

1 down. Thank you so much.

2 Next witness, please.

3 MR. PENEGUY: Call Amanda Sappington.

4 THE COURT: From the State, please.

5 AMANDA SAPPINGTON,

6 having been first duly sworn, testified as follows:

7 DIRECT EXAMINATION

8 BY MR. PENEGUY

9 Q. Will you please introduce yourself to the
10 jury?

11 A. My name is Amanda Sappington.

12 Q. And, Amanda, what is your occupation?

13 A. I'm a forensic nurse at Memorial Hermann
14 Hospital.

15 Q. How long have you been a forensic nurse?

16 A. For four years.

17 Q. Before becoming a forensic nurse, what did
18 you do?

19 A. Before that, I was an emergency room nurse.

20 Q. How long had you done that?

21 A. For 11 years.

22 Q. Let's talk a little bit about how you
23 become a nurse. What type of training do you receive
24 in order to become a registered nurse?

25 A. I graduated from West Texas A&M University

1 with a Bachelor of Science in nursing and sat for a
2 state licensure examination to obtain my registered
3 nurse license in Texas.

4 Q. And are you currently licensed?

5 A. Yes.

6 Q. Do you still live right now currently in
7 Houston?

8 A. No.

9 Q. Where are you currently living?

10 A. I currently live in Manatoga, Canada.

11 Q. Is that where your husband's family is
12 from?

13 A. Yes.

14 Q. I want to talk to you a little bit about
15 being a forensic nurse. What does that mean?

16 A. A forensic nurse examiner is a specially
17 trained registered nurse that provides comprehensive
18 care for patients that have been victims of inflicted
19 trauma such as rape or shooting, stabbings.

20 Q. What type of training do you receive to
21 become a forensic nurse?

22 A. I received an additional 80 hours of
23 classroom education as well as 24 hours of well-child
24 visits, 24 hours of adult women visits, well-women
25 visits, and then some courtroom observation time, as

1 well as following other examiners around, and
2 performing examinations on patients.

3 Q. And throughout that training and
4 experience, did you become familiar with providing
5 forensic nursing services?

6 A. Yes. After I completed those hours and
7 after I completed ten pediatric examinations and six
8 adult examinations, I could submit my information to
9 the State office of the attorney general. And once
10 they review it, they certified me as a certified
11 adult certified pediatric sexual assault nurse
12 examiner.

13 Q. When were you certified?

14 A. In 2008.

15 Q. How many forensic nursing examiners are
16 there in the Memorial Hermann system?

17 A. There are about 10.

18 Q. What type of hours do you guys work?

19 A. We work 12-hour shifts on call.

20 Q. When you're on call, would you be home or
21 at another hospital? How do you receive calls?

22 A. We start at home. And then once we get the
23 first call, then we would go to whichever hospital
24 the patient was at.

25 Q. And is it common for you to respond to

1 patient calls?

2 A. Yes.

3 Q. And do you respond to these types of calls
4 that require your services on few or many occasions?

5 A. On many.

6 Q. When you get a call, what do you do?

7 A. When I first get the call, I call the
8 emergency room nurse. They give me a little bit of
9 information about the patient like the age, what room
10 they are in. And then I leave and head to the
11 hospital. Once I arrive at the hospital, I introduce
12 myself, explain the exam, and obtain consent from the
13 patient.

14 Q. Is consent something that has to be granted
15 on every single examination?

16 A. Yes.

17 Q. I want to talk to you specifically about an
18 examination on June 8, 2012. Do you remember that
19 incident?

20 A. Yes.

21 Q. And prior to testifying today, have you had
22 an opportunity to review some of your notes and the
23 report that you issued pursuant to that?

24 A. Yeah.

25 Q. Have you also had an opportunity to review

1 and go over some of the photographs that you prepared
2 during that examination?

3 A. Yes.

4 Q. Specifically in regards to the types of
5 services that you provide, what is your primary
6 focus?

7 A. The primary purpose of the medical forensic
8 exam is to provide medical treatment for the patient,
9 identify any injuries that may be present, and any
10 injuries that need to be repaired or fixed at that
11 time.

