## IN THE SUPREME COURT OF THE STATE OF NEVADA

| JANET SOLANDER, | ) | CASE NO. 76228 |
| :--- | :--- | :---: |
| Appellant, | ) | Electronically Filed |
|  | Apr $17201909: 11$ p.m. |  |
| vs. | Elizabeth A. Brown |  |
| THE STATE OF NEVADA, | ) | VOLUME VII |
|  | ) |  |

## APPENDIX TO APPELLANT'S OPENING BRIEF

(Appeal from Judgment of Conviction (Jury Trial))

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Q Okay. So that would have been at the same time you were working at Buffalo Wild Wings?

A I started working with them a month before I quit Buffalo Wild Wings.

Q Okay. So the prosecution said you worked there for several months. How many sessions do you remember actually having with those two children?

A I don't know exact numbers, but I worked with them twice a week for the duration -- at least twice a week for the duration I worked with them.

Q Okay. And isn't it true that sometimes you had to cancel appointments because of your scheduling?

A I had to cancel one time because I had to go to the emergency room.

Q Okay. Now, let me ask you this just generally. What did you review in preparation for testimony today? Do you have any records that you reviewed?

A I was e-mailed notes from a prior questioning -- or a prior report I did on this case.

Q How many pages were those notes?
A I didn't say pages. It was on an email.
Q Okay. So was it a long email, a short email?
A It was a long email.
Q Who sent that email to you?
A The lawyer.

JD Reporting, Inc.

Q The prosecutors?
A Yes.
Q Okay. So tell me more about this email that you used -- first of all, beyond this email, did you review any documents in preparation for today?

A No.
Q Okay. So this email was notes of yours or notes of someone else?

A It was a blend of different -- so it started different -- let me try that again. The dates at the beginning of the email were prior to me working for this agency. I didn't pay attention to those. I paid attention to where it reviewed what I had reported and Jennifer had reported in the past.

Q Okay. So these were internal Shining Star notes?
A I believe they were a report to CPS.
Q Okay.
A Or an investigator that called us and contacted us.
Q Okay. Did Shining Star keep notes?
A Yes. Like our notes that we made?
Q Yeah.
A Yes.
Q Okay.
A I believe so. THE COURT: So the email, those weren't actually

JD Reporting, Inc.
notes you made?
THE WITNESS: No, ma'am.
THE COURT: Those were notes from CPS regarding your contact?

THE WITNESS: Yes. To my understanding.
THE COURT: Okay. So those weren't your own notes?
THE WITNESS: No. Like, they weren't my written
notes.
THE COURT: You hadn't composed those notes in other words?

THE WITNESS: No. No.
THE COURT: Okay.
BY MR. FIGLER:
Q Okay. But I just want to make clear. You made contemporaneous notes when you worked at Shining Star?

A I documented what we did.
Q Okay. And that would have been close in time to when you were interacting with these two children; right?

A Correct.
Q When was the last time you saw those notes?
A Since I turned them in.
Q And how long --
A Like, 2014.
Q So four years?
A Uh-huh.

THE COURT: You have to answer yes or no because it's a taped record.

THE WITNESS: Okay. Got it.
BY MR. FIGLER:
Q Do you know where those notes are today?
A No.
Q Okay. In your position, you were a mandatory reporter; is that correct?

A Correct.
Q Okay. So if you heard of anything that was abuse of any child or suspected abuse of any child, you would be required to report that directly to CPS; correct?

A Yes.
Q Okay. So if the two children, Kaeshia and --
A Demyer.
Q I'm just going to call him D. Demayra (sic)? It's a very interesting spelling too; isn't it? It really rolls off the tongue. So if these two children -- can I just call them $K$ and D so I don't keep messing up?

A It's fine.
Q Thanks. So if $K$ and D told you, Ms. Riley, the Solander kids are getting catheters put in them against their will, you would report that to CPS; correct?

A Correct.
Q And none of those children told you that; right?

A Correct.
Q Okay. And if they told you, Ms. Riley, they're breaking paint sticks over their butts and making them bleed, you would report that; correct?

A Correct.
Q And D and K never reported that to you; correct?
A Correct.
Q And you had them away from Janet Solander; correct?
A Correct.
Q And if I believe your testimony on direct, you said I believe it was that they were more open and honest with you when you had them away from Janet; correct?

A They were more open.
Q Open. Okay. All right. So you were talking about the demeanor of these children. Can you tell me, Ms. Castro, why they were placed in a foster home?

A My understanding was --
Q In the first place.
A -- drugs related to the biological mother, but I'm not a hundred percent on that.

Q Okay. Can you tell me what neglect or abuse they suffered from their biological family?

A No. I don't know that. I don't have that knowledge.
Q Can you tell me what their demeanor was in their biological home?

A No.
Q Okay. Did you review their medical passport from the foster care system or DFS system?

A No.
Q So your experiences and your observations are just based on those sessions that you did between, what is it, November and March or November and February?

A Correct.
Q Do you know the exact dates of your time with them?
A No.
Q Okay. That would've of course been documented in your Shining Star reports?

A Correct. The exact dates I worked with them.
Q And your exact observations at the time?
A Correct.
Q Do you know if Shining Star is still in operation?
A No, I do not know.
Q You don't know one way or the other?
A I do not know.
Q And you gave a name of a supervisor over there. What was her name? Diane something?

A Diane is the CEO.
Q Diane is the CEO. Do you know her last name?
A No. I don't remember.
Q Okay. How many employees did Shining Star have JD Reporting, Inc.
approximately? I don't need an exact number.
A $\quad 20$ to 30.
Q Okay. And did any of the other Shining Star employees have interactions with K and D ?

A Just the woman Jennifer.
Q That's it?
A Yes, to my knowledge.
Q Okay. And you don't have any information here today about Ava Solander; right?

A No.
Q And do you have any information for the jury about Amaya Solander?

A No.
Q And do you have any information for the jury about Anastasia Solander?

A No.
Q Do you know when the Burnett children were placed in the Solander home?

A No.
Q Do you know that the Burnett children came from a house with no running water?

A $\quad$ No.
Q Do you know that the Burnett children were not properly nourished at their biological home before they came into the Solander home?

A No.
Q Okay. Did you talk to any of the doctors or medical personnel who interacted with $K$ and $D$ at any time?

A $\quad$ No.
MR. FIGLER: Okay. Pass the witness.
THE COURT: All right. Any redirect?
MR. HAMNER: Yeah. Before I start, I'd like to
approach on a matter.
THE COURT: Sure.
(Conference at the bench not recorded)
THE COURT: All right.
MR. HAMNER: Thanks.
THE COURT: Nothing else, Mr. Hamner?
MR. HAMNER: No, Your Honor.
THE COURT: Did we have any juror questions for this witness?

All right. I'll see counsel at the bench, please.
(Conference at the bench not recorded)
THE COURT: And I'm going to hold these questions.
They may be better suited for other witnesses, and I do that if there's a juror question that may be better addressed by a subsequent witness. I hang onto it up here for that witness if it's not covered by the lawyers.

All right, ma'am, thank you for your testimony. Please do not discuss your testimony with anyone else who may JD Reporting, Inc.
be a witness in this particular case. And just to -- I'm sorry. I lost my train of thought. So do not discuss your testimony with any other witness in this matter. Thank you and you are excused.

THE WITNESS: Thank you.
THE COURT: All right. The State may call its next witness.

MS. BLUTH: Thank you, Your Honor. The State calls Areahia Diaz.

THE COURT: All right. MS. BLUTH: And may we approach, Your Honor, briefly? THE COURT: Sure.
(Conference at the bench not recorded)
THE COURT: And just for the record, Ms. Bluth, you had requested, correct, that the witness's --

MS. BLUTH: Yes. If I could make a record --
THE COURT: -- biological mother be allowed to -MS. BLUTH: Yes, Your Honor.

THE COURT: -- sit with her during testimony, and that's perfectly fine with the Court.

MS. BLUTH: Yes, Your Honor. So it was my request pursuant to the Nevada Revised Statutes that Areahia, since she's a minor, be able to have her biological mother Candace Barnowski [phonetic] sit with her during testimony. The defense was gracious enough not to object. We appreciate that, JD Reporting, Inc.
and the Court said that was okay.
THE COURT: Right.
And so we're going to go ahead and have the clerk administer the oath to the witness.

## AREAHIA DIAZ

[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Okay. Have a seat. State and spell both your first and your last name for us.

THE WITNESS: Areahia Diaz. A-r-e-a-h-i-a. My last name is D-i-a-z.

THE COURT: Thank you. And, Ms. Bluth, you may proceed. MS. BLUTH: Thank you. DIRECT EXAMINATION

BY MS. BLUTH:
Q Hi, Areahia.
A Hi .
Q Now, I know just from speaking to you a few times that you kind of have a quiet voice. So that microphone, that little black box in front of you, is a microphone. So as long as you keep your voice up, it'll pick up, and then everybody will be able to hear; okay?

A Okay.
Q All right. Thank you. How old are you?

A I'm 13.
Q Okay. And so what grade would that put you in?
A Sixth.
Q Sixth grade. Now, are you homeschooled or computer schooled? Tell me about that.

A Computer school. Yes.
Q What does that mean? Like, explain that to me.
A I do school online.
Q Okay. And what would be your favorite subject online?

A I don't really have a favorite subject.
Q No?
A No.
Q You like them all or -THE COURT: They're all boring; right?

BY MS. BLUTH:
Q Or you don't like them all?
THE COURT: If you are like me.
THE WITNESS: I'm neutral about it.
BY MS. BLUTH:
Q Okay. You like to read though, right?
A I do.
Q What types of books do you like to read?
A Any kind really.
THE COURT: Can everybody hear the witness okay?

MS. BLUTH: I'm showing all heads in the affirmative.
THE COURT: Or do we need to elevate the microphone
with a couple of books? Would that help?
JUROR: A little closer wouldn't hurt.
MS. BLUTH: Okay. If we could just do a couple books, Judge.

THE COURT: We might as well make these law books useful for something.

MS. BLUTH: Yeah. Right.
It's fine. [Unintelligible] but now that the mic is up, I think it'll be easier; okay?

A Okay.
MS. BLUTH: Okay. Thank you, Areahia.
BY MS. BLUTH:
Q So I want to talk about your brothers and sisters. Do you have any siblings?

A I do.
Q Okay. How many do you have?
A I have three younger ones and three older ones.
Q Okay. So I want to talk about your three younger ones if I could.

A Okay.
Q Start with the one that's closest to you in age.
What is her name and her age?
A Kaeshia, and I think she's 9 now.

Q Okay. And who would be next?
A Demyer.
Q Demyer. And it's kind of spelled differently; right?
It's D-e-m-y-e-r?
A Yes.
Q Okay. But we pronounce it Demyer?
A Yes.
Q All right. And how old is Demyer?
A 8 I believe.
Q Okay. And then who would be next?
A Novaleih.
Q And how old is Novaleih?
A I think 4.
Q Okay. Now, do you live with your biological mom?
A Yes, sometimes I do.
Q Okay. And then other times where do you live?
A My dad.
Q Okay. So you split time between your mother and your father?

A Yes.
Q And then your three -- your three younger siblings, where do they live?

A They live with their adoptive parents.
Q Okay. So I want to talk to you about a couple years ago. You and the siblings that we just spoke about, you guys
were in foster care; right?
A Yes.
Q And do you remember about how old you were when you went into foster care?

A I think about 8 or 9 .
Q And I think I already said this, but that was with Kaeshia, Demyer and Novaleih?

A Yes.
Q All right. And do you remember the reason of why you and your siblings went into foster care in the first place?

A We weren't in a good home. There was no electricity or water.

Q And during that time period, even though you were the big sister, did you also have a role in kind of raising your younger brother and sisters?

A Yes.
Q Let's talk about Kaeshia for a second. Who potty trained Kaeshia?

A I did.
Q And let's talk about Demyer. Who potty trained
Demyer?
A I did.
Q Now, Novaleih was just a little baby back then;
right?
A Yes.

Q So she was still in diapers?
A Yes.
Q All right. So I want to talk a little bit about some time in foster care. So eventually I'm going to talk to you and ask you some questions about when you went to the Solander home; okay?

A Okay.
Q Before you went to the Solander home, were you in anybody else's foster home?

A Yes.
Q How many other foster homes?
A One.
Q So now I want to turn your attention to I believe it would be about May of 2013. Would that be about the right time period you think that you were moved into the Solander's home as a foster child?

A I think so.
Q Okay. And you know what, I should have said this earlier, and I forgot to. So I apologize. If at any point in time I ask you a question that you don't understand, just let me know, and I'll rephrase it; okay?

A Okay.
Q And if at any point in time I get something wrong or incorrect, just correct me; okay?

A Okay.

Q All right. Thank you. So when you moved into the Solander home, who were the adults that lived in the house?

A Dwight, Janet and Danielle.
Q Okay. And who was Dwight? Like what was his role in the family?

A The foster dad.
Q And then who is Janet?
A The foster mom.
Q And I know this seems like a silly question, but do you see Janet here today?

A I do.
Q Could you just describe to me what she's wearing.
A She's wearing glasses and a pink sweater, I think. MS. BLUTH: Your Honor, may the record reflect the witness has identified the defendant?

THE COURT: It will.
MS. BLUTH: Thank you.
BY MS. BLUTH:
Q And then Danielle, what was her role in the family?
A She was Janet's daughter.
Q Okay. Now, was she, like, a grown-up, or was she a child?

A She was an adult.
Q Okay. And then we already talked about your siblings. So you said you were about 8 or 9 during that time JD Reporting, Inc.
period. How old would Demyer and Kaeshia have been during that period?

A I think 5 or 4.
Q Okay. And were there any other children in the home not, you know, not related to you?

A Yes.
Q Who were those children?
A Janet's three adopted children.
Q Do you know their names?
A I think so. Ava, Anastasia and Amaya.
Q Okay. And do you know about how long you lived in that home as a foster child?

A I think about a year.
Q Okay. When you were living there, Dwight, the father, was he at the home a lot, or did he come and go?

A He came and go.
Q Did he have a job where he traveled?
A Yes.
Q And then Janet, did Janet ever tell you what she did for a living, like what her position was?

A She said she was a nurse.
Q Okay. Now, besides your family, during this time period that you're with the Solanders, there aren't any other foster children in the home; correct?

A Yes.

Q It's just your little family and then the Solander adopted girls; is that right?

A Yes.
Q Okay. I want to ask you some questions about eating or being able to digest food. When you get to the Solander home, do you have any problems like eating food and digesting food?

A No.
Q Did you have any issues with being able to use the bathroom?

A No.
Q And, like you said, at this point in time you were about 8 were 9; is that right?

A Yes.
Q When's your date of birth? I should ask you that.
A March 14th, 2004.
Q Okay. So I want to ask you some questions about food and eating while you were at the Solander house during this time period that you were a foster child. If you were hungry, could you go into the kitchen freely and grab whatever you wanted to eat?

A Not that I remember.
Q Okay. Who was it that kind of controlled what you ate and when you ate?

A Janet.

Q I mean, you were given food; right?
A Yes.
Q Were you given like a breakfast, a lunch and a dinner?

A Yes.
Q Were there any -- did you ever seen any cameras either in the kitchen or pointing in the direction of the kitchen?

A Yes.
Q Do you remember where in the home they were located?
A There was one pointed to the kitchen on one of the walls. I don't know what it's called.

Q You don't know what the wall is called?
A It was I think -- it wasn't a wall, but it was part of an arch.

Q Oh, okay. Like an archway?
A Yeah.
Q Okay. And that camera faced the kitchen area?
A Yes.
Q Were you ever told why there were cameras in that area or in the home at all?

A I don't remember.
Q You don't remember being told?
A No.
Q Okay. Now, if you were hungry, let's say, you know,
it was between lunch and dinner or something, and you got hungry and wanted a snack, did you feel comfortable, hey, Ms. Janet, I'm hungry, can I have a snack?

A I don't remember ever asking for one.
Q Okay. But if you were hungry, did you feel like you could ask?

MR. FIGLER: Objection.
MS. MCAMIS: Objection. Objection. Asked and answered.

THE COURT: Overruled.
MS. MCAMIS: And speculative.
THE COURT: Did you ever get hungry between meals, like between breakfast and lunch or lunch and dinner when you were at home?

THE WITNESS: Not that I remember.
BY MS. BLUTH:
Q Now, when you did eat, could you eat as fast or as slow as you wanted?

A I don't understand.
Q That's okay. So, like, let's say you sat down for lunch or maybe dinner. Okay. Let's use dinner for an example. Could you eat at whatever pace you wanted to eat, or was there, like, rules or restrictions?

A There was a timer.
Q Okay. And who had the timer?

A It was on the microwave.
Q Okay. And who timed you while you ate?
A Ms. Janet.
Q Did she ever explain to you why she timed you while you ate?

A I don't remember.
Q Now, during the time period that you were a foster child with Janet, did you go to what we term, like, a regular school?

A Yes.
Q And what school was that if you remember the name?
A Darnell I think.
Q And that's just an elementary school?
A Yes.
Q Okay. When you first got to Darnell, when you would eat lunch, did you eat hot lunch at school, or did you bring like a packed lunch?

A I ate lunch at school.
Q Okay. And so would you bring your lunch to school, or did you get, like, you know, at the cafeteria when you can get in line, and I think it's called hot lunch? I don't know. It's been a little bit since I've been to elementary school, very little bit, but --

A I didn't bring my own lunch at first, no.
Q Okay. Did there come a point in time where you JD Reporting, Inc.
couldn't eat with your friends anymore?
MR. FIGLER: I'm going to object, Your Honor. Can we approach?

THE COURT: Sure.
(Conference at the bench not recorded)
MS. BLUTH: Sorry, Areahia.
MR. FIGLER: So just for the record, Your Honor, our
objection was the relevance.
THE COURT: Right. That's overruled.
MR. FIGLER: Thank you, Your Honor.
THE COURT: But, Ms. Bluth, you can rephrase your question.

MS. BLUTH: Thank you.
BY MS. BLUTH:
Q Did there come -- so let me back up a second. So originally when you started going to school at Darnell, did you eat lunch with your friends, just like any other kid?

A Yes.
Q Okay. Did there come a point when Janet accused you of stealing food --

MR. FIGLER: I'm going to object, Your Honor. It's
leading, and that's not what we discussed.
MS. BLUTH: We just discussed this.
THE COURT: Well, overruled. I want to back up on this whole --

So when you first were at Darnell, you got a hot lunch every day; is that right?

THE WITNESS: Yes.
THE COURT: Okay. And that hot lunch was provided by the school; correct?

THE WITNESS: [No audible response.]
THE COURT: Okay. So did they what, pass out the hot lunch to you and some of the other students?

THE WITNESS: We went in a line and grabbed them ourselves.

THE COURT: Okay. Go on, Ms. Bluth. BY MS. BLUTH:

Q Okay. So and then after you grabbed your food, you could go sit with your friends; right?

A Yes.
Q Okay. Did there come a point in time when you couldn't sit with your friends anymore?

A Yes.
Q And did Janet -- because Janet had accused you of stealing food from your friends?

A Yes.
Q So I want to talk to you now about toileting at the Solander house; okay. When you get to the Solander home, so it would be about May of 2013, and then I apologize if these seem like silly questions, but as an 8 or 9 year old, you are what
we call potty trained; right?
A Yes.
Q Okay. And then Kaeshia, was Kaeshia potty trained?
A Yes.
Q And then, what about Demyer? Tell me about him.
A Yes. But he would only occasionally at night have an accident.

Q Okay. And would that be like when we say accident, with that be pee the bed, or do we mean pee and poop?

A No, he would just pee the bed.
Q Okay. All right. After you've been -- so once you get to the Solanders and after you've been there for a period of time, do all three of you start having toileting issues?

A Yes.
Q And when I say the three of you, I mean Kaeshia, Demyer and you. I'm not going to talk about Novaleih, okay, because she was a baby.

THE COURT: So I'm assuming Novaleih, as a baby, is in diapers, like any baby would be; is that right?

THE WITNESS: Yes.
THE COURT: Okay.
BY MS. BLUTH:
Q So when you would -- like when you would have to go to the bathroom, could you just use the bathroom freely, or did you have to ask?

