1 Donaruma.

2 THE COURT: Ladies and gentlemen, this

3 witness has been previously sworn.

4 **MARCELLA DONARUMA, M.D.,**

5 having been previously duly sworn, testified as follows:

6 **DIRECT EXAMINATION**

7 Q (BY MR. DRIVER) Please introduce yourself to

8 the members of the jury.

9 A Good morning. My name is Marcella Donaruma.

10 Q And where are you presently employed?

11 A I work with Baylor College of Medicine, Texas

12 Children's Hospital and the Children's Assessment

13 Center.

14 Q And what is your background and medical

15 education and experience?

16 A Well, I'm a child abuse pediatrician. I went

17 to college at Texas A&M; I went to medical school at

18 Baylor College of Medicine; I went to St. Louis for my

19 pediatric internship, my pediatric residency; and then I

20 was asked to be chief resident in pediatrics, so I

21 stayed there for one more year; and then I did a

22 fellowship and went back in what's called child abuse in

23 forensic pediatrics, and have since remained in child

24 abuse pediatrics.

25 Q And how long have you been in the field that

1 you're in?
2 A Since I graduated from my fellowship program
3 in 2006, so eight years.
4 Q After your formal education have you
5 maintained continuing education and kept up with the
6 trends in medicine?
7 A Yes, sir. I am board certified in general
8 pediatrics as well as in child abuse pediatrics, and I
9 have maintained my certification in both of those.
10 Q What do you have to do to maintain those
11 certifications?
12 A It is a process of four parts. One of them
13 involves maintaining an unrestricted medical license in
14 the state where you practice, one involves getting 20
15 hours of continuing medical education in your field, one
16 involves continuing to pass your boards and your repeat
17 board,s and the fourth part involves participating in
18 quality evaluation and control measures.
19 Q Do you maintain clinical hours where you see
20 patients on a regular basis?
21 A Yes, I do.
22 Q And which facilities do you see patients in?
23 A I spend 50 percent of my time at Texas
24 Children's in the hospital and I spend the other
25 50 percent at the Children's Assessment Center staffing

1 their medical clinic.
2 Q And what's your position at Baylor College?
3 A I am an assistant professor of pediatrics and
4 I am the director of the child abuse pediatrics
5 fellowship.
6 Q So what do you do over there?
7 A I rarely work actually at Baylor, but I am a
8 faculty member, so I am involved in teaching from a
9 medical student level to the resident level to the
10 fellow level and then the attending level in my
11 speciality.
12 Q And that's the pediatric -- what's the
13 speciality called?
14 A Child abuse pediatrics.
15 Q So you oversee not just beginning medical
16 students but fellows?
17 A Yes, the whole spectrum of learners. I get to
18 meet them all.
19 Q You said you spend 50 percent of your time at
20 the Children's Assessment Center. What sort of things
21 do you do over there?
22 A So at the Children's Assessment Center I staff
23 the medical clinic. And so we're open Monday through
24 Thursday to see patients and Friday I do 13-page charts
25 on all the patients and we assess children who are

1 referred through Child Protective Services, law
2 enforcement or other medical facilities due to concerns
3 for sexual abuse.
4 Q And can you explain to the jury what process
5 you would go through when seeing a patient in that
6 clinical setting?
7 A Yes. So when I see a child in the clinic, I
8 think of it as a four-part evaluation. We always start
9 with the child and caretaker. So basically we have
10 broken the ice with the child, we can get the medical
11 background of the child and help them feel more familiar
12 about being in a doctor's office.
13 Then if the parent feels it's necessary,
14 we might do a quick breakaway with just the parents if
15 they have concerns they don't want the child to
16 overhear. The second part is speaking just with the
17 child about the history of the present illness, which in
18 many cases is the history of their abuse. After that,
19 we do the physical exam, and after that we do what I
20 think of as the roundup, what do we know, what do we
21 need to worry about, and what's our plan for the future.
22 Q And what's the next step?
23 A Those are the four steps. And then we will
24 schedule for any repeat evaluation if it's necessary.
25 Q And so most of the time when you are following

1 up with them, do they follow up at the same clinic, at
2 the Children's Assessment Center?
3 A Yes. If it's a physical exam that I need to
4 follow, if I'm just confused or if I want to follow up,
5 I will try to have them follow up with me so it is the
6 same set of eyes; otherwise, I have a partner with
7 similar training who can follow.
8 Q So I want to ask you about some specific
9 examinations. Did you conduct medical examinations of
10 Timothy Storemski and Ashly Storemski back in 2012?
11 A Yes, I did.
12 Q Did you make notations or a chart regarding
13 that particular examination of each of those patients?
14 A Yes, sir, I did.
15 MR. DRIVER: Judge, at this time State
16 offers State's Exhibits 1 and 2. They have been on file
17 with the clerk for more than 14 days with the business
18 records affidavit. I will tender those to opposing
19 counsel.
20 MR. SCOTT: Can I have a moment, Judge?
21 THE COURT: You may.
22 MR. SCOTT: We have no objection to the
23 offer, Your Honor.
24 THE COURT: State's Exhibits 1 and 2 are
25 admitted.