12 Q. I want to talk to you specifically about
13 the incident that you responded to on June 8, 2012.
14 Can you tell us what the patient's name was?

15 A. Patricia Moore.

16 Q. And can you tell us the date of birth that
17 you have for that patient?

18 A. Can I refer to my notes?

19 Q. Certainly.

20 MR. PENEHUY: Judge, may I approach
21 the witness?

22 THE COURT: You may.

23 MR. PENEHUY: At this time the State
24 would offer State's Exhibit Number 119 and a portion
25 of State's Exhibit Number 120. Both are records that

1 have been on file with the Court pursuant to business
2 record affidavit.

3 *THE COURT:* What is 119?

4 *MR. PENEGUY:* 119 is a forensic
5 examination report and 120 are photographs from the
6 forensic examination report.

7 *THE COURT:* Okay.

8 *MR. PENEGUY:* You want to approach?

9 *MR. SCOTT:* Yes.

10 (At the Bench.)

11 *MR. SCOTT:* We have we no objection to
12 119, your Honor.

13 *THE COURT:* Admit.

14 *MR. PENEGUY:* 120 is a series of
15 photographs specifically documenting injuries of
16 Patricia Moore Asberry. They list specifically some
17 of the physical injuries on her body and several
18 pages of this that I think are all admissible. Also
19 some colposcope photographs that show injuries to her
20 anus and vagina and there are only two of those
21 photographs that I believe are relevant. But since
22 they are part of a full page, Judge, I think they
23 need to be admitted. I can redact them but not at
24 this time.

25 *MR. SCOTT:* The limited number is

1 agreeable with us as to the redaction. So we have no
2 objection to the admission of the exhibit with that
3 understanding and prior to admission to the jury or
4 viewing by a jury that only those photographs we've
5 agreed on to admissibility of those in front of the
6 jury.

7 *THE COURT:* Of the packet, only two
8 are going to be published?

9 *MR. PENEGUY:* No, Judge, several pages
10 of physical injuries that are injuries to her arm,
11 legs, body.

12 *THE COURT:* So you have no problem?

13 *MR. SCOTT:* No.

14 *MR. PENEGUY:* That is a series of
15 about three pages, then two colposcope injuries.

16 *THE COURT:* Why are you objecting to
17 those?

18 *MR. PENEGUY:* We'll just offer those
19 photos, but I'll have to redact from the sealed
20 envelop.

21 *MR. SCOTT:* That is to be reacted and
22 the only two that would be allowed in are the two not
23 being redacted but not the whole packet?

24 *THE COURT:* Under the circumstances
25 I'll admit State's Exhibit Number 120.

1 MR. PENEGUY: Thank you, Judge.

2 (In open court.)

3 Q. (MR. PENEGUY) Ms. Sappington, I'm going to
4 show you what has been admitted into evidence as
5 State's Exhibit Number 119. Are you familiar with
6 these records?

7 A. Yes.

8 Q. And what is State's Exhibit Number 119?

9 A. It's the medical forensic exam records that
10 I did.

11 Q. Are those records that are kept in the
12 ordinary course of business by Memorial Hermann
13 Hospital?

14 A. Yes.

15 Q. Are they made by you or a person with
16 knowledge?

17 A. Yes.

18 Q. And are they accurate?

19 A. Yes.

20 Q. Referring your attention to what has been
21 admitted as State's Exhibit Number 120. Are you
22 familiar with these items?

23 A. Yes.

24 Q. What is State's Exhibit Number 120?

25 A. Photographs.

1 Q. Okay. Are they photographs that you made
2 during your examination of Patricia?

3 A. Yeah.

4 Q. Okay. Now, are some of these photographs
5 photographs of the outside of her body?

6 A. Yes.

7 Q. Now, prior to testifying today, you and I
8 have had an opportunity to look at these photographs
9 together; is that correct?

10 A. Yes.

11 Q. Now, I want you to describe for the jury
12 what type of photographs we're talking about.

13 A. Photographs taken during the exam include
14 on the body surface any injuries that a patient has.
15 So bruises, scratches, abrasions.

