

1 excused?

2 MR. VOLKMER: No objection from the State,
3 Your Honor.

4 MR. TURNER: No objection.

5 THE COURT: You are released as a witness.
6 Thank you so much.

7 Let's see if we can get in another 15 minutes
8 worth of testimony before the break.

9 MR. VOLKMER: Your Honor, the State calls
10 Officer Lopez.

11 THE COURT: Thank you.

12 MR. VOLKMER: Officer Vargas.

13 THE BAILIFF: Judge, this witness has been
14 sworn.

15 THE COURT: Thank you. Come on up, sir,
16 to the witness stand.

17

18 JAIME VARGAS,
19 the witness, having first been duly sworn testified as
20 follows:

21 DIRECT EXAMINATION

22 BY MR. VOLKMER:

23 Q Officer Vargas, could you introduce yourself?

24 A Hello, my name is Officer Vargas for the Houston
25 Police Department.

1 Q Can you spell your first initial and your last
2 name for the record?

3 A J. Vargas, V-A-R-G-A-S.

4 Q How are you employed?

5 A I am a police officer with Houston Police
6 Department.

7 Q How long have you been with the department?

8 A Oh, about a little over three and a half years
9 probably, yeah.

10 Q Did you attend the police academy?

11 A Yes, sir, I have.

12 Q And when was that?

13 A On August, what was that, I'm sorry, March 12th, I
14 believe, 2011.

15 Q Upon graduating the academy -- did you graduate?

16 A Yes.

17 Q Upon graduating, did you take the field training
18 program?

19 A Yes, sir, I did.

20 Q And how long approximately did that last?

21 A About three months.

22 Q And explain to the jury what a field training
23 program is.

24 A They try to introduce you to every scenario you
25 can possibly experience. But you don't always encounter

1 everything. But they pretty much try to cover everything
2 from DWIs to basically disturbance.

3 Q Are you riding by yourself or is there someone
4 with you?

5 A During training you are with somebody. Somebody
6 with a little more experience.

7 Q And again how long does that process last?

8 A For a total about three months.

9 Q Did you graduate from the field training program?

10 A Yes, sir.

11 Q What was your assignment after that point?

12 A I was at night shift one man unit patrol on
13 northeast station patrolman.

14 Q Explain to the jury how many shifts there are.

15 A There are several. There is actually three but
16 there are also several, like they have regular day shift,
17 night shift, evening night shift, they also have other
18 units that fill in, work 12 hour shifts. 10 hour shifts
19 to cover up, to help the manpower.

20 Q What shifts have you worked?

21 A I worked all three shifts.

22 Q And what kind of position and role were you in in
23 June of 2013?

24 A I was a night shift patrol officer.

25 Q And what are your responsibilities?

1 A Take calls for service, you know, anybody calls
2 911, go over there and help them out.

3 Q What kind of calls do you see on night shift?

4 A Everything from people accidentally dialing 911 to
5 people dialing and hanging up. Others, assaults, drunks,
6 driving on the road to people needing help. Elderly
7 people hurt inside their homes.

8 Q Do you enforce traffic violations while on patrol?

9 A I do, yes, sir.

10 Q All right. Do you work with other officers?

11 A Yes.

12 Q How does that work?

13 A We help each other out. Scenes to where multiple
14 people are involved. We help separate people, we gather
15 information for people, officers. If anybody needs help
16 in anything we go, you know, assist.

17 Q How is it determined whose call a particular call
18 belongs to?

19 A Usually the dispatcher sends it to somebody, to a
20 unit, unit that's available and doesn't have anything
21 going on at the time. She sends it to somebody or if it's
22 in your area because you had a beat, you have a designated
23 area to cover, they give it to you. She sends it over
24 there, sends it to MBT and if she needs somebody to help
25 them out then she will bump somebody else, call somebody

1 else.

2 Q Have you ever made a call for aggravated assault?

3 A Yes, sir.

4 Q Few times or many?

5 A Several.

6 Q When you say several, you can kind of estimate for
7 the jury.

8 A Now probably hundreds. A lot.

9 Q When you make the scene of an aggravated assault,
10 based on your training what kind of procedure do you enter
11 into?

