

1 A. Four years.

2 Q. On August 30th, 2011, were you working
3 for the Houston Police Department?

4 A. Yes, ma'am.

5 Q. What were your duties that day?

6 A. On that day we were part of a tactical
7 unit. On that day we were assisting the Vice
8 Division with an Vice initiative. The Vice Division
9 comes out, does undercover work, picks up
10 prostitutes. They bring them to us and we're used
11 as a take-down unit.

12 Q. Okay. When you are in a take-down
13 location are you in a marked patrol unit?

14 A. Yes, ma'am.

15 Q. Are you wearing a uniform?

16 A. Yes.

17 Q. When I say a marked patrol unit, tell
18 the jury what that is.

19 A. A marked patrol unit, it's just your
20 basic HPD police car you see out on the street, a
21 blue and white car.

22 Q. Says Houston Police Department?

23 A. Yes, ma'am.

24 Q. Have lights and siren?

25 A. Yes, ma'am.

1 Q. And the uniform you were wearing on
2 August 30th, 2011, is it similar to the one you're
3 wearing today?

4 A. No, it's different.

5 Q. How is it different?

6 A. It's a tactical uniform. I don't know
7 if everyone's familiar with -- it's an outer vest
8 that says "Police" in bright yellow on it. That's
9 the best I can explain. It's black in color, has
10 "police" all over it.

11 Q. It says "police" all over so it clearly
12 a police uniform?

13 A. Yes, ma'am.

14 Q. Why is that necessary, the tactical
15 outfit?

16 A. The particular vest that we have has
17 different, like, panels on it where you can have
18 different handcuffs and other things that we use
19 when we write warrants, places to stick flashlights,
20 the taser. It's just a little more tactical when
21 we're running warrants to pull stuff off of us.

22 Q. All right. It's a more dangerous
23 situation than a regular patrol uniform?

24 A. Yes, ma'am.

25 Q. Is that why the vest is required?

1 A. Yes, ma'am.

2 Q. When you say vest, is it a bullet-proof
3 vest?

4 A. Yes, ma'am.

5 Q. On August 30th, 2011, did you have
6 contact with Kevin Dewayne Walton?

7 A. Yes.

8 Q. Do you see him in the courtroom today?

9 A. Yes, ma'am.

10 Q. Can you identify him by an article of
11 clothing that he's wearing today so the record will
12 be clear?

13 A. He's wearing a pink shirt.

14 MS. BAKER: Your Honor, if the
15 record will reflect the witness has identified the
16 Defendant.

17 THE COURT: It will so reflect.

18 Q. (By Ms. Baker) So what were the
19 circumstances surrounding your contact with the
20 Defendant, Mr. Walton?

21 A. Prior to us interacting at all he had
22 been picked up by the undercover Vice officer. He
23 had entered into the Vice officer's car and made
24 whatever deal they made. At that point how it works
25 is the Vice officer will drive to us at our set

1 take-down location. Once he comes to us, after
2 we're already contacted, "Hey, the deal's been made.
3 We're bringing him to you," at that point when we
4 see the undercover vehicle, the Vice officer's
5 undercover vehicle pull in, we know, all right, he's
6 got a suspect in the car, place him under arrest.

7 At that point we got him out of the car,
8 everything was cool at that point. Put him in the
9 back of Officer DeLasbour's car.

10 Q. Where were you?

11 A. I was sitting in my car. We all got
12 out, me, Officer Amador and Officer DeLasbour. We
13 all get out at the same time because you never know
14 what they have. We still don't know if they have a
15 pistol on them, a knife on them. It's still a
16 dangerous situation at that point until they're in
17 handcuffs. All three of us got out, put him in
18 handcuffs.

