

1 THE COURT: Ms. Reddi, do you agree to
2 excuse him or do you need him to stay around?

3 MS. REDDI: Yes, sir.

4 THE COURT: All right. He may be
5 excused.

6 Ms. Roberts.

7 MS. ROBERTS: Thank you, Your Honor.

8 DANA OLDHAM,
9 having been first duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MS. ROBERTS:

12 Q. Ms. Oldham, can you please introduce yourself
13 to the jury?

14 A. Hi. I'm Dana Oldham.

15 Q. All right. And, Ms. Oldham, how are you
16 employed?

17 A. Right now I'm employed at Harris Health
18 System.

19 Q. Okay. And what do you do?

20 A. I'm a forensic nurse examiner.

21 Q. Okay. What exactly does that mean?

22 A. A forensic nurse examiner is a registered
23 nurse who's been specially trained to give
24 comprehensive care to patients that come in with
25 complaints of inflicted trauma.

1 Q. Okay. So, what type of schooling or
2 educational background did you have to get to have this
3 position?

4 A. I have my Bachelor's degree in the Science of
5 Nursing. And after 15 years of being a nurse, the -- I
6 went to 80 hours of classroom time to become a forensic
7 nurse examiner through the Office of the Attorney
8 General. I had to have 16 hours of courtroom time. I
9 had to have 24 hours of speculum exams, 20 hours of
10 child -- excuse me -- well child exams. And I had to
11 be precepted by a forensic nurse examiner in pediatric
12 sexual assault exams, 10 of them, and then six of the
13 adult sexual assault exams.

14 Q. Okay. And so, how long have you been licensed
15 to practice as a forensic nurse?

16 A. I've been certified for six years as a
17 forensic nurse.

18 Q. Okay. So, certified.

19 And have you always been at Harris Health
20 System or have you been at other places?

21 A. I started at Memorial Hermann as an ER nurse
22 back in 1999. And I worked there for 10 years. And
23 then for six years, I worked -- until last April, I
24 worked for six years as a forensic nurse examiner with
25 Memorial Hermann.

1 Q. Okay. So, when did you start as a forensic
2 nurse examiner with Memorial Hermann?

3 A. I started taking classes in 2008. And then I
4 started taking care of my own patients in 2009.

5 Q. Okay. And as a forensic nurse -- you were
6 talking about it a little bit earlier, that you examine
7 both children and adults. So, is it everybody who
8 comes in complaining of trauma?

9 A. We take care of all ages, anyone that comes in
10 with complaints of inflicted trauma.

11 Q. Okay. Specifically what do you mean by that?

12 A. We take care of parents who are victims of
13 stab wounds, gunshot wounds, sexual assaults, burns,
14 anything that's inflicted trauma.

15 Q. Do you have specialized training for dealing
16 with victims of sexual assaults?

17 A. I do.

18 Q. Okay. What kind of training did you go
19 through specifically for the sexual assaults?

20 A. For the sexual assault nurse examiner, I went
21 through training through Memorial Hermann to be
22 certified through the Office of the Attorney General in
23 Texas. With that, I did the 80 hours of the classroom
24 time. I did the 16 hours of courtroom observation, 24
25 hours of speculum exams, 20 hours of well child exams.

1 And then in addition to that, I had to follow an
2 experienced forensic nurse examiner through a minimum
3 of six exams for pediatric sexual -- excuse me -- six
4 exams for adult sexual assaults and then 10 of the
5 pediatric sexual assaults.

6 Q. Okay. So, what -- what does an examination of
7 a sexual assault victim consist of?

8 A. The exam is called a medical forensic exam.
9 And in this exam it consists of four parts.

10 The first part is to get a history from
11 the patient. And the history is the patient's exact
12 words of what happened. The second part is to do a
13 physical exam, head to toe, looking for trauma or
14 injury. We look for cuts, abrasions, bruises, those
15 kinds of things. And then the third part is to do a
16 detailed genital exam where we look at the genitalia
17 looking for injury. During the course of these exams,
18 we also will collect evidence as needed.

19 Q. Okay. I'm going to go back to the history,
20 the oral history being the first part. Why do you get
21 that from them?

22 A. We get a history for the diagnosis and the
23 treatment our patient. And it helps guide us to also
24 -- it also helps guide us to evidence collection.

25 Q. Okay. And so, what is the purpose of the

1 overall exam?

2 A. It's for the health and welfare of the
3 patient.

4 Q. And how do you document what happened or what
5 was going on during the exam?

6 A. We have a medical record that we use. And we
7 -- also with the medical record, there's questions on
8 there that we ask. And a place -- a specific place
9 that we put the patient's word when they give us their
10 history of what happened. And there's also diagrams on
11 -- within this that we can document the injuries that
12 they have, if there are any.

13 Q. Okay. Are those records kept in the regular
14 course of business for Memorial Hermann Hospital?

15 A. Yes.

16 Q. And are the records made at or near the time
17 of the actual exam and when it's done?

18 A. Yes.

19 Q. And when a person is making the entry into the
20 report, do they have actual knowledge of what is going
21 on?

22 Is it the person who's writing the report
23 also the one doing the exam?

24 A. Yes.

25 Q. Okay. Now, on December 8th, 2009, did you

1 conduct a sexual assault examination of Natalie Pineda?

2 A. I did.

3 Q. Okay. I want to talk to you a little bit
4 about what was done during that specific forensic
5 interview.

6 MS. ROBERTS: But first Your Honor, may I
7 approach the witness?

8 THE COURT: Yes, ma'am.

9 Q. (BY MS. ROBERTS) I'm showing you what's been
10 previously marked as State's Exhibit No. 6. Do you
11 recognize this? And you can go ahead and flip through
12 it.

13 A. I do.

14 Q. Okay. And how do you recognize it?

15 A. This is my medical record.

16 Q. Okay. And how do you know that these are the
17 ones that you made?

18 A. My signature is on there and this is my
19 handwriting.

20 Q. All right. And how do you know that these are
21 the ones for Natalie Pineda?

22 A. They have her name on there.

23 Q. All right. And does it also have a date of
24 which this record was actually created on?

25 A. Yes.

1 Q. And what is that date?

2 A. December 8th, 2009.

3 Q. All right. Now, just a minute ago we were
4 discussing medical records kept in the regular course
5 of business by Memorial Hermann Hospital. Is this one
6 of those records?

