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REPORTER'S RECORD
VOLUME 6 OF 14 VOLUMES
TRIAL COURT CAUSE NO. 1433928 FILED IN
COURT OF APPEALS NO. 14-15-00372 14th COURT OF APPEALS
HOUSTON, TEXAS

BO SHAFER) IN THE DISTRICT COURT
Appellant)
)
Vs.) HARRIS COUNTY, TEXAS
)
THE STATE OF TEXAS)
Appellee) 184TH JUDICIAL DISTRICT

5/7/2015 11:39 PM
CHRISTOPHER A. PRINE
Clerk

TRIAL ON MERITS

On the 6th day of March, 2015, the following proceedings came on to be held in the above-titled and numbered cause before the Honorable JAN KROCKER, Judge Presiding, held in Houston, Harris County, Texas.

Proceedings reported by computerized stenotype machine.

CYNTHIA J. LEE
OFFICIAL COURT REPORTER
184TH DISTRICT COURT
HARRIS COUNTY, TEXAS

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TRIAL ON MERITS

March 6, 2015

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EXHIBITS OFFERED BY THE STATE

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1 *(In Open Court, Defendant Present)*

2 *(Jury enters the courtroom)*

3 **THE COURT:** Thank you. Please be
4 seated.

5 Jurors, good morning; and welcome
6 back. Thank you-all for being so punctual. Very
7 appreciative.

8 Will you be giving the oath?

9 **THE CLERK:** I will.

10 **THE COURT:** Thank you.

11 If you would stand again, please, and
12 raise your right hand, Mr. Calyen will give you the
13 oath.

14 *(The oath was administered to the
15 jury)*

16 **THE COURT:** Thank you. Please have a
17 seat.

18 If the State would arraign the
19 defendant.

20 Mr. Shafer, if you will stand, please,
21 along with your counsel.

22 **MS. FELICIA:** State of Texas Vs. Bo
23 Daniel Shafer, Cause No. 1433928.

24 In the name and by authority of the
25 State of Texas, the duly organized Grand Jury of

1 Harris County, Texas, presents in the District Court
2 of Harris County, Texas, that in Harris County,
3 Texas, Bo Daniel Shafer, hereafter styled the
4 defendant, heretofore on or about March 2, 2013, did
5 then and there unlawfully, during a period of time of
6 30 or more days in duration, commit at least two acts
7 of sexual abuse against a child younger than 14 years
8 of age, including an act constituting the offense of
9 aggravated sexual assault of a child, committed
10 against Hannah Shafer on or about March 2, 2013, and
11 an act constituting the offense of aggravated sexual
12 assault of a child, committed against Hannah Shafer
13 on or about March 01, 2014, and the defendant was at
14 least 17 years of age at the time of the commission
15 of each of those acts.

16 Against the peace and dignity of the
17 State. Signed, undersigned Foreman of the Grand
18 Jury.

19 **THE COURT:** Thank you. What plea is
20 entered?

21 **MR. WILKERSON:** Not guilty, Your
22 Honor.

23 **THE COURT:** Thank you. You may have a
24 seat.

25 Will you be giving an opening

1 statement?

2 **MS. FELICIA:** No, Your Honor. At this
3 time we would waive opening.

4 **THE COURT:** Thank you.

5 **MR. WILKERSON:** We would like to
6 invoke the Rule.

7 **THE COURT:** Thank you. The Rule has
8 been invoked. Would you ask all witnesses to step
9 in?

10 Do you have any witnesses,
11 Mr. Wilkerson?

12 **MR. WILKERSON:** We have one witness
13 present today, Your Honor; but she won't be
14 testifying today.

15 **THE COURT:** Well, any witnesses who
16 are here, I need to give the oath to and explain the
17 Rule to them.

18 Members of the jury, this is just
19 called "the Rule." It's really a Rule sequestration,
20 but in Texas we just call it "the Rule." It's the
21 Rule with no name. If you're a witness in this case,
22 please raise your right hand to take the oath.

23 I didn't hear the answer.

24 **THE WITNESS:** Yes.

25 **THE COURT:** Thank you very much.

1 The Rule has been invoked. That means
2 from this point forward, you may not discuss the case
3 with anyone except the lawyers or someone working for
4 the lawyers, such as a paralegal or an investigator.

5 Also, you may not hear any other
6 witness testify. So, you will have to wait outside
7 the courtroom until you're called as a witness.

8 Will the lawyers please be certain
9 that the witnesses know the Rule has been invoked
10 when they arrive?

11 **MR. WILKERSON:** Yes, Your Honor.

12 **THE COURT:** Thank you very much. Who
13 will be your first witness?

14 **MS. WARREN:** Ashley Shafer, Judge.

15 **THE COURT:** Thank you. Come on up,
16 please.

17 You may proceed.

18 **MS. WARREN:** Thank you, Judge.

19 **ASHLEY SHAFER,**
20 having been first duly sworn, testified as follows:

21 **DIRECT EXAMINATION**

22 **Q.** **(BY MS. WARREN)** Good afternoon. Would you
23 introduce yourself to the jury and spell your name
24 for the court reporter?

25 **A.** My name is Ashley Shafer, A-S-H-L-E-Y,

1 S-H-A-F-E-R. And I'm the victim's mother.

2 Q. And I know you and I have talked before,
3 right?

4 A. Yes, ma'am.

5 Q. Okay. And I have told you that we have a
6 court reporter, right?

7 A. Yes, ma'am.

8 Q. Okay. And that we need to both try to
9 speak as slow as possible --

10 A. Yes.

11 Q. -- right?

12 Okay. All right. Go ahead and tell
13 the ladies and gentlemen of the jury what you do for
14 a living?

15 A. I teach at the Dayton Baptist Preschool in
16 Dayton.

17 Q. What age group is that?

18 A. 1 to 2, my main class; but I can go to 3s.

19 Q. And how long have you been doing that?

20 A. This is my second year.

21 Q. And what do you like about that job?

22 A. I love the children. I love watching them
23 grow and then teaching them about God and just being
24 that next step in their lives.

25 Q. Okay. And tell us about your home life.

1 Where are you living right now?

2 A. Right now I'm staying with my parents at
3 their house in Mont Belvieu.

4 Q. And who lives with you?

5 A. It's me; my daughter, Hannah; my son,
6 Hasten; my dad; and my stepmom.

7 Q. And you mentioned you have how many kids?

8 A. Two.

9 Q. Okay. And their ages?

10 A. Hannah is 11. Hasten just turned 7.

11 Q. Okay. I would like -- if you can, I want
12 to try to do a little bit of a family diagram so that
13 we can get to know the names of the people that you
14 have just talked about. Okay.

15 Can you help me out with that?

16 A. Yes, ma'am.

17 Q. Okay. And spell your name again?

18 A. A-S-H-L-E-Y.

19 Q. And your oldest child is who?

20 A. Hannah.

21 Q. And how do you spell her name?

22 A. H-A-N-N-A-H.

23 Q. All right. And who is Hannah's father?

24 A. Bo.

25 Q. Do you see Bo here in the courtroom today?

1 **A.** Yes, ma'am.

2 **Q.** Can you point him out and identify an
3 article of clothing that he's wearing?

4 **A.** The black blazer underneath -- on top of a
5 gray shirt.

6 **Q.** Okay. And --

7 **MS. WARREN:** Judge, may the record
8 reflect the witness has identified the defendant?

9 **THE COURT:** The record will show that,
10 please.

11 **MS. WARREN:** Thank you.

12 **(Defendant Identified)**

13 **Q.** **(BY MS. WARREN)** All right. What year was
14 Hannah born?

15 **A.** '03. 2003.

16 **Q.** All right. You mentioned you had another
17 child. And what is that child's name?

18 **A.** Hasten.

19 **Q.** And how do you spell his name?

20 **A.** H-A-S-T-E-N.

21 **Q.** Okay. And who is Hasten's father?

22 **A.** Greg.

23 **Q.** Okay. And what year was Hasten born?

24 **A.** 2008.

25 **Q.** Do you know if Bo is married?

1 **A.** No.

2 **Q.** Okay.

3 **A.** Not necessarily.

4 **Q.** All right. Let's talk a little bit about
5 the history between you and Bo.

6 When did you meet?

7 **A.** We met in 2002, the summer right after I
8 graduated high school.

9 **Q.** And how did you meet him?

10 **A.** He was working at Wal-Mart, layaway
11 department. And we met him through layaway.

12 **Q.** All right. So, you said you were -- you
13 said it was right after high school?

14 **A.** Yes.

15 **Q.** And so, who was he to you when you first
16 met him?

17 **A.** A person that worked at Wal-Mart.

18 **Q.** And then what happened after that?

19 **A.** We put a layaway on, me and my mom. A
20 couple of days later, he called me.

21 **Q.** Okay. And after he called you, then what
22 happened between you and him in terms of your
23 relationship after that?

24 **A.** It was great. We went out, did all those
25 romantic high school things you do when you're out of

1 high school and young love. And he asked me to marry
2 him.

3 Q. Okay. And what did you say?

4 A. Yes.

5 Q. Okay. So, when did y'all get married?

6 A. We got married the following year, 2004.

7 Around the end of February, March.

8 Q. Okay. So, by the time you were married,
9 was Hannah already born; or was she not born?

10 A. Yes. We found out we were pregnant the
11 December before we got married.

12 Q. Okay. So, I'm still unclear.

13 When you got married, was Hannah --

14 A. Oh, she was unborn.

15 Q. Were you pregnant?

16 A. Yes.

17 Q. Okay. So then, what year would that have
18 been, if you had gotten married and she wasn't born
19 yet?

20 A. 2003.

21 Q. All right. Now, describe in the beginning
22 what the relationship was like with Bo to you.

23 A. While we were married?

24 Q. Yeah.

25 A. At the beginning, it was great. We had --

1 we had Hannah, you know, loved each other, loved
2 Hannah. We had our issues.

3 Q. Was he your first love?

4 A. Yes.

5 Q. Okay.

6 A. First real love. We had our issues. We
7 got over them. Some infidelity. We just kept on
8 going.

9 Q. All right. And then -- and then did you
10 end up -- how long were you married?

11 A. Two years.

12 Q. And approximately when did that marriage
13 end?

14 A. November, 2005.

15 Q. And then after you were divorced in 2005,
16 how old was Hannah at that time?

17 A. Two.

18 Q. Did you -- was that the end of the
19 relationship, or was there more to it at that point?

20 A. It became more to it.

21 Q. Okay. And explain that.

22 A. I still loved him. I was wanting to get
23 back together. He wanted to get back. In December
24 we decided to try again.

25 Q. After you were divorced you tried again?

1 **A.** Yes, ma'am.

2 **Q.** And then -- so, in December, then how long
3 were you back together?

4 **A.** We were back together and living together
5 until about Mother's Day when we separated again.

6 **Q.** And what year was that?

7 **A.** 2006.

8 **Q.** 2006. And at that point was that the end
9 of your romantic relationship?

10 **A.** Yes.

11 **Q.** So, since that patch, that's been the end?

12 **A.** Yes, ma'am.

13 **Q.** Describe -- even though this was the end of
14 your romantic relationship in 2006, describe what
15 your relationship was like since then.

16 **A.** We were good friends. We realized we got
17 along better not married but good friends. We became
18 best friends.

19 **Q.** Was it always good times?

20 **A.** No. I mean, we fought. We disagreed as
21 parents, as people; but in the end we always got back
22 together as friends. And it stayed that way.

23 **Q.** Okay. And did that friendship seem to
24 continue through both of you seeing other
25 individuals, as well?

1 **A.** Yes.

2 **Q.** Explain that, generally.

3 **A.** Even after I got -- met Greg and we started
4 a relationship, moved in together, Bo and I remained
5 friends. He became friends with Greg and he would
6 come over for barbecues and he would date someone and
7 she would come over. And he introduced us to one of
8 his friends, girlfriends. And they came to a
9 birthday party and we liked her and she was
10 wonderful.

11 So, you know -- and if there were hard
12 times in Bo's life, he called me; and if there were
13 hard times in my life, I would call him.

14 **Q.** Okay. So, it wasn't perfect; but it wasn't
15 always contentious?

16 **A.** Yes, ma'am.

17 **Q.** You have to say it out loud.

18 Okay. Now, through this time, when
19 you were maintaining a friendship with Bo, tell us
20 about his relationship with Hannah.

21 **A.** I mean, it was good. He loved her. She
22 loved him. There were times where he would come and
23 get her, and other times he wouldn't. He couldn't
24 because of work.

25 **Q.** Let me stop you right there. What did he

1 do for a living?

2 Well, you mentioned work. Why was
3 work an issue?

4 **A.** Because --

5 **Q.** As far as --

6 **A.** He was like an operator, and he worked
7 shift work. So, it would be days and nights.
8 Certain weekends or holidays he would work. Other
9 holidays he wouldn't. So, we would just try to work
10 around it.

11 **Q.** Okay. Was there any kind of court order
12 dictating when there was supposed to be access to
13 Hannah?

14 **A.** Yes, ma'am.

15 **Q.** Okay. And did y'all strictly adhere to
16 that order?

17 **A.** No, ma'am.

18 **Q.** And why was that?

19 **A.** Because he wouldn't be able to get her, and
20 he would never be able to see her if we followed that
21 court order.

22 **Q.** Okay. So, what kind of flexibility did you
23 have in your system to be able to foster that kind of
24 relationship between Bo and Hannah?

25 **A.** Well, you know, during Christmas there is a

1 two-week break; and every year he would get her
2 Christmas break. And then I would get her January
3 break. And it changed every other year. But if he
4 called me and said he couldn't get her Christmas the
5 year he was supposed to have her, he -- I would let
6 him get her the week after or come get her a couple
7 of days whenever he can during January.

8 Thanksgiving would change or if he
9 said, I can't work this or I can't get her this
10 weekend because I'm working, can I get her next
11 weekend?

12 Okay. Sure. As long as we're not
13 doing anything, go ahead and come get her. It is
14 fine. Or if you want to take her to dinner, that's
15 fine, too.

16 Q. Okay. And that's kind of how the
17 relationship went for several years?

18 A. Yes, ma'am.

19 Q. All right. Throughout these years, when
20 you were not romantically involved with Bo, did there
21 become a particular woman that he did end up getting
22 married to?

23 A. Yes.

24 Q. And who was that?

25 A. Ma'am? Jennifer.

1 **Q.** And do you remember when that was that he
2 got married to Jennifer?

3 **A.** No, ma'am.

4 **Q.** And are you aware of whether or not
5 Jennifer has any children?

6 **A.** Yes, ma'am.

7 **Q.** Do you know their names?

8 **A.** I do know the youngest.

9 **Q.** Okay.

10 **A.** The youngest's name is Colton.

11 **Q.** Can you spell that for the court reporter?
12 Do you know?

13 **A.** No.

14 **Q.** Okay. And do you know the older one's
15 name?

16 **A.** I can't remember.

17 **Q.** Okay. All right. And why is it that you
18 remember Colton's name but not the elder's?

19 **A.** Because Colton is Hannah's half brother.
20 For a long time we believed that, and then that
21 changed.

22 **Q.** Can you explain that?

23 **A.** Bo called me 2000 -- end of 2013, 2014, and
24 told me they believed that his youngest might not be
25 his, asked me what I thought he should do. And I

1 told him what I thought I would have done if I were
2 in that situation, which was make a decision. If he
3 wanted the child to be his, just let it be his.

4 Q. Was that an example of a time when Bo
5 called you as a friend --

6 A. Yes.

7 Q. -- seeking advice?

8 A. Yes, ma'am.

9 Q. Okay. All right. I know you're nervous.

10 A. Yes. I'm sorry.

11 Q. Okay. Take a minute. Take a deep breath.
12 All right. Because the court reporter here is trying
13 to take down what both --

14 A. Sorry.

15 Q. -- you and I are saying, and she can't take
16 us both down at the same time.

17 A. Okay.

18 Q. So, try to wait until I finish my question
19 before you give your answer.

20 A. Okay.

21 Q. Okay. All right. So -- so, you -- you
22 say -- so, are you now aware of whether or not Colton
23 is a true half sibling of Hannah?

24 A. Yes, ma'am. Bo called me and told me that
25 he decided to go for a DNA test, the mail-in kind.

1 And he got the results back, and he wasn't his.

2 Q. And was that a surprise?

3 A. Yes.

4 Q. All right. And then, to your knowledge,
5 what happened, just generally speaking, to that
6 marriage between Bo and Jennifer?

7 A. It didn't last.

8 Q. Okay.

9 A. To my knowledge, I believed that they were
10 not married anymore.

11 Q. Okay. Do you know whether or not they got
12 divorced?

13 A. Not for sure, no, ma'am.

14 Q. Okay. But what was your understanding,
15 regardless of whether they are legally married or
16 not, of the actual living arrangement between the two
17 of them?

18 A. They were separated, not living together.

19 Q. Okay. During that time period, do you
20 happen to remember about what time of year we're
21 talking about or what year it is?

22 A. No, ma'am.

23 Q. Okay. But during this period of the
24 separation between Bo and Jennifer, do you know where
25 Bo went to live?

1 **A.** Yes, ma'am.

2 **Q.** Where did he go?

3 **A.** He went to go stay with a co-worker of his.

4 **Q.** And how -- did you know the name of this
5 co-worker?

6 **A.** Only by W.L.

7 **Q.** Okay. Two letters, W.L.?

8 **A.** Yes, ma'am.

9 **Q.** And what was your understanding of that
10 living arrangement at W.L.'s house?

11 **A.** That W.L. was taking care of his mom and
12 wouldn't be there a lot. And so, Bo would rent a
13 room but have the whole house, except W.L.'s room.

14 **Q.** Okay. And during the time when Bo was
15 staying at W.L.'s house, what kind of shared custody
16 arrangement did you make regarding Hannah?

17 **A.** The same as always. Just whenever he could
18 get her, he would, unless we had made plans and so he
19 wouldn't.

20 **Q.** Okay. At that time, as the mother, did it
21 appear to you that Hannah had any issues or
22 reservations about going to spend time with her
23 father?

24 **A.** No, ma'am.

25 **Q.** How did it appear to you? Their

1 relationship, how did it appear to you at that time?

2 **A.** Fine. Same. There would be times --
3 sometimes she didn't want to go; but it was just, Oh,
4 I don't want to go. She never told me why. We
5 thought she just wanted to stay home and play.

6 **Q.** Do you know how long it was that Bo was
7 living at the co-worker W.L.'s house?

8 **A.** No, ma'am.

9 **Q.** But at some point was he able to get his
10 own place?

11 **A.** Yes, ma'am.

12 **Q.** All right. And are you aware of where that
13 ended up being?

14 **A.** Yes, ma'am.

15 **Q.** And what's that?

16 **A.** Apartment complex called Marina in Baytown
17 by the Fred Hartman Bridge.

18 **Q.** Okay. And during the time period when he
19 was living at that apartment, describe, if you would,
20 what type of custody -- joint custody arrangements
21 you had with Hannah.

22 **A.** The same. We just were flexible.

23 **Q.** So, there were times when Hannah would go
24 to that apartment complex, as well?

25 **A.** Yes, ma'am.

1 **Q.** And what did you say the name of that was?

2 **A.** The Marina Club, Baytown.

3 **Q.** Marina. Okay.

4 **MS. WARREN:** Judge, may I approach the
5 witness?

6 **THE COURT:** Yes, ma'am.

7 **Q.** **(BY MS. WARREN)** I'm going to show you
8 what's been marked as State's Exhibits 1, 2, 3, and
9 4. You recognize all of these?

10 **A.** Yes.

11 **MR. WILKERSON:** Objection, Your Honor.
12 I haven't had an opportunity to review these
13 exhibits.

14 **THE COURT:** Well, she will need to
15 show them to you before she asks that they be
16 admitted. So, I think she is just laying the
17 predicate.

18 **MS. WARREN:** Thank you, Judge.

19 **Q.** **(BY MS. WARREN)** Do you recognize all these?

20 **A.** Yes, ma'am.

21 **Q.** Okay. Regarding State's Exhibits 1, 2, and
22 3, generally speaking, what do they appear to be?

23 **A.** Maps of our area, Houston area.

24 **Q.** Okay. And regarding State's Exhibit 4,
25 just generally, what does it appear to be?

1 **A.** The Marina Club apartment complex.

2 **Q.** Okay. Are you familiar with -- first of
3 all, with 1 through 3, are you familiar with all the
4 areas on this map that are depicted in it?

5 **A.** Yes, ma'am.

6 **Q.** Okay. And they appear to be fair and
7 accurate depictions and maps of the areas that they
8 are representing?

9 **A.** Yes, ma'am.

10 **Q.** Okay. And regarding the photograph,
11 State's Exhibit 4, are you familiar with what's
12 depicted in this photograph?

13 **A.** Yes, ma'am.

14 **Q.** Does it fairly and accurately reflect the
15 area that you know to be personally familiar with?

16 **A.** Yes, ma'am.

17 **MS. WARREN:** Judge, at this time we're
18 going to offer -- going to tender State's 1 through 4
19 to Defense counsel and offer them into evidence.

20 **MR. WILKERSON:** No objection, Your
21 Honor.

22 **THE COURT:** Admitted.

23 **Q.** **(BY MS. WARREN)** All right. Okay.

24 Ms. Shafer, looking at State's Exhibit No. 1, what
25 are we looking at here?

1 **A.** The greater Houston area. Houston area.

2 **Q.** Okay. Does it include the actual Harris
3 County line around this Houston area?

4 **A.** Yes, ma'am.

5 **Q.** And point with your finger, if you would,
6 to the area of town just generally where you live and
7 where you have resided.

8 **A.** Right here (indicating.) Around this area,
9 Mont Belvieu (indicating.)

10 **Q.** Tell us, would it be the northwest,
11 southeast area? Do you know, directionally?

12 **A.** I believe it's south.

13 **Q.** Okay. So, if we're in Houston, which way
14 is it going to be, left or right?

15 **A.** Right.

16 **Q.** Out here. Okay.

17 Can you go ahead and touch the screen?
18 If you touch the screen right there, it will make a
19 mark on it. You can draw a circle.

20 **A.** Okay.

21 **Q.** Is it working?

22 **A.** Where I live? Where I live?

23 **Q.** Uh-huh (affirmative.) Press hard.

24 **A.** (witness complies.)

25 **Q.** All right. Now, I'm going to show you --

1 can you double tap the bottom left-hand corner?

2 **A.** (Witness complies.)

3 **Q.** Thank you. That clears it out.

4 Now, I'm going to show you what has
5 been marked as State's Exhibit No. 2. And we're
6 going to zoom in here.

7 And do you see that there is an
8 address listed right up here?

9 **A.** Yes, ma'am.

10 **Q.** Do you know whose address that is?

11 **A.** That would be W.L.'s house where Bo lived.

12 **Q.** And you have been there before, right?

13 **A.** Yes, ma'am.

14 **Q.** Okay. And then I want to look at State's
15 Exhibit 3 down here. And there is an address listed
16 right there.

17 Do you see that address?

18 **A.** Yes, ma'am.

19 **Q.** What is it?

20 **A.** The address of the apartment complex.

21 **Q.** Can you go ahead and read it into the
22 record?

23 **A.** 1200 Missouri Street.

24 **Q.** Okay. And I'm going to show you what's
25 been marked State's Exhibit No. 4. What are we

1 looking at here?

2 A. The main building at the apartment complex.

3 Q. And which apartment complex is that?

4 A. The Marina Club at Baytown.

5 Q. Okay. So, to your knowledge, are these
6 addresses located within Harris County, Texas?

7 A. Yes, ma'am.

8 Q. I'm now going to show you what's been
9 marked as State's Exhibit 5 and State's Exhibit 6.
10 Do you recognize both of those?

11 A. (Nods in the affirmative.)

12 Q. Okay. And who is depicted in these
13 photographs?

14 A. It's --

15 Q. Tissue there.

16 A. It's Hannah.

17 Q. Okay. And these are photographs of your
18 daughter, Hannah. And you have written the dates and
19 her age on the back; is that right?

20 A. Yes, ma'am.

21 Q. Okay. And that's to help you remember how
22 old she was?

23 A. Uh-huh (affirmative.) Yes. Yes, ma'am.
24 Sorry.

25 Q. Okay. And this is handwriting on the back?

1 **A.** Yes, ma'am.

2 **Q.** Okay. Do these photographs fairly and
3 accurately show Hannah as what she looked like in
4 those ages when she was 9 and 10?

5 **A.** Yes, ma'am.

6 **MS. WARREN:** Judge, I tender to
7 opposing counsel State's 5 and 6 and offer into
8 evidence State's 5 and 6.

9 **MR. WILKERSON:** No objection, Your
10 Honor.

11 **THE COURT:** Admitted.

12 **Q.** **(BY MS. WARREN)** All right. What's going on
13 in this picture?

14 **A.** It's Christmas. It's at some family's
15 house.

16 **Q.** Okay. And I think this is State's 5. And
17 you have written on the back this number. So, what
18 does that mean?

19 **A.** She is 10 years old.

20 **Q.** So, she is 10 in this picture at
21 Christmastime?

22 **A.** Yes, ma'am.

23 **Q.** And looking at State's Exhibit No. 6, who
24 is that again?

25 **A.** Hannah.

1 **Q.** And there is a number on the back right
2 here. What does that mean?

3 **A.** She is 9 years old.

4 **Q.** So, in this picture it's what time of year?

5 **A.** Christmas.

6 **Q.** Christmastime. And the year earlier?

7 **A.** Yes, ma'am.

