

1 THE COURT: All right. You may proceed.

2 DR. ALBERT CHU,

3 having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. ASLETT:

6 Q. Morning, Doctor. Would you please tell the jury your  
7 name.

8 A. My name is Albert Chu, C-h-u.

9 Q. What do you do for a living, Dr. Chu?

10 A. I'm an assistant medical examiner at the Harris  
11 County Institute of Forensic Sciences.

12 Q. How long have you been an assistant medical examiner  
13 for Harris County Institute of Forensic Sciences?

14 A. Over eight years.

15 Q. And what did you do before you became a medical  
16 examiner?

17 A. I underwent training to become a medical examiner.

18 Q. All right. Let's talk about that training. Starting  
19 with college and working our way through medical school, tell  
20 us about your education.

21 A. I went to college in -- grad school at Johns Hopkins  
22 University in Baltimore, Maryland, and then went to medical  
23 school at the State University of New York in Buffalo, New  
24 York. From there I did a residency program in anatomic and  
25 clinical pathology at the hospital of the University of

1 Pennsylvania in Philadelphia, Pennsylvania. I then did a  
2 fellowship in forensic pathology at the office of the chief  
3 medical examiner for the state of Maryland in Baltimore,  
4 Maryland.

5 Q. And for the members of the jury that might not know,  
6 if you could just very briefly explain what a residency is and  
7 what a fellowship is and what you do during those things.

8 A. Residency is training that occurs within a specialty  
9 of medicine after one graduates from medical school. And then  
10 fellowship is further training in an even more subspecialized  
11 field of whatever specialty that you did your residency in.

12 Q. Are you currently licensed to practice medicine in  
13 the state of Texas?

14 A. Yes.

15 Q. And were you licensed to practice medicine in the  
16 state of Texas back in 2010?

17 A. Yes.

18 Q. Do you have any board certifications?

19 A. Yes.

20 Q. Please tell us about those.

21 A. I'm certified by the American Board of Pathology in  
22 anatomic, clinical, and forensic pathology.

23 Q. Have you published any articles?

24 A. Yes.

25 Q. If you could just generally describe the areas you're

1 published in.

2 A. Articles within the field of pathology and forensic  
3 pathology.

4 Q. Now, you've mentioned pathology and forensic  
5 pathology so far in your testimony. Explain to the members of  
6 the jury, what is forensic pathology?

7 A. Forensic pathology is a subspecialty of medicine that  
8 deals with the investigation of sudden, unexpected, or violent  
9 death.

10 Q. As your -- part of your job as an assistant medical  
11 examiner, do you perform autopsies?

12 A. Yes.

13 Q. Please explain to the jury what an autopsy is.

14 A. An autopsy is the examination of a decedent that  
15 consists of an external examination during which I will look on  
16 the outside of the body for any evidence of illness or injury,  
17 followed by an internal examination where I look on the inside  
18 of the body again for any evidence of illness or injury.

19 Q. During your career, about how many autopsies, if you  
20 had to guess, would you say you performed?

21 A. Over 2000.

22 Q. Have you testified before as an expert witness in the  
23 field of forensic pathology?

24 A. Yes.

25 Q. On few or many occasions?

1 A. Many.

2 Q. I want to draw your attention back to August 21,  
3 2010. On August 21, 2010, did you conduct an autopsy on the  
4 body of Flora Ryan?

5 A. Yes.

6 Q. And during that autopsy, did you take photographs?

7 A. We have a forensic photographer who takes photographs  
8 under my direction.

9 Q. I guess so then photographs were taken in your  
10 presence?

11 A. Yes.

12 Q. Okay. And after you conducted your autopsy, did you  
13 write an autopsy report?

14 A. Yes.

15 MR. ASLETT: Permission to approach the witness, your  
16 Honor?

17 THE COURT: You may.

18 Q. (By Mr. Aslett) Dr. Chu, I'm going to show you what's  
19 been marked as State's Exhibits 100 through 119. Let's start  
20 with State's Exhibit No. 100. If you could tell jury what this  
21 is?

22 A. This is a copy of Flora Ryan's autopsy report with an  
23 attached toxicology report.

24 Q. Have you had a chance to review your autopsy report  
25 prior to testifying here today?

1 A. Yes.

2 Q. And in your autopsy report, do you make diagrams of  
3 the decedent's body illustrating the wound as you observed on  
4 your external examination?

5 A. Yes.

6 Q. And these diagrams in your autopsy report, did you  
7 yourself make these diagrams?

8 A. Yes.

9 Q. And do you think that showing these diagrams would  
10 help the jury understand the wounds that you found on Flora  
11 Ryan's body on that day?

12 A. Yes.

13 Q. Okay. I'm going to show you now State's Exhibits 101  
14 through 119. If you could flip through those and tell us  
15 generally what they are.

16 A. (Complies.) These are autopsy photographs from --  
17 photographs from Flora Ryan's autopsy.

18 Q. Do they fairly and accurately depict the state of the  
19 body as you saw it on August 21, 2010?

20 A. Yes.

21 MR. ASLETT: At this time State offers into evidence  
22 State's Exhibits 100, 101, and then 103 through 119.

23 MR. HOCHGLAUBE: Judge, can we approach?

24 THE COURT: You may.

25 (The following proceedings were had at the bench:)

1 MR. HOCHGLAUBE: Defense doesn't have any objection  
2 to 101, 100 I think is the --

3 MR. ASLETT: 102 is already admitted.

4 MR. HOCHGLAUBE: So 101 and 103 through --

5 THE COURT: 119.

6 MR. HOCHGLAUBE: -- 115 I don't have any objection  
7 to. But I can tender to the Court 116, 117, 118, 119.

8 THE COURT: 116, 117, 118 and 119.

9 MR. HOCHGLAUBE: 119.

10 THE COURT: All right. May I see the collection?

11 MR. HOCHGLAUBE: Our objection is just 403, Judge.

12 THE COURT: I'm sorry?

13 MR. HOCHGLAUBE: Is 403.

14 MR. BYNUM: And, you know, if I may, you know, the  
15 state of the law in 403 and autopsy photos is that manipulation  
16 of wounds like the way that the internal organ is kind of  
17 flayed out, that those are subject to 403 objection, that  
18 actually the -- because it's an alteration of the wound to --

19 MS. FULLER: Judge, those are the photographs that  
20 Dr. Chu selected for us to help illustrate the injuries,  
21 especially when you get to the objectionable photographs, of  
22 the vaginal tearing that he discovered.