7 A. Yes.

8 MS. ROBERTS: Your Honor, at this time
9 I'm tendering State's Exhibit No. 6 to opposing counsel
10 and offering State's Exhibit No. 6 into evidence.

11 MS. REDDI: No objections, Your Honor.

12 THE COURT: All right. Thank you.

13 State's 6 will be admitted.

14 MS. ROBERTS: Your Honor, may I publish
15 it to the jury?

16 THE COURT: Yes, ma'am.

17 MS. ROBERTS: Thank you.

18 Q. (BY MS. ROBERTS) All right. And we're going
19 to kind of walk through this slowly. A minute ago you
20 were saying that this is -- you knew these were the
21 specific records because you saw your handwriting on
22 it. Do you see it here?

23 A. I do.

24 Q. Okay. If you want to touch the little screen
25 to your right -- can you please touch where you have

1 your name on it?

2 A. Right there and right there.

3 Q. All right. And so, we're seeing two -- I
4 guess they're kind of hard to see -- marks on there.

5 And looking at the bottom, how do you
6 know that these are -- State's Exhibit No. 6 belonged
7 to Natalie Pineda?

8 A. Her name is right here.

9 Q. So, a minute ago when you kind of walked us
10 through how you do a forensic exam. And I think first
11 you stated it was an oral history. So, is that
12 somewhere within State's Exhibit No. 6?

13 A. Yes. It's --

14 Q. Is it on the second page of it?

15 A. It's right -- yes, it's right here.

16 Q. Okay. And so, if you can please state what --
17 or do you do word for word or is it just a general
18 overview what the patient tells you?

19 A. The history is the exact words of the patient
20 that I put in quotations.

21 Q. Okay. And would it be more helpful to have it
22 up with you or can you read it on the screen next to
23 you?

24 A. I think I can read it here.

25 Q. Okay. If you can please let us know what it

1 says for the history of the assault.

2 A. Parent states I was --

3 MS. REDDI: I'm going to object, Your
4 Honor, hearsay.

5 THE COURT: Overruled.

6 A. Patient states I was asleep in my room. I
7 heard someone say give me your money. I was scared. I
8 said I don't have anything. He had a knife to my neck
9 and said if I move he would kill me. He told me to
10 take off my clothes. He ripped my clothes and made me
11 turn over. He held me down with the knife. He put his
12 penis in my anal. He put his fingers in my vagina.

13 Q. Okay. And so, these words -- do you know
14 exactly when they were -- when this was told to you by
15 Natalie Pineda?

16 A. During my exam.

17 Q. Okay. And I guess just to be clear, at the
18 top of this, do we also have the information of Natalie
19 Pineda, the person you did the exam of?

20 A. Yes.

21 Q. Okay. And who takes this information, is it
22 you or somebody else?

23 A. I take the information.

24 Q. Now, underneath the history part, do you -- we
25 see more questions. And what kind of questions are you

1 asking here prior to evidence collection the patient
2 has?

3 A. We ask the patient if any of these activities
4 have been done prior to us collecting the evidence.

5 Q. And what's the purpose of that?

6 A. It may or may not help the crime lab.

7 Q. Okay. And so, if somebody has either bathed
8 or showered, can that change whether or not you may
9 find DNA?

10 A. It's possible.

11 Q. Okay. And then underneath that we see there
12 are a lot more questions here, including at the time of
13 the assault. What's the purpose of all of these
14 questions?

15 A. These questions will help with the diagnosis
16 and treatment of my patient.

17 Q. Okay. And specifically when asking whether a
18 condom was used, why is that asked?

19 A. We ask if a condom was used because the
20 patient could potentially have been exposed to sexually
21 transmitted diseases, potentially -- possibility of
22 becoming pregnant depending on what happened and the
23 potential for getting HIV.

24 Q. Okay. And underneath it we see there is a
25 question of was there penetration. What is the purpose

1 of asking this question?

2 A. This lets me know the risk factors that she
3 could have for getting sexually transmitted diseases.

4 Q. Okay. And underneath it we see it says did
5 ejaculation occur. I see that it says other is
6 specified and then it's all over my legs. Why was that
7 written?

8 A. It may or may not help with evidence
9 collection.

10 Q. Okay. And is that directly from Natalie
11 Pineda?

12 A. It is.

13 Q. Anytime we see the quote symbol on your exam
14 report, is that something directly from the
15 complainant, Natalie Pineda?

16 A. It is.

17 Q. Now, we also can see -- on this sheet, we've
18 got other information written on there. And so, we see
19 there's all sorts of information including past medical
20 history and general health appearance. What did you
21 write under general appearance?

22 A. Cooperative and tearful.

23 Q. And underneath that we see the body surface
24 injuries. You just wrote see body diagram. What's the
25 purpose of that rather than writing it here?

1 A. I'm able to explain in a much more clearer way
2 using the visual of the body diagram.

3 Q. Okay. So, at this point have you already done
4 -- I think you were calling it Phase 2, the head-to-toe
5 overview or looking at the complainant?

6 A. I was doing the assessment, the physical
7 assessment head-to-toe.

8 Q. Okay. So, would it be more helpful to switch
9 over to the full body diagram?

10 A. Yes.

11 Q. So, looking at the full body diagram, here at
12 the top where her neck is we can see there's a lot of
13 writing. What is on there?

14 A. These are injuries that I found.

15 Q. Okay. And are these your notes on there as
16 well as what she said?

17 A. Yes.

18 Q. And we see that she said he held a knife to my
19 throat and then there's a bunch of other marks around
20 the neck area in State's Exhibit No. 6. What do those
21 represent?

22 A. These are marked as abrasions on her neck.

23 Q. Okay. And do you know, were photos taken of
24 those abrasions on her neck?

25 A. Yes.

1 Q. All right. And was that done by you or
2 somebody else?

3 A. By me.

4 Q. And where was this done?

5 A. In the exam at the hospital.

6 Q. All right.

7 MS. ROBERTS: Your Honor, may I approach
8 the witness?

9 THE COURT: Yes, ma'am.

10 Q. (BY MS. ROBERTS) All right. Dana, I'm going
11 to show what's been marked as State's Exhibit No. 19.
12 Do you recognize this?

