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[Trial Postponed In Bellaire Officer's Criminal Case](#)

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The criminal case against Bellaire Police Officer Jeff Cotton will remain shrouded in secrecy for the next couple months after his defense attorney asked the court to postpone the trial due to a scheduling conflict with an expert witness.

Cotton was charged with aggravated assault by a public servant in the Dec. 31, 2008 shooting of Bellaire resident Robbie Tolan. His trial was scheduled for Jan. 25, but it will now be postponed until March 8.

"We were ready to go except with one of our experts," said David Donahue, legal administrator for Cotton's attorney, Paul Aman. "It's a common thing with these big cases when you have a lot of experts."

In a case shrouded in secrecy, the simple fact that the defense plans to call multiple expert witnesses is new information in itself. Many facts about the criminal case against

Cotton has been kept secret since a grand jury indicted the officer in April 2009.

"I don't know that he's ever had the facts of the case aired out in open court," said spokeswoman Donna Hawkins, an assistant district attorney. "The grand jury heard the facts of the case and they made a decision to indict him."

The Harris County District Attorney's office went straight to the grand jury with information from its investigation about the shooting, which bypassed the requirement for a probable cause hearing that would have made public the criminal complaint against the officer.

"Since it all happened in grand jury, there's just nothing I can reveal," said Prosecutor Clint Greenwood, who is chief of the police integrity division in the District Attorney's office. "It's just one of these odd occurrences that happen about every five-to-ten years."

Facts about the District Attorney's investigation will become public during the criminal trial. Until then, the most information about what happened comes from a civil lawsuit that the Tolan family filed against Cotton, the city, the police department and five top city leaders.

The civil lawsuit challenges official police reports about what happened on Dec. 31, 2008 at the Tolans' home. The official police statement said that Officer John Edwards was investigating a report of a stolen car and suspected Robbie Tolan and his cousin, Anthony Cooper, in the case. Cotton arrived as backup for Edwards. According to the police report, an "altercation" happened and then Cotton shot Tolan.

"The City released a statement alleging that Robbie had an altercation with Cotton and that resulted in his shooting, which is untrue," the family's lawsuit said. The family alleges that the city tried to cover up what really happened.

According to the family's lawsuit, Robbie Tolan and Cooper had parked the vehicle in front of the Tolans' home and were approaching the front door when Edwards stopped them. Cotton arrived shortly afterwards. Robbie's father and mother, Bobby and Marian Tolan, came out in their pajamas when they heard the commotion between the officers and the young men. They told the officers that the pair lived there, and the car was not stolen.

The lawsuit said that when Marian Tolan protested about the misunderstanding, Cotton grabbed her arm and "threw her against the Tolans' garage door." Robbie Tolan then yelled at Cotton, "Get your f***ing hands off my mom," the lawsuit said. (*Note: InstantNewsBellaire.com removed the expletive.*)

"Immediately after Robbie told Cotton to stop assaulting his mother, Cotton drew his gun and shot Robbie in the chest," the lawsuit said. The bullet entered the 23-year-old man's chest, traveled through his torso, pierced a lung and cracked a rib, and became lodged in his liver. Doctors were unable to remove the bullet from Tolan's liver, casting doubt about whether he will be able to pursue his lifelong dream of following in his father's footsteps to become a professional baseball player.

After the shooting, police called an ambulance and took Robbie Tolan to the hospital. The lawsuit said the other three family members were handcuffed and placed in separate police cars. The lawsuit said that no one would tell the family whether Robbie Tolan was dead or alive.

The Tolans' lawsuit claims that the incident was a result of racial profiling and there is a culture of racism running rampant in the Bellaire Police Department. The Tolan family is black, while the officers involved in the incident are white. They say the department has failed to adequately train its officers. The lawsuit said the incident violated the Tolan family's civil rights and caused severe emotional distress.

City leaders in Bellaire have refused to comment specifically about the case due to the criminal investigation and upcoming trial. But they have repeatedly expressed that they think the situation was tragic and they are sorry Tolan was shot. Cotton is on paid administrative leave pending the outcome of the trial.

Donahue said that Cotton's attorney couldn't divulge substantial information about the upcoming criminal trial. But the defense attorney will probably attempt to tell Cotton's side of the story.

"Jeff was completely innocent of this, and we're going to show it in court," Donahue said.

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