1 MR. DRIVER: Judge, may I use these and
2 publish them?
3 THE COURT: You may.
4 Q (BY MR. DRIVER) Let's first talk about your
5 examination of Timothy Storemski. Is this the medical
6 record -- I'm referring to State's Exhibit 1 at this
7 point -- that you prepared with regard to your
8 examination of Timothy?
9 A Yes, sir.
10 Q And you determine what his age was?
11 A The computer does it for me in decimal place.
12 Q 6.73151 years old?
13 A He was six-and-a-half.
14 Q And I notice there are some referral
15 information. Does that mean that that's who had
16 referred them for a medical exam or had referred them to
17 the CAC or what?
18 A Yes, sir. Either the caseworker or law
19 enforcement referred them to the clinic or possibly
20 both.
21 Q And I see your name is listed down here as the
22 examiner.
23 A Yes, sir.
24 Q There's a notation that photographs were
25 taken. The photographs that are taken, what kind of

1 photographs were they?
2 A We do a colposcopy, so they are taken from the
3 video exam that we do of the child's genital.
4 Q And in this particular case would there be any
5 utility at all in showing that particular photograph?
6 A I don't think so.
7 Q At the top it says "History." Are these
8 things that you're going through with the child or the
9 parent or what?
10 A When you look at historian, it says
11 Patient-Parent. So I get past medical history from the
12 parent, because a six-and-a-half-year-old child doesn't
13 know much about their immunization status.
14 Q At the time what grade was he about to start?
15 A He was about to start first grade.
16 Q And was he on any medications at the time?
17 A Yes. He was on medication for Attention
18 Deficit Hyperactivity Disorder.
19 Q Is that what Vyvanse is?
20 A Yes, sir.
21 Q Then I see that he has some bowel issues?
22 A Yes, sir.
23 Q And also enuresis. What is enuresis?
24 A Enuresis means bedwetting. Letting urine go
25 when you don't want it to.

1 Q And any specific complaint noted with regard
2 to the genital area?
3 A No, sir.
4 Q I see there's a section called Behavioral
5 Questions, and the first one that says behavioral
6 changes, masturbation can be redirected. What does that
7 mean?
8 A What that means is, as part of the screen we
9 do for sexually reactive behaviors, we ask about things
10 like have you found the child masturbating, because it
11 can be normal, but if a child can't be redirected or
12 will masturbate to the exclusion of other normal daily
13 activities, that's concerning for a reactive behavior to
14 some kind of sexual event.
15 Q And in this case it does say that he can be
16 redirected.
17 A Yes.
18 Q So in your mind is that a normal behavior or
19 can be a normal behavior?
20 A That can be a normal behavior.
21 Q The next thing, tries to get in bed with the
22 mother. Is that what MO means?
23 A Yes. It means in response to the frequent
24 nightmares he has, they prompt him to try and crawl in
25 bed with mom because he's reacting to the nightmares.

1 Q So that is a particular question you ask is,
2 do they have frequent nightmares?
3 A Yes, sir.
4 Q Sadness, and I see there's a box checked next
5 to Sadness but nothing written. What does that mean?
6 A It means either the mother or the child, and I
7 don't necessarily notate that individually, endorse just
8 feeling sad more often than usual or it could be
9 appearing sad more often than usual.
10 Q And also asked about anger?
11 A Yes.
12 Q Now, these behavioral questions, what are they
13 specifically geared toward?
14 A We ask them not only as markers for abnormal
15 reactive behavior but also to try to create a plan of
16 therapy, what direction do we need to go in. So I use
17 it to recommend future interventions and also to tailor
18 perhaps the kind of therapy I might recommend, and also
19 the anticipatory guidance, the advice I'll give to the
20 parent on how to respond to not only the concerns about
21 sexual abuse but also the specific manifestations of
22 abuse in that child.
23 Q And then the rest of that page was pretty much
24 marked not applicable because, I guess, having to do
25 with being a female.

1 A Yes, periods and pregnancy.
2 Q Questions to the child, who are you talking to
3 when you're talking and putting notes on this?
4 A That's the history of the present illness I
5 get from the child and the child alone.
6 Q So is the child in the room with you?
7 A Yes.
8 Q Is anybody else in the room with you?
9 A Not from the child's family. I may have a
10 learner observing.
11 Q So you might have another staff person or
12 another trainee doctor there?
13 A Yes.
14 Q But not a parent?
15 A No, not with the child.
16 Q So out of the presence of his mother, in other
17 words?
18 A Absolutely.
19 Q Was he cooperative when you spoke to him?
20 A Yes, sir.
21 Q And did he maintain good eye contact with you?
22 A Yes, he did.
23 Q All right. Tell me about the words that we
24 see here in this box about when you said "Can you tell
25 me why you're here today," where do those words come

1 from?

