

1 the jury, I will give you the oath.

2 (Witness Duly Sworn)

3 THE COURT: Thank you. Please have a
4 seat.

5 MR. LEONARD: May I proceed?

6 THE COURT: Yes, sir.

7 MR. LEONARD: Thank you, Judge.

8 JAIME FERRELL,

9 having been first duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 Q. (BY MR. LEONARD) Good morning, Ms. Ferrell.

12 A. Good morning.

13 Q. Would you please introduce yourself to the
14 jury?

15 A. Yes. My name is Jamie Ferrell.

16 Q. And how are you currently employed?

17 A. I'm employed as the clinical director for
18 the forensic nursing services and the John S. Dunn
19 Senior Burn Center for the Memorial Hermann Health
20 Care System.

21 Q. What do you do as the clinical district
22 director of forensic examiner for nurses?

23 A. As the clinical director of forensic
24 nursing services, I care for patients. It's a unique
25 position because I still see patients, provide their

1 care, but also have the responsibility to do the
2 oversight for our other nine nurses that are in our
3 program, review the patients that they have cared
4 for, see that the care has been appropriate, evaluate
5 that the appropriate evidence has been collected, and
6 then provide that feedback. I also manage the issue
7 of the budget and the financial responsibility.

8 Q. Tell the jury a little bit about your
9 educational background.

10 A. I have my registered nurse license with the
11 Texas Board of Nurse Examiners. I graduated with my
12 Bachelor's of Science in nursing from West Texas
13 A & M University in Canyon, Texas, in 1978. I have
14 my certification as an adult/adolescent sexual
15 assault nurse examiner through the Texas Office of
16 the Attorney General. I have my certification as a
17 medical investigator Level III through the American
18 College of Forensic Examiners International.

19 I have my pediatric sexual assault
20 nurse examiner through the Texas Office of the
21 Attorney General. I'm board certified by the
22 Commission of Forensic Nursing Certification through
23 the International Association of Forensic Nursing for
24 that of the adult, adolescents, and the pediatric
25 patient population. I'm also certified as a forensic

1 nurse through the American College of Forensic
2 Examiners International.

3 Q. And tell the jury a little bit about your
4 professional experience.

5 A. When I graduated from nursing school, I
6 started in the medical department, caring for
7 patients, evaluating the presentation of injury and
8 trauma. After I perfected the trauma assessment
9 skills, I began to fly on the helicopter as a flight
10 nurse and then went to women's health with the
11 Department of Health -- with the Department of
12 Defense and went to Wurzburg, Germany, and worked
13 there and then came back to the United States, going
14 back into the emergency department, trauma care;
15 began caring for sexual assault patients in 1986 and
16 then have continued to develop the forensic nursing
17 field; and we are now a nursing specialty in the
18 field of care.

19 Q. Do you have any publications or any
20 published works?

21 A. Yes, sir, I do.

22 Q. Just a brief mention of those.

23 A. I'm a coauthor of a chapter of Forensic
24 Evidence Recovery in the Forensic Nursing Science,
25 Second Edition. I was also a contributing author of

1 the First Edition. I have also authored a chapter in
2 the Emergency Nursing curriculum, preserving that of
3 evidence and caring for the sexual assault patient.

4 I was a contributing task force member
5 with the American College of Emergency Physicians
6 with the publication of the evaluation and treatment
7 of a sexual assault/sexually-abused patient. I have
8 coauthored a video with the University of Bern in
9 Switzerland to demonstrate the care for the sexual
10 assault patient, both male and female.

11 Q. Tell the jury a little bit about your
12 experience examining children who have been or
13 children who have alleged sexual abuse.

14 A. In the early Eighties, there really was
15 very little published and known about how to care for
16 that of children. I took a position in the Texas
17 Office of the Attorney General and developed a
18 curriculum -- five-day curriculum on how to educate
19 providers on what are the principles and how to do
20 that assessment on a pediatric patient; as well as we
21 put in place a guideline of an appropriate
22 clinical -- preceptor clinical that needed to be
23 completed.

24 And then, also, I spearheaded the work
25 with the International Association of Forensic

1 Nursing on how to care for the pediatric patient and
2 what's that criteria and that expectation that needs
3 to be completed.

4 **MR. LEONARD:** Judge, may I approach?

5 **THE COURT:** You may.

6 **Q. (BY MR. LEONARD)** Ms. Ferrell, I'm going to
7 show you a copy of what's been marked as State's
8 Exhibit 24. Do you recognize that?

9 A. Yes, I do.

10 **Q.** And what do you recognize it as?

11 A. This is my curriculum vitae.

12 **Q.** And is this a fair and accurate copy of
13 your curriculum vitae?

