

UNCUFF the Innocent · Daniel Holtzclaw case records

Deposition of Kim Davis, January 29, 2019: pages cited on this site

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1 blood pressure.

2 Q Okay. Anything else?

3 A Nope.

4 Q Do you feel confident to answer questions
5 today?

6 A Yes.

7 Q Okay. Where are you currently employed?

8 A I'm not. I'm retired.

9 Q Okay. When did you retire?

10 A The last day of July 2016.

11 Q And what was the reason for your
12 retirement?

13 A Because I could.

14 Q Okay. What was your employment at that
15 time? I know it was with, I take it, the Oklahoma
16 City Police Department?

17 A Yes.

18 Q What were your duties and responsibilities
19 at the time you retired just prior?

20 A Detective.

21 Q In what division?

22 A The sex crimes division. That's the only
23 place I've been a detective.

24 Q Okay. When did you start as a detective in
25 the sex crimes division?

1 your partner or on your own.

2 Q Do you know how it came to be that you and
3 Detective Gregory worked on the Holtzclaw case?

4 A Well, I got the call out on Jannie Ligons.
5 That's how I started. And I know kind of at that
6 time he was in the process of looking for somebody
7 that said that they had been sexually assaulted by a
8 police officer. And then it kind of joined from
9 there.

10 Q Was -- you got the call on Ligons. Was
11 that because you were on call, because you had a
12 certain expertise or some other reason, do you know?

13 A Just because I was on call.

14 Q Are you aware of any familial relationship
15 between Elaine Taylor and Rocky Gregory?

16 A Yes.

17 Q What is it?

18 A Elaine is Rocky's mother-in-law.

19 Q Okay. Do you know if there is any policy
20 in relation to that at the OCPD or was there with
21 regard to the two of them since they had that
22 relationship working on cases together?

23 A I have no idea if there's a policy on that.

24 Q Did there ever -- do you know if they had
25 to disclose that relationship to the prosecution or

1 THE WITNESS: Ask it again.

2 Q (By Mr. Johnson) See if I can -- and I
3 touched on this and maybe you don't recall, it's my
4 understanding that Morris said she was assaulted
5 three to four days before May 21st or around that,
6 but ultimately, the case that was presented at trial
7 was that she was assaulted on May 8th. Do you
8 recall anything about that, now knowing that you
9 were at the trial?

10 A I know that she lied a bunch of times to
11 Rocky about locations and dates, but because of the
12 trial and towards the end of the investigation when
13 we were filing charges, it was determined that it
14 was -- that it occurred on May 8th. I can't tell
15 you all of the lies that she told or -- but I know
16 that through the investigation it ended up being on
17 May 8th.

18 Q And would you agree with me that it ended
19 up being on May 8th, to use your words, that was
20 because the AVL showed the May 8th date, as opposed
21 to Terri Morris saying, I was assaulted on May 8th?

22 A Yeah. There weren't any girls that could
23 say what day they were assaulted.

24 Q Okay. Have you ever acted as an expert
25 witness?

1 would have never done an arrest then.

2 Q (By Mr. Johnson) So it didn't -- so if I
3 understand your testimony, it is a correct statement
4 that you didn't even consider whether or not you had
5 probable cause to arrest Holtzclaw for the assault
6 upon Ligons when your interrogation of Holtzclaw
7 concluded; is that correct?

8 A Yeah. I didn't even consider it at that
9 time.

10 Q Okay. You -- are you aware that Mr.
11 Gregory recorded the great majority of his
12 interviews with the accusers in this investigation?

13 A No. I don't know what he recorded or
14 didn't record.

15 Q Okay. Is there any written policy --
16 strike that.

17 Was there any written policy of the OCPD in
18 a sexual assault investigation as to whether or not
19 interviews with victims should be recorded?

20 A I don't know what the policy was at that
21 time. To be honest with you, I've never sat down
22 and read the policy manual.

23 Q Okay.

24 A But I can tell you at that time we didn't
25 record victim interviews, but then they came out

1 with if it's a police officer being accused, then we
2 record victim interviews. But if the police officer
3 is not accused, victim interviews were not recorded.

4 Q And when you say -- so this was -- was it a
5 policy of the OCPD that if a police officer was
6 being accused, than victim interviews would be
7 recorded?

8 A I don't know if that was a policy. A
9 written policy in our policy manual, I don't know.

10 Q Okay. And setting aside a written -- I
11 think you testified there's no written policy?

12 A I don't know.

13 Q Or you don't know if there is or not?

14 A Right.

15 Q But was there an established protocol, that
16 if a police officer was accused of a sexual crime,
17 than the interviews would be recorded?

