

1 another witness is testifying. You also cannot discuss  
2 your testimony with each other or in the presence of any  
3 other witness.

4 So who is your first?

5 MR. BURDETTE: Dana Oldham.

6 THE COURT: Okay. If the other two will  
7 wait outside until your name is called, please.

8 Ma'am, you may take the stand.

9 If you will speak into the microphone, and  
10 be sure and keep your voice up.

11 THE WITNESS: Yes, ma'am.

12 THE COURT: You may proceed.

13 MR. BURDETTE: Thank you, Judge.

14 **DANA OLDHAM,**

15 having been called as a witness and being first duly  
16 sworn, testified as follows:

17 **DIRECT EXAMINATION**

18 **BY MR. BURDETTE:**

19 Q. Good morning, Ms. Oldham.

20 A. Good morning.

21 Q. How are you doing?

22 A. Good.

23 Q. Thank you for being here. Do me a favor and  
24 introduce yourself to the members of the jury.

25 A. My name is Dana Oldham.

1 Q. How are you employed?

2 A. Currently I am not employed, but I was employed  
3 with Memorial Hermann Health Care System from June of  
4 1999 until April of 2014.

5 Q. June of '99?

6 A. Yes.

7 Q. Okay. To April of 2014.

8 So, it's about 15 years?

9 A. Yes.

10 Q. In what capacity were you employed by Memorial  
11 Hermann?

12 A. The first 10 years, I worked at Memorial  
13 Hermann Northwest Emergency Room as a registered nurse.  
14 And the last five, I've worked as a forensic nurse in  
15 the forensic nurse SANE department.

16 Q. Tell us a little bit about your educational  
17 background that qualifies you to be an RN and a SANE  
18 nurse.

19 A. In 1999, I graduated with my associate's degree  
20 of nursing from Montgomery County College, and I also  
21 sat for the State exam and received my licensure from  
22 the Board of Nurse Examiners as a registered nurse. In  
23 2003, I graduated from the University of Texas Medical  
24 Branch with my Bachelor of Science in nursing. I am a  
25 verified provider of the Trauma Nurse Core Course

1 through the Emergency Nurses Association. I am a  
2 certified adult and certified pediatric sexual assault  
3 nurse examiner through the office of the Attorney  
4 General. And I am a certified pediatric sexual assault  
5 nurse examiner through the International Association of  
6 Forensic Nursing.

7 Q. Wow. Have you testified before?

8 A. I have.

9 Q. Okay. And you said you were licensed by the  
10 State of Texas; is that correct?

11 A. That's correct.

12 Q. Have you examined both children and adults who  
13 have been sexually abused?

14 A. Yes.

15 Q. What is the purpose of conducting a sexual  
16 assault examination?

17 A. A sexual assault exam allows us to diagnose and  
18 treat the patient and to look for an injury, also to  
19 collect and preserve evidence.

20 Q. Why is it important to diagnose and treat  
21 somebody who has been sexually assaulted?

22 A. A diagnosis and treatment plan helps guide us  
23 in what kind of treatment to give that patient. Whether  
24 or not they need to have prevention for sexual diseases,  
25 HIV. It guides us. That diagnosis and treatment helps

1 us formulate that care of plan.

2 Q. So besides STDs, what are some of the other  
3 risks that someone is exposed to when they're sexually  
4 assaulted?

5 MR. RUSHING: Objection. Relevance.

6 THE COURT: Overruled.

7 A. It can be pregnancy, sexually transmitted  
8 diseases, HIV, along with their emotional well-being.

9 Q. (By Mr. Burdette) Approximately how many sexual  
10 assault examinations have you conducted?

11 A. Approximately 860.

12 Q. Now, generally speaking, how is a sexual  
13 assault exam conducted? If you can just kind of walk  
14 the jury through how you come into contact with the  
15 patient and what happens from that point on.

16 A. When a patient presents to the emergency room,  
17 the nurse there calls our dispatch. And the dispatch  
18 pages the nurse on-call, and the nurse would respond to  
19 the hospital, introduce themselves to the patient, explain  
20 the exam, and get a consent form from the patient, a  
21 consent to do the exam.