14 A. Yes, it is.

15 **Q.** Okay.

16 **MR. LEONARD:** Judge, at this time I'm
17 now tendering to Defense counsel State's Exhibit 24
18 and offering it into evidence.

19 **MR. SMITH:** Take a brief moment, Your
20 Honor?

21 **THE COURT:** Yes, sir.

22 **(Brief pause)**

23 **MR. SMITH:** No objection.

24 **THE COURT:** Admitted.

25 **Q. (BY MR. LEONARD)** All right. Ms. Ferrell, I

1 want to talk to you -- explain to the jury in general
2 how a medical examination for sexual abuse is
3 conducted. How is that done?

4 A. As a registered nurse, we have standards of
5 care that we complete with every patient; and we
6 begin by doing an assessment. And the first step of
7 that assessment is taking the history from the
8 patient about what has happened. And then we move
9 from taking the history to doing a head-to-toe
10 assessment, looking everywhere on their body. And
11 then we do a detailed genital assessment looking for
12 the presentation of any injury, disease, processes on
13 their body. And we're always evaluating what is the
14 appropriateness of doing any evidence collection,
15 evidence preservation for that patient.

16 Q. Okay. And how is this -- or where is this
17 examination done? How does the process begin?

18 A. Most commonly, a patient arrived to an
19 emergency department; and for us as Memorial Hermann,
20 we are a team of nurses that go to any one of our 10
21 hospitals. So, wherever the patient is at, we go to
22 them. So, they come into the emergency department.
23 They check in at triage, which is a place where you
24 just state your complaint. And then a sorting of the
25 prioritization of the patient is made, and the

1 patient presents -- gives their complaint, and then
2 we are notified to come to that particular hospital
3 so that we can see that patient.

4 Q. Once you see the patient, you see if they
5 are -- if we're detailing with a child, let's say,
6 for instance, is that child seen in the presence of
7 their guardian or an adult or do you see them alone
8 or how does that work?

9 A. What we do is we explain the examination
10 process and we get permission from the parents to
11 care for their children or child and then we either
12 ask the parents to step out, depending upon which
13 hospital we're at, or we take the patient to a
14 private room so that that particular child can have
15 that space and freedom to feel safe to talk about
16 what has happened.

17 Q. And what kinds of questions in general do
18 you ask?

19 A. We always start with a very simple question
20 of "Tell me why you're here. Tell me what has
21 brought you here."

22 Q. Okay. And what happens after that?

23 A. And then the patient begins to talk about
24 why they have come to the hospital.

25 Q. And what -- I know earlier you mentioned a

1 head-to-toe examination. What does that consist of?

2 A. Once we obtain the history from the
3 patient, then we help them get undressed; and then we
4 start doing an assessment. They have a gown on
5 covered with a sheet. And then we start at the very
6 top of their head and, then we look everywhere on
7 their body to see if there is any injury.

8 Q. And as part of that examination, do you do
9 a physical visual inspection of the genitals of the
10 patient?

11 A. After we do a head-to-toe assessment, we
12 specifically do a comprehensive assessment of the
13 genitalia, the entire area, yes.

14 **MR. LEONARD:** Judge, may I have the
15 witness step down?

16 **THE COURT:** Yes, sir.

17 Q. **(BY MR. LEONARD)** Ms. Ferrell, would you
18 mind -- if it would help with your testimony, would
19 you be able to draw a diagram for the jury?

20 A. Yes, sir.

21 Q. Okay. Okay. If you would, would you draw
22 a normal female genitalia?

23 A. Okay. If you would visualize this is the
24 female lying on her back with her legs up. We start
25 with the labia majora, and the labia majora are the

1 fatter, outer lips that serve as the beginning for
2 the female sexual organ. And then there is the labia
3 minora, and the labor minora are thinner lips inside
4 the female sexual organ.

5 We have the urethra from where you
6 pass your urine. And we have the hymen, and the
7 hymen is the collar or a partial collar tissue. It
8 surrounds the vaginal opening, but it doesn't cover
9 it. Then behind that is the vaginal vault. And then
10 we have the anus, where you pass your stool from.

11 Q. Okay. Is it common when you're doing your
12 examination to see damage around these particular
13 areas?

14 A. With a patient who has been sexually
15 assaulted, sometimes there is; and sometimes there is
16 not. Until we look, we don't know.

17 Q. Okay. And what are some of the wives'
18 tales or myths that, I guess, accompany what kind of
19 damage you would expect to see with regard to a
20 female genitalia?

21 A. Probably the biggest one is the myth of the
22 hymen itself -- and I would like to say it's a myth,
23 but it's still being taught and educated still
24 today -- is that the hymen is this covering and that
25 there is different sports activity that you can do

1 that would rupture or break the hymen such as the
2 bicycle, horseback riding, being a gymnast.

