honestly
6 couldn't understand what he said?

7 (Court reporter read back the last
8 question and answer).

9 THE COURT: Okay.

10 MR. STILL: Objection -- we object.
11 Clear 404(b) violation. We move for a mistrial at this
12 point.

13 THE COURT: All right. Do you have a
14 response?

15 MS. FLADER: Yes, Judge. I believe that
16 this is a harmless error. I believe that the jury can
17 be instructed to disregard and that will cure any --
18 any error as to that information.

19 MR. STILL: Judge, I don't think that, as
20 far as a trial judge perspective, a harmless error
21 analysis is going to --

22 THE COURT: Well, that's not what I would
23 do.

24 MR. STILL: Sure. But it's right out
25 there in front of them and it's really harmful.