A I asked.
Q And who would you ask?
A Janet.
Q Okay. You had just said like before you got there you didn't have any issues with going to the bathroom, and then once you were there for a while, you did. Why was that?

A Can you rephrase the question, please.
Q Yeah. So I had asked you earlier, like before you got to the Solander house, you said you never had any issues going to the bathroom. You were good; right?

A Yes.
Q And then after you were at the Solanders for a period of time, you started having some issues with going to the bathroom.

A Yes.
Q Why is that?
A I still don't understand.
Q That's okay. You're doing a good job telling me you don't understand. Keep doing that until I get it right; okay?

A Okay.
Q So once you got to the Solanders, did you have a few accidents?

A Yes.
Q Did you feel okay asking Ms. Janet if you could go to the bathroom, or did you feel scared?

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A I don't remember.
Q Okay. THE COURT: Can I see counsel.
(Conference at the bench not recorded)
BY MS. BLUTH:
Q Okay. All right. So let me ask you some questions about toilet paper. When you were at Janet's house, could you use as much toilet paper as you wanted?

A Say that again, please.
Q When you were at Janet's house and you went to the bathroom, could you use as much toilet paper as you wanted?

A No.
Q Okay. How did that go? How did -- sorry. Go ahead.
A She would give us it. She would give us the toilet paper herself.

Q Okay. And so would you get a certain amount of toilet paper for if you went pee or if you went Number 2?

A Yes.
Q And how much would you get if you went pee?
A Three or four squares.
Q And how much would you get if you went Number 2?
A Six. That's all I remember.
Q Okay. Now, you talked about when you and your siblings were eating that Ms. Janet used a timer while you were eating. Were you timed to when you went to use the bathroom as JD Reporting, Inc.

A I don't remember.
Q I want to ask you some questions in regard to Demyer and Kaeshia. During this same time period, this 10 months to a year that you were with Janet and Dwight, did they also begin having accidents in their pants?

A Yes.
Q And would Janet discipline them if they had an accident in their pants?

A Yes.
Q How would she discipline them?
A She would put them in timeout.
Q Okay.
A Or make them go take a shower to clean themselves off.

Q Okay. And what physical discipline would she use?
A She would drag them up the stairs.
Q How would she drag them?
A By their hair. Or if they were walking slow, she would kick them up the stairs.

Q On Saturdays, would you have what's called, like, a visitation where you would get to go spend time with your mom?

A Yes.
Q Was it and your dad or was it just your mom? I don't know.

A Sometimes my dad, yeah.
Q Okay. Was there a time during one of those visitations where you had an accident in your pants?

A Yes.
Q Okay. And during this time period, were you also seeing a counselor by the name of Lori Wells?

A Yes.
Q Was Lori there at that visitation when you had that accident?

A Yes.
Q When you had the accident, were you still with your mom and Lori, or was Janet there?

A I was still with my mom and Lori.
Q Okay. How did you feel about Janet finding out that you had had an accident?

A I panicked.
Q Okay. Why did you panic?
A Because I didn't want to get in trouble.
Q In trouble with who?
A Janet.
Q Did you feel like you could talk freely about what was going on at the Solander home?

A No.
Q Why not?
A I don't understand.

Q So like when you would be at visitation and you would see your mom, or if you went to a counseling session with Ms. Lori, did you feel like you could say to her, hey, this is going on at the Solander home. My brother and sister are being kicked --

MR. FIGLER: I'm going to object, Your Honor. The point is made. We don't need to lead.

THE COURT: Well, overruled.
BY MS. BLUTH:
Q So do you understand my question Areahia, or do you want me to rephrase it? I was interrupted.

A Can you, please.
Q Sure. So when you would be at visitations with your mom or if you would be at maybe a counseling session with Lori, did you feel like you could talk about some of the things that were happening at the Solander home, like what was going on with your brothers and sisters?

A No.
Q Why not?
A I was told not to.
Q Who told you not to talk about it?
A Janet.
Q Now, did Janet ever monitor whether or not you having accidents, like, in your underwear?

A What do you mean?

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Q Like would Janet ever check your underwear?
A Yes.
Q And when she would check your underwear, would it be, like, on your body, or would you just be holding out your underwear?

A No. I would hold it out.
Q Okay. And how often would you have to hold out your underwear for Janet to check?

A I don't remember.
Q Was this something that happened every day? Every week?

MS. MCAMIS: Objection. Asked and answered.
THE WITNESS: I don't remember.
THE COURT: Overruled.
BY MS. BLUTH:
Q You said you don't remember?
A Yeah.
Q Okay. Did you have access, like, to your own clothing on your own underwear? Like, could you just go in the room and grab it?

A Not that I remember, no.
Q Who did those things?
A Janet.
Q What about, like, when you would shower? First of all, what would the temperature of your shower be?

A Warm.
Q And after you would get out of the shower, how would you dry off?

A With a towel.
Q Did anyone ever monitor your showering or watch you shower?

A Well, only once. Janet did to make sure I was actually cleaning myself.

Q Okay. Did you report that to Lori, that Janet had watched you shower?

A I don't remember.
Q Did you report to Lori that Janet was checking your underwear?

A I don't remember.
Q Were there any alarms up in the house anywhere?
A Yes.
Q Where were those at?
A There was one on my sister and brother's door.
Q Like in their room?
A Not in. On the door on the outside.
Q On the outside of their bedroom?
A Yes.
Q Okay. And did they have a different room than you did?

A Yes. Theirs was by mine.

Q And did Janet ever tell you why there was an alarm on your brother and sister's room?

A I don't remember.
Q When you got home from school, what would you do? Like, walk me through your day when you would get home from school.

A Um --
Q Like, would you go play? Would you do your homework?
A I would do my homework.
Q Where would you do your homework at?
A At a table in the kitchen.
Q And when you were doing your homework, where were the Solander girls?

A They would be beside me.
Q Okay. Now, if you looked to your side, could you see them, or was there anything, a barrier between you and them?

A I could see them.
Q I want to ask you a few questions about your interactions with your siblings while you were in the Solander house. Could you like pick them up and play with them?

A Not that I remember.
Q Like could you interact with them, or were you more kept separate?

A We were separate, separated.
Q And who kept you separate?

A Janet.
Q I want to ask you a few questions if I can about Amaya, Ava and Anastasia, the Solander adopted girls. The first day that you get to the Solanders' house, so your first day in their home, did you see the girls?

A Yes.
Q Okay. Now, was Janet there that day?
A No.
Q Okay. Did you try to talk to the girls, kind of figure out the situation?

A Yes.
Q And would they respond to you?
A No.
Q When you say, no, like they wouldn't respond at all, or --

A No. They changed the subject.
Q What types of questions were you asking them?
A Just where they slept and what they did, what they would do all day.

Q Okay. And they wouldn't answer those questions?
A No.
Q Okay. Now, can you explain to me during that time period what they looked like physically. Were they big girls? Small girls? Skinny girls? Large girls?

A They were skinny.

Q All three of them?
A Yes.
Q How would you say that you and your siblings were treated in comparison -- by Janet in comparison to how the Solander girls were treated?

MR. FIGLER: Your Honor, I'm going to object. That's an ambiguous question and calls for a narrative of sorts, and --

MS. BLUTH: She can answer that in one word. THE COURT: Overruled.

You know, what did you observe that was different about, you know, what the Solander girls had to do or were treated and what you and your siblings --

THE WITNESS: It was different from us.
THE COURT: Okay. Go on, Ms. Bluth.
BY MS. BLUTH:
Q How was it different?
A What do you mean?
Q So you just said that you and your siblings were treated differently than the Solander girls; right?

A Yes.
Q Were you guys treated better than the Solander girls, or were you treated worse?

MR. FIGLER: Your Honor, I'm going to object. That's a relative question. She could just describe the differences.

THE COURT: Well, overruled.
THE WITNESS: Better I would say.
MS. BLUTH: Okay. Thank you.
BY MS. BLUTH:
Q Were there times that you were there with the Solander girls that Janet wasn't there, and it was just Dwight?

A Yes.
Q Did the girls behave differently if just Dwight was there versus Janet being there?

A Not that I noticed.
Q Okay. Did you ever see any of the Solander girls throwing any tantrums?

A No.
Q Did you ever see them screaming uncontrollably?
A No.
Q Did you ever see them hurting each other?
A No.
Q Did you ever see them hurting anybody else?
A No.
Q How would you describe their behavior?
A They were quiet.
Q Now, did they go to the same school as you?
A No.
Q What school did they go to?
A They were homeschooled.

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Q Did Janet tell you why they were homeschooled?
A Yes. She said that they acted up at school and stole food.

Q You know, and I didn't ask you this, and I should've. I apologize. You testified earlier that Ms. Janet stated that you had stolen food from your friends. Did you steal food from your friends?

A No.
Q Could Ava, Amaya and Anastasia, could they roam freely around the house?

A No.
Q Where were they when you would see them most of the time?

A At the table in the kitchen.
Q Is that the table where you guys would do your homework?

A Yes.
Q Did Janet ever tell you -- well, actually strike that. Let me back up. When the girls would sit and do their homework, what would they sit on?

A When?
Q So let's talk about in the beginning when you got there. In the beginning when you got there, and they were doing their homework, what were they sitting on?

A Chairs.

Q At some point did that change?
A Yes.
Q And then what did they start sitting on?
A Buckets.
Q What did the buckets look like?
A They were orange, and they had toilet seats on them.
Q Do you remember anything being written on them?
A There was names on them?
Q Were they their real names?
A No.
Q What kind of names were they?
A I don't remember. I only remember one said, Gaga, but that's all I remember.

Q Okay. Did Janet ever explain to you why they were sitting on buckets?

A I don't remember.
Q When they would sit on the buckets, how long would they be sitting on them?

A All day. When I was there they would be.
Q They sat there all day?
A I guess. I mean, when I was there, they would be on them.

Q Okay. What about like at nighttime? Would they still be sitting in that area doing homework at nighttime?

A Yes.

Q Who went to bed first, you or them?
A I did.
Q When you went to bed at night, when you would, like, you know, leave downstairs and go upstairs, would they still be sitting there doing their work?

A Yes.
Q When they were doing their school work, did it ever -- did you ever see them getting help with their work?

A Not that I remember.
Q Do you ever remember them asking, like, hey, can someone help me or I need help?

A I don't remember.
Q What would happen if they got their homework wrong or an answer to their homework wrong?

A They would have to keep doing it until they got it right.

Q Who would make them keep doing it?
A Janet.
Q Were they ever disciplined for not getting their homework right?

A Sometimes.
Q How would they be disciplined?
A They would go upstairs and --
Q Well -- sorry. Go ahead. I interrupted you. What would you hear when they went upstairs?

A It would sound like they were getting hit.
Q Did you ever see any type of, like, implement? When I say implement, like a tool or anything in, like, Ms. Janet's hand?

MS. MCAMIS: Well, objection. Speculation. She just said they were upstairs and what she was hearing.

THE COURT: Overruled. She asked if she ever saw something in the defendant's hands.

THE WITNESS: Once.
BY MS. BLUTH:
Q Once?
A Yeah.
Q What did it look like?
A It was a stick. It was long and skinny. It was wood. That's all I remember.

Q A long skinny wood stick?
A Yeah.
Q Okay. When you saw Ms. Janet with that stick, where was she in the house?

A She was coming out of the pantry.
Q Okay. And when she came out of the pantry with the stick, where were the girls?

A Upstairs.
Q And then where did Ms. Janet go with the stick?
A She went upstairs.

Q Did you hear anything after that?
A Yeah. There were smacking sounds.
Q Did you ever see any marks or injuries on the girls?
A Yes.
Q Where did you see those at?
A On their arms and legs.
Q What did they look like?
A Bruises and scars.
Q Did you ever see the Solander girls, like, playing with toys or outside or anything like that?

A Not that I remember.
Q Did they ever get to have friends over?
A No.
Q Do you ever remember them getting to maybe go over to a friend's house?

A No.
Q While they were at that table, could they turn and speak to each other?

A No.
Q Could they turn and speak to you?
A No.
Q I want to ask you a few questions about bathroom issues with the Solander girls; okay. So would you say that that was a reoccurring issue in the house with those girls and having accidents?

A Yes.
Q Were they allowed to just go to the bathroom freely? A No.

Q How did they, you know, express, hey, I've got to go to the bathroom?

A They would put their hand up and wait for Janet to see their hands -- hand up.

Q Okay. And then would they ask?
A Yes.
Q Now, would Janet let them go every time they asked?
A No.
Q Can you kind of describe their demeanor when they would ask her. Do you know what the word demeanor means?

A I don't think so.
Q That's okay. So like a demeanor would be somebody if they're happy; they're sad; they're excited; they're scared. Like those are types of things that explain like someone's demeanor. So when the Solander girls would, you know, would raise their hand and wait to be called on, can you explain to me what their demeanor was like when they would ask Ms. Janet?

A I didn't really see their face.
Q Okay.
A So I don't -- I don't know.
Q Okay. When Ms. Janet -- would there be times when Ms. Janet would let them use the bathroom?

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A Yes.
Q And when they used the bathroom, would they go one at a time or all together?

A All together.
Q Now, do you know whether or not Janet timed them when they used the bathroom?

A No, I don't know.
Q And were you present when the Solander girls would have accidents in their pants or in the bucket, et cetera?

A Yes.
Q What would happen to them? What would Janet do to them if they had accidents?

A She would get mad, and they would have to go upstairs to get clean.

Q When she would get mad and they would go upstairs, would you hear those same type of noises that you were hearing before?

MR. FIGLER: I'm going to object. First of all, misstates the testimony. She said she would go upstairs to get cleaned.

MS. BLUTH: I understand that. I'm asking --
THE COURT: State your question again.
MS. BLUTH: So when the girls would have accidents and they would go upstairs, would you hear those same type of noises that she was explaining before when she saw Ms. Janet JD Reporting, Inc.

THE COURT: All right. She can answer.
But before you do, if one of the girls had an accident, did all three girls go upstairs together, or did just one girl go upstairs, or did you observe that?

THE WITNESS: I remember one, the one who did have an accident.

THE COURT: Okay. Go on.
BY MS. BLUTH:
Q Okay. And so the second part of my question is is when one girl would have an accident and she would go upstairs, would you hear those type of slapping noises?

A Sometimes.
Q Did you ever see any of the Solander girls in cloth diapers?

A Yes.
Q Can you explain what it was that you saw.
A They were cloth diapers.
Q And were they completely naked, or they had clothes on in a cloth diaper?

A They had shirts on.
Q And then a cloth diaper?
A Yes.
Q And who put them in the cloth diaper?
A Janet.

Q And when they were in the cloth diaper, like what were they made to do?

A They would sometimes be made to crawl around or say a chant. I don't remember.

Q Chant?
A I don't remember.
Q Okay. At some point in time, you were what's referred to as interviewed by the Department of Family Services. Do you remember that? Like, CPS?

A Yes.
MS. BLUTH: And Court's indulgence. One second, Your Honor.

BY MS. BLUTH:
Q Just one second. We're going to go back to that; okay? Did you ever see the girls' bottoms, like their butts?

A Yes.
Q What did their butts look like?
A They were bruised.
Q So, Areahia, I was asking you that, you know, you gave a statement to CPS, and do you remember what you said to CPS about the little chant that the girls were saying, or would looking at that help you to -- remind you?

A No. I remember that they said a chant, but I don't remember what it was.

Q Okay. Would looking at this document help remind you JD Reporting, Inc.
about what you said the chant said?
A I don't know.
Q Okay. Okay. If you could just read this right here to yourself, and then let me know when you're done, and I'll have a question for you; okay?

A I remember somewhat of it.
Q Okay. And what would the chant say?
A I'm a little baby, goo, goo, gaga.
Q Okay.
THE COURT: I don't know that -- can we all hear?
JUROR: I couldn't hear that. No, Your Honor.
BY MS. BLUTH:
Q Could you say it a little bit louder, Areahia.
A I'm a little baby, goo, goo, gaga.
Q Do you remember them having pacifiers in their mouth as well?

A I remember once.
Q Do you remember what you told the interviewer about what the girls' bottoms looked like? What their butts looked like?

A No.
Q Okay. Would looking at your statement help remind you as to what you said?

A I don't know.
Q Okay. Page 36. If you could just read this to JD Reporting, Inc.
yourself, and then let me know when you're done, okay, and I'll have a question for you?

MR. FIGLER: Counsel, can you show us where on page 36 you're referring.

MS. BLUTH: Sure. It's line 26.
MR. FIGLER: That doesn't match up with ours. I just want to make sure we're using the same document.

MS. BLUTH: Areahia Diaz second -- sorry, second
interview, page 36, line 26. Do you want to see it?
MR. FIGLER: If you'd give us just a second.
MS. BLUTH: Sure.
MR. FIGLER: Your Honor, can we have the indulgence of the Court to identify the document?

THE COURT: Sure.
And while the --
Actually, may I see counsel at the bench.
MR. FIGLER: Court's indulgence.
(Conference at the bench not recorded)
THE COURT: Ladies and gentlemen, we're going to go ahead and take our lunch break. We will be in recess for the lunch break. It's now 12:10. So let's just go till 1:15 for the lunch break.

During the lunch break, you are reminded that you're not to discuss the case or anything relating to the case with each other or with anyone else. You're not to read, watch or

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listen to any reports of or commentaries on the case, any person or subject matter relating to the case. Do not do any independent research by way of the Internet or any other medium, and please don't form or express an opinion on the trial.

Please place your notepads in your chairs and follow Officer Hawkes through the double doors. We'll see everybody back at 1:15.
(Jury recessed 12:12 p.m.)
THE COURT: And Areahia --
And you folks can have a lunch break too obviously. But, Areahia, during the lunch break, don't talk about your testimony with anybody; okay?

THE WITNESS: Okay.
(Pause in the proceedings)
THE COURT: All right. You guys can go to lunch, or
I don't know if you want them back in your office or -MS. BLUTH: No.

THE COURT: Okay.
MS. BLUTH: Just go in the side room so I can explain.

THE COURT: Okay.
MR. FIGLER: If we could make our record at the tail end or maybe another break, we just have some records, Your Honor --

THE COURT: Okay. Yeah. Let's break. Okay. (Proceedings recessed 12:14 p.m. 1:28 p.m.
(In the presence of the jury)
THE COURT: All right. Court is now back in session.
The record should reflect the presence of the State, the defendant and her counsel, the officers of the court and the ladies and gentlemen of the jury.

And, Areahia, you are still under oath. Do you understand that?

THE WITNESS: Yes.
THE COURT: All right. Ms. Bluth, you may resume your direct examination.

MS. BLUTH: Thank you, Judge.
BY MS. BLUTH:
Q Okay. Areahia, I want to back up just a little bit and just ask you a few follow-up questions to some of the things that -- some of the areas that I had gone in before. Okay. So the one thing that I wanted to ask you to look back to is I talked to you about that first day you were at the Solander house, and you said Janet wasn't there.

A Yes.
Q On that day did you see the girls playing with any toys or coloring or anything like that?

A They were coloring, but no toys.
Q Okay. But were they coloring in, like, coloring JD Reporting, Inc.
books or just like a piece of paper, or what it was it?
A A coloring book.
Q Okay. Did you ever see them color after that again? A No.

Q When you talked about after either Kaeshia or Demyer had had an accident on themselves, you said that one of the ways Janet would punish them is by either pulling them by their hair up the stairs or kicking them up the stairs. What was --

MR. FIGLER: I'm going to object, Your Honor. That does misstate the testimony. There was an incident that was testified to, and it was singular.

MS. BLUTH: No.
MR. FIGLER: That misstates the testimony.
THE COURT: All right. Well, that's overruled.
And, ladies and gentlemen, from time to time, there may be a dispute between the lawyers as to what the testimony was. I may not remember it. I may remember it incorrectly. So regardless of what I say or the lawyers say as to what the testimony was, it's your recollection that should control in your deliberations. If you remember it differently from what a lawyer says, that's what controls.

All right. Go on, Ms. Bluth.
MS. BLUTH: Thank you.
BY MS. BLUTH:
Q So, Areahia, let me break it up. When you talked JD Reporting, Inc.
about Janet grabbing Kaeshia or Demyer by the hair and pulling them up the stairs by their hair, did that happen one time or more than one time?

