

1 THE COURT: All right.

2 (Witness sworn.

3 THE COURT: You may proceed.

4 MS. COLLINS: Thank you, Your Honor.

5 **SUSAN ODHIAMBO,**

6 having been first duly sworn, testified as follows:

7 **DIRECT EXAMINATION**

8 **BY MS. COLLINS:**

9 Q. Please state your name, spelling your first and
10 last, please.

11 A. Susan Odhiambo. S-u-s-a-n. O-d-h-i-a-m-b-o.

12 Q. Ms. Odhiambo, what do you do for a living?

13 A. I'm a forensic interviewer.

14 Q. What is a forensic interviewer?

15 A. My job to interview children ages 2 to 17 to
16 find out if they've been abused.

17 Q. Can you tell me where you are currently located
18 as a forensic interviewer?

19 A. I work at the Children's Assessment Center,
20 which is located in the Rice Village area.

21 Q. How long have you been a forensic interviewer?

22 A. Ten years.

23 Q. So, back in 2002 --

24 A. Yes.

25 Q. -- 2003?

1 Okay. Over the course of your time as a
2 forensic interviewer, about how many forensic interviews
3 would you say you have done?

4 A. I've done over 7,000 interviews.

5 Q. Can you tell me what education and training you
6 have that's led to you being a forensic interviewer?

7 A. I have bachelor of science degree in human
8 services and consumer sciences with an emphasis in child
9 development. Before I started working as a forensic
10 interviewer, I was a CPS investigator investigating
11 child sexual abuse. And I've been, of course, a
12 forensic interviewer for ten years.

13 Q. When you first become a forensic interviewer,
14 is there a specific training that you have to receive,
15 like certification or pass rate or something like that
16 to be a forensic interviewer?

17 A. Yes.

18 Q. Can you tell us about that?

19 A. The training that we do as forensic
20 interviewers is given by the CACs of Texas. They are
21 the agency that monitors all of the interviewers in
22 Texas. They are responsible for putting out all of your
23 training for forensic interviewing.

24 Q. How long did you undergo training to be a
25 forensic interviewer?

1 A. The training is given in five blocks. So,
2 we're required to take at least the first block by the
3 time we start doing our interviews, but the block -- the
4 fourth and fifth blocks are continuing education, which
5 we are required to do every year.

6 Q. Can you tell us what that first block is? What
7 are you trained in?

8 A. It's basically telling us how to be a forensic
9 interviewer, what kind of questions -- what kind of
10 questions we can ask and also dealing with assessing the
11 children that we are interviewing.

12 Q. Why is it important to learn about how to
13 assess the children you're interviewing?

14 A. It's important because when we interview a
15 child, we try to find out what happened to them from
16 their perspective. So, we should be able to know how to
17 talk to a child depending on how old they are, to assess
18 their develop to see if they can answer the questions
19 that we have to ask them.

20 Q. Can you tell me if there are rules, if you
21 will, of how to conduct a forensic interviewer?

22 A. Yes.

23 Q. Can you tell us about that?

24 A. Well, every interview that we do is recorded.
25 Only the interviewer and the child can be in the room at

1 the time of the interview.

2 Q. Okay. Let me go ahead and stop you there. We
3 have just watched the interview between you and someone
4 named Ryleigh Launer. Have you had an opportunity to
5 review that video?

6 A. Yes.

7 Q. Can you tell us how you first came into contact
8 with Ryleigh Launer?

9 A. Ryleigh was referred to the Children's
10 Assessment Center by a childcare licensing worker who
11 works for CPS. So, she's the one that made the referral
12 to us so that she could be interviewed.

13 Q. Okay. Now, you mentioned CPS made a referral.
14 Do you, as a forensic interviewer, work for CPS?

15 A. No.

16 Q. Do you work for law enforcement?

17 A. No.

18 Q. Who do you work for?

19 A. I work for Harris County.

20 Q. Okay. When you first had contact with Ryleigh
21 Launer, what day and time was that?

22 A. It was October 29th, 2009, and it was in the
23 afternoon.

24 Q. Having just watched the video, would it be fair
25 to say it was very difficult to get Ryleigh in a room

1 alone with you?

2 A. Yes.

3 Q. Is that common?

4 A. Yes.

5 Q. Can you explain in your experience why it's
6 common for little kids to not want to come in and talk
7 to you?

8 A. In this particular case, Ryleigh was 3 years
9 old. She was a young 3. She was more interested in
10 playing in our lobby, which has plenty of toys, than
11 talking to me, who was a stranger she's never met
12 before. So, it's not uncommon at all to take a long
13 time to get the child in the room or get them into the
14 room to talk.

15 Q. Now, to be fair, did this take a little bit
16 longer than most times?

17 A. Yes.

18 Q. Okay. Why is it important and why was it
19 important that Ryleigh's mom not be able to be in the
20 room with you and Ryleigh?

21 A. It's important because we do not want the
22 child -- the child's statement to be influenced in any
23 kind of way. So, it's important that we provide a
24 neutral environment for the child to be interviewed.

25 Q. Now, I did notice that Ryleigh was allowed to

1 have like a little toy train or a toy car with her in
2 the room. Is that normal?

3 A. Typically, no. But if a child is not willing
4 to come to the room or they don't want to leave the toy,
5 sometimes we allow them to come in just so they have
6 something to hold on to or that they are more
7 accommodating about going into the room.

8 Q. Okay. Once you -- you mentioned that Ryleigh
9 was a young 3. What do you mean by that?

10 A. Her birth date is in July and I interviewed her
11 in October. So, she was only -- she had only been 3 for
12 three months.

13 Q. When you first get in a room with any child,
14 are there certain -- certain protocol or steps that you
15 take to do your forensic interviewer?