12 A More so control the scene, find out what's going
13 on, find out if it's really an aggravated assault. It can
14 be something from spitting on somebody to actually
15 stabbing somebody or shooting somebody, but you don't know
16 that till you get there because all you know is what the
17 dispatcher provides you. Sometimes they say go to the
18 servants, boyfriend and girlfriend arguing or mother and
19 son arguing. Next thing you know it becomes an aggravated
20 assault. Or they send you aggravated assault call and
21 it's just a civil matter between husband and wife.

22 Q And when you say control the scene, what's your
23 best way to control the scene?

24 A Calm everybody down, separate people and start
25 talking, you know, start talking to whoever called or

1 whoever was there and make sure everybody is safe. Once
2 we get there. Safety is priority.

3 Q How does officer safety interplay with controlling
4 the scene?

5 A Everybody is a suspect. You don't know who it is.
6 You don't know who is the actual person that needs help.
7 As far as you know, it can be the person that's acting
8 like they need help but they are the aggressors. You
9 don't -- as far as like the officer's concerned, you can
10 say, you know, everybody is a suspect.

11 Q All right. Do you handcuff people to control the
12 scene?

13 A Absolutely.

14 Q I want to turn your attention to June 9th, 2013.
15 Were you on duty that day?

16 A I believe so, yes, sir.

17 Q Okay. Do you recall that day?

18 A Is that -- yes.

19 Q Okay. On June 9th, did you encounter the
20 defendant in the courtroom today?

21 A Yes, sir.

22 Q Could you identify for the jury the person that
23 you encountered that day?

24 A Yes, sir.

25 Q Could you identify him by an article of clothing

1 that he's wearing in the courtroom?

2 A Yes, sir.

3 Q Go ahead and do that.

4 A A plaid shirt, tan.

5 MR. VOLKMER: May the record indicate the
6 witness has identified the defendant?

7 THE COURT: Yes, sir.

8 Q (BY MR. VOLKMER) How did you come in contact with
9 the defendant?

10 A Whenever I first got there, it was --

11 Q And I want to back you up. How did you become
12 aware that you needed to get there? I mean where are we
13 talking about?

14 A This is -- we got a call that said assault in
15 progress. All we know is code one. Code one is in
16 progress are priority to anything. Somebody calling 911
17 to say it's happening right now.

18 We got the code one. Well, unit was taking it
19 and then next thing you know an officer was already there.

20 Q I'm sorry, you said who was taking it?

21 A A unit. I am not sure which one was there, which
22 one was taking it. So I know it was dispatched to a unit
23 and then next thing you know, 7C30 I believe, 7C30 nights
24 was there, are there. And then you could hear them on the
25 radio, you know, show me arrived. Once you know somebody

1 has arrived because it wasn't on the air. Because
2 whenever somebody arrives on code one the air as far as
3 the radio is concerned nobody talks, talk on the radio.

4 Q Why is that?

5 A Because an officer has arrived at a code one which
6 is, you know, from what we understand it's a very
7 dangerous situation. So for officer safety nobody gets on
8 the air in case something is going on. He can let us know
9 and let the dispatcher know, yeah, we got somebody with a
10 gun, we got somebody with a knife. And lets us know
11 everything is okay. Once he says yes, go ahead and open
12 up the air, everything is clear, slow units down then we
13 know, okay, he's fine, officer is there; he's fine, let's
14 just get there and help out.

15 But he hadn't done that. He hadn't opened up
16 the air. So whenever we got there, that's when --

17 Q What was the address that you were going to?

18 A I don't remember the address.

19 Q You remember the street it was on?

20 A Not sure.

21 Q Okay. And did you arrive at the address?

22 A Yes.

23 Q What did you see when you arrived?

24 A When I got there I saw a white suburban -- first
25 of all there was a lot of people everywhere. I saw a

1 white suburban with the hood up in front of the location.
2 There was another blue truck, small older truck in front
3 of the white suburban.