22 Q. After the consent form is signed -- well,  
23 actually, let me touch on that quickly. It's -- you  
24 have to have that person's consent to conduct that  
25 examination; is that right?

1 A. Yes.

2 MR. RUSHING: Objection. Leading.

3 THE COURT: Sustained.

4 Q. (By Mr. Burdette) Do you have to have a  
5 person's consent?

6 A. Yes.

7 Q. Why?

8 A. This is a very invasive exam. And before we  
9 touch their body, or even do any invasive procedures, we  
10 want to have their permission.

11 Q. Do you work for law enforcement?

12 A. No.

13 Q. After you obtain a patient's consent, what's  
14 the first step in conducting a sexual assault  
15 examination?

16 A. Once we're in the exam room where it's just the  
17 patient and I, I begin by taking a history, which is  
18 simply asking them to tell me what happened. And it's  
19 their words. They give me that history, and it's for  
20 purpose of diagnosis and treatment of the patient.

21 Q. After you ask them about their medical history  
22 and about the specifics of what happened to them, what's  
23 the next step?

24 A. We do the physical exam. I have the patient  
25 undress and put on a gown, and I do a head-to-toe

1 assessment, looking for injury and documenting my  
2 findings.

3 Q. After the head-to-toe assessment, what's next?

4 A. I'll do a detailed genital exam on the patient,  
5 looking for injury. And as I go through these  
6 examinations, I will collect and preserve any evidence  
7 based on her history.

8 Q. Do you also document the examination as far as  
9 what questions you ask and the answers that are given as  
10 well as the procedures that the patient undergoes?

11 A. There is a medical forensic exam record that I  
12 document my findings on.

13 Q. In this case, were you asked to conduct an  
14 examination on a patient by the name of Andreanne  
15 Hernandez?

16 A. Yes.

17 Q. Did you conduct that examination?

18 A. Yes, I did.

19 Q. Did you also complete the exam record  
20 documenting that you performed that examination?

21 A. Yes, I did.

22 MR. BURDETTE: Judge, may I approach the  
23 witness?

24 THE COURT: You may.

25 Q. (By Mr. Burdette) Ms. Oldham, I'm showing you

1 what's been marked as State's Exhibit 44. Take a look  
2 at it and tell me if you recognize it (indicating).

3 A. Yes, I do.

4 Q. Is it a business record of Memorial Hermann?

5 A. Yes, it is.

6 Q. Was it made at or near the time of the events  
7 contained herein?

8 A. Yes.

9 Q. Was it made by a person with personal knowledge  
10 of the events contained herein?

11 A. Yes.

12 Q. Is it made in the ordinary course of business?

13 A. Yes.

14 Q. Is it kept in the ordinary course of business?

15 A. Yes.

16 MR. BURDETTE: Judge, at this time, State  
17 offers Exhibit 44 into evidence as a business record.  
18 I'll tender to opposing counsel for inspection.

19 **(State's Exhibit No. 44 Offered)**

20 MR. RUSHING: Judge, I will object to these  
21 pursuant to our previous conversations.

22 THE COURT: And that objection is  
23 overruled. State's Exhibit 44 is admitted.

24 **(State's Exhibit No. 44 Admitted)**

25 MR. BURDETTE: May I publish this

1 throughout the course of the testimony?

2 THE COURT: You may.

3 Q. (By Mr. Burdette) Ms. Oldham, will it aid your  
4 testimony to this jury if we're able to refer to this  
5 document to discuss the examination you completed on  
6 Andreanne Hernandez?

7 A. Yes.

8 Q. I don't know if it's easier for you to see this  
9 screen, but you have one just to the left of you as  
10 well. So we'll start here with the front page, Step 1.  
11 What do we have here?

12 A. This is the consent form for the medical  
13 forensic exam.

14 Q. And is this your name (indicating)?

15 A. That is correct.

16 Q. And Andreanne Hernandez, is that the patient?

17 A. Yes, it is.

18 Q. So she consented to this examination?

19 A. Correct.

20 Q. Step 2 is the -- what is Step 2?

21 A. Step 2 starts with getting the patient's name,  
22 their address, phone numbers, how they presented to the  
23 emergency room, their hospital number, law enforcement  
24 case number, the exam date, beginning time of the exam,  
25 set up their vital signs, their allergies, current



1 medications.