16 Q. Are the other types of photographs that are
17 also taken during the examination?

18 A. Also take genital photographs of any
19 injuries.

20 Q. And are some of those what we consider to
21 be sensitive?

22 A. Yes.

23 Q. And for the limited purpose of State's
24 Exhibit Number 120, we're only going to go into two
25 of those photographs and we'll publish those at a

1 later time.

2 Okay. I'm going to publish portions
3 of State's Exhibit Number 119. I'll bring you a
4 copy.

5 A. Thank you.

6 Q. Ms. Sappington, can you tell us the date,
7 for purposes of the record? Can you just touch the
8 bottom left corner of the screen? Try to touch the
9 bottom corner of it.

10 A. *(Complies.)*

11 Q. Okay. The other corner.

12 A. *(Complies.)*

13 Q. Thank you. All right. These are records
14 that come from where?

15 A. Memorial Hermann.

16 Q. Okay. And are they signed by the custodian
17 of records?

18 A. Yes.

19 Q. Who is that individual?

20 A. Sandra Sanchez.

21 Q. Does she maintain the records for forensic
22 examinations at Memorial Hermann?

23 A. Yes.

24 Q. Is she somebody that you know?

25 A. Yes.

1 Q. Is she a forensic nurse examiner?

2 A. Yes.

3 Q. What is this next page where we actually
4 get into the record?

5 A. This next page is the page for consent.

6 Q. Is it signed by the patient?

7 A. It is.

8 Q. Is it signed by you?

9 A. Yes.

10 Q. Where do you sign it?

11 A. My signature is on the right-hand side.

12 Q. Tell the jury the date of this examination.

13 A. It was June 8, 2012.

14 Q. Can you tell the jury what the date of
15 birth of the complainant was, the victim in this
16 case?

17 A. August 31st, 1957.

18 Q. How old was she?

19 A. 54.

20 Q. What's the next page of the records talk
21 about?

22 A. The next page, the top portion is patient
23 information that we obtain from each patient that
24 comes to the hospital, date of birth, phone number,
25 and then a set of vital signs. The rest of the pages

1 are patient history of the assault.

2 Q. Does it contain her disclosure to you
3 during the examination of the assault?

4 A. Yes.

5 Q. Can you tell us what time these records
6 were made?

7 A. The exam started at 5:15 in the morning.

8 Q. And do you have listed on here what your
9 understanding was of what the time of the assault was
10 as reported by the complainant?

11 A. Yes.

12 Q. What time was that?

13 A. Midnight.

14 Q. On what date?

15 A. The 8th of June. So, five hours before we
16 started.

17 Q. Some basic questions, but all of the
18 information that you have that you obtained and put
19 in this report, is that information that you obtained
20 from the patient, Patricia?

21 A. Yes.

22 Q. So what you include here are things that
23 you learned from her?

24 A. Yes.

25 Q. Does it include a disclosure of what type

1 of sexual contact was had?

2 A. Yes.

3 Q. What type of sexual contact was disclosed?

4 A. Oral, vaginal, and anal.

5 Q. Are these things that you are going to try
6 to check on when you're conducting your examination
7 of her? Are you checking her vital signs, her
8 welfare?

9 A. Yes.

10 Q. Are those general things that any nurse
11 would do, check somebody's injuries and their
12 welfare?

13 A. Yes.

14 Q. When you're doing it with a forensic
15 examination, what in particular are you also paying
16 attention for?

17 A. In particular the preservation of evidence
18 prior to the assessment of the patient or during the
19 assessment of the patient.

20 Q. So you meet with the patient. What happens
21 next?

22 A. After I obtain consent, explain who I am
23 and what it's for, ask the patient what brought you
24 to the hospital today, and that's where the patient
25 history comes from. Ask a couple of clarifying

1 questions, and then start a head-to-toe assessment
2 looking for any injuries on the body, and last do a
3 genital assessment looking for injuries there. Along
4 the way of the exam, evidence is collected. So
5 sometimes I need to palpate their arm, touch their
6 arm, touch their belly. If I need to collect
7 evidence, I do that before I touch them.

8 Q. Can you describe to the jury her general
9 appearance when she was presented for the
10 examination?

11 A. She was tearful at the beginning of
12 examination. She was just gazing at the wall during
13 history and fooling with the sheet and bouncing her
14 legs. I particularly remember her being fairly in
15 shock a little bit. Most of my patients aren't quite
16 stunned by the event by the time I get to see them.
17 I remember her being -- feeling like the assault was
18 pretty fresh, everything that had happened that
19 evening.