8 **Q.** Okay. These were some of the presents that
9 she got for Christmas?

10 **A.** Yes, ma'am.

11 **Q.** All right. Now, we talked about the time
12 period when Bo was living in these two different
13 locations when, to your knowledge, Jennifer was out
14 of the picture; is that right?

15 **A.** Yes, ma'am.

16 **Q.** Okay. Does Jennifer stay out of the
17 picture?

18 **A.** Yes, ma'am.

19 **Q.** Until when, to your knowledge,
20 approximately?

21 **A.** April the 11, 2014 is -- well, a little bit
22 before, I know she went on a vacation with them.

23 **Q.** Okay. So, you went for quite some time
24 without any knowledge of Jennifer being in the
25 picture?

1 **A.** Yes, ma'am.

2 **Q.** Okay. Until sometime in 2014?

3 **A.** Yes, ma'am.

4 **Q.** All right. During that time period, how
5 long do you think that was that Jennifer was not part
6 of the picture?

7 **A.** A few years.

8 **Q.** There were -- it was a few years in there?

9 **A.** Yes, ma'am.

10 **Q.** Okay. To the best of your knowledge, does
11 that match up approximately to the time periods of
12 when Hannah was 9 and 10 years old?

13 **A.** Yes, ma'am.

14 **Q.** And what grade is Hannah in now?

15 **A.** She is in 5th grade.

16 **Q.** Where does she go to school?

17 **A.** She goes to school at Barbers Hill.

18 **Q.** And what kind of student is she?

19 **A.** She is a straight A student, she just got
20 approved for the gifted and talented math class next
21 year and she signed up for the advanced language arts
22 class.

23 **Q.** And is that pretty typical of Hannah? Or
24 describe her if you would to us as a student.

25 **A.** She has always been a good student. There

1 was a time -- end of 2013, beginning of 2014, her
2 grades fell a little bit. But she picked them back
3 up, and now she is a straight A student.

4 Q. Seems to be on track?

5 A. Yes. She loves school.

6 Q. Okay. I want to back up a little bit and
7 talk about the time period -- well, let's talk about
8 Hannah a little bit more. What kind of activities
9 does she like to do?

10 A. She likes to twirl, she likes to cheer, and
11 she likes to play and ride her bike.

12 Q. What does "twirl" mean?

13 A. Oh, a baton. She likes to twirl with a
14 baton.

15 Q. Okay. Does she take any kind of classes or
16 get any training on that or anything?

17 A. Yeah, she did. We're looking for a new
18 place now in our area.

19 Q. Okay. And was cheerleading kind of a big
20 thing for her, as well?

21 A. Yes, ma'am.

22 Q. Okay. Explain that a little bit.

23 A. She wanted to cheer. My sisters cheer, and
24 it was her dream, and so we put her in cheer in
25 Dayton.

1 Q. Okay. And did she, in fact, have
2 competitions and recitals and things?

3 A. Yes, ma'am. She had a recital.

4 Q. Okay. I want to talk to you a little bit
5 about a recital that she had in May of this past --
6 last year, 2014. Okay?

7 You know the one I'm talking about?

8 A. Yes, ma'am.

9 Q. All right. Set the scene for us a little
10 bit. What was going on? Do you remember about where
11 the recital was?

12 A. It was at the middle school or like the
13 junior high in Dayton.

14 Q. And was it on the weekend or during the
15 week or what was going on?

16 A. It was on a weekend, Friday.

17 Q. Okay. And for these recital, what do they
18 do for them?

19 A. She goes and dresses up in a cheer uniform,
20 and they do cheer stunts and things like that.

21 Q. And who was present?

22 A. Her, me, and my mom.

23 Q. And your mom, that would be her --

24 A. Grandmother.

25 Q. Okay. And when the recital was over, did

1 anybody else arrive?

2 **A.** Yes, ma'am.

3 **Q.** Okay. Who showed up?

4 **A.** Bo Shafer and Jennifer Shafer.

5 **Q.** Anybody else?

6 **A.** No. I can't remember if their kid -- their
7 little boy was there. I don't remember.

8 **Q.** Okay. Speak up a little bit.

9 **A.** I don't remember if their child was with
10 them or not.

11 **Q.** Okay. All right. And what happened? How
12 did you know that they showed up?

13 **A.** We were taking pictures afterwards in front
14 of a display and I turned around and Bo Shafer was
15 right behind me.

16 **Q.** Were you expecting him to come to that
17 recital?

18 **A.** He wanted to come get Hannah, and I told
19 him she had a recital, that he was welcome to go. He
20 wanted to go.

21 **Q.** Meaning meet you at the recital?

22 **A.** Yes.

23 **Q.** Okay. So, it wasn't a total surprise to
24 see him there?

25 **A.** No.

1 **Q.** And so, how -- at that point in time, how
2 did he act when he showed up at the recital?

3 **A.** Angry.

4 **Q.** And what, to your knowledge, was he angry
5 about?

6 **A.** Because he wanted to get Hannah for the
7 weekend. I didn't know that he was going to get her
8 for the weekend and -- earlier, beforehand. And he
9 said that he had wanted her, and I told him we had
10 the recital.

11 **Q.** So, how did you understand that
12 conversation, when he said he wanted her for the
13 weekend and you said, Well, she has the recital?

14 What did that mean to you?

15 **A.** I was hoping he would understand that she
16 had a recital, that we could talk about maybe some
17 other time that weekend but not Friday so she
18 wouldn't miss her recital.

19 **Q.** Okay. And so, then tell us what happened
20 when he shows up at the recital.

21 **A.** He shows up and says that he wants Hannah
22 for the weekend and gets angry, and I told him that
23 she didn't want to go. And we proceeded to walk out;
24 and he told me that I needed to quit talking for her
25 because he said that I was saying that to her, to

1 tell her not to want to go. And we walked out.

2 Q. Let me stop you. Were you --

3 A. No, ma'am.

4 Q. Were you trying to pressure Hannah to not
5 go with her father?

6 A. No, ma'am.

7 Q. Okay.

8 A. In fact, I told Hannah, you know, You need
9 to start going to your dad's house. I can't keep you
10 away from your dad.

11 Q. Okay. And what was your position? I mean,
12 what has been your position as a mother in terms of
13 Hannah's relationship with Bo?

14 A. I have always tried to keep it good. I
15 have always tried not to talk bad about him. You
16 know, if we got into a fight, I tried to just kind of
17 keep it neutral. There were times we have fought,
18 but I just wanted her to not look bad upon him.

19 Q. All right. So, he wants to take Hannah for
20 the weekend. And so, tell us what happens from this
21 point on.

22 A. We proceeded to walk out to the parking lot
23 and get in our truck. And I tell Hannah in the truck
24 that she was going to have to tell her dad herself,
25 you know, that she didn't want to go and why. And he

1 was right there next to our vehicle, proceeding to
2 their vehicle. And we stopped and rolled down the
3 window and called him to the truck so she could talk
4 to him.

5 Q. Okay. And without going into the details
6 of what Hannah said, was -- did Hannah end up going
7 with Bo from the recital?

8 A. No, ma'am.

9 Q. Okay. And so, where did you see Bo go
10 after that?

11 A. In his vehicle.

12 Q. Okay. And did you see him again that day?

13 A. No, ma'am.

14 Q. All right. So, when you're out in the
15 parking lot -- and you're now leaving the recital --

16 A. Yes, ma'am.

17 Q. -- where did you go next?

18 A. We go to Sonic.

19 Q. And why did you go to Sonic?

20 A. Get Hannah something special, ice cream.

21 Q. Okay. Is that kind of something normal you
22 would do?

23 A. Yes, ma'am.

24 Q. And when you get to Sonic, who's in the
25 car?

1 **A.** It's me and my mom in the front seat and
2 Hannah in the back seat.

3 **Q.** And did you hear Hannah -- had you heard
4 Hannah tell Bo why she didn't want to go with him?

5 **A.** She said she didn't want to go.

6 **MR. WILKERSON:** Objection, Your Honor,
7 hearsay.

8 **THE COURT:** May I have a conference at
9 the bench, please?

10 **(At the Bench)**

11 **THE COURT:** Of course, generally,
12 that's hearsay. What's the answer to that?

13 **MS. WARREN:** I can rephrase the
14 question. I just want to know -- just wanted her to
15 say, I heard what Hannah said. And I will rephrase
16 it to make sure she just says that.

17 **THE COURT:** Thank you.

18 **(End of Bench Discussion)**

19 **Q.** **(BY MS. WARREN)** All right. I know it's
20 hard not to talk about what other people say.

21 **A.** Yes, ma'am.

22 **Q.** But I want you to do the best you can. If
23 you can answer my question in a "yes" or "no," then
24 answer it in a "yes" or "no" --

25 **A.** Yes, ma'am.

1 Q. -- without saying what other people said.

2 Okay?

3 A. Okay.

4 Q. All right. So, my question was: When
5 you -- when Hannah was talking to Bo and you were in
6 the truck before you went to sona -- Sonic, did you
7 hear why Hannah told Bo that she didn't want to go
8 with him?

9 A. Yes, ma'am.

10 Q. Okay. And, of course, not going into what
11 she said.

12 A. Okay.

13 Q. All right. Now, you leave and you go to
14 Sonic. And you told us who was in the car with you?

15 A. Yes, ma'am.

16 Q. And that you were there with your mother
17 and with Hannah and whatever you were going to do.

18 A. Buy her some ice cream.

19 Q. All right. And did you end up doing that?

20 A. No, ma'am.

21 Q. Okay. And why is that?

22 A. Because as soon as we pulled in and I was
23 talking to my mom, Hannah spoke up.

24 Q. Okay. And did Hannah tell you something
25 then?

1 **A.** Yes, ma'am.

2 **Q.** Okay. And without going into the details
3 of what she said, was it -- how did -- what was your
4 reaction to what she was saying?

5 **A.** I break down. I cried.

6 **Q.** How did you feel about what she was telling
7 you?

8 **A.** Part of me -- I mean, it was shocking. I
9 just was shocked and brokenhearted and angry.

10 **Q.** Had you ever heard her tell you things like
11 this before?

12 **A.** No, ma'am.

13 **Q.** Fair to say it was disturbing?

14 **A.** Yes, ma'am.

15 **Q.** Did you ask any questions?

16 **A.** A few.

17 **Q.** Did you get answers?

18 **A.** Yes, ma'am.

19 **Q.** Did you know what to do?

20 **A.** No, ma'am. We just left.

21 **Q.** Where did you go?

22 **A.** We went home.

23 **Q.** Straight home?

24 **A.** I pulled over once because I was upset, but
25 we went straight home from there.

1 Q. You were driving?

2 A. Yes, ma'am.

3 Q. Why did you have to pull over?

4 A. I was upset and I was crying. So, I had to
5 pull over and just take a deep breath.

6 Q. Okay. Well, let us understand a little
7 bit.

8 Were you visible -- you said you were
9 upset. Describe that a little bit to us.

10 A. I started crying. I broke down on the way
11 home. And as she was telling me, I started
12 screaming. I started talking to my mom and yelling
13 questions at my mom, you know. Why was this going
14 on? I didn't understand.

15 Q. Were you mad at Hannah?

16 **MR. WILKERSON:** Your Honor I -- I
17 object to the State's continual body language towards
18 the witness as though somehow motioning to approve or
19 proceed with the current state of testimony.

20 **THE COURT:** I'm sorry. I was writing.
21 Since I didn't observe anything, that's overruled at
22 this time. Thank you.

23 A. What was your question -- sorry.

24 No, ma'am, I wasn't mad at Hannah.

25 Q. **(BY MS. WARREN)** Okay. All right. You said

1 you were not mad at Hannah. When you -- where did
2 you go after this Sonic trip and after you stopped
3 one time because you broke down? And then where did
4 you end up?

5 **A.** We went home.

6 **Q.** Then what did you do?

7 **A.** At home, Greg was there and his son and
8 daughter-in-law. And we told them what the story was
9 and his daughter-in-law recommended to go take Hannah
10 to the emergency room.

11 **Q.** How old is this daughter-in-law of Greg's?

12 **A.** I'm not sure.

13 **Q.** Did you --

14 **A.** Child -- adult. Young adult.

15 **Q.** Okay. And when the information was being
16 told to Greg, who was doing the telling?

17 **A.** I came home and said something, and Hannah
18 told him some stuff.

19 **Q.** Okay. So, kind of both of you?

20 **A.** Yes, ma'am.

21 **Q.** Did she appear to have problems agreeing
22 with what she just told you in the car, talking about
23 it in front of Greg?

24 **A.** No, ma'am.

25 **Q.** When you talked it over with Greg and the

1 daughter-in-law, you were given what suggestion?

2 **A.** She is a nurse. So, she told me the best
3 thing is to go to get -- take Hannah to the emergency
4 room, San Jacinto.

5 **Q.** And do you know what to do?

6 **A.** No, ma'am.

7 **Q.** So, did you follow that advice?

8 **A.** Yes, ma'am.

9 **Q.** And where did you go?

10 **A.** San Jacinto in Baytown, Texas.

11 **Q.** And how long -- well, who went to the
12 hospital?

13 **A.** Me, Hannah, and my mom.

14 **Q.** And do you know how long you were at that
15 hospital?

16 **A.** All night.

17 **Q.** What does that mean?

18 **A.** The sun was starting to come up, I believe,
19 when we left.

20 **Q.** Okay. Were you talking to the doctors the
21 whole time you were there, or most of that time was
22 spent doing what?

23 **A.** Waiting in the waiting room and then
24 talking to doctors and then the police.

25 **Q.** And do you remember -- was it a busy night?

1 You waited a long time?

2 A. Yes, ma'am. It was -- it was -- they had
3 some issues at the emergency room with a couple of
4 people.

5 Q. Have anything to do with you?

6 A. No, ma'am.

7 Q. So, when you finally get to come to the
8 doctor, then are you given some additional advice?

9 A. Yes, ma'am. They said they couldn't do
10 anything and to go to Texas Children the next
11 morning.

12 Q. All right. So, then what did you do when
13 you left the San Jacinto Hospital?

14 A. We went home and tried to get some rest,
15 and we were called a couple of hours later by someone
16 on the case.

17 Q. And without going into anything that was
18 said to you --

19 A. Uh-huh (affirmative.)

20 Q. -- where did you go next?

21 A. Texas Children's.

22 Q. Okay. And had you been there before?

23 A. No, ma'am.

24 Q. And so, how did you know where to go?

25 A. Google map.

1 **Q.** All right. And so, do you remember about
2 what time of the day it was, maybe, when you got to
3 Texas Children's?

4 **A.** Morning. 9:00, 10:00, maybe.

5 **Q.** And when you got there, then what happened?

6 **A.** We went immediately to a room and saw a
7 doctor.

8 **Q.** Okay. And were you -- who was with you at
9 this point?

10 **A.** Me, my mom, and Hannah.

11 **Q.** Your mom was still with you?

12 **A.** Yes, ma'am.

13 **Q.** And how was Hannah doing?

14 **A.** She was tired. Okay.

15 **Q.** All right. And when you got to the room
16 with Hannah, was there an eventual examination
17 performed?

18 **A.** Yes, ma'am.

19 **Q.** And were you present for that?

20 **A.** Yes, ma'am.

21 **Q.** For all of it or for part of it?

22 **A.** All of it.

23 **Q.** Okay. Had Hannah ever had that type of an
24 evaluation before?

25 **A.** No, ma'am.

1 **Q.** Okay. We're going to get into some details
2 here to Hannah. At this point in time, do you know
3 whether or not Hannah had gone through puberty or
4 not?

5 **A.** She had not.

6 **Q.** Okay. Do you know whether or not she had
7 started her menstrual cycle?

8 **A.** She had not.

9 **Q.** Okay. Has that changed now?

10 **A.** Yes, ma'am.

11 **Q.** Okay. So, at this point in time, did you
12 do the best you could in terms of giving the
13 information that you could to the medical
14 professionals?

15 **A.** Yes, ma'am.

16 **Q.** And had you gotten much sleep?

17 **A.** No, ma'am.

18 **Q.** How did you feel?

19 **A.** Tired.

20 **Q.** Okay. Emotionally, how did you feel?

21 **A.** A train wreck.

22 **Q.** And were you doing the best you could?

23 **A.** Yes, ma'am.

24 **Q.** All right. Would you say that you were
25 still kind of in shock?

1 **A.** Yes, ma'am.

2 **Q.** All right. So, then what happens at the
3 end of the physical examination at Texas Children's
4 Hospital?

5 **A.** We spoke to the doctor who did the exam and
6 to a case worker.

7 **Q.** And then without going into anything --
8 what anybody said, what happens after that?

9 **A.** We went home.

10 **Q.** And were you given any kind of instructions
11 on where or what to do next?

12 **A.** Just to wait for someone to call me.

13 **Q.** Okay. And eventually did somebody call?

14 **A.** Yes, ma'am.

15 **Q.** With law enforcement?

16 **A.** Yes, ma'am.

17 **Q.** Okay. And eventually did -- were there
18 interviews that were set up?

19 **A.** Yes, ma'am.

20 **Q.** Okay. And do you remember going anywhere
21 or taking Hannah anywhere to do what is called a
22 forensic interview?

23 **A.** Yes, ma'am.

24 **Q.** And do you remember about when that
25 happened?

1 **A.** Shortly after. Within a week or so.

2 **Q.** Okay. Maybe a couple of days?

3 **A.** Yeah. They said -- oh, I'm sorry. Yes, as
4 soon as possible.

5 **Q.** All right. And when you brought Hannah for
6 the forensic interview, do you remember the place
7 that that happened at?

8 **A.** Yes, ma'am.

9 **Q.** What's the name of that?

10 **A.** Bridgehaven in Dayton, Texas.

11 **Q.** Had you been there before?

12 **A.** No, ma'am.

13 **Q.** And have you been there -- you have been
14 there now, right?

15 **A.** Yes. A lot.

16 **Q.** So, tell the ladies and gentlemen of the
17 jury about what you know now that place to be.

18 **A.** It's an advocacy center for children who
19 have needs to go there, and they offer counselors and
20 other people that can talk to the children.

21 **Q.** Do they do therapy there?

22 **A.** Yes, therapy.

23 **Q.** Okay. And has Hannah been back to
24 Bridgeport since this happened?

25 **A.** Bridgehaven, yes, ma'am.

1 **Q.** Bridgehaven. And about how -- do you know
2 about how often she was going?

3 **A.** At first it was every week, and now every
4 other week with my try -- with my work schedule.

5 **Q.** Okay. All right. Now, when you took her
6 there the first time and they did the forensic
7 interview, were you present in the room when this
8 happens?

9 **A.** No, ma'am.

10 **Q.** Did you ever get to watch that video?

11 **A.** No, ma'am.

12 **Q.** Did you at any point tell Hannah what to
13 say during that interview?

14 **A.** No, ma'am.

15 **Q.** How was Hannah in terms of her openness in
16 wanting to talk about it or not wanting to talk about
17 it?

18 **A.** She -- she would talk about it. She was
19 young, and it was okay to her to talk about it.

20 **Q.** What is your impression of how she behaved
21 when she was talking about what happened to her?

22 **A.** It was like -- I mean, she was just normal.
23 Like, I mean, she was just open about it. She
24 didn't --

25 **Q.** And how do you interpret that, comfortable

1 with talking about it?

2 **A.** I'm not sure.

3 **Q.** Is Hannah a shy girl?

4 **A.** No.

5 **Q.** Okay. So, explain a little bit about
6 Hannah's personality to the jury, please.

7 **A.** She is very outgoing. She loves people.
8 She has got a great personality. She doesn't meet a
9 stranger. And she is a good kid, got a -- got a
10 beautiful smile.

11 **Q.** Now, you understand that -- that Hannah was
12 talking about some -- not specifics but, generally
13 speaking, some grownup things, correct?

14 **A.** Yes, ma'am.

15 **Q.** Okay. What is your impression, taking into
16 consideration Hannah's age at the time and connecting
17 it with these grownup things? Do you understand my
18 question?

19 **A.** No, ma'am.

20 **Q.** All right. Fair enough. All right.

21 You have mentioned that Hannah is not
22 shy?

23 **A.** Yes, ma'am.

24 **Q.** So, what is your impression of when she
25 would talk about the grownup things, how she acted in

1 connection with those grownup things?

2 A. That it was okay.

3 Q. Explain that.

4 A. That there was nothing wrong in what she
5 was saying. Nothing wrong with the things she was
6 saying.

7 Q. Okay. To you, did it seem as though Hannah
8 understood the gravity and seriousness of it?

9 A. She understood what she was saying but --
10 she knew the words she was saying but not necessarily
11 what had happened.

12 Q. Explain that.

13 A. As an adult, when you hear things, you're
14 shocked by it. You're like, I can't believe that
15 happened. But to her it wasn't wrong. It seemed
16 like it felt right -- not right, but that it
17 wasn't -- it just wasn't wrong. It wasn't shocking.
18 It was something that happened, and it wasn't violent
19 or traumatizing.

20 Q. Okay.

21 A. It --

22 Q. And was she clear about who she was
23 describing had done this to her?

24 A. Yes.

25 Q. And who was that?

1 **A.** Her dad, Bo Shafer.

2 **Q.** And has she been consistent in that since
3 she told you?

4 **A.** Yes, ma'am.

5 **Q.** All right. I want to talk a little bit
6 about -- let's go back, and let's talk now Monday
7 morning quarterback.

8 Looking back on it, to that time
9 period when -- in Bo's life, when Bo and Jennifer
10 were not together and when Hannah would go visit
11 either at W.L.'s house or at the Marina apartments.
12 Okay? That's where I want to focus. Okay?

13 **A.** Okay.

14 **Q.** During that time period, were there, in
15 fact, any kind of -- looking back on it, some -- any
16 kind of physical symptoms that now kind of stand out
17 to you in your mind?

18 **A.** Yes, ma'am.

19 **Q.** And tell us about that.

20 **A.** She would come home with her private area
21 inflamed or raw, burning, raw, discharge.

22 **Q.** Okay. And how did you become aware of
23 that?

24 **A.** She would take baths when was she was
25 younger and -- or getting dressed -- when she was

1 getting dressed in the room or she would tell me.

2 Q. And you would look?

3 A. Yes, ma'am.

4 Q. Okay. And what did you see? What did you
5 observe?

6 A. It was inflamed. Her genitals were
7 inflamed and red.

8 Q. And we're talking about which part of her
9 body?

10 A. Her vagina.

11 Q. Okay.

12 A. When I would wash clothes, I could smell
13 her clothes. Just putting them in the washing
14 machine they would have a really strong smell.

15 Q. What do you mean by that? I know --

16 A. It's a bad smell. Pretty foul. I have
17 never --

18 Q. On which part of her clothing?

19 A. Her panties.

20 Q. And at the time, did it concern you?

21 A. It did.

22 Q. And what did you do about it?

23 A. I called my mom at one -- one time I called
24 my mom and asked her if this -- it was like that
25 while I was a kid, because I wasn't sure. And then

1 another time I called -- she had come home from Bo's.
2 I called Bo.

3 Q. Okay. And tell me about that time when you
4 called her father regarding some of the issues --
5 physical issues that you were seeing.

6 A. Called Bo and asked him if he had noticed
7 it or if she said something to him.

8 Q. And what was his response?

9 A. He said that it could have been because he
10 don't have any toilet paper at his house for the
11 weekend, that maybe she wasn't wiping after she was
12 going to the bathroom.

13 Q. And at the time did that sound like a
14 reasonable explanation?

15 A. Yes, ma'am.

16 Q. So, what did you do about the fact --

17 A. I sent toilet paper with her the next time
18 she went. I sent it with her and packed it in her
19 bag.

20 Q. Okay. So that she could at least maybe be
21 wiping properly?

22 A. Yes, ma'am.

23 Q. Did you ever notice any improper or bad
24 wiping at your house?

25 A. No, ma'am.

1 Q. Okay. So, when would you notice these
2 types of symptoms?

3 A. After she would come home from her dad's.

4 Q. All right. Was there ever a time when it
5 was more than just some irritation and some discharge
6 that you can remember?

7 A. She got sick.

8 Q. Okay. Kids get sick.

9 A. She --

10 Q. Let's talk about in her private part area.

11 A. She came home and was throwing up and I
12 immediately followed her to the bathroom and she said
13 that there was blood.

14 Q. Blood where?

15 A. On her panties. So, I checked; and I
16 thought she had started her period.

17 Q. But had she?

18 A. No. It was different blood. It was like
19 mucous and red. So, it wasn't like menstrual. So, I
20 took her to the doctor.

21 Q. Okay. And what did your -- your mommy
22 doctor inside you tell you? What did you suspect was
23 the problem at that time?

24 A. I didn't know. Something was wrong. I
25 just knew something was wrong.

1 Q. Okay.

2 A. Something wasn't right there.

3 Q. Okay. You took her to the doctor for that?

4 A. Yes, ma'am.

5 Q. Okay. And then was she given anything or
6 any kind of diagnosis or treatment at that time?

7 A. UTI.

8 Q. And explain -- do you know what that is?

9 A. A urinary infection.

10 Q. And -- or at least that's what you were
11 told?

12 A. Yes, ma'am.

13 Q. And so, were you given medication for that?

14 A. Yes, ma'am.

15 Q. And did that seem to help?

16 A. Yes, ma'am.

17 Q. At the time, did you suspect it was any --
18 any kind of product of sexual behavior at that time?

19 A. No, I didn't think that.

20 Q. All right. I want to talk a little bit
21 more about Bo and Jennifer and, to your knowledge,
22 what you know of the relationship between Jennifer
23 and Hannah. Okay?