19 Q. What was his demeanor then?

20 A. Initially he was fine until we put him
21 in the backseat.

22 Q. What happened then?

23 A. He started, F-u, cussing at us,
24 belligerent, irate, yelling and screaming, just
25 throwing a fit.

1 Q. Was he upset about the prostitution
2 arrest?

3 A. Yeah.

4 Q. Or did he appear to be?

5 A. Yes.

6 Q. What was your duty then?

7 A. At that point our duty as take-down
8 units, it's our job to transport whatever suspect is
9 arrested at that time. So we'll get the details of
10 the incident in regards to the prostitution case,
11 we'll get that from the undercover officer. We'll
12 start what's called a police blotter where we just
13 get the suspect's information, what they're going to
14 jail for, all that. We write all that down on the
15 police blotter and then we transport him to jail.

16 Q. All right. In your contact with Mr.
17 Walton what was your duties to do? Were you taking
18 the police blotter?

19 A. Yes, that day I was doing the paperwork
20 on the suspect.

21 Q. How were you going to do that?

22 A. On this day it was -- I can't remember
23 exactly but it was the hot summer where every day
24 was like 100 degrees. So we were nice enough to put
25 him in the backseat of the patrol car to get him out

1 of the heat. And sometimes y'all have probably seen
2 it where patrol cars will be parked next to each
3 other and sometimes you think two officers are
4 chitchatting.

5 Well, we pulled up sideways like that to
6 where I was in the driver's seat to where my
7 driver's door was right up against Officer
8 DeLasbour's car to where I could talk directly with
9 the suspect. So we were parked side by side. My
10 window was directly across from the suspect's back
11 window so I could obtain all the information from
12 him for the police blotter.

13 Q. Was your window down?

14 A. Yes.

15 Q. And was the window between you and Mr.
16 Walton, was it down?

17 A. Yes.

18 Q. What happened next?

19 A. As I'm trying to get the information
20 from him he's just cussing at me left and right.
21 You want me to use some of the exact language.

22 Q. Sure. What did he tell you?

23 MR. SALAZAR: Objection to the
24 relevance, Your Honor. The jury understands what
25 cursing means.

1 THE COURT: Overruled.

2 Q. (By Ms. Baker) What did he tell you?

3 A. Do you want me to say it? Okay. Kept
4 yelling, "Fuck you. I didn't do shit. Fuck you."
5 Continued cursing, yelling. We told him over and
6 over again, "Look, we're not arguing. We're just
7 the transport unit. This isn't our case. This is
8 the Vice officer's case. I'm just trying to get
9 your information." He continues yelling, cussing,
10 being irate. And at that point he spits out the
11 window and --

12 Q. Did that hit you?

13 A. The first time it didn't.

14 Q. Where did it hit?

15 A. The first time it hit the rearview
16 mirror on the side.

17 Q. The exterior rearview mirror?

18 A. Yes.

19 Q. Of your vehicle or DeLasbour's?

20 A. It was my vehicle.

21 Q. So what happened after that? Did you
22 say anything?

23 A. Yeah, I immediately told him, "Hey,
24 don't spit in my direction. It's a crime. You're
25 not allowed to spit on a police officer." At this

1 time I'm in fear, knowing his life-style, what he's
2 being arrested for, I don't want someone spitting on
3 me not knowing if they have an infectious disease or
4 anything like that. I told him, "Don't spit on me
5 again."

6 Q. Did you believe it was a dangerous
7 situation?

8 A. Yes.

9 Q. And then what happened?

10 A. Right after that he looks directly at
11 me. I was extremely detailed in my report because I
12 have two kids at home. The first thing I do when I
13 get home they come and hug me and kiss me. So I'm
14 very cautious about cleanliness and stuff like that
15 at work. Right after that he looks directly at me
16 in my eyes and spits right at me. I mean, it flies
17 on my forehead, my cheek, my chest. And that's -- I
18 immediately told Officer DeLasbour, "Hey, man, pull
19 up," -- because we're parked so close to each other
20 I couldn't even open my door.

21 Q. Were you alarmed about the saliva on
22 your face?

23 A. Yeah.

24 Q. Okay. Did DeLasbour pull his car up?

25 A. Yeah, he pulled up real quick.

1 Q. And when you got out did Mr. Walton
2 continue to try to spit on you?

3 A. I got out, I went up to the door to talk
4 to him, and he was kind of like he was going to rear
5 back like he was about to spit again. I opened the
6 door real quick and I pulled him out of the car,
7 tried to put him down on his face to keep him from
8 spitting anymore.