18 A Yes.

19 Q Okay. And is it fair to say you did not
20 record your victim interview in this case? Or at
21 least you did not record many of them?

22 A Some of them I did, some of them I didn't.

23 Q So did you violate the protocol that was in
24 place by not recording all of the interviews of the
25 victims?

1 A I don't know when that protocol came out.
2 It may have came out during this. So I could have
3 -- I could have violated protocol by not doing that.
4 Because I don't know when that protocol came down.

5 Q Would you ever be able to determine how
6 that protocol came down? Strike that. When that
7 protocol came down?

8 A You could ask a sex crimes supervisor or
9 something. No. Because --

10 Q Okay.

11 A -- if it's not written down, I don't know
12 if they can tell you when it came out.

13 Q Did anyone above your level ever discuss
14 with you whether or not you should have recorded
15 interviews in this case?

16 A No.

17 Q Why didn't you record all of your
18 interviews?

19 A Why didn't I?

20 Q Right.

21 A Well, Jannie's was a call out at 4:00 in
22 the morning and I came from my house. I don't have
23 -- and I did the interview in the emergency room and
24 I didn't have access to a recording device. So that
25 is just -- I couldn't. One of them I went to her

1 ability to record things in 2014 at the time of the
2 Holtzclaw investigation?

3 A You're -- I am -- on my phone, I can text
4 and I can call. I am the least techno person that
5 you could ever imagine. I'm probably going to go
6 back to a flip phone. I hate technology. And if my
7 phone was capable of recording, I would not have
8 known how to do it.

9 Q Did you have the same phone in 2014 that
10 you have with you today?

11 A No. I got a new one for Christmas.

12 Q What is your current phone? Is it an
13 iPhone?

14 A Nope. I won't pay for an iPhone. That's a
15 racket. I'm sorry.

16 Q What type of phone did you have in 2014?

17 A Is it called an Android?

18 Q Okay. All right. That's what I suspected.
19 At the time of the Holtzclaw investigation, did the
20 OCPD have a sexual assault training program?

21 A What do you mean?

22 Q Where individuals that worked in the sex
23 crimes unit as investigators trained? Was there any
24 training program in place?

25 A We had the ITO program. Investigative

1 go in the header so I knew who I was talking to. I
2 would put on this date and time I met with you and
3 where I met with you and that I interviewed you and
4 this is what you said.

5 Q Did you take notes during victim
6 interviews?

7 A I did.

8 Q Did you do that in the Holtzclaw case?

9 A Yes.

10 Q Did you take notes for every victim
11 interview you did in the Holtzclaw case that you
12 recall?

13 A Yes.

14 Q Okay. And what happened to your notes
15 after -- well, strike that.

16 Did you prepare your police reports based
17 on what you took from your notes?

18 A Yes.

19 Q Did you retain the notes in any type of
20 file after you prepared your police report?

21 A No.

22 Q What happened to the notes?

23 A I threw them in the trash.

24 Q Okay. Is there -- strike that.

25 Was there an OCPD policy on how lineups

1 talk about an alternative source?

2 A I do. Because we used to use those on
3 crime scenes.

4 Q Did you -- was it up to you to request
5 forensic testing on the lab -- strike that.

6 Was it up to you to request forensic
7 testing on the pants or would that be something a
8 lab would decide on its own?

9 A The lab doesn't even know when we book
10 evidence. When we book evidence, then we fill out
11 -- there's just a standard sheet that we fill out
12 requesting -- like if I book a SANE exam, I say test
13 for sperm and then email it over to them. So when
14 his pants were booked, we would email a form, test
15 for DNA. How they test for it or what they do or
16 how they go about it, that's all on them. We don't
17 make those decisions.

18 Q Did you request that Holtzclaw's pants be
19 requested for DNA in the Holtzclaw investigation?

20 A Yes.

21 Q And do you recall if anyone else made
22 requests for forensic testing from the OCPD in
23 Holtzclaw --

24 A Rocky probably did. Because we buccal
25 swabbed all of our victims. They would not know

1 that unless we sent over a request. So like I would
2 send over a request for comparison. Because once
3 the lab told us that we had female DNA, then we
4 buccal swabbed them. We'd send over a request,
5 compare to the Holtzclaw case.

6 Q Okay. Do you know why an alternative light
7 source was not used on those pants?

8 A I have no idea.

9 Q Do you know if those pants were checked for
10 saliva?

11 A I have no idea.

12 Q Did you ever request those pants be checked
13 for saliva because of the allegations that Ligons
14 was making?

15 A No. I would have them checked for her DNA.
16 How they do that, that's up to them. Because in her
17 saliva would be skin cells, which is how you get the
18 DNA. So I would just say, is there DNA?