24 In the beginning, can you describe
25 what kind of relationship that you saw there was

1 between Hannah and Jennifer and Bo?

2 **A.** It was a good relationship. After they
3 moved in together, they made Hannah a room in their
4 house; and Jennifer helped her pick out things for
5 her room.

6 **Q.** Seemed accepting of Hannah?

7 **A.** Yes, ma'am.

8 **Q.** Seemed to care for Hannah?

9 **A.** Yes, ma'am.

10 **Q.** Were there times when she went out of her
11 way to do something nice for Hannah?

12 **A.** Yes, ma'am.

13 **Q.** Like what?

14 **A.** She took her shopping all the time. She
15 would even do nice things for me, brought my son a
16 happy meal when she got Hannah one, didn't want my
17 son to be left out. So, she brought him a happy
18 meal, too.

19 **Q.** So, Jennifer was a participant in the child
20 sharing of Hannah, correct?

21 **A.** Yes, ma'am.

22 **Q.** And in the beginning did you guys get
23 along?

24 **A.** Yes, ma'am.

25 **Q.** Was there something that made you feel a

1 little differently about Jennifer?

2 A. Yes, ma'am.

3 Q. Okay. Tell us about that.

4 A. Hannah came home --

5 Q. Hang on. I'm going to go one step at a
6 time.

7 A. Okay.

8 Q. Without -- trying as best as you can
9 without getting into what people said.

10 A. Yes, ma'am.

11 Q. Hannah comes home from -- from being with?

12 A. Bo and Jennifer. She came home sick. She
13 was sick. They brought her home.

14 Q. So, did they come home at a time you were
15 expecting; or was it sooner?

16 A. They were supposed to keep her through
17 Thanksgiving break, and she came home early.

18 Q. Okay. But you were, I guess, notified some
19 way that they were bringing her home?

20 A. She called.

21 Q. All right. And when she comes home, did
22 you notice anything in particular about Hannah at
23 that time?

24 A. Yes, ma'am.

25 Q. What did you notice?

1 **A.** She had a black eye and a mark across her
2 face and a busted lip.

3 **Q.** Okay. And was that concerning to you?

4 **A.** Yes, ma'am.

5 **Q.** Had you ever seen Hannah like that before?

6 **A.** No, ma'am.

7 **Q.** Had there ever been, you know, a black eye
8 on your child before?

9 **A.** No, ma'am.

10 **Q.** So, how did you respond to that?

11 **A.** I asked her what happened.

12 **Q.** Who? You asked who?

13 **A.** Hannah. I'm sorry. I asked Hannah what
14 happened.

15 **Q.** Okay. And without going into what Hannah
16 said, did Hannah give you an explanation for her
17 injuries?

18 **A.** Yes, ma'am.

19 **Q.** Okay. Did you believe it?

20 **A.** Yes, ma'am.

21 **Q.** And what -- without going into the details
22 of what Hannah said, was she describing, generally
23 speaking, an accident or an intentional act?

24 **A.** Intentional act.

25 **Q.** Did you do anything to follow up on that?

1 **A.** Yes.

2 **Q.** And what did you do?

3 **A.** I called the law.

4 **Q.** Okay. And did you call Bo?

5 **A.** Yes.

6 **Q.** Okay. Did you ever have a conversation
7 with Bo regarding the injuries on Hannah?

8 **A.** Yes, ma'am.

9 **Q.** And what came as a result of -- after this
10 incident occurred, things got heated; is that right?

11 **A.** Yes, ma'am.

12 **Q.** Okay. You mentioned that the laws were
13 called, correct?

14 **A.** Yes, ma'am.

15 **Q.** Okay. Was there ever -- was there any
16 results out of that, meaning were there ever any
17 changes to who Hannah lived with after that?

18 **A.** No, ma'am.

19 **Q.** Were there any charges or anything like
20 that brought?

21 **A.** No, ma'am.

22 **Q.** Fair to say things blew over?

23 **A.** Yes, ma'am.

24 **Q.** How did you feel after that? After things
25 blew over, how did that change your opinion about

1 Jennifer?

2 **A.** I didn't much like her as a person anymore.

3 **Q.** Okay.

4 **A.** I was angry at her.

5 **Q.** For what you believed had been done to your
6 child?

7 **A.** Yes, ma'am.

8 **Q.** What about your relationship with Bo?

9 **A.** I was angry at him, but it blew over
10 because we are parents. So --

11 **Q.** And is that kind of this circle? Is that
12 kind of common in your relationship with Bo?

13 **A.** Yes, ma'am. We had a rollercoaster. We
14 would fight about different things, you know, about
15 if one of us wants Hannah for the weekend but the
16 other one has plans; or if one of us has plans and
17 the other one wants her, we fuss about it. And we
18 have gotten into fights about it, but it's always
19 blown over. It may take some time, but it's blown
20 over.

21 **Q.** Okay. And was your understanding, at least
22 regarding Hannah's injuries, having anything to do
23 with Bo at that time?

24 **A.** No.

25 **Q.** Okay. All right. Let's talk a little bit

1 about after Hannah told you what she said at Sonic.

2 And you mentioned Bridgehaven?

3 A. Yes, ma'am.

4 Q. Okay. And you said Hannah's gone there for
5 what purpose?

6 A. Therapy.

7 Q. And how long -- when she goes to therapy,
8 are you in the room with her?

9 A. Sometimes.

10 Q. For the whole time?

11 A. No, ma'am.

12 Q. Do you hear some of what she says?

13 A. No, ma'am. I sit in another room.

14 Q. Okay. Do you know what's going on in that
15 room?

16 A. No, ma'am.

17 Q. Do you know what type of therapy it is?

18 A. Crisis.

19 Q. Okay. Do you know if there is other
20 children in the room or is it just Hannah?

21 A. Just Hannah.

22 Q. Have you gotten any therapy?

23 A. I have been in the -- with her once or
24 twice.

25 Q. Talking to the therapist?

1 **A.** Talking to her therapist as the family
2 because she does family therapy together, but never
3 my own outside.

4 **Q.** Did it seem to help?

5 **A.** Yes, ma'am.

6 **MR. WILKERSON:** May we approach the
7 bench?

8 **THE COURT:** All right.

9 **(At the Bench)**

10 **MR. WILKERSON:** Your Honor --

11 **THE COURT:** Not too loud.

12 **MR. WILKERSON:** Your Honor, at this
13 time I'm going to renew my objection to the State's
14 affirming nature of body language towards the
15 witness.

16 **THE COURT:** I have been watching them.
17 Are you talking about Mrs. Warren? And I haven't
18 noticed anything. What are you referring to?

19 **MR. WILKERSON:** To the affirmative
20 head nods when -- when the witness testifies. I
21 suppose it has to do with what is expected during the
22 testimony of the witness, the affirmative head nods.

23 **THE COURT:** Well, I think she is
24 just -- it is kind of the end of a question, and I
25 think she is just kind of nodding at the end of the

1 phrase. I'm not finding it as any form of
2 communication to the witness or the jury -- jury at
3 this time. So, it's overruled.

4 **MR. WILKERSON:** Thank you.

5 **(End of Bench Discussion)**

6 **Q. (BY MS. WARREN)** All right. I want to back
7 up a little bit. In talking about the timing of when
8 Hannah came home with these injuries on her face, was
9 that before, during, or after the timing -- the first
10 time that Bo and Jennifer parted ways?

11 **A.** It was before.

12 **Q.** Okay. So, that was during their first
13 relationship together?

14 **A.** Yes, ma'am.

15 **Q.** Okay. During the time when they separated,
16 do you know whether or not Bo dated any other
17 individuals?

18 **A.** Yes, ma'am, he did.

19 **Q.** And how do you know that?

20 **A.** I have met a couple of them, and I have set
21 him up with a couple of them.

22 **Q.** Some of them have been your friends?

23 **A.** Yes.

24 **Q.** You encouraged?

25 **A.** Yes, ma'am. Because me and Bo were friends

1 and I had a friend that I thought he would be
2 compatible with.

3 Q. Okay. And during that time period, did you
4 have any issues letting Hannah go with whoever he was
5 dating during that time period?

6 A. No. In fact, one of his girlfriends that
7 he dated he brought over to the house for a birthday
8 party and she was real nice and I really liked her
9 and she liked Hannah. And after her and Bo's
10 relationship split, she called me and asked me if she
11 could visit with Hannah for a little bit.

12 Q. Okay. And in 2014 -- okay. So, prior to
13 when Hannah told you what she told you in the car at
14 Sonic, were you aware of whether -- of what was going
15 on in terms of the life of Bo and his relationship
16 with Jennifer?

17 A. Yes, ma'am.

18 Q. What -- tell us about that.

19 A. They got back together.

20 Q. And do you know about when that was?

21 A. I was told April 11th.

22 Q. Meaning that's when you became aware of it?

23 A. That they were living back together again.

24 Q. So, you don't know when they started back?

25 A. No.

1 Q. Okay.

2 A. But I was aware that they were talking.

3 Q. How is it that you were aware that they
4 were talking?

5 A. They all went on a trip together, and after
6 the trip I found out Jennifer had went with them.

7 Q. Okay. And that was a trip where?

8 A. SeaWorld.

9 Q. And you knew about that trip because?

10 A. After he dropped Hannah off, she told me
11 that Jennifer went with her. I knew about the trip
12 because Bo told me he wanted to take Hannah and the
13 two boys with him --

14 Q. Okay.

15 A. -- to SeaWorld.

16 Q. Okay. At the time when you knew Hannah was
17 going to go to SeaWorld, before she went, did you
18 also know that Jennifer was going to be there?

19 A. No, ma'am.

20 Q. So, when did you learn that?

21 A. When Hannah came home and told me.

22 Q. Okay. And how did Hannah react to the fact
23 that Jennifer was there?

24 A. She was upset.

25 Q. Okay. Explain that.

1 Bo, or was it Jennifer?

2 A. Bo.

3 Q. And was that normal?

4 A. Yes.

5 Q. And did you have -- other than this one
6 incident, did you have any other ill will towards
7 Jennifer?

8 A. Besides what incident?

9 Q. Other than the incident when Hannah came
10 home with the black eye, did you have any other
11 problems with Jennifer in your mind?

12 A. Not really.

13 Q. Okay.

14 A. As a person, no.

15 Q. Okay. Were there times when Bo would call
16 you and -- for example, was there a Halloween
17 incident?

18 A. Yes.

19 Q. Okay. Tell us about the Halloween
20 incident.

21 A. Bo told me that Hannah could stay at our
22 house for Halloween. And the day of Halloween he
23 called me and said that Jennifer wanted to get
24 Hannah. And he said --

25 Q. Hang on. I want to back up a little bit.

1 Bo told you what? Like, going into
2 Halloween, Bo had told you what?

3 A. He called me --

4 MR. WILKERSON: Objection, Your Honor,
5 hearsay.

6 THE COURT: Overruled.

7 A. Bo called -- Bo said I could have Hannah
8 Halloween night.

9 Q. (BY MS. WARREN) And was that important to
10 you?

11 A. Yes, because she spent all holidays with me
12 mostly because he worked.

13 Q. So, that was an agreement that you and he
14 had reached?

15 A. Yeah, because we had already bought
16 costumes and planned it and had plans.

17 Q. Okay. So, that was your impression going
18 into Halloween?

19 A. Yes.

20 Q. Okay. On Halloween day, what happens?

21 A. He called me and said him and Jennifer were
22 going to come to the house because Jennifer wanted to
23 take Hannah with them trick or treating.

24 Q. Okay.

25 A. And he said that.

1 Q. How did you feel about that?

2 A. I got upset and told him that he said I
3 could have her, that she could stay with me.

4 And he said, No, it's fine, she can
5 stay with you. Just don't answer the door when we
6 come. You know, if you want to go somewhere, go
7 somewhere. And I will handle Jennifer and tell her
8 and talk to her later about it. And that's what
9 happened. They came to the house. I was in the back
10 yard with Hannah and we hung around outside and
11 played and they left and we took Hannah trick or
12 treating.

13 Q. So, how did you interpret that dynamic of
14 the relationship?

15 A. I figured Bo was more flexible where --
16 with our custody rights more than Jennifer wanted to
17 be.

18 Q. Okay. And did you know why Bo wouldn't
19 just tell Jennifer, No, I said she can stay with her
20 mom?

21 A. I know what Bo's told me about her.

22 Q. And what has Bo told you?

23 A. That --

24 **MR. WILKERSON:** Objection, Your Honor,
25 hearsay.

1 **THE COURT:** Come on up, please.

2 **(At the Bench)**

3 **THE COURT:** Are you offering all of
4 this as an admission against interest?

5 **MS. WARREN:** Yes, ma'am.

6 **THE COURT:** It doesn't really have
7 anything to do with the crime.

8 **MS. WARREN:** It does in a sense that
9 he is -- it does in the sense that he has already
10 made it very clear that he plans to go into making
11 this about a custody battle. So, for her to be able
12 to talk about custody arrangements and things like
13 that is absolutely going to be relevant to what his
14 defense is, which is this was a custody issue.

15 **MR. WILKERSON:** And she can talk about
16 her aspect of the custody issues, but she can't lie
17 about things my client supposedly said to her.

18 **THE COURT:** Well, under this unique
19 situation I will allow it. So, your objection is
20 overruled.

21 **MR. WILKERSON:** Thank you.

22 **(End of Bench Discussion)**

23 **Q. (BY MS. WARREN)** All right. What did Bo
24 tell you about the relationship with Jennifer, to
25 explain this behavior?

1 **A.** That she and him would fight and that she
2 wasn't very nice to him, that she would call him
3 names, that she would go through a lot of fighting,
4 and that she would get upset and she would want
5 Hannah. Because to -- I guess there was a point
6 where she decided she wasn't happy with me, and she
7 would get Hannah just to get back at me is what he
8 told me.

9 **Q.** Okay. And he told you this because y'all
10 were friends?

11 **A.** Yes, ma'am.

12 **Q.** Okay. And did you ever personally discuss
13 this issue with Jennifer?

14 **A.** No, ma'am.

15 **Q.** So, this is just what Bo told you?

16 **A.** Yes, ma'am.

17 **Q.** All right. I want to talk a little bit
18 about the adult things that Hannah described to you.
19 To your knowledge, has Hannah been exposed to porn?

20 **A.** No, ma'am.

21 **Q.** Explain that.

22 **A.** If -- what she was saying, it wouldn't make
23 any sense. The things that she was telling me was
24 very detailed, and I personally have seen --

25 **THE COURT:** Sorry. Let's do this in

1 question and answer. Just answer the question asked
2 and then wait for the next question, please.

3 **THE WITNESS:** Okay. All right.

4 **Q.** (BY MS. WARREN) That's all right. Talking
5 about whether or not you know if she has been exposed
6 to any porn. What is your opinion on that in terms
7 of what you know in her exposure level?

8 **A.** None.

9 **Q.** Okay. Based on what she told you -- and
10 have you personally ever seen any pornographic videos
11 or films?

12 **A.** Yes, ma'am.

13 **Q.** Okay. Based on what she told you, did you
14 have concerns that it was something that she could
15 have learned from watching something else?

16 **A.** Not at all.

17 **Q.** And why?

18 **A.** Because the details she told me were
19 detailed and I have never -- I wouldn't imagine they
20 would be in a video. Because, you know, videos
21 they're enjoying themselves and everything is
22 perfect. And her details didn't explain those kinds
23 of things. And if it's pictures, that's -- you don't
24 see any of those details in pictures or hear any of
25 those details in pictures.

1 **Q.** The Halloween incident that you described
2 to us, was that the only time that Bo would kind of
3 put you and Jennifer against each other?

4 **A.** No, ma'am.

5 **Q.** That was one example you gave us?

6 **A.** Yes, ma'am.

7 **Q.** Were there other times, as well?

8 **A.** Yes, ma'am.

9 **MS. WARREN:** Judge, we pass the
10 witness.

11 **THE COURT:** Thank you. Let's see if
12 we can get in about 10 minutes of cross before we
13 break for lunch.

14 **CROSS-EXAMINATION**

15 **Q.** **(BY MR. WILKERSON)** Ms. Shafer, who is Greg
16 Hagar?

17 **A.** That is my son's father.

18 **Q.** And was there a point in time that you
19 lived with him?

20 **A.** Yes.

21 **Q.** And why do you not live with him anymore?

22 **A.** Because with all this going on, I just
23 couldn't -- we have some issues, and I couldn't -- I
24 couldn't deal with anything else.

25 **Q.** Are these issues the only kind of issues

1 y'all have ever had?

2 **A.** The issues that we were having when we
3 separated are the issues we have mostly had during
4 our relationship.

5 **Q.** What are those issues?

6 **A.** He drinks and he gets mouthy and I didn't
7 want -- I have to deal with it, you know, because it
8 hasn't -- he hasn't always drank, but he started up
9 and quit and then he started again when we moved to
10 Dayton.

11 **Q.** Does it ever go further than being mouthy?

12 **A.** Once.

13 **Q.** Has it ever gone further with your child
14 than being mouthy?

15 **A.** No.

16 **Q.** Okay. You testified that at the time that
17 Hannah made her outcry statement alleging these
18 heinous allegations, that it was yourself, your
19 mother and Hannah that was present; is that correct?

20 **A.** Yes, in the vehicle.

21 **Q.** Is that all -- all the people that were
22 present?

23 **A.** As I remember it.

24 **Q.** Have you ever testified otherwise?

25 **A.** I don't believe so. In the vehicle with

1 us, no. My son stayed home, I believe, with Greg.

2 Q. Do you recall a protective order hearing on
3 October 7, 2014?

4 A. Yes.

5 Q. Do you recall testifying at that hearing
6 that your son Hasten was in the vehicle when these
7 allegations were first proffered?

8 A. I don't remember if he was with us or not.

9 Q. Do you recall testifying that he was?

10 A. No, I don't remember.

11 MR. WILKERSON: Approach the witness,
12 Your Honor?

13 THE COURT: That's granted.

14 Q. (BY MR. WILKERSON) Showing you page 8 of
15 the certified record --

16 A. Okay.

17 Q. -- from that proceeding. Would you read
18 lines 1 through 6, please?

19 A. Recital at 6:00 that evening, I didn't hear
20 from him.

21 MS. WARREN: Objection, Judge. I
22 think he means to read silently, that's all.

23 THE WITNESS: Oh, sorry.

24 A. (Reviewing document.) Okay.

25 Q. (BY MR. WILKERSON) Now, do you recall

1 testifying --

2 **A.** No.

3 **Q.** -- that your son was present?

4 **A.** I don't remember testifying to that because
5 I can't remember who -- I see it in the paper. I
6 guess I said that, you know; but I don't remember.

7 **Q.** But now you don't remember who was present?

8 **A.** It was a hard day.

9 **Q.** Okay. Do you recall testifying during this
10 same proceeding that you and Hannah talked about
11 these things all the time?

12 **A.** We don't. We have talked about it, but we
13 don't talk about it all the time.

14 **Q.** All right. We will come back to that.

15 You testified -- do you recall telling
16 the healthcare professionals when you originally took
17 Hannah in to be evaluated regarding these allegations
18 that Hannah had suffered multiple urinary tract
19 infections?

20 **A.** No. I don't remember. I don't remember.

21 **THE COURT:** Excuse me. Excuse me.

22 **THE WITNESS:** Sorry.

23 **THE COURT:** Please, one at a time,
24 let's -- everybody calm down here.

25 Okay. Ask your question again and

1 then repeat your answer.

2 Q. (BY MR. WILKERSON) Do you recall telling
3 the medical professionals that Hannah had suffered,
4 prior to her evaluation, multiple urinary tract
5 infections?

6 A. No, sir.

7 Q. Would you be surprised if the medical
8 records indicated otherwise?

9 A. Well, yes, sir, if I don't remember.

10 Q. Do you recall testifying at the protective
11 order hearing --

12 A. Yes, sir.

13 Q. -- that Hannah --

14 A. Oh.

15 Q. -- that Hannah had suffered multiple
16 urinary tract infections?

17 A. No, sir. I recall something different.

18 Q. What do you recall?

19 A. I recall you asking me about it numerous --
20 asking me about it numerous; and I said, No, sir.
21 It's only been the one I took her to the doctor for
22 is what I remember.

23 Q. And do you recall me asking you what
24 physician you took her to?

25 A. Yes, sir.

1 Q. And who did you tell me you took her to?

2 A. Dr. Akinyeye in Baytown.

3 Q. Thank you very much. And it is your
4 testimony that Dr. Akinyeye informed you that Hannah
5 had been diagnosed with a urinary tract infection; is
6 that true?

7 A. Yes, sir.

8 MR. WILKERSON: Approach the witness,
9 Your Honor?

10 THE COURT: Okay.

11 Q. (BY MR. WILKERSON) Showing you what's been
12 marked Defendant's Exhibit 1. Do you recognize that
13 photograph?

14 A. Yes, sir.

15 Q. When was that photograph taken?

16 A. At the beach. I guess last summer, maybe.
17 I'm not sure what summer. This last summer, I
18 believe.

19 Q. Is that photograph a true and accurate
20 photograph of the scene depicted?

21 A. Yes.

22 Q. Was that photograph taken the day after
23 Hannah's forensic interview?

24 A. I don't know. I don't remember. I mean, I
25 don't know.

1 **Q.** You don't -- did y'all go to the beach the
2 day after Hannah's forensic interview?

3 **A.** I don't remember.

4 **MR. WILKERSON:** At this time the
5 Defense offers Exhibit 1, Your Honor.

6 **MS. WARREN:** Judge, I have no
7 objection to the photograph; but my objection to the
8 hearsay parts -- if he could get some scissors and
9 cut the hearsay part. But the photograph I have no
10 objection to.

11 **MR. WILKERSON:** Hearsay part being the
12 date of the post?

13 **MS. WARREN:** May we approach, Judge?

14 **THE COURT:** Yes, ma'am.

15 **(At the Bench)**

16 **MR. WILKERSON:** The photograph is date
17 stamped.

18 **THE COURT:** Just a minute. Where is
19 the date you're referring to?

20 **MS. WARREN:** My objection is to this
21 portion. I have no problem with this part.

22 **THE COURT:** I got that. Where is the
23 date?

24 **MS. WARREN:** And it's not -- I don't
25 think that --

1 **THE COURT:** At the top.

2 **MS. WARREN:** I don't think --

3 **MR. WILKERSON:** Below the name of the
4 person who posted the photograph.

5 **THE COURT:** I see.

6 **MS. WARREN:** I don't think this date
7 can be properly authenticated that way.

8 **THE COURT:** You know, sometimes the
9 State introduces exhibits with dates. I suggest you
10 withdraw the exhibit at this time; and if you can
11 establish the date and authenticate it, then it can
12 come in. So, I don't know if you want to put the
13 whole thing in now.

14 **MS. WARREN:** Or the -- or half.

15 **THE COURT:** Sorry?

16 **MR. WILKERSON:** All right. I tell you
17 what. Can I get some scissors?

18 **THE COURT:** Looks like you have more
19 than one.

20 **MR. WILKERSON:** I do, Your Honor.

21 **THE COURT:** Why don't you just
22 introduce the cut part now; and if later you can
23 authenticate it, then you can introduce the photo
24 with that information with the date.

25 **MR. WILKERSON:** Okay.

1 **THE COURT:** Do you have scissors? Do
2 you want to introduce just the photo at this time?

3 Mr. Wilkerson, do you want to
4 introduce just the photo at this time?

5 **MR. WILKERSON:** Yes, Your Honor.

6 **THE COURT:** Okay. So, you will have
7 to remove the sticker.

8 **MR. WILKERSON:** Yes, Your Honor.

9 **(End of Bench Discussion)**

10 **THE COURT:** Defense 1 is admitted as
11 redacted. Let's go ahead and let the jury go to
12 lunch at this time. We're going to be in recess
13 until about 1:10. And hopefully we can get started
14 shortly after that.

15 You're free to walk around the
16 courthouse if you wish after you eat lunch. And if
17 anybody wants to smoke, that's fine; but will you
18 head up -- head on back about 1:10.

19 And, of course, let me mention one
20 other thing. You should not begin discussing the
21 case even among yourselves during the breaks. You
22 shouldn't talk about it among yourselves until
23 deliberations begin. So, we will see you about 1:10.

24 Have a great lunch. Thank you.

25 **(Jury released)**

1 **(Recess taken)**

2 **THE COURT:** Just so the record is
3 clear, we have very expressive lawyers in this case.
4 And so, her head nodding is nothing compared to your
5 stomping in those boots. And every time the witness
6 gives an answer you think is untruthful, you throw
7 something down. You threw the transcript and
8 something else you threw. And they're very
9 exaggerated movements.

10 And talking about showing your
11 agreement or disagreement with testimony to the jury,
12 that's about as extreme as I have ever seen. So, you
13 just can't do that. I'm just not going to allow
14 that. So, when you're angry, you walk, you kind of
15 stomp. And those boots make a lot of noise.

16 So, I want you to be able to try your
17 case. I understand this is very emotional for you,
18 right, and the client is a friend of yours. But
19 you're going to have to calm down. And it distracts
20 from the jury. It's distracting for the jury because
21 they are watching you instead of focusing on the
22 information. So, try to calm down.

23 I'm going to let you-all ask all the
24 questions the Rules of Evidence allow. And it looks
25 to me like this is already one of those cases where

1 all kinds of stuff that would normally -- would not
2 normally come in is going to end up coming in before
3 it's all over, you know. So, try to relax a little
4 bit because you just can't stomp like that.