A More than one time.
Q When you talked about Janet kicking your little brother and little sister up the stairs, did that happen one time or more than one time?

A More than one time.
Q Can you explain to me what their demeanor would be, so how they were acting when they were either getting pulled by the hair up the stairs or kicked up the stairs?

A They were crying.
Q I had asked you some questions about when the Solander girls were in the cloth diapers and, you know, they were doing that chant while they were crawling. Did that happen one time or more than one time?

A More than one time.
Q Okay. When that would happen, how was it that you were watching? Like, were you in the same room? Were you called to watch? How did that work out?

A Do I -- could you repeat it, please.
Q Sure. So when they Solander girls, you know, were crawling around and they were made to act like babies, first of all, who made them do that?

A Janet.

Q Okay. And how is it that you were able to watch that? Were you asked to watch it? Were you just in the same room?

A I don't remember if we were asked or not, but I remember that we were standing up, and we watched them.

Q Okay. Okay. So what adults in the house were there when that would happen?

A Janet and sometimes Dwight.
Q Okay. What was the demeanor of the Solander girls when they were doing that?

A They were crying.
Q When we broke for lunch, there was a piece of paper in front of you, and I had asked you what the girls' bottoms looked like, and I asked you that if you looked at the statement you gave to CPS would that help you remember what you said to them. Do you remember those questions?

A [No audible response.]
Q And you were in the middle of looking at that page which is 36 and 37. So I'm approaching. And if you could read from the bottom of 36 all the way to 37 and just let me know when you're done, okay, and I'll have a question for you. MR. FIGLER: Can we approach, Your Honor, while she's doing that?

THE COURT: Of course.
MR. FIGLER: Thank you, Your Honor.

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(Conference at the bench not recorded)
BY MS. BLUTH:
Q Areahia, did you have the opportunity to read that?
A Yes.
Q And you said to the interviewer that the Solander girls' butts had -- that they were -- they had bruises, that they looked raw and that there were scabs?

A Yes.
Q Now, I had asked you some questions earlier about whether or not the Solander girls, when they went to the bathroom, if anyone would watch them go to the bathroom. Would anyone watch them while they went to the bathroom?

A Janet would.
Q What would happen if the Solander girls were taking too long while they went to the bathroom?

A I don't know.
MS. BLUTH: Okay. Page 17, Counsel.
BY MS. BLUTH:
Q Did you tell the interviewer that, Janet would time them so if they're taking a long time they would get smacked on the leg or somewhere else because I could hear the smack, and then I can hear them crying?

A I don't remember.
Q But you did do an interview; right?
A I did.

Q Okay. And when you were there, there was someone recording what you were saying?

A Yes.
Q And you've had the opportunity to review this; right?
A Yes.
Q Okay. Now, if the Solander girls -- we talked a little bit about if they didn't get their homework right. Now, were they punished in the same way that we've been speaking about if they didn't get the answers to their homework right as well?

A What do you -- what do you mean?
Q Like, they were smacked or struck?
A Yes.
Q You know, beaten if they didn't get their answers to their homework right?

MR. FIGLER: I'm going to object to the expression beaten.

THE COURT: Well, she said slapped or struck. MR. FIGLER: That's fine.

BY MS. BLUTH:
Q They would be physically disciplined if they didn't get their homework right?

A Yes.
Q Now, when you -MS. BLUTH: Page 13, Counsel. JD Reporting, Inc.

BY MS. BLUTH:
Q -- when you spoke to CPS, you stated that, When the girls were made to crawl around on the floor and they were treating them like babies and, I mean, they wouldn't like, dot, dot, dot, and, plus, when they do that, they would make us watch, and it was so disgusting. Who would make you watch?

A Janet.
Q What did Janet tell you about the marks on the girls' bodies?

A She said that they had harmed themselves.
Q Did she also tell you that they had skin problems?
A She didn't, but one of the girls did.
Q One of the girls said that they had skin problems. Do you remember --

MS. BLUTH: Page 38, Counsel.
BY MS. BLUTH:
Q Do you remember telling the interviewer, Janet said it was a skin problem, and that's another lie because they said it was a skin problem, but it's not a skin problem because their legs are fine now? Do you remember saying that?

A No.
Q Do you remember a specific time when Anastasia urinated on the floor, and Janet slipped on it?

A Yes.
Q And what did Janet say to Anastasia?

A She said that if it happened again she would throw her over the banister.

Q Throw Anastasia over the banister?
A Yes.
Q Do you ever remember a neighbor coming over to the house concerned for what he had seen in the back --

MR. FIGLER: I'm going to object, Your Honor, as to what a neighbor's concern or lack of concern was.

THE COURT: I'll see counsel.
(Conference at the bench not recorded)
THE COURT: Ms. Bluth, state your question again. MS. BLUTH: Thank you.

BY MS. BLUTH:
Q Do you remember when a neighbor came over to the home because he had witnessed something concerning to him in the backyard?

A No.
Q We've talked a lot about Janet, but I want to ask you about Dwight. Like, what was his role in all of this, like the discipline for the toileting and the eating and the timing and things like that?

A He really wasn't there.
Q When he was there, would he participate in these things as well?

A Not that I saw.

Q Okay. Was Dwight ever around when you heard, you know, like the slapping-type sounds that you talked about upstairs?

A He would sometimes be there.
Q Okay. You said that he was around at certain times with the crawling, when the children were made to crawl?

A Yes.
Q What did the Solander girls eat?
A They drank something.
Q Like when you say they drank, like out of a cup?
A Yes.
Q Do you know who made the drink that they ate?
A Janet.
Q And when they would drink the cups, would they be standing, sitting or something different?

A They would stand.
Q Would they always stand in the exact same place?
A Yes.
Q When you would eat, where would you eat at?
A Where I always was, where I do my -- at the table.
Q Okay. Would you sit on a chair?
A Yes.
Q What about Demyer? When Demyer would eat, where would he eat?

A At a little kiddie table in the kitchen.

Q And what about Kaeshia?
A She would eat there too.
Q Okay. And would Kaeshia have a seat?
A Yes.
Q Did Janet ever explain to you why Amaya, Ava and Anastasia had to stand while they ate?

A Not that I remember.
Q Did she ever explain to you why they had to drink their food instead of eating?

A She said they had stomach problems.
Q We talked about earlier about the fact that you and your siblings were timed when you ate. What about the Solander girls? Were they timed?

A They were.
Q Could the Solander girls roam around the kitchen freely and grab food when they wanted?

A No.
Q When you were there, and I'm talking about what you saw, did they eat pretty regularly? Like were they drinking those drinks pretty regularly, or would there be long spans of time when they wouldn't get food?

A I don't remember.
Q Okay. I had asked you if the Solander girls ever spoke to each other or ever spoke to you. Was there a rule in the house about speaking?

A I don't remember.
Q Well, did you feel like you -- did you feel like you could turn to one of the Solander girls and speak to them?

A No.
Q Why not?
A Can you ask that again, please.
Q Sure. Yeah. So I asked you, you know, let's say Amaya was sitting next to you, and I said, you know, could you turn and speak to one of the Solander girls, and you said you didn't feel like you could, and I'm just asking you why did you feel like that? Why did you feel like you couldn't speak to them?

A They were doing their homework. I didn't want to bother them.

Q Okay. What if they weren't doing their homework? Do you feel like you could speak to them then?

A I don't know. There wasn't a time when they weren't.
Q Okay. So they were always doing their homework?
A Yeah.
Q Okay. When you went to bed at night, what did you sleep in?

A A bed.
Q Okay. And did you have, like, pajamas?
A Yes.
Q And you said you had your own room; right?

A Yes.
Q And Demyer and Kaeshia had their own room?
A They shared a room, yes.
Q And do you know what they slept on?
A Beds.
Q Do you know what the Solander girls slept on?
A I wouldn't see them at night to see. I wouldn't know.

Q Did you ever see any -- did they have a bedroom? Was like there a bedroom set up for them?

A They were in the loft.
Q Okay. Did you ever see any beds or anything in the loft?

A There was a couple of cots. Yes.
Q Did Ms. Janet ever say anything about why you guys got bedrooms and beds and the Solander girls got cots?

A I don't remember.
Q Did you ever see them sleeping at all?
A No.
Q Were there any fans in the loft area?
A There was one.
Q When you -- I think I asked you this earlier.
Correct me if I'm wrong. When you took a shower, you said that the water was warm; is that right?

A Yes.

Q And that you got a towel?
A Yes.
Q Did you ever hear Janet make any comments to the girls about their showers?

A What do you mean?
Q Like did she ever, you know, threaten them in regards to showering?

A Threaten, I don't --
Q Like if you don't do this, you're going to --
A I don't -- I don't remember.
Q That's okay. MS. BLUTH: Court's indulgence, Your Honor. Just one second, Areahia.

Court's indulgence, Your Honor. Sorry.
THE COURT: It's fine.
BY MS. BLUTH:
Q I'm going to have to come back to that. I'm sorry, Areahia. I'll come back to it in one moment. I just don't want to make everybody wait. Now, I still want to talk about -- I'm going to go back to the showers in a second, but I want to talk about after the showers. Did you ever see the girls drying off after a shower?

A Yes.
Q And how was it they would dry off?
A With the fan.

Q Did you ever see them get a towel, use a towel?
A Not that I remember.
Q Did Janet ever talk to you about why the girls had to dry off by the use of a fan and you got a towel?

A No.
Q Did you ever see Dwight there when the girls were drying off by the use of fans?

A I don't remember.
Q Now, during this time period, when you went to the Solander's house, you were also going to counseling with the therapist we already talked about, with the counselor by the name of Lori Wells; is that right?

A Yes.
Q And when you went to therapy, you said that you talked about some of the things that were going on in the house, but not everything; correct?

A Yes.
Q During that time period, did you ever have a fear of being, like, separated from your siblings?

A Yes.
Q Did that affect how much you wanted to tell people about what was going on?

A Yes.
Q Why?
A Because I thought if we were to move out of the home JD Reporting, Inc.
that they would separate us because they couldn't find a home that would take all of us together.

Q Okay. So it was important for you to stay with your siblings?

A Yes.
Q On February 28th of 2014, on that day, you and your siblings are taken out of the Solander home; is that right?

A I think so.
Q And I talked a little bit about -- we've gone a couple times into your statements, and you spoke to CPS in regards to some of the things you saw; is that right?

A Yes.
Q When you were speaking with CPS, did they show you any photos?

A I don't remember.
Q Okay. Where did you think the -- actually, strike that. So in the fall or early winter of the year before, so in 2013, did the Solander girls leave the house, like and not come back? They didn't live there anymore?

A Yes.
Q And where did Janet tell you they had gone?
A I don't really remember.
MS. BLUTH: Okay. Page 27, Counsel.
BY MS. BLUTH:
Q You said that, They told you there's no room in the JD Reporting, Inc.
house. So they need to go, like to have room and stuff and fun, but they told them that they are sick in the head, and then they can't deal with them, and then said, like, if they can't -- if, um, like, Dwight's -- if their grandparents want, um, didn't take them, they would put them back in Child Haven theirselves, or Janet said she would kill them then because they're --

MR. FIGLER: Objection, Your Honor. I'm going to object to all this. Can we approach?

THE COURT: Sure.
(Conference at the bench not recorded) BY MS. BLUTH:

Q Okay. Areahia, did you hear what I said?
A Yes.
Q Okay. And so the last part was, If their grandparents want them, didn't take them, they would just put them back in Child Haven theirselves, or Janet said she would have killed them because they're just crazy, but they're not crazy -- the Solander girls. Do you remember making that statement?

A No, I don't.
Q Okay. But, like, again you've had an opportunity to read this; right?

A Yes.
Q And if you would like, if you want, I'll give you the JD Reporting, Inc.
opportunity to read it right now just to make sure I have it correct if that would make you feel better, or do you believe me or do you want to look at it?

MR. FIGLER: I'm going to object to this line. I mean, first off it's not a question.

THE COURT: Yeah. That's sustained. She said she doesn't remember. You can show it to her and ask if that refreshes her recollection. MS. BLUTH: Sure.

BY MS. BLUTH:
Q Do you have any reason to believe that these weren't your words?

MR. FIGLER: I'm going to object to that, Your Honor.
That's not a proper question.
THE COURT: Yeah. That's sustained.
MS. BLUTH: Can I approach?
THE COURT: Sure.
BY MS. BLUTH:
Q Areahia, will you just go ahead and read to yourself this little paragraph right here.

A [Witness complies.]
Q Are you done?
A Yeah.
Q Okay. After reading that, do you remember saying that to the investigator?

A I still don't, no.
Q Okay. Up here in the top of that page, you see like there's a case number, and whose name is that on page 27?

A Mine.
MS. BLUTH: And, Judge, I apologize, but I'm going to pass the witness with that one caveat that when I find that one citation about the showering I be able to reopen it on redirect. I just don't want to waste everybody's time. THE COURT: Sure. Thank you, Ms. Bluth. MS. BLUTH: You're welcome. THE COURT: Cross. MS. MCAMIS: Yes, Your Honor. Court's indulgence. Court's brief indulgence.

## CROSS-EXAMINATION

BY MS. MCAMIS:
Q Good afternoon, Areahia. I have a few questions for you; okay?

A Okay.
Q Okay. Thank you. And I saw that you nodded your head, and just if it's okay with you, these are going to be recorded. So if you could just answer out loud to my questions, it would help everyone. It's not just for me. It's because everyone is being recorded; okay?

A Okay.
Q Okay. Thank you. So my question to you is about JD Reporting, Inc.
when you lived in the Solander home. You went to school, regular school Monday through Friday; right?

A Yes.
Q Okay. And what were your regular school hours?
A I don't remember.
Q Okay. What time in the morning would you get up for school?

A 7:00 I think.
Q Right around 7:00, okay. And so then you got ready, and you went to school right after you got ready at 8:00; right?

A Yes.
Q Okay. So do you think school started at maybe like 8:00 o'clock, 9:00 o'clock?

A Yes, I think so.
Q Somewhere in between there sounds right?
A Yes.
Q And then you went for a full school day; right?
A Yes.
Q And you got out maybe between 2:00 and 3:00 o'clock.
Does that sound right?
A Yes.
Q Okay. If it doesn't sound right, would you tell me?
A Yes.
Q Okay. What was bedtime when you lived in the JD Reporting, Inc.

Solander home?
A I don't remember.
Q Okay. It would have been after dinnertime; right?
A Yes.
Q You didn't get to, you know, you didn't stay up until the early hours of the morning; right? You had school the next day?

A Yes.
Q So you had a normal bedtime?
A Yes.
Q Now, Areahia, you were asked some questions about speaking to CPS in this case. Do you remember those questions?

A Yes.
Q Okay. So you gave a statement to CPS in this case. They asked you questions; right?

A Yes.
Q And that would have been in March of 2014. Does that sound right?

A Yeah.
Q Okay. And when they asked you questions, it was a recorded interview; right?

A Yes.
Q In fact, they recorded it with audio and video; right?

A Yes.

Q Okay. And then when you spoke with CPS, you actually saw Ava and Amaya at the CPS office before you went into the interview; didn't you?

A Yes.
Q And you actually got to talk to them; didn't you?
A Yes.
Q Okay. Now, when you prepared for your testimony today, for the court hearing, you met with the prosecutors. Do you know what prosecutors mean?

A I don't think so.
Q Well, that's fair. Then I want to explain the word when I am asking that. Did you get to meet with one or both of these individuals?

A Yes.
Q Okay. So to prepare for your testimony, you met with the prosecutors. That's what I mean by the prosecutors.

A Yes.
Q Okay. How many times did you meet with them?
A One.
Q You met with them once?
A Yes.
Q Okay. Did they video or record that meeting?
A No.
MS. MCAMIS: Okay. Court's indulgence.
Okay. Pass the witness.

THE COURT: All right. Any redirect?
MS. BLUTH: One second, Your Honor.
No, Your Honor.
THE COURT: All right. Do we have any juror
questions for this witness?
All right. I'll see counsel at the bench, please.
(Conference at the bench not recorded)
THE COURT: All right. Areahia, we have a couple of juror questions up here. A juror asks, could you and your siblings drink water whenever you wanted to or needed to? THE WITNESS: I don't remember.

THE COURT: Okay. And do you remember if the Solander girls could drink water whenever they wanted to?

A No, I don't remember.
THE COURT: You don't remember. Okay.
Ms. Bluth, any follow-up?
MS. BLUTH: No, Your Honor.
THE COURT: Ms. McAmis?
MS. MCAMIS: No.
THE COURT: Any additional juror questions?
All right. I see no other questions.
Thank you for your testimony. You are excused at
this time, and just follow the bailiff from the courtroom.
MS. BLUTH: May I step outside, Judge, and see if our other witness is here?

JD Reporting, Inc.
(No audible response)
MS. BLUTH: May I call my next witness, Your Honor?
THE COURT: You may.
MS. BLUTH: The State calls Lori Wells.
LURLINE WELLS
[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell both your first and last name for the record.

THE WITNESS: My name is Lurline Wells.
L-u-r-l-i-n-e. Last name Wells, W-e-l-l-s.
THE COURT: Thank you.
Ms. Bluth.
MS. BLUTH: Thank you.

## DIRECT EXAMINATION

BY MS. BLUTH:
Q Ms. Wells, how are you employed?
A I am a marriage, family therapist intern and a licensed alcohol and drug counselor.

Q Okay. How long have you been working in those fields?

A Approximately 13 to 14 years.
Q Can you explain the training and education that you received in order to hold both those positions, please.

A I have a master's in psychology from Chapman

JD Reporting, Inc.

University with an emphasis in marriage family therapy. I then did a 3,000 hour internship to receive my LADC --

Q What's LADC?
A Licensed alcohol and drug counselor.
Q Okay.
A And now I am doing my internship for my marriage family therapy.

Q Okay. So I want to understand this process. So you received your master's, and then you have to do a certain amount of hours of therapeutic sessions before you are licensed; is that fair?

A We have to do -- it's not necessarily the hours. There is hours, but it's under a licensed alcohol and drug counselor or a licensed marriage and family therapist, and then we test, and then we are licensed.

Q Okay. So in the alcohol and drug, how many hours was it, or --

A 3,000 .
Q 3,000. And then you take a test; right?
A Yes.
Q And then with the -- tell me again. Is it family and -- what's the correct --

A Marriage family therapist.
Q And how many hours does that require?
A 3,000 .

Q And then you take a test?
A Yes.
Q So how many hours or how long have you been an intern in the marriage and family?

A Over 9,000 hours.
Q Okay. But you've never taken the test?
A I haven't had time. I've been busy working.
Q Okay. So for how many years though have you been doing that?

A Since approximately I want to say 2008 or -9 .
Q Okay.
A Since 2009 to now.
Q Okay. So almost 10 years of this type of work?
A Yes.
Q Okay. Now, you -- we're going to get to some questions in a second about you being a counselor to the Diaz-Burnett children, but before we get there, I want to ask you, you're not a hired expert, and what I mean by that is we're not paying you to be here?

A No, you're not.
Q You were subpoenaed to discuss your treatment of the Diaz-Burnett children; is that right?

A Correct.
Q Okay. So I want to turn your attention now to 2013. Did you work that year in a therapeutic setting with Areahia

Diaz and her younger siblings Kaeshia and Demyer Burnett?
A Yes.
Q And then occasionally would Novaleih be brought for playing or --

A Every Saturday they had family therapy. So the entire family was there.

Q Okay. Now, where did you work? Like what was the company's name?

A Legacy Health and Wellness.
Q All right. And what were your job duties in that position during that time period?

A I was a marriage family therapist intern. So I did biopsychosocial assessments. That's history taking of all the things that the individual has symptomology as well as what they've experienced, their family histories so that we can develop a course of treatment for those individuals.

Q Okay. And then after you, like, develop an appropriate course of treatment, then kind of talk to me about working with children.

A After we develop it, we would do play therapy with the children. So it's a little bit different than doing with adults. Adults would be cognitive behavioral therapy. For children, they usually do play therapy, and they tell their stories through their play.