19 Q Okay. Did you ever suggest that Holtzclaw
20 should give a penial swab? And by that I mean
21 collecting a swab from his penis --

22 A No.

23 Q -- in Ms. Ligons' --

24 A No. I know what you're talking about.

25 Q Okay.

1 about the lineup presented to Ligons -- or just
2 about any lineup. Strike that.

3 Did you present a lineup to Jannie Ligons?

4 A No.

5 Q Can you tell me why not?

6 A Because when I met her at the hospital, I
7 didn't know who did it. I didn't have anybody to
8 put in a lineup.

9 Q But subsequently, didn't Muzny put together
10 a lineup to present to Ligons?

11 A No.

12 Q Do you recall telling others that you are
13 not happy with the lineup that was assembled for
14 Jannie Ligons to observe?

15 A I think the only lineup that was shown was
16 Rocky showed Terri Morris a lineup. I don't know
17 anything about a lineup.

18 Q Okay. Did you ever say to someone, you
19 were not happy with a lineup that was assembled to
20 present to Jannie Ligons?

21 A Not that I remember. I never showed her a
22 lineup.

23 Q Did you ever meet with Deputy Chief Johnny
24 Kuhlman to discuss other options for Jannie Ligons
25 to make an identification, as opposed to a lineup?

1 A I know I met with Johnny Kuhlman and Major
2 Wenzel some on this case, but I don't remember any
3 lineup because I wouldn't have needed to show a
4 lineup because Holtzclaw told me it was him. Yeah,
5 I don't remember that.

6 Q Well, Holtzclaw told you that he
7 encountered Jannie Ligons, but he never told you
8 that he did anything improper with her; correct?

9 A That's correct.

10 Q So did you consider the possibility that it
11 was some other police officer or police officer
12 impersonator that Ligons was talking about?

13 A No.

14 Q Okay. Why not?

15 A Because at the time Jannie gave me a time
16 that this happened, a ballpark figure, which was the
17 same time Holtzclaw gave me.

18 Q Okay. You know what kind of uniform --
19 well, strike that.

20 Did you learn anything during the
21 interrogation of Daniel Holtzclaw that suggested to
22 you that he did it? And by that, I mean, we agreed
23 that he did not confess to you in that
24 interrogation; correct?

25 A Correct.

1 notes of. I wouldn't remember any of that.

2 Q Was it an actual video or was it a still
3 photo?

4 A I don't know.

5 Q Did you ever send any emails referencing
6 the Holtzclaw case?

7 A Sure.

8 Q Are those interdepartmental or how does
9 that work?

10 A Well, it would have only been to people in
11 the department -- like I would send an email to
12 Elaine with a DNA request or I might send her an
13 email, where are we at on this case, or, you know,
14 stuff like that.

15 Q Would you send emails to other police
16 officers?

17 A Oh, yeah. Like I would send an email to --
18 I can remember sending an email to Boxwell because I
19 needed him to look at FI cards from certain dates.
20 And it was easier for me to send an email, can you
21 pull these FI cards and see if there is anything
22 like that. Because if you have dates -- so he could
23 look at it. I know I sent Clint Teel emails. And I
24 would send emails to pull activity cards. Because
25 the activity cards -- like Holtzclaw's activity

1 of hair or wrong color of eyes or get the weight
2 wrong or get their height -- a lot of times these
3 people look like giants when this is happening to
4 them and then when you get them, they're not very
5 big at all. No.

6 Q But Ellis said she was raped by a black man
7 and Holtzclaw is white?

8 MR. SOLOMON-SIMMONS: Object to form.

9 Q (By Mr. Johnson) Isn't that a bigger
10 discrepancy than the eye color?

11 A Well, it is a discrepancy, but it's dark
12 outside. He's medium color. I mean, he's not like
13 -- because he's part Asian too. He's medium color.
14 I mean, did it raise my eyebrows when she said he
15 was black, yeah. But then after the investigation
16 and I went through and matched everything else up
17 that she said, it did not concern me.

18 Q But let's take Ellis. Do you recall that
19 she said she was raped in a schoolyard, but his AVL
20 -- Holtzclaw's AVL showed that he didn't stop at the
21 schoolyard. Do you recall that?

22 A I know she said she was raped at a
23 schoolyard and his AVL showed him around the
24 schoolyard, but it can't show him in the schoolyard
25 because it only shows city streets.

1 Q Okay. Earlier we -- you testified about a
2 Sandra Goff?

3 A Uh-huh.

4 Q Do you remember when she came forward?

5 A It was in the middle of the investigation,
6 but I don't remember when.

7 Q Okay. Do you remember when her assault was
8 alleged to have taken place?

9 A I don't. Because I don't have any of those
10 reports.

11 Q Okay. Earlier you testified, I think, and
12 tell me if this is not a fair characterization, that
13 you wouldn't have shown a lineup to Jannie Ligons
14 because you didn't have any idea who had -- who
15 might have done it at that point. Is that fair?