3 And the myth behind all of that is not
4 understanding that at birth the hymen to the infants,
5 female child, has an opening that is there. We don't
6 really see it. We don't really look for it, but, any
7 small -- infant girl from the mom has always these
8 hormones. And we always tell them before they take
9 them home, you might see some blood in the diaper.
10 They have this little baby period. So, don't get
11 excited.

12 Well, there is an opening there or
13 that would never come out into the diaper, but we do
14 not really spent time thinking about it because the
15 myth really kind of misleads us, but the hymen is a
16 collar or partial collar, and it doesn't close that
17 area.

18 Q. Okay. Is this particular area or region, I
19 mean, would you consider it elastic or talk about the
20 elasticity in the female genitalia?

21 A. From birth period, female genitalia goes
22 through significant changes. As an infant, there is
23 always the estrogen from the mom. There is
24 elasticity that is there, and there is not any pain.
25 But then they become a child. Between the ages of 2

1 to 4, that estrogen drops; and then the genitalia
2 becomes very sensitive, very painful.

3 But then once you start having
4 menstruation and that female begins her periods, then
5 estrogen is back into the body, if you will. That's
6 what's causing the menstruation. With estrogen then
7 we have elasticity. So, particularly the hymen
8 becomes very much like a rubber band; and it
9 stretches to accommodate, as well as that of the
10 vaginal vault. So, once these periods have begun,
11 there is a lot of elasticity that is onboard.

12 Q. Are there any myths about, let's say, for
13 instance, maybe a tampon causing damage to the hymen?

14 A. Yes. That is one of the biggest myths, is
15 that a tampon would cause injury to the hymen, when
16 in reality you don't reach for a tampon and use a
17 tampon until you have started menstruation. And once
18 you have started menstruation, then you have
19 elasticity that is there; and that's not what is
20 going to cause the injury to the hymen.

21 Q. Are there any studies on that?

22 A. Yes, there are.

23 Q. Okay. What about is it possible for a
24 woman to give birth and the hymen still be intact?

25 A. Having worked labor and delivery, the

1 presence of a baby passing through the hymen will not
2 be able to come out and it still be in perfect
3 presentation. But you would not see any other injury
4 to the vaginal vault, fourchette, because this area
5 is very forgiving from that standpoint.

6 Q. Okay. Okay. Thank you. You may have your
7 seat.

8 A. (Witness complies.)

9 Q. Now, I want to talk to you about the sexual
10 assault examination that was done in this particular
11 case. I want to show you what's been marked as
12 State's Exhibit 21. Do you recognize this?

13 A. Yes, I do.

14 Q. And what do you recognize it as?

15 A. This is the medical forensic documentation
16 that was completed by the nurse who cared for this
17 particular patient, Ms. Hilton; and then the first
18 page is a record of affidavit.

19 Q. Okay. Was this medical record made at or
20 near the time of the examination that was done?

21 A. Yes.

22 Q. Okay. Was it made by a person with
23 knowledge of the events that are contained in it?

24 A. Yes, it was.

25 Q. Was it made during the course of a

1 regularly conducted business activity?

2 A. Yes, sir.

3 Q. Okay. And are you the custodian of those
4 records?

5 A. Yes, I am.

6 Q. And do you have care, custody, and control
7 of those records?

8 A. Yes, I do.

9 Q. Okay.

10 **MR. LEONARD:** Judge, at this time, I'm
11 now tendering to Defense counsel State's Exhibit 21
12 and offering them into evidence.

13 **MR. SMITH:** If I can take just a
14 moment, please?

15 **THE COURT:** Yes, sir.

16 While he's doing that, why don't we
17 take a 10-minute break and let everybody walk and
18 stretch. The Court takes a 20-minute -- I'm sorry --
19 10-minute recess.

20 **(Jury released)**

21 **(Recess taken)**

22 **(Jury enters the courtroom)**

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

25 Thank you. You may continue.

1 **MR. LEONARD:** Judge, before the break
2 I had tendered to Defense counsel State's Exhibit 21
3 and offered it into evidence.

4 **THE COURT:** Any objection?

5 **MR. SMITH:** No objection, Your Honor.

6 **THE COURT:** It's admitted.

7 **Q. (BY MR. LEONARD)** Officer, I want to talk a
8 little bit about State's Exhibit 21; and what I will
9 do is I will give you a copy so that you can look at
10 it. And I will put one up on the overhead for the
11 jury to see, as well.

12 What exactly is State's Exhibit 21?

13 **A.** This is the medical forensic assessment
14 for -- that we fill out when we are caring for a
15 patient.

16 **Q.** Okay. Now, did you do the actual physical
17 examination for this patient?