Q Okay. And is that the type of therapy that you used JD Reporting, Inc.
when working with the Diaz-Burnett children?
A Yes.
Q Okay. Now, did the company have a contract with the Department of Family Services, or how is it that that company makes contact with children in foster care?

A With the agency, what they did was they submitted an application to DCFS to be on their list of providers. So it's not necessarily a contract. You just go on a list of providers, and so they determine -- the workers determine where they're going to send the children or the families, and then you get them.

Q Okay. Thank you. So now turning your attention to Areahia Diaz and her siblings. You know, as part of your clinical work with them, were you made aware of why they were in the foster system to begin with?

A Yes, I was.
Q And what was the reason for that?
A Allegations of abuse and neglect by the parents.
Q By the biological parents; correct?
A Yes, the biological parents.
Q And how long of a period did you work with them?
A It was from July to November, I believe.
Q Okay. And so what was your role in specific to those children?

A I did individual therapy with each of those children JD Reporting, Inc.
except for Novaleih because obviously she was an infant.
Q Okay.
A I also did groups with Kaeshia and Demyer.
Q What does that mean you did groups with them?
A So younger children can do groups where we'll work on behavioral skills, social skills, things of that nature, opening up, communication, listening skills. So they would meet once a week for those groups.

Q Now, during that time period, would you have contact with their foster parents, their guardians at that time?

A I did.
Q And who were those individuals?
A Janet Solander and Dwight Solander.
Q Do you see Ms. Solander in the courtroom?
A Yes, I do.
Q Can you please just describe an article of clothing that she's wearing.

A I believe that it's a pink sweater. MS. BLUTH: Okay. Your Honor, may the record reflect the identification of the defendant? THE COURT: It will.

BY MS. BLUTH:
Q Okay. Now, was it common for you to have contact with just one of them, both of them? What was the situation there?

A I had contact with both of them.
Q And in what ways would you guys communicate?
A Multiple ways. So there would be at times emails. There would be phone calls. They would come in person to the agency.

Q Do you remember both of their emails off the top of your head?

A No, I do not.
Q If I showed you an email between you, Dwight and Janet, would that help refresh your recollection to what their emails were?

A Yes. Yes, it would.
Q Okay. I'm approaching you with an email that you're CCed on on October 31st. Would you please look at the emails in regards to that email and the email below it. It's the same string, but it's October 31st earlier in the day, and let me know when you've had an opportunity to review that.

A I do recall this.
Q Does that help refresh your recollection as to the email of Dwight Solander?

A Yes, it does.
Q And what was that email?
A The email address?
Q Yeah.
A D, Solander at source -- source refrigeration, dot,
com.
BY MS. BLUTH:
Q Okay.
MR. FIGLER: Your Honor, I would just like the record to reflect --

THE WITNESS: I believe.
MR. FIGLER: -- that she was just reading that right off of the sheet of paper that was given to her by Ms. Bluth. THE COURT: All right.

BY MS. BLUTH:
Q And then do you remember off the top of your head what Janet's email was?

A I think Janet, J, Solander at Cox or something like that.

Q Okay.
A I cannot recall.
Q Okay. Would look at looking at this help refresh your recollection as to Janet's email? If you could just look at it and let me know when you're done, and then I'll have a question for you.

A [Witness complies.]
Q Oh, at the top.
A I don't specifically remember those exact emails, but -- the email address, but I do remember the emails.

Q Okay. And on this email where you're CCed, there is JD Reporting, Inc.
a Janet, Dwight's --
MR. FIGLER: I'm going to object, Your Honor.
BY MS. BLUTH:
Q -- at Cox, dot, net.
MR. FIGLER: The State is now testifying as to what the document that has not been introduced or authenticated indicates.

MS. BLUTH: I can impeach with it, Your Honor.
MR. FIGLER: Impeach.
THE COURT: All right. Does that look like the email address from one of the Solanders?

THE WITNESS: Yes.
THE COURT: Okay. Go on, Ms. Bluth.
MS. BLUTH: Thank you.
BY MS. BLUTH:
Q Okay. Now, in any of your conversations with Janet, did she tell you what it was that she did for a living?

A Yes.
Q And what was it that she told you she did?
A She was a nurse.
Q Okay.
A As well as a foster parent.
Q Now, I want to ask you some questions -- in a moment I'm going to go into some specifics, but just generally, as you started working with these children in that time period from

July to November, did you contact the Department of Family Services, CPS multiple times regarding your concerns?

A Yes, I did.
Q Why did you choose to do that? Why did you choose to contact CPS on multiple occasions?

A I was concerned for the children.
Q Okay. Why were you concerned?
A There were multiple things that were going on that -that -- I'm a mandated reporter. So I saw multiple things that were going on that justified making a report.

Q How was it you communicated your concerns to CPS?
A Emails, calls, letters.
Q Multiple --
A Yes. As well as CPS reports.
Q Okay. And when you say CPS reports, meaning you actually called into the hotline?

A Yes.
Q Okay. Now, I want to talk to you about some specifics. I'm going to use the term toileting. Was there an issue between the Solanders and the Diaz-Burnett children in regards to toileting that brought you concerns during the services?

A Yes, there were.
Q Okay. Can you please explain some of those. MR. FIGLER: And for the record, Your Honor, we would JD Reporting, Inc.
object. This isn't about the Solander kids. This is about Diaz-Burnett --

MS. BLUTH: Oh, I said -- I apologize. I withdraw it. I said -- no, I meant the Solander children and the Diaz-Burnett kids. Did I misspeak or no?

MR. FIGLER: As I understood the question, Your Honor, it was she was asking about the Diaz-Burnett kids, and we are objecting.

THE COURT: Right. And the Solanders.
And did you understand the Solanders to be the adult foster parent Solanders?

THE WITNESS: Their children, their adopted children. THE COURT: Oh, okay. So you're talking about the adopted children?

MS. BLUTH: So I need to rephrase my question.
THE COURT: Okay. You need to clarify.
MR. FIGLER: If you could clear it up.
THE COURT: Yeah. I am --
MR. FIGLER: Thank you, Your Honor.
MS. BLUTH: So I apologize. So I was -- and it's my fault.

BY MS. BLUTH:
Q I had asked you in regards to toileting issues did there seem to be some issues going on between the Diaz-Burnett children and the Solander adults, the foster parents?

A Yes, there was.
Q Okay. And can you explain to me what those issues were.

MR. FIGLER: All right. And for the record, any issues with regard to Diaz-Burnett, we are objecting as to their relevance.

THE COURT: All right. The record will reflect your ongoing objection which is overruled. MR. FIGLER: Thank you, Your Honor. BY MS. BLUTH:

Q Go ahead.
A They had concerns with the children peeing, pooping and urinating. I'm sorry. That's the only way I can say it.

Q That's okay.
A I apologize.
Q It's okay.
A Consistently.
Q That that's what the children were doing consistently, or that's what the Solanders were telling you was happening?

A That's what they were telling me was occurring.
Q Okay. So I want to ask you about Janet specifically right now. Was Janet expressing concerns to you that the Diaz-Burnett children were urinating and defecating consistently?

A She did. She indicated that during timeouts, if I can go there, during timeouts Areahia would consistently urinate in her pants, and I had an issue with that.

Q Okay.
A And then she was indicating that the children who initially started with me, Demyer and Keesha --

Q Kaeshia. It's spelled Keesha, but it's Kaeshia.
A I'm sorry. It's been a long time.
Q That's okay.
A That they needed to -- she was sending them in pull ups, diapers, but when I started working with them, they had no issues, and they had no issues at Legacy ever.

Q Okay. So I want to pull back and ask you for some clarification on that. How often during this five-, six-month period would you see the Diaz-Burnett children?

A I believe the two younger children were seen both in group as well as individual. So that would be two hours, I believe, two or three hours.

Q Is that a week or a day?
A A week.
Q Okay.
A And then I would see them every Saturday for two hours.

Q Okay. And any of the times that you were present with Kaeshia and Demyer, did you ever see them have an accident
while at therapy?
A They never had an accident.
Q Was it concerning to you that what the Solanders were saying was happening in the home was not consistent with what you were seeing at therapy?

A It was concerning because the children were also complaining about wearing diapers, and they were asking to be taken to the rest room. So if you're asking to be taken to the rest room consistently, and I'm seeing you over a period of time, and you never wet your pants, why do you need diapers.

Q Did you ask Janet to maybe, you know, could we bring extra clothes and take them out of pull-ups?

A I did ask for extra clothing, and I was denied.
Q What was the point though in asking for extra clothing?

A Because it was shaming to the children. They were requesting us to take them out of the diapers, and we didn't have other clothes. They initially, like I said, started with no diapers. They started in regular clothes. So I wanted them to be able to put the regular clothes on. If they had an accident, we could just put new clothes on them, but we never had an accident, but it was refused.

Q When you say it was refused, who did you speak to?
A Ms. Janet.
Q And you just asked for extra clothes. And did you JD Reporting, Inc.
explain to her what you were kind of explaining to us?
A I did. I explained to her that the children were not having any accidents. I explained to them that it was shaming, that it was embarrassing to them, that they were complaining about it, and she refused.

Q Okay. During the therapeutic sessions, did the children discuss being punished for having accidents in the home?

A Yes.
Q And in what ways did they discuss, like, what was going on in the home when accidents would happen?

A Well, it depends on which child you're talking --
Q Let's start with Areahia if you wouldn't mind.
A Okay. So Areahia was indicating that she had to hold her underwear out, and Ms. Janet would check them and see if there was anything on them, and if there was something on them, then she was punished. She was fearful of asking for underwear. She indicated her underwear were locked up. She could not get them.

Q Did you ever have a conversation with Janet and Dwight about, you know, the appropriate or inappropriateness of disciplining Areahia for this type of, you know, urinating or defecating?

A I did. I spoke to Ms. Janet and Dwight -Mr. Dwight --

MR. FIGLER: I'm going to object, Your Honor. It's hearsay, and I appreciate she's saying what she said to them. So that's an out-of-court statement, and again --

THE COURT: All right. Well, it might be needed to give context.

But you spoke to the Solanders?
THE WITNESS: Yes. I spoke to the Solanders because Ms. Areahia came into the system parentified. Parentified means that she was the acting parent for her siblings. So she provided for all their basic needs. What was occurring according to Areahia and Ms. Janet was that she would be placed in timeout. She would urinate, and then she would be made to clean it up, and then she would be placed in timeout again. If you are the parent, and that's what you know yourself to be, then this is very detrimental to Areahia, and so I requested that a different form of redirection be used versus that because it was not working. If every time you place a child in timeout she urinates, there's a problem.

BY MS. BLUTH:
Q And you expressed this to Janet?
A I did express this to her.
Q Did you express your concerns about Janet checking her underwear?

A Yes, I did.
Q Did you express your concerns about Janet watching JD Reporting, Inc.
her shower?
A Yes, I did.
Q Was Janet responsive to your comments?
A No, she was not.
Q When you would have these conversations with Janet, can you kind of explain her demeanor to me. Is she soft-spoken? Is she loud? How is it, like, when you guys would interact with each other?

A She has a very strong personality. So she was kind of overbearing to me. If I gave her an explanation, for example, if I can, if Areahia was taking a shower and you are watching her, it's inappropriate because of her past history. So she's being revictimized. Rather than do that, if a child takes a shower, and you feel that they're not clean, when they come out, smell their hair, smell their body. If they don't smell clean, then you request that they take a shower again and use soap, but you don't watch them shower.

Q Now, you're talking about Areahia's past because Areahia had been a victim of sexual abuse before the Solanders?

A Correct.
Q And did Janet know that?
A Yes, she did.
Q Okay. And is that one of the things you spoke to her about?

A Yes, it is.

Q Okay. Now, I had talked to you about whether or not Kaeshia and Demyer had any accidents while at therapy. I want to move into Areahia right now. Was there ever a time when Areahia had an accident while either at therapy or at a visitation?

A Areahia had an accident on a Saturday at the visitations with her parents. It was towards the end of the visitation. She had a bowel movement, but it was not a -- it was not a bowel movement. It was running down her leg like water. There was no control.

Q Okay. And so you were present when this happened?
A Correct.
Q And can you explain Areahia's demeanor as to after she had defecated in her pants?

A Initially I could see embarrassment, but it quickly switched to panic, and she started telling me that she could not go home that way. She had to get it off. She had to get her pants clean. She couldn't smell. I wanted to throw her underwear out, but she did not want anything thrown out. She did not want Ms. Janet to know that she had done this.

Q Did you help her actually clean her pants and her underwear?

A Yes. Her mother was there. So her mother actually cleaned her body, and I scrubbed the pants and the underwear.

Q Okay. Now, subsequent to this happening, did you JD Reporting, Inc.
have a conversation with Janet because Janet had found out what happened?

A Yes. I had a conversation regarding that with Janet.
Q And what did Janet say or did Janet say anything in regards to why Areahia had had an accident in her pants?

A She said that she wanted to extend the visits with her mother, and that's why it occurred, but that's not even possible. It was like liquid -MR. FIGLER: Objection, Your Honor.

THE WITNESS: I'm sorry.
MR. FIGLER: Speculation and --
THE COURT: All right.
MR. FIGLER: And, you know, come on. Nonresponsive.
THE COURT: Try to just answer the question.
You can follow up if they can extend visits or -MS. BLUTH: Sure.

BY MS. BLUTH:
Q When Areahia had this accident, you said it was basically, like, liquid in nature?

A Yes.
Q At any point in time did you feel like Areahia was manipulative?

A $\quad$ No.
Q Or would do certain things to spend more time with her family?

A No.
Q When Areahia came back to therapy, did you guys have, you and Areahia, have a discussion about that accident?

A Yes, we did.
Q And what did Areahia say about the accident?
A She said that she did it -- verbatim she repeated what Ms. Janet had told me, which made me have a lot of questions.

MR. FIGLER: Objection, Your Honor, as to what --
THE WITNESS: Sorry.
THE COURT: Ma'am, just try to just answer the question directly.

THE WITNESS: I'm sorry.
THE COURT: Not your feeling about what was said or your reaction to what was said unless Ms. Bluth follows up --

MS. BLUTH: Sure.
THE COURT: -- and says what was your reaction or what did you do then or something like that.

THE WITNESS: Okay.
BY MS. BLUTH:
Q After Areahia --
MS. BLUTH: Sorry, Your Honor. May I continue?
THE COURT: Yeah. I was done.
MS. BLUTH: Thank you.

JD Reporting, Inc.

BY MS. BLUTH:
Q After Areahia came back and said that to you, as the clinician working with her, were you concerned about that statement?

A I was, very. MS. MCAMIS: Objection. Relevance. THE COURT: All right. Go on. BY MS. BLUTH:

Q I want to talk to you a little bit about food at Legacy Therapy and Wellness. At that center, did you guys work with a lot of families and a lot of young children?

A Yes, we did.
Q And so was it common for you guys to have snacks and, you know, fruits, all sorts of things for children while they were there?

A Absolutely.
Q Okay. Did Janet have a problem with you giving any of the Diaz-Burnett children food while at therapy?

A Yes, she did.
Q Because of that issue, did you and other clinicians there completely kind of change the food that was being offered?

A We changed -- yes, we did.
Q What did it change from?
A Prior to, we would have cookies or, you know, not as JD Reporting, Inc.
healthy of snacks.
Q Okay.
A And when the Burnett children, Diaz children came in and the complaints came in, we switched to completely healthy foods. So bananas, oranges, apples, peanut butter, wheat pretzels. There were no unhealthy snacks.

Q Okay. At that point since you had, you know, gone to basically fruit and wheat pretzels, did Janet allow you to feed the children then?

A No, she did not.
Q Did you make a call to CPS to see what the rules were in regards to that?

A Yes, I did.
Q And after that point, after speaking with CPS, did you feel like you could feed the children?

A Yes.
Q When the children appeared for therapy, did they seem hungry?

A They were extremely hungry.
Q Multiple times during the therapeutic session would they ask for food?

A Yes.
Q When you would give them food, at certain points would you have to actually stop them from eating?

A Yes, I did.

Q Why did you do that?
A The children were eating so much that I was fearful that they would get sick, and they just wouldn't stop eating. It was like their last meal every time.

Q Now, during therapeutic sessions, was it expressed to you that the children were stating that they were being punished for stating they were hungry at the Solander home?

A Yes.
Q And did you ever have a conversation with either Janet and/or Dwight about, you know, having a positive relationship with food and the impact it can have on the children?

A I did.
Q Can you tell me about that conversation that you had with them.

A I indicated to them that the children had come from a place where maybe food wasn't as available as it should have been, and by limiting or removing their ability to have food intake, we were actually developing a poor relationship with food that would not be sustainable over time. In other words, the children would more than likely develop some type of eating disorder. They might start hoarding food. They might start hiding food or going to neighbors to get food. So it would develop a very unhealthy eating habit.

Q After that conversation, were you then allowed to
give them food?
A No. She did not want them to have the food.
Q Okay. Were you particularly worried about the way Kaeshia looked?

A Yes, I was.
Q What was it about the way Kaeshia looked that alarmed you or gave you concern I guess?

MR. FIGLER: I'm going to object to the characterization, also a continuing objection.

THE COURT: Overruled.
THE WITNESS: I was concerned because her eyes were sunken in. She had black circles around her eyes. She was extremely thin. She looked emancipated (sic), like she was starving. BY MS. BLUTH:

Q Emaciated?
A Emaciated. I'm sorry. Yes. MS. MCAMIS: Objection.

MR. FIGLER: Can we approach, Your Honor?
MS. MCAMIS: Medical opinion.
THE COURT: Sure.
(Conference at the bench not recorded)
THE COURT: All right. Ms. Bluth, you may resume your questioning.

JD Reporting, Inc.

BY MS. BLUTH:
Q Okay. Now, my questions focus in on Kaeshia right now because of what you just talked about. Did you have a question -- or I'm sorry. Did you have a conversation with Janet in regards to how Kaeshia looked?

A Yes, I did.
Q And what did Janet say? What was her response into what was going on with Kaeshia?

A Janet indicated that Kaeshia had gauze in her stomach and that because of this gauze it was absorbing all the nutrients in her body and that she was unable to retain them.

Q Okay. But that, like, Kaeshia had swallowed the gauze?

A Yes.
Q And when Janet told you that, what was your response into what you were going to do with that information?

A That I was going to report it and that the child needed to be taken to the hospital.

Q Okay. Was a conversation with Janet like either you take her to the hospital or I'm going to call CPS, or you were going to do it anyways?

A The conversation was that she needed to go to the hospital, and when the response was given back to me, I knew I was going to report it to CPS.

Q Okay. And what was the response back from Janet that JD Reporting, Inc.
made you think I need to report it to CPS -- I'm sorry. Are you talking about the gauze and the being in the stomach?

A Yes.
Q Okay. I see what you're saying. I apologize. Now, did Kaeshia in fact go and get admitted into a hospital?

A Yes, she did.
Q And what hospital was that?
A I believe it was Montevista Hospital.
Q Okay. After Kaeshia got out of Montevista, did she come back to therapeutic services?

A Yes, she did.
Q How did she look?
A She looked great.
Q Did she continue having therapeutic services with you for a time after she was released?

A Yes, she did.
Q Did she continue to look great?
A No. She looked like she was failing to thrive again.
Q Now, did you ever have a conversation with the children during the clinical sessions about, you know, feeling free to talk about what had gone on in their lives and that you guys needed to have that relationship?

A Yes, I did.
Q And did Areahia ever express concerns to you about being able to do that?

A Yes, she did.
Q And what was it that she stated?
A Areahia indicated to me that she had been told that they were not, by Ms. Janet, that they were not allowed to discuss anything that occurred within the home.

Q During a clinical session, did Areahia ever admonish her siblings not to talk about what happened in the home?

A Yes. It was a visitation with the family, and she told them to be quiet and not talk to me.

Q Okay. During, you know, some point in these five or six months that you're working with the kids, do you have a sitdown meeting with Dwight?

A Yes, I do.
Q And during that meeting with Dwight, do you make the decision to call Areahia into the meeting?