2 A The quotes are directly from the child's mouth

3 and the capital letters are the words that I use to

4 elicit the history of the present illness.

5 Q So in this case where it says in all caps "HOW

6 DID DADDY HURT YOU," that was what you asked?

7 A That is correct.

8 Q The first thing that Timothy told you was

9 what?

10 A "Daddy was licking my tail" and he pointed to

11 his penis, and he said "Daddy was hurting us."

12 Q The date that you actually saw him, was that

13 July 17th, 2012?

14 A Yes, sir, I believe so. It will be on there.

15 Yes, sir, July 17th of 2012.

16 THE COURT: I'm sorry, 17th?

17 MR. DRIVER: Yes.

18 THE WITNESS: Yes, sir.

19 Q (BY MR. DRIVER) And you said "Daddy was

20 hurting us." So what did you ask as a follow up to

21 that?

22 A "HOW DID DADDY HURT YOU?"

23 Q And what did he will you?

24 A "Daddy hurt us with his hand."

25 Q What else did he tell you?

1 A I asked, "WHAT DID HE DO WITH HIS HAND?" and
2 the child said "Tried to beat us up. Because - he said
3 he can do that."
4 Q And then?
5 A I asked, "DID HE EVER ASK YOU TO TOUCH HIM?"
6 Q And then what did he tell you?
7 A "No. I mean, yes. But I didn't want to. I
8 never did that, but Ashly did."
9 Q And what else did you ask him?
10 A I asked, "DID HE EVER TOUCH YOU ANY OTHER
11 PLACES BESIDES YOUR TAIL? And he said, "Daddy touched
12 us everywhere."
13 Q And then you asked him what?
14 A To specify on "everywhere," because that could
15 mean many things, I try to get more detail. So I asked,
16 "DID HE EVER TOUCH YOU ON YOUR BOTTOM?" And he nodded
17 his head. And so I asked for more detail, "WHAT DID HE
18 TOUCH YOUR BOTTOM WITH?" And he said "His fingers."
19 Q Go ahead.
20 A And I continued to try to get more
21 information, so I asked "DID HE TOUCH YOU ON YOUR BODY
22 WITH ANYTHING ELSE BESIDES HIS FINGERS?" And he says
23 "He licks us on our tail with his tongue and his mouth.
24 And just stretch with his tail." And I had no idea what
25 that meant, so I asked "STRETCH WITH HIS TAIL? WHAT DO

1 YOU MEAN?" So the child said it again, "Like, stretch.
2 With his tail." So I elected not to follow that
3 question anymore and said "OK. WHERE WERE YOUR CLOTHES
4 WHEN YOUR DADDY TOUCHED YOU?" And so he said "My
5 clothes was on the floor." So I wanted to know "WHERE
6 WERE HIS CLOTHES?" And he said "Daddy's clothes was on
7 the bed." So I asked, "WHEN HE TOUCHED YOU, WAS IT ON
8 YOUR CLOTHES OR ON YOUR SKIN? And he said "On clothes
9 and skin." And so I wanted to know "HOW DID IT FEEL TO
10 YOU WHEN YOUR DADDY WOULD DO THOSE THINGS?" and he said
11 "Angry." So I asked, "DID HE WANT YOU TO TELL ANYONE
12 WHAT HAD HAPPENED? And the child said "We put him in a
13 stronger cage and goodbye. He's going to jail."
14 And because I take videos, I always ask,
15 "DID HE TAKE ANY PICTURES OR VIDEOS OF YOU THAT YOU
16 DIDN'T LIKE? He said "No." I asked, "DID HE SHOW YOU
17 ANY PICTURES OR MOVIES THAT MADE YOU FEEL UNCOMFORTABLE?
18 He said "No." I asked, HAS ANYBODY ELSE EVER TOUCHED
19 YOU IN A WAY YOU DIDN'T LIKE OR DIDN'T WANT?" He said
20 "No."
21 Q Now, when you're first meeting with the child
22 and talking to him about what you're going to be doing
23 there, do you make it clear to them that you're their
24 doctor?
25 A Always.

1 Q So how does that discussion go?
2 A So I usually ask them, "Do you know why you're
3 here today?" And the overwhelming majority say "I
4 don't." And I say, "Well, today I'm your doctor. I
5 know you probably have another doctor when you have a
6 sore throat or you need shots, but I'm your doctor
7 today. It is my job to make sure you can be as healthy
8 as you can when you leave here. So I'm going to ask you
9 a lot of very nosey questions about your business," so I
10 seek whatever word I know they use, like your bottom or
11 your tail, "to make sure you're not going to be sick
12 when you go."
13 Q And do children generally respond well to
14 that?
15 A Oh, yes.
16 Q And are they generally pretty open with you as
17 your doctor about things?
18 A Yes. They ask all sorts of really interesting
19 questions.
20 Q So when you began your physical examination, I
21 see that there's a whole bunch of different points that
22 you go over. You do like the basic stuff, which is
23 weight, height, temperature, that sort of thing, and
24 make, I guess, a general notation about their
25 appearance?