18 **A.** No, I did not.

19 **Q.** Okay. And who actually performed the
20 physical examination of this patient?

21 **A.** The forensic nurse, Kristen Fraser.

22 **Q.** Okay. And is this Ms. Fraser's signature
23 and information on this page?

24 **A.** Yes, that is her signature.

25 **Q.** Okay. And do you know Ms. Fraser?

1 A. Yes, I do.

2 Q. Okay. Have you worked with her in the
3 past?

4 A. I taught Ms. Fraser and then also was her
5 supervisor, as well.

6 Q. Okay. And where is Ms. Fraser currently?

7 A. Currently, Ms. Fraser is out of the country
8 in Scotland with her family living there.

9 Q. Okay. And that's the reason she couldn't
10 be here today?

11 A. That's correct.

12 Q. Okay. But you are familiar with the
13 practices and the techniques and procedure that she
14 would have followed in this particular examination?

15 A. Yes, sir, I am.

16 Q. And you're capable of interpret --
17 interpreting the results that she came to?

18 A. Yes.

19 Q. Okay. All right. So, let's talk a little
20 bit about -- I guess let's go to the next page, which
21 is -- let's start with step 1.

22 What exactly happens on this page?

23 A. This is the consent form. So, we explain
24 to the patient and the parents what it is that we
25 will be doing and looking all over their body with

1 the examination, doing the treatment and the
2 collection of evidence, taking any photographs, and
3 then releasing that information to law enforcement;
4 and asking that we have permission to be able to do
5 that.

6 Q. Okay. And did -- was consent gained in
7 this particular case?

8 A. Yes. It was signed.

9 Q. Okay. All right. So, if this is step 1,
10 what is step 2?

11 A. Then step 2 is where we take the patient by
12 themselves so that we can begin the examination
13 process and the first step being to tell us why they
14 are there and we get that history of what has
15 happened.

16 Q. Okay. And is that information documented
17 on this next page?

18 A. Yes, it is.

19 Q. Okay. Tell us about this next page. What
20 kind of information is gathered here, or what kind of
21 information was gathered here?

22 A. The first part of the record is just
23 geographical information, just making sure that we
24 have the correct information if we need to recontact
25 a patient due to results of tests or anything like

1 that. Then we check their vital signs. We check
2 their allergies, any medications that they are
3 regularly on.

4 And then the history of what last
5 happened is then documented. They are in the records
6 of that. And that begins the formulation of our
7 diagnosis and treatment for the patient.

8 Q. Okay. So, what -- what question is asked
9 to get the history of what has happened?

10 A. "Can you tell me why you came to the
11 hospital today?"

12 Q. Okay. And what did -- what did Imani
13 Hilton say in this particular case?

14 A. She said: "He came over to talk" -- Rodney
15 Milum -- "One thing lead to another, and he started
16 kissing me. I pushed him off and said I was scared.
17 I was still scared, but I let him do whatever because
18 I didn't want him to get mad at me. He took off my
19 clothes, and we just had sex. His penis, he kind of
20 forced it in my vagina."

21 Q. Okay. And what other information is
22 documented on this form?

23 A. We do clarification of what exactly was the
24 date and the time that this occurred. Because,
25 again, this will make a difference in what we are

1 able to do from a treatment plan for this patient.
2 And then we ask clarification questions: Have they
3 washed, bathed, showered, urinated, defecated,
4 vomited, had anything to eat or drink, brush their
5 teeth -- brush their teeth -- sorry -- had anything
6 to eat or drink, use mouthwash, changed their
7 clothes, and if they had smoked?

8 Q. Okay. And what is the significance of
9 asking those questions? Why are those questions
10 important?

11 A. Because that will impact the ability for a
12 result for the crime lab.

13 Q. What other information is gained?

14 A. They would just do some clarification to
15 make sure was contraceptive foam present? Was a
16 lubricant used? Was a condom used? Is the patient
17 with a tampon during the assault? Are they
18 menstruating? Was the assailant injured during the
19 assault? And was there penetration? And
20 specifically clarifying to make sure that the
21 information we have in the history was all of the
22 history. Does ejaculation occur? And if so, where
23 did ejaculation occur?

24 Q. And what significant responses did you get
25 in regards to this examination?

1 A. That there was no condom that was used,
2 penetration was at that time female sexual assault,
3 that there was ejaculation because it happened on the
4 sheets.

5 Q. What happens after this particular portion
6 of the exam?

7 A. Then we have the patient get undressed so
8 that we can begin a head-to-toe assessment, looking
9 everywhere to see if there is any injury.

