

1 seated.

2 Do you wish to give an opening statement?

3 MS. FLADER: No, Judge. I call my first
4 witness, Officer Scott.

5 THE COURT: All right. And for the
6 record, all witnesses called to testify have been duly
7 sworn unless otherwise stated.

8 Just have a seat here, if you would, sir.
9 Adjust the chair and microphone as you need.

10 Ladies and gentlemen, just so you know,
11 we're probably going to work until about quarter to
12 4:00 to get y'all back to your cars before 4:00
13 o'clock, so you can find them, first of all, and maybe
14 beat a little traffic. Y'all have had a long day
15 already. So, just to give you an update.

16 You may proceed.

17 MS. FLADER: Thank you, Judge.

18 MILES SCOTT,
19 having been first duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. FLADER:

22 Q. Would you introduce yourself to the jury?

23 A. Officer Miles Scott.

24 Q. Where are you employed?

25 A. The City of Houston Police Department.

1 Q. How long have you been employed by the City of
2 Houston?

3 A. 29 years.

4 Q. Can you tell the jury a little bit about the
5 training -- can you tell us a little bit about how you
6 became a peace officer?

7 A. Joined the police department 29 years ago.

8 Q. What are the steps to be a police officer?

9 A. Oh. Well, you go through a criminal
10 background, psychology and physical testing, number of
11 things before they take you through the academy, which
12 is about a 26-week course.

13 Q. And tell us a little bit about the academy.
14 What do you do at the academy?

15 A. Well, we go through courses of procedures, all
16 the penal codes. And we go through patrol procedures,
17 physical agility, driving course back then. They have
18 a lot more since then, but anyway.

19 Q. Okay. And after you get done with the
20 academy, are you automatically a police officer on the
21 streets by yourself?

22 A. No. You're probationary. You spend another
23 six -- roughly six months training with a field
24 training officer.

25 Q. And then you're -- and then you're on your own

1 as a patrol officer?

2 A. Yes, ma'am.

3 Q. And what -- have you been a patrol officer
4 your entire time with the Houston Police Department?

5 A. Yes, I have.

6 Q. And what duties do you have as a patrol
7 officer?

8 A. Primarily -- responding to calls is the
9 primary and, you know, driving around looking for
10 things for us to look into.

11 Q. And what part of town do you work in?

12 A. Out of Westside.

13 Q. And can you tell the jury exactly where
14 Westside is?

15 A. Well, it's been split. At this point it's
16 basically Gessner, Highway 6, Westpark and Katy Freeway
17 would be the main boundary lines.

18 Q. And you said that you patrol that area.

19 A. Yes.

20 Q. And then you respond to calls for service in
21 that area.

22 A. Yes, ma'am.

23 Q. Can you tell the jurors what a call for
24 service is?

25 A. When someone calls the police, 911, they --

1 they send it through to the HPD dispatch and then
2 dispatch us the calls.

3 Q. What kind of calls do you get called to?

4 A. It's a wide variety. It's Code 1 calls, which
5 is the highest priority all the way through probably
6 five or six calls -- report calls.

7 Q. Do you get called to murders?

8 A. Yes.

9 Q. Aggravated robberies?

10 A. Yes.

11 Q. Rapes?

12 A. Yes.

13 Q. Traffic crashes?

14 A. Yes.

15 Q. Thefts?

16 A. Yes.

17 Q. Assaults?

18 A. Yes.

19 Q. And disturbances?

20 A. Yes.

21 Q. And other things as well?

22 A. Yes, ma'am.

23 Q. So, from people getting in an argument with
24 their neighbor to someone's been murdered?

25 A. Yes. We're the first responders. When they

1 call the police, we're the first ones in there and then
2 it goes from there.

3 Q. When you get to a scene, what is your
4 responsibility as a first responder?

5 A. To secure the situation, whether it's the
6 complainant. Make sure the complainant is safe.
7 Question her and find out who the suspect is and what
8 -- where that suspect might be.

9 Q. And were you called to a scene on October
10 14th, 2010?

11 A. Yes.

12 Q. Okay. And where were you called out to?

13 A. It was 9888 United. It's like an apartment
14 complex.

15 MS. FLADER: Your Honor, may I approach
16 the witness?

17 THE COURT: You may.

18 Q. (BY MS. FLADER) I'm going to show you what has
19 been previously marked as State's Exhibit 2. Do you
20 recognize this?