23 MR. ASLETT: And, Judge, the reasons are that the  
24 external exam, it's not clear how bad they are. Also because  
25 we're contending a beer bottle was likely one of the things

1 used to assault her, you need to see that the lacerations go  
2 deep in there, almost up to the cervix, and that's consistent  
3 with that.

4 THE COURT: All right. I'll sustain the objections  
5 to 116 through 119. Of course he can discuss what he did and  
6 how he investigated it.

7 MR. ASLETT: Okay. If we could have the State's  
8 objection noted on the record.

9 THE COURT: Absolutely.

10 (The following proceedings were had in open court:)

11 THE COURT: State's 102 has already been admitted.  
12 State's 100, 101 is admitted, and 103 through 115 are admitted.

13 Q. (By Mr. Aslett) Dr. Chu, I'm going to start by  
14 showing you the diagram that you made of Flora Ryan's body, and  
15 if you could, using this diagram, generally on your overall  
16 external exam explain what you found. And we'll talk about the  
17 head later. If you could just focus on the body, excepting the  
18 head, using their diagrams.

19 A. This is a front and back diagram of Ms. Ryan's body.  
20 And you can see that I've made markings on that, on this  
21 diagram. The darker markings indicate contusions or areas of  
22 bleeding underneath the skin, or bruises. The lighter areas,  
23 which are probably hard for you to see, represent abrasions or  
24 scrapes of the skin.

25 Q. If you could talk about what you found on the

1 examination, her external examination using these diagrams.

2 A. This is a four-sided diagram of Ms. Ryan's head.  
3 Again, the dark markings represent contusions or bruises. The  
4 lighter markings, there are two on the right side of the  
5 forehead, represent abrasions or scrapes of the skin.

6 Q. I'm going to start showing you some of the  
7 photographs that were admitted into evidence, and if you could  
8 just tell us generally what we are looking at in State's  
9 Exhibit No. 101.

10 A. This is a sort of overall view of the front of  
11 Ms. Ryan's body, or at least the upper two-thirds of her body,  
12 and you can see some of the bruises and what we call ecchymosis  
13 or bleeding within the skin, mostly on her face and forearms  
14 and wrists.

15 Q. State's Exhibit 102?

16 A. This is a photograph of Ms. Ryan's face. Again you  
17 can see extensive bruising on her -- on both sides of her face,  
18 a little bit on her neck as well.

19 Q. Okay. State's Exhibit 103?

20 A. This is a picture of the right side of Ms. Ryan's  
21 head. Before this picture was taken, I shaved some of the hair  
22 off of her scalp to further demonstrate the bruising on the  
23 right side of her scalp. You can also see the two abrasions on  
24 the right side of her forehead that I mentioned earlier in the  
25 diagram that's the sort of orange brown markings on the right



1 side of her forehead.

2 Q. These two I'm pointing at?

3 A. Yes.

4 Q. State's Exhibit 104?

5 A. This is a picture of the right side of the back of  
6 Ms. Ryan's head. Again, the scalp hair has been removed, had  
7 been removed by myself before the photograph was taken, and  
8 again you can see the bruising on the scalp as well as some  
9 swelling of the scalp in the back of the head, and multiple  
10 other areas.

11 Q. And the swelling you are referring to, is that this  
12 right here, this bump I guess in the back of the head we're  
13 talking about?

14 A. Yes. There's a big area here as well as  
15 this (indicating) -- oops -- this area is also swollen.

16 Q. State's Exhibit 105?

17 A. This is the back of Ms. Ryan's head, again showing  
18 more bruising on the scalp.

19 Q. 106?

20 A. The left side of the back of Ms. Ryan's head, again  
21 showing more bruising and scalp swelling.

22 Q. 107?

23 A. Similar to the last photo, just taken from a slightly  
24 different angle.

25 Q. And finally State's Exhibit No. 108?

1           A.    The left side of Ms. Ryan's head, again showing more  
2 bruising and scalp swelling.

3           Q.    Are these multiple bruises that we've just seen all  
4 over Flora Ryan's head, is that consistent with just one fall?

5           A.    No.

6           Q.    Is it consistent with her head coming into contact  
7 multiple times with some sort of blunt object?

8           A.    Yes.

9           Q.    Is there any way to estimate how many blows from a  
10 blunt object it would have taken to cause that many bruises?

11          A.    Without knowing the object that caused them, without  
12 knowing what her head might have braced up against, it's  
13 impossible to give an accurate estimate of the exact number of  
14 times she was struck on the head.  However, just based on in  
15 general the number of different surfaces in which she has  
16 bruising, I can come up with a very conservative estimate of  
17 how many times, at least how many times she's been hit.

18                    So given that she has multiple bruises on all  
19 different surfaces on the body and looking at where the major  
20 impact sites are on her scalp, I would say a very conservative  
21 estimate would be at least four, four impacts, and quite likely  
22 many more than that.

23          Q.    Would it have been possible for a person's hand or  
24 fist to have caused these injuries?

25          A.    Yes.

1 Q. Possible for a bottle to have caused these injuries?

2 A. Yes.

3 Q. Such as a beer bottle?

4 A. Yes.

5 Q. Okay. And of course, as you mentioned, it's not  
6 possible just based on bruises to determine what blunt object  
7 we're talking about?

8 A. Yes.

9 Q. Possible for a wall to have caused those injuries as  
10 well?

11 A. Yes.

12 Q. Is the manner in which this blunt object, whatever it  
13 is, coming into contact with Flora Ryan's head capable of  
14 causing serious bodily injury or death to her?

15 A. Yes.

16 Q. How so?

17 A. Well, any impact with a blunt object, as you can see,  
18 will result in bruising. What's not as easily appreciated from  
19 the external photographs is that there's also a fair amount of  
20 bleeding into the scalp itself. I mean, I think you get some  
21 indication of that from the amount of swelling that was on her  
22 scalp. All that swelling represents blood pooling inside of  
23 her scalp. So any kind of blood loss can contribute to  
24 someone's death, especially if they have, you know, underlying  
25 medical conditions that make them fragile from a medical

1 standpoint.