20 Q. How many -- just roughly, how many sexual
21 assault exams have you conducted?

22 A. About 800.

23 Q. So when you're talking about what you
24 remember about Patricia, it's what you remember from
25 when you met with her on June 8, 2012?

1 A. Yes.

2 Q. Let's talk about -- I mean, she signed
3 consent. Was she cooperative?

4 A. Yes.

5 Q. What part of the examination did you
6 conduct first?

7 A. The history.

8 Q. Okay. After the history, what do you do?

9 A. Then I start a head-to-toe assessment,
10 touching and feeling from top of head to the bottom
11 of the toes.

12 Q. Go from the top of her head to the bottom
13 of her toes?

14 A. Right.

15 Q. Did you denote any injuries to her head?

16 A. No.

17 Q. What about her shoulders?

18 A. No.

19 Q. Her arms?

20 A. Yes.

21 Q. What did you note on her arms?

22 A. She had multiple abrasions and bruising on
23 her arms.

24 Q. Did you take photographs of those?

25 A. Yes.

1 Q. Are some of those photographs what is
2 contained in State's Exhibit Number 120?

3 A. Yes.

4 Q. Can you describe the bruising on her left
5 arm?

6 A. She had -- I'm sorry. I can't read this
7 copy very well. She had four acute abrasions on her
8 left arm as well as a four-centimeter abrasion on her
9 arm and four more abrasions on the other side of
10 that, as well as swelling on her fingers.

11 Q. Did you document some of these external
12 injuries on a diagram that is part of the report?

13 A. Yes.

14 Q. Is that what you listed here as a body
15 diagram?

16 A. Yes.

17 Q. Can you show where you indicated the marks
18 on her arm on the screen to your right?

19 A. The arm here (*indicating*).

20 Q. Did these appear to be fresh injuries?

21 A. Yes.

22 Q. And did she seem to be experiencing some
23 type of pain associated with them?

24 A. I don't remember.

25 Q. As you went through the report, did you

1 look at -- you've got her left arm. Did you look at
2 her right arm?

3 A. Yes.

4 Q. Describe the right arm.

5 A. She had more abrasions on her right arm and
6 an area of point tenderness. The area of point
7 tenderness is the circled area.

8 Q. That is on her right forearm?

9 A. Correct.

10 Q. That is on the top part of her right
11 forearm, right?

12 A. Correct.

13 Q. Did you note any injuries to her back?

14 A. She had one bruise on her back.

15 Q. You mentioned some of the injuries -- what
16 were the injuries on her hand, on her left-hand?

17 A. She had some swelling on her fingers. So
18 that would be this, the two middle fingers, the ring
19 finger and the middle finger.

20 Q. Did you attempt to document these injuries
21 with photographs during your examination?

22 A. Yes.

23 Q. You talk about collection of evidence. Did
24 you handle her body and her clothing with care?

25 A. Yes.

1 Q. What do you do with the items?

2 A. The evidence collected?

3 Q. Uh-huh.

4 A. Most of the evidence collected is with long
5 Q-tips or swabs that are either moistened rubbed on
6 different areas of the body or inside the body, like
7 the mouth or vagina or anus.

8 Q. Did you preserve any items of clothing in
9 this case?

10 A. And I also collect her panties.

11 Q. What do you do with these items of evidence
12 that you collect?

13 A. All of the swabs and the panties go into
14 the rape kit box that we use.

15 Q. When you're collecting the evidence, are
16 you starting with the outside of the body and then
17 working yourself to the genitals?

18 A. Generally, yes.

19 Q. Let's talk a little bit about the actual
20 genital exam that you conducted in this case. Did
21 you preserve some of that evidence by attempting to
22 take swabs of the relevant portion?

23 A. Yes.

24 Q. When you were conducting the examination,
25 did you note any injuries to her genital area?

1 A. Yes.

2 MR. PENEGUY: Judge, we ask the Court
3 permission to let Ms. Sappington document some of
4 those injuries on a chart so they can understand some
5 of the parts of the body that she's referencing.