13 A. I do.

14 Q. Okay. And how do you recognize it?

15 A. These are the photos that I took.

16 Q. Okay. Is that during the sexual assault exam
17 of Natalie Pineda?

18 A. Yes.

19 Q. All right. And how can we be sure that that's
20 what this is?

21 A. Her name is here.

22 Q. Okay. And are these a true and accurate
23 representation of what you saw that day on December
24 8th, 2009?

25 A. Yes.

1 MS. ROBERTS: Your Honor, at this time
2 I'm going to go ahead and tender to opposing counsel
3 and offer State's Exhibit No. 19 into evidence.

4 MS. REDDI: No objections, Your Honor.

5 THE COURT: All right. Thank you.

6 State's 19 will be admitted.

7 MS. ROBERTS: And, Your Honor, may I
8 publish these to the jury?

9 THE COURT: Yes, ma'am.

10 MS. ROBERTS: Thank you.

11 Q. (BY MS. ROBERTS) All right. And you can see
12 we actually have three different photos on this page,
13 but we'll kind of go one by one on them.

14 So, we've got the top left, the top right
15 and the bottom, right?

16 A. Um-hum.

17 Q. Okay. So, when we're talking about the top
18 left on State's Exhibit No. 19, what can we really see
19 here?

20 A. These are abrasions right here.

21 Q. Okay. And what does the word abrasion mean?

22 A. An abrasion is a removal of skin by some kind
23 of force.

24 Q. Okay. And when looking at these abrasions,
25 would you consider them to be deep or more surface

1 level?

2 A. Surface.

3 Q. And would you describe these as thin or thick?

4 A. They're thin.

5 Q. Okay. And do you have any other descriptions
6 about these specific abrasions?

7 A. May I see my documentation?

8 Q. Yes. Do you mean this?

9 A. Yes.

10 Q. Okay.

11 A. I have them out -- as far as the measurement
12 and I described them as a red abrasion.

13 Q. Okay. So, seeing that it's .2 centimeters by
14 5 centimeters, is that length and the width of it?

15 A. Yes.

16 Q. All right. And so, the .2 centimeters is that
17 the width of the abrasion?

18 A. Um-hum, yes.

19 Q. All right. I'm going to go ahead -- and so,
20 we took -- you took several pictures here. We can also
21 see the top right photo shows a different angle more of
22 the right or the other side of her neck. What is the
23 purpose of taking this photo?

24 A. Taking a picture of the injuries.

25 Q. And here on the bottom left, you've added

1 something else into the photograph, what is that?

2 A. It's a measurement tool, a ruler.

3 Q. Okay. Is it just so you can document how wide
4 or how long they are?

5 A. Yes. It measures the injury.

6 Q. Now, looking again at the top left, are these
7 straight abrasions or are they -- I mean, are they
8 straight or do they have more shape to them?

9 A. Some of them have curve to them.

10 Q. Okay. How many total do you see?

11 A. I documented three.

12 Q. Okay. Now, looking -- just by looking at
13 them, can you say what made these?

14 A. No.

15 Q. All right. When you spoke to the complainant,
16 did she tell you what made these?

17 A. She told me that there was a knife to her
18 throat.

19 MS. REDDI: Objection, asked and
20 answered, Your Honor.

21 THE COURT: Overruled.

22 Q. (BY MS. ROBERTS) And so, looking at the
23 actual injuries and hearing from the complainant, would
24 you say that these could be consistent injuries?

25 A. They can be consistent.

1 Q. Now, going back to State's Exhibit No. 6,
2 being the report. We see that there's also more
3 writing on the bottom of that -- of the body diagram
4 page. What else do we have on here?

5 A. Six centimeter by five centimeter point
6 tenderness.

7 Q. Okay. And about where is that?

8 A. On her left inner thigh.

9 Q. All right. And you see underneath it it says
10 he held my legs apart. Is that directly from the
11 complainant?

12 A. Yes.

13 Q. Okay. Now, after doing the head-to-toe
14 physical examination, you said next comes the genital
15 examination?

16 A. Yes.

17 Q. All right. Now, during the genital
18 examination, do you also have diagrams?

19 A. Yes.

20 Q. All right. And are those a part of your
21 report in State's Exhibit No. 6?

22 A. Yes.

23 Q. Okay. Do you also have a separate page that
24 documents the trauma or no trauma that you see?

25 A. Yes.

1 Q. So, we're first going to start with the
2 documentation page. We can see before -- it's on the
3 previous -- and did you write down everything you saw
4 in the actual genital examination?

5 A. I did.

6 Q. Is it more helpful to see the diagram though?

7 A. Yes.

8 Q. Now, looking at the diagram we can see that
9 there are two separate ones on one page. Can you
10 please explain the two diagrams that we have?

11 A. The diagram -- the diagram on the left side is
12 the outside picture looking into the genitalia -- the
13 female genitalia. And this on the right is inside of
14 the vaginal vault of the genitalia.

15 Q. Okay. And so, do you examine both inside and
16 outside?

17 A. In this case I did not. I just did the
18 outside.

19 Q. Okay. And why is that?

20 A. The going -- doing inside exam with a speculum
21 is very invasive. It can be very uncomfortable. And
22 because there was just fingers involved to the vagina
23 and there was no bleeding injury noted, I chose to keep
24 my patient comfortable and did not feel that there was
25 a need to look on the inside.

1 Q. Okay. So, by the oral history with the
2 complainant, did you feel you needed to do an interior
3 -- an inside examination?

4 A. No.

5 Q. All right. Looking then specifically at the
6 left side with the outside, did you note any trauma on
7 the complainant Natalie Pineda?

8 A. I did.

9 Q. Okay. And if you can please tell us -- I know
10 we're looking at State's Exhibit No. 6. But where did
11 you observe trauma?

12 A. On the labia minora.

13 Q. And just for the purposes of the record, we're
14 looking at State's Exhibit No. 6 on the left side. Did
15 you make any notation that would let us know what
16 you're talking about?

17 A. I did.

18 Q. Okay. And specifically what notations is that
19 -- are those?

20 A. Right here I put .3 centimeter acute tear at
21 10:00 o'clock on the labia minora.

22 Q. All right. And after hearing the
23 complainant's oral history, is this type of trauma
24 consistent with what she was telling you?