2 Q. Did you at a later point in the autopsy peel back her  
3 scalp to determine how much blood loss there would have been  
4 underneath there?

5 A. Yes.

6 Q. And what did you find?

7 A. As I alluded to earlier, a lot of -- there was a lot  
8 of hemorrhage underneath the undersurface of her scalp and  
9 within the scalp itself.

10 Q. Now, are -- is a 92-year-old woman like Flora Ryan,  
11 is it easier for an older woman such as her to bleed out  
12 compared to, say, a younger healthier person, say a 32-year-old  
13 man, from the same type of injuries?

14 A. Yes.

15 Q. And if you could explain that, why it's easier for a  
16 92-year-old woman to die from blood loss than it would be for a  
17 younger healthier person?

18 A. So I think one thing to mention that will help  
19 explain it is that Ms. Ryan did have some significant  
20 underlying heart disease. She had blockages in two of her  
21 major coronary arteries. Those are the arteries that supply  
22 blood to the heart muscle itself. So when someone dies, their  
23 heart stops beating. One of the things that will -- one of the  
24 most common cause of heart not beating is an interruption in  
25 the blood flow and oxygen supply to the heart.

1           So in her case, because she already has this  
2 preexisting heart condition, even a relatively small amount of  
3 blood loss, which might be insignificant to a younger healthier  
4 individual, could have a major effect on her heart function,  
5 especially in someone who is being physically assaulted who has  
6 an increased heart rate, is experiencing stress, that's going  
7 to require more oxygen for that heart that's already  
8 functioning at a borderline level, and then once you take away  
9 some blood, which is basically what carries oxygen to that  
10 heart, it's basically two sides of the same coin, increased  
11 stress on the heart while you're taking away blood flow to that  
12 same heart, those things work together to cause that heart to  
13 stop working.

14           Q.    Let me show you again State's Exhibit No. 102. I  
15 guess on this photograph we can see darker bruising on the  
16 right side of Flora Ryan's face, slightly lighter bruising on  
17 the left side. Were you able to determine the relative ages of  
18 these bruises?

19           A.    Yes.

20           Q.    Tell us what you found and how you went about  
21 determining that.

22           A.    So one of the things I did to sort of get an idea of  
23 the age of the bruises is to look at them microscopically. So  
24 what happens is I will take a, basically like a small biopsy of  
25 the tissue in the area of injury and look at it underneath the

1 microscope. And what I'm looking for is the body's reaction to  
2 that injury.

3           And so to sort of explain how this works is if -- if  
4 she or anyone sustains an injury and dies immediately, that  
5 person's body does not have time to try to heal that injury.  
6 So if I were to look at that injury underneath a microscope, I  
7 should see no evidence of healing, no evidence of inflammation,  
8 no reaction to that injury because the person died immediately.

9           If, however, the person survived, say, six hours,  
10 that's enough time for that -- the body to start trying to  
11 repair that wound. And then if I look at that underneath the  
12 microscope after a six-hour delay, I should see some kind of  
13 reaction to that injury. And then this can stretch out. If  
14 it's a day later it will look different.

15           So in her case, what I did was I sampled some of  
16 these areas of bruising on her head and looked at them  
17 underneath the microscope to see if there was any reaction to  
18 those injuries. So when I sampled tissue from the right side  
19 of her head, the right temple and the right cheek, all I saw  
20 underneath the microscope was acute blood. That means no  
21 reaction to the injury, that suggests that the injury is -- is  
22 a new one, happened near the time of death, at or near the time  
23 of death.

24           When I sampled tissues on the left occipital scalp,  
25 which is the left side of the head and the left cheek, there

1 had been some hemorrhage, but this time there was a little bit  
2 of reaction to them. So that, to me, suggests that at least  
3 part of these injuries might have been a little bit older, you  
4 know, could have been something sustained within a day of  
5 death.

6 Q. State's Exhibit 109, what are we looking at here?

7 A. This is a picture of Ms. Ryan's left forearm and  
8 hand.

9 Q. And State's Exhibit 110?

10 A. This is her right arm, her right of her extremity.

11 Q. What can you tell us about the possible cause of the  
12 bruising to both of Flora Ryan's arms?

13 A. The bruising, any bruising in general is caused by  
14 some kind of blunt trauma, striking a blunt object or surface  
15 or being struck with a blunt object or surface. In someone of  
16 her age, it can be relatively minor trauma that leads to  
17 bruising.

18 This location, the forearms and hands, is a very  
19 common location for this type of ecchymosis or this kind of  
20 collection of blood in the forearms just from sort of  
21 day-to-day bumping into things. The extent of it is greater  
22 than what we usually see, but it's hard to say, there's no way  
23 for you to know exactly what caused these bruises.

24 Q. So it could just be bumping into things. Could it  
25 also be caused by defensive wounds possibly?

1 A. Yes.

2 Q. We just don't know for sure?

3 A. Correct.

4 Q. Okay. But you mentioned I guess that the -- the  
5 extent of these bruises are, I believe you said worse than you  
6 normally see. In what way?

7 A. I would say compared to individuals who I've  
8 autopsied or done external examinations on in this age range,  
9 who are dying of things like accidental death, hip fractures or  
10 that kind of -- or even natural deaths, they typically, it's  
11 not uncommon to see bruising in this location on the forearms,  
12 on the wrists, but it's -- it's usually not this severe.

13 Q. State's Exhibit 111?

14 A. This is a picture of Ms. Ryan's left foot.

15 Q. And what findings did you make about her left foot  
16 when you examined it?

17 A. As you can see, she has some bruising on the top of  
18 her left foot, and on some of her toes, and a few bruises on  
19 her left ankle as well.

20 Q. And State's Exhibit 112?

21 A. This is again her left foot, and specifically in her  
22 left -- fifth toe, or the small left toe, and there's an  
23 incision that I made during the autopsy, and this demonstrates  
24 a fracture of the bone of her left fifth toe.

25 Q. And would this left toe fracture have impaired Flora



1 Ryan's ability to walk?

2 A. It may have.

3 Q. State's Exhibit 113?

4 A. This is an external photograph of Ms. Ryan's  
5 genitalia taken during the early stages of the autopsy. It was  
6 taken before we clean up her body. This is how it appeared  
7 when she first came to my autopsy.

