

1 MR. TALLICHET: State calls
2 Deputy Wright.

3 THE COURT: Come on up, sir.

4 THE BAILIFF: Judge, this witness
5 hasn't been sworn in.

6 THE COURT: I'm so sorry. I believe
7 you're right.

8 (Witness Sworn)

9 THE COURT: All right.
10 You may proceed.

11 MR. TALLICHET: Thank you, Your Honor.

12 THE COURT: You're welcome.

13 **ADAM WRIGHT,**
14 having been first duly sworn, testified as follows:

15 **DIRECT EXAMINATION**

16 BY MR. TALLICHET:

17 Q. Would you please state your name for the
18 record?

19 A. I'm Deputy Wright.

20 THE COURT: Your full name, please.

21 A. Deputy Adam Wright.

22 Q. (BY MR. TALLICHET) Deputy, how are you
23 employed?

24 A. I'm a deputy with the Harris County
25 Sheriff's Office.

1 Q. How long have you been with the Sheriff's
2 Office?

3 A. Almost nine years, since January of 2004.

4 Q. How have you been assigned during those
5 nine years?

6 A. The first three years, I was assigned as a
7 detention officer, a jailer working in the jail; from
8 there, I went to the Academy. After that, I've been
9 on patrol for about the last six years.

10 Q. Why did you progress in that fashion?

11 A. That's what's common in the Department.
12 You start out -- it used to be common in my
13 department, things have changed. But you start out
14 as a jailer, from there you went to the Academy, and
15 from there you become a Deputy, and on to patrol.
16 And that was the normal-career path.

17 Q. So, what are your duties now?

18 A. To basically enforce State law as a
19 patrolman.

20 Q. What's your area?

21 A. The East Side of Harris County.

22 Q. What do you do on a daily basis?

23 A. Answer calls. If there's no calls holding,
24 we try to be proactive with narcotics investigations
25 or running warrants, things like that.

1 Q. I'd like to direct your attention to June
2 3rd of this year, were you working that day?

3 A. Yes, sir.

4 Q. What were you doing?

5 A. I was assigned as a patrolman to District 3
6 East Harris County.

7 Q. Around 6:00 in the evening, did -- what
8 happened?

9 A. I received a call. A call was put out over
10 our radio from -- someone had called Dispatch and
11 advised of a disturbance at the marina.

12 Q. What marina?

13 A. Loves Marina, I believe.

14 Q. Are you familiar with that marina?

15 A. Very.

16 Q. You've been on few or many occasions?

17 A. We get called there fairly often.

18 Q. Why?

19 A. Just large crowds, a lot of times on the
20 weekends, out there partying.

21 Q. What happened -- what was the nature of the
22 disturbance you were called to on June 3rd?

23 A. The call that I got was in reference to a
24 man being assaulted.

25 Q. Is that marina in Harris County, Texas?

1 A. Yes, sir.

2 Q. What river is that on?

3 A. San Jacinto River.

4 Q. Is that area there in Harris County, Texas?

5 A. Yes, sir, it is.

6 Q. So, what did you do when you got the call?

7 A. I advised Dispatch that I was available for
8 the call and she could send it to me. So, the
9 Dispatcher sent me the call and I went en route to
10 it.

11 Q. What sort of vehicle do you use?

12 A. Chevrolet Impala.

13 Q. That's a car?

14 A. Yes, sir.

15 Q. Not a motorcycle or anything?

16 A. No, sir.

17 Q. Do you ride alone or with a partner?

18 A. Alone.

19 Q. How long did it take you to respond to that
20 call?

21 A. Not very long. I was probably there within
22 a few minutes of the call.

23 Q. What do you do when you first arrive?

24 A. When we first arrive, we kind of determine
25 who's involved in it. Like I said, there's normally

1 large crowds out there. A bunch of people are in
2 boats and jet skis on the water or barbecuing or at
3 their camp sites on the water partying, it's hard to
4 determine who called us and why we're there.

5 Q. How do you do that?

6 A. I was flagged down. I saw the complainant
7 and one of the defendants standing by the boat ramp
8 still kind of involved in a verbal argument.

9 Q. What did you do?

10 A. Went over there and separated the
11 complainant and the defendant. At the time I didn't
12 know who the complainant was and who the defendant
13 was. I just saw people arguing and, you know,
14 figured it's a pretty good guess why I'm here. And
15 figured the first thing to do was separate them.