1 A Yes.
2 Q What does well-nourished and healthy and clean
3 and well-groomed mean to you?
4 A It means that he was hygienic. And then
5 well-nourished and healthy, which means they don't have
6 to talk about diet and exercise.
7 Q And the measurements, were they all within
8 normal range?
9 A Yes. He was a little nervous. His heart rate
10 was a little high, but other than that, yes.
11 Q So heart rate was 120?
12 A Yes. It should be 100.
13 Q What does NE mean?
14 A It means not examined.
15 Q ABN means?
16 A Abnormal.
17 Q And with WNL?
18 A Within normal limits.
19 Q And when we see stuff like that written
20 throughout these records, that those particular
21 abbreviations?
22 A Yes, sir.
23 Q And so why would you not examine those things?
24 A Usually because the child says "Do I have to
25 take off my shirt?" or "Do I have to do a whole

1 check-up?" and I'll say "No."
2 Q So you didn't force him to take off his
3 clothes?
4 A No. We try to give them as many choices as
5 possible.
6 Q So, again, just didn't examine those things?
7 A Yes. And I made a notation that he chose to
8 defer the general exam. He said "I don't want to."
9 Q So that means he himself said "I don't want to
10 do that"?
11 A Yes.
12 Q Male Examination. I take it there's a female
13 examination and a male examination?
14 A Correct.
15 Q And in the male examination what sorts of
16 things do you have them do?
17 A Well, I document the position that they're in
18 when I do the exam and then the manner in which I
19 visualize the exam. So I have him stand in front of me,
20 usually with his drawers down around his knees, and then
21 I use direct visualization, which means I look, and then
22 I check the colposcope, which means I looked at 3.75
23 magnification.
24 Q And in this case when you were examining
25 Timothy's genitals, what sort of notations did you make?

1 A I noted that his sexual maturity was one,
2 which means he wasn't in any way sexually mature. So no
3 hair down there, no growth yet to speak of, and he is
4 circumcised. And then all of the various structures of
5 the penis, from the tip down to the base were fine. The
6 scrotum and testes had no problems. And then there were
7 no lesions or hernia that I detected when I looked for
8 those things.
9 Q So would you characterize this as a normal
10 exam?
11 A Yes, I would.
12 Q And I see that there was somebody also present
13 in the room for that portion?
14 A Yes.
15 Q And who was present?
16 A His mother.
17 Q Is that a normal protocol or something you
18 normally do?
19 A Yes. I always ask the child when we're done
20 talking, "Thank you for talking with me. It's time for
21 your checkup. Would you like to do that by yourself or
22 would you like someone with you?" So he had a choice.
23 Q So he asked for his mom to be there with him?
24 A Yes, he did.
25 Q And then I see that there is also something

1 called a Child Anal Examination.
2 A That's right.
3 Q What are the steps that go into that
4 particular examination?
5 A So, again, I document the position, and then
6 what I use to see the anus, so supine with knees to
7 chest means laying on his back with his knees drawn up
8 to his chest as if he was doing like a cannonball into
9 the pool, and then the technique used means separation,
10 so I move the buttock cheeks apart and then direct
11 visualization, and then I look. And the colposcope
12 means I used that magnification to look.
13 Q And in this case did you see anything that was
14 abnormal in his examination?
15 A I wrote he has smear of stool. And in a
16 six-and-a-half-year-old boy, that's pretty normal.
17 Q And I see that you have a whole bunch of notes
18 here at the bottom and then "Yes" next to venous
19 pooling. Is that something that's abnormal?
20 A No. That's a normal variant. It can cause
21 some discoloration in the photos, so I wanted to
22 document that I recognize that as a normal variant.
23 Q Did you collect labs in this case?
24 A No, I did not.
25 Q Did you make any diagnoses, impressions or

1 plans for future care?
2 A Yes.
3 Q All right. What sorts of things did you note,
4 did you decide to note?
5 A So I report the type of abuse the child
6 describes. So he described his father licking his tail,
7 which he indicated was his penis, and beating him. And
8 then I noted that it was a normal exam. And then I
9 check these boxes which said I reassured him, and I
10 usually tell all the kids, who don't necessarily believe
11 this, that "When I look at your body, you look healthy
12 and you look normal and nobody can tell by looking
13 anything ever happened to you." That's a good thing for
14 them to hear. So I provide that reassurance, because
15 they think they are different. And then we talk about
16 counseling. And I make sure I check that the copy of
17 the report can be shared. Then I did a videocolposcopy,
18 which is the word for the equipment that allows me to do
19 magnification and documentation. And then I made a note
20 that I collected some information for sexually
21 transmitted infections -- that's what STI stands for --
22 from his sister Ashly.
23 Q So what is the significance of a normal
24 examination in a situation where a child has alleged
25 sexual abuse?