5 And you're loud with the witness. You
6 just can't be that loud with a witness. For one
7 thing, it intimidates the witness; and I'm not going
8 to allow that. The other thing, the jury doesn't
9 like it, and it hurts your client.

10 So, calm down. We're going to be here
11 a long time. I'm going to let you ask all these
12 questions. Just try to do it in a calmer way. Okay?

13 **MR. WILKERSON:** Yes, Your Honor.

14 **THE COURT:** Okay. Thank you-all.
15 Have a good lunch. See you at 1:10 or so.

16 **MS. WARREN:** Thank you, Your Honor.

17 *(Recess taken)*

18 **THE COURT:** I think we're ready for
19 the jury.

20 *(Jury enters the courtroom)*

21 **THE COURT:** Thank you. Please be
22 seated.

23 Members of the jury, this is Leah Leal
24 at the court reporter's machine over here. And she
25 has just graduated from court reporting school, and

1 she is just here to practice. So, we're glad to have
2 her.

3 And the lawyers promised me they're
4 not going to talk too fast. All right. Thank you.

5 Mr. Wilkerson, I believe you were on
6 cross-examination.

7 **MR. WILKERSON:** Yes, Your Honor.
8 Permission to publish Defendant's Exhibit 1?

9 **THE COURT:** Yes.

10 **Q.** (BY MR. WILKERSON) Ms. Shafer, before we --
11 before we broke for lunch, I was asking you about
12 this photograph that is now displayed on the screen
13 for the jury.

14 Is that Hannah in that photograph?

15 **A.** Yes, sir.

16 **Q.** And who is that with her?

17 **A.** My mom.

18 **Q.** Your mom. Do you generally feel -- how old
19 is Hannah in that picture?

20 **A.** Ten and a half, 11, because I'm -- I guess.
21 From last summer. Ten and a half.

22 **Q.** Do you generally feel that a two-piece
23 bikini is appropriate dress for a
24 10-and-a-half-year-old?

25 **THE COURT:** Approach, please.

1 **(At the Bench)**

2 **THE COURT:** Hi. Since the child is
3 below the age of consent, I don't believe -- I don't
4 really understand how how she dresses is relevant to
5 the case.

6 **MR. WILKERSON:** It's relevant to the
7 case because children who have experienced sexual
8 assault are generally uncomfortable with their
9 bodies, and it's obvious that Hannah has no
10 discomfort with her body whatsoever.

11 **THE COURT:** Is that something your
12 expert is going to testify to?

13 **MR. WILKERSON:** Yes, Your Honor. Our
14 psych expert will testify to that.

15 **THE COURT:** Just ask is she
16 comfortable or uncomfortable with her body. I don't
17 want to be criticizing the clothing a child wears,
18 you know. I just don't think that's appropriate.

19 **MR. WILKERSON:** Yes, Your Honor.

20 **THE COURT:** Thank you.

21 **(End of Bench Discussion)**

22 **Q. (BY MR. WILKERSON)** Ms. Shafer, was this
23 photograph taken after the allegations of sexual
24 assault surfaced?

25 **A.** Yes.

1 **Q.** And judging by the photograph and from your
2 personal knowledge, is Hannah comfortable with her
3 body?

4 **A.** She was. The older she gets the more she
5 changes, because her body is changing.

6 **Q.** Okay. In this photograph, subsequent to
7 the allegations of sexual assault, is she comfortable
8 with her body?

9 **A.** Yes.

10 **Q.** Thank you, Ms. Shafer.

11 **MR. WILKERSON:** Approach the witness,
12 Your Honor?

13 **THE COURT:** Yes, sir.

14 **Q.** **(BY MR. WILKERSON)** I show you what's been
15 marked Defendant's Exhibit 3. Do you recognize that
16 photograph?

17 **A.** Yes.

18 **Q.** Who took that photograph?

19 **A.** Me.

20 **Q.** And when was it taken?

21 **A.** Around Christmastime. That's what Hannah
22 wore to her Christmas recital in kindergarten.

23 **Q.** Okay. Is the date that appears to the
24 right of the photograph an accurate representation of
25 the date that photograph was posted?

1 have another copy without the writing? Since --
2 based on this witness' testimony, the date may remain
3 in; but everything below the box and date needs to
4 come off.

5 **MR. WILKERSON:** Permission to publish
6 Defendant's Exhibit 3 to the jury, Your Honor?

7 **THE COURT:** Yes, sir. And once
8 something is admitted into evidence, neither the
9 State nor Defense needs to ask permission to publish.
10 You can show it to the jury if it's in evidence.

11 **Q. (BY MR. WILKERSON)** Ms. Shafer, was this
12 photograph taken subsequent to the allegations of the
13 incident regarding Jennifer Shafer and Hannah that
14 you spoke of in 2009?

15 **A.** Yes.

16 **Q.** Okay. Can you identify in this picture
17 which girl is Hannah?

18 **A.** The little girl in the red with the little
19 bow in her hair.

20 **Q.** Okay. Can you point out the black eye or
21 busted lip?

22 **A.** Well, no.

23 **Q.** Okay. Is it there?

24 **A.** No, but there was -- this is December.

25 **Q.** Okay. And Thanksgiving would have been

1 November 27th?

2 **A.** She came home earlier, yeah, that week.

3 Yeah.

4 **Q.** So --

5 **A.** November.

6 **Q.** So, it is your testimony that she came
7 earlier --

8 **A.** She came early the week --

9 **Q.** -- earlier in the week?

10 **A.** -- when he was supposed -- he was not -- he
11 didn't return her until the Sunday after
12 Thanksgiving, and he brought her home early.

13 **Q.** Okay. Do you have a photograph of the
14 marks and the black eye and the --

15 **A.** No.

16 **Q.** No? Did you take a photograph?

17 **A.** Yes.

18 **Q.** What happened to that photograph?

19 **A.** It was on a camera card on my camera and I
20 don't know what happened to the camera.

21 **Q.** I see. Was this alleged incident reported
22 to anyone?

23 **A.** Yes.

24 **Q.** And were the allegations dismissed?

25 **A.** Yes.

1 Q. Thank you very much.

2 All right. Let's talk about -- who is
3 the other girl in the photograph?

4 A. A friend of mine's daughter, my neighbor's
5 daughter.

6 Q. Your neighbor's daughter?

7 A. At the time where I was living.

8 Q. What is her name?

9 A. Paige.

10 Q. Paige? Who is Paige's father?

11 A. Who's her father?

12 Q. Yeah.

13 A. I don't know.

14 Q. Did your daughter ever spend the night at
15 Paige's?

16 A. Yes.

17 Q. Did Paige ever spend the night at your
18 house?

19 A. Yes.

20 **MS. WARREN:** Judge, may we approach?

21 **THE COURT:** All right.

22 **(At the Bench)**

23 **MS. WARREN:** I believe that he is
24 going to be wanting to go into an area that we
25 addressed with Motions in Limine.

1 **THE COURT:** Sorry. A touch louder.

2 **MS. WARREN:** I believe he is really
3 trying -- I'm trying to keep the jury from hearing.
4 I believe he is going to want to go into an area that
5 we addressed on Motions in Limine.

6 **THE COURT:** Area of what?

7 **MS. WARREN:** An area of an incident
8 that --

9 **THE COURT:** Sorry --

10 **(End of Bench Discussion)**

11 **THE COURT:** Sorry. I'm going to have
12 to retire the jury. I just can't hear.

13 All rise for the jury.

14 **(Jury released)**

15 **THE COURT:** Thank you. Please be
16 seated.

17 Okay. Now you can speak freely.

18 **MS. WARREN:** Thank you, Judge. There
19 is an incident -- a previous incident that I believe
20 the Defense attorney is about to refer to with this
21 witness regarding this little girl, and it's an
22 incident that is going to be compounded through lots
23 of hearsay.

24 My understanding of what happened is
25 this little girl is a neighbor, and the neighbor's

1 mother called this witness and told her that she
2 needed to come over and get the girls one day because
3 there was an incident involving both of the girls
4 being naked. We're talking about two girls. I think
5 their ages are about 5 at this time.

6 And so, all this witness knows is what
7 was reported to her. And then this witness then
8 reported it to Bo, the defendant. So, I needed to
9 lay that foundation to explain how questioning this
10 witness -- first of all, it's a completely extraneous
11 sexual act that is just not admissible at all in
12 terms of this victim and this trial.

13 **THE COURT:** Well, is your objection
14 hearsay?

15 **MS. WARREN:** And also going to be
16 speculation. It's learned upon hearsay and all that,
17 yes. Multiple objections.

18 **THE COURT:** You agree it would have to
19 be based on hearsay, don't you?

20 **MR. WILKERSON:** My questions for this
21 witness would be, first of all, has Hannah ever been
22 disallowed from visiting or playing with Paige? And
23 then my second question would be why, Your Honor.
24 And that would be based on the witness' own decision
25 regarding whether or not the incident occurred or

1 not.

2 **THE COURT:** Of course, the State did a
3 lot of this kind of stuff with this witness on
4 direct; but it's still -- I see you're shaking your
5 head yes. That means you object still?

6 **MS. WARREN:** I do because --

7 **THE COURT:** Okay. I don't want to
8 hear speeches from everybody on every objection. I
9 want -- this is a trial. It's moving so slowly. So,
10 right now the objection is hearsay. That's
11 sustained.

12 And, you know, the State did a lot of
13 this stuff with hearsay on direct. But, nonetheless,
14 there are objections. So, if they object, it's
15 sustained.

16 After Paige testifies, it may well be
17 admissible how she has knowledge of anything, parts
18 of the body or whatever; but at this time it's not
19 admissible. You can recall the witness on your case
20 if it becomes admissible.

21 **MR. WILKERSON:** Okay. Your Honor,
22 we're going to need a subpoena issued for Paige. We
23 cannot file --

24 **THE COURT:** Well, you can, sir.
25 That's not my job.

1 **MR. WILKERSON:** We can't file an
2 application for a subpoena for an underaged witness.

3 **THE COURT:** Well, you have to subpoena
4 the parents to bring the child, right? So, you can
5 do that. But, you know, that's nothing I do. You
6 don't have to have me to do it. Just fill it out and
7 send it through the channels.

8 **MR. WILKERSON:** Yes, Your Honor.

9 **THE COURT:** Okay. Okay. Ready for
10 the jury.

11 **MR. WILKERSON:** Wait. Sorry.

12 **THE BAILIFF:** Judge, one of the jurors
13 asked that they possibly turn up the sound on the
14 speakers.

15 **THE COURT:** Okay. Will you speak up a
16 little bit?

17 **THE WITNESS:** Yes. I'm sorry.

18 **THE COURT:** It's all right. And I
19 don't know if it's the lawyers or me, but thank you
20 for letting me know. I will try to speak up.

21 **(Brief pause)**

22 **THE COURT:** Okay. Thank you.

23 **MR. WILKERSON:** One more thing, Your
24 Honor. We also intend to introduce testimony that
25 Paige's father is a convicted sex offender.

1 **THE COURT:** Okay. Try not --

2 whoever --

3 **MS. FELICIA:** Sorry, Judge.

4 **THE COURT:** I don't know what the
5 noise was. I'm going to assume it was a cough --

6 **MS. FELICIA:** Yes.

7 **THE COURT:** -- and not a laugh.

8 **MS. FELICIA:** Yes, Your Honor.

9 **THE COURT:** Okay. Obviously, at this
10 time that's not admissible. It's just not. One,
11 it's hearsay. He is not charged --

12 **MR. WILKERSON:** It is not hearsay. He
13 has been charged and convicted, and we have certified
14 copies of the records.

15 **THE COURT:** If he -- if he testifies,
16 you may use that to impeach him. Maybe it will come
17 in in some strange way before this is all over, but
18 right now it's clearly not admissible.

19 **MR. WILKERSON:** Your Honor, my
20 understanding of the rules of evidence is that
21 certified court records are admissible.

22 **THE COURT:** It is not relevant is the
23 reason it is not admissible at this time. Now, after
24 the child testifies -- you know, I presume you're
25 going to ask her if she -- somebody else did this to

1 her, and she is -- that's how she got this knowledge.
2 But right now it's just not admissible. It's not
3 relevant. Maybe later.

4 **MR. WILKERSON:** Yes, Your Honor.

5 **THE COURT:** Okay. And if you want to
6 call Paige, you know, that may or may not be
7 relevant; but -- okay. Ready for the jury.

8 *(Jury enters the courtroom)*

9 **THE COURT:** Thank you. Please be
10 seated. You may continue, Mr. Wilkerson.

11 **Q. (BY MR. WILKERSON)** All right. Ms. Shafer,
12 you stated earlier that after you heard your daughter
13 tell you things regarding her father that you went
14 straight home; is that correct?

15 **A.** Yes.

16 **Q.** You said you did not know what to do --

17 **A.** Yes.

18 **Q.** -- is that correct?

19 Did it not occur to you to contact the
20 police for taking the child to a hospital?

21 **A.** Well, not at first. I was just kind of in
22 shock.

23 **Q.** Okay. That's certainly understandable.
24 You testified that the sun was coming up when you
25 left San Jacinto Methodist Hospital, correct?

1 **A.** Close to morning, yeah.

2 **Q.** Okay. And that when you arrived at Texas
3 Children's Hospital, it was approximately 9:00 in the
4 morning; is that correct?

5 **A.** Between 9:00 and 11:00. I'm not sure of
6 the exact time.

7 **Q.** Okay. You said that you were told to go to
8 Texas Children's Hospital tomorrow, correct?

9 **A.** The -- we went home. Somebody on the case
10 called us, asked about if we had been to Texas
11 Children yet, and we said no, we were trying to get
12 some rest. And then he said, You need to go as soon
13 as possible, which was that day that we actually had
14 got in that morning from San Jacinto. So, we went
15 that day.

16 **Q.** Okay. So, it did not occur to you after
17 you were referred to Texas Children's Hospital --

18 **MS. WARREN:** Objection, asked and
19 answered.

20 **THE COURT:** Sustained.

21 **Q.** **(BY MR. WILKERSON)** Earlier I had asked you
22 if you and Hannah talked about this incident; and you
23 said y'all do not, correct?

24 **A.** Well, you asked if we talked about it a
25 lot; and we don't talk about it a lot. We have

1 talked about it but not a lot.

2 Q. Okay. You say you don't talk about it a
3 lot. Do you recall on the date of your protective
4 order hearing the Judge asking you did you ever talk
5 to her about it?

6 A. I believe so because I believe I answered
7 him that we did talk about it.

8 Q. Do you recall saying "all," a pause, and
9 then "yes"?

10 A. I don't understand.

11 **MR. WILKERSON:** Approach the witness,
12 Your Honor?

13 **THE COURT:** Yes, sir.

14 Q. **(BY MR. WILKERSON)** Would you please read to
15 yourself lines 9 through 13?

16 A. (Witness complies.) Okay.

17 Q. Okay. So, have you ever testified that you
18 and Hannah talked about this issue all the time or a
19 lot?

20 A. That's not what it said, though. Because
21 I'm really kind of confused. But it says -- I read
22 what it said. But even when I answered it, I said,
23 yes, we do talk about it.

24 Q. Okay.

25 **MS. FELICIA:** What page is that?

1 **MR. WILKERSON:** Page 45.

2 **A.** I'm not sure.

3 **Q.** **(BY MR. WILKERSON)** Lines 10 through 13. Do
4 you recall the Judge asking you were you about to say
5 all the time?

6 **A.** No.

7 **Q.** You do not recall that even -- even after
8 having your recollection refreshed?

9 **A.** I mean, after reading it -- I read it, but
10 I don't remember him asking because I don't remember
11 that --

12 **Q.** Okay.

13 **A.** -- part right there.

14 **Q.** Would you say that the record is untrue?

15 **A.** No.

16 **Q.** And --

17 **THE COURT:** Excuse me. Can I just
18 have the record reflect that I'm not the Judge being
19 referred to. Thank you.

20 **Q.** **(BY MR. WILKERSON)** Do you recall responding
21 to that question: "She talks to me, yes"?

22 **A.** Well, yeah. But I didn't say "all the
23 time." Because we don't talk about it all the time.
24 But she does talk to me, just not all the time. It's
25 not like an everyday thing.

1 **Q.** Okay. I understand your position. Thank
2 you.

3 Do you have problems discussing this
4 with your daughter?

5 **A.** No.

6 **Q.** Do you recall a counseling session where
7 you told the counselor that you thought she should
8 not have to discuss it?

9 **THE COURT:** Sorry. Can you clarify
10 who "she" is?

11 **MR. WILKERSON:** "She" being Hannah.

12 **THE COURT:** Thank you.

13 **A.** Discuss it with me?

14 **Q.** **(BY MR. WILKERSON)** With the counselor.

15 **A.** I'm sorry. Can you rephrase that question?
16 I'm just a little bit confused.

17 **Q.** Do you recall a counseling session --

18 **A.** Uh-huh (affirmative.) Yes, sir.

19 **Q.** -- during which you became upset and
20 expressed to the counselor that y'all should not have
21 to discuss what happened to your daughter?

22 **A.** When you say "discussed what happened to
23 her," no, I don't believe Hannah should have to keep
24 talking about it. It's not something she should have
25 to relive through. And it is upsetting. And every

1 time we talk about it, I get -- I cry. And it's not
2 something --

3 **THE COURT:** Excuse me, ma'am. You
4 should just answer the question.

5 **THE WITNESS:** Oh.

6 **THE COURT:** Ma'am, wait for the next
7 question, please.

8 **THE WITNESS:** Okay.

9 **THE COURT:** So, excuse me. If it is a
10 "yes" or "no" question --

11 **THE WITNESS:** Yes, ma'am. I'm sorry.

12 **THE COURT:** -- you just answer "yes"
13 or "no." And then regardless of which lawyer is
14 asking you the question, you may answer in a sentence
15 or two but not in a whole paragraph.

16 **THE WITNESS:** Sorry.

17 **THE COURT:** You just have to wait for
18 the next question. That's what the rules require.

19 **THE WITNESS:** Okay.

20 **Q. (BY MR. WILKERSON)** Okay. The alleged
21 incident from 2009, was that incident reported to
22 Child Protective Services?

23 **A.** Yes.

24 **Q.** Stemming from that investigation, were you
25 ordered to take parenting classes?

1 **A.** We were suggested to.

2 **Q.** Why?

3 **A.** Because me and Greg were having some issues
4 of our own.

5 **Q.** Issues with parenting?

6 **A.** Just in the home.

7 **Q.** Just in the home?

8 **A.** With each other.

9 **Q.** Okay. You testified earlier that you
10 didn't have any problems with Jennifer, correct,
11 aside from the 2009 incident?

12 **A.** Yeah. When we were all getting along, it
13 was fine.

14 **Q.** Is that still your testimony, that you had
15 no problems with her aside from that 2009 incident?

16 **A.** I guess if we weren't fighting.

17 **Q.** Do you recall testifying at the protective
18 order hearing that you did not like Jennifer?

19 **A.** Yes. I said that here, too. I don't much
20 like her as a person.

21 **Q.** Okay. Would you agree that not liking
22 someone as a person might cause friction and
23 hostility?

24 **A.** Depends, I guess, in what situation you're
25 in.

1 **Q.** You testified earlier that the defendant
2 showed up at the end of the recital; is that correct?

3 **A.** That's when I saw him.

4 **Q.** That's when you saw him. Isn't it true,
5 Ms. Shafer, that you actually texted Mr. Shafer
6 during the recital?

7 **A.** No. I don't think so.

8 **Q.** So, testifying that you did not and that
9 you were not aware of him being present there,
10 would -- would phone records that indicate otherwise
11 surprise you?

12 **A.** Like I'm -- like phone records like
13 calling?

14 **Q.** Yes. Text messages, logs.

15 **A.** I guess so because I didn't know he was
16 there until the end of the recital.

17 **Q.** Okay. Do you recall testifying at the
18 protective order hearing that on the date that the
19 allegations were proffered by the alleged victim in
20 this case, your daughter, that you contacted
21 Mr. Shafer and told him that you knew?

22 **A.** Afterwards.

23 **Q.** Afterwards?

24 **A.** I don't know if it was that day, but I did
25 tell him that I knew.

1 Q. After you called him and/or texted him
2 after that?

3 A. She told me, and I texted him sometime
4 after.

5 Q. Okay. And you stand on that testimony as
6 the absolute truth?

7 A. I'm pretty sure. I know I texted him.

8 Q. You know you texted him?

9 A. And told him I knew.

10 Q. Telling him you knew. So, if phone records
11 reflected otherwise, would that continue to be your
12 testimony?

13 A. I'm not sure what -- I'm not sure.

14 Q. Okay. Well, we will -- we will have to
15 address some of these things at a later -- later time
16 and date.

17 You testified earlier that in -- at
18 the end of 2013 and the beginning of 2014, Hannah's
19 grades suffered; is that correct?

20 A. She dropped a couple of them.

21 Q. Is it still your testimony that her grades
22 suffered at that time?

23 A. I know at one point she did bring home a
24 progress report with a bad grade.

25 Q. With a bad grade?

1 **A.** I believe it was something in the 70s.

2 **Q.** 70's.

3 **MR. WILKERSON:** Approach the witness,
4 Your Honor?

5 **THE COURT:** Yes, sir.

6 **Q.** **(BY MR. WILKERSON)** Do you recognize this
7 document, Ms. Shafer?

8 **A.** Yes.

9 **Q.** What are they?

10 **A.** Well, I mean, this one is a Dade
11 Independent School District progress report. And
12 this one -- I don't know what this is. I don't know
13 what this is. I'm not sure.

14 **Q.** Okay.

15 **A.** I never even seen anything like that.

16 **Q.** Do you receive these progress reports
17 regularly?

18 **A.** Yes. And report cards.

19 **Q.** Progress reports and reports cards. And
20 you keep them as a regular course of your business of
21 having Hannah enrolled in school?

22 **A.** Sometimes. I have some.

23 **Q.** Okay. Is this progress report an accurate
24 reflection of Hannah's grades at the time that this
25 progress report was made?

1 **A.** Well, yes.

2 **MR. WILKERSON:** At this time we offer
3 Defendant's Exhibit 4.

4 **THE COURT:** Any objection?

5 **MR. WILKERSON:** Not this one.

6 **MS. WARREN:** Yeah, to Defense 4, no
7 objection.

8 **THE COURT:** Thank you. Admitted.

9 **Q.** **(BY MR. WILKERSON)** Okay. Now, this is a
10 progress report for the end of 2013 and the beginning
11 of 2014, correct?

12 **A.** Okay.

13 **Q.** This is Hannah's progress report, correct?

14 **A.** It comes between the nine weeks, yes.

15 **Q.** Okay. Can you explain to the jury where
16 the grade suffering that you referred to is?

17 **A.** Well, this is just a progress report. She
18 also has report cards.

19 **Q.** But this progress report covers the period
20 of time that you testified her grades were suffering,
21 correct?

22 **A.** The report card at the end of the year
23 would show the final grade. So, I'm not sure when
24 she had the bad grade. I just know that she had it
25 because we had to be -- we told her to bring it up.

1 Q. I'm not sure I understand. Because -- am I
2 correct that you testified on that stand to this jury
3 that Hannah's grades suffered at the end of 2013 and
4 the beginning of 2014?

5 A. Yes.

6 Q. Did I misstate that --

7 A. No.

8 Q. -- in any way?

9 A. No.

10 Q. And that is a statement of fact?

11 A. Yes.

12 Q. Okay. This progress report covers the end
13 of 2013 and the beginning of 2014; is that correct?

14 A. It only says -- I'm not sure.

15 **THE COURT:** Sorry. That was a "yes"
16 or "no" question.

17 A. Oh, I don't know. I don't, because it
18 doesn't have any like months. It just has a year
19 period. I'm not sure. I don't know what these --
20 all that means.

21 Q. **(BY MR. WILKERSON)** Okay. So, you get these
22 regularly. The grades suffered. Is it the case that
23 you have nothing to demonstrate that the grades
24 suffered?

25 A. Yes.

1 **Q.** Thank you. Okay.

2 You stated that your relationship with
3 Bo -- that y'all were friends after you divorced; is
4 that correct?

5 **A.** Yes.

6 **Q.** Okay. Is it true that you often withheld
7 Hannah from Bo?

8 **A.** Yes.

9 **Q.** Yes.

10 **A.** That is true.

11 **Q.** So, you freely admit that in opposition to
12 the Court's orders for custody and visitation, you
13 did not allow Bo to see his daughter?

14 **A.** At times, yes.

15 **Q.** That's -- okay. Were you aware that the
16 defendant had -- was in the process of filing a
17 Motion to Enforce the custody and visitation order by
18 contempt?

19 **A.** I know you mentioned something in the
20 protective order court. But, no, I have not seen
21 anything or heard anything.

22 **Q.** Okay. Is it your testimony that on
23 April 18, 2014, you did not receive a text message
24 indicating that the two of you would be going back to
25 court?

1 **A.** I might have, but I didn't know we -- I
2 don't know. Yes. Maybe.

3 **Q.** I'm confused. I'm sorry.

4 Is -- so, you did receive a text
5 message; or it's your testimony that you did not?

6 **A.** Yes, I guess. I mean, I don't have any
7 phone -- yes. I mean, I know we talked about it and
8 fussed about it.

9 **Q.** Okay. So, y'all did talk about the custody
10 issue?

11 **A.** No. Well, court.

12 **Q.** Court. Going back to court for the custody
13 issue?

14 **A.** He just says "court."