16 Q. How did you separate them?

17 A. I put one of the defendants -- he was the
18 only one that was standing -- placed him in the back
19 seat of my patrol car to keep him separate from the
20 disturbance.

21 Q. Did you handcuff him?

22 A. I don't believe I did.

23 Q. What did you do next?

24 A. Figured out who else was involved in the
25 disturbance. The call stated two men had assaulted

1 another man. Found out that the second defendant was
2 on the other side of the marina so I went to go
3 locate him.

4 Q. Were you able to find him?

5 A. Yes, sir, I was.

6 Q. Where was he?

7 A. He was either in or right next to his boat.
8 He had pulled his boat up onto the embankment at the
9 edge of the river there.

10 Q. What kind of boat was it?

11 A. A little, I guess, kind of racing boat. I
12 don't know a lot about boats. It's a little fast
13 boat.

14 Q. Do you recognize the defendant in the
15 courtroom today?

16 A. Yes, sir.

17 Q. Can you please identify him by an article
18 of clothing he's wearing and where he's sitting?

19 A. He's sitting at that (pointing) table,
20 wearing the blue-and-white-striped shirt.

21 MR. TALLICHET: May the record reflect
22 that the witness has identified the defendant?

23 THE COURT: Yes, it shall.

24 MR. TALLICHET: May I approach the
25 witness, Your Honor?

1 THE COURT: Yes, sir.

2 Q. (BY MR. TALLICHET) Deputy Wright, is this
3 the location -- I'm showing you what's been admitted
4 has State's Exhibit 1. Is that the location we're
5 talking about?

6 A. Yes, sir.

7 Q. And that's in Harris County, Texas?

8 A. Yes, sir, it is.

9 Q. I'm showing you what's been admitted as
10 State's 3. Is that a better picture of what the
11 defendant looked like on the date?

12 A. Yes, sir.

13 Q. I'm showing you what's marked has
14 State's 4, who is that?

15 A. That was the other defendant, the
16 defendant's brother.

17 Q. Nice. So, once you located both of them,
18 what did you do?

19 A. I brought the second defendant back over to
20 my patrol car because, like I said, he was probably a
21 couple hundred yards away from where my patrol car
22 was and where the complainant was, I brought the
23 second defendant back over also, sat him in the back
24 of my patrol car, again, just keep him separate from
25 the complainant until I could get both sides --

1 everyone's story. Trying to kind of figure out what
2 happened.

3 Q. What was the first thing you did when you
4 started to find out what happened?

5 A. I believe the first person I spoke to was
6 the complainant.

7 Q. And what, if anything, did you notice about
8 him when you first started talking to him?

9 A. He had a pretty-good gash over his left
10 eye.

11 Q. Can you describe that for us?

12 A. Probably a couple of inches long. It ran
13 the entire length of his eyebrow. His face was split
14 open pretty good, I mean, he was holding a towel up
15 to his face and whenever he would move it the skin --
16 the top part of his forehead was separated from the
17 lower part of his forehead so they could move freely
18 from each other. And if he would move it, it was a
19 hole about one-inch wide. It was open about that
20 (indicating) far.

21 Q. What did you do about that, if anything?

22 A. I called for EMS.

23 Q. Okay. Did the -- when you said
24 "complainant," what is that person's name?

25 A. Joseph Flanagan.

1 Q. So, what did he -- what did you learn from
2 him?

3 A. Joseph Flanagan told me that he had been
4 assaulted by the two defendants. He said that he was
5 on the water that day, he was -- his boat was already
6 pulled up onto the boat ramp and loaded onto his
7 trailer like he was leaving for the day. It wasn't
8 locked down into the trailer yet, he wasn't ready to
9 drive home, but he had pulled it up out of the water
10 and getting it all secured in.

11 He said that he had been on the water
12 that day with his family, wife and two kids and a
13 family friend whenever he crossed paths with the two
14 defendants. Mr. Flanagan stated that the two
15 defendants splashed him with the wake from their
16 boat; they got into a verbal argument. Mr. Flanagan
17 tried to run away in his boat. Like I said, his boat
18 is a boat that's meant to take your family out on.
19 The two defendants were in a boat that was meant
20 clearly for no other purpose than going very fast in.
21 He had no chance of getting away in the boat he was
22 in. He tried running away on the river for a while,
23 when he saw that wasn't going to work, he told his
24 family: Hey, let's just go home. So he pulled his
25 boat up to the ramp and got out to go get his truck.