21 A. Yes.

22 Q. Okay. Is this portion of a map -- is it a
23 portion of a map?

24 A. Oh, yes.

25 Q. Okay. And is that in the west side where you

1 patrol?

2 A. Yes, ma'am. Yes, ma'am.

3 Q. And where we see an A, is that the apartment
4 complex that you're referring to?

5 A. Yes.

6 Q. And does this -- this State's Exhibit 2 fairly
7 and accurately depict that area?

8 A. Yes, ma'am.

9 MS. FLADER: Your Honor, at this time
10 State would offer State's Exhibit 2 into evidence and
11 tendering to opposing counsel for any objections.

12 MR. KRATOVIL: No objections, Judge.

13 THE COURT: State's No. 2 will be
14 admitted without objection.

15 MS. FLADER: May I publish it to the
16 jury?

17 THE COURT: You may.

18 Q. (BY MS. FLADER) All right. If you wouldn't
19 mind, would you orient the jury to what they're looking
20 at? Point out the major streets so that they can see
21 where --

22 A. Well, this is Sam Houston Parkway. North
23 would be like Richmond and Westheimer. And then
24 Bellaire would be down this side. The complex is
25 just --

1 Q. If you'd mark on there because they can't
2 see --

3 A. Oh, mark.

4 Q. -- what you're doing.

5 If you -- if you just move your finger --

6 A. Okay.

7 Q. -- then they'll be able to see your marks.

8 A. Okay. This is all new. All right. This is
9 the West -- West Sam Houston Parkway. All right. Here
10 we go. North -- this would be Westheimer, Richmond,
11 the north.

12 Q. Oops.

13 A. I'm just marking.

14 Q. Sorry.

15 A. Okay. I'll find the street. I don't think
16 people would know Townpark. But to the north -- the
17 top of the screen would be Westheimer. The bottom
18 towards the screen, I think there's Bellaire right
19 here.

20 Q. Okay. And so, the address that you were
21 dispatched to on United, is that located in Houston,
22 Harris County, Texas?

23 A. Yes, ma'am.

24 Q. All right. And what time were you dispatched?

25 A. 3:57 in the morning.

1 MS. FLADER: Your Honor, at this time the
2 State would like to offer State's Exhibit 1, the 911
3 tape. I'm tendering to opposing counsel for any
4 objections.

5 MR. KRATOVIL: Judge, just as long as
6 it's the 911 tape that we reviewed earlier and it's the
7 redacted copy, there's no objections.

8 MS. FLADER: It is.

9 THE COURT: All right. State's
10 Exhibit No. 1 will be admitted without objection.

11 MS. FLADER: And may I publish that to
12 the jury?

13 THE COURT: You may.

14 (State's Exhibit 1 published, but not
15 reported).

16 Q. (BY MS. FLADER) So, that's the call that sends
17 you out to that scene?

18 A. Yes, ma'am.

19 Q. When you first arrived, what's the very first
20 thing that you did?

21 A. As I entered the complex, I saw the ambulance
22 right in front of the -- in front of the complex.

23 Q. What did you do when you saw the ambulance?

24 A. Well, I drove up and I walked into the
25 ambulance and I found the complainant inside the

1 ambulance.

2 Q. Describe the complainant for the jury. How
3 did she appear? What did you immediately notice about
4 her?

5 A. Her right face was swollen. Her face was --
6 especially her lips were real bloody. It was very
7 bloody, very swollen on the right side.

8 Q. What about her demeanor?

9 A. Very upset, obviously.

10 Q. We just heard the 911 tape where she seems
11 pretty hysterical.

12 A. Yes.

13 Q. Would you agree with that?

14 A. Yes.

15 Q. Okay. And when you spoke with her, was she
16 still hysterical?

17 A. Yes.

18 Q. Okay. You can't say what she told you. But
19 what information was it important for you to get from
20 her at that time?

21 A. My job is to get the basic information from
22 her, what happened. And she told me that --

23 MR. KRATOVIL: Objection, Judge, hearsay.

24 THE COURT: Sustained at this point.

25 THE WITNESS: Okay.

1 Q. (BY MS. FLADER) Like I said, you can't say
2 what she said.

3 A. Okay.

4 Q. Just what information are you trying to get
5 from her?

6 A. I want to get the basic information of what
7 happened and then who did it and where that person
8 might be.

9 Q. And what about information about her as well?

10 A. Yes, her -- her information for the report.

11 Q. When you're trying to get this information
12 from her, what all is going on with her at that time?

13 A. Well, you had the medics attending to her
14 while I'm trying to talk to her. So, it's very hard
15 for her to give me a statement in her condition as well
16 as the medics attending to her.