16 A. Yes.

17 Q. What are those steps?

18 A. I usually start off by introducing myself. I
19 ask the child to introduce themselves to me, after which
20 I ask very general questions about the child; where the
21 child lives, the age, where they go to school, that kind
22 of thing. And I'm doing that just to find out whether
23 the child is capable of answering the questions, how the
24 child answers the questions, and to try to create a
25 rapport between the two of us.

1 Q. Why is it important to know kind of where the
2 child is with their ability to answer questions like
3 what their name is?

4 A. It helps us know especially about the child's
5 development. Because if the child is not able to answer
6 certain questions, it makes it harder to interview them
7 and they might not understand some of the questions that
8 we ask as we go along with the interview.

9 Q. We watched, as you've talked about, towards the
10 beginning of the interview truth and a lie and what that
11 meant. Was it surprising to you that Ryleigh Launer
12 wasn't able to tell you what the truth and a lie is?

13 A. No.

14 Q. Why did that not surprise you?

15 A. Because she was 3. A lot of 3-year-olds --
16 it's not that they don't understand what a truth and lie
17 is, but they have a hard time telling and explaining
18 what a truth and a lie is.

19 Q. When you went on and gave examples and Ryleigh
20 said it was true that she was a boy, does that mean that
21 Ryleigh thought she was, in fact, a boy?

22 A. No.

23 Q. When a child isn't able to answer a question
24 like that, like girl or boy, did that mean that Ryleigh
25 didn't understand the difference between boy and girl?

1 MR. OLIVER: I object to speculation, Your
2 Honor.

3 THE COURT: Overruled.

4 A. No.

5 Q. (By Ms. Collins) Like during the interview, was
6 she, in fact, able to distinguish who a boy was and who
7 a girl was?

8 A. Yes.

9 Q. When a child can't tell you or verbalize the
10 difference between the truth and a lie, does that
11 necessarily mean that the child is lying or doesn't
12 understand fantasy from reality?

13 A. No.

14 Q. Why do you say that?

15 A. Because -- the reason I say that is because
16 usually when you are talking to them, they might not
17 necessarily understand what you're asking or what you're
18 looking for when you ask that particular question, so
19 they'll answer to the best of their ability. Just
20 because they can't verbalize it does not mean they don't
21 know what that means.

22 Q. When you started talking to Ryleigh and asking
23 her some first basic questions, she kind of just blurts
24 out statements about Bobby licking her. Is it common
25 for a child to cut you off like that?

1 A. Yes.

2 Q. In your experience, why have you found that to
3 be common or why would a child do that?

4 A. With the younger ones in particular, they know
5 that they came to tell you something so they want to get
6 it out of the way right away. In her case, I'm thinking
7 she wanted to say it so that she could go back and play.
8 So, she just said it.

9 Q. You mentioned -- well, when you're a forensic
10 interviewer, you're interviewing a child of any age, are
11 there things that you are looking for in their
12 disclosure?

13 A. Yes.

14 Q. Can you tell us about some of the things that
15 you're looking to see or hear?

16 A. Looking for consistent statements. I'm always
17 looking to find out what happened, who did it, and where
18 it happened, depending on the child's age whether they
19 would answer those kind of questions. I'm trying to get
20 a sequence of events, if they're able to tell me that.
21 Just looking for things that will explain, will help
22 this jury be clearer.

23 Q. Okay. When you're talking to a child, is it
24 important to you whether or not they're able to give
25 detail or placement, like where they were, where other

1 people were that might have been involved?

2 A. That's important, but depending on the age of
3 the child they may not be able to give all of those kind
4 of details.

5 Q. Why not?

6 A. So, like the 3-year-old, they're generally able
7 to answer who, what, and sometimes where. They may do
8 the who and the what, but not where. The older the
9 child gets, the more they're able to fill in the details
10 of those kinds of things.

11 Q. When you're talking to Ryleigh, when you ask
12 her about -- let me kind of back up.

13 Did you get the impression she had seen the
14 police come to her house?

15 A. Yes.

16 Q. What gave you that impression?

17 A. When I asked her about the police coming to her
18 house, she says that was after Bobby licked her gina.

19 Q. When a child of that age sees the police, in
20 your experience is it common for there to be an
21 association between seeing the police and somebody
22 getting in trouble?

23 A. Yes.

24 Q. When you talked to Ryleigh, she obviously made
25 several disclosures to you. When she first told you

1 about Bobby licking her gina, I noticed that you
2 continued to use the same words that she did, like gina;
3 but why do you do that?

4 A. Because we want -- we want those -- any words
5 that the child uses, we have to use those words because
6 we don't want to put words into their mouth.

7 Q. When she first says that Bobby licked her gina,
8 why did you then ask if she was touched anywhere else?
9 What's the purpose of that?

10 A. We're just trying to ascertain whether or not
11 anything else has happened. So, we start off with what
12 the child has said and then ask questions, further
13 questions about that.

14 Q. When you asked Ryleigh those questions we
15 talked about earlier, where she was, where other people
16 were, was she able to answer those questions?

17 A. Yes.

18 Q. Was she able to tell you where Marie was?

19 A. Yes.

20 Q. Where she was, on the bed when it happened?

21 A. Yes.

22 Q. What position Bobby was in when he was licking
23 her gina?

24 A. Yes.

25 Q. Ms. Odhiambo, in your experience would it be

1 common for a child to know about what we know to be oral
2 sex without having some exposure to it?

3 A. I'm sorry. Say the question again.

4 Q. Yes, ma'am.

5 In your experience, has it been your
6 experience that a 3-year-old child would know this
7 concept of oral sex, someone -- a male licking a girl's
8 vagina without some exposure to that type of sexual
9 experience?

10 A. No.

11 Q. From your experience with the level of detail
12 that you talked about earlier being possibly different
13 between a 3-year-old, 8-year-old, 10-year-old because of
14 their communication skills, was Ryleigh Launer's ability
15 to give detail consistent with what you would expect
16 from a 3-year-old?