10 Q. Okay. And is this information documented
11 on the page?

12 A. It's documented on a body surface diagram,
13 yes, sir.

14 Q. Okay. And what significant information was
15 gained during this portion of the examination?

16 A. On Ms. Hilton's right side of her neck, she
17 had two purple bruises, .5-by-2 centimeters; and she
18 stated those were from Shereef.

19 Q. Okay. Did she give any indication as to
20 how that occurred or who Shereef was? Can you tell
21 that based upon the report that you have?

22 A. No, I cannot.

23 Q. Okay. Any other significant information
24 during this portion of the exam?

25 A. There was no other body surface injury, no.

1 Q. What about the next page? What are we
2 looking at here?

3 A. The next page is the diagram of the female
4 sexual organ. And during that assessment, there was
5 identified a .3 centimeter well-healed tear to the
6 hymen that was at 7:00.

7 Q. Okay. And what does that mean? What is a
8 well-healed tear?

9 A. "Well-healed" means that it has completely
10 gone through the healing process. So, there was no
11 bleeding, there is no redness, there is no swelling
12 to the tissue, that that was completely healed. And
13 a "tear" meaning it's a separation of the skin caused
14 by force.

15 And then we use the face of the clock
16 that -- as we are documenting injuries to the
17 genitalia, we use the face of the clock as an area of
18 location so that we know exactly where that occurred.

19 Q. And is that injury consistent with a male's
20 penis entering the female sexual organ?

21 A. Yes, it is.

22 Q. Female genitalia?

23 A. Yes, it is.

24 Q. Okay. And how can that happen?

25 A. I'm sorry. I don't understand the

1 question.

2 Q. Sure. Just how would that injury happen?

3 A. With the hymen, and it being a collar,
4 anytime it is stretched past capacity, then you can
5 have tears that occur to that particular structure.
6 And in this particular structure -- because when
7 there is estrogen onboard, it doesn't form back
8 together like in the crease between your fingers and
9 it's going to heal perfectly. Because of the
10 estrogen, it's very fluffy and folds over on itself.
11 So, those edges completely heal but still able to be
12 visualized.

13 Q. Okay. And is that consistent with actual
14 penetration of the sexual organ?

15 A. Yes, it is.

16 Q. Is that consistent with, let's say, for
17 instance, a female having sex for the first time?

18 A. Yes, it is.

19 MR. SMITH: Objection -- never mind.
20 I'm sorry, Judge.

21 Q. (BY MR. LEONARD) Can you tell based upon
22 that injury how long ago that injury occurred?

23 A. You're not able to gauge the age of an
24 injury once it heals. So, I can tell you that it
25 didn't happen 24 hours ago because there is no

1 bleeding and there is no bruises and no redness, but
2 it is completely healed.

3 Q. Okay. Is that consistent with an injury
4 that happened maybe five, six, seven days prior to
5 this examination?

6 A. It's possible, yes.

7 Q. Okay. So, it's consistent with what the
8 complaining witness reported happened in this case?

9 A. Yes.

10 Q. What did you do next -- or what was done
11 next?

12 A. After the documentation is completed, then
13 a discussion happens with the plan of care with the
14 patient as well as that of the patient. We also had
15 collected a pair of underwear from the patient that
16 she had brought in, and we had completed photographs
17 during that assessment.

18 Q. Okay. And those photographs, what -- how
19 were those taken?

20 A. The photographs of the bruises to the neck
21 are taken with a digital camera, and then the
22 photographs of the genitalia are taken with a
23 colposcope that has a camera attached. And a
24 colposcope is -- we have what's called a binocular
25 optic colposcope, and it is like a microscope that is

1 on a stand, so that we can visualize with our eyes
2 what it is that we see on the body. And then there
3 is a camera that is attached to it so that we can
4 then take a photograph of what it is that we are
5 seeing with the microscope.

6 Q. Okay. Now, you said you -- did say you
7 collected panties as a part of this examination? Did
8 you say that?

9 A. Kristen did, right.

10 Q. Right. I'm sorry.

11 A. Uh-huh (affirmative.)

12 Q. Okay. And is that the information that's
13 documented on the next page?

14 A. Yes, sir, it is.

15 Q. Okay. Tell me about that process.

16 How would Kristen have gone about
17 collecting panties in this particular case?

18 A. Okay. Any particular item, and so for this
19 one being a clothing item, then that clothing item is
20 placed into a paper bag; and that's the only item in
21 that -- in that bag. And then that bag is double
22 folded and sealed and tape sealed across. And in
23 this particular situation, we put the sealed clothing
24 bag into a sealed box so that it would be identified
25 as a piece of evidence.