25 A. Yes.

1 Q. Okay. And was there any other trauma to the
2 complainant?

3 A. There was a 0.7 centimeter acute tear at 6:00
4 o'clock on the anus.

5 Q. Okay. And now, also again going back to the
6 complainant's oral history, is this consistent with
7 what she was telling you at the time of the oral
8 history?

9 A. Yes.

10 Q. Okay. Okay. Now, after doing the body or the
11 genital examination, what is the next step of a
12 forensic examination?

13 A. During the process of doing the physical exam
14 and the genital exam, I have gone through and collected
15 evidence. At the end of the exam, then I talk to her
16 about options for sexually transmitted disease
17 prophylaxes, which means preventative. I talk about
18 pregnancy prophylaxes. I talk about HIV prophylaxes.
19 We also talk about counseling and women's advocacy to
20 make sure that she feels safe going back home and
21 assessing those needs.

22 Q. Okay. Now, just a second ago you were talking
23 about evidence collection. Did you do that in this
24 case?

25 A. Yes.

1 Q. Okay. And what is that?

2 A. When we collect evidence, what we do is we use
3 -- several things that we use. We have swabs that we
4 will go and swab different areas based on the history
5 of what she tells us. We can comb hair. We use --
6 those are some of the tools that we use, swabs and
7 combs that come in the kit. And we collect evidence
8 that way.

9 MS. ROBERTS: Your Honor, may I approach
10 the witness?

11 THE COURT: Yes, ma'am.

12 Q. (BY MS. ROBERTS) All right. I'm going to
13 show you what's been previously marked as State's
14 Exhibit No. 7. This is outside and then we're going to
15 go through it.

16 A. Okay.

17 Q. Okay. Starting with State's Exhibit No. 7, do
18 you recognize this bag?

19 A. The bag, I do not recognize.

20 Q. Okay. So, that is not something that's part
21 of the actual sexual assault kit?

22 A. Correct.

23 Q. Okay. Opening it up. Looking at this box
24 that's marked State Exhibit No. 8, do you recognize
25 that item?

1 A. Yes.

2 Q. Okay. And what is it?

3 A. This is a sexual assault evidence collection
4 kit.

5 Q. Okay. And how can you identify this
6 particular kit?

7 A. It says sexual assault evidence collection
8 kit.

9 Q. All right. And how can we identify who it
10 belongs to, which sexual assault?

11 A. There's a sticker with the name of the patient
12 on there.

13 Q. Okay. So, do you specifically recognize this
14 actual box that you have in your hand as State's
15 Exhibit No. 8?

16 A. Yes.

17 Q. All right. And how do you recognize it?

18 A. My signature, my handwriting.

19 Q. Okay. And is this in substantially the same
20 condition it was in when you last saw it?

21 A. There's a little more writing, but yes, it's
22 in the same condition.

23 Q. Okay. All right. Now, opening it up, we see
24 that there are many items inside of it. How can you
25 identify what is inside of the kit?

1 A. The envelopes tell me what's inside each.
2 There's writing on here -- typing on here that tells me
3 what's inside these envelopes.

4 Q. Okay. So, let's go one by one. We'll try to
5 keep it in order with the box being 8. Do you
6 recognize State's Exhibit No. 9?

7 A. Yes.

8 Q. Okay. And how do you recognize it?

9 A. It says anal swabs and smear with the
10 patient's name and my signature.

11 Q. Okay. And is that in substantially the same
12 shape it was in when you last had it?

13 A. There's more tape and writing, but yes.

14 Q. Okay. State's Exhibit No. 10, do you
15 recognize this?

16 A. Yes.

17 Q. All right. And how do you recognize it?

18 A. This is the labia minora swabs and vaginal
19 swabs with the patient's name and my signature.

20 Q. Okay. And again, is it substantially the same
21 condition it was in back on --

22 A. Substantially the same.

23 Q. -- from 2009?

24 A. Yes.

25 Q. And State's Exhibit No. 11?

1 A. This is a lip swab.

2 Q. Okay. And just to be clear, by lip do you
3 mean the mouth?

4 A. Yes.

5 Q. Okay. And how do you recognize this
6 particular item?

7 A. It has my name.

8 Q. Okay. And again, substantially same condition
9 it was in as in -- from December of 2009?

10 A. Yes.

11 Q. Okay. And let's go on to State's Exhibit
12 No. 12. Do you recognize this item?

13 A. Yes.

14 Q. All right. And what is that?

15 A. A leg -- leg swabs and smear.

16 Q. Okay. And how do you recognize it?

17 A. Patient's name and my signature.

18 Q. All right. And is it in the substantially
19 same condition as it was back when you had it in 2009?

20 A. Yes.

21 Q. And I think we're up to No. 13. Do you
22 recognize this?

23 A. Yes.

24 Q. And what is it?

25 A. It's pubic hair combings and comb.

1 Q. Okay. And is it in -- or how do you recognize
2 it?

3 A. Has the patient's name and my signature.

4 Q. And is it in substantial the same condition as
5 when you had it last?

6 A. Yes.

7 Q. All right. We'll go on to No. 14. Do you
8 recognize this item?

9 A. Yes.

10 Q. And how do you recognize it?

11 A. It's the head hair combings and comb,
12 patient's name and my signature.

13 Q. And is it in substantially the same condition.

14 A. Yes.

15 Q. All right. Is that -- so, now we're up to
16 State's Exhibit No. 15. What is this here?

17 A. Fingernail scrapings or swabbing.

18 Q. Okay. And do you recognize this item?

19 A. Yes.

20 Q. How do you recognize it?

21 A. The patient's name and my signature.

22 Q. All right. And is it in the substantially
23 same condition?

24 A. Yes.

25 Q. Now, State's Exhibit No. 16, do you recognize

1 this item?

2 A. Yes.

3 Q. All right. And how do you recognize it?

4 A. These are panties.

5 Q. Okay. And does it have your name and the
6 patient's name on it as well?

7 A. Yes.

8 Q. And is it in the substantially same condition?

9 A. Yes.

10 Q. Now, do you recognize State's Exhibit No. 17
11 or is that something that would have been added by the
12 lab?

13 A. I don't recognize that as being part of mine.

14 Q. Okay. And then State Exhibit No. 18, do you
15 recognize that item?

16 A. Yes.

17 Q. And how do you recognize it?

18 A. It's the known saliva sample.

19 Q. Okay. And does it have any markings or
20 anything on it that would let you know it's the same
21 item from before?