A Yes, I did.
Q Why did you do that?
A Areahia was indicating that she could not tell me anything and that she was not allowed to discuss anything. Mr. Solander had come into my office. He indicated that when I spoke to him regarding that particular statement that it was untrue, and so I called in Areahia, and he said that she was mistaken, and she indicated that she was not, and then she -she shut down and started sobbing.

Q Okay. Looking back on that now, you know, as working JD Reporting, Inc.
with her, was there -- from that point on, was there kind of a breakdown between you and Areahia?

MS. MCAMIS: Well -- withdrawn. Never mind. Sorry. THE COURT: All right.

BY MS. BLUTH:
Q You can answer.
A I believe that there was.
Q Okay. Looking back do you think that that was the right decision to bring Areahia in to that meeting with Dwight?

MS. MCAMIS: Objection as to right decision.
MS. BLUTH: Right decision as a care provider for the child.

THE COURT: She can answer. Overruled.
THE WITNESS: It was probably not.
BY MS. BLUTH:
Q Now, I talked a little bit about the meetings -- not necessarily meetings, but conversations you would have with the Solanders via phone, in person, email, but would you talk to them continually about some of these concerns either about the toileting or about the eating, things like that?

A Yes, I did.
Q And did you feel like they were responsive or listening to you?

A No, I did not at all.
Q When you would speak with Janet, what did Janet focus JD Reporting, Inc.
on, or what did she want to talk to you about?
A She wanted to talk about the problems that she was having with the children. They were always negative things with the children: Their eating, their peeing, their pooping, tantrums. It was never a positive interaction regarding the children.

Q Did she ever discuss having those same issues with her actual adopted children?

A Yes, she did.
Q And what did she say was happening with them?
A She said that the three adopted children had peeing and pooping problems, that they would -- she couldn't -- she had to keep them on a pot 10 hours a day because if she made them go to the bathroom they would go into the bathroom, stand next to the toilet and literally poop right there. They would not sit on the toilet. They would poop on the stairs. They were pooping everywhere.

Q Did you talk to her about any concerns with that, or did you stick with the Diaz-Burnett children?

A I stuck with the Diaz-Burnett children.
Q Okay. Now, because of the difficulties that Ms. Solander said that she was having with her adopted kids, did she have a plan in regards to what she was going to do with the adopted kids?

A She indicated she was going to send them inpatient JD Reporting, Inc.
long-term somewhere.
Q Okay. And did she discuss with you what she wanted to do with the Diaz-Burnett children?

A Yes, she did.
Q And what was she going to do with them?
A She was going to adopt them.
Q Did she ever discuss with you or ask you to document certain issues that the Diaz-Burnett children were having?

A Yes. She wanted everything documented.
Q And did she talk to you about why she wanted that documented?

A They wanted more income for the kids.
Q Because of the behavioral issues or what they were saying was happening?

A The higher the behavioral problems, the more issues the children have, the more they qualify for more money within the home.

Q Okay. So now I want to get into all of the times you contacted CPS with your concerns. All right. If you could just give me one second to get my paperwork set up. The first caseworker from CPS, the first caseworker that the Diaz-Burnett children had was who?

A I believe it was Gail Anderson.
Q Okay. And did you communicate with Gail several times in regards to the concerns that you were seeing going on JD Reporting, Inc.
with the Diaz-Burnett children?
A More than several, numerous, constantly.
Q Okay. And do you remember the contents of an email you sent to Gail Anderson on October 8th entitled The Burnett-Diaz Children?

A I don't recall it.
Q Would looking at this document help refresh your recollection?

A Yes.
Q I'm going to ask you to read this to yourself, and when you're done, let me know. Just look up and let me know.

A [Witness complies.]
Q Does that help refresh your recollection?
A It does.
Q Okay. And before I get into the contents of this email, what was the -- why were you writing Gail on this day? What was the point of it?

A I believe it had to do with probably Kaeshia indicating that she had been locked in a closet and was fearful.

Q Okay. And you reported that Kaeshia had said that she cannot come out because an alarm will go off, and the door is locked?

A Correct.
Q But in this letter, do you also talk about the issues JD Reporting, Inc.

MR. FIGLER: I'm going to object. There is a letter from the declarant to a party who has not been called yet that was or was not shown to the Solanders and its admissibility. MS. BLUTH: I'm sorry. What -THE COURT: All right. Counsel, approach. (Conference at the bench not recorded) BY MS. BLUTH:

Q Okay. So I'm going to be a little bit more specific. So on October 8th of 2013, did you write an email to Gail Anderson with CPS detailing your concerns about several of the issues that we've spoke about today, but in detail to Gail Anderson?

A Yes, I did.
Q And that was on August 8th of 2013?
MS. MCAMIS: You might want to check the date. MS. BLUTH: Oh, sorry. Oh, October 8th of 2013. Thank you.

THE COURT: That was the first contact? Was that the first contact?

THE WITNESS: I don't know if that was the first contact. I cannot recall. BY MS. BLUTH:

Q Okay. Now, did you also do a follow-up email on the same day several hours later after you had spoken with the
foster father and still went on about your concerns? And if you don't have an independent memory, I can approach.

A I do recall having that meeting with him, and I did contact DCFS immediately afterwards.

Q Okay. And that is the second email contact on October 8th of 2013?

A Correct.
THE COURT: Did you inform Mr. Solander that you
contacted CPS at that meeting?
THE WITNESS: I don't believe that I did.
THE COURT: Okay.
THE WITNESS: I just made the contact.
BY MS. BLUTH:
Q What is a QMHP DAP report?
A Every time we see a client, the only way we have proof that we've seen that client is to document. So we have a QMHP note. It indicates who was at the session, what we did during the session, how their affect was, so a mini status exam, so to speak, and what we're working on. It's a way to show a record of having met with that client.

Q Okay. And on October 28th of 2013, did you complete one of those reports for Kaeshia Burnett? And if you don't have an independent recollection, I'm happy to approach.

A I'd like to see it.
Q Okay. Just go ahead and take a look at that. Let me JD Reporting, Inc.
know when you're done, and I'll have some questions.
A [Witness complies.]
Q Does that help refresh your recollection?
A Yes.
Q Okay. Now, if you had interactions either with a foster parent or with a child that bring you concerns, do you sometimes give CPS a copy of this report?

A I may or may not have.
Q Okay. If this were in CPS records, then would that mean you would have given it to them?

A It's possible, or the agency could have given it to them. I cannot recall.

Q Okay. And I do have some questions about this specific DAP report because in this meeting you actually had -it was a meeting where Janet was actually present; correct?

A Correct.
Q And when you talk to her about, you know, some of the issues the children are having, especially with eating and toileting, what is her response?

A She indicated that they had to take responsibility for their actions, that she provides everything for them. So there would be no need for these things to be going on.

Q I'm going to turn your attention to October 31st of 2016. Again, do you remember writing an email to Gail Anderson as well as Laura Hammack? Do you know who Laura Hammack is?

A Her supervisor.
Q Gail Anderson's supervisor?
A I believe so.
Q So in the initial emails, you were only referring to -- or you were only e-mailing Gail?

A Correct.
Q Now, on your fourth contact, you are now adding Laura Hammack. Is there a reason for that?

A Nothing was being done.
Q Okay. And do you remember on October 31st what your contact with CPS was about on that day?

A No, I don't.
Q Okay. If you could look at that and help refresh your recollection.

A [Witness complies.]
Q Does that help refresh your recollection?
A It does.
Q So on October 31st, after -- there are BST workers and those type of workers that are in the home; right?

A Right.
Q And after some of those individuals were in the home, did they come back and report to you some of the things that they had seen?

A Yes, they did.
Q And what did you advise them to do?

A I told them that a CPS report had to be done.
Q Okay. And in this email on October 31st to Laura Hammack and Gail Anderson, do you report to them what the BST worker saw in the home?

A Yes, I did.
Q Do you also include the CPS reference number of them calling this incident in?

A Yes, I did.
Q On that same day, October 31st, do you remember sending a follow-up email to Gail, the same individual that we have been talking about, and you referenced a phone conversation earlier in the day and that you're just getting more details. Do you remember sending Gail an email in regards to that?

A I'm not sure.
Q Okay. One second. One second, Ms. Wells. Okay. No, I apologize. The email I was talking about was the same one. You had called via the phone, and you then followed up with an email. Is that something you would normally do?

A If I had concerns that I needed it in writing, I would absolutely do that.

Q Okay. At this point in time with CPS, did you have concerns on whether or not the things you were reporting were being properly documented?

A I had real concerns.

JD Reporting, Inc.

Q Now, on November 4th of 2017, do you write a four-page letter on Legacy Health and Wellness letterhead? November 4th of 2013, did you write a four-page letter in to the Department of Family Services Gail Anderson and her supervisor Laura Hammack discussing in detail the concerns you have of these children?

A Yes, I did.
Q By this time had you already made multiple phone calls?

A Made multiple phone calls, multiple emails. I was not getting anywhere.

Q So you decide to write a letter?
A Correct.
Q And what was your goal there? Like, what was your hope in writing a letter to the CPS worker and her supervisor about the concerns you were seeing?

A I was very sure that these children were being abused.

MR. FIGLER: I'm going to object, Your Honor, as to any kind of opinion --

THE WITNESS: Okay. Sorry.
MR. FIGLER: -- that is going to come from this.
MS. BLUTH: She can discuss what her concerns were and why she felt the need to write the letter to the Department of Family Services.

THE COURT: May I see counsel.
Actually, you know what, ladies and gentlemen, it's just about time for our afternoon break. Is 10 minutes enough for everybody? Does that give everybody enough time?
(No audible response)
THE COURT: All right. Let's just take a quick break. That'll put us right around 3:10.

During the brief recess you're reminded you're not to discuss the case or anything relating to the case with each other or with anyone else. You're not to read, watch or listen to any reports of or commentaries on the case, person or subject matter relating to the case. Do not do any independent research by way of the Internet or any other medium, and please don't form or express an opinion on the trial.

Please place your notepads in your chairs and follow the bailiff through the double doors.
(Jury recessed 3:03 p.m.)
THE COURT: Counsel approach.
(Conference at the bench not recorded)
(Proceedings recessed 3:04 p.m. to 3:15 p.m.)
(In the presence of the jury)
THE COURT: All right. Court is now back in session. And, Ms. Bluth, you may resume your questioning of the witness.

BY MS. BLUTH:
Q Okay. So right when we stopped, I was going to ask you or I did ask you a question about the letter that you had written on November 4th, but I apologize because I missed an email that you wrote to Gail Anderson and her supervisor Laura Hammack on November 2nd. Do you remember writing to them about your concerns in regard to the treatment of the Diaz-Burnett children on November 2nd?

A No, I don't.
Q Will looking at this help refresh your recollection? A It will.

Q Okay. Does that help refresh your recollection?
A It does.
Q And in that email to Gail Anderson and Laura Hammack, do you express concerns in regards to the treatment of the Diaz-Burnett children by Janet and Dwight Solander?

A I do.
Q And now I'm going to bring you to November 4th, which is the letter, which would be the sixth time you contact CPS that's documented in writing. So I'm not counting phone calls. You write a letter, a four-page letter to the Department of Family Services on your letterhead, and why did you see fit to write a formal letter?

A There were a lot of concerns that were not being addressed regarding the children. The children seemed to be JD Reporting, Inc.
getting worse and withdrawing, and the relationship with the Solanders had become, I felt, intimidated and attacked when they came around, and so I began to see some real concerns regarding the children as a whole.

Q Okay. So then going now to an email on 11/6, you write to Gail Anderson and Laura Hammack which would now be your seventh time contacting in writing the department. You write an email to the same two individuals in regards to concerns you have. Do you remember writing that email?

A No.
Q So I'll have you read that.
A [Witness complies.]
Q Does that help refresh your recollection?
A Yes, it does.
Q Again, are you reporting concerns to CPS permanency worker Gail Anderson and her supervisor Laura Hammack about what you see going on in regard to the Diaz-Burnett children?

A Yes, I am.
Q On November 9th of 2013, you had a meeting where Dwight is present in the office, and you bring in Areahia. After that meeting, which you've already kind of discussed your issues with that meeting, did you contact CPS and discuss Dwight's behavior in that meeting? Do you let Gail Anderson know?

A I believe I do.

JD Reporting, Inc.

Q Okay. And then so at that point -- I should have asked you this, and I apologize. When you wrote the letter on November 4th, did you also make a call into the hotline about your overall concerns that you put in the letter?

A I believe so, yes.
Q And then sorry, Lori. One more. At any point in time in November did you contact CPS, again Gail Anderson and Laura Hammack, in regards to feeling like the Solanders were pulling the children away from the services, as in like they weren't bringing them?

A Yes, I did.
Q So if my math is right, that would be a total from you documented nine different times you either called into the hotline, wrote an email or wrote a letter?

A Correct.
Q And that doesn't count the times that you would call and speak with them?

A Absolutely; correct.
Q On November 20th of that same year, so November 20th of 2013, do you remember receiving a letter from the Department of Family Services stating that you would no longer be the service provider for the children?

A Yes.
Q Did CPS give you a reason as to why you would no longer be working with the Diaz-Burnett children?

A I don't recall if they did, but --
Q So you never had a reason as to why you were taken off of these children that you had called CPS or spoke to them about nine times in regards to their best interest?

A I knew the reason.
Q How did you know the reason?
A Having spoken to Gail, there was too many -MR. FIGLER: I'm going to object, Your Honor, as to hearsay and relevance.

THE COURT: That's probably hearsay. BY MS. BLUTH:

Q Was Gail Anderson on the case when you were taken off or was a new CPS person?

A I believe she was still on the case or thereabouts released as well.

Q Okay. So you had knowledge that Gail Anderson, the CPS worker, was also taken off the case?

A Yes, I do.
Q Did you have any knowledge of whether or not there were also issues between Gail Anderson and the Solanders?

A Yes, there were.
MS. BLUTH: That concludes my direct examination,
Your Honor. I'll pass the witness.
THE COURT: All right. Cross.
MS. MCAMIS: Yes, Your Honor.

JD Reporting, Inc.

BY MS. MCAMIS:
Q Ms. Wells, you testified that you were too busy to take the test to stop being an MFT intern; correct?

A Yes, I did.
Q Who administers that test?
A The State of Nevada.
Q So if I called the State of Nevada and gave them your name, they wouldn't know it because you never signed up for that test?

A No, they would absolutely know my name.
Q But you have not signed up to take the test to stop being an intern?

A I'm licensed through the State of Nevada as an intern. It's the only way I can practice for the board of marriage family therapy.

Q My question was you didn't sign up for that test. How many of your colleagues are still interns after 13 years?

A I have no idea.
Q Okay. I'm going to direct your attention to the Diaz-Burnett children. So for the period of July 2013 through November 20th of 2013, you were a service provider to be their therapist; right?

A Correct.
Q So that was a period of four months that you were JD Reporting, Inc.
their therapist?
A Whatever that length of record is I cannot give you specifically, but I was their therapist.

Q It would have been July through November 20th of 2013?

A If you say so, it was. I don't have those --
Q My --
A -- records.
Q Okay. Now, you gave a statement previously to police in this case; right?

A I beg your pardon?
Q You gave a statement to police in this case previously; right?

A I believe I did, yes.
Q If you told police at that time that you were the therapist for the Diaz-Burnett children from July through November of 2013, would you have any reason to dispute that?

A No, I do not.
Q At that time that you gave the interview it was closer in time to -- closer in time to you being their therapist; right?

A Correct.
Q Okay. Now, unfortunately the Diaz-Burnett children came from a very traumatic home, didn't they?

A Yes, they did.

Q They came from a home where there was no running water; right?

A As I was told.
Q Okay. Well, and as they told you; right?
A Yes.
Q Because as part of their therapy they make certain disclosures to you in order for them to identify a problem, and you are supposed to help them figure out how to heal; right?

A Correct.
Q Okay. So they disclosed that they had no running water in that home; right?

A Correct.
Q So they wouldn't have been able to use the toilet regularly in that home; right?

A I don't know if they used the toilet. I do know they had no running water.

Q Okay. And running water is an essential part of having a functioning toilet; right?

A It is.
Q And they also came from a home where there was no electricity; right?

A Correct.
Q And they came from a home where they were malnourished; right?

A Correct.

Q Parents didn't -- the biological parents did not provide them the food and sustenance that they needed in order to thrive?

A Correct.
Q So that was an ongoing issue that they had to be treated for was that during their very early development years they were malnourished?

A I was told when they came to me that those incidents were occurring within that home. Yes.

Q As in the biological home?
A Yes, within the biological home.
Q Right. And unfortunately there was a disclosure that one or more of the children had been sexually molested, or there was an inappropriate sexual contact in the biological home; right?

A Correct.
Q And that was Areahia who had been unfortunately sexually assaulted or molested in her own home?

A Correct.
Q So all of that were the things that the children were dealing with and why they needed therapeutic services; right?

A Correct.
Q Now, you were asked some questions on direct examination about the different statements that were attributed to Mrs. Solander as far as the children's food intake. So I
want to direct your questions -- direct your attention generally to that. Now, initially you said that the therapy office is or Legacy Wellness offered snacks like cookies; right?

A Yes.
Q Okay. And that it was Mrs. Solander who was very focused on having the kids eat only healthy snacks; right?

A Wrong.
Q Okay. But as a result of the Solanders' contact with you and with these children, the snacks changed from cookies to healthier snacks; correct?

A Correct.
Q Okay. And, in fact, Mrs. Solander packed healthy lunches when the children went to therapy; correct?

A On Saturdays, yes.
Q Okay. On Saturdays. And on Saturdays it was the two- to three-hour sessions that you are having; right?

A Correct.
Q Okay. And that Mrs. Solander packed what you deemed to be an enormous lunch; right?

A Correct.
Q She packed an enormous lunch that included a vegetable; right?

A I don't recall what it contained, but it was a large lunch.

Q Okay. So if I suggested to you that at the time you gave your statement to police you said that, She sent them with this enormous lunch; they had a vegetable; they had peanut butter; they had crackers; they had sandwich; I mean, it was a great lunch, would you have any reason to dispute that?

A No. That's true.
Q Because those are all items that would be a large lunch?

A Correct.
Q Okay. And that's what she sent with them on Saturdays?

A Correct.
Q And you testified on direct examination that Kaeshia at one point was looking very sickly, and you instructed Mrs. Solander to take her to the hospital. Do you remember that line of questioning?

A Yes.
Q Okay. And so in response Mrs. Solander did in fact take Kaeshia or Keesha -- Kaeshia to the hospital; correct?

A Yes.
Q In fact, she took her to Montevista; right?
A Correct.
Q And she reported back to you that she took Kaeshia to Montevista for treatment?

A Yes.

Q Okay. And then afterwards Kaeshia did better for period of time?

A Correct.
Q Initially when you were interacting with the Solanders, is it fair to say your relationship was positive?

A It was.
Q Okay. And it later deteriorated over time?
A Correct.
Q Isn't it true that Areahia expressed that she lost trust in you because you disclosed confidential statements that she made in therapy to her biological mother?

A She never disclosed that to me.
Q Okay. And isn't it true that Areahia lost trust in you because she felt that you had disclosed statements to her biological mother?

A I heard that later, but they were pretty much removed from me not long after that.

Q Okay. Now, it's true that you had no personal observations or personal contact with the adopted Solander children themselves; right?

A Correct.
Q And none of the Diaz-Burnett children disclosed anything to you about the Solander children specifically; right?

A Just that they stayed at the table.

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Q Just that they stayed at the table.
A They stayed in the kitchen doing homework all the time.

Q Okay. So they stayed at the table, and they saw them doing homework --

A Yes.
Q -- that's it. Okay. On direct examination you talked about how you disagreed with some of Mrs. Solander's discipline practices. So I want to direct your attention to that. Okay. You're aware that Mrs. Solander used timeouts?

A Yes, I did.
Q And the children in her home, the Diaz-Burnett children specifically in her home were -- there was four of them; right?

A Correct.
Q One was an infant, like a 1-year-old, somewhere around that age; right?

A Correct.
Q And as a therapist, you don't have any problem with a parent or a foster parent using timeout as a discipline method for 1-year-old; right?

A Um --
Q There is nothing inherently, you know --
A No, there is nothing wrong with it.
Q -- or sinister?