6 THE COURT: Does she need to step down
7 to do this?

8 MR. PENEGUY: Yes.

9 THE COURT: You can step down.

10 And, Mr. Scott, you can certainly
11 move.

12 Q. (MR. PENEGUY) Let's first talk about the
13 manner by which you conduct a genital examination.
14 How do you position the patient?

15 A. The patient starts on their back with the
16 feet up in stirrups just like when you go to the
17 doctor to get your well woman examination.

18 Q. And the type of examination that you do, is
19 it similar to an annual checkup?

20 A. It's similar but quite different.

21 Q. What is different about it?

22 A. When you go for your annual visits, they
23 kind of jump in, swab, and they're finished. This is
24 more than the 10-minute procedure. We look at every
25 little bit. Every structure is examined.

1 Q. Are you going slow?

2 A. Yes.

3 Q. Are you trying to document things as you
4 go?

5 A. Yes.

6 Q. Are you taking samples as you go?

7 A. Yes.

8 Q. The things that are the same to a regular
9 annual appointment, is that sitting back on the table
10 and putting your legs in the stirrups?

11 A. Yes.

12 Q. So you position her. Then what do you do?

13 A. The first thing I do is place my hands on
14 her labia majora, the outer lips, and palpate or see
15 if there's any injury. The next thing I do is
16 separate the labia majora to see the inside, looking
17 for any injuries or swelling as well.

18 Q. If you don't mind, will you draw a
19 representative structure of what you do and at least
20 help us understand the parts you're talking about
21 when you're conducting a genital exam?

22 A. So if you'll picture this as the legs and
23 this is the buttocks laying flat on your back. Start
24 with the labia majora or the outer lips. Work inside
25 to the labia minora or the inner lips. Initially we

1 look all around here, touch and see if there is any
2 injury. And move on to the inside like, labia
3 minora. Swab between these two, touch, see if there
4 is any injury.

5 Q. If you could, when we're talking about the
6 labia majora -- first when she first presented
7 herself and you began your examination, did you try
8 to photograph that with an instrument?

9 A. Yes.

10 Q. What is the instrument that you are using
11 to kind of take pictures as you go?

12 A. We use a colposcope, which is simply a
13 magnifier for us. I think it looks like binoculars
14 that you kind of fold up. It's on wheels, sits on
15 its own. It magnifies so you can see any genital
16 injuries that you can't see with the naked eye.

17 Q. Were you using a colposcope when you were
18 conducting this examination?

19 A. Yes.

20 Q. These photographs I have, right?

21 A. Yes.

22 Q. When you're conducting the examination, are
23 you trying to also tend to her, make sure she's okay?

24 A. Yes.

25 Q. What is happening as you go through the

1 first part of the examination?

2 A. After that, then I lightly apply pressure
3 to each side of the labia majora and labia minora and
4 spread it apart to look for any injuries that might
5 be on the inside of the labia minora. And then grab
6 the outside outer lips and pull them gently towards
7 me so I can look inside to see if there is any injury
8 on the tissue circling the vaginal vault, the hymen,
9 which doesn't cover it. So look in there as well.

10 Q. Can you show us that on the diagram?

11 A. So the hymen would be here, and the vaginal
12 vault would be inside there. And then down here
13 would be the anus where we pass stool or poop.

14 Q. Did you conduct an examination of this
15 patient's anus as well?

16 A. Yes. So once I'm done, I go ahead and have
17 the patient grab their knees, pull them to their
18 chest if they can, look at the anus, touching --
19 swabbing initially and then touching, looking for any
20 injury.

21 Q. Can you document on the diagram when you
22 were looking and examining Patricia where you began
23 to note injuries?

24 A. She had injury at the very end of her labia
25 minora -- actually in the space between her female

1 genitalia and her anus, her perineum, she had a tear
2 that started at the perineum and stopped at the labia
3 minora. She had two more tears right here, and she
4 had two bleeding tears on her anus.