22 A. It has the patient's name and my signature.

23 Q. All right. And is it in the substantially
24 same condition?

25 A. Yes.

1 Q. All right. I'll put all this back.

2 MS. ROBERTS: Your Honor, at this time
3 State is tendering State's Exhibit No. 8 through 18
4 except for 17. We're not tendering 17 at this time.
5 And offering those into evidence.

6 MS. REDDI: No objections, Your Honor.

7 THE COURT: All right. No objections
8 State's 8 through 18, except 17 will be admitted.

9 MS. ROBERTS: Your Honor, may I
10 re-approach the witness?

11 THE COURT: Yes, ma'am.

12 Q. (BY MS. ROBERTS) All right. Dana, now,
13 looking at State's Exhibit No. 9, these -- sorry. You
14 said earlier that these are the anal swabs taken from
15 Natalie Pineda.

16 A. Yes.

17 Q. Okay. And specifically looking at these, I
18 guess, why did you choose to take these swabs?

19 A. I chose to take the swabs based on the history
20 that the patient gave me.

21 Q. Okay. And so, the swabs inside of here, can
22 you please explain the process that you use while
23 taking swabs like this?

24 A. When doing the genital exam, I have the
25 patient lay down on her back and her knees are up.

1 When I examine the anal area, the anus, I have her
2 bring her knees up to her chest so the anus is exposed.
3 I first look at the anus and inspect, separate the
4 folds to look for injury. And after I do that, I'll
5 take swabs, which look like Q-tips -- they're just long
6 Q-tips -- and I gently swab right on the inside of the
7 opening of the anus.

8 Q. Okay. And these swabs, are they just laying
9 around or are they in some sort of sealed kit?

10 A. When I -- when I swab the patient, I get them
11 out of the kit that was sealed that only I opened. And
12 the swabs are in a package that I have to open. I swab
13 and then I put it in a swab dryer. And then once
14 they're dry, I take those swabs and I put them into a
15 swab box that is put inside of here and sealed.

16 Q. Okay. So, is there any way that somebody else
17 is touching that part of the swab between the time that
18 it's opened and when you put it into the box and into
19 the bag?

20 A. The only person that touches the swabs in my
21 exam would be me.

22 Q. Okay. And during the exam, are you using
23 gloves or are you barehanded?

24 A. I'm gloved.

25 Q. Okay. And do you ever just touch the top of

1 the actual swab part, the Q-tip cotton part, or is it
2 always the base of the swab?

3 A. You touch the base of the swab.

4 Q. So, is there any chance that the DNA of
5 somebody else can be on the top of that swab when
6 you're done with it?

7 A. There's no one else in the room with me.

8 Q. So, if they had a family member or friend
9 there with them, would you send them out of the room?

10 A. I would.

11 Q. Okay. I'm going to show you State's Exhibit
12 No. 12 now. I see that on State Exhibit No. 12 there's
13 extra handwritten notes at the top. First, can you
14 tell us what is State Exhibit No. 12?

15 A. This is the legs swab and smear.

16 Q. Okay. And so, what are the handwritten notes
17 on State's Exhibit No. 12?

18 A. Quotes from the patient.

19 Q. Okay. And specifically, what did she tell
20 you?

21 A. He had his cum on my legs.

22 Q. Okay. And then we see State's Exhibit No. 11.
23 And what is this item?

24 A. Lip swab.

25 Q. All right. And so, why were you swabbing her

1 mouth?

2 A. She told me that he kissed me.

3 Q. Okay. And so, that's the day of the actual
4 incident or when she came into the hospital, I guess?

5 A. When she came into the hospital.

6 Q. Okay. And just to be clear, what date were
7 these collected on?

8 A. December 8th, 2009.

9 Q. And do you write down the time of collection?

10 A. Yes.

11 Q. Okay. And what time was this one collected
12 at?

13 A. 10:37.

14 Q. Now, is that a.m. or p.m.?

15 A. A.m.

16 Q. All right. And on something like this having
17 the writing on there, why do you add the extra notes on
18 there?

19 A. So, I know why I'm collecting it.

20 Q. Okay. All right. I'm going to go ahead and
21 again show you State's Exhibit 6, being your report
22 from that day.

23 Looking at this underneath the evidence
24 collection area, we see that there was other -- there
25 were other items collected. Now, specifically, do you

1 collect these items or is there somebody else that
2 collects them?

3 A. I collect them.

4 Q. Okay. And so, what we see is that there was a
5 shirt and a pants collected. And you put a description
6 next to the shirt. What does the description say?

7 A. Tear to back.

8 Q. All right. And so, when you write that, what
9 do you mean?

10 A. There was a tear to the back of the shirt.

11 MS. ROBERTS: Your Honor, may I approach
12 the witness again?

13 THE COURT: Yes, ma'am.

14 Q. (BY MS. ROBERTS) I'm showing you State
15 Exhibit No. 1. Do you remember if this was the exact
16 shirt or do you remember the shirt at all?

17 A. I don't remember.

18 Q. Okay. On something like this, if you were
19 writing a description, how would you describe this
20 shirt, being State's Exhibit No. 1?

21 A. There's a tear to the shirt.

22 Q. Okay. So is that consistent with the shirt
23 that you would have collected that day?

24 A. Yes.

25 Q. And where was the shirt when you -- after you

1 collect it, do you know?

2 Do you know where the shirt goes once you
3 collect it?

4 A. Once I collect the shirt, I put it into a bag,
5 a clothes collection bag.

6 MS. ROBERTS: Sorry. Your Honor, may I
7 approach?

8 THE COURT: Yes, ma'am.

9 Q. (BY MS. ROBERTS) I'm going show you what's
10 been marked as State's Exhibit No. 31. Can you tell me
11 what this is?

12 A. This is a clothing bag.

13 Q. Okay. And is this a -- when you say a
14 clothing bag, what's the purpose of it?

15 A. When I do the physical exam on a patient, if
16 they come in with clothing that they had on during the
17 time that they say they were assaulted, I take the
18 clothes, separate them and put them into different bags
19 for evidence collection.