17 A. Yes.

18 Q. When listening to a child's story, their
19 disclosure, do you take into account just the sheer
20 plausibility of what they're telling you?

21 A. Yes.

22 Q. What are the things that you look for to
23 determine if something is plausible or not?

24 A. A lot of times, I may just repeat what the
25 child said, ask questions about what they said, or

1 sometimes I might just skip over it and come back to it
2 again.

3 Q. And when you do that, when you skip over it and
4 come back to something, what are you trying to confirm
5 there?

6 A. I'm trying to see if the child will say the
7 same thing again or maybe say something different as
8 compared to what they said. And then I may ask, you
9 know, something as simple as: Well, you said this
10 before, is that -- are you talking about the same thing,
11 talking about something different?

12 MS. COLLINS: Pass the witness, Your Honor.

13 THE COURT: All right.

14 MR. OLIVER: If it please the Court?

15 THE COURT: You may proceed.

16 MR. OLIVER: Thank you, Your Honor.

17 **CROSS-EXAMINATION**

18 **BY MR. OLIVER:**

19 Q. Good afternoon, Ms. Odhiambo.

20 A. Good afternoon.

21 Q. My name is Rick Oliver. I'll be asking you
22 some questions. Okay? If there's any questions I ask
23 that you don't understand, please let me know and I can
24 re-ask it. Okay?

25 A. Okay.

1 Q. Now, you said that you have some training and
2 experience and college, correct?

3 A. Correct.

4 Q. You said you have a bachelor's degree. What's
5 it in?

6 A. Human services and consumer sciences with an
7 emphasis in child development.

8 Q. Where did you get that from?

9 A. Texas Southern.

10 Q. Okay. Now, initially on your direct testimony
11 what you said is that your function is to find out if
12 there's been abuse, correct?

13 A. Correct.

14 Q. So, in this whole process, from initial
15 disclosure to here, essentially you're the investigator,
16 the person who is trying to figure out if it happened?

17 A. No.

18 Q. So, the initial officer that receives the call
19 and goes to the house, if you know, that person doesn't
20 do an investigation, right?

21 A. I'm not sure I understand your question, sir.

22 Q. Well, I'll just ask it this way. You do an
23 investigation, you're trying to figure out if this
24 happened. Right?

25 A. I'm not doing an investigation.

1 Q. So, if your function is to find out if abuse
2 has occurred, you're saying that's not an investigation?

3 A. No. I would not say it's an investigation.

4 Q. What would you call it?

5 A. I'm trying to get the child's statement so that
6 the partnering agencies can use that as part of their
7 investigation.

8 Q. So, you're taking a statement?

9 A. You could say that, sir.

10 Q. Well, you said it, right? It's not a trick
11 question. I'm just repeating what you said. Right?

12 A. Correct.

13 Q. Now, I want to talk about the statements we
14 heard on that video. Have you seen it recently?

15 A. Yes.

16 Q. Now, the first thing that you heard on that
17 video, when she came in before you guys had an
18 opportunity to start talking, she just kind of blurted
19 out: Bobby licked my penis. You recall that, right?

20 A. Yes.

21 Q. Okay. Now, you would agree with me that this
22 is a young female, right?

23 A. Yes.

24 Q. And she's not -- she doesn't have a penis,
25 right?

1 A. No.

2 Q. And one of the things that you attempted to do
3 at some point in your statement with her was to get her
4 to identify body parts of an anatomically-correct dolls,
5 correct?

6 A. Correct.

7 Q. And when you showed her the boy doll, you asked
8 her what this was and she said the arm. Right?

9 A. Sorry. When I asked her what?

10 Q. When you were showing her the male, the boy
11 doll -- okay -- she identified the arm, right?

12 A. Yes.

13 Q. And she identified the leg; is that correct?

14 A. If I may say something. I believe that when I
15 used the dolls, I used the girl doll first and used it
16 to talk about the arm, the other parts of the body; but
17 when I used the boy doll, I only asked about the boy's
18 penis.

19 Q. So, focusing your attention on that, you were
20 trying to get her to identify the penis, right?

21 A. I was trying to get her to identify the
22 different parts of the body.

23 Q. Eventually the last question you were asking
24 was about the penis?

25 A. Correct.

1 Q. At no point in time was she able to do that?

2 A. She didn't give me a name for the penis, no.

3 Q. You kept asking her and asking her and she said
4 panties. What's under this? Panties. What's under
5 that? Pants. What's under that? Panties. Would you
6 agree with that?

7 A. I don't recall.

8 Q. Now, you also talked on your direct about in
9 this interview, statement, whatever you want to call it,
10 context, you want to avoid any outside influence, right?

11 A. Correct.

12 Q. And would you agree with me that the vocabulary
13 that a child uses or the things they talk about would be
14 a good indicator as to whether or not that has happened?

15 A. Sometimes.

16 Q. Sometimes.

17 And the reason for that would be that
18 sometimes a child is going to say something that you
19 believe they have no real understanding of or have no
20 business knowing about, right?

21 A. Yes.

22 Q. And because you hear any vocabulary the child
23 uses, that doesn't mean you know where they got it,
24 right?

25 A. Correct.

1 Q. Now, at the beginning of your interview you
2 said there's a protocol. Do you recall that?

3 A. Yes.

4 Q. And you introduced yourself, asked some general
5 questions, and what you are looking for in that moment
6 is how the child answers. Do you recall saying that?

7 A. Yes.

8 Q. And whether or not the child, in fact, has the
9 ability to answer the questions. Do you recall saying
10 that?

11 A. Yes.

12 Q. Now, when you asked her if she knew what it
13 means to tell -- do you know what it means to tell the
14 truth and to tell a lie, did she answer that question
15 the first time you asked it?

16 A. I don't recall if she said yes or no.

17 Q. Do you recall her saying -- responding that
18 when -- to that question, do you recall her responding:
19 When -- when Bobby licked my penis, he was -- he was
20 mean?