2 Q. Let me touch on a couple of those. What is the  
3 exam date?

4 A. The exam date is April 1st, 2012.

5 Q. Okay. What was the beginning time?

6 A. 12:50.

7 Q. Then moving down, we have a history of the  
8 assault. What is that and why do you ask that?

9 A. The history is the patient's words of what  
10 happened, and I ask that for diagnosis and treatment of  
11 my patient.

12 Q. Okay. Is it an open-ended question or is it a  
13 leading question?

14 A. It's an open question, "Tell me what happened."

15 Q. Do you write down what the patient tells you?

16 A. I write down word for word.

17 Q. Can you please read what Ms. Hernandez told you  
18 when you asked her what happened?

19 A. "Patient states, 'Someone, I don't know, kicked  
20 down the door. He choked my husband. He had me take  
21 off my pants. He put his penis into my vagina. He put  
22 his penis in my mouth. He put his penis in my vagina  
23 again and called my husband to watch. He put his penis  
24 in my vagina again in the bedroom. Then when we were  
25 walking in an alley, he made me suck on his penis with

1 my mouth. We ended up back in front of my neighbor's  
2 house and his penis went in my mouth. He kept smacking  
3 me upside the head with his hand.' "

4 Q. Does that statement help guide you in your  
5 examination of Ms. Hernandez?

6 A. Yes.

7 Q. The date of the assault we have here is what?

8 A. April 1st, 2012.

9 Q. And the time of the assault?

10 A. 3:30 in the morning.

11 Q. Now, before evidence collection, you ask a  
12 series of questions; is that correct?

13 A. That's correct.

14 Q. Why do you ask these questions?

15 A. That may or may not aid the crime lab.

16 Q. And there are checkmarks here. Does that mean  
17 that she had done those things?

18 A. Yes.

19 Q. So, here we see that she had urinated,  
20 defecated, had food or drink, brushed teeth, and that's  
21 it?

22 A. And changed clothes.

23 Q. And changed clothes. I'm sorry.

24 Then you ask questions about the time of  
25 the assault; is that correct?

1 A. That's correct.

2 Q. Did you ask if there was a contraceptive foam  
3 or spermicide present?

4 A. I did ask.

5 Q. What was the response?

6 A. "No."

7 Q. Did you ask if there was lubricant used by the  
8 assailant?

9 A. I did.

10 Q. What was the response?

11 A. "No."

12 Q. Did you ask about a condom and a tampon?

13 A. I did.

14 Q. Okay. What was her response?

15 A. "No."

16 Q. To both of those?

17 A. Yes.

18 Q. Did you ask her if she was menstruating?

19 A. I did.

20 Q. What was her response?

21 A. "No."

22 Q. Did you ask her if the assailant was injured  
23 during the assault?

24 A. I did.

25 Q. What did she say?

1 A. "No."

2 Q. Do you ask about ejaculation?

3 A. I did.

4 Q. And what did she say?

5 A. "No."

6 Q. And as far as penetration, what was her  
7 response whether or not there was penetration?

8 A. She said the penis went in her mouth and her  
9 vagina.

10 Q. Now, down here there's a checkmark or a  
11 question. Did you ask her if she was menstruating at  
12 the time of the exam or is that an observation that you  
13 made?

14 A. That's an observation.

15 Q. And what was the answer?

16 A. She was.

17 Q. Did you ask about sexual contact with anyone up  
18 to a week prior to the assault?

19 A. I did.

20 Q. And what was her response?

21 A. "None."

22 Q. And you asked about her last normal menstrual  
23 period. When was that?

24 A. Started March 24th, 2012.

25 Q. So about a week before?

1           A.    A few days before.

2           Q.    What was the complainant's general appearance,  
3 her behavior and affect?

4           A.    She was cooperative, makes good eye contact,  
5 and speaks clearly.

6           Q.    Next we see "Body Surface Injuries."  And this  
7 box is not checked, no body surface injuries noted.  It  
8 says, "See body diagram."  Is there a diagram where you  
9 noted injuries?