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A No.
Q Okay. All right. And then the other children in the home, Kaeshia and Demyer were, like, 4 and 5 or 3 and -- 4 and 5, or 3 and 4, something like that?

A Something like that.
Q Okay. And there's nothing inherently wrong or evil about using timeout as a discipline method for children of that age group; right?

A Correct.
Q Okay. And Areahia was 9 at the time; correct?
A Correct.
Q Okay. And your issue was that Areahia was
parentified in your words?
A No, that was not the issue.
Q Okay. But you testified on direct examination that Areahia was parentified, and you felt that timeout was not an effective discipline method for her?

A That was not the issue.
Q My question to you was on direct examination you testified that Areahia was parentified and so that timeout was not effective as a discipline method for her in your opinion?

MS. BLUTH: Judge, I'm going to object to the form of the question. I think it's compound.

THE COURT: Overruled. If the witness disagrees with the statement, she can disagree with it.

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THE WITNESS: That was not the full reasoning behind it being wrong for her.

BY MS. MCAMIS:
Q Okay. But in response you suggested to Janet Solander that she use other discipline methods, like consequences; right?

A Correct.
Q Okay. And a consequence is, for example, things like taking away a privilege or a toy from a child; right?

A Correct.
Q Okay. You also discussed with Janet things that are consequences. For example, when a child wets him or herself, that the child clean up after him or herself is a natural consequence of learning that's not desirable behavior?

A Correct.
Q Okay. And so that's something that you actually discussed with her; right?

A Yes.
Q Okay. And so you were aware that Mrs. Solander, as a foster parent, actually implemented that natural consequence for Areahia; correct?

A [No response.]
Q Let me ask you this. Areahia had or it was reported that Areahia had an accident in her underwear and that Mrs. Solander instructed her to go in and clean it up herself;

A Correct.
Q Okay. And so that was one of the examples of a natural consequence that you shared with Mrs. Solander to better discipline or correct behavior for Areahia?

A Yes.
Q Okay. Ms. Wells, in October of 2013, towards the later part of your interaction with the Solanders, isn't it true that you told the Department of Family Services you thought they were feeling overwhelmed with the children?

A Yes, I did.
Q Ms. Wells, are you aware that Dr. Dewan classified Areahia as clinically obese?

A No.
Q Are you aware of any of the medical diagnoses of any of the children -- of the Diaz-Burnett children that were in your therapeutic care between July and November of 2013?

A No.
Q So you didn't talk to any of the doctors that saw any of the Diaz-Burnett children?

A No. I was only made aware by Ms. Janet.
Q My question to you was you did not speak personally with the doctors?

A No, I did not.
Q Okay. So, Ms. Wells, you wrote many notes during JD Reporting, Inc.
your July to November period with the Diaz-Burnett children; right?

A I'm sure I did.
Q But nowhere in any of your notes do you document
that --
THE COURT: Sorry. I'm done.
MS. MCAMIS: I think we can all relate, Your Honor. There's been lots of sneezing. It's allergy season. BY MS. MCAMIS:

Q All right. Ms. Wells, I'll ask the question again. So you wrote many notes in this case documenting your interactions with the Diaz-Burnett sibling group between July and November of 2013?

A Are we talking QMHP notes?
Q Any notes.
A Yes. I wrote a lot of notes.
Q You wrote a lot of notes, but nowhere in any of those notes do you document that Mrs. Solander planned to adopt the Diaz-Burnett children, yes or no?

A No.
Q No. There's nowhere in your notes that that was documented?

A No.
Q And that's because it's never happened; right?
A It did happen.

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Q But it's not --
A The statements did happen, yes.
Q So you documented a number of statements that you attributed to Mrs. Solander; right?

A Yes.
Q In fact, on direct examination, the State went through a whole bunch of different emails or notes and letters where you documented different statements that you attributed to Mrs. Solander specifically making; right?

A Correct.
Q And in none of those notes did you document that Mrs. Solander planned to adopt the Diaz-Burnett children, yes or no?

A I don't think that's just a yes-or-no answer.
Q My question was --
A I can't answer.
Q -- as far as documentation?
A As far as documentation, it was not in there.
Q Right. You don't like Mrs. Solander, do you? MS. BLUTH: Objection. Relevance.

MR. FIGLER: It's bias.
MS. MCAMIS: It goes to potential bias.
THE COURT: Overruled.
MS. MCAMIS: Thank you.

BY MS. MCAMIS:
Q My question was you don't like Mrs. Solander, do you?
A I have no feelings about her personally. I really don't know her. I do have problems with child abuse, and I'm a mandated reporter. So that's all I did.

Q My question to you was you don't like Mrs. Solander?
A I have no thoughts on it either way.
Q But you have thoughts about her being overbearing. Those were your words?

A The behavior.
Q Those were your words?
A That's a behavior.
Q But your words were you described Mrs. Solander as overbearing.

A Yes, as a behavior.
Q So you only said that Mrs. Solander intended to adopt the Diaz-Burnett children to shock this jury; right?

MR. HAMNER: Objection. Argumentative.
MS. BLUTH: Objection. Argumentative.
THE COURT: Yeah. That's sustained.
MS. MCAMIS: Court's indulgence.
Pass the witness.
THE COURT: Redirect.
MS. BLUTH: I just need to approach, Your Honor,
briefly and with counsel.

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MS. MCAMIS: Yeah, of course.
(Conference at the bench not recorded)
REDIRECT EXAMINATION
BY MS. BLUTH:
Q Counsel was just asking you questions about, you know, your comments today about whether or not the defendant ever told you her plan was to adopt the Diaz-Burnett children. Do you remember that?

A Yes.
Q At some point you were -- on February 5th of 2014, were you interviewed by the Department of Family Services in regards to an open investigation that they had?

A Yes, I was.
Q And do you remember in that interview whether or not you shared with them that the defendant had, in fact, said that to you?

A I don't recall.
Q Would looking at that -- the synopsis of that interview help refresh your recollection?

A Yes.
MR. FIGLER: And, Your Honor, this exceeds the scope of the cross. They asked if there were any contemporaneous notes during the time she was treating that she documented. What she says after the fact in February 2014 is not impeachment. It's not rehabilitation. It's irrelevant.

THE COURT: Mr. Figler --
What was your question?
MS. BLUTH: My question was on February 5th when you had an interview with CPS did you state that same statement to them because of counsel's question.

THE COURT: Okay. Overruled. She can answer. MS. BLUTH: Thank you.

BY MS. BLUTH:
Q I'm just going to ask you to read this last paragraph in the CPS record on February 5th of 2014. If you would just read that last little snippet, and then when you're done, look up. I'll have a quick question for you.

A You're asking me to read this one right here?
Q No, this one.
A Okay.
Q Sorry. I might've pointed out the wrong one. So I apologize.

Does that help refresh your recollection?
A Yes, it does.
Q What did you tell the CPS investigator on February of 2014 of Janet Solander's plans?

A Ms. Janet and I had had a conversation regarding -- I indicated that Ms. Janet and I had had a conversation regarding her wanting to adopt these children, and there was a conversation what was going to occur with her other children.

She was sending them inpatient treatment long term, and I asked how -- why would she take on these four children if they had all these problems and send her previous three children away.

Q And in that interview in February of 2014, you expressed the same thing you did today about Janet Solander wanting to adopt those children?

A Yes, I did.
Q Okay. So today is not the first day you ever said that?

A No, it's not.
Q Defense asked you if you were aware of any of the diagnosis for any of the Diaz-Burnett children?

A Correct.
Q Did Janet tell you -- what did Janet tell you about Novaleih?

A That Novaleih was autistic.
Q What did she tell you about Areahia?
A That Areahia was diabetic.
Q Were you seeing any behaviors or health concerns with either of those two children?

A No, I was not.
Q Did the defendant ever provide any documentation in any way to show that Novaleih was autistic and Areahia had diabetes?

A No, she did not.

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MS. BLUTH: Thank you. Nothing further.
THE COURT: Any recross?
MS. MCAMIS: Yes, briefly.
RECROSS-EXAMINATION
BY MS. MCAMIS:
Q Ms. Wells, when you were asked about a February 2014 entry or a statement that you made as far as Mrs. Solander and adopting, I want to direct your attention to that. That was after you were removed from the case on November 20th of 2013?

A I was aware of it before.
Q My question to you is your statement given to the investigator at that time in February of 2014 was after you were removed from the case on November 20th, 2013; right?

A Yes.
Q And nowhere in your documentation while you were actually being the therapist for the Diaz-Burnett sibling group between July and November of 2013 is that documented anywhere?

A It's not relevant to my care for the children.
Q My question is it's not documented.
THE COURT: Ma'am, just -- I'm sorry.
THE WITNESS: No.
THE COURT: I was just going to direct her to answer the question.

THE WITNESS: Sorry. No.

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BY MS. MCAMIS:
Q Because on November 20th of 2013, you were removed from the case; right?

A Correct.
Q In fact, the Department of Family Services told you that it was determined after the Department of Family Services caseworker met with the supervisor that it was in the children's best interest for them not to continue services with you anymore?

A I believe that was said, yes.
Q And that they requested all of your notes so that way services could resume with another therapist at a different agency after November 20th of 2013?

A They transferred them to another therapist at Legacy.
Q Okay. They transferred them to another therapist at Legacy?

A Yes. So I didn't give any notes or anything. They just stay in there.

Q But you were removed from the --
A Yes, I was. Absolutely.
Q Now, you were asked questions about the various potential or alleged diagnoses of the children. You didn't have any contact with doctors about the diagnosis of the children; right?

A No, but I was informed. JD Reporting, Inc.

Q My question was if you had any contact. It was a yes or no.

A No.
Q Okay. Now, you're not a medical expert; right?
A Absolutely not.
Q It's not your function to make diagnoses about children and/or their potential behaviors; right?

A Behaviors?
Q Well, I'll ask -- fair enough.
A Yes, it is.
Q But it's not your position to make diagnoses about, like, DSM -- or medical diagnoses; right?

A Not medical.
Q Okay. Not medical.
A DSM, yes.
Q Okay. Because you again were treating the psychological needs of these children; right?

A Correct.
Q Because they'd been abused or neglected in their biological home; right?

A Yes.
MS. MCAMIS: Court's indulgence.
Okay. Pass the witness.
THE COURT: Anything else, Ms. Bluth?
MS. BLUTH: No, Your Honor. Thank you.

THE COURT: Any juror questions for the witness? No, no questions?

All right. Ma'am, I see no additional questions. Thank you for your testimony. Please do not discuss your testimony with any other witnesses in this case.

THE WITNESS: Thank you.
THE COURT: Thank you. And you are excused.
MS. BLUTH: And, Your Honor. I apologize. We ran out of witnesses today. We moved a little bit quicker than I had anticipated. I'm sorry about that.

THE COURT: All right. Well, ladies and gentlemen, we're going to go ahead and take our evening recess. The Court has a calendar on various unrelated matters in the morning. So for that reason we will not be reconvening until 11:00 a.m., 11:00 a.m. tomorrow.

During the evening recess, you are reminded that you're not to discuss the case or anything relating to the case with each other or with anyone else. You're not to read, watch or listen to any reports of or commentaries on the case, person or subject matter relating to the case. Do not do any independent research by way of the Internet or any other medium, and please do not form or express an opinion on the trial.

Please place your notepads in your chairs and follow the bailiff through the double doors. We'll see everyone back JD Reporting, Inc.
at 11:00 a.m. tomorrow.
(Jury recessed for the evening 3:50 p.m.)
THE COURT: All right. And Mr. Figler and Ms. McAmis had made several objections at the bench throughout the course of the day which I indicated you could place on the record at our break. So this may be a good time to make a more thorough record of all of those objections.

MR. FIGLER: Thank you, Your Honor. They are numerous. If you could just give me one second, Your Honor, I'm trying to make sure that I get everything in there.

Oh, Ms. Wildeveld, where did she go?
THE COURT: She left.
MR. FIGLER: She left. Okay.
Okay. So I'm going to try to do it chronologically, and Ms. McAmis is going to try and catch it for me.

First of all, housekeeping, the State was going to enter a printout of their PowerPoint opening, and that was going to be made a court exhibit, and I just want to make sure that that is done or that it will be done and not forgotten. MS. BLUTH: Yes, for sure.

THE COURT: I don't believe that's been done yet. MS. BLUTH: No. I will do that.

THE COURT: All right.
MR. FIGLER: Thank you, Your Honor.
THE COURT: As long as it's done prior to verdict.

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MS. BLUTH: No, no, I'll definitely --
MR. FIGLER: And that's one reason I bring it up. I just want to make sure we don't lose that in the next -MS. BLUTH: No, no. I have it for sure on my computer.

MR. FIGLER: There are a number of issues that came up, Your Honor, during the course of the testimony with regard to certain records. So with regard to Heather Richardson, I know that she was going to provide records to -- I just want to make sure everything got on the record. She had testified that she had relied in preparation for today's proceeding on court notes or court reports that she had generated that were inaccessible to the defense through Odyssey or other means.

THE COURT: As well as to this Court.
MS. BLUTH: As well as to the State.
MR. FIGLER: And I understand. Okay. And so the Court had ordered her I believe on the record, I just want to make sure it was on the record to produce --

THE COURT: It was on the record.
MR. FIGLER: Okay. Good. And so that is in process, and so the defense would of course request a reasonable amount of time to review those in order to do the cross-examination, and I'm sure that the Court, once it has the time, to review those --

THE COURT: I have -- I'm sorry. I cut you off. I JD Reporting, Inc.
have not gotten those yet.
MS. BLUTH: My secretary has them, Your Honor, and I asked her to please put them in a sealed envelope and bring them to you before the close of the day. So I don't know if they're already back there or whatever.

THE COURT: Okay. It's possible my JEA has them. MS. BLUTH: Okay.

THE COURT: All right. Go on, Mr. Figler. MR. FIGLER: Thank you, Your Honor. All right. As long as we are -- let's see. The defense had also made an objection with regard to the relevance of some opinion testimony of Heather Richardson as it related to the status of the children, health and well-being, et cetera, when they went into Solander adoptive care or once the adoption was finalized, in other words, that the witness was going too far with regard to her opinion of their status of the three Solander adopted children and that the State was getting into the specific records of the H.O.P.E. provider with regard to not having tantrums at the sessions, et cetera.

And so the concern was that the State was going too far. The State had indicated that it was rehabilitating the inquiry that was done by Ms. McAmis. So just to paint the picture as clear as I can for the record, the State had elicited -- I believe over objection, but certainly over the concern of the defense -- the status of the children is that
they had only been neglected and that there were no other issues, behavioral or otherwise when they went into the Solander home, suggesting that the Solanders were responsible for all behavior or injury, et cetera.

The defense then pointed out in the course of Ms. Richardson's duties that she would've had to review the H.O.P.E. notes and that she would have to acknowledge that there were documented concerns of a litany of different things. So it impeached that opinion that we did not feel really should have been offered anyway.

Then on redirect, the State started picking and choosing, and I only say that because they didn't go through every document. There were times when the State did indicate to the witness, Please pick any, and there was an objection over that, et cetera. We were concerned that the records themselves were being used in a way that was inappropriate for rehabilitation or to somehow bolster the credibility of Ms. Richardson in a way that became irrelevant.

It doesn't matter if Ms. Richardson knew that the kid didn't act up. The whole point of the cross-examination was to show that she either was not aware of diagnoses or that they weren't important to her, and the fact that there were other things in those records became irrelevant. They were stuck at that point with the testimony of the witness and that none of that really rehabilitated but certainly went towards an opinion
of their wellness. So that was --
THE COURT: Can I interrupt you for a moment?
MR. FIGLER: No, that's it, Your Honor, on that.
THE COURT: Well, I --
MR. FIGLER: I just wanted to try to make that as full as possible.

THE COURT: While I think of it. You're saying she gave opinion testimony. As I recall, it was more observational testimony as opposed to her opinion. I think it was more I observed them to be, or I think they were, you know, whatever the term was --

MR. FIGLER: Yeah, I think that's right. I think there was --

THE COURT: -- you know, I'm not sure if she was giving opinion, like these were happy children as opposed to her observations. I observed them or I think they were this. Although to the extent it did get into opinion, Ms. McAmis was allowed to impeach her over the State's objection actually with regard to therapeutic observations that were inconsistent with that, and the Court ruled that it was either to show that she ignored those in her testimony or simply was unaware of them. Either would constitute impeachment.

But then the Court allowed the State to rehabilitate her with the totality of the records to the extent she was aware of them and would have relied upon them as part of her
job which is how the records that Mr. Figler started off referencing even came into play because that's when she testified, oh, no, every 60 days, I think it was, she had to prepare this report for the court, and that's how that all even came out was well why are you relying on these records, and then she said, well, I'm preparing a report for the court, and that was what none of us had and which typically do not come over as part of the CPS records.

Is that a fair synopsis of what was discussed at the bench?

MR. FIGLER: That sounds right, Your Honor. I'll say that, yes, that was a fair representation of what we discussed at the bench, but for the defense's position, and maybe I can articulate this a little bit better was that the witness was testifying as to the hearsay that there were no problems during the sessions and that we thought the therapist would be the more appropriate witness to talk about the substance of that and that it was unfair to suggest that she can rely upon that statement in the H.O.P.E. notes, which were the therapist notes, to make the assessment and that it crossed over from observation into opinion based on data and that that data was indeed hearsay.

That is distinct from the way the defense used those same records to show the impact on her, that she had not done a complete analysis in rendering whatever testimony she had

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rendered about the status of those children. So that's how we were trying to distinguish it at the bench.

THE COURT: Right. But to me, the way the defense did it also suggested that she was kind of biased in that she wanted to put forth this -MR. FIGLER: Rosy picture.

THE COURT: -- image, right, rosy colored image of the girls that ignored all of these negative things that had been put in the file by the therapist. So to me then, to rehabilitate her, well, it's more complicated than that. I allowed the State to get into the positive aspects or positive things that were also in the file.

MR. FIGLER: That is correct.
THE COURT: Because I do think the impact or the point of part of what was -- again, either she's ignoring the records because she wants to portray this rosy colored picture, to blame everything on the Solanders because of she's trying to help the State or because of her own personal biases or what have you. So if that's the case, then I felt the State is allowed to rehabilitate her by presenting positive things that she was aware of.

MR. FIGLER: Yeah, that's exactly what was said at the -- I just want to complete the record.

THE COURT: Right.
MR. FIGLER: That's exactly what was said at the JD Reporting, Inc.
bench. That was the defense concern. That was the Court's ruling and reasoning made at the bench. So I think that completes that part of the record unless the State has -THE COURT: Well, Ms. Bluth can add to that record if she feels she needs to.

MS. BLUTH: Oh, I just -- so there's this whole issue in the case of, you know, basically that what the children, the Solander children were like when they got to Ms. Solander and this idea that foster children, you know, are riddled with issues and that there were behavioral issues, and they're peeing and pooping everywhere and basically that they don't know what else to do with them. You know, they're trying the best that they can.

So obviously the State has to prove this case beyond a reasonable doubt, and one of the ways we need to discuss is the Solanders' behavior before they got there and the Solanders' behavior after they got there. So my objection to Ms. McAmis being able to go through piece by piece with the records and only pick out certain things like, Oh, Anastasia grabbed the therapist's neck. Anastasia hit her sister. My point was in speaking with --

Backup one second. On direct, before defense even gets an opportunity, I did ask her, Can you kind of just give us briefly, like, talk to us about the children's personalities or their demeanor, and she said, you know, Ava was shy. She's
kind of a book worm. She's more quiet. Amaya is the more emotional one. She's the one who had the most behavioral issues. So she did do that, but I never asked an opinion like were there any mental issues with the children or anything like that.

But then on cross Ms. McAmis did go through specific things, and so I felt like I needed to rehabilitate her by saying looking at the big picture, pick any record you want, read all of them, I don't care, but during these therapy sessions, there was no outbursts or violence because I felt like the picture being painted was not accurate, and so the Court admonished me in the way that I could go about doing that.

But because the defense was able to single out specific pieces in their cross-examination of, you know, the child grabbing the therapist's neck, when you look at that note in its entirety and then the two notes after it, it talks about the child being incredibly clingy, wanting to hug the therapist all the time, not letting go of the therapist.