9 Q. When you did that did he comply with the
10 restraint?

11 A. No, he did not.

12 Q. What happened?

13 A. He ended up on his back and --

14 Q. Did you put him on his back or --

15 A. I'm trying to remember about a year ago.

16 Q. Would you -- is it tactical to put
17 somebody who's just spit in your face on their back?

18 A. No, I attempted to put him on his
19 stomach and he rolled over on his back and was
20 kicking his legs and swinging his arm and everything
21 preventing us from being able to roll him over.

22 Q. How many people did it take to restrain
23 him?

24 A. There were three of us.

25 Q. Did you have to use a knee restraint?

1 A. Yeah, I did. After he was trying to
2 spit on us again I struck him in the face with my
3 knee. I told him, "Man, stop spitting on us." At
4 that point we still don't know -- I mean, I don't
5 know what he has. I don't know if he has a disease
6 or -- so, yeah, I struck him with the knee. At that
7 time he was attacking me.

8 Q. Okay. Was that what finally got him
9 under control?

10 A. No. I think the first strike caused his
11 lip to bloody up a little bit. So at that point I'm
12 thinking, crap, now he's going to start spitting
13 blood on us. And still not knowing what he has, if
14 he has anything. So officer safety is still our
15 concern and we're still struggling with him, there's
16 three of us trying to flip him over, hold his head
17 down, get his head away from our direction, continue
18 struggling with him. So I struck him a second time.

19 At that point he's still struggling a
20 little bit. We get him face down, his head away
21 from us, he starts to calm down. We end up getting
22 him back in the patrol car and from there we
23 finished up the paperwork and transported him down.

24 Q. Okay. So after you get him transported,
25 does he have an injury such that he needs medical

1 attention? Did you have to take him to the
2 hospital?

3 A. No, he had a busted lip.

4 Q. Would your jail take him if he had
5 serious injuries?

6 A. If he had serious injuries, no.

7 Q. What would be the protocol?

8 A. He would have to go to the hospital.

9 Q. All right. After he was transported did
10 somebody call the District Attorney's Office?

11 A. Yes.

12 Q. Who called the District Attorney's
13 Office?

14 A. Let me check.

15 Q. Do you remember?

16 A. I don't remember a year ago.

17 Q. One of you called the District
18 Attorney's Office?

19 A. Yes, ma'am.

20 Q. Why do you do that?

21 A. We have to call the District Attorney's
22 Office to explain to the D.A. what happened, what
23 happened on the scene. The D.A. at that point
24 accepts or denies the charge.

25 Q. Would you talk to me or talk to whomever

1 is there?

2 A. Whoever answers the phone at D.A.

3 Intake.

4 Q. Did you talk to another D.A. that day?

5 A. Yes, ma'am.

6 Q. Did that person take charges?

7 A. Yes.

8 Q. What charges were accepted?

9 A. It was harassment of a public servant.

10 Q. All right. And was he also arrested for
11 prostitution?

12 A. Yes.

13 Q. And were those charges accepted?

14 A. Yes.

15 MS. BAKER: I'll pass the witness.

16 THE COURT: Mr. Salazar.

17 CROSS-EXAMINATION

18 BY MR. SALAZAR:

19 Q. Officer Simpson, would you agree with me
20 today that thank God you don't have any infectious
21 disease or sickness based on this spitting incident?

22 A. Yes, sir?

23 Q. Now, it was triple-digit heat that day,
24 right?

25 A. As I stated before, I don't know. It

1 was hot.

2 Q. But you had the windows open?

3 A. Yes, sir.

4 Q. I think you would agree with me that
5 everybody handles heat and humidity differently?

6 A. Yes.

7 Q. Isn't it possible that he may have been
8 spitting out the window just to dehydrate himself
9 and that it wasn't meant to be at you?