15 **Q.** Is it your testimony that on the day that
16 these allegations were proved, the defendant did not
17 inform you at that time that he had moved forward
18 with the Motion to Enforce by contempt?

19 **A.** I have never heard anything about a
20 contempt of court.

21 **Q.** So, y'all have talked about court but not
22 what was going to happen --

23 **A.** He just --

24 **Q.** -- is that correct?

25 **A.** He just says he wanted to go to court.

1 Q. Okay. What did you think that meant?

2 A. The same threats and fights we always have.

3 Q. So, this was a continuing issue then?

4 A. We have had it before.

5 Q. Several times? You said "always."

6 A. Well, any time we fought about when we were
7 going to see her or not, we would bring it up. One
8 of us, just --

9 Q. All right. Do you recall what you
10 testified to in the protect -- protective order
11 hearing is when the last time that Bo saw his
12 daughter was -- I'm sorry -- Mr. Shafer saw his
13 daughter?

14 A. No. I don't remember.

15 Q. Do you recall what you reported to the
16 authorities was the last time that Mr. Shafer saw his
17 daughter?

18 A. No.

19 Q. Do you dispute the fact that at the
20 protective order hearing, you testified?

21 **MS. WARREN:** Objection, hearsay.

22 **THE COURT:** Hearsay?

23 **MS. WARREN:** It's hearsay and not
24 relevant.

25 **THE COURT:** Approach, please.

1 **MS. WARREN:** And improper impeachment.

2 **THE COURT:** Approach, please.

3 **(At the Bench)**

4 **MR. WILKERSON:** Your Honor, this is --

5 **THE COURT:** It would seem to me that
6 the date he last saw his daughter is relevant. Why
7 is that not relevant?

8 **MS. WARREN:** My objection is to
9 basically -- basically more of to an improper
10 impeachment because she is saying she doesn't
11 remember. So --

12 **THE COURT:** Not remembering is the
13 same as denying for purposes of impeachment.

14 **MS. WARREN:** Except that he hasn't
15 given her an opportunity to refresh her recollection
16 by showing her the document or talking about it.
17 That's all.

18 **THE COURT:** She -- what she admits or
19 denies you can ask her: Didn't you say such and such
20 on such and such date?

21 **MS. WARREN:** I agree.

22 **THE COURT:** He doesn't have to show
23 her first.

24 **MS. WARREN:** I agree, just that I --

25 **THE COURT:** I don't understand your

1 objection.

2 **MS. WARREN:** That he had given her the
3 other times he --

4 **THE COURT:** What?

5 **MS. WARREN:** All the other times he
6 attempted to impeach her, he has shown her the
7 document. And I --

8 **THE COURT:** It's up to you. He is
9 entitled to ask her before he shows her.

10 **MS. WARREN:** That's fine. Okay,
11 Judge.

12 **THE COURT:** Thank you.

13 **(End of Bench Discussion)**

14 **Q. (BY MR. WILKERSON)** Do you recall testifying
15 at the protective order hearing that Mr. Shafer had
16 last came and picked up his daughter in March around
17 Easter?

18 **A.** Around about. I thought it was after their
19 SeaWorld trip he had seen her once more.

20 **Q.** So, you acknowledge testifying to that?

21 **A.** Yes.

22 **Q.** Okay. So, is it your testimony today that
23 the last time Mr. Shafer saw his daughter was around
24 Easter?

25 **A.** Around March.

1 **Q.** Around March. Beginning or end?

2 **A.** I'm not sure. I don't know.

3 **Q.** How many times has Mr. Shafer been allowed
4 to see his daughter this year?

5 **A.** Since --

6 **MS. WARREN:** Objection to the
7 relevance of "this year." Can we narrow down the
8 time frame?

9 **THE COURT:** Sustained.

10 **Q.** **(BY MR. WILKERSON)** Between January 1st
11 and the last time that you believe that Mr. Shafer
12 saw Hannah, how many times did Mr. Shafer get to see
13 his daughter?

14 **A.** I'm not sure.

15 **Q.** Would you dispute that the answer to that
16 question would be one time?

17 **A.** Between January 1st --

18 **Q.** Between January 1st and the last time you
19 allege that Mr. Shafer was able to see Hannah, would
20 you dispute that that number is greater than one?

21 **A.** You're asking me did you -- did he see her
22 more than once?

23 **Q.** Yes.

24 **A.** Yes, he did see her more than once.

25 **Q.** But you don't know when?

1 **A.** I know he saw her in January because that
2 was the break. I know they went on a SeaWorld trip,
3 and I believe it was once after the SeaWorld trip.

4 **Q.** When after the SeaWorld trip?

5 **A.** I'm not sure.

6 **Q.** January or when?

7 **A.** Right. I'm -- around Christmas break, I'm
8 sure.

9 **Q.** You said in January.

10 **A.** Well, because Christmas break is two weeks
11 long.

12 **Q.** Okay.

13 **A.** So, first of January.

14 **Q.** First of January. So, are we talking about
15 the first week in January?

16 **A.** I believe he probably would have. I'm just
17 not sure because I don't remember.

18 **Q.** Okay. We will move on from that.

19 Do you recall testifying at the
20 protective order hearing that when your daughter
21 first allegedly made these allegations of sexual
22 assault, she told you that she was afraid that you
23 would be mad at her?

24 **A.** No.

25 **Q.** You do not remember testifying to that?

1 **A.** No. It's been so long since the protective
2 order court.

3 **Q.** Do you recall testifying at the protective
4 order hearing that your daughter told you at the time
5 that these allegations were allegedly made by her
6 that her father did bad things to her?

7 **MS. WARREN:** Objection to the hearsay,
8 Judge.

9 **MR. WILKERSON:** Outcry statement, Your
10 Honor.

11 **THE COURT:** As I understand, this is
12 the outcry witness, is that not correct?

13 **MS. WARREN:** That specific statement
14 doesn't allege the actual offense as it applies in
15 the code in terms to the outcry exception, that
16 statement. Later when she describes it, that would
17 be the outcry statement.

18 **THE COURT:** Can you give us a date, or
19 what occasion are you talking about? Can --

20 **MR. WILKERSON:** This is the occasion
21 when the mother has testified that the father that
22 miss -- that the daughter, Hannah Shafer, told her
23 all of these things at Sonic.

24 **THE COURT:** Okay. That would be the
25 part of the outcry, would it not?

1 **MS. WARREN:** Outcry statement would be
2 the actual sex acts that were described, not just a
3 general "he does bad things to me."

4 **THE COURT:** Overruled. You may ask.

5 **A.** I'm sorry. Can you repeat the question?

6 **Q.** **(BY MR. WILKERSON)** Yes, ma'am.

7 Do you recall testifying at the
8 protective order hearing that your daughter, when she
9 allegedly made these allegations of sexual abuse,
10 told you that her father or her daddy does bad things
11 to her?

12 **A.** Yes.

13 **Q.** Did you testify earlier today that your
14 daughter did not know what she was doing was wrong?

15 **A.** Yeah, I guess.

16 **Q.** You --

17 **A.** She didn't understand what was going on.

18 **Q.** Okay. If she didn't -- well, so, let's --
19 let's revisit this. Because earlier I recall -- and
20 maybe we need to go through the record -- you
21 testifying that she never said anything about this
22 because she didn't know it was wrong.

23 Is that your testimony?

24 **A.** I don't remember saying why she didn't say
25 anything about this. I know I said that she didn't

1 understand the wrongness of the situation.

2 Q. Okay. Do you recall testifying at the
3 protective order hearing that she said that she never
4 told you because she didn't know it was wrong?

5 A. She didn't say that.

6 Q. So, it's your testimony that Hannah never
7 said that she didn't know what was happening was
8 wrong?

9 A. No. That was my assumption, not -- she
10 never even -- she never said that, like her mouth.

11 Q. She never said that to you; is that
12 correct?

13 A. About that's not why she didn't -- she
14 didn't say that's why she didn't tell. She didn't
15 say, I didn't tell you because I didn't think it was
16 wrong.

17 Q. Okay.

18 MR. WILKERSON: Approach the witness,
19 Your Honor?

20 THE COURT: Yes, sir.

21 Q. (BY MR. WILKERSON) I'd like you to read to
22 yourself --

23 A. Uh-huh (affirmative.)

24 Q. -- lines 7 and 8, page 8.

25 A. (Witness complies.) I'm sorry. Okay.

1 Q. Okay. Now, just a little while ago, I
2 asked you if you recalled testifying that she told
3 you she did not want to tell you because she thought
4 you would be mad at her?

5 A. Okay.

6 Q. Do you now recall testifying to that?

7 A. I mean, I say it; but, I mean, I don't
8 remember a lot of the protective order because it was
9 so long ago. Several months ago. But, I mean --

10 Q. Okay. Then I'm going to ask again. Is
11 this record false?

12 A. No.

13 Q. So, having read your testimony, you still
14 can't recall giving it?

15 A. I don't remember saying it.

16 Q. Tell me about how Bo -- tell me about how
17 visitation would be structured when Bo was dating
18 other women besides his wife.

19 A. Whenever he could see her, he would see
20 her.

21 Q. Whenever he could see her, he was there.

22 Have you ever testified otherwise?

23 A. Unless I had plans, you know, he wanted her
24 a weekend I had plans, I wouldn't let him. If it
25 wasn't his weekend, I wouldn't let him have her or if

1 he changed the weekends up on me.

2 Q. Did you ever testify that even on his
3 weekends, you didn't know if she would be there?

4 A. Well, because sometimes he would change the
5 weekends up on me.

6 Q. So, he would show up to pick his daughter
7 up on his weekends and his daughter would not be
8 there?

9 A. Because he would let me know during the
10 week.

11 Q. It's a "yes" or "no."

12 A. Yes, sometimes, I guess.

13 Q. Okay. Thank you. You stated that when
14 Hannah came back from her trip to SeaWorld, she was
15 upset --

16 A. Yes.

17 Q. -- is that correct?

18 A. Yes.

19 Q. Is it your understanding that there are
20 allegations that any sexual abuse happened during
21 that trip to SeaWorld?

22 A. Could you repeat the question?

23 Q. Did any sexual abuse allegedly occur to
24 your daughter during the trip to SeaWorld?

25 A. Not to my understanding. No, not to my

1 knowledge.

2 Q. Thank you.

3 Earlier you testified that things had
4 never gone further than being mouthy with your son,
5 Hasten. Do you recall a Child Protective Services
6 case from when he was 2 years old?

7 **MS. WARREN:** Objection, relevance,
8 Judge.

9 **THE COURT:** I'm sorry. Come on up,
10 please.

11 Will you retire the jury for just a
12 moment?

13 All rise, please, for the jury.

14 **(Jury released)**

15 **THE COURT:** Thank you. Please have a
16 seat.

17 I'm sorry. There were a couple of
18 words you said in your question I couldn't quite pick
19 up. What was the question exactly about the son when
20 he was 2?

21 **MR. WILKERSON:** Yes. I stated earlier
22 she had testified that things never went further with
23 Greg being more than mouthy with her son Hasten.
24 This goes to the witness' credibility. What I asked
25 is if she recalled a Child Protective Services case

1 from 2002 -- or I'm sorry, not from 2002 -- from when
2 Hasten was 2 years old involving Greg.

3 **THE COURT:** Are you -- what is the
4 allegation? That Greg hit the child?

5 **MR. WILKERSON:** Yes.

6 **THE COURT:** Okay. And was the door
7 not opened to that when she said there wasn't a
8 problem?

9 **MS. WARREN:** I think that it is --
10 these were questions that he asked her in his
11 cross-examination. And so, I think that is not
12 allowed to sort of maneuver, you know, bootstrap
13 his --

14 **THE COURT:** I was thinking it was
15 direct. You didn't go into that on direct?

16 **MS. WARREN:** To issues about Greg and
17 CPS? No. I --

18 **THE COURT:** No, something about how
19 Greg got along with the child. Which child was it?
20 Let's see. Did you go into that on cross, or is that
21 on direct?

22 **MR. WILKERSON:** I recall going into
23 Greg's -- why her and Greg split up on cross and also
24 when things -- she had testified that Greg drank
25 excessively and was mouthy, I had asked her if things

1 ever went further than him being mouthy; and she
2 testified one time. And then I asked her did things
3 ever go further than being mouthy with her son
4 Hasten.

5 **THE COURT:** So, I guess the first
6 issue on relevance is how is that related to whether
7 or not your client committed the offense charged?

8 **MR. WILKERSON:** Well, what it goes to,
9 Your Honor, is several things. Number one, it goes
10 to the credibility of this witness as she is alleging
11 or being -- acting as the outcry witness for her
12 daughter.

13 Number two, it goes to possible motive
14 to fabricate on the part of the child and/or the
15 mother regarding fear of her now ex-boyfriend --

16 **THE COURT:** Hannah was afraid of
17 the --

18 **MR. WILKERSON:** -- of this man who
19 drank a lot and brandished a firearm regularly and
20 beat her mother and et cetera, yes.

21 **THE COURT:** And so -- but there is no
22 allegations that she told the child what to say or
23 that she did something with -- I mean, this is the
24 mother, not the boyfriend. It's a little convoluted
25 for me. I don't see a direct connection.

1 **MR. WILKERSON:** I understand that it
2 may appear to be convoluted, Your Honor. But the
3 theory of the case is not necessarily -- the theory
4 of the case is that if, indeed, it was her mother who
5 came up with these allegations, that the child would
6 be pressured to say these things not only out of fear
7 or reprisal from her mother or wanting to please her
8 mother, but also out of fear from the boyfriend who
9 has been involved with this case and, in fact, is on
10 the State's witness list and we have also subpoenaed.

11 **THE COURT:** So, was she with the
12 boyfriend at the time of the outcry?

13 **MR. WILKERSON:** Yeah. Well, he was
14 not in the vehicle at the time of the outcry. They
15 went --

16 **THE COURT:** No. I mean, were they --

17 **MR. WILKERSON:** -- to his house. Yes,
18 they were together at the time of the outcry.

19 **THE COURT:** But not living together.

20 **MR. WILKERSON:** They were living
21 together at the time of the outcry.

22 **THE COURT:** At his house?

23 **MR. WILKERSON:** At his house, Your
24 Honor.

25 **THE COURT:** So, your theory is she was

1 afraid to say something --

2 **MR. WILKERSON:** That she was --

3 **THE COURT:** -- that was contrary to
4 her mother's wishes? Is that your theory?

5 **MR. WILKERSON:** Yes, Your Honor.

6 **THE COURT:** And are you alleging she
7 was present when the brother was hit?

8 **MR. WILKERSON:** Not that Hannah was
9 present. I'm not sure. To be honest, I haven't had
10 an opportunity to talk to Hannah. This is something
11 I want to ask Hannah. If you want me to reserve this
12 question for after Hannah testifies, I will be happy
13 to do that, Your Honor.

14 **THE COURT:** Yeah. I mean, if Hannah
15 wasn't there and didn't see it, I don't see how it's
16 relevant.

17 **MR. WILKERSON:** How it's relevant.

18 **THE REPORTER:** Excuse me.

19 **THE COURT:** We said "relevant" at the
20 same time. And so, it's very prejudicial and at the
21 moment not too probative. So, let's move on to
22 something else at this time. State's objection is
23 sustained.

24 I guess that was an objection, wasn't
25 it?

1 **(At the Bench)**

2 **THE COURT:** Sir, I think this is
3 yours.

4 **MR. WILKERSON:** Oh.

5 Your Honor, we're about to go into --
6 and it's part of the State's Motion in Limine. We're
7 about to go into some criminal history on the part of
8 the witness' mother that was committed against the
9 defendant. Two separate occasions that involved a
10 felony offense that created a lot of tension,
11 distrust, hostility, and divorce in the relationship.
12 And the --

13 **THE COURT:** Normally somebody's record
14 is not admissible if they're not testifying. So, are
15 you saying somebody saw something -- another family
16 assaulted another family?

17 **MR. WILKERSON:** Yes. Her mother stole
18 money from my client. And a hostility that leads
19 from that. See, the reason is that they got divorced
20 in the beginning. Now it goes to the witness'
21 credibility, as well; but it also goes to possible
22 motive to fabricate.

23 **THE COURT:** And this -- the mother was
24 convicted of stealing money from your client?

25 **MR. WILKERSON:** Yes. On two

1 occasions, Your Honor. Actually, it happened --
2 first she was placed on probation, and then that
3 probation was revoked because -- she will be a
4 witness in this case. Her drug issues and drug abuse
5 is also going to be inquired into with this witness.

6 **THE COURT:** This witness' drug abuse?

7 **MR. WILKERSON:** No. No.

8 **THE COURT:** The mother?

9 **MR. WILKERSON:** The mother, yes, and
10 how that impacted the marriage of these two.

11 **MS. WARREN:** My objection is relevance
12 at this point. It's not relevant.

13 **THE COURT:** But it was on your
14 testimony, wasn't it, that she said the reason they
15 split up is because of infidelity? I think she was
16 on direct.

17 **MS. WARREN:** That he was -- she said
18 that was one of the reasons. And I just think that
19 if grandma testifies and his client testifies, that
20 they could be asked those specific questions.

21 **THE COURT:** Seems to me if you brought
22 up infidelity, he is entitled to bring up what family
23 did and others.

24 Don't go into convictions unless she
25 testifies.

1 **MR. WILKERSON:** Yes, Your Honor.

2 **MS. WARREN:** Okay. Thank you, Judge.

3 **THE COURT:** State's objection is
4 overruled.

5 **(End of Bench Discussion)**

6 **Q.** **(BY MR. WILKERSON)** Ms. Shafer, I just asked
7 you what the reason for divorce was; and you
8 reiterated that it was infidelity?

9 **A.** Yes.

10 **Q.** That being the sole reason as presented by
11 your testimony, correct?

12 **A.** For the divorce, yes.

13 **Q.** Okay. Has your mother ever stolen from the
14 defendant?

15 **A.** From me?

16 **Q.** From --

17 **A.** Well, it was a joint bank account.

18 **Q.** How much did she steal?

19 **A.** A lot.

20 **Q.** How much is a lot?

21 **A.** I don't know the exact number, but it
22 was -- it was several thousand, couple of thousand.

23 **Q.** Couple of thousand?

24 **A.** Between the bank fees, yes.

25 **Q.** More than a couple of thousand?

1 **A.** I'm not sure.

2 **Q.** You're not sure. But it was a joint
3 account?

4 **A.** Yes, but it was -- the checks were in my
5 name. Like written, she signed my name.

6 **Q.** She signed your name?

7 **A.** Yes.

8 **Q.** On a joint account?

9 **A.** Yes.

10 **Q.** But you don't know how much was taken?

11 **A.** No. It was a long time ago.

12 **Q.** Did this happen on more than one occasion?

13 **A.** Two. Two.

14 **Q.** Two occasions.

15 Did you have hostility towards my
16 client based on his pursuit of legal action regarding
17 that?

18 **A.** No, because I'm the one that filed the
19 charges on my mom.

20 **Q.** Okay. So, it is your testimony that those
21 two separate occurrences of your mother's stealing
22 from my client was resulted in no discord in your
23 relationship whatsoever?

24 **A.** No, because he allowed her to live with us
25 even after.

1 Q. He -- he allowed --

2 A. She came and stayed with us even after the
3 incident.

4 Q. He allowed your mother to live in his house
5 with y'all?

6 A. Uh-huh (affirmative.)

7 Q. Why did she steal?

8 A. She has a drug problem.

9 Q. And after the second incident, did my
10 client say that she could no longer live there?

11 A. She went to prison after the second
12 incident.

13 Q. Did my client say that she could no longer
14 live there?

15 A. I don't know because she went to prison.
16 So, she didn't ask to live there. So --

17 Q. The day after it happened, she went to
18 prison?

19 A. No. No, but we didn't see her after that.

20 MR. WILKERSON: Pass the witness at
21 this time, Your Honor.

22 THE COURT: Thank you.

23 Redirect?

24 MS. WARREN: Nothing further, Judge.

25 THE COURT: Thank you. I take it this

1 witness is on call then?

2 **MR. WILKERSON:** Yes, Your Honor.

3 **THE COURT:** So, you're free to go
4 today if you wish; but you're subject to being called
5 back to the witness stand.

6 **THE WITNESS:** Thank you.

7 **THE COURT:** Thank you so much.

8 *(Witness released)*

9 **THE COURT:** Who is your next witness?

10 **MS. FELICIA:** Your Honor, at this time
11 the State would call Dr. Brown.

12 **THE COURT:** Thank you.

13 **THE BAILIFF:** Judge, this witness has
14 not been sworn.

15 **THE COURT:** Thank you. Come on up,
16 please, sir. And if you don't mind, you can walk
17 around that side of the court reporter. And then if
18 you will turn and face the jury, I will give you the
19 oath.

20 **THE WITNESS:** Okay.

21 **THE COURT:** Raise your right hand,
22 please.

23 *(Witness Duly Sworn)*

24 **THE COURT:** Thank you. Please have a
25 seat.

1 **THE WITNESS:** All right.

2 **MS. FELICIA:** May I proceed, Your
3 Honor?

4 **THE COURT:** You may.

5 **MS. FELICIA:** Thank you.

6 **WILLIAM CLAY BROWN, M.D.,**
7 having been first duly sworn, testified as follows:

8 **DIRECT EXAMINATION**

9 **Q.** **(BY MS. FELICIA)** Good afternoon, Dr. Brown.

10 **A.** Good afternoon.

11 **Q.** Please introduce yourself to the ladies and
12 gentlemen of the jury.

13 **A.** My name is Clay Brown. William Clay Brown.

14 **Q.** All right. We see that you have got some
15 navy scrubs on; is that right?

16 **A.** Yeah. I apologize I couldn't get more
17 dressed up. I came straight from work. I was at
18 work last night and came in so I could be here.

19 **Q.** Well, thank you for being here today.

20 **A.** You're welcome.

21 **Q.** Tell us what you do.

22 **A.** Currently I'm an emergency room physician.
23 I work in the emergency room in a couple of different
24 hospitals and freestanding emergency rooms in town.
25 I also have a practice in addiction medicine and work

1 at the Chambers County Health Center, health
2 official.

3 Q. All right. Where did you get your
4 undergraduate?

5 A. Texas A&M.

6 Q. And what did you get your degree in?

7 A. Biology.

8 Q. All right. And where did you go from
9 there?

10 A. Went to medical school at University of
11 Texas Southwestern Medical School in Dallas.

12 Q. All right. And what happened after that?

13 A. Went and did a residency in general surgery
14 in Phoenix, Arizona.

15 Q. And how long did that last?

16 A. Five years.

17 Q. All right. Where did you go after that?

18 A. Came to Houston and did a year in plastic
19 surgery at the Medical Center at Methodist.

20 Q. And what next?

21 A. And then I did another residency in family
22 practice, decided to kind of change gears and did
23 another residency in addiction medicine. And then I
24 have been practicing emergency medicine since 2006.

25 Q. All right. And, generally speaking, in

1 emergency medicine -- a lot of us watch those shows.
2 Maybe Grey's Anatomy. Maybe I'm one of them.

3 Can you tell us generally what the
4 real life duties are of an ER doctor?

5 **A.** It's usually not that glamorous and crazy,
6 but I'm -- we're on call to see everyone that comes
7 in the emergency room for whatever reason they come
8 in. That's from birth. That's from the cradle to
9 the grave.

10 And, you know, we see people that come
11 in with ailments from minor to major trauma, poisons,
12 people having babies, pretty much to see whoever
13 comes in what with whatever condition can't be seen
14 anywhere else, by their regular doctor, if they have
15 an emergency and try to get them stabilized,
16 diagnosed, treated, and either referred to a higher
17 level of care or sent home with medication.

18 **Q.** All right. And what percentage of your
19 positions that you hold would you say deal with
20 children being your patients?

21 **A.** I deal a lot with adolescence, but in the
22 emergency medicine, children being like 13 and under,
23 I would say probably 15 percent, something like that.

24 **Q.** All right. And how long did you say you
25 have been an ER doctor?

1 **A.** Since 2006.

2 **Q.** All right. So, about nine years?

3 **A.** Uh-huh (affirmative.)

4 **Q.** All right. I'd like to go ahead and turn
5 your attention to the time when you were working at
6 San Jacinto Methodist Hospital.

7 **A.** Okie-doke.

8 **Q.** And what year did you start working there
9 at San Jacinto?

10 **A.** 2006.

11 **Q.** All right. And what was your position
12 there?

13 **A.** I was -- at that time I was chairman of the
14 department of emergency medicine and staff emergency
15 medicine physician.

16 **Q.** Okay. And what were your duties there at
17 San Jacinto?

18 **A.** The same as I just described. It's a full
19 service emergency room, you know, about 30 beds. And
20 we take all patients for all problems. We're not a
21 level one trauma center. We didn't see a lot of
22 gunshot wounds. A lot of car wrecks, but not
23 heavy-duty trauma. Most of that was transported to
24 Houston.

25 **Q.** And are there a couple of level 1 trauma

1 centers here in Houston?

2 **A.** Right.

3 **Q.** Okay. What would be the most common types
4 of cases you would see on a nightly basis coming in?

5 **A.** Probably chest pain, heart attacks,
6 strokes, or mental status changes in people, general
7 nausea and vomiting type complaints. And then we see
8 a lot of car wrecks in Baytown, a lot of -- lot of
9 blunt trauma.

10 **Q.** All right. I'd like to go ahead and turn
11 your attention specifically to May 30th of 2014. Did
12 you have the opportunity to see a patient by the name
13 of Hannah Shafer on that date?

14 **A.** I did.