20 This is a clothing bag that I put her
21 shirt in. And I know that because it says shirt on
22 there. It has her name and my signature.

23 Q. Okay. So, do you recognize this as being the
24 bag you actually put the shirt in?

25 A. Yes.

1 Q. All right. And other than the cut to the side
2 obviously, is this in the same condition or similar
3 condition it was in at the time that you gave it --
4 took it from the complainant?

5 A. Yes.

6 Q. Okay. And so, if the shirt from State's
7 Exhibit No. 1 had come out of the bag in State's
8 Exhibit No. 31, would that mean that was the shirt from
9 that day?

10 A. Yes.

11 MS. ROBERTS: Your Honor, at this time
12 I'm going to tender State's Exhibit No. 31 to opposing
13 counsel and offer State's Exhibit No. 31 into evidence.

14 MS. REDDI: No objections, Your Honor.

15 THE COURT: All right. No objections,
16 State's 31 will be admitted.

17 MS. ROBERTS: Thank you.

18 Q. (BY MS. ROBERTS) Now, we see that you also
19 collected her pants that day. Was there anything of
20 note on the pants that day?

21 A. Not that I documented.

22 Q. Okay. Now, earlier you were discussing -- you
23 had talked Ms. Pineda about different things, follow-up
24 really, for after the exam. Can you kind of go into
25 detail about those?

1 A. Generally in an exam whenever a patient comes
2 in with a complaint of sexual assault, there's several
3 things that we want to talk with the patient about.
4 One being risk factors ever getting sexually
5 transmitted diseases, HIV, potential pregnancy -- to
6 becoming pregnant. So, we talked to her about options
7 that she has or taking medication to prevent those
8 infections.

9 Q. And did she take any of those medications?

10 A. She did.

11 Q. Okay. And can you tell us a little bit about
12 those medications?

13 A. The medications are many pills that are taken
14 to help prevent gonorrhoea, chlamydia, trichomoniasis
15 and pregnancy. Those are a one-time dose that she
16 receives at the hospital before she leaves.

17 The HIV medication that we offer is
18 medication that she would take for 28 days. This
19 medication can make her extremely sick -- can make the
20 one who takes it extremely sick with nausea, vomiting,
21 diarrhea, very uncomfortable --

22 MS. REDDI: Objection, nonresponsive,
23 Your Honor.

24 THE COURT: Overruled.

25 Q. (BY MS. ROBERTS) Sorry. You can continue.

1 A. And this medication can potentially hurt the
2 liver or the kidneys after taking it for 28 days. So,
3 that's why when talking with our patients we inform
4 them that they would need to be able to go back to a
5 doctor a week later to monitor those -- those lab tests
6 to make sure that their body is able to take the
7 medication okay.

8 Q. Okay. And so, when taking all of these
9 medications at one time, is that something that's easy
10 on somebody's body or can that be difficult on
11 somebody's body?

12 A. Taking all the medications at the hospital at
13 one time can make them sick. It can make them very
14 sick to their stomach. It's quite a few pills. And
15 the HIV medication that they take can make them sick
16 for that month.

17 Q. And just to be clear, she accepted all of
18 these pills when she was there at the hospital?

19 A. When I finished my exam, she still had some
20 questions for the physician. And based on the medical
21 records that I was able to look at, it showed that she
22 did request to take the HIV medication and she did
23 request to take the STD medication.

24 MS. ROBERTS: Your Honor, may I have one
25 moment, please?

1 THE COURT: Yes, ma'am.

2 MS. ROBERTS: Your Honor, at this time
3 I'll pass the witness.

4 THE COURT: Ms. Reddi, are you going to
5 have questions?

6 MS. REDDI: Yes, sir, I do.

7 THE COURT: Okay. Hold on. I said we
8 were going to break for lunch at 12:30 and it's almost
9 12:30. So, instead of getting into some questions --
10 since we don't know how long that will last, we're
11 going to go ahead and take our lunch break now.

12 So, I'm going to ask you to step to the
13 back. It will probably be a few minutes before the
14 bailiffs get back to take you to lunch. I have a
15 couple of things for them to do. But as soon as we're
16 done with that, they'll come get you and take you to
17 lunch.

18 So, step to the back, please.

19 (Jury out for lunch).

20 THE COURT: All right. Take an hour for
21 lunch.

22 (Court recess).

23 (Jury in).

24 THE COURT: All right. You may be
25 seated.

1 Ms. Reddi?

2 MS. REDDI: Thank you, Your Honor.

3 CROSS-EXAMINATION

4 BY MS. REDDI:

5 Q. Ms. Oldham, are you part of the Memorial
6 Health System?

7 A. No, ma'am, not anymore.

8 Q. Okay. But were you at that time?

9 A. Yes, ma'am.

10 Q. Okay. Your job as a forensic nurse, it's
11 essentially to examine the people who come there,
12 victims of rape and so on and so forth, correct?

13 A. Correct.

14 Q. But you're not there to assess the credibility
15 of what they say.

16 A. I am not.

17 Q. Okay. You mentioned earlier that there was a
18 doctor that was also involved that Natalie wanted to
19 speak to. Who is that doctor?

20 A. When the patient comes into the hospital,
21 they're medically screened in the emergency room and
22 medically cleared by the emergency room physician. And
23 then once they are medically cleared to be seen by me,
24 they'll page me to come see the patient. And then I
25 will take care of the patient and do my medical

1 forensic exam. I'll come back -- take her back to the
2 emergency room. I'll discuss my findings with the
3 physician. And then if there's any other consult that
4 needs to be done after that, that would take place.

5 Q. Sure. So, which specific doctor were you
6 referring to? Because there's a Dr. Reichland and then
7 there's a Dr. Lawrence?

8 A. There was an emergency room physician. To the
9 best of my recollection called Amy Noland.

10 Q. Okay. I don't see her name, but -- all right.

11 My question to you is: The emergency
12 room physician also does an exam, correct?

13 A. They do a medical -- they do a medical
14 screening. They do not do a genital exam.

15 Q. You sure about that?

16 A. Usually in most cases before I see that
17 patient, there is -- the only person that they want to
18 preserve evidence --

19 Q. Sure.

20 A. -- so they wait for me to come see the
21 patient.

22 Q. Sure.

23 So -- but in this particular situation,
24 you don't know if there was a medical examination done
25 by a doctor or not?