1 The two defendants chased him to the ramp, got out of
2 their boat, and came up onto the boat ramp, and both
3 assaulted him.

4 Q. How did they assault him?

5 A. He said they both struck him in the head
6 and face with a closed fist.

7 Q. Were the injuries that you observed on him
8 consistent with that?

9 A. Yes, sir.

10 Q. Do you have training and experience in
11 identifying injuries of that nature?

12 A. I've seen a lot of them.

13 Q. Now that -- I tell what you. I'm showing
14 you State's Exhibit No. 5. Your description of his
15 injury and this picture show a very large gash on his
16 forehead, is that consistent with injuries from
17 fists?

18 A. Yes, sir.

19 Q. How does that happen?

20 A. If the knuckle catches it -- I mean, the
21 skin up there is pretty soft. The orbital around the
22 eye, its job is to protect the eyeball itself so the
23 skin, whenever it gets hit by a knuckle, the skin
24 just pops open.

25 Q. So, what did you do next after you finished

1 interviewing the -- Mr. Flanagan?

2 A. I spoke to his family. He was separated
3 from his family. He was standing on firm ground
4 talking to me. His family and family friend were
5 still up on the boat, so I went over and spoke to
6 them. Asked them, basically, you know, what
7 happened? And they all told the same story that
8 Mr. Flanagan told me.

9 Q. Did it appear at that time that anybody had
10 been drinking excessively or anything?

11 A. It didn't look like anybody had, neither
12 the complainant nor anybody in the complainant's
13 boats or the defendant's. It didn't look like
14 anybody was intoxicated.

15 Q. Now, it doesn't necessarily mean that they
16 weren't drinking?

17 A. True. I didn't do any type of sobriety
18 tests. I had no reason to.

19 Q. I just don't want there to be any --

20 A. Yeah.

21 Q. So, what did you do next?

22 A. Went and spoke to the two defendants who
23 were in the backseat of my patrol car and asked them
24 what happened.

25 Q. What did you learn from them?

1 A. They both told me a similar story. Of
2 course, there were some slight differences in their
3 version of events I believe they told me that
4 Mr. Flanagan splashed them with his wake and so they
5 began to confront him about why he splashed them; he
6 tried running away from them. They both stated that
7 they chased after him to basically confront him about
8 splashing them.

9 While Mr. Flanagan was attempting to
10 run away, they pulled up next to his boat, which like
11 I said, is much slower. They pulled up next to his
12 boat and their boats collided. They said
13 Mr. Flanagan hit their boat with his boat while he
14 was trying to run away. They said Mr. Flanagan then
15 pulled his boat to the boat ramp to leave for --
16 presumably to leave for the day -- to load his boat
17 up. And they both pulled their boat up to the ramp
18 and got out and approached him on the ramp to
19 confront him about splashing them.

20 Q. Did you come to a decision after
21 interviewing everybody and talking to people about
22 what actually happened?

23 A. The two defendants said that the
24 complainant swung first. The complainant said the
25 two defendants swung first. Truly, at that point it

1 really didn't matter who swung first.

2 Q. Why not?

3 A. According to Texas State Law you have the
4 right to defend yourself. And this -- Mr. Flanagan
5 had clearly done everything in his power to get away
6 from the confrontation. He tried running away; he's
7 in a slower boat. Finally, he just tells his family:
8 I can't get away from these guys. Let's just leave
9 the river and go home for the day.

10 He was trying to leave his family
11 outing and the two defendants chased him down; ran up
12 to him on the boat ramp. There's really not much
13 else you can do to make somebody feel more
14 threatened.

15 Q. Did you at some point learned that
16 Mr. Flanagan actually is a police officer?

17 A. I did learn that, I guess, about halfway
18 through me being on the scene. I didn't know that
19 when I first showed up.

20 Q. But Mr. Flanagan was the first person you
21 talked to?

22 A. Yes.

23 Q. Why didn't you learn that right off the
24 bat?

25 A. He didn't throw it out there, you know,

1 that wasn't the first thing out his mouth. He was in
2 plainclothes and he was just a guy on the river that
3 day. I think I learned that, I think, at the end of
4 my conversation with him. Actually -- I'm sorry -- I
5 think I learned that at the end of my conversation
6 with him.

7 Q. Did you observe any injuries on the
8 defendant?

9 A. I believe one of the defendants had small
10 scratches. One of the suspects had a small scratch
11 on the left side of his face and on his shoulder.