I just thought that it rehabilitated Heather Richardson's claim that while she was with those children she didn't have any -- that she didn't see any behavioral issues or issues where she felt like it would be a concern from the children, you know, with one another or with the Solanders, et cetera. So it was just a way to rehabilitate what I thought JD Reporting, Inc.
was done on cross-examination.
THE COURT: And, again, I felt that her testimony on direct was more observational than opinion based, and she's allowed to give observational testimony, like what did she observe about the girls.

MS. BLUTH: In regards to the records, I think the record is made clear by Your Honor that Ms. Richardson talked about records that she has, like, on something locked in her computer that is every six months she generates to give to the family court judge. I was just as surprised as everybody else when she said that. So she did immediately go and get those records, gave them to my secretary, who I asked to put them in a sealed envelope and give to Your Honor in chambers, and so I think that that's been done by now, but I've never seen those.

I don't know anything about them. I actually didn't even know when she was referencing it, and I spent three years on SVU, and I don't even know what the record she's talking about.

THE COURT: Right. Right.
MS. BLUTH: It must be something that they use in that department.

THE COURT: For foster kids. So a lot of the cases that we see, the children aren't foster children. So maybe there isn't this reporting going on, but it's news to me because like I said, I've never seen it up here at the bench.

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I've never seen those types of records before. So, you know, and I -- the defense didn't -- none of us had ever heard of these records before.

MS. BLUTH: Well, even in the kids that are taken, like sexual allegations, when they're taken out of the home, they have cases with their bio parents in the foster system, and I've never -- I didn't know of these documents. So, I mean, I guess now I know.

THE COURT: I guess now we all know, and that's something I imagine the defense bar is going to start requesting now that we know that there's this other thing that I think --

MS. MCAMIS: They're not produced as a matter of course with Unity.

THE COURT: Right. And like I said, I was unfamiliar. Ms. Bluth was unfamiliar.

So next point, next issue.
MR. FIGLER: Thank you. Let's call this the photo issue. So with regard to the photo issue, the concern of the defense is it has now come out in testimony of Ms. Richardson that there were photos of her predecessor done of at least one, if not more, of the Solander children when they were -- prior to their placement into the Solander home. Obviously the relevance of photographs of injuries -- and that's what they were depicted as being -- are highly relevant to the defense as JD Reporting, Inc.
to any injuries that may be on those children in 2008 or 2009, whenever those photos were taken, okay.

I think the relevancy of that is very evident with regard to the defense being able to set forth any number of issues, including that the injuries that are now being purported to be caused by the Solanders were actually in existence before that.

MS. BLUTH: And --
MR. FIGLER: They --
MS. BLUTH: Oh, sorry. I'm sorry, Dayvid. Go ahead.
MR. FIGLER: Oh, no. That's -- thank you, Jacqueline.

And so the photos have not been produced. Certainly that would be highly relevant. There's no indication whether or not those photos are still in existence or not. We did ask the State to provide us with any -- and I think Your Honor will remember this because we did speak about it in chambers -- any sort of diagrams or photos of the children that was documented before they went into the Solander home, and I think that the State will acknowledge that we made that request of them as well, and we did talk about it with the Court.

In response to that, Ms. Bluth did give us some documentation, but it did not have diagrams, nor did it have photos and it, and we had some discussions on the record, and I don't have to reiterate those. So I really just want to focus
on the photos.
If there were photos and they are no longer in existence because they have been destroyed or lost, it is highly problematic to the defense because the caretaker of that would be the State and a State agency. There needs to be an inquiry as to whether or not they were destroyed as a matter of course, as a matter of negligence, as a matter of gross negligence, or a matter of bad faith because that would impact what remedy that we would ask of the Court pursuant to Sparks [phonetic] and the Sanborn [phonetic] and that line of cases.

THE COURT: Right. And a possible jury instruction. MR. FIGLER: And a possible jury instruction, et cetera.

So that is now in the record, and we're going to have to figure out how to deal with that. I don't know if the prior caseworker was intended to be called by the State or if the State can do an additional inquiry, but I think the State has already made some inquiry and came up empty, but this is a definite issue of the defense, and where the presumption lies is what happened -- where the presumption lies of what happened to those photos is going to have to be a determination by the Court, and so we would be inclined right now to ask for some relief if those photos don't exist.

The prejudice now into what I'm going to call the crying issue, and I just need to make a record --

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THE COURT: Can we do the photo issue and then do the crying?

MS. BLUTH: Yeah.
MR. FIGLER: Okay.
THE COURT: Let's do each issue as it comes up
because otherwise I think it's --
MS. BLUTH: I get lost.
THE COURT: Right. I was going to say it's a lot then to retain --

MR. FIGLER: Right. And I think the --
THE COURT: So are you done with the photo issue?
MR. FIGLER: I think they do impact each other. I am done with the photo issue to the extent that the defense would make a motion now or defer motion if that would be acceptable to the Court at instructions.

THE COURT: I think you should defer your motion because let's see what the ultimate outcome of any investigation the State does regarding the location of the photos or whether they were destroyed. At this point, we can only speculate.

MR. FIGLER: Right.
THE COURT: And so, Ms. Bluth, have you got anything to add on this photo issue?

MS. BLUTH: Yeah, I do. So I want to be clear because, as a matter of course, when we are dealing with these JD Reporting, Inc.
cases, Your Honor, you know, we can't just go get CPS records. So what happens is Your Honor usually after a discovery motion orders us to; right? So then we send either a subpoena or an email over to DFS records. Pursuant to this case number and this defendant, please send us all CPS records attached to blah, blah, blah. They always send over caseworker notes and Unity notes. Those are the things that we always get and we always read, and so, you know, that would be for instance, like, they wouldn't give you the entire medical records of every child. We had to go get those independently.

They don't -- when CPS hands over everything, they don't give over medical records of the child. They give over the CPS records, the case notes and the investigative notes, et cetera. So I want to be clear about that. That's what was asked. I have the discovery motion -- or excuse me, the minutes from the discovery, and that's what was asked for in regards to discovery in this case was CPS records.

And then Your Honor, for instance it was requested all CPS records and DFS records on the girls. Court ordered counsel is -- defense counsel is to provide a list of allegations for in-camera review, and if it finds relevance, it will request further records.

All CPS records and DFS records on the Solanders.
Court orders --
THE COURT: That doesn't make any sense.

JD Reporting, Inc.

MS. BLUTH: -- counsel to provide a list of allegations for in-camera review, and if it finds relevance, it will request further records. So it was the same thing.

All records of mental health workers who have had contact with the girls. Court ordered the State issue -THE COURT: Well, a list of all allegations, what does that --

MS. BLUTH: Because during -- because during the preliminary hearing with Joel Mann, there were a lot of allegations that Amaya specifically had said so-and-so did this to me. So-and-so did this to me.

THE COURT: Okay.
MS. BLUTH: And so that was one of the things the defense at that time was looking for was any issues where there had been allegations before, which is why we have, yeah.

THE COURT: Okay. So there was something outside the record?

MS. BLUTH: Sure.
THE COURT: Okay.
MS. BLUTH: I think that that -- I mean, I don't --
that was --
THE COURT: Because otherwise I'd just look at the indictment or the information and say, okay, this is what -MS. BLUTH: Right.

THE COURT: All right. So --

JD Reporting, Inc.

MS. BLUTH: So anyways, so there was never any request for pictures or documentation. I have no problem asking them, hey, does this exist?

How this all came up was Mr. Figler knows an individual who has foster children, and he was explaining to me that there's this program called -- or this place called Positively Kids that now does these evaluations, and they actually have, like, boxes that they check, and I think there's even a diagram.

So I reached out to counsel for Department of Family Services, and I said, Hey, I think that there is a form that when the children enter into the foster care system or they bounce from foster family to foster family, and they said that does exist now because we have a contract with Positively Kids. It did not exist in this case.

And so I said, well, would there be any documentation where, like, for medical or body checks, and they said maybe with, like, $I$ don't know if it's nursing staff or whatever. They said let us pull the files from storage, and we'll get those, and that's where I got, I don't know how many pages it is, but it's like a health assessment of each child. There's no diagrams, no pictures or anything. So that's what I was given, but I can definitely ask.

It's my understanding in regards to photos taken by CPS, because there was a bunch taken in this case, that they JD Reporting, Inc.
are kept on a P-drive, that CPS has, like, a P-drive that documents -- pictures are loaded onto. So --

THE COURT: And so everybody can access it at CPS. MS. BLUTH: I think so, yeah. Because I asked -- the pictures that they sent me, I felt they were kind of blurry on the photos. So I said, hey, because I only had copies, and I said is there any way I can get like a clearer picture of it was like a picture with a toilet or something, and they said, Oh, let me ask access the P-drive. So anyways. So I will ask them if they could access the P-drive and see if there's pictures of body checks. That's the only thing I can think of. MR. FIGLER: Okay. So with regard to production of photos, which I believe is evident and required both by statute and by the Court's prior discovery motion, we are not waiving any objection to the nonproduction or perhaps the nonpreservation or the destruction depending on how it rolls out. We are not waiving any objection. I just want to make sure we are not waiving any objection because we are --

THE COURT: No. Mr. Figler, you were already told, and you kind of indicated initially that you would wait and see, and I said, yeah, that makes sense.

MR. FIGLER: Okay.
THE COURT: Let's wait and see what the outcome is -MR. FIGLER: Okay. I just --

THE COURT: -- because if you get the photos, and

JD Reporting, Inc.
they're exculpatory, that's one thing. If you get the photos, and they show nothing, that there were no scars or bruises or anything, then that doesn't really help your case now, does it? MR. FIGLER: Right. But we don't have any photos. So I just want the Court to say, no, Mr. Figler, you have not waived any issue with regard to the production or whatever the status is.

THE COURT: I think I've said that, and I don't think I need to say it a different way.

MR. FIGLER: Thank you, Your Honor.
MS. BLUTH: But I don't believe it's mandated. I don't believe it was either mandated by statute or by this Court or a part of the discovery motion.

THE COURT: I don't think it was either.
MS. BLUTH: So I think we'll object to that.
THE COURT: I think what Mr. Figler is saying is when he gets the photos he's going to -- he's not waiving whatever he wants to -- whatever hay he wants to make. Pardon the colloquialism.

MS. BLUTH: Okay.
THE COURT: You can make whatever motion or seek whatever remedy you want to seek.

MR. FIGLER: Thank you, Your Honor.
MS. BLUTH: And then the crying.
THE COURT: All right. Issue Number 3.

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MR. FIGLER: I'd like the Court to make a record of and then either the State or the defense could augment it if necessary with regards to the emotional outbursts or reaction of Ms. Richardson when confronted with the photos of State's Proposed Exhibits 4, State's Proposed 8, State's Proposed 15, and State's Proposed 22.

If Your Honor recalls, near the end of her testimony, the State, over the objection of the defense, had presented photographs of what's purported to be the three Solander children to the witness. The defense had objected. We made that objection at the bench. So I want to make sure that that objection is outlined.

Number one, that the witness did not recognize the individuals who were in it. So that was Objection 1.

Objection 2 is because this witness had not documented with photographs or had not reviewed the photographs that her predecessor had made, et cetera, that she would not be competent to analyze whether or not those photos depict something that existed previously or not.

And then we didn't note the objection, but now we're making it after the fact that presenting those photos to that witness in such a fashion would cause such an emotional reaction that it amounts to inappropriate vouching for her for the State, that those photos depict not only injuries that were not present, but that they are so horrific --

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THE COURT: Well, that was the point of the photos, that for her to say that those injuries weren't present. That was the whole point so that then when she introduces them through another witness she's going to -- meaning she is Ms. Bluth or Mr. Hamner is going to be able to argue that these injuries weren't there when --

MR. FIGLER: Well, she had already testified. Our point is that they didn't need to show her the photographs in order to get that. They had already elicited from Ms. Richardson that she did not note any injuries at all on those children during the course of her interaction with the children but for the August incident that she indicated at the dentist's office, and so it was inherently --

And I don't know why they needed to show the photographs. We objected to the photographs, but I still think we need to make a record that the visceral crying, emotional outpour --

THE COURT: Well, I don't know what you're talking about. So whatever this visceral crying and emotional outpouring that you observed, maybe I was looking down or something, but I don't know -- I didn't note it. So if she gasped or --

MR. FIGLER: And I wanted to note that --
THE COURT: -- were blanched or teared up or something like that, I mean, her eyes were a little bloodshot JD Reporting, Inc.
at various times throughout her testimony, but she certainly wasn't crying with tears going down her face or anything like that, but I don't recall noting any gasping or [demonstrates a noise], you know, like --

MR. FIGLER: I would disagree with a Court's assessment.

THE COURT: Well, I said I didn't note it. I didn't see that.

MR. FIGLER: Okay.
THE COURT: So whatever you're talking about, like I said, I noticed that her eyes at various points or at some point became sort of red rimmed. Now, I'm sitting, you know, a short distance from the witness stand. So what I can see is different than what the jury can see. That's, you know -- I don't know how many feet Juror Number 1, who is the closest juror to the witness stand, I don't know how many feet that is.

MS. BLUTH: Probably, like, 15 or 20.
THE COURT: But certainly this is maybe 4 feet that I am from the witness. Does that sound about right, 4 and a half, 5 feet.

MR. FIGLER: That's about right.
THE COURT: And it's more than that to Juror
Number 1, who is the closest juror. So my point is what I saw with respect to her eyes wouldn't have been seen by anybody else, and everybody is coughing and blowing their nose and JD Reporting, Inc.
sneezing. So I'm not even sure that that is indicating tearing up as opposed to just, like I said --

MS. BLUTH: I mean, the idea though --
THE COURT: -- other things, but I don't know what you're talking about --

MR. FIGLER: Okay. So --
THE COURT: -- frankly, Mr. Figler, because maybe, like, I said, maybe I wasn't -- I was looking down, but I don't recall what you're talking about with respect to this emotional reaction, which I certainly, if I noted it at the time, was not significant enough for me to now recall. I don't think I noticed anything.

MR. FIGLER: All right. And the defense has a completely different recollection. In fact, when we approached the bench immediately afterwards, it was our request at the bench to make that contemporaneous record -- so we haven't waived anything. We're doing that now -- that Ms. Richardson, when showed those photographs, was taken so far aback that there was a visible change on her face, that she began to not only well up but actually cry and had trouble articulating words to get through her response because of the emotional impact that was displayed in front of the jury.

Now, if the Court didn't see that from the Court's angle, but we have a more direct frontal view, and you have a side view of Ms. Richardson, and the jury has a direct view of
her, it was so apparent and blatant that the defense knew immediately it needed to make a record of it.

Now, if the State disagrees with that assessment, the best indicator, if it's captured by the JAVS, not for her testimony, which the official record is going to be the recordation but for her physical reaction to --

THE COURT: No. The official -- to correct you, the official record is the transcript.

MR. FIGLER: Right. That's what I said.
THE COURT: You said recordation.
MR. FIGLER: I'm sorry. The transcript. My apology. My apology to Susie, the court reporter.

But that the JAVS would have had --
THE COURT: She's actually a court recorder.
MR. FIGLER: Okay. The official --
THE COURT: Right. The official record is the transcript.

MR. FIGLER: -- record will not show her face.
THE COURT: But if there is a JAVS, if it was focused on her, which I think it probably was, then we can have Susie cut that part of the disc showing her facial reaction when shown the photos, and we can make that a Court's exhibit.

MR. FIGLER: Thank you, Your Honor.
THE COURT: Fair enough, Mr. Figler?
MR. FIGLER: That would be my request. Thank you,

JD Reporting, Inc.

Your Honor.
MS. BLUTH: May I just have one thing to say about it?

THE COURT: Yes. And Ms. Bluth can say what she noticed because again I'm not remembering this, you know, gigantic reaction.

MS. BLUTH: Honestly, I'm offended at the fact that it was an emotional outburst. I mean, come on. Look, I was literally next to her because I was the one showing her the photos. She looked at the photos. She thumbed through them. She took a second. Not one tear rolled down her cheek, but she did get a little bit emotional. She cleared her throat, and then she answered. She was very professional.

But to think that a person who cared for these children and was very -- they were special to her, which she said, wouldn't get emotional at looking at photos of their scarred bodies, what law is it that says a witness can't cry? There is no law. I mean, if she would have been I can't talk about this, and she would have had an emotional outburst, okay, that would be an issue, but she was so professional about it. Not one tear fell. She cleared her throat, and she answered the questions professionally. There was absolutely nothing, nothing wrong with the way she behaved.

I mean, there's going to be tears in this trial.
THE COURT: Right. And I think -- I think

JD Reporting, Inc.

Ms. Bluth's summation is a fair summation, and it certainly, you know, it doesn't preclude her from showing the photos to the witness. I mean, I think your objection at the bench was -- she can't show the photos to the witness because the witness can't authenticate them or doesn't recognize who's in the photos, but again, as I said at the bench, I believe, the point is so that later Ms. Bluth can say these scars that you are seeing in these photos were not witnessed or not seen by Ms. Richardson.

MS. BLUTH: Who did the body check.
MR. FIGLER: And our --
THE COURT: Which, you know, okay, I get it. You know, you say that she had already covered that territory. MR. FIGLER: Correct.

THE COURT: But I don't think just because you want Ms. Bluth to limit her questioning a certain way doesn't mean she can't go over it in the exhibits.

MR. FIGLER: And if Your Honor recalls, the other objection was beyond the scope of the cross-examination because --

THE COURT: Right. And then Ms. Bluth said, Well, I could recall her, and I said, Yes, she could.

MR. FIGLER: Right.
THE COURT: And in the interests of expediting the whole process, I allowed Ms. Bluth to do it as part of her JD Reporting, Inc.

MR. FIGLER: Thank you for making that record.
THE COURT: -- although it was conceded that it did exceed the scope of cross.

MR. FIGLER: Thank you, Your Honor.
THE COURT: All right. What else? Is that it?
MR. FIGLER: On those three issues, absolutely. And then Shining Star notes. There was a discussion up at the bench. Ms. Castro nee Ms. Lewis had testified that she kept contemporaneous notes and documentation regarding her interactions with the two Diaz-Burnett -- or the two Burnett children $K$ and $D$, and those notes were requested. Ms. McAmis made a --

MS. MCAMIS: I made a similar request after Jennifer Dowling made that disclosure, that she had notes that she had turned in, and I made a record at that time that that was never provided to defense, and we had concerns about doing an effective cross-examination, and the same applies now to Ms. Lewis, slash, Castro.

MR. FIGLER: So there's two ways to go about this. One, if the Court feels that there is an obligation, since this was a third party vendor to the State to provide that, that needs to be ordered, and we have those witnesses subject to recall. If the Court does not feel that's the State's responsibility, then we would be in a position to have to issue JD Reporting, Inc.
a subpoena now, and we'll see where that plays out.
But we just want to bring to the Court's attention that it does appear that there were Shining Star notes, documentation, that they had not been provided. Whether the Court feels that they needed to be provided or not is up to the Court, but that they have not been provided. That's the record we wanted to make, and we made it at the bench.

THE COURT: Well, and they hadn't been requested. So, you know --

MR. FIGLER: And we certainly will --
THE COURT: -- when you say they haven't been provided, A, as you, yourself, point out, it's a third-party vendor. So it's not in possession of the State, and, Number two, it was never requested by the defense; correct? So and it was never ordered by this Court.

MR. FIGLER: I would argue that it was enough of a connection to the discovery order and the discovery motion that was made early on in this case that it would have been covered. Absent that, Your Honor, if there is anything exculpatory in there, the State does have an obligation to give it to us, and with regard to it being a --

THE COURT: If they're aware of it.
MS. BLUTH: If I'm aware of it --
MR. FIGLER: If I could just finish real quick. If it's a third-party vendor that was engaged by the State, I JD Reporting, Inc.
still feel that the Giglio [phonetic] and progeny obligations still flow up to the State to have provided those or to have those. The rule has never been what is in the actual physical file of the district attorney, but what would reasonably be in the care of any agency, and certainly Shining Star is a vendor of the State. It wasn't a vendor of Ms. Solander. It was a vendor that was retained and paid for by the State and State services, and that should have been made part of any bigger CPS record or DFS record.