8 Q. State's Exhibit 114, if you could tell us what we're  
9 looking at here.

10 A. This is again a picture of Ms. Ryan's genitalia, and  
11 I'm exposing the inner parts of it. And you can see some blood  
12 around the outside.

13 Q. Is it common when you perform autopsies on a woman  
14 this age to see that kind of bleeding in the area around her  
15 vagina?

16 A. No.

17 Q. State's Exhibit 115?

18 A. Another slightly closer view of the same thing. Here  
19 you can see that there is a laceration or tear of the, what we  
20 call the mucosa. It's basically the skin around the outer  
21 portion of her vagina.

22 Q. So this is one of the lacerations that you found on  
23 your external examination?

24 A. Yes.

25 Q. Did you later in your autopsy take out Flora Ryan's

1 uterus to examine if there were any additional lacerations  
2 inside her vagina?

3 A. Yes.

4 Q. Tell us what you did and what you found.

5 A. In addition to that laceration near the opening that  
6 you just saw, she had two other lacerations within her vagina.

7 Q. And how big were these lacerations?

8 A. They -- there was one that was 5 centimeters, and  
9 another one that was 3 centimeters.

10 Q. And how far did these lacerations extend into the  
11 vaginal cavity?

12 A. They extended up to 9 centimeters into the vaginal  
13 canal.

14 Q. I guess if you had to, I guess using your hands, one  
15 part's the vaginal opening, one part's the cervix or the top of  
16 the uterus, how deep or how close to the cervix did these  
17 lacerations go?

18 A. To the cervix or? Oh, they extended basically up to  
19 this, up to the cervix.

20 Q. And in total how many lacerations did you find to her  
21 vaginal area and her uterus both internally and externally?

22 A. She did not have any lacerations of her uterus. She  
23 had three vaginal lacerations.

24 Q. And what can you tell us about what might have caused  
25 those vaginal lacerations?

1           A.    Some kind of blunt trauma, penetrating trauma to the  
2 vagina.

3           Q.    And based on your exam, did those lacerations cause  
4 the bleeding that we've seen externally through her vagina on  
5 the external exam?

6           A.    Yes.

7           Q.    And is there anything you can tell us about the  
8 nature of the blunt object given the number -- well, let me  
9 back up. How would you classify these lacerations, severe,  
10 acute, how would you say they are?

11          A.    They appeared to be acute. So again, going through  
12 that same procedure I talked about before, about looking at  
13 injuries underneath a microscope to see if there's any reaction  
14 to those injuries, I did the same thing for the vaginal  
15 lacerations to see if there were any reaction to those  
16 injuries, and there was none. So again, that suggests that  
17 this is an injury that occurred at or near the time of death.

18                   As far as -- what was the rest of that question?

19          Q.    I guess, I think that answers it. Is there any way  
20 to tell how much blood loss would have been caused by these  
21 just on looking at them, any way to know?

22          A.    No.

23          Q.    Now, doesn't the external surface of a 92-year-old  
24 woman's skin tear more easily than a younger person's skin?

25          A.    Yes.

1 Q. Is that also true for the vaginal skin, vaginal  
2 lining?

3 A. Probably.

4 Q. Is it possible for an object such as a penis to have  
5 caused these lacerations, given her age?

6 A. Yes.

7 Q. Is it possible for a blunt object such as a bottle,  
8 particularly given how deep these extend in, to have caused  
9 these injuries?

10 A. Yes.

11 Q. Are these vaginal lacerations that you found more  
12 consistent with I guess one thrust or multiple thrusts of  
13 whatever this object was?

14 A. It depends. Without knowing what the object is, it's  
15 impossible to say. If it's a simple object that doesn't have a  
16 lot of angles or weird shapes, it would be more than one, it  
17 would require more than one thrust.

18 Q. And was the manner in which whatever this blunt  
19 object or objects would have been inserted into a vagina  
20 capable of causing her serious bodily injury or death?

21 A. Yes.

22 Q. That did, in fact, cause her serious bodily injury?

23 A. Yes.

24 Q. Do you believe that these vaginal, the bleeding from  
25 these vaginal injuries contributed to her death?

1 A. Yes.

2 Q. I want to talk briefly about some other things that  
3 you found. You've already mentioned the condition of her  
4 heart. I guess you said that she had heart disease, blockages  
5 in her arteries?

6 A. Yes.

7 Q. Is that a common or uncommon finding in a 92-year-old  
8 woman?

9 A. It's fairly common.

10 Q. Was there anything about the blockages in her  
11 arteries alone that suggested that some sort of heart problem  
12 alone, not in conjunction with these other wounds, would have  
13 been cause for death?

14 A. There was nothing acute, meaning that there was no  
15 acute finding in the heart that would explain her death. She  
16 probably had these blockages for years.

17 Q. And did you make any examinations concerning her  
18 ribs?

19 A. Yes.

20 Q. What did you find out when you examined her ribs?

21 A. She had fractures of two ribs, right rib four and  
22 left rib six.

23 Q. And what could have possibly caused those fractures?

24 A. Some kind of blunt trauma.

25 Q. And did you make any observations concerning her

1 brain?

2 A. Yes.

3 Q. What did you find out when you examined her brain?

4 A. Microscopically she had some, what we call neuro  
5 degenerative changes, so changes consistent with someone who  
6 has a history of dementia or some kind of degenerative brain  
7 process.

8 Q. And did you find any evidence during your examination  
9 that Flora Ryan's death occurred naturally?

10 A. No.

11 Q. And based on your autopsy, do you have an opinion as  
12 to what caused her death?

13 A. Yes.

14 Q. What is that opinion?

15 A. Blunt force injuries with cutaneous contusions, or  
16 bruising of the skin, and vaginal lacerations.

17 Q. And what did you classify this death as?

18 A. A homicide.

19 Q. And just generally, in case I wasn't explicit about  
20 it before, could a fist be a deadly weapon or a blunt object  
21 when used on a 92-year-old woman?