12 Q. I'm going to show you State's 3 and 4
13 again. So State's 3, do you see any injuries in that
14 picture?

15 A. No, sir.

16 Q. Is that consistent with what happened --

17 A. Yes, sir.

18 Q. -- and how you observed him at the time at
19 the scene?

20 A. Yes.

21 Q. And State's 4, do you see any injuries in
22 that picture?

23 A. No, sir.

24 Q. Is that consistent with how he looked at
25 the scene?

1 A. Yes.

2 THE COURT: Keep your voice up.

3 MR. TALLICHET: Pass the witness, Your
4 Honor.

5 MR. CORTES: May it please the Court?

6 THE COURT: Yes.

7 **CROSS-EXAMINATION**

8 BY MR. CORTES:

9 Q. Deputy Wright, my name is Eddie Cortes.
10 You and I have never met before, right?

11 A. No, sir.

12 Q. You talked to the DA's office about this
13 case?

14 A. Yes, sir.

15 Q. Did you review some material before
16 testifying here today?

17 A. Yes, sir.

18 Q. What was that?

19 A. Just -- basically, my report.

20 Q. Offense report?

21 A. Yes, sir.

22 MR. CORTES: Your Honor, may I get a
23 copy of that offense report, please?

24 THE COURT: Yes. Have they not
25 provided you one before?

1 MR. CORTES: I've reviewed it, Judge,
2 but I'd like to have a hard copy while I'm examining
3 him.

4 MR. TALLICHET: I just gave him one.

5 MR. CORTES: Okay. He's got one up
6 there, right?

7 MR. TALLICHET: Yes.

8 MR. CORTES: Judge, may I use that
9 one -- may I approach?

10 THE COURT: You can approach the
11 witness. But, I think, he's providing you a copy so
12 that the witness still has one.

13 MR. CORTES: May I approach, Your
14 Honor?

15 THE COURT: Yes.

16 Q. (BY MR. CORTES) Is this also consistent
17 with the report you looked and the copy you reviewed
18 before testifying today?

19 A. Yes, sir, I believe it is.

20 Q. Okay. They didn't just tell you who swung
21 first, correct?

22 A. What are you asking?

23 Q. When you interviewed my client and his
24 brother, you said that they told you about the
25 splashing -- they confronted him, and then they said

1 that he threw the first punch, that didn't really --
2 is that what you testified to at that point?

3 A. Correct.

4 Q. That's not all they told you though, right?

5 A. What are you asking? What they told me?

6 Q. Well, they told you and you noted it --
7 because you noted what happened that day, right, this
8 is what they told you that day?

9 A. Yes.

10 Q. They told you that he hit their boat,
11 right?

12 A. As he was running away from them, yes.

13 Q. And even Mr. Flanagan told you that, I
14 believe, he collided with their boat, correct?

15 A. Yes.

16 Q. And they also told you that when they got
17 out of their boat, in fact, it was Deputy Flanagan
18 who had charged at them first?

19 A. That's what they said, yes, sir.

20 Q. Isn't that what they told you?

21 A. Yes, sir.

22 Q. Now, when you got to the scene, the guy
23 with the mustache, his brother, was still arguing
24 with Deputy Flanagan?

25 A. No, sir.

1 Q. Didn't you say you had to separate them?

2 A. Your client was arguing with Mr. Flanagan.

3 Q. Oh, it was him (indicating)?

4 A. Yes, sir.

5 Q. Okay. So, my client was still arguing with
6 Mr. Flanagan, his brother was over by the boat?

7 A. Yes.

8 Q. Okay. And you said you did or did not
9 handcuff him when you put him in the back of the car?

10 A. I don't believe I did at first, because
11 like I said, I was just separating them. I didn't
12 know who was the suspect, who was the defendant. I
13 was just mainly trying to stop the disturbance, not
14 to detain the defendant at that point.