1 A Well, what we know in children is that the
2 physical exam is almost always going to be normal. So
3 interpreting the physical exam in isolation isn't
4 reasonable. We try to use that information in
5 conjunction with the medical history.
6 Q And I guess, is that kind of a myth that
7 people always expect for there to be some kind of injury
8 or some kind of physical manifestation of sexual abuse?
9 A Yes, sir. People believe that the doctor can
10 tell by looking, and that is simply not true in more
11 than 90 percent of the cases we see.
12 Q So in more than 90 percent of cases involving
13 child sexual abuse, there's no medical finding?
14 A That's correct.
15 Q Does the fact that there is a normal exam mean
16 that a child was not sexually abused?
17 A No, that's not what it means at all.
18 Q What does it mean?
19 A Well, the best evidence that a child has been
20 abused is a clear and consistent history from the child,
21 because they have knowledge of things that no
22 kindergartner should know, and so that's what we're
23 relying on is the consistency and clarity of their
24 disclosure. We try to tailor our medical evaluations so
25 that we are being conservative so we can protect the

1 child from any consequences of abuse they are describing
2 and we share that information to the people who can
3 protect that.
4 Q And I guess you bring up a good point.
5 Timothy is going into the first grade. He's a
6 kindergartner at this point.
7 A Yes.
8 Q Let's go to State's Exhibit 2, which is the
9 medical examination for Ashly Storemski. Now, the first
10 couple of pages are pretty much the same except for some
11 of her previous medical history is different than her
12 brother?
13 A Yes, sir.
14 Q Did you notice -- did she tell you that -- or
15 did you find out that she had previously had a urinary
16 tract infection?
17 A Yes.
18 Q And that was back in 2010.
19 A Yes, when she was about six.
20 Q And this thing where it says, "Does child have
21 any goals," is this something the mother told you or
22 that Ashly told you, or can you tell?
23 A No, I ask that of the child, and it serves
24 multiple purposes: It breaks the ice, it helps me
25 remember the child later, and if they come back, I can

1 touch back on that with them. It's like "I'm interested
2 in you. How's that coloring going? What have you
3 drawn?" So it gives a good touch point for the next
4 visit if we need one.
5 Q I see there was a notation of surgery and
6 there's an abbreviation that I don't understand.
7 A That stands for pressure equalization tubes
8 the little color tubes that go in the ear for frequent
9 infection.
10 Q And then Significant Medical History, this is
11 talking about Timothy's history of ADHD?
12 A Yes.
13 Q And seasonal allergies. Has -- what does
14 "getting a tummy" mean?
15 A So I ask about weight gain or weight loss, if
16 they're clothes are getting, tighter or looser, and her
17 mother responds, "She's getting a tummy." She seems to
18 be eating more.
19 Q Did she have any abdominal pain?
20 A Yes. She had sort of non-specific come and go
21 pain in her belly that didn't seem to relate to hunger
22 or her bowel regimen or anything else that I could put
23 my finger on.
24 Q So the kid has a tummy ache from time to time?
25 A Yes, from time to time she has a tummy ache.

1 Q So I noticed that you went through the same
2 list of behavioral questions that you had with Timothy.
3 What kind of behavioral change was noted in Ashly's
4 case?
5 A In this case the mother reported increased
6 aggression with Ashly.
7 Q Did she also display frequent nightmares?
8 A Yes, she did. And mother also elaborated on,
9 and the child did not, mom did, she was describing to
10 mother flashbacks of her molestation.
11 Q Did she also display sadness and anger at her
12 father?
13 A Yes, sir, and I did not distinguish if that
14 was from the child or the parent. It could have been
15 both or either.
16 Q I see down here you have some additional
17 history.
18 A Yes, sir.
19 Q And what kind of additional history did you
20 find out?
21 A I noted "Mother and father separated in 2010.
22 Children first disclosed abusive events in 2010. CPS
23 report made, case closed. Visitation with father
24 continued. Last contact was four weeks ago. With new
25 outcry and investigation, visits have been stopped.

1 Mother reports that children's behaviors (enuresis with
2 son)" bedwetting of the son, "(anger from daughter) have
3 improved."
4 Q And then I guess you attempted to ask Ashly
5 the same kinds of questions?
6 A Yes.
7 Q What was her attitude?
8 A She was friendly and she would talk with me
9 about things that were just rapport-building. Usually I
10 comment on their hairstyle or their shoes, their
11 T-shirt, something just to open up a conversation about
12 things they like to make them feel comfortable. But
13 then when we got to the questions about inappropriate
14 contact, and she just said "I don't know," and I checked
15 the box with the word "Hostile" and I used an
16 exclamation mark because she was probably yelling at me
17 repeatedly, "I don't know. I don't know," when I asked
18 her the usual questions I ask.
19 Q So she didn't want to talk to you about that?
20 A No, I don't believe she did, not about any
21 kind of sexual contact.
22 Q Is that an unusual reaction for a child?
23 A Unfortunately some of my patients do keep the
24 information to themselves, so I can't get the details
25 that I like to get to help them.