17 Q. Okay. So, the medics are asking her
18 questions; is that right?

19 A. Well, they're getting it from me. They're
20 attending to her, just taking care of her injuries.

21 Q. So, they're taking care of her. You're asking
22 her questions --

23 A. Yes.

24 Q. -- right?

25 She's clearly upset?

1 A. Yes.

2 Q. And it's a very stressful situation, would you
3 agree with that?

4 A. Yes.

5 Q. Okay. So, you get the suspect information.
6 What do you do with that information?

7 A. I GB'd the information as far as any suspects
8 and where they might be. And I take the information
9 from her as to her name, his name, for the report.

10 Q. Were you the only officer out at that scene?

11 A. Initially, but two more units checked by to
12 look for the suspect.

13 Q. Okay.

14 A. They went to the apartment where the
15 complainant lives to make sure he wasn't still there.
16 And we looked through the complex to see if we could
17 find him.

18 Q. And did you do that as well?

19 A. Yes, ma'am.

20 Q. So, you as well as two other officers are
21 looking for this person that the complainant has told
22 you about?

23 A. Yes, ma'am.

24 Q. Did you find him?

25 A. No.

1 Q. You said that you also got her information; is
2 that right?

3 A. Yes.

4 Q. And why do you get that information?

5 A. To generate the original report to get this
6 going.

7 Q. When other officers go to a scene, what is
8 their responsibility when you are the first person
9 there and the primary?

10 A. They're to assist me in whatever I need them
11 to do.

12 Q. Okay.

13 A. Normally if I'm taking the information, I'm
14 going to put out information on the suspect and let
15 them know the last place the suspect was seen.

16 Q. And in regard to writing up a report, who is
17 responsible for that?

18 A. That's my responsibility.

19 Q. What about those other officers?

20 A. If they do anything in particular, if they
21 find a person or anything that they actually do, they
22 would have to enter a supplement.

23 Q. And did they do that on this case?

24 A. I don't believe they did.

25 Q. After you finished with your report, what

1 happens to the case?

2 A. Then it goes to homicide and to the domestic
3 violence unit.

4 Q. Do you have any other involvement in the case?

5 A. No.

6 Q. In total, how -- how long was your report?

7 A. My report was fairly small and simple.

8 Q. And why is that?

9 A. Because she'll go to the family violence and
10 give a complete statement.

11 Q. So, you are literally just getting the
12 skeleton thumbnail sketch of the situation?

13 A. That's correct. She was already very
14 hysterical. It's hard to get information out of her.
15 So, we just do a basic report.

16 MS. FLADER: And I pass the witness,
17 Judge.

18 THE COURT: All right.
19 Cross-examination.

20 CROSS-EXAMINATION

21 BY MR. KRATOVIL:

22 Q. Officer Scott, my name is Mark Kratovil. I'm
23 just going to ask you a few questions about the
24 incident.

25 A. Um-hum.

1 Q. So, you mentioned earlier that each one of the
2 calls that you respond to receives a priority code,
3 correct?

4 A. Yes, it does.

5 Q. Okay. Do you recall what the code was that
6 this particular call received?

7 A. I believe it was a Priority 2, assault just
8 occurred.

9 Q. Okay. Would that -- would that be reflected
10 in your report that you compiled that night, what the
11 priority code was?

12 A. Not the priority code. I don't believe we put
13 that in there.

14 Q. Do you recall what the offense was that you
15 were responding to?

16 A. Assault just occurred.

17 Q. Okay. And so, in your report and in the 911
18 dispatcher call, they would have said this is an
19 assault, correct?

20 A. I believe so.

21 Q. And generally, if you're responding to a call
22 and there's an armed suspect, that is a piece of
23 information that's important to your job, correct?

24 A. Yes.

25 Q. Okay. And in your past experience, you've

1 responded to calls before where the dispatcher has told
2 you the suspect is armed, correct?