1 A. I know that there was a consult brought in to
2 look at the anal tear. But I do not know if that was
3 before me or after me.

4 Q. Okay. Now, you classified what you found, the
5 red marks on her neck as an abrasion, correct?

6 A. Yes.

7 Q. Medical term, correct?

8 A. Correct.

9 Q. But when you say it's an abrasion, you do not
10 know what caused the abrasion, correct?

11 A. That's correct.

12 Q. And you have no way of telling the jury that
13 the abrasion was caused by X, Y, Z.

14 A. Correct.

15 Q. So, you notated the findings on the neck as an
16 abrasion.

17 A. Correct.

18 Q. And you notated the findings on her labia
19 majora? Am I saying it right?

20 A. Minora.

21 Q. Minora. Sorry. As an acute tear?

22 A. Correct.

23 Q. Now, are there other ways of describing your
24 findings? Like you said, it was a .3 centimeter acute
25 tear, correct?

1 A. Correct.

2 Q. Could it be called a superficial injury? What
3 would you call it?

4 A. I called it an acute tear.

5 Q. Which is not a superficial injury?

6 A. It can be a superficial injury.

7 Q. Okay.

8 A. Tears can have -- tears can be superficial.
9 They can also be deeper.

10 Q. Sure.

11 But when you used the word acute tear,
12 it's not superficial then?

13 A. Acute is referred to meaning recent.

14 Q. Got it. You just educated me. I had no idea.
15 I Just thought acute meant something severe.

16 A. No, it means recent.

17 Q. Recent. Okay. Thank you for explaining that
18 to me.

19 So, what you found then was a .3
20 centimeter tear. Which was superficial or was it deep?
21 Because you examined her.

22 A. This one would be considered superficial.

23 Q. Okay.

24 A. Relative to deep tears that I have found in
25 the past.

1 Q. Okay. And then what you had around, I guess,
2 the anal area, you said was a .7 centimeter, again,
3 acute tear. And was that superficial as well?

4 A. Yes.

5 Q. Now, you have examined many patients, right?

6 A. Correct.

7 Q. Many over the years?

8 A. Correct.

9 Q. And there are other ways for these tears to
10 get there, correct?

11 A. Correct.

12 Q. And could one possibly get a tear in the anal
13 area from scratching?

14 A. It's possible.

15 Q. Could you get the abrasions on the neck area
16 from scratching?

17 A. Yes.

18 Q. Could you get the tear in the -- I'll let you
19 pronounce it -- labia minora?

20 A. That's correct.

21 Q. From scratching?

22 A. It's possible.

23 Q. Okay. And when you're talking about a .3
24 centimeter tear, it's very small little tear, correct?

25 A. It's about one-third of the width of my index

1 finger.

2 Q. One third? Okay.

3 So, again, you're not telling this jury
4 how these tears got there.

5 A. Correct.

6 Q. Just that you observed superficial tears?

7 A. Correct.

8 Q. All right. As a part of your -- the medical
9 history, do you ask people whether or not they use
10 contraception?

11 A. I do.

12 Q. Did you ask Ms. Pineda that question?

13 A. I did.

14 Q. And what, if you remember, was her answer?

15 A. I'd have to refresh my memory.

16 Q. Do you mind if I actually show you your notes
17 here so you can refresh your memory?

18 Are these your notes?

19 A. They are.

20 Q. Do you know what she said?

21 A. It said birth control.

22 Q. Right here, correct?

23 A. Correct.

24 Q. Now, you said as a part of your -- one of the
25 things that happens to people that come in through your

1 office is that you do STD and HIV testing, correct?

2 A. We talk to them about STD and HIV prophylaxes,
3 preventing them.

4 Q. Okay. But you don't actually do the testing?

5 A. In adults -- at the time in 2009, we did not
6 test for sexually transmitted disease on adults.

7 Q. Okay. But is it a part of your procedure at
8 the hospital to ask them if they have been previously
9 tested?

10 A. I don't ask them.

11 MS. ROBERTS: Objection, Your Honor,
12 relevance.

13 THE COURT: Sustained.

14 MS. REDDI: Pass the witness, Your Honor.

15 THE COURT: Ms. Roberts?

16 MS. ROBERTS: Thank you, Your Honor.

17 Your Honor, may I approach the witness?

18 THE COURT: Yes, ma'am.

19 REDIRECT EXAMINATION

20 BY MS. ROBERTS:

21 Q. I'm showing you what's been marked as State's
22 Exhibit No. 20. Just let me know, are you familiar
23 with this -- with what these are?

24 A. The patient's medical records.

25 Q. Okay. And these are from the same date, the

1 December 8th, 2009?

2 A. Yes.

3 Q. Okay.

4 MS. ROBERTS: Your Honor, at this time
5 I'm going to offer State's Exhibit No. 20. These have
6 been on file for more than 14 days prior to trial with
7 a business affidavit. I'm going to tender to opposing
8 counsel.

9 MS. REDDI: No objections, Your Honor.

10 THE COURT: All right. State's 20 will
11 be admitted.

12 Q. (BY MS. ROBERTS) Now, Ms. Oldham, if another
13 doctor uses a term such as acute tear versus a
14 superficial injury -- I mean, are those just different
15 ways to describe the same thing?

16 A. Acute refers to the time, meaning recent.
17 Superficial can refer to the deepness.

18 Q. Okay. But could those two terms be used to
19 describe the same item just by two different people?
20 Somebody who's looking at -- versus the timing when it
21 happened versus just discussing a different part of it,
22 like two different descriptions almost?

23 A. You can use those terms for a tear. You can
24 say an acute tear. You can say a superficial tear.
25 But the meanings are different.

1 Q. Okay. But -- so, they can both be describing
2 the same thing?

3 A. A tear can be used by both words.

4 Q. Okay.

5 A. Can be described by both words. Sorry.

6 Q. Oh, no. It's okay.

7 Now, you were discussing with defense
8 counsel that the -- the tear that you saw on the
9 complainant's anus and the tear on the labia minora,
10 she was asking if both of those could have been from
11 scratching. How do you -- how do you determine -- or
12 how -- why do you write down what's in your report?