15 **Q.** And can you tell us specifically what time
16 did Hannah Shafer arrive there at the emergency room?

17 **A.** About 10:00 in the morning -- sorry. About
18 8:00 -- 8:00 in the evening. I'm sorry.

19 **Q.** Is that time typically kept at military
20 time?

21 **A.** Yes.

22 **Q.** All right. And what was that military
23 time?

24 **A.** 2021.

25 **Q.** All right. That's normal people time,

1 8:21 p.m.?

2 A. 8:21 p.m.

3 Q. Okay. And, generally speaking, what was
4 she there for?

5 A. She came in -- her mom brought her in
6 saying she need a vaginal exam because she thought
7 she had been abused.

8 Q. Okay. And were they specific as to whether
9 it was sexual abuse or physical abuse?

10 A. They said sexual abuse.

11 Q. Okay. Are you aware of how long Hannah and
12 her mother were there at San Jacinto Hospital that
13 night, or do you know what time they left the next
14 morning?

15 A. I think they left probably -- probably
16 around 3:00 in the morning of the following -- of the
17 following morning.

18 Q. All right. And do you recall who all was
19 present or who all you saw there at the ER?

20 A. As far as Hannah and her family?

21 Q. Yes, sir.

22 A. Mom and Hannah.

23 Q. Okay. And at some point did you obtain a
24 patient history?

25 A. I did.

1 **Q.** And who did you obtain that history from?

2 **A.** Mostly from the mom; but I spoke to the
3 little girl, also. Just -- just did a general review
4 of systems and physical exam.

5 **Q.** And why is it that you mostly obtained that
6 patient history from the mother?

7 **A.** Well, I mean, parents are usually able to
8 give a little bit better history than kids when they
9 are that age as far as what's really going on. And
10 in this case, because it had to do with, you know,
11 sexual abuse -- or accusations of sexual abuse, we
12 generally get real careful in that regard to not
13 engage the child until we have someone there that's,
14 you know, an expert in that field, or a SANE trained
15 nurse or until we have ascertained there is not any
16 major trauma or emergency stuff going on.

17 And I'm pretty sure, in this case,
18 that it -- it -- it was not an acute event. There
19 wasn't a complaint that it had happened that evening
20 or that day. It was -- she was bringing her in
21 because she just found out that the child had told
22 her that there was some stuff going on.

23 **Q.** All right. And can you tell us generally
24 what those allegations were that were told to you
25 within that patient history?

1 **A.** That she had found -- that the mom had
2 found out from the little girl that she was scared to
3 go to her dad's house. And I can't remember the
4 particulars. But, evidently, she had visitation with
5 her father; and she was supposed to go or the father
6 was supposed to come pick her up. I don't recall
7 exactly. But the little girl got very scared and
8 started crying and told her mom that -- you know,
9 that -- I guess divulged to her mom when her mom
10 questioned her that, you know, she had been abused by
11 her father.

12 **Q.** All right. And, again, was that physical
13 abuse or sexual abuse?

14 **A.** Sexual abuse as far as -- is all I know.

15 **Q.** All right. And what was your reaction or
16 what was it that you did after you received that
17 patient history?

18 **A.** Well, we have a protocol in place. I mean,
19 first thing we do is try to get a SANE nurse. We
20 don't always have one there. So, we had -- we got
21 nursing involved. We got the police involved. The
22 mom wanted to file a police report, and we're usually
23 required to do that. CPS was notified and, you know,
24 did a cursory exam on the little girl to make sure
25 there was nothing acute going on and then made the

1 arrangements to refer her to a higher level of care,
2 specifically, for kids and children that are possible
3 victims of sexual abuse.

4 Q. All right. Let me go back just a little
5 bit. You said the term "SANE exam"?

6 A. Uh-huh (affirmative.)

7 Q. What is a SANE?

8 A. It's a sexual abuse nurse examiner.

9 Q. All right. So, they are specially trained
10 folks, right?

11 A. Correct. They go through -- and I'm not an
12 expert on their training, but they go through a
13 pretty extensive training on how to interview and,
14 more importantly, in the -- in the nursing situation,
15 how to collect evidence forensically with minimal
16 trauma to a child, or an adult for that matter.

17 Q. All right. But you're aware that there are
18 actually those nurses that are specific to children,
19 right?

20 A. Absolutely.

21 Q. And you also stated getting the police
22 involved. Are you aware that -- whether or not the
23 police actually came out to San Jacinto Hospital?

24 A. They did. We have -- we had -- we have a
25 policeman there 24/7. And I can't remember whether

1 it was him or one of his colleagues was called out
2 because I -- I made sure that a police report was
3 filed that was part of the -- part of the -- kind of
4 part of the protocol we go through.

5 Q. All right. So, the police officers did
6 come and did take a report?

7 A. Uh-huh (affirmative.)

8 Q. All right. And then CPS notification, why
9 is that important?

10 A. Well, that initiates an investigation
11 beyond the police investigation and to the welfare of
12 the child. And so, we wanted to make sure they knew
13 what was going on.

14 Q. And, lastly, you stated that you do a
15 cursory exam. Did you actually do a genital exam?

16 A. No, ma'am, I did not.

17 Q. Okay. Why did you not do a genital exam on
18 Hannah Shafer?

19 A. Well, in almost all cases, if it's not an
20 acute event where they are -- we're not worried that
21 someone is bleeding and traumatized, what we're
22 taught and what the standards of care is, is that we
23 don't get -- if there is not -- the ability there to
24 do a SANE exam, that we think we can do forensically
25 accurately and for the welfare of the child in that

1 setting to have a male do that kind of thing after
2 she just disclosed, it's very traumatic. So, we try
3 to leave that for people who are trained to do both
4 interrogation forensically and the exam forensically
5 so that the evidence is good and, more importantly,
6 that the child's not traumatized any further.

7 **MS. FELICIA:** Pass the witness, Your
8 Honor.

9 **THE COURT:** Thank you.

10 Cross-examination?

11 **CROSS-EXAMINATION**

12 **Q.** (BY MR. WILKERSON) Dr. Brown, you said you
13 obtained the patient history from the mother; is that
14 correct?

15 **A.** I obtained the history of the events from
16 the mom and asked the mom about childhood
17 immunizations and illnesses and things like that.

18 **Q.** Okay. Did you have any direct
19 communication with Hannah Shafer?

20 **A.** Yes. I was at the patient's bedside, I did
21 tell her I was Dr. Brown, introduced myself, and
22 asked her a few questions.

23 **Q.** What did those questions entail?

24 **A.** Just if she was hurting anywhere, if there
25 was anything hurting her at the current time, if she

1 was bleeding or had been hurt that day.

2 Q. What was her general effect at that time?

3 A. She was cooperative. She was not -- I
4 don't recall that she was tearful. Most of what I
5 recall is from my written record. I mean, this was
6 months ago. But, you know, she was a little
7 10-year-old girl that was a little nervous about
8 being in the hospital.

9 Q. At the time that Hannah Shaver was brought
10 to San Jacinto Hospital and having obtained the
11 patient history from Hannah's mother, did Ashley
12 Shafer indicate that Hannah had suffered from
13 numerous urinary tract infections?

14 A. She did.

15 Q. And just to reiterate, "numerous" was the
16 word?

17 A. "Multiple," I think, is what she used.

18 Q. Multiple. Okay. I'm just -- the record
19 says -- but she said "multiple" to you; is that --

20 A. You know, again, I'm going off what I --
21 what I -- what's written down by the nurse. And I
22 think it was multiple.

23 Q. Okay. In -- in the course of obtaining the
24 history of the alleged events, did the patient's
25 mother use any descriptive terms in referring to the

1 genitalia of either the alleged perpetrator, the
2 defendant in this case, or the alleged victim in this
3 case?

4 **A.** Not that I -- not directly to me. She told
5 the nurse she had used -- that the kid used some
6 descriptors. I think -- do you want me to get into
7 what she said? I think she said that her dad put his
8 tally-wacker inside of her and made her put his --
9 put her -- put his mouth on her tee-tee or put his
10 tally-wacker in her tee-tee or something. Something
11 to that effect.

12 **Q.** Okay. Just for clarification purposes, I'm
13 looking at the nursing notes here, would
14 wiener-wanger?

15 **A.** That is the term, I think.

16 **Q.** Would that be --

17 **A.** That's correct.

18 **THE COURT:** Excuse me. Excuse me.
19 Mrs. Lee is writing down what everybody says. And
20 there is another court reporter over here --
21 Ms. Leal -- and she is practicing. She just
22 graduated from court reporting school. And it is
23 impossible for a court reporter to write down two
24 people talking at the same time. So, even though you
25 anticipate how the question is going to end, it would

1 help us out --

2 **THE WITNESS:** Wait until he finishes?

3 **THE COURT:** Yeah.

4 **THE WITNESS:** Yes, ma'am.

5 **THE COURT:** -- all the way through.

6 Thank you, Doctor.

7 **THE WITNESS:** Certainly.

8 **Q. (BY MR. WILKERSON)** Would it be fair to say,
9 Dr. Brown, that aside from the allegations of sexual
10 abuse, Hannah presented at the time that you examined
11 her with no medical or emotional issues?

12 **A.** I didn't notice any physical findings, any
13 significant physical findings with Hannah. And she
14 seemed to be a cooperative little girl.

15 **Q.** Thank you, Dr. Brown.

16 **MR. WILKERSON:** Pass the witness, Your
17 Honor.

18 **THE COURT:** Thank you.

19 Redirect?

20 **MS. FELICIA:** Sorry. I just have one
21 follow-up question, Your Honor.

22 **THE COURT:** Sure.

23 **REDIRECT EXAMINATION**

24 **Q. (BY MS. FELICIA)** Dr. Brown, I just want to
25 make sure I ask this in front of the jury.

1 Where did you then send Hannah Shafer
2 to?

3 **A.** Sent her to -- well, I suggested she go to
4 Texas Children's Hospital.

5 **Q.** And why did you want her to go to Texas
6 Children's Hospital?

7 **A.** Because that is the premier place that
8 has -- they have an entire program there, I think
9 it's called the CAC. It's staffed by forensically
10 trained child interviewers and examiners; and they
11 have -- they're just very, very well equipped. It's
12 the best place for a child to go in terms of, like I
13 said, collecting forensic evidence and the taking
14 care of the needs of the child and getting good
15 information from them. They're well trained there.

16 **Q.** Thank you.

17 **MS. FELICIA:** Thank you, Your Honor.

18 **THE WITNESS:** Thank you.

19 **THE COURT:** Anything else?

20 **MR. WILKERSON:** Nothing further.

21 **THE COURT:** Thank you. Is Dr. Brown
22 excused for all purposes?

23 **MS. FELICIA:** Yes, please.

24 **MR. WILKERSON:** Yes, Your Honor.

25 **THE COURT:** Thank you so much, sir.

1 **THE WITNESS:** Thank you, Judge.

2 **(Witness released)**

3 **THE COURT:** Thank you. Your next
4 witness.

5 **MS. FELICIA:** At this time the State
6 would call Julianne Boles.

7 **THE COURT:** Thank you.

8 **THE BAILIFF:** Judge, this witness has
9 not been sworn.

10 **THE COURT:** Thank you.

11 Come on up, please, Ms. Boles. And if
12 you will walk around the court reporter by the jury
13 box. And if you will turn and face the jury and
14 raise your right hand.

15 **(Witness Duly Sworn)**

16 **THE COURT:** Thank you. Please have a
17 seat.

18 **MS. FELICIA:** Your Honor, may I
19 proceed?

20 **THE COURT:** Yes, ma'am.

21 **MS. FELICIA:** Thank you.

22 **JULIANNE BOLES,**
23 having been first duly sworn, testified as follows:

24 **DIRECT EXAMINATION**

25 **Q. (BY MS. FELICIA)** Good afternoon, Ms. Boles.

*Julianne Boles - March 6, 2015
Direct Examination by Ms. Felicia*

1 **A.** Good afternoon.

2 **Q.** Please state your name and spell your first
3 and last name for the court reporter.

4 **A.** Julianne Boles, J-U-L-I-A-N-N-E; B, boy,
5 O-L-E-S.

6 **Q.** All right. What do you do for a living?

7 **A.** I'm a registered nurse at Texas Children's
8 Hospital in the emergency center. And then I also
9 stay at home a lot with my two kids.

10 **Q.** All right. Are you kind of on like a flex
11 or part-time schedule?

12 **A.** Per diem now, yes, ma'am.

13 **Q.** Okay. How long have you been a nurse?

14 **A.** Almost six years.

15 **Q.** All right. And can you tell us a little
16 bit about your background and training in order to
17 have the position that you have got.

18 **A.** Okay. So, I'm a -- just a regular
19 registered nurse in the emergency room, but I also
20 work as a sexual assault nurse examiner. I went
21 through nursing school, of course, graduated to
22 become a registered nurse. And then at Texas
23 Children specifically, we have a sexual assault
24 program there where we have nurses that are staffed
25 24/7 to work with our sexual assault patients that

1 come in. And I receive training to do that through
2 the Office of the Attorney General of the State of
3 Texas.

4 I went through a two-week course in
5 Austin and had to complete numerous pediatric exams,
6 numerous adult exams, to receive that certification.
7 And then I just renewed my certification this past
8 May, having completed the additional exams and
9 everything that I needed to do so.

10 **Q.** And do you have ongoing training that you
11 have to take care of?

12 **A.** Yes, ma'am. We have a yearly meeting, and
13 then we have -- like I said, to renew, you have to
14 have completed the required exams, as well.

15 **Q.** All right. Tell us a little bit about what
16 you learned specifically regarding forensic nursing
17 in that two-week course that you took through the
18 attorney general's office?

19 **A.** There is a lot of information, anything
20 from defining sexual assault by the law, what that
21 means, to how to conduct an exam, how to do a sexual
22 assault evidence collection kit where we collect
23 evidence from the body of the patient that comes in,
24 depending upon how recently that event occurred, to
25 doing STD testing, any -- any range of things that

1 apply to that.

2 Q. All right. And are you aware of how many
3 sexual assault exams you have conducted?

4 A. Over a hundred.

5 Q. Okay. And can you say what percentage of
6 those have been with children?

7 A. Most -- most of them we see -- only work at
8 Texas Children. So, we see all patients up until the
9 age of 18.

10 Q. All right. What I'd like to do is kind of
11 go through the steps of how a SANE exam happens.

12 A. Okay.

13 Q. What is the first thing that you do when
14 you are conducting a sexual assault exam?

15 A. The first thing I do is the patient arrives
16 to the emergency room, and we triage the patient.
17 So, we just get basic information, health
18 information, medical history, allergies, that sort of
19 thing. We contact the social workers because our
20 policy is myself and our hospital social work --
21 worker interview the family and patients together.
22 So, we share the family room; and then we begin the
23 history taking process.

24 Q. And is it common or uncommon to get the
25 medical history of the child that is there to be

1 examined from the parent?

2 **A.** Common.

3 **Q.** Okay. And why is it that you obtain that
4 history from the parents when the child is right
5 there?

6 **A.** Oftentimes it's just because it's a -- like
7 anything else, when a parent brings a child to the
8 emergency room perhaps for fever or vomiting, the
9 parent can be sometimes a very good historian -- is
10 often a very good historian for the patient, can give
11 specific details about what they are here for --

12 **Q.** Okay.

13 **A.** -- they are there for.

14 **Q.** All right. And so, what do you do after
15 you have obtained the patient history?

16 **A.** Then we discuss the exam and what the exam
17 would involve, if it warrants an exam. We see two
18 different types of cases in the emergency room; those
19 that are considered acute, which happen within 96
20 hours -- if the assault happened within 96 hours, we
21 always do the exam in the emergency room. If the
22 last assault occurred greater than 96 hours, then
23 sometimes we send those patients to the Children's
24 Assessment Center. Just depends on each specific
25 case and what all is involved. And so, then we would

1 proceed to discuss the exam with the patient's family
2 and proceed to do the exam and testing.

3 Q. All right. So, let's talk about that next
4 step in the process of conducting the exam.

5 Who goes into the exam room?

6 A. It will be myself and the emergency room
7 physician, and sometimes we use a child life
8 specialist to help the patient cope by distracting
9 them with maybe an iPad or toys. They are not always
10 there, but sometimes they come in. And then we will
11 have the patient. And then depending upon the
12 patient's age, they will bring in a family member, if
13 that helps them feel more comfortable.

14 Q. All right. And what happens once you go
15 into the exam room?

16 A. In detail?

17 Q. Yes.

18 A. We have the patient change into a gown and
19 we examine them from head to toe, which is really
20 important to look for other bruising, other injuries,
21 cuts, scars, anything like that. They sit on the
22 table; and the physician will do more of a physical
23 exam as well as to their heart and lungs, ears,
24 everything. We try to be very thorough.

25 **THE COURT:** Excuse me. Let's do this

1 in question and answer, please.

2 **MS. FELICIA:** Yes, ma'am.

3 **Q.** (BY MS. FELICIA) All right. So, the
4 head-to-toe exam, I just want to be clear, is that
5 you or is that the doctor who conducts that?

6 **A.** Both.

7 **Q.** Okay. All right. And so, after the
8 head-to-toe exam, what's the next thing that you do
9 in the process?

10 **A.** We then prepare for the anogenital exam,
11 where we would examine the genitals and the anus.

12 **Q.** Okay. And describe for us how you do an
13 anogenital exam with a child. How do you prepare for
14 that?

15 **A.** We have them lay on their back; and
16 depending on their age, sometimes we put them in the
17 stirrups like are used when females give birth when
18 their legs are up in the stirrups. Sometimes we just
19 have them lay in like a frog leg position on their
20 back with their legs very open, and we have them
21 covered with a sheet until we are actually ready to
22 look at that. And then we take images while we
23 examine.

24 **Q.** All right.

25 **MR. WILKERSON:** Your Honor, may we

1 briefly approach?

2 **THE COURT:** All right.

3 **(At the Bench)**

4 **MR. WILKERSON:** Your Honor, the State
5 didn't offer the last witness or this witness as of
6 yet as an expert witness, and I have no objection to
7 her being certified as an expert witness, but
8 without -- with this line of questioning, I'm going
9 to have to object if she is not going to be certified
10 as an expert witness.

11 **THE COURT:** The question, looking at
12 the --

13 **MR. WILKERSON:** The exams and how they
14 take place.

15 **THE COURT:** Are you requesting a
16 hearing -- an expert hearing outside the presence of
17 the jury?

18 **MR. WILKERSON:** Not necessarily, Your
19 Honor. I'm just asking.

20 **THE COURT:** I mean, if you're saying
21 she is not -- you're offering her as an expert?

22 **MS. FELICIA:** Yes, Your Honor.

23 **THE COURT:** Seems to me she is
24 qualified to testify.

25 **MR. WILKERSON:** And I'm not saying she

1 isn't; but she was never offered as an expert,
2 just --

3 **THE COURT:** Right. You're not
4 required under the law to say, I offer this witness
5 as an expert. You can simply proceed as an expert
6 unless the opposing counsel objects. So, she doesn't
7 have to say, I offer this witness as an expert.

8 **MR. WILKERSON:** Okay.

9 **THE COURT:** Is that all right? Do you
10 object?

11 **MR. WILKERSON:** I do not, Your Honor.

12 **THE COURT:** Okay. Thank you.

13 **(End of Bench Discussion)**

14 **Q. (BY MS. FELICIA)** So, you talk about the
15 positions and that there is a sheet that is covering
16 the child while they are getting into that position;
17 is that correct?

18 **A.** Yes.

19 **Q.** All right. And then what's the next part
20 that you do?

21 **A.** We will do the anogenital exam and look
22 very thoroughly at the genitals and at the anus.

23 **Q.** And how do you do that exam? What is the
24 steps in that exam?

25 **A.** If -- if it's within the window we could

1 collect the evidence, we would do the swabs for the
2 evidence collection kit. That was not warranted in
3 this case because it was outside that 96-hour window.
4 So, it involves what we call pulling traction. So,
5 you pull traction on the outer lips, the labia
6 majora, so that you could visually see everything
7 that you need to see.

8 On females that have started their
9 cycle, their menstrual cycle, we do the speculum exam
10 where you insert the -- like the alligator speculum
11 that goes inside and allows you to see the uterus;
12 but that was not warranted in this case, as well.

13 Q. And let me just be real clear. You said
14 "alligator." What are you referring to?

15 A. The speculum. It's just a long plastic
16 tool that opens up the vaginal vault and allows us to
17 look inside at the uterus.

18 Q. And what's the age in which you start to
19 use the speculum on patients?

20 A. Once they have started their cycle. So,
21 that can vary on their period and their menstrual
22 cycle.

23 Q. Okay. And then what is the next step that
24 you would do after that?

25 A. So, for patients that have not started

1 their cycle, we would just pull traction, look very
2 thoroughly at everything and all the structures down
3 there; and then we would proceed to look at the anus
4 after that.

5 Q. Okay. And is that basically the end of
6 your exam at that point?

7 A. Basically, to look at the anus, we have
8 them change to a different position. But then after
9 that, that is the end.

10 Q. And what position do you have them change
11 into?

12 A. Most of the time they lay on their back and
13 pull their knees up to their chest, and then we
14 separate the buttocks and look at that area more
15 thoroughly.

16 Q. Sorry. And why is it helpful to put a
17 child into that position?

18 A. It allows that area to become more open and
19 us to be able to visualize the anus and rectum
20 better.

21 Q. All right. And you stated that you have
22 done over a hundred exams; is that right?

23 A. Yes, ma'am.

24 Q. And have you testified as an expert before?

25 A. Yes, ma'am.

1 Q. Have you testified in Harris County before?

2 A. Yes, ma'am.

3 Q. Okay. And have you testified about being a
4 sexual assault nurse examiner before?

5 A. Yes, ma'am.

6 Q. And have you done that on few or many
7 occasions?

8 A. A few.

9 Q. Okay. I would like to go ahead and turn
10 your attention to May 31, 2014. Did you have an
11 opportunity to treat a child by the name of Hannah
12 Shafer on that day?

13 A. I did.

14 Q. All right. And can you tell us about what
15 time it was that she came there to Texas Children's
16 Hospital?

17 A. I believe it was in the afternoon. I have
18 in my chart that she arrived at 2:13.

19 Q. Okay. And what was the first thing that
20 happened with Hannah Shafer when she arrived?

21 A. She was triaged by a triage nurse, just
22 getting basic health information.

23 Q. All right. And then what happened next?

24 A. I or someone escorted her to her room where
25 she was -- her and her family were interviewed about

1 why they were there.

2 Q. All right. And at some point, did you have
3 your own interaction then with Hannah?

4 A. I did.

5 Q. Okay. And who else was present when you
6 were having that interaction with Hannah?

7 A. Her mother.

8 Q. And were you able to obtain a patient
9 history from her mother?

10 A. Yes.

11 Q. Okay. Do you recall Hannah specifically,
12 or is it -- is it one of those situations where there
13 is a whole lot of kids that you come into contact
14 with and you're relying heavily on your notes?

15 A. We do see a lot of patients. So, I can't
16 say that I specifically remember her; but we try to
17 document very well --

18 Q. Okay.

19 A. -- to help us recall the event.

20 Q. Okay. Can you tell us how Hannah was when
21 you were speaking with her there at Texas Children's?

22 A. We document that well, also. And so, I
23 believe it says that she was cooperative and made eye
24 contact.

25 Q. All right. And were -- are those notes

1 that you're referring to, are those notes that you
2 would have created?

3 **A.** Yes, ma'am, I wrote that.

4 **Q.** Okay. Anything else about Hannah that you
5 noticed at that time?

6 **A.** That's all that I wrote.

7 **Q.** Okay. And so, what was the next thing you
8 did after you obtained the patient history from
9 Hannah and her mom?

10 **A.** We did the exam.

11 **Q.** Okay. And who all went into the exam room?

12 **A.** I want to make sure I have it accurate.
13 She and her mom.

14 **Q.** All right. And do you recall specifically
15 who was giving you the information regarding the
16 sexual abuse, if it was Hannah or her mother?

17 **A.** Her mother.

18 **Q.** All right. And is there a reason why you
19 would not want to, as the sexual assault nurse
20 examiner, be the one to question the child regarding
21 the sexual abuse?

22 **A.** Is there a reason?

23 **Q.** Yes, ma'am. Uh-huh (affirmative.)

24 **A.** Say it one more time.

25 **Q.** Sure. Are there reasons why you, as the

1 sexual assault nurse examiner, would not be the one
2 to question a child that you know is then going to go
3 on to like, say, the Children's Assessment Center?

4 **A.** Okay. Yes. Often in known acute cases,
5 the ones that this -- all occurred greater than 96
6 hours prior, we often send those patients to the
7 Children's Assessment Center because they often get
8 the exam there and also their forensic interview
9 there.

10 **Q.** And the jury's now heard about the
11 Children's Assessment Center a couple of times. Can
12 you tell us more specifically what a Children's
13 Assessment Center is?

14 **A.** I'm mostly familiar with the one in Harris
15 County. That is the one that I have toured. It is a
16 center that houses many different departments. Law
17 enforcement is there. CPS is there. We -- Texas
18 Children's also, I believe, maybe sponsors -- might
19 be a good word -- the medical clinic that's there.
20 That is staffed with physicians and nurses that do
21 more sexual assault exams. A lot of those being
22 non-acute.

23 And then there is psychiatrists,
24 psychologists, all of those resources that the sexual
25 assault patient needs can be found there for all of

1 Harris County.

2 Q. All right. Thank you. All right?

3 A. Uh-huh (affirmative.)

4 Q. So, going back to Hannah's exam, once y'all
5 are in the exam room, what is the first position that
6 you had Hannah placed in?