21 A. Yes, I recall that.

22 Q. Is that an answer to your question?

23 A. No.

24 Q. And your next question you tried -- you're
25 still trying to get an answer to that question, right?

1 A. What was the next question?

2 Q. If someone said your name is Ryleigh, is that
3 the truth or is that a lie? You're still trying to
4 figure out if she knows the difference, right?

5 A. Yes.

6 Q. And her response -- did she give you -- she
7 didn't respond that she knew?

8 A. I don't think that she did, no.

9 Q. In fact, she said: I don't know. Right?

10 A. Okay.

11 Q. Is that what -- do you agree that's what she
12 said?

13 A. That, I'm not absolutely sure about, no.

14 Q. Well, do you recall responding -- when she
15 said: I don't know if my name is Ryleigh, I don't know
16 if that's the truth or if that's a lie, do you recall
17 saying: Well, that would be the truth because that's
18 your name?

19 A. Yes.

20 Q. She didn't give you an indication that she
21 understood what that meant either, did she?

22 A. No.

23 Q. In fact, what she did is she pointed at the
24 cabinet and said: What's in there. Right?

25 A. Yes.

1 Q. And you told her something about a camera.
2 Right?

3 A. Yes.

4 Q. And then, again, you're still trying to get an
5 answer to this question. Said: If someone says you're
6 a boy, is that a truth or is that a lie? Do you recall
7 asking that question?

8 A. Yes.

9 Q. And she said: That's the truth. Right?

10 A. Yes.

11 Q. That's not correct, is it?

12 A. No.

13 Q. And so, the reason you're asking these
14 preliminary questions, as you call them, is you're
15 trying to gauge whether or not she understands certain
16 concepts, right?

17 A. Yes.

18 Q. And to ask a child of 3 years old to define
19 truth, define lie is a little too -- 30,000 feet, right,
20 it's a little too high level for a child. Right?

21 A. No. I have to ask every child that. And then
22 if they cannot, then I have to try to find another way
23 to ask them by using examples.

24 Q. Right. So, these very simplified questions are
25 service indicators as to whether or not the child

1 understands these basic concepts, right?

2 A. Yes.

3 Q. And at no point in time did she give you any
4 indication in this line of questioning that she
5 understood the difference between the truth and a lie?

6 A. No.

7 Q. And so, I think -- well, I don't think. The
8 next thing you said was, do you recall saying: So, if
9 someone says you're a boy, that would be a lie because
10 you're a girl; telling the truth is talking about things
11 that really happened and telling a lie is talking about
12 things that are made up or things that did not happen.
13 It's very important that when we talk today we talk
14 about things that are true things. Can you promise to
15 talk about true things today. Do you recall saying
16 that?

17 A. Yes.

18 Q. So, you just gave her the definition or your
19 definition of the difference between the truth and a
20 lie?

21 A. I have to give her a definition, yes.

22 Q. Right. And at the end of that definition, you
23 asked her: Do you promise to talk about things that are
24 true. Right?

25 A. Yes.

1 Q. Knowing full well that she had just
2 demonstrated to you that she has no idea what the
3 difference is between the truth and a lie?

4 A. Those are the steps I have to take regardless
5 of whether or not she's able to answer that question.

6 Q. Well, the steps are to determine if she knows
7 the difference between the truth and a lie, correct?

8 MS. COLLINS: Objection. Asked and
9 answered, Your Honor.

10 THE COURT: Sustained.

11 Go to your next question.

12 MR. OLIVER: Moving on, Judge.

13 Q. (By Mr. Oliver) Now, do you recall asking
14 Ryleigh -- or I'm sorry. Strike that.

15 Do you recall testifying that the next
16 thing is you asked questions about who was there, you
17 want to get contextual questions -- you want to ask
18 contextual questions. Who was there, I think you said
19 the who, what, everything but when. Do you recall
20 saying that?

21 A. Yes.

22 Q. And one of the questions you asked was: Who
23 was at Bobby's house when he put you on his bed. Do you
24 recall asking that?

25 A. Yes.

1 Q. She didn't give you an answer to that question
2 either?

3 A. At that moment, I'm not sure. No.

4 Q. Her response was: Because he need to. Right?

5 A. I remember that, yes.

6 Q. You agree that's not an answer to that
7 question?

8 A. No, it's not.

9 Q. Your next question was: What were you doing
10 before Bobby put you on his bed. Do you recall asking
11 that question?

12 A. Yes.

13 Q. You didn't get a response to that question
14 either, did you?

15 A. No.

16 Q. That's because she's a 3-year-old, wasn't
17 focusing, dropped a toy, reached down to get it. Right?

18 A. Yes.

19 Q. You just moved on from these contextual
20 questions. We didn't get answers to any of those, did
21 we?

22 A. No.

23 Q. Now, the next question -- the next question you
24 asked was: You said Bobby licked your gina. Do you
25 recall asking that?

1 A. Yes.

2 Q. I'm curious. She said to you two times when
3 she first walked in the room that Bobby licked her
4 penis. Right?

5 A. Yes.

6 Q. And never once did you repeat: So, Bobby
7 licked your penis, or so you said Bobby licked your
8 penis, did you?

9 A. I didn't ask her using the word penis, no.

10 Q. Now, your testimony to this jury was that you
11 use the words they use, right?

12 A. Yes, but I think by that point I'd also
13 established that -- what the parts of her body are and
14 she identified them.

15 Q. Are you sure?

16 A. I said I think.

17 Q. Well, let's -- you will recall stating that she
18 blurted out: Bobby licked my penis, when she first got
19 in the room?

20 A. Yes.

21 Q. And when she sat down, she said it again.
22 Right?

23 A. Yes.

24 Q. So, that's before this discussion or
25 demonstration with the dolls, right?

1 A. I'm not sure, sir.

2 Q. Well, if we were to watch the video and see
3 those two things were blurted out before you got the
4 dolls out of the cabinet, would you then agree that you
5 had not, in fact, established anything about her
6 knowledge of the anatomy?