22 A. Yes.

23 Q. Or could it be a bottle used as a deadly weapon when  
24 used on a 92-year-old woman?

25 A. Yes.

1 Q. And same thing for an erect penis, same question?

2 A. Yes.

3 Q. Thank you, Dr. Chu.

4 MR. ASLETT: Pass the witness.

5 THE COURT: Cross-examination.

6 CROSS-EXAMINATION

7 BY MR. HOCHGLAUBE:

8 Q. Dr. Chu, I don't know if you remember, my name is  
9 Mark Hochglaube. I came and met with you over at the -- it's  
10 not the medical examiner's office anymore. What's the name of  
11 it?

12 A. Harris County Institute of Forensic Sciences.

13 Q. Okay. The -- I just have a couple of very quick  
14 questions. There's no question that Flora Ryan suffered a lot  
15 of trauma, correct?

16 A. Yes.

17 Q. You said that you couldn't be sure how many thrusts  
18 the vaginal injuries proved. Does that question make sense?

19 A. Yes.

20 Q. And I guess I'm -- I want to ask, it's -- there's a  
21 difference between when something is, say, sliced with a knife  
22 and when tissue because of pressure splits. Do you understand  
23 the difference that I'm talking about?

24 A. Yes.

25 Q. Could you tell whether these -- these cuts, because

1 basically that's what you're talking about, inside of her  
2 vagina, right?

3 A. Well, they're not cuts. Cuts are incised wounds,  
4 meaning that something caused by a sharp object, like a knife.  
5 Lacerations are instead something caused by a blunt object.  
6 It's tearing of the skin, so it's caused by a blunt object.

7 Q. Okay. So for instance, so in this case we're not  
8 suggesting that there was some sort of sharp object that was  
9 inserted and caused those cuts, it was something that basically  
10 because of the pressure the skin inside it tore; is that right?

11 A. So I agree not sharp, but not necessarily pressure.  
12 I mean, it could just be a forceful application of blunt  
13 instrument.

14 Q. Okay. It's possible that there were multiple  
15 thrusts?

16 A. Yes.

17 Q. And it's possible that it was one thrust; is that  
18 right?

19 A. I think if it was a -- again, an object with a  
20 complex shape, something that had -- not like a broomstick  
21 handle, but something that had weird protrusions or something  
22 like that, then you could in theory get more than one  
23 laceration from a single thrust.

24 Q. But it sounds like you suspect it was more than one  
25 thrust; is that right?



1           A.    Again, if it -- if it's something that does not have  
2 an irregular shape or strange contour, then I think it would  
3 take more than one thrust.

4           Q.    The reason why I'm bringing this up is because, I  
5 mean, you couldn't quantify exactly how much blood loss there  
6 would have been from these -- from these injuries, right?

7           A.    Correct.

8           Q.    But you can say that there would have been a  
9 significant amount of blood loss, right?

10          A.    Yes.

11          Q.    I mean, and obviously you saw in your own photos  
12 evidence of blood loss, right?

13          A.    Correct.

14          Q.    And it wouldn't surprise you that there was  
15 significant amount of blood found at the scene where she was  
16 found, right?

17          A.    Correct.

18          Q.    And the object, if it was inserted and had multiple  
19 thrusts as you suspect, you would expect that object to come  
20 out with at least some blood on it, wouldn't you?

21          A.    Yes.

22          Q.    And some sort of tissue perhaps, based on how much --  
23 how much blood there was -- there would have been coming out of  
24 it, right?

25          A.    Yes.

1 Q. Now, there's a medical word called epithelial; is  
2 that correct?

3 A. Yes.

4 Q. And what that means is it's epithelial cells is the  
5 way it's sometimes -- what sort of cells in the body are used  
6 to describe; is that right?

7 A. Yes.

8 Q. And routinely that means skin cells, right?

9 A. Skin cells contain epithelial cells, yes, but the  
10 epithelial cells can mean a lot -- more than just skin.

11 Q. Okay. And it's -- but it's some sort of covering of  
12 an item, whatever that may be, right?

13 A. Yes.

14 Q. So, for instance, the outside of your stomach has  
15 what we described it as epithelial cells, right?

16 A. The inside of the stomach, depending on how you're  
17 looking at it, right.

18 Q. But basically whatever it is, the tissue that  
19 encompasses the stomach itself, that would be considered some  
20 sort of epithelial cell, right?

21 A. The lining of the stomach.

22 Q. Right. As opposed to a blood cell, right?

23 A. Correct.

24 Q. And then a blood cell is something different than an  
25 epithelial cell, correct?

1           A.    Yes.

2           Q.    The -- now, I just want to make sure I heard you  
3 correctly.  You said the photograph of Flora shows pretty bad  
4 bruising on both sides of her face, correct?

5           A.    Yes.

6           Q.    And -- but if you have to say the one side was worse  
7 than the other, it would be the right side looks worse than the  
8 left, right?  Correct?

9           A.    On her face, yes.

10          Q.    Right.  That's what I'm talking about.

11                   And you said you did testing on both sides of her  
12 face to determine whether either side showed sort of older  
13 bruises; is that right?

14          A.    Yes.

15          Q.    And your testimony was that the right side had sort  
16 of brand-new bruising and the left side had older bruising; is  
17 that right?

18          A.    Yes.

19          Q.    Okay.  And so -- and you're an expert witness, so  
20 there's no -- normally witnesses aren't supposed to hear what  
21 other witnesses say, but it's okay for you to know what other  
22 witnesses have testified to, right?

23          A.    I may have that information at the time the autopsy  
24 was done, not specifically what has been testified to today or  
25 during this trial.

1 Q. Sure. More than anything, for the purposes of the  
2 record, I just don't want to be violating any rules of the  
3 court. All right. And normally, you understand witnesses  
4 aren't supposed to hear what other witnesses have testified to,  
5 right?

6 A. Yes.

7 Q. But the rules are different for an expert witness  
8 because a lot of times an expert has to know how other  
9 witnesses have testified in order to make sense of their own  
10 testimony, okay?

11 A. I don't know what anyone else has testified to in  
12 this case, I mean.

13 Q. Right. And I'm not suggesting otherwise, but I'm  
14 about to tell you.

15 A. Okay.

16 Q. If the witnesses basically universally said that  
17 Flora had had a pretty bad bruise on her face and had been to  
18 the hospital for a pretty bad bruise on her face on the right  
19 side just within a matter of days of this incident, all right,  
20 how does that comport with your understanding of the bruising?