10          A.    Yes.

11          Q.    And that is the head-to-toe examination that  
12 you conduct?

13          A.    Yes.

14          Q.    Let's go to that diagram, then we'll come back.  
15 Flip to the body diagram.  Tell us what injuries you  
16 observed on Ms. Hernandez.

17          A.    On her left arm, I noted a 2-centimeter by  
18 1-centimeter black bruise.  On her right knee, I noted a  
19 1-centimeter by 1-centimeter red abrasion.  Her right  
20 lower leg, 4-centimeter by 4-centimeter red abrasion.  
21 On her right lower leg, 3-centimeter by 1-centimeter red  
22 abrasion.  And on her right foot, a 2-centimeter by  
23 3-centimeter point tenderness.

24          Q.    What is point tenderness?

25          A.    Point tenderness is when I palpate the patient

1 or touch the patient, she expresses that it is tender.

2 Q. Did you ask her about whether or not she could  
3 account for the different injuries?

4 A. When I was on the 4-centimeter by 4-centimeter  
5 red abrasion, she told me that she jumped over the  
6 fence.

7 Q. And then what about the tenderness on her foot?

8 A. She told me, "I think I hurt my foot when I  
9 jumped over the fence."

10 Q. Okay. Those are the only two injuries she  
11 accounted for?

12 A. Those were the two statements she gave me.

13 Q. After the head-to-toe examination, do you  
14 conduct a genital examination?

15 A. That's correct.

16 Q. Tell us a little bit about the genital  
17 examination.

18 A. The genital exam begins by having the patient  
19 lay on her back with her legs up. I use a piece of  
20 equipment called a culpascope, which has binocular  
21 vision and it looks like binoculars. And it's about a  
22 paper length away from the patient. And I use my eyes  
23 through those binoculars to look for injury to the  
24 patient. It begins with just inspection. And as I go  
25 through, I take each structure looking at the structure

1 for injury. Part of this exam was by inserting a  
2 speculum, which is like for ladies who go and have PAP  
3 smears at their doctors. And as I go through this exam  
4 looking for injury, I also collect evidence, collect and  
5 preserve evidence by swabbing.

6 Q. Did you document that Ms. Hernandez had  
7 injuries during the genital examination?

8 A. I did.

9 Q. Where were those injuries?

10 A. To the labia minora.

11 Q. What kind of injury was it?

12 A. It was a 0.2-centimeter by 0.2-centimeter red  
13 acute abrasion at 5:00 o'clock.

14 Q. Since we're not all nurses, I'm going to put a  
15 diagram up here and ask you to walk us through the  
16 genital examination in a little bit more detail.

17 A. Okay.

18 Q. What do we see here on the left-hand side --  
19 well, in the center of the screen (indicating)?

20 A. This would show a picture of a female patient  
21 laying back with her knees up. Is there a way to --

22 Q. Push on the screen and you can draw on it.

23 A. This area here is the labia majora  
24 (indicating). It's the fatter outer lips, which is the  
25 beginning of the female genitalia. The labia minora is

1 this here, which is inside -- they're the thinner lips,  
2 which is inside the female genitalia. Right here is the  
3 opening, the urethra, which is where urine is passed or  
4 where you pee from. This here is a collar, sometimes a  
5 partial collar, called the hymen, but it does not cover  
6 the opening to the vagina. The vagina is right past  
7 that hymen, and that is the canal that the babies pass  
8 through. Down here is the anus, which is a muscle that  
9 relaxes to allow the passage of stool or where you poop  
10 from (indicating).

11 Q. Then let me erase that. And talk to us about  
12 the injury that you noted.

13 A. If you look at the genitalia, with the top  
14 being 12:00 o'clock and the bottom being 6:00 -- you  
15 look at it like a clock -- on that inner structure of  
16 the labor minora, there is .2-centimeter by  
17 .2-centimeter red acute abrasion, and it's at 5:00  
18 o'clock.

19 Q. Is that an area that is prone to damage if  
20 somebody is sexually assaulted?

21 A. While it's uncommon to find injury in sexual  
22 assault, the most common place to find it, if you find  
23 it, would be between 5:00 and 7:00.

24 Q. So, fair to say -- well, is it fair to say with  
25 that type of injury, that is consistent with somebody



1 being sexually assaulted?