1 Q. Okay. And does she write her name on it or
2 any other kind of identifying marks on the outside?

3 A. Yes. When you seal -- when you seal the
4 clothing bag, you put your initials onto the bag,
5 onto the tape; and then when you put that into the
6 box itself, then you tape -- seal that completely
7 around, and then you also do that initial over the
8 tape onto the box. And then you label the top of the
9 box with patient information; and you sign it, as
10 well.

11 Q. And it seems pretty obvious, but what is
12 the purpose of the sealing and taping?

13 A. So that it doesn't get mixed up or be
14 misinterpreted for someone else, and that maintains
15 just that chain of custody for that particular item.

16 Q. Okay. What happens to that item once it's
17 sealed up and placed in a box?

18 A. What happens is that we lock it up in the
19 evidence cabinet that we have, and then it is
20 maintained in the evidence locker until law
21 enforcement is able to come. And then we unlock the
22 cabinet, we take it out, and then we release it to
23 the law enforcement.

24 Q. And who has access to that locked cabinet?

25 A. Only the forensic nurses that are on the

1 program.

2 Q. Okay. What was done next?

3 A. Then a discharge plan is made for the
4 patient; and a discussion happens with the patient,
5 parent, and the emergency department physician.

6 Q. Okay. And is that information documented
7 on this page?

8 A. It is not documented here in the medical
9 forensic record.

10 Q. Okay.

11 A. That documentation occurs in her emergency
12 department records as a continuum of care.

13 Q. Okay. What is this next page? What is
14 this next page documenting?

15 A. That is a page that is filled out at the
16 time when we release the evidence. So, we keep it
17 until law enforcement arrives; and then when they
18 arrive, we fill this out. We would put our
19 signature, date, and time that we are releasing it to
20 the officer. And then the officer fills out that
21 they have received it; and so, their name, date, and
22 time and their badge number goes there.

23 Q. And once they release it, it's released
24 into police custody?

25 A. Yes, it is.

1 Q. Okay. And is this just another release of
2 information authorization form?

3 A. This verifies which agency took the
4 evidence. So, if there is any question later who it
5 was, which agency it was, that is the case number for
6 that particular patient.

7 Q. What happens next in the examination?

8 A. At this point the examination itself is
9 over, and we are preparing for discharge. The
10 discussion of does she feel safe going home, any
11 concerns, the information of following up, having the
12 discussion about the exposure for HIV. Patients who
13 were not able to be seen within the first 72 hours of
14 the sexual assault are no longer available to be
15 placed on HIV prophylaxis medication. And so, we
16 really work to help them understand how important it
17 is to begin testing and to do serial testing to
18 identify if there is any HIV contraction.

19 Also, talking about the
20 sexually-transmitted infections; gonorrhea,
21 chlamydia; and also the aspect of emergency
22 contraception. And, again, seeing her so late, she
23 was outside of the window of that opportunity. So,
24 making sure that she is established with an OB/GYN;
25 if not, giving information so that she can be

1 followed up by a specialist for these particular
2 health issues.

3 **MR. LEONARD:** Pass the witness.

4 **THE COURT:** Thank you.

5 Cross-examination?

6 **MR. SMITH:** Yes, ma'am.

7 **CROSS-EXAMINATION**

8 **Q.** (**BY MR. SMITH**) You're the supervising nurse
9 of this program; is that correct?

10 **A.** Yes, sir.

11 **Q.** And you have been in this program for quite
12 a few years; is that right?

13 **A.** Ten, here at Memorial Hermann, yes.

14 **Q.** And you supervise the nurse that actually
15 performed this particular examination; is that right?

16 **A.** Yes.

17 **Q.** You, I presume, examined before testifying
18 here today, the colposcope pictures?

19 **A.** Yes, I did.

20 **Q.** Just to make sure that you could testify
21 independently; is that right?

22 **A.** Yes.

23 **Q.** I want to talk with you a little bit about
24 Imani Hilton for a minute. There is something that
25 is known as the Tanner stages; is that right?

1 A. That's correct.

2 Q. Is there a notation of what Tanner stage
3 she was at?

4 A. Yes, there is.

5 Q. And what is that notation?

6 A. Her Tanner stage is 5.

7 Q. And that means basically adult woman; is
8 that right?

9 A. That her body is sexually mature as a
10 Tanner stage 5, yes.

11 Q. Okay. She still has -- shows evidence of
12 hymen; is that correct?

13 A. Yes, sir.

14 Q. Now, from the nurse's notes, can you tell
15 if the hymen was a circumference hymen, concentric
16 hymen, or imperforate hymen?

17 A. The hymen of the -- from the note, no, sir.

18 Q. Okay. Basically, what -- let's kind of go
19 over what that means. Circumference means completely
20 circled. Looks like a doughnut with a hole in the
21 middle; is that right?