7 A. Supine, meaning laying down.

8 Q. So, like laying on her back?

9 A. Yes, ma'am.

10 Q. Okay. And can you describe for us how you
11 had her legs positioned?

12 A. I believe I wrote in the notes that it was
13 frog leg and supine. So, she would not have been in
14 the stirrups. She is just supine and her legs were
15 in a frog leg position to be opened.

16 Q. Do you kind of mean like almost like a
17 diamond shape?

18 A. Yes.

19 Q. Okay.

20 A. The heels would be trying to touch the
21 buttocks, and the knees would be out.

22 Q. And tell us what's helpful about having a
23 child in that specific position?

24 A. It opens up the labia and allows for the
25 best visualization of all the structures.

1 **Q.** All right. So, once she was in that
2 position, what was the next thing that you did?

3 **A.** The anogenital exam.

4 **Q.** All right.

5 **A.** And the swabs and the visual exam.

6 **Q.** And earlier you spoke about that traction
7 on the labia majora?

8 **A.** Uh-huh (affirmative.)

9 **Q.** That fatty outer lip as people sometimes
10 call them, right?

11 **A.** Uh-huh (affirmative.)

12 **Q.** What do you mean when you say "traction"?
13 What are you doing to them?

14 **A.** It just means pulling on them not too hard,
15 but hard enough to open up all the structures, the
16 minora, be able to visualize the hymen, the minora
17 and all of the structures that are -- clitoris,
18 everything down there.

19 **Q.** All right. So, once you do that traction,
20 you're able to then see the hymen, right?

21 **A.** Correct.

22 **Q.** Okay. And in Hannah's exam, did you note
23 there to be any injuries?

24 **A.** I did not.

25 **Q.** All right. What does that mean to you, not

1 to see any injuries on an exam like this?

2 **A.** Over -- let me -- over 90 percent of the
3 exams that we do on sexual assault patients are
4 normal exams, meaning there are no injuries. That -
5 what I tell most of our parents, and all of our
6 parents, is that does not mean that nothing happened.

7 **Q.** Okay. Can you tell us specifically about
8 the hymen, how it is built and what its purpose is or
9 what it does?

10 **A.** Okay. So, the hymen is the ring around the
11 opening to the vagina. It's kind of like a hair
12 scrunchy. In appearance --

13 **Q.** And let me stop you. For those folks on
14 the jury who don't wear scrunchies.

15 **A.** Uh-huh (affirmative.)

16 **Q.** Can you tell us what a scrunchy is?

17 **A.** It's kind of like a rubber band for hair,
18 but it is kind of fluffy. I think people wore them
19 maybe in the Nineties a little bit more, but kind of
20 fluffy. And it expands. And so, the hymen is kind
21 of like that. And when nothing is being put into the
22 vagina, it rests, you know, flat. And then it
23 expands and opens up as something is going into
24 the -- and it's kind of a fluffy ring around the
25 opening, the outer.

1 **Q.** And have you ever done a sexual assault
2 exam or a vaginal exam on a female who has given
3 birth to a child?

4 **A.** Yes.

5 **Q.** All right. And can you tell us whether or
6 not that hymen was intact?

7 **A.** Yes.

8 **Q.** Did you note any injury on that hymen?

9 **A.** No.

10 **Q.** Is there a certain presumption that you
11 make about anything entering that vagina when a
12 child -- when a child has been born from that woman?

13 **A.** Is there a presumption?

14 **Q.** Yes, ma'am.

15 **A.** What do you mean?

16 **Q.** Let me ask that better.

17 **A.** Okay.

18 **Q.** Do you expect that maybe a penis entered
19 that vagina in order for that woman to get pregnant?

20 **A.** Yes.

21 **Q.** Okay. But you're telling us that that
22 hymen looks exactly the same as if nothing had gone
23 in there?

24 **A.** Yes. And there is various reasons for
25 that.

1 Q. Please tell us what those reasons are.

2 A. Even on -- on young girls at this age, that
3 area is very elastic; and it's designed to stretch
4 and move. Also, the tissue of the genital area is
5 made out of the same mucosa as the inside of your
6 mouth. And just like on the inside of your mouth,
7 when you get a cut or a burn or a tear, it heals very
8 quickly and without leaving a scar. So, oftentimes,
9 if there is an injury, it heals very quickly.

10 Q. But fair to say any type -- for you to see
11 any type of injury in a vaginal exam is rare?

12 A. Correct.

13 Q. All right. What is the number one
14 indication to you as to whether or not a child has
15 been sexually assaulted?

16 A. The number one indicators would be the
17 history as to what the patient says and that being
18 clear and concise throughout, throughout their
19 encounters. And oftentimes with kids, we see also
20 the history is important because of the details often
21 times that the patient gives, that it -- they often
22 know things at that age about the penis or testicles
23 or whatever, semen, whatever they have seen that a
24 child that age shouldn't -- shouldn't know.

25 Q. I also want to ask you about the anus. Can

1 an anus be penetrated and there be no injury?

2 A. Yes.

3 Q. In sexual assaults where you have been the
4 one doing the examination, would you say it is common
5 or uncommon for there to be injury to the anus?

6 A. For there to be -- be an injury?

7 Q. Yes, ma'am.

8 A. Would be uncommon.

9 Q. All right. And would you say that that
10 happens even less frequently than an injury to the
11 vagina?

12 A. I couldn't say.

13 Q. Okay.

14 MS. FELICIA: Pass the witness, Your
15 Honor.

16 THE COURT: Thank you.

17 Cross-examination?

18 CROSS-EXAMINATION

19 Q. (BY MR. WILKERSON) All right. Ms. Boles,
20 you said you have done more than a hundred sexual
21 assault examinations, correct?

22 A. Yes, sir.

23 Q. And most of those would be children?

24 A. Yes, sir.

25 Q. You also stated that it would be common for

1 you to obtain -- obtain the history of the incident
2 or incidents from the parent, correct?

3 **A.** Correct.

4 **Q.** And that was -- that is what was done in
5 this case, correct?

6 **A.** Correct.

7 **Q.** What language was used at this time to
8 describe the sexual act by the patient's mother? Was
9 there a language that -- specifically referred to the
10 genitalia of the defendant in the case, the alleged
11 victim in the case, what was that language?

12 **A.** Sure. I can -- I can refer to my notes
13 here. Would you like me to read specifically what I
14 wrote?

15 **Q.** Yes, please.

16 **A.** Okay. I'm not sure how much you want me
17 to -- to read, but I will just -- I -- I will just
18 start here. And so, this is from me speaking to the
19 mother; and this is what the mother told -- told me
20 in my notes here.

21 She reports at that time Hannah told
22 her that it happened again and that -- let's see.

23 "The mother reports that the patient
24 has disclosed that father and patient have both had
25 oral sex clarifying that Hannah told her that she has

1 put father's private area in her mouth and he has put
2 his mouth on her private parts. Reports parent has
3 disclosed that he has used his hand. Reports that
4 patient told her that when it came to penile-vaginal
5 penetration, parent disclosed that it would get
6 squishy down there and her father stated it's because
7 Hannah gets real, real wet. Reports after
8 penile-vaginal that parent -- father would show her
9 and then tell patient to go use the restroom and
10 clean up with toilet paper down there."

11 I believe that's all that I wrote
12 about that.

13 Q. Thank you. And all that came directly from
14 the mother, nothing from the child?

15 A. Correct.

16 Q. So, you indicated that one of the
17 indicators that a sexual assault allegation on the
18 part of a child might be true is consistency in the
19 story of a child --

20 A. Correct.

21 Q. -- correct?

22 But at this point you have not heard
23 the child's story, correct?

24 A. Correct.

25 Q. And there are absolutely no medical

1 indicators that would suggest or support these
2 allegations; is that correct?

3 **A.** What -- repeat the question.

4 **Q.** Is there a single solitary shred of medical
5 evidence to support the allegations of sexual
6 assault?

7 **A.** Well, yes.

8 **Q.** What?

9 **A.** The fact that over 90 percent of our exams
10 that we do on sexual assault patients are normal
11 exams.

12 **Q.** I -- so, you're telling me that the fact
13 that you conducted a normal exam is evidence that a
14 sexual assault occurred?

15 **A.** No, sir.

16 **Q.** So, I asked you, is there a single solitary
17 shred of medical evidence to support the allegation
18 that the sexual abuse occurred; and you said yes,
19 correct? Did you say yes?

20 **A.** I did say -- it's a confusing question;
21 but, yes, I think.

22 **Q.** Is there any medical evidence to support
23 the allegations of sexual assault? It's a "yes" or
24 "no" question, Ms. Boles.

25 **A.** Are you specifically referring to like

1 positive STI testing or --

2 Q. I'm refer --

3 A. -- the results --

4 **THE COURT:** Please -- excuse me. One
5 at a time, please. Let her finish her comments.

6 A. I'm sorry. Are you referring to like the
7 positive STI testing or the results from the exam?

8 Q. (**BY MR. WILKERSON**) Respectfully, this is my
9 examination. I ask the questions.

10 A. Okay.

11 Q. So --

12 **THE COURT:** Sir --

13 **MR. WILKERSON:** I'm repeating the
14 question.

15 **THE COURT:** Sir, if you need an
16 admonishment to the witness, would you address that
17 to me, please?

18 **MR. WILKERSON:** Yes, Your Honor.

19 **THE COURT:** Okay.

20 **MR. WILKERSON:** Would you please
21 admonish the witness to answer the questions
22 proffered?

23 **THE COURT:** I really couldn't tell you
24 she wasn't answering. So, ask again; and then I will
25 see if she answers.

1 **Q.** **(BY MR. WILKERSON)** For the fifth time, is
2 there any medical evidence to support the allegations
3 of sexual assault of this child?

4 **A.** If you're referring to specific evidence as
5 far as STI testing --

6 **MR. WILKERSON:** Objection, Your Honor,
7 nonresponsive.

8 **THE COURT:** Ma'am, he is just asking
9 for any.

10 **THE WITNESS:** Okay.

11 **THE COURT:** Either there was or there
12 wasn't or --

13 **THE WITNESS:** Okay.

14 **THE COURT:** You should answer if you
15 know.

16 **THE WITNESS:** Okay.

17 **A.** I guess no, then.

18 **Q.** **(BY MR. WILKERSON)** I'm going to ask -- I
19 understand it has been asked and answered, but this
20 has been such a difficult question to answer, I just
21 want to clarify.

22 You just testified that there is no
23 evidence to support sexual assault allegation,
24 correct?

25 **THE COURT:** I think the question was

1 no medical evidence.

2 **MR. WILKERSON:** No medical evidence.

3 Yes, Your Honor.

4 **A.** Correct.

5 **Q.** (BY MR. WILKERSON) Thank you. Okay. You
6 said that 90 percent of your sexual assault
7 examinations result in normal examination.

8 How big on average is the hymenal
9 opening?

10 **A.** I cannot say. It varies from patient to
11 patient.

12 **Q.** Okay. You wouldn't know an average based
13 on the more than hundred that you have examined?

14 **A.** No, sir. Because like I said, the hymen is
15 closed until it's stretched open or something is
16 inserted into it.

17 **Q.** Okay. How big was that hymenal opening?

18 **A.** We don't measure them, sir.

19 **Q.** Okay. Was it bigger than a penny?

20 **A.** I -- we take images during the exam; but
21 even to review those images, we don't hold a
22 measuring tape or anything up to it. So, I can't
23 tell you. We don't measure them.

24 **Q.** Are masses on X-rays generally measured to
25 determine the size?

1 **MS. FELICIA:** Your Honor, I would just
2 object to relevance.

3 **THE COURT:** Thank you. Could you
4 establish some relevance, please?

5 **MR. WILKERSON:** Yes, Your Honor. The
6 witness is testifying that they don't measure hymenal
7 openings. She is testifying that they took
8 photographs, that she has reviewed these photographs,
9 but can't offer any testimony whatsoever as to the
10 size of the alleged victim's hymenal opening.

11 **THE COURT:** Yes, sir. Sir -- sir, I
12 heard the testimony; but there is nothing to
13 establish that the child had a mass. So, can you
14 establish if the child had a mass before you go into
15 questioning about it.

16 **MR. WILKERSON:** No, Your Honor, I
17 cannot. What I am trying to establish is general --

18 **THE COURT:** Would you mind standing?
19 Thank you.

20 **MR. WILKERSON:** Yes, Your Honor. I
21 apologize.

22 What I'm trying to establish is
23 general medical practices.

24 **THE COURT:** Okay. Does the State
25 still object or withdraw your objection?

1 **MS. FELICIA:** Your Honor, still
2 object. It's been asked and answered. She has
3 already stated that doesn't measure hymens. They
4 don't measure hymens.

5 **THE COURT:** The question was about a
6 mass. Did I understand you objected, or you didn't?

7 **MS. FELICIA:** Yes, objection, still
8 relevance.

9 **THE COURT:** Okay. Sustained.

10 **Q.** **(BY MR. WILKERSON)** Out of these 90 percent
11 of cases that result in a normal assault screening,
12 how many of them are allegations of multiple sexual
13 assaults?

14 **A.** I would have to review. I'm not sure.

15 **Q.** When do you think you would be able to do
16 that?

17 **A.** I'd have to contact our physicians that
18 collect all the data and -- that -- I'm not sure if
19 we -- what was -- what was the question?

20 I'm not sure if we specifically
21 collect -- we would have to review probably every
22 single chart from every patient that we have seen to
23 see. Because we do data collection, but one of the
24 questions that we ask is not was there more than one
25 perpetrator in the data that we --

1 Q. How about more than one incident?

2 A. No. We would have to review every chart to
3 find that.

4 Q. But do you ask that question?

5 A. Yes, of course.

6 Q. And as an expert in this field, having
7 conducted more than 100 of these examinations, you
8 cannot tell me out of the examinations that were
9 normal how many or what at -- estimated percentage of
10 them were included allegations of multiple
11 penile-vaginal or digital-vaginal penetration?

12 A. I can't at this time.

13 Q. You testified that the hymen is like the
14 tissue in the mouth. If you injure the mucosal
15 tissue in the mouth one time, does it heal?

16 A. Yes.

17 Q. Does it generally scar?

18 A. No.

19 Q. If you injure the mucosal tissue in the
20 mouth repetitively over, let's say, a year period of
21 time, does it heal?

22 A. Yes.

23 Q. Does it typically scar?

24 A. No.

25 Q. Okay. Are you familiar with the hormone

1 progesterone?

2 **A.** Somewhat.

3 **Q.** Somewhat. You are a sexual assault nurse
4 examiner; and you're testifying as to the elasticity
5 of the hymen, correct?

6 **A.** Yes.

7 **Q.** Okay. Is a child's hymen more or less
8 elastic than an adult's hymen?

9 **A.** It depends on the age of the child.

10 **Q.** And why does it depend on the age of the
11 child?

12 **A.** Because children's -- as they get older and
13 reach closer to that prepubescent age and the age of
14 starting their cycle, that -- the hymen becomes more
15 estrogenized and it stretches easier. So, in a 1 or
16 2-year-old, you're not going to see the same hymen as
17 a 10 or 12-year-old or 18-year-old.

18 **Q.** Okay. So, would it be fair to say that a
19 child who is still prepubescent that has not reached
20 the age or the stage of puberty whose hymen has not
21 been bathed in progesterone or estrogens, as you
22 refer to them, would not be as elastic as another
23 child who has entered that stage of their life?

24 **A.** It would still be -- it would still have
25 elasticity.

1 **Q.** Would it be as elastic?

2 **A.** It's likely.

3 **Q.** It's likely. So, you testified that it
4 becomes more elastic as they get older and it's
5 bathed in progesterone, correct?

6 **A.** Correct.

7 **Q.** But you just testified that without being
8 bathed in progesterone, it would be just as elastic;
9 is that correct?

10 **A.** Not estrogen. Not estrogen. It's likely
11 that it could still be as elastic as someone who has
12 started their cycle.

13 **Q.** Okay. Tell me, Ms. Boles, do you consider
14 yourself a victim's advocate?

15 **A.** No.

16 **Q.** No? How many cases have you testified in
17 where you testified that you did not believe sexual
18 assault occurred?

19 **MS. FELICIA:** Your Honor, I would just
20 object to the relevance.

21 **THE COURT:** Overruled.

22 **THE WITNESS:** That means that I
23 answer?

24 **Q.** **(BY MR. WILKERSON)** Yes.

25 **THE COURT:** Yes. I'm sorry.

1 **THE WITNESS:** That's okay.

2 **A.** What was the question?

3 **Q.** **(BY MR. WILKERSON)** How many cases have you
4 testified in that -- where you testified that you did
5 not believe that the sexual assault of the alleged
6 victim occurred?

7 **A.** I never have testified to that. I've just
8 testified to the facts of my exam.

9 **Q.** Okay. You have been offered and accepted
10 as an expert witness and, therefore, are entitled to
11 give an expert opinion.

12 Based on the indicators that you have
13 given me and the fact that there is no medical
14 evidence to support these allegations, can you say in
15 your medical expert opinion that this sexual assault
16 or multiple sexual assaults over the course of more
17 than a year actually occurred?

18 **A.** Can I say that they did occur?

19 **Q.** Yes.

20 **A.** In my medical expert opinion?

21 **Q.** Yes.

22 **A.** I can say that it's possible that they did
23 occur.

24 **Q.** I didn't ask if it was possible.

25 **A.** Okay.

1 **THE COURT:** Can you say that this did
2 occur?

3 **MS. FELICIA:** Your Honor, I'm sorry.
4 I just have to object that that question invades the
5 province of the jury --

6 **MR. WILKERSON:** Your Honor --

7 **MS. FELICIA:** -- as to whether or
8 not --

9 **MR. WILKERSON:** -- the question --

10 **MS. FELICIA:** Sorry.

11 **THE COURT:** One at a time, please.

12 **MS. FELICIA:** -- as to whether or not
13 this person -- or as to whether or not this witness
14 has determined whether or not this offense has
15 happened.

16 **THE COURT:** Well, that's overruled.
17 But you may only testify from a medical perspective,
18 not as to the overall determination.

19 You may ask your question again.

20 **Q.** **(BY MR. WILKERSON)** Including the
21 possibility -- well, actually, let me ask you two
22 questions.

23 Is it possible that the sexual
24 assaults or multiple sexual assaults did not occur?

25 **A.** Yes.

1 **Q.** Okay. Can you say to any degree of medical
2 certainty, based on your medical expert opinion, that
3 this sexual assault -- or these alleged sexual
4 assaults occurred?

5 **A.** Can I say with medical certainty that they
6 did occur?

7 **Q.** Yes.

8 **A.** No.

9 **Q.** Thank you.

10 **MR. WILKERSON:** Pass the witness, Your
11 Honor.

12 **THE COURT:** Thank you.

13 Redirect?

14 **MS. FELICIA:** Nothing further from the
15 State, Your Honor.

16 **THE COURT:** Thank you. Is this
17 witness excused --

18 **MS. FELICIA:** Yes, Your Honor.

19 **THE COURT:** -- for all purposes?

20 Is that all right with the Defense?

21 **MR. WILKERSON:** Yes, Your Honor. May
22 I request a brief recess for a restroom break?

23 **THE COURT:** Yes. I'm sorry. We were
24 going to take one. I just hated for her to have to
25 wait through the break.

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Cross-Examination by Mr. Wilkerson

1 So, you're free to go, ma'am.

2 **THE WITNESS:** Thank you.

3 **(Witness released)**

4 **THE COURT:** Since we're going to quit
5 at 4:30, let's take a little shorter recess than
6 usual. And if we try and start to gather up about 20
7 till, we hope to get started shortly thereafter.

8 All rise, please, for the jury.

9 **(Jury released)**

10 **(Recess taken)**

11 **THE COURT:** Okay. Thank you.

12 Yes, sir, your question?

13 **MR. WILKERSON:** My request is to
14 publish multiple copies of the same exhibit to the
15 jury.

16 **THE COURT:** Okay. You want to pass it
17 around?

18 **MR. WILKERSON:** No. I want them to
19 have more than one copy of certain exhibits.

20 **THE COURT:** During deliberations?

21 **MR. WILKERSON:** During -- not only
22 during deliberations, but since the court reporter
23 does not want to take them into custody at the
24 present time --

25 **THE COURT:** Okay. So, just so the

1 record is clear, the Defense lawyer has a duplicate
2 of two of the exhibits, two of the photos that have
3 been cut out, just like these two. And he wants the
4 jury to be able to see multiple copies?

5 **MR. WILKERSON:** That's correct.

6 **THE COURT:** And your request is
7 denied.

8 **MR. WILKERSON:** Thank you.

9 **THE COURT:** Okay. Ready for the jury.

10 **(Jury enters the courtroom)**

11 **THE COURT:** Thank you. Please be
12 seated.

13 Who will your next witness?

14 **MS. WARREN:** Judge, the next witness
15 is Meagan Croker.

16 **THE COURT:** Thank you.

17 **THE BAILIFF:** Judge, this witness has
18 not been sworn.

19 **THE COURT:** Thank you.

20 Come on up, please, ma'am. Yes, go
21 around that side of the court reporter by the jury
22 box.

23 **THE WITNESS:** Okay.

24 **THE COURT:** Thank you. And if you
25 would turn and face the jury and raise your right

1 hand.

2 **THE WITNESS:** Yes, ma'am.

3 **(Witness Duly Sworn)**

4 **THE COURT:** Thank you. Please be
5 seated. Thank you.

6 **MS. WARREN:** Thank you, Judge.

7 **MEAGAN CROKER,**

8 having been first duly sworn, testified as follows:

9 **DIRECT EXAMINATION**

10 **Q.** **(BY MS. WARREN)** Go ahead and introduce
11 yourself to the jury.

12 **A.** I'm Meagan Croker. I'm a forensic
13 interviewer and educator.

14 **Q.** All right. And go ahead and spell your
15 name for the record.

16 **A.** Meagan, M-E-A-G-A-N; Croker, C-R-O-K-E-R.

17 **Q.** Okay. And are -- I'm going to ask you --
18 have you testified before?

19 **A.** Yes, ma'am.

20 **Q.** How many times have you testified?

21 **A.** For -- this will be my fourth time.

22 **Q.** Are you feeling okay today?

23 **A.** Yes, ma'am.

24 **Q.** All right. You want to tell the jury why I
25 asked you that?

1 **A.** Yes, sir. I'm expecting right now. So,
2 sorry if I get a little out of breath.

3 **Q.** And does it -- are you -- what -- how far
4 along are you?

5 **A.** I'm 30 weeks.

6 **Q.** Okay. How does that affect your breathing?

7 **A.** He is pushing up a lot, so -- and my
8 stomach is sticking out a little bit. So --

9 **Q.** All right. We're going to try to go slowly
10 so that you don't lose all your breath and you can
11 actually breathe and talk at the same time.

12 **A.** Okay.

13 **Q.** Okay. All right. You mentioned a little
14 bit about what you do. Tell us a little bit more.
15 What is your job title?

16 **A.** Okay. I work at Bridgehaven Children's
17 Advocacy Center. I'm the forensic interviewer and
18 educator there.

19 **Q.** And where is that?

20 **A.** Bridgehaven is in Liberty County and
21 located in Dayton.

22 **Q.** And what is a children's advocacy center?

23 **A.** A children's advocacy center is a child
24 friendly safe environment where a child is able to
25 come in and talk about an alleged abuse.

1 **Q.** How long have you been doing this?

2 **A.** For five years.

3 **Q.** Okay. And before -- tell us about your
4 education level prior to doing this.

5 **A.** I do have a Bachelor's in elementary
6 education, early childhood through 6th grade.

7 **Q.** And what made you decide to go this route?

8 **A.** I love working with children. I want to
9 feel like I'm their voice and able -- and help them
10 in some way. So --

11 **Q.** Okay. And so, on a daily basis, tell us
12 what your typical job duties are.

13 **A.** As a forensic interviewer, I maybe do two
14 interviews sometimes a day. So, I will do that. And
15 then I'm also an educator. I go out into the schools
16 and do presentations on prevention and things like
17 that for the community. So --

18 **Q.** Okay. All right. Well, you have touched
19 on it a little bit. You said a couple of times
20 "forensic interviewer." What is that?

21 **A.** A forensic interviewer is a -- a forensic
22 interview is a not leading, non-suggestive technique
23 used to gather details around an alleged accusing.

24 **Q.** Why is that important?

25 **A.** It's important so that I'm not leading the

1 child into anything, and they are able to use their
2 own words.

3 Q. So, how is a forensic interview used in the
4 context of like a child abuse type of case?

5 A. We provide a service for law enforcement
6 and CPS. So, we're able to be -- it's used as an
7 investigative tool for them.

8 Q. But are you, in fact, an extension; or are
9 you a separate entity?

10 A. We are a separate entity. We just provide
11 a service for them.

12 Q. Okay. And what other types of services are
13 provided out there at Bridgehaven Children's Advocacy
14 Center?

15 A. We offer family advocacy for our victims.
16 We do have a family advocate that follows the child
17 throughout the process and provides any services
18 needed for them. We offer counseling, also, if it's
19 needed for the child. If not, we do -- are able to
20 also refer out for counseling if needed.

21 Q. And in order to determine if a child does
22 need counseling or therapy, as you have mentioned, is
23 that also part of the function of the forensic
24 interview?

25 A. Yes, ma'am.

1 **Q.** All right. How many forensic interviews
2 have you conducted?

3 **A.** Approximately over 400.