21 A. So if there was a bruise there several days earlier,  
22 you know, I would expect to see some kind of reaction  
23 microscopically. And in this case, you know, if what you're  
24 saying is what happened that she had an older bruise on the  
25 right side of her face, the natural question is why didn't I

1 see reaction to it under the microscope, and the answer is, in  
2 the way, most likely is in the way I look at these injuries,  
3 okay. So it's impossible for me to look at the entirety of the  
4 right side of her face underneath the microscope. I would have  
5 to peel off her whole face and submit the whole thing, and that  
6 can't be done. So all I'm doing is taking a very small, and  
7 we're talking about a couple millimeter size piece of tissue  
8 just as a random sample from her face, you know, her cheek, her  
9 temple, her scalp, and looking at that underneath the  
10 microscope.

11 Now, you saw the photos of her face where pretty much  
12 the whole side of her head is bruised, her whole scalp is  
13 bruised, her whole left side of her face, or much of the left  
14 side of her face is bruised, so, you know, is it possible that  
15 I might have missed in my tiny little sample an older component  
16 of a bruise that was there the day before, yes. That doesn't  
17 surprise me at all. So that -- that's -- that would be my  
18 explanation for that.

19 MR. HOCHGLAUBE: Judge, may I just approach the  
20 evidence?

21 THE COURT: You may.

22 Q. (By Mr. Hochglaube) Now, you talked about a bottle,  
23 right, potentially causing this type of injury?

24 A. Yes.

25 Q. Right. And different bottles come in different

1 shapes, right?

2 A. Yes.

3 Q. Some of them have a very narrow top and some of them  
4 have a more sort of spread out top the way State's Exhibit 81  
5 does, which is this Steel Reserve malt liquor bottle, right?

6 A. Yes.

7 Q. Now, I know you can't say definitively what object  
8 caused the lacerations inside Flora's vagina, right?

9 A. Yes.

10 Q. But would you agree with me that as opposed to say,  
11 like, a Bud Light bottle -- you know what a Bud Light looks  
12 like, right?

13 A. Yes.

14 Q. A Bud Light bottle probably would be more consistent  
15 with those injuries than a bottle like this, right?

16 A. I don't -- I don't know that I can tell one way or  
17 the other from the injuries whether it was a bottle like that  
18 or a narrower bottle.

19 Q. Well, I don't -- I have to be a little bit graphic  
20 here, but you're saying that the nature of her injuries were  
21 basically 9 centimeters in; is that right?

22 A. Yes.

23 Q. From the opening?

24 A. Yes.

25 Q. So whatever object it was you're suspecting actually

1 penetrated 9 centimeters in, right?

2 A. It could have, yes.

3 Q. I mean, that's what you suspect, right?

4 A. I mean, a 9 centimeter measurement is taken once the  
5 uterus and vagina are out of the body, so -- and laid out, so I  
6 don't know how it was sitting in her body while she was, you  
7 know, altogether. So it could be 9. It could be less. It  
8 could be more.

9 Q. Okay. Well, do you suspect that a bottle like this  
10 could be inserted 9 millimeters inside of her vagina?

11 A. 9 centimeters.

12 Q. 9 centimeters. I'm sorry. Thank you.

13 A. It could. It could. There were lacerations at the,  
14 remember at the opening, so, you know, that wider part as it  
15 goes in can cause those tears at the opening, and allow  
16 something of that shape to get in, you know, even if it is 9  
17 centimeters, and it tears at the opening and then it could go  
18 in further.

19 Q. But if that happened you would expect that there  
20 would be some sort of matter, blood, on the object, right?

21 A. Yes.

22 MR. HOCHGLAUBE: Judge, I pass the witness.

23 THE COURT: Anything further?

24 MR. ASLETT: Very briefly, Judge, just a couple of  
25 questions.

## REDIRECT EXAMINATION

1  
2 BY MR. ASLETT:

3 Q. Dr. Chu, Defense counsel mentioned epithelial cells.  
4 Does the inside of the vaginal canal contain epithelial cells?

5 A. Yes.

6 Q. So not all epithelial cells come from, I guess you  
7 would say dermis, they can also come from the lining inside  
8 your body?

9 A. Any lining in the body has -- well, not every but a  
10 lot of the linings in the body have an epithelial cell layer.

11 Q. And these questions I'm going to ask you now sound  
12 silly but I have to ask them for legal reasons. Would hitting  
13 a 92-year-old woman multiple times with your fist or bottle  
14 constitute an act clearly dangerous to that person's life?

15 A. Yes.

16 Q. Same question for a blunt object, also clearly  
17 dangerous to a 92-year-old woman's life?

18 A. Yes.

19 Q. And same thing for sticking a blunt object such as a  
20 bottle or an erect penis inside a 92-year-old woman, would also  
21 constitute an act clearly dangerous to that 92-year-old woman's  
22 life?

23 A. Yes.

24 Q. Okay. Now, you were also asked some questions about  
25 presence of blood if a bottle were used in that manner. Since



1 I can also mention what other witnesses may have testified to  
2 you, blood can be washed away, correct?

3 A. Yes.

4 Q. If somebody took a bottle that were used in that  
5 manner, say the assault took place in the bathroom, and rinsed  
6 it off and then dried it off with a towel, would you  
7 necessarily expect to find any blood on that bottle?

8 A. You might not.

9 Q. Or visually anyway?

10 A. Yes.

11 Q. Okay. Same thing if a penis were used, is it  
12 possible to get rid of a lot of the epithelial cells or the  
13 blood through washing and drying off the penis?

14 A. Yes.

15 Q. Thank you, Dr. Chu.

16 MR. ASLETT: No further questions, your Honor.

17 THE COURT: Anything further?

18 MR. HOCHGLAUBE: Nothing.

19 THE COURT: May this witness be excused?

20 MR. HOCHGLAUBE: Yes, your Honor.

21 THE COURT: Thank you very much for coming in.

22 All right. Folks, I think this is a natural breaking  
23 point. We will recess for lunch, and we will expect to see you  
24 back here just whenever you-all get back, but in about an hour,  
25 maybe a little bit more. Okay.

1 (Jury out.)

2 THE COURT: All right. You may be seated.

3 MR. HOCHGLAUBE: Since the State's next witness is  
4 Abbondandolo, do you want to do the record stuff?

5 THE COURT: Okay.

6 MR. HOCHGLAUBE: And I will -- I will be happy to  
7 proffer to the Court a copy of this transcript with -- maybe I  
8 can proffer the copy that I've given the Court already.