15 Q. Did you actually witness the altercation?

16 A. No, sir.

17 Q. Okay. And you didn't see the fight?

18 A. No, sir.

19 Q. You didn't see any splashing or anything
20 like that?

21 A. No, sir.

22 Q. You didn't see the boat ramp?

23 A. No, sir.

24 Q. When you walked up, was Mr. Flanagan's boat
25 already on the slip or whatever -- trailer?

1 A. Yes, sir.

2 Q. It was already on the trailer?

3 A. Yes, sir, it was on, it wasn't secure.

4 Q. So, he had actually gotten to his truck,
5 backed it up, and put the boat on the trailer?

6 A. Yes, sir.

7 Q. Okay. And they were arguing by the boat?

8 A. Yes.

9 Q. All right. So, everybody was on dry land?

10 A. Yes, sir.

11 Q. Okay. All right. At any point in time
12 from the notes you took that day, did anyone tell you
13 that Mr. Flanagan was actually held while somebody
14 else pummeled him?

15 A. I'm sorry I didn't hear what that last part
16 of your question was.

17 Q. Did he ever tell you he was grabbed?

18 A. He told me they both punched him with
19 fists.

20 Q. Okay. Did he ever tell you he was bear
21 hugged?

22 A. Not that I can recall.

23 Q. Did he ever tell you he was held down in
24 any way?

25 A. Not that I can recall.

1 Q. And you didn't make any notes of that?

2 A. No, sir.

3 Q. So, it was not -- as far as you were
4 concerned at that time, a case of somebody grabbing
5 somebody else from behind and somebody else punching
6 a guy from the front?

7 A. I don't believe so.

8 Q. And if you testified to that, that probably
9 wouldn't be accurate, because you'd have notes about
10 what happened that day?

11 A. I believe so.

12 Q. All right. Now, when you got there,
13 they're arguing by the boat, how close were they to
14 each other?

15 A. Fairly close. I mean, you know, a couple
16 of feet.

17 Q. Like, in each other's face?

18 A. No, sir, not in each other's face anymore
19 but still arguing.

20 Q. Okay. But they weren't still pushing and
21 shoving each other?

22 A. No, sir.

23 Q. So you walk up and say, What's going on
24 here? Or do you say, Come with me; get in the back
25 of the car?

1 A. Come with me, get in the back of the car.
2 I'll figure out what's going on after the scene is
3 calm, safe.

4 Q. You put him in the back of the car and then
5 you go get his brother?

6 A. Yes.

7 Q. You've got them in the back of the car and
8 then you go talk to the Flanagans?

9 A. Yes.

10 Q. And Mr. Flanagan was the first person you
11 talked to?

12 A. Yes, sir.

13 Q. And by the end of your conversation with
14 him you had figured out he was law enforcement,
15 correct?

16 A. Yes.

17 Q. Were you aware that he had a gun in the
18 boat?

19 A. No, sir.

20 Q. How did he seem to you at that time, his
21 state of mind, his emotions?

22 A. Assaulted, calm.

23 Q. He was calm?

24 A. Yes, sir.

25 Q. He's got a big gash in his eye, he's

1 bleeding everywhere and he's calm?

2 A. Yes, sir.

3 Q. So you go talk to him and he says that they
4 got splashed or they splashed somebody, is what he
5 said, right?

6 A. He told me that your client splashed him.
7 And your client told me that Mr. Flanagan splashed
8 him.

9 Q. So it was at least two splashes that went
10 on in the water?

11 A. Or one splash with two different stories.

12 Q. Okay. And both parties had advised you
13 that the boats had collided?

14 A. Yes.

15 Q. And there was visible damage to the boats?

16 A. I don't recall seeing any damage on
17 Mr. Flanagan's boat. I recall the defendant's boat,
18 if I recall correctly, had very minor damage.

19 MR. CORTES: Your Honor, may I
20 approach?

21 THE COURT: Yes.

22 Q. (BY MR. CORTES) Is this Mr. Park's boat?

23 A. I believe so.

24 Q. And they showed you the damage, correct?

25 A. Yes, sir, on the side of the boat.

1 Q. Okay. I show you what's marked as State's
2 Exhibit 3, 2 and 4. Did they have to point out that
3 damage to you that day?

4 A. They didn't point it with their hand, but
5 they said, My boat's damaged on this side. And so I
6 went and looked at it.

7 Q. Is that what you saw?

8 A. I can't remember exactly. It's been six
9 months ago but it looks about what I remember, yes,
10 sir.

11 Q. Okay. I need to know for sure, if you
12 know, if that was it or not? Is that the damage?

13 A. No, I don't know for sure.

14 Q. You would agree with me that this is not
15 minor damage?

16 A. I would agree that's minor damage. The
17 boat was still drivable.

18 Q. So, unless it sunk it's not major damage?

19 A. No, sir.

20 Q. If there is damage -- if you hit somebody
21 with a boat, it's just like hitting somebody with a
22 car, right, you've got to exchange insurance and all
23 that stuff?