5 Q. Can you document that?

6 A. I can write them all out.

7 Q. Sure.

8 A. *(Complies.)*

9 Q. Thank you.

10 Can you tell the jury the types of
11 injuries that were presented on this patient? Were
12 they substantial?

13 A. Yes. It was a substantial amount of injury
14 for a patient of sexual assault.

15 Q. And the injuries to the vagina, were they
16 consistent with the disclosure that there was
17 forceful sex with vaginal injury?

18 A. Yes.

19 Q. The injuries with the anus, was it
20 consistent with the disclosure that there was
21 forceful sex involving penetration of the anus?

22 A. Yes.

23 Q. Now, you denoted some injuries that are
24 between the vagina and the anus?

25 A. Yes.

1 Q. What part of the body are you talking
2 about?

3 A. The perineum.

4 Q. That's a small space, correct?

5 A. Yes.

6 Q. Are injuries to the perineum consistent
7 sometimes with a forcible rape situation?

8 A. Yes.

9 Q. I mean, there's obviously penetration. So
10 what type of contact would cause that injury?

11 A. The contact that causes the tears is blunt
12 force trauma. So like a pounding causes that again
13 to spread apart.

14 Q. So could that be caused by male genitalia?

15 A. Yes.

16 Q. You can take a seat.

17 A. *(Complies.)*

18 Q. When you diagram injuries for reporting
19 purposes, do you diagram them and do you describe,
20 like, an injury at 12:00 o'clock, like they are on
21 the face of a clock?

22 A. Yes.

23 Q. Did you diagram the injuries in your report
24 specifically with that type of language?

25 A. Yes.

1 Q. So for the injuries that presented
2 themselves on this patient, what types of injuries do
3 you see? Give me the locations you used for the
4 vagina.

5 A. There's a 2-centimeter bleeding tear that
6 comes from the perineum into the labia minora. So,
7 actually all the way into the vagina. But it's
8 definitely into the female genitalia.

9 Q. And that's because the genitalia is not
10 just penetrating into the vagina but into the labia
11 minora, correct?

12 A. Yes.

13 Q. Okay. So that injury is 2 centimeters from
14 the perineum to the labia minora, correct?

15 A. Correct.

16 Q. What else is on the vagina?

17 A. There is also a 1-centimeter bleeding tear
18 at 3:00 o'clock on the perineum.

19 Q. So if we're looking at the face of a clock,
20 we're talking about 12:00 being --

21 A. Put the 12:00 on your belly button. That's
22 where the 12:00 needs to be.

23 Q. So the 3:00 o'clock would be --

24 A. The 3:00 o'clock would be --

25 Q. -- at the right?

1 A. The left. Or on the right side of you,
2 yeah.

3 Q. Did you attempt to collect evidence from
4 these areas?

5 A. Yes.

6 Q. Did you secure that evidence in a rape kit?

7 A. Yes.

8 Q. When you collect evidence from that area,
9 what are you using?

10 A. Swabs that have been moistened with a
11 little bit of water.

12 Q. Are you -- you are careful when you are
13 swabbing that area, correct?

14 A. Yes.

15 Q. Because you're talking about something that
16 is very sensitive?

17 A. Yes.

18 Q. What about inside the vagina structure?

19 A. That is swabbed as well.

20 Q. Did you denote any particular types of
21 injuries there?

22 A. No.

23 Q. When you went to the anus, did you also
24 note injuries?

25 A. Yes.

1 Q. Can you tell us the location of the
2 injuries on the anus?

3 A. She had two bleeding tears. One was
4 .5 centimeters at 1:00 and then there was
5 .2 centimeters at 6:00 o'clock.

6 Q. As a forensic nurse examiner --

7 A. Yes.

8 Q. -- when you're conducting these types of
9 examinations, are injuries kind of the exception or
10 are injuries pretty much the rule?

11 A. Injuries are the exception.

12 Q. When you're presented with substantial
13 injuries like in this case, was there a lot to kind
14 of document?

15 A. There was a lot.

16 Q. Is it common or is it possible for someone
17 to have a sexual encounter or a sexual assault and
18 not show any injuries at all?

19 A. Yes.

20 Q. How is that?

21 A. The body is made to accommodate objects
22 that go inside the vagina. It has a lot of
23 elasticity, the female genitalia does, and is able to
24 stretch and not stretch beyond the capacity that it
25 tears.