7 A. Yes.

8 Q. Okay. So, you didn't use her words when she
9 said my penis, right, at any point in time?

10 A. Yes.

11 Q. So, the only word you ever repeated is when she
12 finally said the word gina?

13 A. Yes.

14 Q. Now, the next question you asked her, you asked
15 her -- again, I think these are contextual questions.
16 You asked her: What were you wearing when Bobby licked
17 your gina. Do you recall asking that question?

18 A. Yes.

19 Q. She said she was wearing panties, right?

20 A. Yes.

21 Q. And I think the next logical question you asked
22 was: Well, how could he lick your gina when you were
23 wearing panties. Do you remember asking that?

24 A. Yes.

25 Q. She said: I don't know. Right?

1 A. Yes.

2 Q. That didn't give you any pause?

3 A. It did, but it's not unusual for a 3-year-old
4 not to be able to answer that question either.

5 Q. You chose not to ask any follow-up questions
6 about that question, right, just move right along?

7 A. Yes.

8 Q. Next question you asked was: Did Bobby say
9 anything --

10 MS. COLLINS: Your Honor, at this time I
11 have to object to cumulative. This jury has heard the
12 entire video and at this point he is repeating every
13 single thing the jury has heard. It's cumulative.

14 MR. OLIVER: May I respond?

15 THE COURT: You may.

16 MR. OLIVER: Do you want us to approach to
17 respond?

18 THE COURT: Go ahead and respond.

19 MR. OLIVER: Your Honor, the reason I'm
20 asking these questions is because she testified as to
21 her protocol, what she's trying to establish with these
22 questions, and the sequence of the questions.

23 THE COURT: That will be overruled. You
24 can ask the question.

25 Q. (By Mr. Oliver) Now, the next question you

1 asked was whether Bobby said anything when he licked
2 your gina. Do you recall asking that?

3 A. Yes.

4 Q. And, eventually, she said: He said -- he
5 said -- he said -- he said he going to get me down. Do
6 you recall that response?

7 A. Yes.

8 Q. And did you ask -- you didn't ask any questions
9 about that, did you? Get you down from what, for
10 example.

11 A. No.

12 Q. If she had been able to provide some detail or
13 answer to that question, might that have provided some
14 of the context you said you're looking for in this
15 protocol of questions?

16 A. It's hard to say at this point.

17 Q. Certainly hard to say without asking, right?

18 A. Yes.

19 Q. Your next question: What happened after he
20 said he's going to get you down. Right?

21 A. Yes.

22 Q. And he said he's done. Do you recall her
23 saying that?

24 A. Yes.

25 Q. And did you ask: Done with what?

1 A. No.

2 Q. And if she had been able to give some detail or
3 something in answer or in response to that question,
4 might that have provided some of the context you were
5 looking for in this protocol of questions?

6 A. Probably.

7 Q. You didn't ask, right?

8 A. No.

9 Q. So, in the next set of questions you are
10 finally able to get some responses that establish some
11 context, right? You asked her: Who lives at Bobby's
12 house. Do you remember asking that?

13 A. Yes.

14 Q. She gave you the responsive answer that Marie
15 lived there?

16 A. Yes.

17 Q. Were you then or are you now familiar that
18 Marie is his wife?

19 A. I think I know that, yes.

20 Q. Did you know that at the time?

21 A. I do not know if I knew that at the time.

22 Q. So, it wasn't important for you to ask: Who is
23 Marie?

24 A. I didn't ask who Marie was.

25 Q. My question was: Was it important for you to

1 ask -- did you not feel it was important to ask?

2 A. I can't say that I didn't feel it was
3 important, no.

4 Q. You asked her -- you repeated something she had
5 said earlier and you said: So, you said that Bobby was
6 mean. What made him mean. Do you recall asking her
7 that?

8 A. Yes.

9 Q. And her response was: The police. Do you
10 recall her saying that?

11 A. Yes.

12 Q. That's not an answer to that question, is it?

13 A. No.

14 Q. So, you didn't ask: What do you mean by that?

15 A. No.

16 Q. Now the next questions that you asked were
17 about where she was. You asked: When Bobby licked your
18 gina, were you sitting, standing, or what? Do you
19 recall asking that?

20 A. Yes.

21 Q. She told you she was laying down?

22 A. Yes.

23 Q. On the bed?

24 A. Yes.

25 Q. Did you ask what bed?

1 A. No.

2 Q. Did you ask what room?

3 A. No.

4 Q. Did you ask what time?

5 A. No.

6 Q. Did you ask what was in the room?

7 A. No.

8 Q. Did you ask if anybody else was there?

9 A. No.

10 Q. But you did ask: Was Bobby sitting, standing,
11 or what. Do you recall asking that?

12 A. Yes.

13 Q. And she told you he was standing?

14 A. Yes.

15 Q. So, if she's laying on the bed with her pants
16 on and he's standing, wouldn't that seem like it's
17 logically inconsistent to you?

18 A. Not necessarily.

19 Q. And so, to connect the dots, a good interviewer
20 might say: Well, did he bend down to lick your gina?
21 Is that maybe a question you might ask?

22 A. Not that way.

23 Q. Well, what would be your way to get those
24 details?

25 A. I might have asked her how he was able to lick

1 her when he was standing.

2 Q. Did you ask that question?

3 A. No.

4 Q. And so, it didn't give you any pause that what
5 she described is her on the bed with her clothes on and
6 him standing and her allegation is that he licked her
7 vagina; that didn't give you any pause?

8 A. I don't know.

9 Q. You don't know if it gave you pause?

10 A. No, I don't know.

11 Q. You did ask the follow-up question about --
12 clearly the pants must have given you some concern
13 because you asked one follow-up question about that:
14 Did anything happen to your clothes. Do you remember
15 asking that?