24 A. Yes, sir.

25 Q. And so the fact that Mr. Flanagan told you

1 and actually had his boat up on the truck and ready
2 to leave, told you he was going to leave the scene of
3 an accident that didn't strike you as odd?

4 A. He didn't say he was trying to leave the
5 scene of an accident. He said he was trying to get
6 away from the two people that were trying to assault
7 him.

8 Q. He did tell you their boats collided?

9 A. Yes.

10 Q. And my client told you their boats
11 collided?

12 A. Correct.

13 Q. Both sides told you there had been a boat
14 accident?

15 A. Correct.

16 Q. He was ready to leave so he was never
17 attempting to exchange information with them, isn't
18 that what you're supposed to do?

19 MR. TALLICHET: Objection. Relevance.

20 THE COURT: That's overruled.

21 THE WITNESS: I'm sorry. Can you
22 repeat it?

23 Q. (BY MR. CORTES) Is that proper procedure,
24 when there's been an accident on the water like that?

25 A. If the only thing that has happened that

1 day is a simple accident, yes, you're supposed to
2 wait. If there's extenuating circumstances, injury
3 to a person, trumped property damage a hundred
4 percent of the time.

5 Q. And you testified that he tried to get
6 away, felt he was in danger. I believe you said that
7 he did everything he could to remove himself from the
8 situation, correct?

9 A. It appeared so.

10 Q. Okay. Can you look in your police report
11 and tell me where it says that?

12 A. I didn't say those exact words. I
13 illustrated it by showing his actions that day.

14 Q. But you didn't make a note of it?

15 A. No, sir, I didn't say, He did everything he
16 could to get away in my police report.

17 Q. You didn't say, The complaining witness
18 attempted to remove himself from the altercation?

19 A. I wrote: Mr. Flanagan attempted to drive
20 away from the two men later identified as suspects
21 James and Tim Park. Mr. Flanagan tried to drive away
22 from the suspects, but they pull their boat up next
23 to him and their boats collided. Mr. Flanagan drove
24 to the boat ramp and was attempting to load his boat
25 onto his trailer to leave. The suspects, James and

1 Tim Park, drove their boat to him, jumped off their
2 boat, and begin to strike Mr. Flanagan in the head
3 and face with closed fists.

4 Q. At no place in there does it say that he
5 was trying to extricate himself from the situation to
6 avoid a fight?

7 A. No, sir, it says he attempted to drive
8 away.

9 Q. And at no point does it say anywhere in
10 there that he had fear, the word "fear," is not in
11 your report?

12 A. No, sir, it's not.

13 Q. Okay. At no time -- or anywhere in your
14 report does it say that it was a self-defense issue?
15 You didn't write self-defense anywhere in there, did
16 you?

17 A. No, sir, I didn't.

18 Q. No. As a matter of fact they said -- one
19 party's telling you that they were the aggressor --
20 the other side was the aggressor and vice versa?

21 A. Correct.

22 Q. Right?

23 A. Correct.

24 Q. Like you said earlier, there were similar
25 stories but there was a slight difference?

1 A. Correct.

2 Q. And the similarities differed --

3 A. The stories were the same up until who
4 threw the first punch.

5 Q. -- up until who started it, right?

6 A. No, not who started it. Who threw the
7 first punch?

8 Q. Okay. And that's what you noted in your
9 report?

10 A. Correct.

11 Q. Not a self-defense issue, not somebody
12 trying to avoid a confrontation?

13 A. I mean, I disagree with you but okay.

14 Q. Okay. Now, if he is law enforcement and he
15 had identified himself as law enforcement to these
16 people, do you think there would have been an
17 altercation?

18 MR. TALLICHET: Objection. Calls for
19 speculation.

20 THE COURT: That's sustained.

21 Q. (BY MR. CORTES) How long have you been with
22 the Sheriff's Office?

23 A. Almost nine years, sir.

24 Q. Okay. And what sort of training do you
25 receive at the Sheriff's Office?

1 A. A lot.

2 Q. Weapons training?

3 A. A significant amount.

4 Q. Any sort of combat training?

5 A. Yes, sir.

6 Q. Is that common in different agencies, from
7 your experience?

8 MR. TALLICHET: Calls for speculation.

9 THE COURT: Do you know for sure what
10 every agency has for training?

11 THE WITNESS: No, ma'am, I don't.

12 THE COURT: That's sustained.

13 Q. (BY MR. CORTES) Are you personally aware of
14 any other type of combat training at any other
15 agency?

16 A. None at all.

17 Q. Okay. All right. But in your experience
18 they do -- they do teach y'all how to use an ASP,
19 Tasers, different weapons?