1 Q But you had information from another source,
2 her brother?
3 A Yes.
4 Q And based on that information did you continue
5 with your examination?
6 A Yes, I did. The information that's here just
7 reports that there has been prior disclosure and that
8 information was available to me, and that her father had
9 fondled her, had genital-to-genital contact with the
10 child as well as oral-genital contact with the child.
11 Q So oral AP, what is AP?
12 A It means his mouth was on her vagina.
13 Q His mouth on her vagina?
14 A AP is alleged perpetrator and V is victim.
15 Q So you conducted a physical examination?
16 A Yes.
17 Q And in this case did she allow you to do the
18 full physical examination?
19 A Yes, she did.
20 Q So even though she didn't really want to talk
21 about it, she was okay with you doing an exam?
22 A Yeah, the whole checkup, looking in her ears,
23 her teeth, everything.
24 Q So in this case was everything pretty much
25 normal?

1 A Yes, sir.
2 Q And I see that you have a Tanner Stage of
3 patient here as well.
4 A Yes. That indicates sexual maturity of her
5 breasts. She had no maturity.
6 Q So one is none at all?
7 A One is like what a three-month-old baby would
8 look like, flat, no separation within the chest wall.
9 Q So she still looks like a little kid?
10 A A little kid, yes, sir.
11 Q So then you went into cardiovascular, lungs,
12 all that stuff that you normally would have, I guess,
13 any doctor listening to your lungs, listening to your
14 heart. Did everything come out normal?
15 A Yes, sir.
16 Q And then here's that Female Examination page
17 that we talked about a second ago. All right. First
18 thing I see is big word that I don't understand.
19 Lithotomy, what is that?
20 A The lithotomy position is a position that is
21 traditionally thought of when you think of a woman in
22 child birth on the birthing table, clothes off, bottom
23 at the edge of the table, stirrups out, so the child's
24 knees go up, their feet go down and their toes go up and
25 the stirrups are separated, so their legs are separated

1 so I can get a good view of the vagina and anus.
2 Q And which techniques did you end up using in
3 her case?
4 A So direct visualization means I looked.
5 Separation means I took the dry skin on the outside of
6 the labia and I moved them out of the way using
7 traction. So I pulled on them like you're pulling on a
8 sock to move them and then I use the colposcope to get a
9 magnifying view of the inside structures that are the
10 wet, pink skin.
11 Q And there are some things that you did not
12 need to do with her?
13 A That is correct, I did none of those things.
14 Q And are those things that you do like in an
15 older child or adult?
16 A Yes. I rarely put a finger in there. I
17 rarely do an digital exam. And then the speculum exam
18 is if I'm worried about some kind of infection in the
19 reproductive parts.
20 Q And then I see you have a Tanner Stage of
21 Genitalia. Why are there two for women?
22 A Well, breasts are one and the genitals are
23 second. We don't do a breast assessment for guys.
24 Q Two different things for girls. But it's
25 still a one. Does that mean she still looks like a kid?

1 A Absolutely.
2 Q Were the structures of her genitals normal?
3 A Yes, they were all completely normal.
4 Q Now, I see stuff about the hymen, and I know
5 there are lots of different kinds of myths and thoughts
6 about what the hymen is and what it does. Can you
7 explain what you mean by annular hymen?
8 A Yes, sir. So the hymen is a piece of tissue
9 that surrounds the opening to the vagina. It's really
10 not like a Tupperware lid on a container. It doesn't
11 block everything completely. It's like a collar on a
12 shirt. Some people have like an open collar and some
13 people have a turtleneck, but everybody has an opening.
14 So the words that we use to describe that opening just
15 reflects how much tissue we see.
16 Q So does the presence of a hymen have anything
17 to do with -- well, I guess, are there people who have
18 absence of a hymen?
19 A If a little girl is born with a vagina, and
20 there are some that aren't, but that's very rare. But
21 if you have a vagina when you're born, it is
22 uninterrupted, so it continues in one broken band from
23 one side to the other.
24 Q And does that rupture in some way or break in
25 some way at some point later in life?

1 A Well, usually with child birth, but not
2 always, it will break. About 50 percent of women will
3 report bleeding with their first voluntary sexual
4 experience, but 50 percent will be like, I never saw
5 blood. So it can be broken. And most often in adult
6 clinics there's just stumps and bits left behind. But
7 I've done exams myself on girls who have had babies and
8 the whole hymen was still there. It's very stretchy.
9 Q So the presence of a hymen is not necessarily
10 an indication of one way or the other of whether or not
11 child sexual abuse occurred?
12 A No, that is correct, it doesn't signify
13 whether or not the child is telling the truth or whether
14 or not abuse has happened. It's just an anatomical
15 structure to be known.
16 Q And in a case where you've at least got
17 information that oral genital contact has happened,
18 would that have any influence on the hymen being present
19 or not?
20 A I don't think there are enough of those cases
21 to say that all doctors agree. I can say in my
22 experience of thousands of patients, I would not expect
23 that mouth contact on a vagina would result in injury on
24 anything if the teeth are not involved.
25 Q And, again, for the rest, I guess it says