1 The anus as well has the ability to
2 stretch and accommodate objects to go inside or out.
3 That's why we're able to have bowel movements and
4 pass stools without causing tears all the time. So
5 that muscle is able to relax as well and allow things
6 to go in without injury.

7 Q. But these types of injuries you said would
8 be caused by blunt trauma to the area; is that
9 correct?

10 A. Yes.

11 Q. What about somebody who might have sex
12 frequently? Would you expect them to have -- would
13 you expect one to have these types of injuries to the
14 vagina if they had sex regularly?

15 A. It's possible.

16 Q. Would it be less likely that they would
17 have tearing if they had regular sex, like to the
18 anus?

19 A. It would be less likely if they had regular
20 anal sex.

21 Q. To have tearing?

22 A. Yes.

23 Q. Why is that?

24 A. The muscle there would be more accustomed to
25 accommodating objects to go inside.

1 Q. When you went through your examination with
2 Patricia, after you were done did you take the
3 samples of the evidence that you collected, the swabs
4 and clothing, and place them inside a box for
5 purposes of evidence?

6 A. Yes.

7 MR. PENEГУY: Judge, may I approach
8 the witness?

9 THE COURT: You may.

10 Q. (MR. PENEГУY) Show you what has been marked
11 as State's Exhibit Number 121, ask if you recognize
12 that item.

13 A. Yes.

14 Q. And prior to testifying today, did you have
15 an opportunity to look at that and look within the
16 bag to the markings that are on the box specifically?

17 A. Yes. My name and initials are on the box.

18 Q. And does it relate to your examination in
19 this case?

20 A. Yes. Patricia Moore's name is on there as
21 well.

22 Q. And date of birth?

23 A. Yes.

24 Q. Does it reference to your report that you
25 made?

1 A. Yes.

2 Q. Does this box of evidence -- does it go to
3 the police department?

4 A. Yes.

5 Q. And at that point you don't have custody of
6 it anymore, correct?

7 A. Correct.

8 Q. But for the purposes of the case in this
9 investigation and what is written on the outside of
10 the box and not what is on the outside of the bag, is
11 this in the same or substantially the same condition
12 as when you submitted it?

13 A. Yes.

14 MR. PENEGUY: Judge, I'm going to
15 offer State's Exhibit Number 121. Tendering to
16 opposing counsel. Just for purposes of the
17 biological evidence.

18 MR. SCOTT: If it please the Court, we
19 would object unless -- until the chain of custody can
20 be established.

21 THE COURT: I'm sorry?

22 MR. SCOTT: We would object unless the
23 chain of custody can be established for this item,
24 121.

25 MR. PENEGUY: And, Judge, it's

1 secured, and we'd say that goes to the weight and not
2 the admissibility of it. She can certainly testify
3 as to items.

4 *THE COURT:* I sustain the objection.

5 *Q.* (*MR. PENEГУY*) With respect to State's
6 Exhibit Number 127 -- and I know that is not your
7 photograph -- but did you secure items of evidence in
8 this case that you recognize in State's Exhibit
9 Number 127?

10 *A.* Yes, the panties.

11 *Q.* During the course of the examination, you
12 had the opportunity to talk to Patricia and you were
13 able to listen to her disclosure and document the
14 injuries that you saw. Ultimately you weren't there
15 and can't tell us whether or not this sexual
16 encounter was consensual; is that correct?

17 *A.* That's correct.

18 *Q.* But would you classify these injuries as
19 being consistent with the disclosure she made of a
20 forced sexual encounter?

21 *A.* Yes.

22 *MR. PENEГУY:* Judge, I pass the
23 witness.

24 *CROSS-EXAMINATION*

25 *BY MR. SCOTT*

1 Q. I'm sorry. Was it Sappington?

2 A. Sappington.

3 Q. Sappington. All right. Thank you.

4 Amanda. I got that.

5 A. Yes.

6 Q. Where did you say you are living now?

7 A. In Manatoga.

8 Q. Wow. Poor you.

9 A. It's cold.

10 Q. When we're talking about the examination,
11 you talk about a person by the name of Moore; is that
12 correct?

13 A. Yes, sir.

14 Q. All right. And you're relating to the
15 ladies and gentlemen of the jury certain things that
16 were contained within the exhibits that had to do
17 with statements she made, correct?