16 A. Yes.

17 Q. She said no, right?

18 A. Yes.

19 Q. What does that mean? Does that mean her
20 clothes were ever taken off?

21 A. It could mean -- it could mean that, yes. Or
22 it could mean she doesn't know how to tell me that they
23 were or were not.

24 Q. Might it have been easier for her to tell you
25 if you had asked that question?

1 MS. COLLINS: Objection. Argumentative.

2 THE COURT: Sustained.

3 Q. (By Mr. Oliver) You are aware at the time that
4 you interviewed her that the allegation was that my
5 client licked her vagina, right?

6 A. Yes.

7 Q. At some point you asked: Did he lick anything
8 else. Right?

9 A. Yes.

10 Q. She told you he licked her butt. Right?

11 A. Yes.

12 Q. Not just that he licked her butt, but that he
13 bit it. Right?

14 A. Yes.

15 Q. Did you ask her if it hurt?

16 A. No.

17 Q. Did you ask her if she liked -- if it tickled?

18 A. No.

19 Q. Did you ask her how that felt?

20 A. No.

21 Q. Did you ask her a single question about a
22 sensory detail associated with someone biting it?

23 A. No.

24 Q. You did ask her where he bit her, right?

25 A. Yes.

1 Q. And she patted the right -- right butt cheek, I
2 guess, for lack of a better term. Right?

3 A. Yes.

4 Q. And the next question was: And what happened
5 after Bobby bites you on the butt. Do you recall asking
6 that?

7 A. Yes.

8 Q. And she said: He goes -- he likes to -- it
9 looks like a sucker. Right?

10 A. Yes.

11 Q. And so, she's talking about her rear end,
12 correct?

13 A. Yes.

14 Q. And you asked what happened after he bit her
15 rear end and she said that he told her it looked like a
16 sucker?

17 A. Yes.

18 Q. She didn't say anything to you about him saying
19 her penis looked like a sucker, did she?

20 A. No.

21 Q. She didn't say anything to you about Ryleigh
22 saying that Bobby said her vagina looked like a sucker,
23 did she?

24 A. No.

25 Q. You asked what else she said -- that Bobby

1 said, in the next question. Do you recall that?

2 A. Yes.

3 Q. She didn't answer that question, did she?

4 A. No.

5 Q. She said: He licked my arm. Right?

6 A. Yes.

7 Q. The problem with that is that she was pointing
8 to her right calf, right?

9 A. Yes.

10 Q. And then you asked again -- did you realize she
11 was pointing at her leg when you asked -- when she was
12 saying arm?

13 A. I probably did.

14 Q. So, you asked again. You just repeated her
15 words: He licked your arm?

16 A. Yes.

17 Q. And she said she means leg?

18 A. Yes.

19 Q. And you asked -- you kept on going with it,
20 right? You asked: Anything else. Right?

21 A. Yes.

22 Q. And she said, yes, that Bobby licked her
23 forehead, right?

24 A. Yes.

25 Q. You stopped asking right there. At that point,

1 you stopped asking her the question anything else.

2 Isn't that true?

3 A. I think so.

4 Q. Isn't that because the answers were starting to
5 go off the rail here?

6 MS. COLLINS: Objection. Argumentative,
7 Your Honor.

8 THE COURT: Sustained. Don't argue.

9 Q. (By Mr. Oliver) You asked her if she had licked
10 any part of Bobby's body, right?

11 A. Yes.

12 Q. She said no, right?

13 A. Yes.

14 Q. You ask her if she saw any part of Bobby's
15 body. She said no, right?

16 A. Yes.

17 Q. She didn't say anything to you about licking a
18 penis or anything of that nature, did she?

19 A. No.

20 Q. At some point in this interview you were
21 getting a little frustrated, weren't you?

22 A. I don't know.

23 Q. Well, at one point you asked her if she had
24 seen anybody's gina. Do you remember that?

25 A. Yes.

1 Q. She pointed to her own and said: This one?

2 A. Yes.

3 Q. You don't remember putting your head down in
4 your hands at that point and saying or muttering: Okay,
5 without looking up?

6 A. I may have. I don't know.

7 Q. Well, if you did, as a trained forensic
8 investigator, would you see that as a sign of
9 frustration in a subject?

10 A. Not necessarily.

11 MS. COLLINS: Objection --

12 THE COURT: Sustained.

13 Q. (By Mr. Oliver) Eventually the question moves
14 on from Bobby to someone else, right? You asked her:
15 Has someone shown her their butt. Do you recall that?

16 A. Yes.

17 Q. She nodded, right?

18 A. Yes.

19 Q. And you asked her who showed her their butt,
20 right?

21 A. Yes.

22 Q. And she said Marie?

23 A. Yes.

24 Q. Previously in the interview, you asked where
25 Marie was and she said the doctor, right?

1 A. Yes.

2 Q. So, Marie showed Ryleigh her butt while she was
3 at the doctor?

4 A. She could have been talking about a different
5 day.

6 Q. And we'd know that if you had asked that
7 question, right?

8 MS. COLLINS: Objection. Argumentative,
9 Your Honor.

10 THE COURT: Sustained.

11 MR. OLIVER: I'll rephrase, Your Honor.

12 Q. (By Mr. Oliver) You didn't ask her that
13 question, did you?

14 A. No.

15 Q. Now, what you did say was: Have you seen
16 anybody else's butt. Do you recall that?

17 A. It might have been a mistake if I said that.

18 Q. Well, do you recall her saying, in response:
19 Yeah, and don't tell me any more. Okay? Do you recall
20 her saying that?