1 observations continue, this is the rest of the same
2 genital examination?
3 A Yes, sir.
4 Q And was it all normal?
5 A It was all normal.
6 Q And then did you also conduct an anal
7 examination on Ashly?
8 A Yes, I did.
9 Q And I guess it was in the same position, same
10 techniques you used?
11 A Yes, sir.
12 Q Did you notice anything abnormal during that
13 portion of the examination?
14 A No, I did not.
15 Q Did you take labs and cultures from Ashly?
16 A We did.
17 Q And did anything come back positive?
18 A No, sir.
19 Q With regard to a female normal examination,
20 does the fact that your examination is normal in any way
21 indicate whether sexual abuse has occurred?
22 A No, sir. You would expect a normal exam and
23 you do your best not to miss those one or two a month
24 you're going to see that are abnormal.
25 Q So in a case, is it possible for a child, a

1 male or female, to have been sexually abused and yet
2 have a normal examination?
3 A Of course, it is.
4 Q How normal is that? How common is that?
5 A So the studies that have been published will
6 go anywhere from 90 on 95 percent of children, more
7 often girls than boys, and boys are even closer to 98,
8 99 percent. So greater than 90 percent of children will
9 have a normal exam even when they can describe detailed
10 penetrating injury and convictions have been made in
11 court to support the child's outcry that abuse has
12 occurred.
13 MR. DRIVER: I will pass the witness,
14 Judge.
15 THE COURT: Proceed, please.
16 **CROSS-EXAMINATION**
17 Q (BY MR. SCOTT) Doctor, back to the report.
18 I'm not going to run the machine. You'll remember it,
19 I'm sure, off of your memory, unless you make me run the
20 machine, and it will take too long.
21 All right. We go through the pages and
22 come to some page not numbered, the questions to child
23 page.
24 A Yes, sir.
25 Q And I didn't notice whether they're the same

1 sequence, but I assume they. I believe they are. It
2 doesn't make any difference, I guess, in both reports,
3 right there should be, maybe?
4 A Yes, sir, the pages should be in the same
5 sequence.
6 Q All right. Now, in relation to the questions,
7 some of the questions, I guess sequence of events, would
8 have been conversations that you had with the mother
9 before an exam. Is that basically accurate? You start
10 talking to the mom and then eventually you deal with the
11 child?
12 A No, sir. When I'm getting the questions about
13 the history of present illness, about the molestation,
14 I'm only asking the child. The mother is in the waiting
15 room or elsewhere.
16 Q Well, it says here Historian.
17 A Yes, the past medical history, so the birth
18 history, medications, dosages, that comes from the
19 mother.
20 Q Yeah, mother also provided past medical
21 history. That's what that little box says in both
22 files, right?
23 A Yes, past medical history.
24 Q Would it help you to look at it? Or you
25 remember probably it. I'm not going to try to trick

1 you.

2 A I'll ask for help if I need it. I think so

3 far I'm okay.

4 Q Okay. The mother told you that -- either the

5 mother or the child -- children told you that they were

6 having nightmares. Is that accurate or do you remember?

7 A Yes.

8 Q Okay.

9 A The mother told me that Ashly was having

10 flashbacks during the daytime.

11 Q So both were having nightmares and/or

12 flashbacks, correct?

13 A Yes.

14 Q Did she also say that there was bedwetting

15 involved?

16 A Yes. Timothy was wetting the bed and also

17 wetting in the daytime.

18 Q Now, when you go through the questions to the

19 child, at least indicates that in Ashly's case, the

20 mother indicated that the daughter's behavior had

21 improved, is that correct, prior to you seeing her,

22 other than what she related had been the circumstances

23 before? Do you remember that?

24 A Yes. Mother related that both Timothy's

25 bedwetting and Ashly's aggression had improved.

1 Q And that improvement -- well, did you note it?
2 I understand what they're telling you. The mother is
3 telling you that things are better than they used to be.
4 Did you notice any of these anger behavior triggers
5 while you were talking to either one of these children,
6 that there was anger, that what she says it improved
7 from while you were seeing them?
8 A There was no wetting with Timothy, and Ashly
9 was hostile, and I didn't describe her trying to hit me
10 or anything else, but she was hostile.
11 Q And I don't know how to phrase that because we
12 don't have a point of reference. But would that
13 indicate that would be her conduct and she was better
14 off with that conduct than she had before going to the
15 mother, the hostility issue or what?
16 A Golly, I only saw them that one time, so I
17 really don't have any benchmark to measure him, so I
18 can't say if they are better or worse. I can only rely
19 on the history.
20 Q Do you recall if you asked the mother if there
21 was a change in circumstances in Timothy's behavior, as
22 you seem to -- or at least that she volunteered one way
23 or the other, that Ashly had improved before you saw
24 them? Because it's just blank, there's nothing here.
25 So do you not recall her saying that or you not asking?