9 THE COURT: To include in the record?

10 MR. HOCHGLAUBE: To be included in the record, just  
11 so it has my own highlighted notes, and I can state my  
12 objections, if that's all right with the Court.

13 THE COURT: It's okay with me, but when I make my  
14 ruling I'm going to have it back so I can remember what I said.

15 MS. FULLER: And, Judge, would you like a new copy of  
16 the last set of redactions?

17 THE COURT: Yes.

18 MR. HOCHGLAUBE: Okay. So on page 19, of what I  
19 guess I'll proffer as Defendant's Exhibit 2, that's not to be  
20 submitted before the jury, just for appellate purposes, which  
21 is a copy of one -- one of the versions that the State -- of  
22 the State's transcription of the interview between Officer  
23 Abbondandolo, Officer Abbey, and the defendant Dean Wood, and  
24 Sergeant Burton. On page 19 of that transcript, Officer Abbey  
25 is telling Dean Wood, "I don't mean to insult you, but from

1 what you're telling me, I don't think you're telling me the  
2 exact truth." And I would object to that on the basis of it  
3 being hearsay, and on the basis of it invading the province of  
4 the jury, which is to make its own factual assessment of who's  
5 telling the truth. So I would object to that on page 19 on  
6 that basis.

7 THE COURT: I'll overrule that objection.

8 MR. HOCHGLAUBE: On the next page, Officer Abbey  
9 says, "But I want to let you know at this point, I don't think  
10 that you're being honest with me." Again, I would object for  
11 the same reason.

12 THE COURT: And I'll overrule that objection.

13 MR. HOCHGLAUBE: Okay. I believe it should be page  
14 35, where Officer Abbey is telling Dean Wood, "Well, I don't  
15 think you're being straightforward with me," exact same  
16 objections, hearsay and invading the province of the jury.

17 THE COURT: I will overrule that objection.

18 MR. HOCHGLAUBE: 40 -- I don't have any objection on  
19 page 40. I think these are the judge's. Oh, actually, I'm  
20 sorry, the -- this one, the bottom one, those are, "Well, at  
21 the autopsy today, those are all brand new; they're less than  
22 24 hours old," that's Officer Abbondandolo basically commenting  
23 on what other people have told him about bruises, and  
24 photographs that they're looking at, and again, that's hearsay.  
25 I don't know who told Officer Abbondandolo that, and so it

1 could be a confrontation objection potentially.

2 THE COURT: I'll overrule that.

3 MR. HOCHGLAUBE: 45, at the top of 45, Officer  
4 Abbondandolo is telling Dean Wood, "I'm going to tell you this:  
5 I don't believe what you're telling me." Again, that's  
6 hearsay, and it invades the province of the jury.

7 THE COURT: I'm going to overrule that top on page  
8 45, the first green highlighted portion, I'm going to overrule  
9 that objection.

10 MR. HOCHGLAUBE: The next one, "This is my 29th year  
11 doing this and I've sat across from guys and they've talked to  
12 me and I've listened to what they've said and I don't believe  
13 anything you're saying," again, that's all hearsay, it's not  
14 relevant in this case, and it invades the province of the  
15 jury's fact finding issue.

16 THE COURT: And I'll overrule that objection.

17 MS. FULLER: Just for the record, that last  
18 highlighted box was removed.

19 MR. HOCHGLAUBE: Yeah, the last box on page 45, which  
20 is highlighted, and I objected to it, your Honor, is --

21 THE COURT: And I've ordered the State to remove that  
22 portion that includes, "And see, what you don't know, or maybe  
23 you do know, things occur in your body when you're put in a bad  
24 position, when you're put in a stressful situation. You can't  
25 control certain muscle groups in your body, so your body does

1 certain things no matter how hard you try to mask that, you  
2 can't. That's why I can tell you're lying," the State of Texas  
3 has removed that, in their final copy.

4 MR. HOCHGLAUBE: Okay. On 48, Officer Abby says, "I  
5 think you do remember," basically, again stating his opinion,  
6 and -- which is hearsay, and invading the province of the jury,  
7 that the defendant is not telling the truth.

8 THE COURT: I overrule that objection.

9 MR. HOCHGLAUBE: 57, Officer Abbondandolo, at the  
10 bottom of the page saying, "And you said some things that made  
11 them wonder if you might've done anything to Ms. Flo, that's  
12 why we're here." This is basically Officer Abbondandolo  
13 basically explaining that he's talked to the paramedics, and  
14 these are comments that the paramedics have made to him.  
15 Again, this is a hearsay objection. In this case it's a  
16 confrontation objection as well, and we would object to it on  
17 that basis.

18 THE COURT: All right. That's overruled.

19 MR. HOCHGLAUBE: This should be 81. All right. This  
20 is Officer Abbondandolo, "And the problem that we couldn't do  
21 is there's no way we could get grandma's DNA there. So that's  
22 my really -- I guess that's what this all comes down to, Dean.  
23 How did it get there?"

24 And Dean with the response, "I wouldn't know; DNA  
25 off, what, just hands or anything?"

1            "No, sir, your penis."

2            And my objections are based on what Officer Abbey is  
3 saying, that he's basically saying based on hearsay presumed  
4 on both. I don't really know if Officer Abbey knows at this  
5 point whether or not there's DNA there, but it would still be  
6 hearsay. Officer Abbey is making this assertion, and we would  
7 object to it as hearsay.

8            THE COURT: I agree that that shouldn't be on there.  
9 And so I'll sustain that from where Officer Abbey begins on  
10 page 81 to where -- from where Dean Wood says "I know" down to  
11 where Dean Wood finishes with "I don't know, I don't know," on  
12 the following subsequent page.

13            MR. HOCHGLAUBE: Okay, that's 81 and 82.

14            And on page 83, Officer Abbey, "I'm not trying to do  
15 anything except explain to you the way things work -- which I  
16 think you already know," object to that as Officer Abbey's  
17 opinion, and this is the last paragraph of Officer Abbey on 83.

18            And his last statement, "I think that you come across  
19 as a big fat liar." So on page 83, "which I think you already  
20 know" and "I think you come across as a big fat liar," I object  
21 on the same grounds. These are him stating his opinion,  
22 invading the province of the jury, and it being hearsay.