10 A. No.

11 Q. How can you be sure of that?

12 A. The first time I specifically told him
13 don't do it again. You make eye contact with
14 someone and directly look into their eyes and spit
15 in their direction, you can tell that it's intended.

16 Q. He was handcuffed, wasn't he?

17 A. Yes.

18 Q. And you had already searched him and he
19 was unarmed, correct?

20 A. Correct.

21 Q. So he didn't pose a danger to you, did
22 he?

23 A. Yes, he did.

24 Q. Explain to me how?

25 A. Someone with a prostitution life-style

1 and living on the street performing oral sex an
2 strangers, spitting on someone, that's a weapon.

3 Q. But you had searched him. He did not
4 have any weapons?

5 A. He did not have any knives or guns, no.

6 Q. And his initial charge was nonviolent,
7 correct?

8 A. Correct.

9 Q. So really you -- other than if he hadn't
10 spit on you, according to you, you really wouldn't
11 have had a reason to fear him, did you?

12 A. No, not until he spit.

13 Q. And you feel justified in three of you
14 in a physical altercation while he's on the ground?

15 A. Yes, sir.

16 Q. He is unarmed, isn't he? He's
17 handcuffed with his hands behind his back, isn't he?

18 A. Yes, sir.

19 Q. And you still just applied a knee to his
20 face?

21 A. Yes, sir.

22 Q. Help me understand that.

23 A. I've seen three officers fight with a
24 100-pound woman before.

25 Q. And it was justified?

1 A. Yes, sir, all day long.

2 Q. But you've had plenty of police officers
3 around you besides your two partners, correct?

4 A. Yes, sir.

5 Q. There were a lot of police there. It
6 was a sting operation?

7 A. I'm sorry. Can you repeat that?

8 Q. You had plenty of police presence there
9 that night?

10 A. Just us three.

11 Q. Did the initial sex offense initially
12 particularly offend you?

13 A. No.

14 Q. Because I'm just wondering why it
15 required a physical altercation to take him down
16 when he's unarmed, had his hands handcuffed behind
17 his back and why require three of you to take him
18 down?

19 A. Have you ever tried to hold someone down
20 before?

21 THE COURT: Just answer the
22 question.

23 THE WITNESS: I'm sorry. Repeat
24 the question.

25 Q. (By Mr. Salazar) Why it took three of

1 you to hold him down, an unarmed, handcuffed man.

2 A. It's extremely hard to hold someone down
3 that does not want to be held down.

4 Q. And all of you are armed, correct?

5 A. Yes, sir.

6 Q. You have batons, correct?

7 A. Yes, sir.

8 Q. You have tasers, correct?

9 A. Yes, sir.

10 Q. And maybe even a throw-down gun here and
11 there, right?

12 A. No.

13 Q. Well, you're armed?

14 THE COURT: Mr. Salazar, we don't
15 need any comments like that.

16 MR. SALAZAR: Thank you, Judge.

17 Q. (By Mr. Salazar) You're armed and he's
18 not, correct?

19 A. No, I don't agree with that.

20 Q. Well, did you search him and you were --
21 you confirmed he was unarmed, correct?

22 THE COURT: That's been asked. Is
23 there something new?

24 Q. (By Mr. Salazar) And don't you also
25 have a shotgun in your car?

1 A. A what?

2 Q. Shotgun.

3 A. No.

4 Q. Automatic rifle?

5 A. No.

6 Q. And so the three of you jumping on him
7 physically, that's proper police procedure?

8 A. Yes.

9 MR. SALAZAR: I'll pass the
10 witness, Your Honor.

11 THE COURT: Anything further?

12 MS. BAKER: No, Your Honor.

13 THE COURT: Thank you, sir. You
14 may stand down. Wait out in the hallway.

15 Anything further?

16 MS. BAKER: The State of Texas
17 rests.

18 THE COURT: All right. Retire the
19 jury, please.

20 THE BAILIFF: Yes, sir.

21 All rise.

22 (Jury retired.)

23 THE COURT: Do you have a motion?

24 MR. SALAZAR: No, Your Honor.

25 THE COURT: Do you have any