3 A. Yes.

4 Q. Was it your understanding in this case that
5 the call you were responding to involved an armed
6 suspect?

7 A. No.

8 Q. When you arrived on scene, was there any
9 mention made of an armed suspect there once you
10 arrived?

11 A. No, I don't recall that.

12 Q. Okay. And it would be important to know if
13 there was a knife involved in this -- in this offense,
14 correct?

15 A. Yes.

16 Q. Did Ms. Thomas tell you that there was a --

17 MS. FLADER: Judge, I would object to the
18 hearsay.

19 MR. KRATOVIL: May I respond, Judge?

20 THE COURT: No. Overruled. It calls for
21 a yes or no.

22 Q. (BY MR. KRATOVIL) Did Ms. Thomas tell you
23 that a knife was used?

24 A. I don't recall. I don't believe so.

25 Q. Okay. If she had told you that, it would have

1 been reflected in your report, correct?

2 A. Yes.

3 Q. Okay. Did you put in your report that there
4 was a knife?

5 A. No.

6 Q. Did you recover a knife at the scene?

7 A. No, I did not.

8 Q. Okay. And you said that there were yourself
9 and two other officers there, correct?

10 A. Yes.

11 Q. Okay. And do you know if either of those two
12 other officers recovered a knife at the scene?

13 A. No, they didn't tell me they did. So, I would
14 say no.

15 Q. So, I'd like to talk to you for just a moment
16 about the injuries that you observed on Ms. Thomas.

17 A. Okay.

18 Q. And you said when you first arrived, you saw
19 her at the ambulance, correct?

20 A. Yes.

21 Q. And you said she had a bloody mouth, correct?

22 A. Yes.

23 Q. Did you see where that blood was coming from
24 in her mouth? That is to say, did you see it coming
25 from a particular part?

1 A. I couldn't tell you. I didn't look -- no, I
2 didn't go into her mouth or anything. It seemed like
3 it was coming from her mouth.

4 Q. Okay. And you spoke with her, correct?

5 A. Yes.

6 Q. And did you notice when she was talking that
7 there was blood coming out of her gums or could you
8 tell if it was coming from perhaps the lips?

9 A. I couldn't -- I couldn't specify exactly how
10 -- where the blood was generating from.

11 Q. Okay. Did you see any indication of a knife
12 wound, say a stabbing --

13 A. No.

14 Q. -- or a scrape?

15 Do you recall if Ms. Thomas stated
16 anything about losing consciousness?

17 A. Yes.

18 Q. And she claimed that she had lost
19 consciousness; is that correct?

20 A. Yes.

21 Q. Okay. And would that have been reflected
22 later in medical reports if she had, in fact, lost
23 consciousness?

24 A. I couldn't answer for that.

25 Q. And it was your understanding that money was

1 taken in this incident?

2 A. Yes, sir.

3 Q. When you were investigating, did you discover
4 where precisely the money had been taken from, that is
5 to say, a wallet, purse?

6 A. I don't recall. She told me he took her --
7 \$1,000.

8 Q. And you didn't find out any further the
9 specifics of -- if it was taken out of --

10 A. No.

11 MR. KRATOVIL: Pass the witness.

12 MS. FLADER: Briefly, Judge.

13 THE COURT: All right.

14 REDIRECT EXAMINATION

15 BY MS. FLADER:

16 Q. Did you hear on that 911 tape the operator
17 asking Ms. Thomas if a knife was involved in this case
18 or any weapon?

19 A. I don't recall. I think -- I don't recall for
20 sure.

21 Q. If I tell you that they didn't, would you
22 believe me?

23 A. I would believe you.

24 Q. Okay. And that's something that the -- the
25 dispatcher will ask so that you know what you're going

1 out to.

2 A. Yes, absolutely.

3 Q. So, if the dispatcher doesn't ask it, then
4 that just might be some information that's missing?

5 A. Yes.

6 Q. Okay. Doesn't mean that there wasn't a
7 weapon, just means nobody asked that question, correct?

8 A. Correct.

9 Q. And when you got out to that scene, did you
10 ask her specifically, the complainant Deborah Thomas,
11 if any weapons had been used?

12 A. No, I didn't.

13 MS. FLADER: I pass the witness.

14 THE COURT: Any recross?

15 MR. KRATOVIL: Very briefly, Judge.

16 RE-CROSS-EXAMINATION

17 BY MR. KRATOVIL:

18 Q. Whether or not a weapon had been used would be
19 a material fact to the case, correct?

20 A. Yes.

21 Q. And it would, in fact, change the severity of
22 the charge that would be brought against the suspect,
23 correct?

24 A. Yes.

25 MS. FLADER: Judge, I would object.

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?