22 A. That's correct.

23 Q. And you usually see that on very young
24 children; is that right?

25 A. No. You can see it on your adolescents;

1 and you can see it on adult women, as well.

2 Q. Okay. And then you have concentric, which
3 is basically the shape of a crescent moon?

4 A. That's correct.

5 Q. And that's usually from the bottom; is that
6 right?

7 A. Yes, sir.

8 Q. Okay. And then you have imperforate, which
9 is where it usually has to be surgically removed; is
10 that right?

11 A. Not surgically removed, but surgically have
12 an opening placed with it because it's a complete
13 covering.

14 Q. And the reason for that is to allow bodily
15 fluids to escape; is that right?

16 A. That's correct.

17 Q. Okay. Now, when you perform -- it's very
18 important to perform the head-to-toe examination; is
19 that right?

20 A. Yes, it is.

21 Q. And that is part of the procedure that is
22 done in each and every -- in each and every instance;
23 is that correct?

24 A. Yes, it is.

25 Q. And then you document any injuries, right?

1 A. Correct.

2 Q. Now, you were able to -- not you, but the
3 nurse who performed this examination was able to
4 document two bruises to the neck; is that right?

5 A. Yes, she was.

6 Q. And she took pictures of those, right?

7 A. Yes.

8 Q. You observed those pictures; is that right?

9 A. Yes, sir.

10 Q. Those pictures were consistent with what
11 was described in the records; is that correct?

12 A. Yes, sir.

13 Q. And, basically, what you were looking --
14 what you saw was two almost bite marks on the neck;
15 is that right?

16 A. Not bite marks, no, sir.

17 Q. Okay. So, how -- what would you describe
18 them to be?

19 A. They were bruises, two bruises that were on
20 the neck.

21 Q. Okay. Two bruises?

22 A. Yes, sir.

23 Q. Now, you had an extensive diagnostic
24 experience; is that right?

25 A. Yes, sir.

1 Q. Okay. Were you -- in looking at the
2 pictures, were you able to determine how long those
3 particular bruises -- how long that particular
4 bruising had been there?

5 A. No, sir.

6 Q. Okay. And -- but did it look like it was
7 faded and was going away, or was it fairly fresh?

8 A. The presentation was that it was still
9 purple.

10 Q. Still purple, which means fairly recent; is
11 that right?

12 A. It was not fading and yellow or brown.

13 Q. Okay. Which means more or less recent?

14 A. More vivid, yes, sir.

15 Q. Okay. You also examined the pictures of
16 the hymen, I think you testified earlier; is that
17 right?

18 A. Yes, sir, I did.

19 Q. And there was a description of a
20 well-healed tear at 7:00; is that right?

21 A. That's correct.

22 Q. Now, a well -- as I -- as I -- as I
23 understand it, basically, when you're looking at
24 irregularities to the hymen, you're looking basically
25 for two things. You're looking for tears and

1 notches; is that right?

2 A. Well, we are looking for tears because
3 notches are what you would expect to see with the
4 presentation of an estrogenized hymen.

5 Q. Okay. So, a tear, in your professional
6 experience, is basically any -- anything -- any
7 irregularity to the hymen that is -- that looks like
8 it might have come from penetrating issue; is that
9 right?

10 A. A tear is a separation of the skin caused
11 by force.

12 Q. Okay. So, the nurses in your program never
13 describe what they are -- what they are looking at as
14 notches?

15 A. That's correct.

16 Q. Okay. They always -- you have them
17 describe everything they see as tears?

18 A. If there is an injury, then an injury term
19 is used.

20 Q. Okay. Now, you had -- you had -- it was
21 stated in the records that this particular injury was
22 well-healed; is that right?

23 A. Yes, sir.

24 Q. "Well-healed" means no rigid edges, right?

25 A. No, sir.

1 Q. Okay. It means no bleeding?

2 A. Yes.

3 Q. Okay. And it means that the tissues have
4 kind of a smooth appearance to them, right?

5 A. The two sides that have been pulled apart,
6 those sides have been healed.

7 Q. Okay. So, they don't necessarily grow
8 together again?

9 A. These did not. That's correct.

10 Q. That might be because of the Tanner stage
11 that Imani Hilton was in. I believe you testified
12 she was at a Tanner stage 5; is that correct?

13 A. She is at a Tanner stage 5. That's what
14 was documented, but your Tanner staging doesn't cause
15 injury to your hymen.

16 Q. Okay. But what -- my -- what I'm trying to
17 get at is because of her advanced state that maybe
18 the hymen didn't grow together exactly like it would
19 if she was a younger person; is that right?

20 A. No. There is not an issue of the hymen
21 growing together. You have your hymen at birth, and
22 you have estrogen. You drop your estrogen and you
23 get your estrogen back, but it's not a difference of
24 it growing together, not growing together and then
25 growing back together. It's just a different

1 presentation of how it appeared.