4 Q I want to turn your attention to State's 2 on the
5 screen to your left. To your left, the small screen
6 there.

7 A Okay.

8 Q I want you to indicate to the jury the position of
9 the SUV and the blue truck that you are describing.

10 A Okay. The white suburban was parked.

11 Q And you can draw your finger on the screen and it
12 will mark.

13 A The white suburban was parked right here and then
14 the blue truck was parked right here.

15 Q Okay.

16 A There were other vehicles -- I don't know if it
17 was -- I remember there was a patrol car here I think.
18 And there is -- I was able to park somewhere in this area
19 because there is so many cars here and so many people
20 around I couldn't actually pull up into the area which is
21 what we normally do when we approach a house or a
22 location, we kind of aim the vehicle or the patrol shop to
23 the house where we are going, you know. So try to put the
24 vehicle towards the house in case somebody is in there,
25 somebody shoots, you can use a vehicle as a shield. What

1 they call a tactical position.

2 Now whenever we get there, I couldn't do that.
3 I was back here because there were so many people, so many
4 cars I couldn't get there so I started -- when I got out
5 of the car I started walking south on the street.

6 Q Then what happened?

7 A When I started walking south on the street, this
8 truck --

9 Q Which truck?

10 A This blue truck it had -- it's an older model blue
11 truck. It had its tailgate down and the defendant and the
12 other -- somebody else were right there, standing right
13 there.

14 Q Okay. Could you mark on the screen with maybe a
15 circle the approximate area that you saw the defendant and
16 the other person with him?

17 A Right here. Right there.

18 Q And you had to estimate how many other people were
19 around at this point?

20 A There is 1, 2 -- there's two females, one standing
21 right here and another one here and I believe here or in
22 the truck, I believe. Whenever I got here Officer Lopez,
23 7C30 nights he is like, hey, watch these two guys. I
24 think he had or he was putting another guy in the back of
25 the patrol shop because he was being like aggressive

1 towards him, like verbally aggressive.

2 Q This was the person that Officer Lopez had in his
3 control?

4 A Yeah.

5 Q And describe what the person in officer Lopez's
6 control, describe his description to the jury. You said
7 he was aggressive. Describe that, if you will.

8 A Irate, mad. Like, upset because we were putting
9 him in cuffs. Or because he was in handcuffs.

10 Q Did it make sense to you, Officer Lopez's decision
11 to put that person in handcuffs?

12 A Absolutely.

13 Q Why is that?

14 A Controlling the screen. Once he gets to control
15 everybody, what you want to do is you want to isolate the
16 person that's making the scene worse than it already is.
17 We try to calm everybody down, make sure to take a deep
18 breath, get your point across, what's going on. He wasn't
19 doing that so, hey, you know what, just go ahead and take
20 him, put him in the back. He seems like the aggressor,
21 yes.

22 Q What else did you -- did you notice anything else
23 about the person in the back of Officer Lopez's vehicle?
24 Did you interact with him at all?

25 A Not as much, no, sir.

1 Q Okay. What happened next?

2 A I was keeping an eye on these two guys and as time
3 came on, you know, time passed more people were arriving.
4 So I tried keeping them from coming over, hey, what have
5 you got to do with this. Oh, we are family, or you know,
6 cousins, brothers or something like that. Several people
7 started showing up so we started keeping them back. You
8 go to the other side. Go wait over here at the corner, at
9 the intersection, try to get them away from the scene.

10 Q What was the visibility like?

11 A It was dark.

12 Q What was the street light situation if you
13 remember?

14 A Poor.

15 Q Describe the SUV. Was there anything that you
16 remember about the SUV?

17 A It was a white suburban, the hood was up and I
18 believe a female was inside it. Female and I don't know,
19 child was already inside or not. But yeah, there was a
20 female inside.

21 Q Did you encounter children?

22 A I didn't see the child, I didn't encounter the
23 child. I was more so dealing with these guys right here,
24 crowd control.

25 Q What was your role here on the scene? Was this

1 your scene?

2 A No, no. I was what they call a secondary unit, a
3 backup unit. Just making sure nobody got hurt and help
4 out and gather information for the primary unit if he
5 needed any.

6 Q What's going to happen to the person in the back
7 of Officer Lopez's unit, his car?

8 A What's going to happen?

9 Q What's going to happen? What happened to him?

10 A He, I believe he was -- as far as why we were
11 there or with us?

12 Q Is he ever going to get out of that car?

13 A Yes, he ended up getting out.

14 Q Okay. What happens at that point?

15 A I believe he was rinsed off with a water hose
16 because he had gas and oil poured on him.

17 THE COURT: Excuse me. Let's take the
18 afternoon recess. If you wish to walk around the
19 courthouse, you may. Please head back around 3:30 so we
20 can get started back up. Thank you.