16 A Because when the other guy asked that, I
17 took it as showing her a lineup at the hospital.

18 Q Right.

19 A Yeah. I didn't have -- I didn't know who
20 to put in the lineup at that point.

21 Q Okay. So how do you decide -- well, strike
22 that.

23 Do you only show lineups when you have at
24 least an idea of who might have done it?

25 A Well, you have to know who to put in the

1 anyways. I don't know.

2 Q (By Ms. Heckenkemper) Okay. Did you ever
3 have an opportunity to view the lineup that they
4 tried to present to Terri Morris on June 3rd --
5 strike that.

6 Did you ever have an opportunity to view
7 the lineup that they tried to produce to Terri
8 Morris the first time Gregory had contact with her?

9 A I don't think so. I don't remember ever
10 looking at a lineup. I mean, I could have, but not
11 that I remember. Was Holtzclaw in that lineup?

12 Q Would you have wanted to -- well, would you
13 have wanted to know who was in that lineup?

14 A No. Not really. Honestly, no, it's not my
15 case.

16 Q Well, but when Jannie Ligons came
17 forward --

18 A Okay.

19 Q After Jannie Ligons came forward --

20 A Okay.

21 Q -- would you have wanted to know who was in
22 the lineup that they presented to Terri Morris?

23 A No. Because I'm not shown a lineup because
24 Holtzclaw told me he made the stop. So a lineup is
25 irrelevant to me.

1 sorry. I didn't mean to interrupt. I thought you
2 were done.

3 Q (By Ms. Heckenkemper) More information
4 couldn't come out when you're talking to her?

5 A I'm sure more information could come out.

6 MS. GOOCH: Object to the form of that
7 question.

8 Q (By Ms. Heckenkemper) Let me start over.

9 MR. SMITH: Slow down.

10 THE WITNESS: Okay.

11 Q (By Ms. Heckenkemper) Are you saying that
12 more information may not come out about the
13 circumstances of those allegations if you were to
14 talk to her?

15 MR. SMITH: Object to the form.

16 MS. GOOCH: Object to the form.

17 THE WITNESS: Let me see if I can do it
18 this way and maybe it will -- when I went out
19 finding my victims, if you will or whatever, and
20 when I said, you know, we're out investigating an
21 officer being inappropriate with women or we've got
22 a tip that you may have been assaulted by an
23 officer, those women said -- would bow their head
24 and cry or say, yes, I was sexually assaulted. Then
25 I went to a whole bunch -- I think there was 34 that

1 said we're investigating this. And they would say,
2 no, nothing happened. When they said that, I'm
3 done. So you've got somebody saying all of these
4 things that aren't a crime, to me is the same as
5 these 34 women that said, no, nothing happened. I'm
6 done.

7 Q (By Ms. Heckenkemper) So you would not
8 have talked to her?

9 A No. She didn't say anything happened.

10 Q Did the victims that you interviewed or
11 that you approached in the course of the Holtzclaw
12 investigation, who did not come forward of their own
13 accord, did they report that a crime had been
14 committed against them?

15 A To me.

16 Q Before you approached them?

17 A No. But how am I supposed to approach some
18 lady that I don't even know, that I don't even know
19 said this? You keep talking about some lady. I
20 don't even know who you're talking about. And
21 you're wanting to know why I didn't talk to her. I
22 didn't know about her.

23 Q But if you had known about her --

24 A But I didn't know about her.

25 Q But if you had known about her --

1 she didn't want her boyfriend to know that she was
2 smoking crack again.

3 Q (By Mr. Johnson) Okay. Do you know who
4 came up with the May 8th date for the attack on
5 Terri Morris? Whether it was Rocky or Terri?

6 A It was Rocky.

7 Q Okay. So he suggested that date to her;
8 correct?

9 A Well, I don't know if he told her that date
10 or suggested it. I think he got that just by
11 looking at all of the logs.

12 Q Okay. And then the last line of inquiry.
13 I just want to ask you, you were at the trial so you
14 heard testimony regarding the DNA found on
15 Holtzclaw's pants from Adaira Gardner; correct?

16 A Yes.

17 Q And do you understand what the source of
18 that DNA was? And by that, I mean, was it touch
19 DNA, saliva, semen or anything else?

20 A I don't think they can say that.

21 Q Okay. Did you hear testimony that it was
22 likely that it came from vaginal secretions because
23 she was a 17 year old and due to her young age, she
24 would secrete more or lubricate more?

25 MR. SMITH: Object to the form.