2 Q. Okay. You will agree with me that when
3 you're examining hymens, it's -- the 72-hour window
4 is important; is that right?

5 A. I'm not sure I understand.

6 Q. Well, if you -- if a patient presents in
7 less than 72 hours, you're more likely to have acute
8 findings; is that right?

9 A. Not necessarily.

10 Q. Okay. But you might -- in this particular
11 situation, she did not present within 72 hours; is
12 that correct?

13 A. That's correct.

14 Q. Okay. So, basically, you're not able to
15 put a time limit on when this particular injury
16 occurred; is that right?

17 A. That's correct.

18 Q. Okay. This injury could have happened a
19 week before the examination, right?

20 A. That's correct.

21 Q. Could have happened a month before the
22 examination, correct?

23 A. That's correct.

24 Q. Could have happened six months before the
25 examination, right?

1 A. That's correct.

2 Q. Could have even happened more than a year
3 before the examination?

4 A. That's correct.

5 Q. Okay. Now, you testified that your nurses
6 go to all of the hospitals in the Memorial System; is
7 that right?

8 A. Yes.

9 Q. Go to the patient, right?

10 A. Yes, sir.

11 Q. Do you know which particular Hermann
12 Hospital this particular examination was conducted
13 at?

14 A. The Memorial City Memorial Hermann.

15 Q. Now, going back to the two bruises on the
16 neck, were you able to put an age on those
17 particular -- in looking at them, were you able to
18 make an estimate of when that injury occurred?

19 A. No, sir.

20 Q. Okay. Could have happened a week before
21 the examination, right?

22 A. That's possible, yes.

23 Q. Could have happened maybe anywhere up to 20
24 to 15 to -- 15 to 20 days before the examination,
25 right?

1 A. I think that that's an extreme distance for
2 a bruise, but I'm not going to say that that's not
3 possible.

4 Q. Okay. When a patient presents, you always
5 ask them a history; is that right?

6 A. Yes, sir.

7 Q. That history is basically obtained for a
8 medical diagnosis; is that correct?

9 A. The diagnosis and the treatment of the
10 patient, yes.

11 Q. And there is no way that you can really
12 tell if that history is truthful or not in every
13 aspect; is that right?

14 A. That's correct.

15 Q. Now, were you able to determine from the
16 medical records -- were any samples taken from the
17 body of the complainant?

18 A. The only thing taken was the underwear.

19 Q. The underwear was brought by the
20 complainant; is that right?

21 A. That's correct, yes.

22 Q. But nothing was taken -- no samples were
23 taken from the body of the complainant; is that
24 correct?

25 A. That's correct.

1 **MR. SMITH:** I pass the witness, Your
2 Honor.

3 **THE COURT:** Thank you.
4 Redirect?

5 **MR. LEONARD:** Nothing further from
6 this witness, Judge.

7 **THE COURT:** Thank you.
8 Is this witness excused for all
9 purposes?

10 **MR. SMITH:** I believe so, Judge.

11 **MR. LEONARD:** Excused from the State.

12 **THE COURT:** Thank you.

13 Then you don't have to worry about us
14 anymore. All right. Thank you so much.

15 **(Witness released)**

16 **THE COURT:** I need to take a break,
17 but the bailiff is setting up your lunch. So, maybe
18 we can get started with another five minutes or so of
19 the next witness.

20 Do you have another witness available?

21 **MR. LEONARD:** I do, Judge.

22 **THE COURT:** Okay. Who would that be?

23 **MR. LEONARD:** The State would call
24 Juli Rehfuss.

25 **THE COURT:** All right. Thank you.

1 **(Brief pause)**

2 **THE COURT:** Mr. Leonard went to find
3 the witness. You might see if he's having trouble.

4 There they come.

5 Thank you. Hello, Ms. Rehfuss, come
6 on up, please. Scooch around on that side of the
7 court reporter. And if you will stop and face the
8 jury and raise your right hand, I will give you the
9 oath.

10 **(Witness Duly Sworn)**

11 **THE COURT:** Thank you. Please be
12 seated.

13 **MR. LEONARD:** May I proceed?

14 **THE COURT:** Yes, sir.

15 **JULI REHFUSS,**
16 having been first duly sworn, testified as follows:

17 **DIRECT EXAMINATION**

18 **Q.** **(BY MR. LEONARD)** Good morning.

19 **A.** Good morning.

20 **Q.** Would you please introduce yourself to the
21 jury?

22 **A.** Yes. My name is Juli Rehfuss.

23 **Q.** And how are you currently employed?

24 **A.** I work at the Houston Police Department
25 crime laboratory.