4 **Q.** And how is it that you know that?

5 **A.** Through our yearly statistics that we do
6 each year. So, just an approximate amount.

7 **Q.** And why is it that you know this through
8 your yearly statistics?

9 **A.** Because we -- at the end of each year, we
10 give our stats to our community, showing them how
11 many services we have provided for the children in
12 our community.

13 **Q.** Okay. And so, is that not the number of
14 the forensic interviews that is conducted at
15 Bridgehaven; or is that actually the number you
16 yourself have done?

17 **A.** The number that I have done.

18 **Q.** All right. How many other forensic
19 interviewers are there out there at Bridgehaven?

20 **A.** Two.

21 **Q.** And are you name -- you mentioned that this
22 is the child advocacy center for which county?

23 **A.** Liberty County. Liberty and Chambers
24 County.

25 **Q.** Okay. And are you familiar with whether or

1 not Harris County has a children's advocacy center?

2 **A.** Yes, ma'am.

3 **Q.** Have you been to it?

4 **A.** Yes, ma'am.

5 **Q.** Are you familiar with the similarities and
6 differences between the one -- Bridgehaven one and
7 our one here in Harris County?

8 **A.** Yes, ma'am.

9 **Q.** Go ahead and tell us you a little bit about
10 that.

11 **A.** Okay. The assessment center in Houston,
12 they do have partner agencies that are with them,
13 multiple partner agencies. At our center we only
14 have one partner agency that's with us, which is our
15 sheriff's office. And we're working to build that
16 relationship and to gather more partner agencies.

17 **Q.** All right. Tell us -- in a forensic
18 interview, tell us how -- is there sort of a
19 procedure for how you conduct the interview?

20 **A.** Yes, ma'am.

21 **Q.** Let's talk -- before we get into how you're
22 connected to this case, let's talk about what your
23 training and protocols are for conducting a forensic
24 interview. Tell us about that.

25 **A.** We use the semi-structured narrative

1 process.

2 Q. What does that mean?

3 A. The semi-structured narrative process, we
4 start off with a series of steps. We start off with
5 our preparation where we meet with our team briefly,
6 we prepare our equipment, and we bring the child back
7 to the interview room.

8 Then we -- once the child is in the
9 interview room, we go into a rapport where we're able
10 to talk with the child about a topic other than the
11 alleged abuse. We're able to introduce ourself to
12 the child and allow the child to introduce themselves
13 to us.

14 Then after that, after rapport, we go
15 into through the truth lie oath, where we establish
16 whether the child understands the difference between
17 truth and lie. Once that has been established, then
18 we will go into the detail gathering, where we gather
19 details around an alleged abuse using open-ended
20 questions.

21 Then at the end we conclude the
22 interview with a series of questions we use, our
23 closer questions.

24 Q. Okay. You mentioned there is a part of the
25 procedure where you go into establishing whether or

1 not the child knows the difference between the truth
2 and a lie. Why is that important?

3 **A.** It's important to understand whether the
4 child is able to understand or knows the difference
5 between truth and lie, for the purpose of the
6 interview itself, just understanding the child knows
7 the difference of whether or not to tell the truth or
8 a lie.

9 **Q.** So, who's actually in that room when the
10 interview is going on?

11 **A.** Myself and the child.

12 **Q.** Okay. And what types of different age
13 ranges are we talking about when you're talking about
14 a child giving a forensic interview?

15 **A.** At our center we see children from ages 2
16 to 17.

17 **Q.** And are there different techniques and
18 styles that are used by a forensic interviewer based
19 on the level of development and age of the child?

20 **A.** Yes, ma'am.

21 **Q.** And give us an example of that.

22 **A.** In an interview we are able to assess the
23 child through different -- different levels at our
24 center. We do have different techniques that we use.
25 We do have different ways to assess a child, whether

1 they know their colors, whether they know their
2 numbers, and different things like that. So,
3 different techniques are used for that.

4 Q. And do you have some built-in questions in
5 part of your procedure to try to test the child at
6 the beginning of the interview before you get into
7 some of the abusive type of questions?

8 A. Yes, ma'am.

9 Q. And that's a normal part of your procedure?

10 A. Yes, ma'am.

11 Q. Who's in the interview room?

12 A. The interviewer and the child.

13 Q. Anybody else?

14 A. No, ma'am.

15 Q. Well, assuming that the child didn't drive
16 there on their own, what happens to any other people
17 that might have come with the child?

18 A. A caregiver or non-offending family member
19 who brings the child there is set up in another room,
20 in a waiting room, where they will wait for the child
21 to finish the interview.

22 Q. Okay. And in this room where you're doing
23 the interview, is it capable of recording the
24 interview and the conversation?

25 A. Yes, ma'am.

1 **Q.** Okay. Is there any way to actually kind of
2 view this recording sort of live as it's playing --
3 as it's happening out?

4 **A.** Yes, ma'am.

5 **Q.** Okay. Explain who would have access to
6 that.

7 **A.** We only allow our team members --
8 multidisciplinary team members to view our video and
9 audiotapes.

10 **Q.** Okay. So, if family members were there,
11 would they be in the vicinity of the viewing area of
12 the live feed of the videotape?

13 **A.** No, ma'am.

14 **Q.** And is that set up that way on purpose?

15 **A.** Yes, ma'am.

16 **Q.** And why?

17 **A.** Because we -- again, we provide just a
18 service for law enforcement and CPS; and they're
19 provided with that information from the child.

20 **Q.** So, they aren't allowed to watch the
21 interview as it's happening? Meaning who?

22 **A.** Our multidisciplinary team.

23 **Q.** CPS?

24 **A.** Yes, ma'am.

25 **Q.** If they are present?

1 **A.** Yes, ma'am.

2 **Q.** Or law enforcement?

3 **A.** Yes, ma'am.

4 **Q.** Are they always present?

5 **A.** We do require at least one member of the --
6 of the participants in the investigation be present
7 at the time of the interview.

8 **Q.** Okay. But never a family member in that
9 viewing room?

10 **A.** No, ma'am.

11 **Q.** All right. Do you have any special
12 earpieces or anything to be able to talk to them
13 while you're actually in the room?

14 **A.** No, ma'am.

15 **Q.** Okay. So, when you're in the room, who is
16 actually doing the -- the interview?

17 **A.** Myself.

18 **Q.** Okay. Now, before you do an interview, do
19 you do anything to get any kind of brief recap as to
20 know how to proceed with your questioning?

21 **A.** No, ma'am.

22 **Q.** Okay. Well, then how do you know -- when
23 you're walking in to talk to a child, what do you
24 know about that child?

25 **A.** I just know a brief information about what

1 the child has disclosed; but as far as questioning
2 wise, the questioning techniques come from me.

3 Q. Okay. All right. So, did you, in fact,
4 meet with a little girl by the name of Hannah Shafer?

5 A. Yes, ma'am.

6 Q. Okay. Do you remember when that was?

7 A. June 12, 2014.

8 Q. Okay. I'm going to show you State's
9 Exhibit No. 7 and 8. Take a minute to look at those
10 photographs, if you would.

11 A. (Witness complies.) Okay.

12 Q. And do these photographs fairly and
13 accurately depict the outside of the building of the
14 CAC and the inside interview room as it existed when
15 you interviewed Hannah?

16 A. Yes, ma'am.

17 Q. Okay. And, also, while I'm up here, I'm
18 going to go ahead and have you identify what's been
19 labeled as State's Exhibit 9.

20 Do you recognize that?

21 A. Yes, ma'am.

22 Q. Okay. This is a CD holder; is that right?

23 A. Yes, ma'am.

24 Q. DVD holder?

25 A. Yes, ma'am.

1 **Q.** And what's contained inside this DVD
2 holder?

3 **A.** A copy of Hannah's interview.

4 **Q.** Okay. Have you watched this?

5 **A.** Yes, ma'am.

6 **Q.** Okay. Can you identify all the voices on
7 it?

8 **A.** Yes, ma'am.

9 **Q.** And was the device that recorded this video
10 capable of making an accurate recording of that
11 interview?

12 **A.** Yes, ma'am.

13 **Q.** Okay. And --

14 **MS. WARREN:** At this time, Judge, we
15 offer State's Exhibits 7 and 8 and tender to opposing
16 counsel for inspection.

17 **MR. WILKERSON:** No objection, Your
18 Honor.

19 **THE COURT:** Admitted.

20 **Q.** **(BY MS. WARREN)** All right. Tell us what
21 we're looking at right here.

22 **A.** This is our building. This is Bridgehaven
23 Children's Advocacy Center.

24 **Q.** Is this where you go to work?

25 **A.** Yes, ma'am.

1 **Q.** Okay. Then let's go ahead and look at
2 State's Exhibit No. 8. What are we looking at here?

3 **A.** This is our forensic interviewing room.

4 **Q.** So, this is -- what happens in this room?

5 **A.** This is where the interview takes place
6 with the child.

7 **Q.** Okay. And how many interview rooms are
8 there at your -- at Bridgehaven?

9 **A.** One.

10 **Q.** All right. So, when you met with Hannah
11 Shafer, do you recall about how old Hannah was at
12 that time?

13 **A.** She was 10.

14 **Q.** Okay. And when you went through your
15 interview with her, were you able to establish what
16 you talked about earlier, the difference between the
17 truth and a lie?

18 **A.** Yes, ma'am.

19 **Q.** Okay. And tell us about that part of it.

20 **A.** Okay. She did establish between the truth
21 and a lie. She did say that when you talk about the
22 truth, you talk about something that's real and then
23 when she talked about a lie, she talked about
24 something that's not real.

25 **Q.** All right. So, she was able to give an

1 example of the difference between the truth and a
2 lie?

3 **A.** Yes, ma'am.

4 **Q.** And you were satisfied with that example?

5 **A.** Yes, ma'am.

6 **Q.** And if she hadn't been, then what would you
7 have done?

8 **A.** We have other techniques that we can also
9 use, other examples that we can use in order to
10 understand more what the child is -- is saying.

11 **Q.** Okay. And let me ask you, approximately --
12 do you know about how long the interview lasted?

13 **A.** It was approximately 59 minutes.

14 **Q.** Just under an hour?

15 **A.** Yes, ma'am.

16 **Q.** All right. And what do you -- how do you
17 talk to a child that you never met before and
18 interview them about some of these details?

19 **A.** At the beginning of the interview, as I had
20 said earlier, we do establish a rapport with the
21 child. We do ask them about, for instance, what kind
22 of things they like to do for fun, maybe whether they
23 like to go to school, just to talk about neutral
24 topics.

25 **Q.** Okay. And this State's Exhibit 9 you

1 watched, is it a full and complete copy of the
2 interview that you conducted?

3 **A.** Yes, ma'am.

4 **Q.** Again, you also talked a little bit about
5 the importance of establishing that the child is
6 development -- developmentally appropriate for their
7 age; is that right?

8 **A.** Yes, ma'am.

9 **Q.** Okay. And were you able to make that
10 determination?

11 **A.** Yes, ma'am.

12 **Q.** Okay. And what was your determination in
13 that context?

14 **A.** The -- her age, where she went to school,
15 her different activities, and things like that that
16 she does.

17 **Q.** Okay. Without going into the details of
18 what was said, can you tell us yes or no did Hannah
19 disclose a form of sexual abuse?

20 **A.** Yes, ma'am.

21 **Q.** And without going into the details of what
22 Hannah said, was Hannah clear about who the abuser
23 was?

24 **A.** Yes, ma'am.

25 **Q.** Without going into what she said, was there

1 ever any -- was she consistent in terms of who the
2 abuser was?

3 **A.** Yes, ma'am.

4 **Q.** And why is it important to talk to an
5 individual to find out if they're consist on who it
6 is that was doing the abuse?

7 **A.** Can you ask that one more time? I'm sorry.

8 **Q.** Sure. Why is it important to be able to
9 determine if the child is consistent about who the
10 abuser is?

11 **A.** To be able to understand exactly what
12 happened.

13 **Q.** Now, I want to talk to you a little bit
14 about Hannah's demeanor in that interview. Okay?

15 **A.** Yes, ma'am.

16 **Q.** Tell us a little bit about what she --
17 how -- what was her -- how did she appear to you in
18 terms of her demeanor during this interview?

19 **A.** If you're asking my opinion, she --

20 **Q.** Your observations is what I'm asking for.

21 **A.** Okay. Okay. During the interview, I did
22 observe that she, you know, used different hand
23 gestures and things like that. She did at one time
24 use some different emotions such as being -- you
25 know, showing a smile and things like that. So --

1 **Q.** Okay. And talk -- tell me about these hand
2 gestures.

3 **A.** She did --

4 **Q.** Why was that significant to you?

5 **A.** There was different things that she did do
6 in order to show what happened by using hand
7 gestures.

8 **Q.** So, those were hand gestures used in
9 conjunction with a description that she was giving?

10 **A.** Yes, ma'am.

11 **Q.** Okay. And what about her overall effect?
12 How would you have described it?

13 **A.** Her overall effect did appear -- let's see.
14 Her overall effect, I'm not sure how to answer that.
15 Let me -- give me -- I'm sorry.

16 **Q.** It's okay. All right. Let me change the
17 question a little bit.

18 **A.** Okay.

19 **Q.** Did she cry?

20 **A.** No, ma'am.

21 **Q.** Okay. Did she seem to have trouble
22 disclosing to you about what happened?

23 **A.** No, ma'am.

24 **Q.** Did she have any other hesitation that you
25 observed in talking about what had happened to her?

1 **A.** She did have some, yes, ma'am.

2 **Q.** And what was that that you saw?

3 **A.** In naming of body parts and things like
4 that.

5 **Q.** So, what did you -- what did you see about
6 her appearance that you picked up on?

7 **A.** She would get very -- very quiet, not
8 knowing exactly what to say when calling the body
9 parts' names.

10 **Q.** Did that seem to you that it could be just
11 consistent with her age and what she was describing?

12 **A.** Yes, ma'am.

13 **Q.** Was it alarming to you in any way?

14 **A.** No, ma'am.

15 **MS. WARREN:** Pass the witness.

16 **THE COURT:** Thank you.

17 Cross-examination?

18 **MR. WILKERSON:** Yes, Your Honor.

19 **CROSS-EXAMINATION**

20 **Q.** **(BY MR. WILKERSON)** Ms. Croker, you stated
21 that you had a degree in education, correct?

22 **A.** Yes, sir.

23 **Q.** Do you have any degrees in counseling?

24 **A.** No, sir.

25 **Q.** Degrees in social work?

1 **A.** No, sir.

2 **Q.** So, education -- your Bachelor's degree in
3 education is your only degree?

4 **A.** Yes, sir.

5 **Q.** Okay. How did you come to be a forensic
6 interviewer?

7 **A.** I actually volunteered at this center while
8 I was in college; and once I graduated, they offered
9 me a position there.

10 **Q.** Okay. So, you said you have been there for
11 five years now; is that correct?

12 **A.** Yes, sir.

13 **Q.** And conducted more than 400 interviews?

14 **A.** Yes, sir.

15 **Q.** In those more than 400 interviews that you
16 have conducted, I'm sure you have witnessed a wide
17 array of emotions. What is a typical -- and when I
18 say "typical," just kind of on average, your belief
19 from what you observed, how do child sexual assault
20 victims typically act during interviews?

21 **A.** Every child is different.

22 **Q.** So, you wouldn't say there is a typical way
23 that children would act or a way that most children
24 act or more than others or, you know, one third as
25 opposed to one-fourth and one sixth and one eighth

1 act this way and that way?

2 You can't define any -- you can't give
3 us any generalities as to how children typically act?

4 **A.** No, sir.

5 **Q.** During the -- okay. Let's be a little more
6 specific.

7 How many children do you interview
8 that sing during the interview?

9 **A.** I'm sorry. What?

10 **Q.** Sing.

11 **A.** Sing?

12 **Q.** Yes.

13 **A.** I'm not sure on the number. I haven't --
14 okay. In -- from what I have seen from interviewing,
15 I have not had any kids that have sang a song in an
16 interview, no, sir.

17 **Q.** Okay. You said during the interview.
18 Would you consider the time from when you exit the
19 room until you return to the room to continue your
20 questioning during the interview?

21 **A.** No, sir.

22 **Q.** Okay. How many kids have you interviewed
23 that have sung during that period of time?

24 **A.** I only see them for a brief time before.
25 So, I'm not sure on that number.

1 **Q.** Would you say that's common?

2 **A.** I'm sorry?

3 **Q.** Would you say that it is a common
4 occurrence?

5 **A.** No, sir.

6 **Q.** Would you say that it's a common occurrence
7 to observe a child being playful, gesturing in a
8 nature, dancing during that -- that interval between
9 questions?

10 **A.** Again, as I said before, every child is
11 different. They react differently to the type of
12 abuse that has happened.

13 **MR. WILKERSON:** Objection, Your Honor,
14 nonresponsive.

15 **THE COURT:** Sustained.

16 Just -- excuse me. Just --

17 **THE WITNESS:** I'm sorry.

18 **THE COURT:** That's all right. Just
19 listen carefully to the question asked and answer
20 just that question.

21 **THE WITNESS:** Okay. Okay.

22 **Q.** **(BY MR. WILKERSON)** My question was: Is it
23 common for a child to behave in that nature?

24 **A.** I would say no, sir.

25 **Q.** Thank you. Okay.

1 You stated that law enforcement and
2 Child Protective Services are separate entities from
3 your center, correct?

4 **A.** Yes, sir.

5 **Q.** But then you stated that you have a partner
6 agency that happens to be the Liberty County
7 Sheriff's Department, correct?

8 **A.** Yes, sir.

9 **Q.** What does "partner agency" mean?

10 **A.** They are housed in our building.

11 **Q.** So, they conduct their business in your
12 building; is that correct?

13 **A.** Yes, sir.

14 **Q.** Would you agree that it would be reasonable
15 for a person to believe, based on the appearance of a
16 law enforcement agency in this building, that this
17 center was, indeed, an extension of law enforcement
18 agency?

19 **A.** No, sir.

20 **Q.** You said that there is a children's
21 advocacy center, correct?

22 **A.** Yes, sir.

23 **Q.** And you defined advocacy as a
24 child-friendly, safe environment?

25 **A.** Yes, sir.

1 **Q.** Would you say that it is your job to
2 advocate on behalf of children who have been sexually
3 abused?

4 **A.** Yes, sir.

5 **Q.** Admitting that and acknowledging that,
6 would you admit or acknowledge that there is a bias
7 or prejudice on your part in favor of a child
8 claiming allegations of sexual misconduct?

9 **A.** No, sir.

10 **Q.** Okay. Help me understand or differentiate
11 between the two.

12 What I mean by that is when you --
13 wouldn't you say that it's your job to advocate for
14 victims of sexual abuse?

15 What does that term "advocate" entail
16 for you?

17 **A.** To show -- to -- as in advocate, you
18 provide services for the families and the victims.

19 **Q.** So, it's to support the victim of an
20 alleged sexual assault?

21 **A.** As an advocate, yes, sir.

22 **Q.** As an advocate by providing services and
23 assisting the family in whatever manner that you can?

24 **A.** Yes, sir.

25 **Q.** Do you distinguish when you provide those

1 services between claims of abuse that probably didn't
2 happen or claims of abuse that, wow, that definitely
3 happened?

4 **A.** Not sure what you're asking.

5 **Q.** You testified that there was no bias or
6 prejudice on your part in, you know, determining
7 whether allegations of sexual misconduct were true or
8 not.

9 What I'm asking you, as an advocate,
10 as an agency and a person who provides services to
11 alleged sexual assault victims, alleged children
12 sexual assault victims, do you make any distinctions
13 between children who come in who -- for whom the
14 allegations are not true and children for whom the
15 allegations are true?

16 **A.** No, sir.

17 **Q.** So, you provide services across the board
18 to all children who make allegations of sexual
19 assault?

20 **A.** Yes, sir.

21 **Q.** I'm going to ask you again then: Do you
22 believe that you as an advocate demonstrate any bias
23 or prejudice, favoring or supporting, the allegations
24 of a child who is alleging to be the victim of a
25 sexual assault?

1 **MS. FELICIA:** I object to asked and
2 answered.

3 **THE COURT:** Overruled. You may
4 answer.

5 **A.** Please ask the question again.

6 **Q.** (**BY MR. WILKERSON**) I apologize.

7 Do you -- do you believe that you have
8 no predisposition, no bias in favor of a child who
9 has alleged sexual abuse, acknowledging that you
10 assist and provide services to all children who
11 allege sexual abuse indiscriminately?

12 **A.** Okay. Again, I'm not exactly -- you have
13 asked -- there is different parts of that. So, I'm
14 wondering what would you like me --

15 **THE COURT:** Her our objection to
16 multifarious is sustained.

17 Can you rephrase, please?

18 **A.** Sorry. I'm not understanding what you're
19 asking.

20 **THE COURT:** I'm going to ask him to
21 break it down.

22 **THE WITNESS:** Thank you.

23 **THE COURT:** Okay.

24 **Q.** (**BY MR. WILKERSON**) Do you agree that you
25 provide services to children who allege sexual

1 assaults indiscriminately?

2 **A.** Yes, sir.

3 **Q.** Do you agree, then, that part of your job
4 and role as an advocate is to believe allegations of
5 sexual assault?

6 **A.** Yes, sir.

7 **Q.** Recognizing that, in your role as an
8 advocate, do you believe that you exhibit any bias or
9 prejudice towards whether or not sexual assault
10 actually took place?

11 **A.** No, sir.

12 **Q.** Let me -- let's rehash.

13 So, your job function is to believe
14 the children, correct?

15 **A.** I'm not sure how to answer. My job is to,
16 as a forensic interviewer, is I am a neutral party,
17 yes. Now, when it comes to -- I'm not -- but I am a
18 neutral party.

19 **Q.** Okay. Thank you. During forensic
20 interviews, sometimes children are reluctant or
21 resistant to provide an indefinite answer to a
22 question.

23 Would you say that it is the job of
24 the person conducting the interview to acquire a
25 definitive answer from the child?

1 **A.** No, sir.

2 **Q.** Okay. When you are eliciting descriptions
3 of alleged acts of sexual assault, what is it that
4 you are trying to ascertain?

5 **A.** Can you repeat the question, please?

6 **Q.** When you are asking questions --

7 **A.** Okay.

8 **Q.** -- regarding alleged sexual assaults, what
9 is it that you are trying to get the child to say?

10 **A.** My questions are open-ended questions.

11 **Q.** To what end?

12 **A.** They are open-ended questions such as who,
13 what, when, where, or tell me.

14 **Q.** Okay. So, if a child were to say -- if one
15 of your questions were: Did person X insert their
16 penis into your vagina, and the child's response was
17 "kind of," is that an acceptable answer to you?

18 **A.** I would not ask that question that way.

19 **Q.** How would you ask the question?

20 **A.** As an open-ended question.

21 **Q.** Can you give me an example?

22 **A.** An open-ended question is: Has maybe
23 something happened to you?

24 **Q.** Okay.

25 **A.** Or tell me what happened with that person,

1 person X.

2 Q. Okay. During the forensic interview, have
3 you ever attempted to clarify a response given by a
4 child?

5 A. Yes.

6 Q. Okay. If your goal is not to seek a
7 definitive answer, what is the purpose of that
8 clarification?

9 A. In certain questions, there are things that
10 maybe I don't understand from the child and I seek
11 clarification.

12 Q. Okay. So, if a child described an alleged
13 act of penile-vaginal penetration and the child
14 indicated to you that the alleged perpetrator tried
15 to penetrate the child, would you attempt to
16 ascertain whether that penetration actually
17 occurred --

18 A. Yes, sir.

19 Q. -- generally?

20 A. Yes, sir.

21 Q. Did you do that in this case?

22 A. Yes, sir.

23 Q. And were you satisfied that that
24 penetration actually occurred?

25 A. As in -- as my job as an interviewer is to,

1 again, just to ask the questions; and I can only go
2 from what the child says.

3 Q. Okay. Let me rephrase then. Because I
4 understand what you're telling me, that it's not your
5 job to form an opinion on the truthfulness.

6 Am I understanding that correctly?

7 A. Yes, sir.

8 Q. Okay. Then what I'm asking you is: In
9 this case, did the child indicate to you, upon your
10 clarification, that the act of penetration was
11 completed?

12 A. A form of penetration, yes.

13 **THE COURT:** Let's go ahead and recess
14 for the weekend.

15 Members of the jury, please remember
16 all of the instructions I have given you before.
17 Don't discuss the case with anyone or read or listen
18 to anything about the case. I think Monday we can
19 get started at 10:00. So, we will see you 10 minutes
20 earlier, at 10:00. Have a great weekend.

21 All rise, please, for the jury.

22 **(Jury released)**

23 **(END OF TODAY'S PROCEEDINGS)**

24
25

1 STATE OF TEXAS
2 COUNTY OF HARRIS
3

4 I, CYNTHIA J. LEE, Official Court Reporter in
5 and for the 184TH District Court of Harris, State of
6 Texas, do hereby certify that the above and foregoing
7 contains a true and correct transcription of all
8 portions of evidence and other proceedings requested
9 in writing by counsel for the parties to be included
10 in this volume of the Reporter's Record in the
11 above-styled and numbered cause, all of which
12 occurred in open court or in chambers and were
13 reported by me.

14 I further certify that this Reporter's Record of
15 the proceedings truly and correctly reflects the
16 exhibits, if any, offered by the respective parties.
17
18

19 /s/Cynthia Lee

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25 Telephone: (713) 755-6358
Expiration: 12/31/2015

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