21 All rise, please, for the jury.

22 (Court in recess.)

23

24 (Jury present).

25 THE COURT: Thank you. Please be seated.

1 Mr. Volkmer, you may continue.

2 Q (BY MR. VOLKMER) We were talking about Mario
3 Villa-Gomez in the back of Officer Lopez' patrol car. Did
4 he ever come out of the patrol car?

5 A Yes, he did.

6 Q What did you notice about him?

7 A He didn't have a shirt on, he was in shorts and he
8 smelled like gas.

9 Q When you say smelled like gas, describe that to
10 the jury.

11 A Strong odor of gas. Gasoline. Like somebody was
12 soaked in gas.

13 Q Did you see evidence on his shorts that there had
14 been, like the appearance of liquid on him?

15 A Yeah, it looked like he was sweating. It looked
16 like he was sweating at first. Whenever you get close to
17 him, you could smell it. Smell gas.

18 Q Did you notice anything about his face?

19 A Scratches. Scratches on his neck, I believe.

20 Q Did you observe any odor coming from the defendant
21 Jose Carapia?

22 A No, sir.

23 Q Okay. What about off of the person next to him,
24 Bertoldo Villa?

25 A No, sir.

1 MR. VOLKMER: Pass the witness.

2 THE COURT: Thank you.

3

4 CROSS EXAMINATION

5 BY MR. TURNER:

6 Q Officer, I believe you testified earlier that the
7 visibility was poor.

8 A Yes, sir.

9 Q Was there a street light right around that house?

10 A I don't recall.

11 Q Well, you wouldn't likely have said it was poor
12 visibility if there was a street light right there, would
13 you?

14 MR. VOLKMER: Objection, Your Honor, calls
15 for speculation.

16 THE COURT: Well, he may answer if he
17 knows.

18 THE WITNESS: There were several cars with
19 their lights on.

20 Q (BY MR. TURNER) Okay. Did you get a good look at
21 Mr. Mario Villa-Gomez?

22 A Yes, sir.

23 Q The one that smelled like gas?

24 A Yes, sir.

25 Q Okay. So you described his injuries as scratches

1 on his face and neck?

2 A Yes, sir.

3 Q Okay. Did you see any other injuries?

4 A Yes, there was like a red mark on his back.

5 Q A red mark like a welt or a red mark or what?

6 A Like a welt.

7 Q One?

8 A I believe just one, yes.

9 Q Did you see any broken bones?

10 A No, sir.

11 Q Any blood anywhere?

12 A Not that stood out, no, sir.

13 Q Okay. Any unusual swelling of his extremities,
14 arms, legs, things like that?

15 A I wasn't that detailed, no, sir.

16 Q Okay. I mean just looked like a normal guy that
17 had some scratches?

18 A Yeah, like in a fight, yeah.

19 Q Okay.

20 MR. TURNER: I will pass the witness.

21 THE COURT: Thank you. Any redirect?

22 MR. VOLKMER: No, Your Honor.

23 THE COURT: Thank you. Is this witness
24 excused for all purposes?

25 MR. VOLKMER: Yes, Your Honor.

1 MR. TURNER: Yes, Your Honor.

2 THE COURT: Thank you very much, officer.
3 Who will be your next witness?

4 MR. VOLKMER: State will call Officer
5 Greenhaw, Your Honor.

6 THE COURT: Officer, just come on up to
7 the witness stand. Have you already taken the oath?

8 THE WITNESS: Yes, ma'am.

9 THE COURT: Thank you.

10

11 J. GREENHAW,

12 the witness, having first been duly sworn, testified as
13 follows:

14 DIRECT EXAMINATION

15 BY MR. VOLKMER:

16 Q Officer, could you spell your last name and last
17 name for the record?

18 A Officer J. Greenhaw.

19 Q Last name spelling?

20 A It's G-R-E-E-N-H-A-W.

21 Q Could you introduce yourself to the jury?

22 A Hi, how are you doing? I'm Officer Greenhaw.

23 Q How are you employed?

24 A I'm a police officer with the City of Houston.

25 Q How long have you been a police officer?