13 Like how did you determine what goes in
14 your report for these types of injuries?

15 A. Can you rephrase that?

16 Q. Yes.

17 MS. REDDI: Objection. Is that a
18 question or is she testifying?

19 MS. ROBERTS: I'll just rephrase.

20 THE COURT: Is that a legal objection? I
21 don't know.

22 Ask your question.

23 MS. ROBERTS: Yes, Your Honor.

24 Q. (BY MS. ROBERTS) Using the patient's history,
25 is that how you kind of determine what goes in your

1 report?

2 A. What I put in my report is the patient's
3 words. I also put in my assessment what I see as I'm
4 assessing the patient. So, when I see an injury, that
5 is what I would document.

6 Q. Okay. So, what we were talking about -- how
7 defense counsel said the anal tear could have been from
8 scratching. It could have also been by penetration
9 from a penis; is that correct?

10 A. Correct.

11 Q. Okay. And then for the labia minora, could it
12 also be from -- by somebody's rubbing or using their
13 fingers in somebody's vagina?

14 A. It's possible.

15 Q. Okay. So, both of those are consistent with
16 what the complaint was telling you?

17 A. Yes.

18 MS. ROBERTS: Your Honor, I pass the
19 witness.

20 THE COURT: Ms. Reddi?

21 RE-CROSS-EXAMINATION

22 BY MS. REDDI:

23 Q. Ms. Oldham, have you had a chance to look over
24 the officer's notes that state --

25 MS. ROBERTS: Objection, Your Honor.

1 This is going to be improper -- sorry -- improper
2 impeachment if she's talking about officer's notes.

3 THE COURT: Well, I don't know. Let her
4 finish her --

5 MS. REDDI: Your Honor, I don't believe I
6 said officer's notes. If I can completely sentence?

7 THE COURT: Okay. When y'all are
8 standing up to talk to me, y'all might want to let me
9 talk too. You did say officer. I'm looking at it
10 right here. It may have been a misspeak or whatever.
11 But ask your question. Finish asking your question.

12 MS. REDDI: May I approach, Your Honor?

13 THE COURT: Yes, ma'am.

14 Q. (BY MS. REDDI) Have you had a chance to look
15 at State's Exhibit No. 20?

16 A. I was able to look through it.

17 Q. Okay. And I'm going grab my copy really
18 quick.

19 If you could look at Page 2 of 3. Are
20 these the doctor's notes of Ms. Pineda -- examination
21 of Ms. Pineda?

22 A. The document name is consultation performed by
23 Elizabeth Lawrence, M.D.

24 Q. Okay. And if you could go over what exactly
25 is on the first page of that consultation that you're

1 looking at.

2 A. Page 1?

3 Q. Yes, ma'am.

4 A. It says consultation.

5 Q. All right. And what do you see? Do you see
6 the history of the patient?

7 A. History and present illness.

8 Q. Uh-huh.

9 A. Yes.

10 Q. Okay. And then on page -- then you see down
11 -- down below you see family history, social history
12 and so on and so forth, correct?

13 A. Yes.

14 Q. And when you flip over to Page 2, you see an
15 examination, correct?

16 A. I see an assessment.

17 Q. All right. And in that assessment, what do
18 you see right after neck? Do you see a description of
19 the injuries?

20 A. Neck says supple with no lymphadenopathy. She
21 does have a very superficial abrasion to her anterior
22 neck. There are no lacerations or swelling.

23 Q. Okay. If I might make this a little easier
24 for you here.

25 So, if you would point to the injuries on

1 the neck. It says specifically very superficial
2 injury, correct?

3 A. Correct.

4 Q. And going down to the rectal exam, what
5 specifically does it say there?

6 A. Superficial injury in the posterior region of
7 the endoderm and it measures slightly less than one
8 centimeter.

9 Q. All right. So, both those are documented as
10 very superficial and superficial injuries, correct?

11 A. It says superficial, correct.

12 Q. If you would flip over to the last -- let's
13 see.

14 I might have to approach.

15 MS. REDDI: May I approach the witness,
16 Your Honor?

17 THE COURT: Yes, ma'am.

18 MS. REDDI: My apologies, Your Honor. If
19 I might have a minute?

20 THE COURT: Yes, ma'am.

21 Q. (BY MS. REDDI) If you can tell the jury what
22 specifically this document is?

23 A. This is not my documentation. I know that
24 it's a medical record.

25 Q. Okay. That you had a chance to look at

1 earlier, correct?

2 A. I looked at it.

3 Q. All right. And is it part of the hospital
4 process where you see the screening of the patient?

5 A. This is not my documentation.

6 Q. You're not familiar with it?

7 A. I mean, I see it. I know that it's her
8 medical record. This is not my documentation. I don't
9 make documentation -- this is not what my documentation
10 looks like.

11 Q. Okay. But as -- the hospital screened her,
12 correct?

13 A. This is her hospital record.

14 Q. What does it say under screening up here?

15 A. Screening -- abuse screen: No, doesn't feel
16 safe at home.

17 Is isolation required? No symptoms or
18 risk factors identified.

19 Fall risk: None identified.

20 Have you previously been tested for HIV:
21 Yes. Results were negative.

22 Q. Okay. So, based on these records, Ms. Pineda
23 had been screened for --

24 MS. ROBERTS: Objection, Your Honor, to
25 relevance.

1 THE COURT: Sustained.

2 MS. REDDI: Pass the witness, Your Honor.

3 THE COURT: Ms. Roberts?

4 MS. ROBERTS: No further questions, Your
5 Honor.

6 THE COURT: All right. Thank you, ma'am.
7 You may step down and step outside.

8 Call your next witness please.

9 MS. ROBERTS: Your Honor, the State calls
10 Officer Shorten.

11 MS. ROBERTS: Your Honor, may this
12 witness be excused?

13 THE COURT: Ms. Reddi, will you need this
14 witness any more?

15 MS. REDDI: No, sir.

16 THE COURT: All right. She may be
17 excused.

18 Ms. Roberts?

19 MS. ROBERTS: Thank you, Your Honor.

20 DARCUS SHORTEN,
21 having been first duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MS. ROBERTS:

24 Q. Officer Shorten, can you please introduce
25 yourself to the jury?