2 A. It is consistent.

3 Q. Was it also consistent with the patient's  
4 medical history that she gave you?

5 A. It is.

6 Q. After the genital examination, do you move on  
7 to evidence collection?

8 A. Evidence collection takes place during the  
9 course of both exams. So, as I'm assessing, I collect  
10 as I go.

11 Q. Okay. Talk to us a little bit about the  
12 evidence collection done in this particular case.

13 A. Based on her history that she told me, that's  
14 how I direct my evidence collection. So, because she  
15 told me that a penis went in her mouth, I do collect  
16 oral swabs, collect four with an oral smear, collect  
17 four vaginal swabs with a vaginal smear, pubic hair  
18 combings and comb, four anal swabs and an anal smear,  
19 saliva swabs, which is on the inside of her cheek in her  
20 mouth. I also collected dental floss and had hair  
21 combings.

22 Q. The saliva swab, is another word for that  
23 buccal swab?

24 A. Yes.

25 Q. That's just where you swab the inside of

1 someone's cheek?

2 A. Yes.

3 Q. Is that very invasive?

4 A. No.

5 Q. Once all the evidence is collected, what do you  
6 do with it?

7 A. Once the evidence is collected and dried, I  
8 package each set individually into its own box. So all  
9 the vaginal swabs go into a box after they've been  
10 dried. I seal the box, I put it in an envelope, which I  
11 seal and initial, and all the evidence goes into a  
12 sexual assault exam kit where it's sealed and initialed.

13 MR. BURDETTE: Judge, may I approach the  
14 witness?

15 THE COURT: You may.

16 Q. (By Mr. Burdette) Ms. Oldham, I'm showing you  
17 what's been marked as State's Exhibit 36. Can you take  
18 a look at it and tell me if you recognize it  
19 (indicating)?

20 A. I do.

21 Q. How do you recognize it?

22 A. This is the box -- this is the kit that I  
23 filled out and initialed, collected.

24 Q. Do you recognize your signature here  
25 (indicating)?

1 A. I do.

2 Q. And what hospital were you working at?

3 A. Memorial Hermann Southeast.

4 Q. And the patient's name there (indicating)?

5 A. Andreeanne Marie Hernandez.

6 Q. And then is this box sealed up and left in a  
7 secure location?

8 A. Yes.

9 Q. What happens after you seal it up and put it in  
10 that secure location?

11 A. It's in a secure location and then law  
12 enforcement will come to have it released to them.

13 Q. And then after that, it's in law enforcement's  
14 custody?

15 A. Correct.

16 MR. BURDETTE: Judge, at this time, State  
17 offers State's Exhibit 36 into evidence. I'll tender to  
18 opposing counsel for inspection.

19 **(State's Exhibit No. 36 Offered)**

20 MR. RUSHING: No objections, Judge.

21 THE COURT: That was 36?

22 MR. BURDETTE: Yes.

23 THE COURT: State's Exhibit 36 is admitted.

24 **(State's Exhibit No. 36 Admitted)**

25 Q. (By Mr. Burdette) I'm not going to open this,

1 Ms. Oldham, but are the items that you mentioned you  
2 collected contained in this kit?

3 A. I put those in that kit.

4 Q. After the evidence collection is done and the  
5 kit's sealed up, is there a patient follow-up that is  
6 recommended?

7 A. There is.

8 Q. What was done in this case or what was she told  
9 about?

10 A. At the point of ending the physical and genital  
11 exam, I talk with the patient about her need possibly  
12 for shelter, women's advocacy groups that are available  
13 for her for counseling. We discuss the risk factors for  
14 pregnancy, sexually transmitted diseases, HIV, and talk  
15 about her getting home safely to a safe place.

16 Q. In these last pages here, is this documenting  
17 the transmittal of the sex assault kit from the hospital  
18 to HPD (indicating)?

19 A. That's correct.

20 MR. BURDETTE: I'll pass the witness.

21 THE COURT: Mr. Rushing?

22 MR. RUSHING: Thank you, Judge.

23 **CROSS-EXAMINATION**

24 **BY MR. RUSHING:**

25 Q. Ma'am, does your examination give you any idea