1 A I think what is reflected in the record is I
2 put it in one child's chart and I just failed to copy
3 that into the other child's chart. So I documented
4 about both Timothy and Ashly in Ashly's chart. I failed
5 to copy that back into Timothy's chart. So it was the
6 same deal.
7 Q Okay. All right. So then the response was
8 the mother reports that children's behavior has improved
9 then?
10 A Yes, the bedwetting and the aggression.
11 Q And the nightmares?
12 A The nightmares, we didn't -- I don't know that
13 I documented nightmares had also improved.
14 Q All right. Now, when we go to questions of
15 the child, both sets, Timothy -- well, there is a
16 difference. I didn't realize that. Timothy you've got
17 checked cooperative or checked cooperative, checked eye
18 contact. Okay?
19 A Yes, sir.
20 Q But then over with Ashly, you've got the only
21 thing marked is hostile.
22 A Yes.
23 Q So your impression -- well, all right. Let's
24 do this. Anxious, agitated, sorrowful, tearful,
25 hostile, withdrawn, inappropriate all have little boxes

1 by them, correct?
2 A That's correct.
3 Q And cooperative and eye contact were checked
4 with Timothy, but the only one that was checked with
5 Ashly was this hostility question was checked, correct?
6 A Yes.
7 Q Do you remember? All right. When asked what
8 you're here today for, that type of question, response,
9 "I don't know 'was only response to questions;
10 inappropriate contact, although child was friendly and
11 responsive with rapport-building questions.'"
12 So she didn't go into the same amount of
13 verbiage as to the extent that Timothy did when you
14 wrote down everything he talked to you about, correct?
15 A That is correct.
16 Q And I don't remember -- it says "Remember to
17 ask Who, What, Where, When." Is that a reminder to you
18 all to ask that, or what where does that come into that
19 little form?
20 A That form predates my employment here, and I
21 use that form as a place for myself to put notes. I
22 don't follow the instructions because it's not for
23 homework. So I use that box to record, because I think
24 it's useful for the child's history and present illness.
25 So it's on there. It might be helpful for the nurses.

1 I use it for the purpose that I described to you.
2 Q All right. So Timothy -- maybe I'm just using
3 the wrong language here -- was more outgoing, more
4 informative, more responsive to your question as to why
5 you're here than Ashly was, correct?
6 A That's correct.
7 Q At least according to the notations, the exam
8 was conducted by you on July the 17th of '12 as to both
9 children and the time variance was 8:22. You probably
10 don't remember that part.
11 A Two years ago, no, sir. I don't know what day
12 of the week or time of the day. I don't even know.
13 Q Well, it looks like they were about half an
14 hour apart. Do you think that may be the right amount
15 of time or maybe 45 minutes apart?
16 A That sounds about right.
17 Q So other than the physical evaluation, which
18 is of no benefit to show or exclude or have any impact
19 on whether sexual assault occurred in relation to these
20 reports that you've made, which you have indicated has
21 none, right? It has no bearing on whether or not they
22 were sexually assaulted or not based on your evaluation,
23 correct?
24 A The physical examination is not the only
25 information you should use to come to that conclusion.

1 I think that's what I said.
2 Q Okay. So then the only additional information
3 that you have is, once again, what the mother told you,
4 correct?
5 A And what the child told me.
6 Q I see. Yeah, the mother and the child are the
7 only two informative people in both reports that you
8 dealt with in relation to this case?
9 A That is correct.
10 MR. SCOTT: No further questions.
11 MR. DRIVER: No more questions of this
12 witness, Judge.
13 THE COURT: You may stand down.
14 MR. DRIVER: Do you want us to approach?
15 THE COURT: Yes.
16 (Off-the-record bench discussion)
17 THE COURT: Ladies and gentlemen, we have
18 made arrangements to take you to lunch. Please go with
19 the bailiff back to the jury room.
20 (Lunch recess)
21 (Jury seated)
22 THE COURT: Please be seated.
23 Call your next, please.
24 MR. DRIVER: Judge, the State recalls
25 Monica Carmichael.

1 THE COURT: Ladies keys and gentlemen,
2 this witness is still under oath.
3 Proceed, please.
4 **MONICA CARMICHAEL,**
5 having been previously duly sworn, was recalled and
6 testified as follows:
7 **DIRECT EXAMINATION**
8 Q (BY MR. DRIVER) Are you the same Officer
9 Carmichael who testified earlier in this trial?
10 A Yes, I am.
11 Q I want to talk to you about a couple of things
12 that we didn't talk about last time. You had mentioned
13 that when you went to the defendant's residence to take
14 the photographs, you were serving a search warrant, and
15 what sorts of things were you seeking to seize in his
16 apartment when you went there?
17 A I was looking to seize any kind of -- any kind
18 of computers, cameras, anything that could store images
19 or videos.
20 MR. DRIVER: May I approach the witness?
21 THE COURT: You may.
22 Q (BY MR. DRIVER) I want to show you what's
23 marked as State's Exhibit 3. Is this a copy of the
24 search warrant that you obtained in that case?
25 A Yes, it is.