20 A. At the Sheriff's Office?

21 Q. Right. And teach you how to fight?

22 A. Yes.

23 Q. Right. Do you boat?

24 A. I'm sorry, sir.

25 Q. Do you boat?

1 MR. TALLICHET: Objection. Relevance.

2 THE COURT: What is the relevance to
3 his recreation?

4 MR. CORTES: I'll rephrase the
5 question.

6 Q. (BY MR. CORTES) Do you always carry your
7 badge and gun at all times?

8 A. Yes, sir.

9 Q. Now, you said that the picture was
10 consistent with the way Tim Park looked that day, his
11 brother?

12 A. Yes, I believe those pictures were taken
13 within an hour of their arrest.

14 Q. You did, however, note that you personally
15 observed that he had a small scratch on the left side
16 of his face and on his left shoulder, right?

17 A. Yes.

18 Q. And that's not immediately visible from
19 that picture?

20 A. Correct.

21 Q. So, that picture doesn't tell the whole
22 story?

23 A. Correct.

24 Q. So both sides had injuries?

25 A. One side had a huge gash and one side had a

1 scratch.

2 Q. Okay. But that would be consistent with an
3 altercation where there was mutual combat, right?

4 A. Correct.

5 Q. Do y'all get a lot of calls out there at
6 Loves Marina?

7 A. Yes, sir.

8 Q. This kind of stuff?

9 A. Yes, sir, it's fairly common.

10 Q. People drinking, partying --

11 A. It's common out there, yes.

12 Q. -- and fighting? So, you have previously
13 responded to calls like this?

14 A. Many.

15 Q. Many?

16 A. Yes, sir, many.

17 Q. Did you see any beer bottles or beer cans
18 in anybody's boat or truck?

19 A. No, sir, I did not.

20 Q. Did you smell a strong odor of alcoholic
21 beverage on anybody?

22 A. No, sir, I did not.

23 Q. Okay.

24 MR. CORTES: I pass the witness, Your
25 Honor.

1 THE COURT: Mr. Tallichet.

2 MR. TALLICHET: Just had a few
3 questions, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. TALLICHET:

6 Q. Deputy, what's the purpose of your offense
7 report?

8 A. To document the events of that day as best
9 we can for whenever the scene goes to trial, if it
10 does go to trial.

11 Q. So that can you do what?

12 A. Recall the events of that day as best we
13 can and testify to them.

14 Q. From the description of the events that you
15 wrote down, were you able to recall the day in
16 question?

17 A. Yes, sir.

18 Q. Are you able to recall the various mental
19 states of the people who were involved?

20 A. Yes.

21 Q. Are you able to recall whether or not
22 somebody was in fear for their lives?

23 A. Yes.

24 Q. Who?

25 A. Mr. Flanagan.

1 Q. Who was he afraid of?

2 MR. CORTES: Your Honor, I'm going to
3 object to speculation.

4 THE COURT: That's sustained.

5 Q. (BY MR. TALLICHET) Did you learn what
6 Mr. Flanagan -- did you ask Mr. Flanagan what he was
7 concerned about or if he was concerned?

8 A. He was trying to get away from the
9 altercation.

10 Q. And you remember that today?

11 A. Yes.

12 Q. That's why you testified to it?

13 A. Yes.

14 Q. Did this defendant admit that he was the
15 same person involved in the incident with Joseph
16 Flanagan on June 3rd, 2012?

17 A. Yes.

18 Q. Did you -- how did you identify him?

19 A. I don't remember. I don't remember if he
20 had a driver's license, or if he just told me his
21 information and I was able to look him up. A lot of
22 times we'll identify somebody verbally, if they can
23 provide their name, date of birth, Social Security
24 number, their address. I honestly don't remember how
25 we identified him, positively.

1 Q. So it's one of those two?

2 A. One of those two.

3 Q. When you say verbal --

4 A. Anybody who has a driver's license or has
5 been arrested before, we can find all of their
6 information.

7 Q. So, if they have a driver's license and
8 they tell you their name, does that pull up the
9 driver's license photo on your system?