18 A. Yes.

19 Q. You also, though, are testifying about
20 physical observations that you're able to make
21 without explanation, correct?

22 A. Yes.

23 Q. All right. In relation, you've documented
24 I think -- and I guess it's still up there --
25 markings that indicate bruising on her, parts of her

1 body, correct?

2 A. Correct.

3 Q. Are those two days old, one day old, three
4 or four days old? How old are they?

5 A. The bruising or the abrasion?

6 Q. I'm sorry?

7 A. The bruising or the abrasion?

8 Q. Your choice.

9 A. The abrasions are acute which means that
10 they happened sometime within the past six to
11 12 hours.

12 Q. The bruising?

13 A. From what Ms. Moore told me, happened in
14 the past six to 12 hours as well.

15 Q. Are you capable of differentiating between
16 what she told you and just by looking at the bruising
17 when they occurred?

18 A. No, not looking at the bruise in
19 particular, no.

20 Q. So once again then we're back to what
21 Ms. Moore told you then; is that correct?

22 A. Correct.

23 Q. All right. So you don't have a
24 professional opinion then as to the time that the
25 bruises might have occurred, correct?

1 A. No, I have no time for the bruise.

2 Q. Now, you've also told us about certain
3 internal injuries, I guess is the best way to
4 describe that or ask that, correct?

5 A. Yes.

6 Q. All right. I think you told us though that
7 in relation to the injuries, they might -- correct me
8 if I'm wrong -- they might or might not have occurred
9 in relation to consensual sex; is that correct?

10 A. I'm not sure what the question is.

11 Q. Okay. The injuries could have occurred
12 during consensual sex as well as nonconsensual sex,
13 correct?

14 A. That is correct.

15 Q. All right. Is there any impact that -- you
16 talked about certain relaxing of muscles and certain
17 things about the exam that you did. Does the
18 ingestion of alcohol and cocaine have any impact on
19 those muscle restrictions or issues that you
20 addressed?

21 A. It can.

22 Q. So that if a person was say high on
23 cocaine, crack, and a combination of alcohol, there
24 might be an entirely different reaction than if say a
25 person had abstained from any of those things,

1 correct?

2 A. Possible.

3 Q. Had you seen Ms. Moore at any time before
4 this particular occasion?

5 A. No.

6 Q. Have you seen her since this occasion?

7 A. No.

8 MR. SCOTT: Pass the witness, your
9 Honor.

10 MR. PENEGUY: Just briefly, Judge.

11 THE COURT: Tell me how briefly.

12 MR. PENEGUY: Very briefly.

13 THE COURT: Well, okay. Good.

14 REDIRECT EXAMINATION

15 Q. (BY MR. PENEGUY) Ms. Sappington, there was
16 a question about the timing on bruises versus
17 abrasions. Now, when you're talking about the
18 bruises, you're talking about the outside of the body
19 like the arms --

20 A. Yes.

21 Q. -- and legs?

22 A. The bruise on her back.

23 Q. When we're talking about abrasions, what
24 are we talking about?

25 A. Abrasions are caused from friction on the

1 skin. So when there is sheering of the skin surface,
2 an abrasion occurs. A bruise occurs when there is a
3 collection of blood underneath and causes -- that is
4 a bruise.

5 Q. Okay. The trauma to Patricia Asberry's
6 vagina and anus, are those abrasions?

7 A. No. Those are tears.

8 Q. In regards to the tears, can you give us
9 kind of a framework for the timing on those injuries?

10 A. Those would also be within six to 12 hours.

11 MR. PENEGUY: No further questions,
12 Judge.

13 MR. SCOTT: No further questions.

14 THE COURT: And you are excused.

15 Thank you so much for your time and testimony.

16 Next witness, please.

17 MR. PENEGUY: State will call Officer
18 Burton.

19 THE COURT: From the State.

20 JERALD BURTON,

21 having been first duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 Q. (BY MR. PENEGUY) Will you please introduce
24 yourself to the jury?

25 A. My name is Jerald Burton. I'm a sergeant