21 A. Yes.

22 Q. That struck you as odd, didn't it, that
23 question -- or that statement? I'm sorry.

24 A. Not odd, but I was getting an indication that
25 she was tired of me asking questions.

1 Q. Well, in particular, she used the words tell me
2 instead of ask me. Right?

3 A. That -- I don't think that's significant, no.

4 Q. It's not significant to --

5 A. No, not significant as in a 3-year-old getting
6 tell and ask mixed up.

7 Q. But in this situation, she got penis and vagina
8 mixed up, right?

9 A. Yes.

10 Q. So, you just pick and choose what's significant
11 and what's not?

12 MS. COLLINS: Objection. Argumentative,
13 Your Honor.

14 THE COURT: Sustained.

15 MR. OLIVER: I'll move on, Your Honor.
16 Sorry.

17 Q. (By Mr. Oliver) The questioning goes on and you
18 ask her if anybody else has licked you. Right?

19 A. Yes.

20 Q. And she said: It's Marie. Do you recall her
21 saying that?

22 A. Yes.

23 Q. And then you go down the same line of
24 questioning. Where did Marie lick you? Right?

25 A. Yes.

1 Q. She says Marie licked her belly. Right?

2 A. Yes.

3 Q. And then: Did Marie lick you anywhere else?

4 She says yes, right?

5 A. Yes.

6 Q. She said the top of her head, right?

7 A. Yes.

8 Q. To your knowledge, has Marie been charged with
9 any crime?

10 A. Not to my knowledge.

11 Q. The next question you asked was about outside
12 influences. Has anybody shown you movies, pictures,
13 magazines with people showing their ginas or butts. Do
14 you recall that question?

15 A. Yes.

16 Q. She said yes, right?

17 A. Yes.

18 Q. Did you ask: Who showed you those things?

19 A. I'm not sure what question I asked that got the
20 response that I got.

21 Q. Did you recall asking her: Has someone shown
22 you any movies, pictures, magazines that have people --

23 A. Yes, I recall that question.

24 Q. Okay. Her response to that was yep, right?

25 A. Yes.

1 Q. And did you ask her: Who showed you the
2 movies, pictures, magazines that have people showing
3 their ginas or butts?

4 A. That's what I'm trying to tell you, sir. I'm
5 not sure what question I asked her after that.

6 Q. Oh, I see. I apologize.

7 Do you recall your next question being:
8 What did you see?

9 A. Yes.

10 Q. Do you recall her responding to you: Animals?

11 A. Yes.

12 Q. Did that response to that question strike you
13 as odd?

14 A. Not when you think of it in the context that
15 she was looking up at the border of the ceiling where we
16 have animals.

17 Q. Okay. You were speculating at that point that
18 she was making that connection, right?

19 A. Not so much making a connection as just
20 answering animals to the question that I asked her.

21 Q. So, what you're saying is that sometimes if you
22 ask a child a question, they can look at something, be
23 thinking something else, and get the two kind of mixed
24 up, right?

25 A. No. That's not what I'm saying.

1 Q. Please clarify. You said she was looking at
2 the border and she responded to your questions by saying
3 animals.

4 A. Sir, you asked me if I thought it was odd. And
5 I'm just telling you what I saw her doing when I watched
6 the video and saw her looking up at the animals.

7 Q. So, having gone through those questions, did
8 you ask her at any point in time who showed her those
9 things that you asked about?

10 A. No.

11 Q. She did tell you previous at the very beginning
12 of the interview that she had brothers, right?

13 A. Yes.

14 Q. Were you aware at that time or are you now of
15 how old those boys are?

16 A. No.

17 Q. Based on the response to that question, what
18 about pictures, magazines, movies, might it have been
19 important for you to know how old her brothers were?

20 A. I guess so.

21 Q. Because you'd agree with me sometimes young
22 kids are exposed to movies, pictures, and magazines of
23 people showing their ginas or butts --

24 MS. COLLINS: Objection to speculation,
25 Your Honor.

1 THE COURT: Sustained.

2 Q. (By Mr. Oliver) You asked her if anybody at her
3 house drinks beer, wine, or anything like that. Right?

4 A. Yes.

5 Q. And she told you her dad drinks beer?

6 A. Yes.

7 Q. Nothing wrong with that, but then you asked if
8 anything happens when he drinks beer?

9 A. Yes.

10 Q. Nothing wrong with this, but she said he throws
11 up. Right?

12 A. Yes.

13 Q. Would you agree with me that generally if an
14 adult male drinks alcoholic beverages to the point
15 they're throwing up, they're drinking a lot?

16 MS. COLLINS: Objection to relevance, Your
17 Honor.

18 THE COURT: Sir, no. That will be
19 sustained.

20 MR. OLIVER: I'll move on.

21 THE COURT: Let's refrain from testifying.

22 MR. OLIVER: Okay.

23 Q. (By Mr. Oliver) Your testimony on direct,
24 Ms. Odhiambo, was that when you were talking about
25 Ryleigh's knowledge of the police, what you said on

1 direct was that -- you asked that -- the State asked --
2 do you recall the State asking you some questions about
3 when the police came to their house?

4 A. Yes.

5 Q. And what you told the jury was that Ryleigh
6 said it was after Bobby licked her gina?

7 A. Yes.

8 Q. That's not exactly true, is it?

9 MS. COLLINS: Objection to the
10 misstatement, Your Honor.

11 MR. OLIVER: Well, I'll -- I'll rephrase,
12 Your Honor.

13 THE COURT: Rephrase.

14 Q. (By Mr. Oliver) Do you recall asking Ryleigh:
15 Have the police come to your house?

16 A. Yes.

17 Q. And do you recall her response as being:
18 They -- and then she paused and said: Bobby licked my
19 gina.

20 A. I think she said: When Bobby licked my gina.

21 Q. Would you agree that if the jury were to watch
22 that or we were to play the video and it said exactly
23 what I just said that is not -- your statement on direct
24 is not a correct statement?

25 THE COURT: Sir, stay within the context of

1 asking questions instead of trying to create -- start
2 all over again.