10 A. No.

11 Q. Does it pull up a description of them?

12 A. Yes, pulls up a description, height,
13 weight, hair color, things like that.

14 Q. If somebody was to give you a verbal
15 description, you would be able to match that
16 description with the person to make sure it's the
17 right gentleman?

18 A. Usually, we'll ask them name and date of
19 birth. We'll ask the address, and we'll also have
20 the address.

21 Q. So, you didn't have any problems
22 identifying this person as the person --

23 A. None at all.

24 Q. -- as James Porter Park, Jr.?

25 A. No trouble at all.

1 Q. The defense attorney asked you a couple
2 things: One, about who started it? And, two, about
3 mutual combat, they're going to the same issue it
4 seems like?

5 A. Yes.

6 Q. Can you describe why you believed that an
7 assault happened in this case by Mr. Park against
8 Mr. Flanagan?

9 A. Mutual combat is: If two grown people come
10 to the agreement, Let's fight each other and they
11 fight. If they both say, Hey, let's walk outside of
12 this bar and fight in the parking lot. That wasn't
13 an assault. There was a winner and loser of the
14 fight.

15 If one side has clearly made an
16 attempt to get away, whether or not they were in
17 fear -- fear is it irrelevant. If they've made an
18 attempt to remove themselves from of the situation --
19 made multiple attempts -- I don't want to fight; I
20 don't want anything to do with this and one side is
21 clearly the aggressor, you have an assault.

22 Q. And Mr. Park immediately repeated that he
23 chased down Mr. Flanagan's boat on foot and on water?

24 A. Correct.

25 Q. And he admitted that he and his brother

1 beat up Mr. Flanagan?

2 A. They admitted they fought him.

3 Q. And there were clear injuries to
4 Mr. Flanagan's face?

5 A. Very clear.

6 Q. Do you have any experience with
7 self-defense injuries?

8 A. Quite a bit of defense-type injuries. It's
9 usually hands and things like that.

10 Q. What does it usually look like?

11 A. It depends on the type of assault. A lot
12 of times it's common, people putting their hands up
13 to stop something, or something like that.

14 Q. Do people, when they're the aggressor, have
15 defense-type wounds on them, are they frequently
16 scratched?

17 MR. CORTES: Your Honor, I'm going to
18 object to speculation.

19 MR. TALLICHET: Pass the witness.

20 THE COURT: Mr. Cortes, do you have
21 any more questions?

22 MR. CORTES: Just one, Your Honor.

23 THE COURT: All right.

24 **RECROSS-EXAMINATION**

25 BY MR. CORTES:

1 Q. The fact that Mr. Flanagan is a Deputy
2 Constable and fellow law enforcement brother made no
3 influence on you at all?

4 A. Not one bit. It doesn't change the facts.

5 MR. CORTES: Nothing further.

6 MR. TALLICHET: Nothing further.

7 THE COURT: May this witness be
8 excused?

9 MR. CORTES: Yes, ma'am.

10 MR. TALLICHET: Yes.

11 THE COURT: Do you need a court slip
12 signed?

13 THE WITNESS: Please, ma'am.

14 THE COURT: I have no clerk. Can you
15 step over to the prosecutor for that?

16 THE WITNESS: I can get with him
17 later. I don't want to hold y'all up.

18 Thank you.

19 THE COURT: Okay. Thank you.

20 Call your next.

21 MR. TALLICHET: The State calls Tammy
22 Brewer.

23 THE COURT: How are my friends doing?
24 Do you need a break, or you're still good?

25 (No response)

1 THE COURT: Raise your hands.

2 Come on up here, ma'am.

3 (Witness complies)

4 THE COURT: You may proceed.

5 **TAMMY BREWER,**

6 having been first duly sworn, testified as follows:

7 **DIRECT EXAMINATION**

8 BY MR. TALLICHET:

9 Q. Would you state your name for the record?

10 A. Tammy Brewer.

11 Q. Are you the real Tammy Brewer that we're
12 looking for in this case?

13 A. Yes, sir.

14 Q. Ms. Brewer, what do you do for a living?

15 A. I work for a company called Basic
16 Equipment.

17 Q. How long have you been there?

18 A. About four months.

19 Q. What did you do before that?

20 A. I was a stay-at-home mom.

21 Q. How do you know -- do you know the
22 Flanagans?

23 A. The who?

24 Q. The Flanagans?

25 A. Oh, yes.