23            THE COURT: I'll overrule that objection on page 83.

24            MR. HOCHGLAUBE: And on page 84, is this the one that  
25 you --

1 THE COURT: No, this is --

2 MR. HOCHGLAUBE: Okay. So this isn't -- on page 84,  
3 I'm looking at a fairly significant soliloquy, in the words of  
4 the judge, from Officer Abbondandolo, where Officer  
5 Abbondandolo is saying, "your explanation doesn't match the  
6 physical evidence that's there, doesn't match what Julie's  
7 saying, okay? Mary's out there, she cares for you a great  
8 deal. She cares for you a -- I'm amazed; when we stepped  
9 outside, that's who we went and spoke with; we're here now.  
10 She cares a great deal for you and is worried about what's  
11 going to happen next, very worried. I'll be honest with you --  
12 I'm shocked, Julie was very specific about a few things. She  
13 left yesterday because you were intoxicated. She was worried  
14 because you were so intoxicated. That's what she told us. All  
15 I'm telling you is what she told us. All I'm telling you is  
16 what the other officers told us about your behavior, what the  
17 paramedics told us about your behavior," and I would object to  
18 those under hearsay and confrontation clause, objection to what  
19 the paramedics and other officers that may not have testified  
20 here in trial told Officer Abbondandolo.

21 THE COURT: And I'll overrule that. All of those  
22 things have been testified to prior.

23 MR. HOCHGLAUBE: This -- you agreed this one --

24 THE COURT: That one's already gone. You-all told me  
25 that was already missing.

1 MR. HOCHGLAUBE: Okay. I think it's the death row  
2 part, right?

3 MS. FULLER: Yes. Then it makes sense. Yes, the  
4 death row part's out.

5 MR. HOCHGLAUBE: Okay. Okay, I'd object to relevance  
6 on page 85, "And I'm going to tell you, Dean, I've sat across  
7 from a lot of guys that blacked out."

8 THE COURT: I'll overrule that.

9 MR. HOCHGLAUBE: And then again, invading the  
10 province of the jury and hearsay, "I'm saying to you I don't  
11 believe the blacked out thing."

12 And then on the next page, which is 86, same  
13 objection, "it leads me to believe that you're not being  
14 honest." Again, I object to that being hearsay, to being -- to  
15 invading the province of the jury.

16 THE COURT: And I overrule that objection.

17 MR. HOCHGLAUBE: Page 87, "These are brand new, fresh  
18 injuries that you have a witness saying, 'They weren't there  
19 when I left. They're there when I come back.' And your story  
20 and her story don't match up." Again I object that that's  
21 hearsay, and confrontation, objection.

22 THE COURT: Overruled. But I want you to tell 'em  
23 that you object to it and then I grant it.

24 MR. HOCHGLAUBE: Sorry.

25 87 -- page 88, the Court is granting, or I made an



1 objection, "So was I, but I just thought it was unusual in your  
2 behavior when I mentioned that and you kind of laughed. I  
3 think they'll notice that. I think they'll notice a lot of  
4 your physical behavior. And all that leads to you not being  
5 honest."

6 THE COURT: And the Court has granted your request  
7 that that be removed and it's been redacted from the State's  
8 final copy.

9 MR. HOCHGLAUBE: That's page 88. All right.

10 Page 89, this is Officer Abbondandolo facetiously  
11 saying to the defendant that at the close of the interview,  
12 "Oh, that's a good defense. Oh, no, I think that's something  
13 that will work," and "Again, I don't think you're being  
14 honest," those are -- those are his opinions, those are  
15 hearsay, those are invading the province of the jury, and we  
16 would object to those being included.

17 THE COURT: And I'll overrule those objections.

18 MR. HOCHGLAUBE: And we're done. Can I mark it as  
19 Defendant's Exhibit 2?

20 REPORTER: Yes.

21 (Pause.)

22 MR. HOCHGLAUBE: Can I put one more thing on the  
23 record?

24 One of the other things we talked about off the  
25 record this morning was Officer Abbondandolo talking about

1 having sort of scientific basis for believing why a person he's  
2 talking to is telling the truth or not telling the truth, sort  
3 of physical signs in their behavior. I just ask the Court for  
4 a running objection to that type of testimony, basically,  
5 again, because it's -- all of these comments that he's made  
6 about I don't believe you, I don't believe you, he's basically  
7 creating -- he's turning himself into a human polygraph  
8 machine, and none of that should be admissible because it  
9 invades the province of the jury. The jury can look at his  
10 behavior on that video and they can decide whether or not they  
11 think he's telling the truth. They don't need Officer  
12 Abbondandolo to tell 'em.

13 THE COURT: And as we also discussed off the record,  
14 I believe that if the State lays the foundation about his  
15 training and experience and identifying truth telling or not,  
16 that the jury can have that for their consideration and  
17 consider it as part of that information since he's an expert  
18 when they decide to evaluate the witness and his or the  
19 defendant's behavior on the videotape.

20 MR. HOCHGLAUBE: Can I have a running objection to  
21 that?

22 THE COURT: You may.

23 MR. HOCHGLAUBE: Thank you.

24 THE COURT: Does the State wish to respond?

25 MS. FULLER: No, I do not.

1 (Lunch recess.)

2 (Open court, defendant present.)

3 THE COURT: Can we have the jury, please.

4 (Jury in.)

5 THE COURT: All right. You may be seated. Ladies  
6 and gentlemen, this witness was sworn just prior to you-all  
7 coming back into the courtroom. You may proceed.

8 MS. FULLER: Thank you, your Honor. The State would  
9 call Officer Abbondandolo.

10 OFFICER C. ABBONDANDOLO,  
11 having been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MS. FULLER:

14 Q. Could you please introduce yourself to the jury, and  
15 then spell your name for my court reporter.

16 A. Got you. My name is Clement Abbondandolo. Everybody  
17 calls me Abbey. It's a whole lot easier than trying to get my  
18 last name, and I gave her the spelling already.

19 Q. Great. Thank you.

20 Officer Abbey, who are you currently employed with?

21 A. St. Luke's Health System.

22 Q. And where are you currently living?

23 A. Idaho.

24 Q. How long have you been in Idaho?

25 A. Five months.