3 MR. OLIVER: Do you want me to rephrase
4 that question, Judge?

5 THE COURT: Yes.

6 Q. (By Mr. Oliver) So, you recall her asking --
7 you recall asking her if the police came to her house,
8 right?

9 A. Yes.

10 Q. So, if her response was: They -- and then a
11 pause -- Bobby licked my gina, would you agree that she
12 had -- that is not the same thing as her saying: I
13 learned about the police after Bobby licked my vagina;
14 would you agree with that?

15 MS. COLLINS: Asked and answered, Your
16 Honor. Cumulative.

17 THE COURT: Sustained.

18 MR. OLIVER: I'll pass the witness, Your
19 Honor.

20 THE COURT: All right.

21 MS. COLLINS: Yes, Your Honor.

22 **REDIRECT EXAMINATION**

23 **BY MS. COLLINS:**

24 Q. Was there anything about what Ryleigh said
25 about Marie Peyronel that struck you as sexual in

1 nature?

2 A. No.

3 Q. When talking about -- you're around kids a lot?

4 A. Yes.

5 Q. Do you have kids of your own?

6 A. No.

7 Q. Fair enough.

8 Okay. You ever heard of children having --
9 like, when you -- (indicating) -- on their belly and go
10 pew-pew (indicating); have you ever heard of that?

11 A. Yes.

12 Q. Have you ever heard of a babysitter, mom,
13 someone else playing with someone's belly when they're
14 little?

15 A. Yes.

16 Q. Have you ever heard or seen a provider --
17 somebody that cares for kiddos, moms, fathers, people
18 like that, kissing their kids on the forehead?

19 A. Yes.

20 Q. When Ryleigh started -- you asked her about
21 watching videos, movies that people were showing their
22 butts or ginas in, vaginas in. Did you get the feeling
23 or were you concerned that she was actually being shown
24 something that was pornographic in nature?

25 A. No.

1 Q. From what she was telling you, what did you
2 believe she was trying to convey?

3 A. That she might have seen animals.

4 Q. Animals have butts and vaginas?

5 A. Yes.

6 Q. Would it surprise you for a 3-year-old, if
7 they've seen movies with butts and vaginas they think of
8 animals without clothes on?

9 A. Yes.

10 Q. Okay. You mentioned plausibility being one of
11 the things you look for in an interview. Did it seem
12 plausible to you for a man to put a woman, or in this
13 case a 3-year-old girl, on a bed to perform oral sex?

14 A. Yes.

15 Q. Did it seem plausible that in the course of
16 performing oral sex, he would also not only lick her
17 vagina but her butt?

18 A. Yes.

19 Q. Did it surprise you -- let me ask you this. In
20 your experience as a human being, much less a forensic
21 interviewer, have you ever heard of someone kissing and
22 using their tongue in foreplay?

23 A. Yes.

24 Q. Did it seem plausible to you when talking to
25 Ryleigh that she would talk about Bobby kissing or

1 licking -- licking is the term she used, correct?

2 A. Yes.

3 Q. -- licking her forehead and licking her leg in
4 the course of that oral sex conduct?

5 A. Yes.

6 Q. Does that seem plausible?

7 A. Yes.

8 Q. Did it seem plausible that when Bobby was done
9 performing oral sex on 3-year-old Ryleigh Launer, that
10 he would say: I'm going to get you down off the bed?
11 Does that seem plausible?

12 MR. OLIVER: I object to that statement by
13 the State. It invades the province of the jury.

14 THE COURT: Overruled.

15 MS. COLLINS: I believe defense counsel
16 opened the door.

17 THE COURT: Overruled.

18 Q. (By Mr. Oliver) Did it seem plausible to you
19 that when he was done doing that he would look at
20 3-year-old Ryleigh Launer and say: I'm going to get you
21 down now?

22 A. Yes.

23 Q. Did it surprise you that she would tell you
24 that he said: I'm going to put you -- or get you down,
25 when he was done with what he was doing?

1 A. No.

2 Q. Did any of these things she was talking about
3 seem off the rail to you?

4 A. No.

5 Q. Did they seem to make sense in the context of a
6 3-year-old and how they view the world?

7 A. Yes.

8 Q. Ms. Odhiambo, I'm going to show you what's been
9 pre-marked State's Exhibit No. 14. Can you tell us what
10 we're looking at (indicating)?

11 A. You're looking at my interview room with
12 Ryleigh on the chair. And that's probably the time when
13 she was -- when I was asking what gina is used for and
14 she pointed to her own gina.

15 Q. Does that fairly and accurately show how she
16 looked when that occurred?

17 A. Yes.

18 Q. Anything been like changed or altered or
19 anything like?

20 A. No.

21 MS. COLLINS: State offers into evidence
22 State's Exhibit No. 14 and tender to opposing counsel.

23 **(State's Exhibit No. 14 Offered)**

24 MR. OLIVER: No objection.

25 THE COURT: Admitted without objection.

1 **(State's Exhibit No. 14 Admitted)**

2 Q. (By Ms. Collins) Did it seem plausible to you,
3 Ms. Odhiambo, after making a disclosure and seeing the
4 police that Ryleigh would assume Bobby Peyronel was
5 going to jail?

6 A. Yes.

7 MS. COLLINS: Pass the witness, Your Honor.

8 MR. OLIVER: Briefly, Your Honor.

9 THE COURT: Go ahead.

10 **RECROSS-EXAMINATION**

11 **BY MR. OLIVER:**

12 Q. Plausibility, Ms. Odhiambo, a lot different
13 than certainty, isn't it?

14 A. Yes.

15 Q. Plausible is -- another way of saying plausible
16 is possible, right?

17 A. Yes.

18 Q. And so, a good way to figure out if the
19 plausible is certain or if the possible is certain in
20 this context is to ask some questions, right?

21 A. Possibly.

22 MR. OLIVER: I'll pass the witness, Your
23 Honor.

24 MS. COLLINS: Nothing further, Your Honor.

25 THE COURT: All right. Thank you, ma'am.