THE COURT: Well, first of all, the discovery motion was CPS and DFS records, Number one.

MR. FIGLER: Right.
THE COURT: Number two, I would just point out, if anybody was in a position to know that they had been treated at Shining Star, it was the defense side after consulting with their client if they wanted those additional records; and, Number three, I don't think the records of a third-party vendor go to the State, and the request was for DFS, CPS records, which were gone through, and I don't believe there was any additional reference in that, but if there was, then it was incumbent upon the defense to request additional records, which we've had what? I don't remember when the Solander records were first turned over or the Diaz-Burnett. It was not recently, but, I mean -- it was just recently, but --

MS. BLUTH: The Shining Star stuff and the stuff from JD Reporting, Inc.

Lori Wells was turned over two days after our file review. So --

THE COURT: Anything else you want to add to what the Court's already stated on those?

MR. HAMNER: No. I agree with all of those points. And the one other additional point with respect to Brady and the language is pretty clear when talking about kind of like an agent of the State. It's an agency or an arm that works towards the investigation of the case, and that's certainly not the role of BST as a third party. I mean, they just do, you know, skills treatments for kids in the foster system. I mean, there's a real disconnect there. So that was the only other point the State wanted to make.

THE COURT: All right.
MR. FIGLER: Well, and just in response to Mr. Hamner, and I appreciate his comments, that the State has placed all this into controversy by introducing it, and so all the natural flowing Brady obligations would come from that, especially since they have now made this part of their case in chief, and this is when the relevancy becomes apparent. So, you know, I think we've all made our record on both sides.

THE COURT: Well, first of all, I need to say something. I don't think the State is commenting on relevancy grounds, Number one. And, Number two, I would just note that at this point there's nothing to even remotely indicate that JD Reporting, Inc.
there would be something exculpatory in the notes of Ms. Wells, who has been very consistent I think --

MR. FIGLER: That's Legacy, Your Honor. We haven't talked about that.

THE COURT: Oh, right.
MR. FIGLER: We're talking about Shining Star with Ms. Castro.

THE COURT: You're right.
MR. FIGLER: And Jennifer Dowling.
THE COURT: In any event, at this point there's nothing to indicate that there was anything exculpatory in those records. So that's where we are.

So next point.
MR. FIGLER: The next point.
THE COURT: Issue Number 5.
MR. FIGLER: Thank you, Your Honor. We'll call it the DA email.

MR. HAMNER: Ms. McLaughlin [phonetic].
MR. FIGLER: We'll call that one the DA email issue. There was an indication from Ms. Castro that in preparing for her testimony today that she reviewed and relied upon an email sent to her by the district attorney's office. At the bench, the district attorney's office claimed work product privilege, and Your Honor said you could make a record of that on either side when we get a chance to do that. So that's what we're
doing right now.
We feel that because the State shared that with a witness who then indicated that the witness relied upon that in her testimony that it is no longer work product, but that that privilege has been waived and that the defense is certainly entitled to see the document that Ms. Castro relied upon, irrespective of its source, in preparation for her testimony and that she would be subject to recall depending on what is contained in that email.

At a minimum, that email should be produced to the Court for in-camera review. So that was our motion that it be produced because it was relied upon by the witness. I'll let the State make their own record on that.

MS. BLUTH: So I can't email and scan CPS records to third parties, especially when they have such sensitive stuff as this, and so what I normally do is make a chronology of pertinent parts of the records for my own being, and then when I have someone like Jennifer Dowling or Riley Lewis or especially people who are out of State, then I send those to them, and say, you know, this is -- these are -- please look at your name and the relevant parts in regards to your contacts with the children. Hopefully that refreshes your recollection in regards to either the hotline calls that you did or comments you made to investigators, et cetera, and so that's what she's referring to.

THE COURT: What about the argument that it's no longer work product when it's given to a third-party witness -MS. BLUTH: Well, how is it not -- sorry.

THE COURT: -- and they --
MS. BLUTH: Because it's my work product for them. Like, it's my witness that I'm calling. So any time I go through documents of mine with a witness, how is that any different than them going through it with their client?

THE COURT: Well, that's their client.
MS. BLUTH: But, I mean, so the only person I can share things with his Mr. Hamner?

THE COURT: Meaning it's a party. These witnesses aren't parties. I mean, their client is a party. So there are different rules when it's a party as opposed to -- as -- or their client. These witnesses are not your clients --

MS. BLUTH: Right. But --
THE COURT: -- they are witnesses, presumably
independent witnesses, and so my question is, once you communicate with a witness who is a witness, not a client, not a party, then how does that impact work product? Because, you know --

MS. BLUTH: Right. And, I mean, I guess I couldn't share it with anybody. Like I could only share it with Mr. Hamner. I mean, it's a witness I'm going to call. The product is stuff that she and I are going to talk about in
regards to her pretrial and in her testimony. So I don't think that I give up my work product privilege because I go through things that a witness is going to discuss and things that she reported to CPS because I'm going through it with a witness in my case in chief.

Like maybe if I went through it with their investigator or --

THE COURT: Well, see, but, I mean, I guess the difference between you and defense counsel is none of your witnesses are clients. Their defendant is a client, but their other witnesses wouldn't be clients either.

MS. BLUTH: But there's not one piece of case law that they could ever point to that says --

THE COURT: Well, I was going to say, you know, off the top of my -- I think if both sides can provide authority on whether or not it's work product or not when it's been given to a witness in preparation for the witness's testimony and the witness is not a client or a party.

MR. FIGLER: Right.
THE COURT: So, I mean, I don't know what the authority is for that. I mean, as we know, typically you can ask a witness what was discussed in your pretrial conference; what did the State tell you; what was shown to you?

MR. FIGLER: Right. The distinction here though is that the witness indicated that she reviewed and relied upon it JD Reporting, Inc.
for her testimony, and I do have some case law that I had because I raised this issue in another case.

THE COURT: I mean, my concern is if she relied upon it for her testimony --

MR. FIGLER: Right. That's our concern.
THE COURT: -- then --
MR. HAMNER: And I think that it's probably more from a refreshing of recollection standpoint rather than, you know, like -- she's talking about something that happened three or four years ago. So these are kind of notes from CPS about things that happened three or four years ago.

MS. BLUTH: I mean, if I get an order from the Court that allows me to send them CPS records, then I'll do it, but it's my understanding that I'm not allowed to do that.

THE COURT: Right.
MS. BLUTH: So it's not like I'm, like, inserting my opinions, you know. It's just like this is what she reported. This was the date.

THE COURT: Let me ask what the issue is in turning over the email.

MS. BLUTH: Because it's never going to stop. It's never, never going to stop. They have no right to my emails, to my work product, none of it, and so, yeah, I have a major problem handing over any of the things that I do to prepare for my trials. What case law can you point to that says I have to
turn over any correspondence between me and a witness that I'm calling? None.

THE COURT: Well, except I don't know. I mean, if the witness uses it to just refresh their memory, that's one thing, but if they're relying on it in their testimony, then I think it maybe becomes something else. So, you know, we'll talk about this more fully if anyone has any authority one way or the other. You know, because typically you would be able to ask them, well, what did you review prior to coming to court today, and then they have to tell you what they reviewed.

MS. BLUTH: Right. And she did.
MR. HAMNER: And that did happen.
THE COURT: You know --
MR. FIGLER: Right. But we get to review what the witness reviewed.

MS. BLUTH: No, they don't.
MR. FIGLER: Because the work product privilege -and I'm guessing that's the only reason they are objecting to the disclosure right now -- cannot be waived, and that is not true. The work product can absolutely be waived by its disclosure to a third party who is not the -- a party to the action.

MS. BLUTH: Okay. So every time a defense attorney contacts an expert and every correspondence between them and their expert I get? Because that is never allowed in any court JD Reporting, Inc.
in this entire court.
THE COURT: Right. Except --
MR. FIGLER: But they relied upon --
THE COURT: Except typically the expert isn't relying -- you know, typically when you have an expert, well, what did you review? Well, I reviewed this deposition and this police report and this and that and the other thing. They never say, and part of it is because they're hired experts and they know not to say it --

MS. BLUTH: Right.
THE COURT: -- they never say, oh, I relied on communications from counsel. I've never heard that, and if they did, then probably that would open the door, but, as I said, a retained expert is never going to say that because they're professional witnesses, and I'm sure they at some level know that that would open the door.

The witness who said it I think was just being forthcoming and honest and said what she reviewed and wasn't trying not to say it. So that would be the difference --

MR. FIGLER: Right. So --
THE COURT: -- and it didn't concern just like scheduling and things like that.

MR. FIGLER: Correct. And so I would direct the Court initially to NRS 49.385, which talks about the waiver of privilege by voluntary disclosure, that there are a number of
cases from the United States Supreme Court recognizing the judiciary's inherent power to require the prosecution to produce things that the defense may use to get benefit of full cross-examination for the truth finding process in Jenks [phonetic] and its progeny on that, and that the United States Supreme Court has held that even attorney work product privilege is waivable as well, and that case is U.S. V Nobles [phonetic] because the privilege arrived from work product [unintelligible] is not absolute. Like other qualifying privileges, it may be waived by disclosure to a third party. And so you're right, Your Honor, when it's a party, that's not a third party. This is a different witness. It's not the client of the State, et cetera, and if she relied upon it, we get to impeach her on it or at least cross-examine her on it for full cross-examination, and as a result, it should be produced.

Now, if the State has some concern, it could always be produced to the Court. That's always our backup. Give it to the Court. Let the Court look at it. See if there's anything in there that could have possibly been used for cross-examination or impeachment.

THE COURT: If you guys are going to talk, can you keep your voices down?

MS. BLUTH: I'm sorry.
MR. HAMNER: I'm sorry.

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THE COURT: Because it's hard to hear Mr. Figler when you guys are talking.

MR. FIGLER: Thank you. That was my record, Your Honor.

MS. BLUTH: Well, according to Mr. Figler, she's an agent of the State. She's a BST worker who is an agent of the State.

MR. HAMNER: He just said that 10 minutes ago.
MS. BLUTH: So and the State is my client. So, yeah, I communicated with her. So --

MR. HAMNER: I mean, it's either one or the other. THE COURT: Well, the Court has already said she's not an agent of the State, number one.

MR. HAMNER: Okay.
THE COURT: And it's up to me -- and they're clearly not your client, just like a police officer is not your client. MS. BLUTH: No, but our point was you can't have it both ways though. You can't say that they're an agent of the State, and I am the State, and therefore, I am supposed to get these things, and then in the very next breath, you're saying that they're not part of me, and therefore any communications with them is a third party. I'm just saying it's both ends of the mouth.

THE COURT: Right. It's inconsistent.
MS. BLUTH: Absolutely.

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THE COURT: All right. Well, I'm reserving ruling on that issue as to whether or not Ms. Bluth has to turn it over to the Court or turn it over to you or turn it over to anybody else. So I think we're done; right?

MR. FIGLER: On that issue, yes.
THE COURT: Well, what other issues are there?
MR. FIGLER: Well, Number six --
MS. BLUTH: How many are there just so we know?
THE COURT: I'm going to start making better notes up here, and I'll just run through the --

MR. FIGLER: I appreciate that, Your Honor, because --

THE COURT: -- issues.
MR. FIGLER: Well, we kept differing and differing.
THE COURT: Well, no. I think you did. I mean you kept good notes, but I don't remember any other issues. Were there any other issues?

MR. FIGLER: There was. The last one, Your Honor, is that the State had elicited from Areahia Diaz that Ms. Solander had threatened to kill the witness -- or I'm sorry, one of the Solander girls when she urinated on the floor by throwing her over the balcony.

MS. BLUTH: She didn't say anything about killing.
MR. FIGLER: Sorry, throwing her over the balcony which presumably would be a criminal charge to threaten to JD Reporting, Inc.
throw somebody over a balcony. That was not part of any prior bad acts motion, and the State had admitted at the bench that they knew what the response was going to be in response to the way that they asked the question, and the question I believe was somewhere along the lines of, Do you remember Ms. Solander -- Ms. Janet reacting when she slipped on one of the girl's urine, and what did she do, and the response to that was she threatened to throw her over the balcony.

And we then approached the bench shortly thereafter to make the contemporaneous objection to not draw attention to it, and Your Honor thought, well, the State didn't know what that response would be, and Ms. Bluth said in candor that she did know what the response would be, and we felt that that was something that should have been subject to a Petrocelli hearing. That was our objection that that was improperly elicited by the State. That was our record.

THE COURT: And whose urine was slipped on? Refresh my memory.

MS. BLUTH: Anastasia. Anastasia slipped -- sorry. Ms. Solander slipped in Anastasia's urine, and I knew exactly what she was going to say because it's on page 40 of her second statement. They asked her about a specific incident, and Areahia said, Yeah, one time Anastasia peed. Ms. Janet slipped on it. She was so angry that the following day Ms. Janet came back and said if you ever do that again and I slip again, I'll

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throw you over the balcony.
I don't think that's another bad act. Our entire case is about her anger in regards to toileting issues. Like, almost all of our charges are in regards to toileting issues, and so that just goes to her mindset in regards to these reoccurring toileting issues.

MR. HAMNER: And how she deals with it.
THE COURT: I don't think it's a separate bad act. I mean, I don't think they have to file a motion for every single comment or threat or, you know, separate -- I mean, I think it's encompassed within the charges itself. It's part and parcel of the whole thing. So I don't really see that threat -- I mean, it's just part of the whole totality of the incidents that relate to toileting. So I don't think they were required to file a separate bad acts motion for the threat to throw her over --

MR. FIGLER: Well, as far as --
THE COURT: -- the stairs --
MR. FIGLER: As far as --
THE COURT: I mean, I frankly don't see that as a separate isolated bad act.

MR. FIGLER: I don't see it in any of the singular 46 charges, and so the defense request is that the State not be able to reference that singular act in its argument as being probative of any of the actual charge because there is no
charge that they were threatened with being tossed over a balcony. Certainly if they wanted to suggest and add that as a charge when that was the appropriate time to do so, but they did not, and it would be inappropriate --

THE COURT: Well, they can't --
MR. FIGLER: -- the prejudicial impact of a threat like that being used to support any of those is wrong. THE COURT: Well, once the evidence comes in, it's in. Now, since it's in, they can argue. It's fair comment in their argument --

MR. FIGLER: All right. Well, they --
THE COURT: -- I don't think they can say that that's an element of the crime or something like that because it hasn't been charged, but they can certainly argue any evidence that was admitted, and it was admitted. So it's fair comment by them as to Janet Solander's state of mind or whatever in their closing arguments. I mean, they can comment on that. Like I said, they can't try to make it an element of one of the crimes or something like that because it's not listed in the charging document, but that doesn't mean they can't comment upon it in their closing arguments. So I think that that's really what you're trying to preclude them from doing, and they get to comment on that --

MR. FIGLER: Right. Well --
THE COURT: -- I mean, anything that's admitted, but

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like I said, they can't try to now sneak that in.
MR. FIGLER: It'll be over our objection if you -- if we need to contemporaneously object to it during the closing if it even comes up.

THE COURT: Well, like I said, I mean, if they try to use it improperly in closing, then you can make an objection, but you objected to its admission. I let it in, and now they can -- evidence that's admitted is the subject of fair comment --

MR. FIGLER: Thank you, Your Honor.
THE COURT: -- in closing arguments.
MR. FIGLER: That made our record.
THE COURT: So I don't think we need to keep relitigating that issue.

MR. FIGLER: No, I just wanted to make that record. So I appreciate that.

THE COURT: Okay.
(Proceedings recessed for the evening 4:49 p.m.) -oOo-

ATTEST: I do hereby certify that I have truly and correctly transcribed the audio/video proceedings in the above-entitled case.


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THE STATE OF NEVADA, ) Plaintiff, CASE NO. C299737-3 DEPT NO. XXI
vs.
JANET SOLANDER,
$\qquad$ )

BEFORE THE HONORABLE VALERIE P. ADAIR, DISTRICT COURT JUDGE
JURY TRIAL - DAY 8
THURSDAY, FEBRUARY 22, 2018

APPEARANCES :

FOR THE STATE:

FOR THE DEFENDANT:
CAITLYN L. MCAMIS, ESQ. DAYVID J. FIGLER, ESQ.

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## WITNESSES FOR THE STATE:

GAIL ANDERSON

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LAS VEGAS, CLARK COUNTY, NEVADA, FEBRUARY 22, 2018, 11:28 A.M.
(In the presence of the jury)
THE COURT: All right. Court is now back in session. The record should reflect the presence of the State through the deputy district attorneys, the presence of the defendant and her counsel, the officers of the court and the ladies and gentlemen of the jury.

And is the State ready to call its next witness?
MS. BLUTH: Yes, Your Honor. Thank you. The State calls Gail Anderson.

THE COURT: Gail Anderson.
And then just face this lady right here who will administer the oath to you.

THE WITNESS: Okay. Thank you.

## GAIL ANDERSON

[having been called as a witness and being first duly sworn, testified as follows:]

THE CLERK: Thank you. Please have a seat. State and spell both your first and last name for the record.

THE WITNESS: My name is Gail Anderson. G-a-i-l.
Anderson, $A-n-d-e-r-s-o-n$.
THE COURT: All right. Thank you.
Ms. Bluth.
MS. BLUTH: Thank you, Your Honor.

JD Reporting, Inc.

BY MS. BLUTH:
Q Good morning -- yeah, still morning. Good morning, Ms. Anderson. How are you employed?

A I am employed with the Department of Family Services through Clark County.

Q Okay. And how long have you been employed?
A Fourteen years.
Q And could you explain to the ladies and gentlemen of the jury the training and education you received in order to work for the department.

A I received a bachelor's and a master's degree at UNLV in social work.

Q And then have you worked for the Department of Family Services here in Nevada for your entire course of employment?

A Yes.
Q Okay. My question really meant, like, have you ever worked in any other jurisdictions besides Nevada?

A No, I have not.
Q Okay. Now, what is your current position?
A Currently I'm a family service specialist?
Q What does that mean?
A Somewhat of a case -- I'm a case manager, a caseworker for the Department of Family Services; however, I work in a different capacity now.

JD Reporting, Inc.

Q Okay. So I want to know, like, what are your job duties right now?

A Right now, supervision of parents and children during their visitation.

Q Okay. And now I want to talk about in 2013. Did you hold a different position?

A I did.
Q Can you explain what that position was and what your job duties were.

A I was a caseworker in 2013 for the Department of Family Services, and I had children placed in foster care under my supervision whereas I would go -- children were brought into custody. They were placed in foster care, and then I would make sure services were provided to the children and that they were given the services that they needed and make sure that they are safe in their foster homes or at a home, and that's it.

Q All right. So basically just in that position was your job to make sure that they were safe, make sure that their basic needs are being met, et cetera?

A Yes.
Q And how would you ensure that those things were being done?

A As well report back to the courts.
I would make sure by going to the foster home, JD Reporting, Inc.
checking on the children as needed basically once per month. Check in with the schools, check in with providers for them as far as their medical history, psychological history, any other therapeutic needs that they need, any specialties that they needed and ensuring that they met with their parents, if their parents were available for visits and report back and review information provided by providers.

Q Okay. So I want to talk to you about that same period of time. So we're talking about 2013. Were you the caseworker that worked with the Diaz-Burnett children?

A I am.
Q And if you don't mind, I'm going to refer to them as the Diaz-Burnett children, but just so we all know who I'm talking about, we're talking about Areahia Diaz, Kaeshia, Demyer and Novaleih Burnett; is that right?

A Yes.
Q Okay. At what point in the year of 2013 did you become their caseworker?

A I believe it was May 2013.
Q Okay. And how long did you work with them for? What was the term of your work with them?

A About five to six months.
Q All right. And what was the reason that the Diaz-Burnett children were taken away from their bio family?

A Due to neglect and abuse.

JD Reporting, Inc.

Q Okay. And then how many, if any, foster homes had they been in before you received them?

A One.
Q And who were the -- when you come onto the case, are they in the first foster home, or are they moving into the second? Explain to me where they kind of are in the process.

A Well, they were separated I do believe. If I recall correctly, they were separated, and then we moved all the children into one home.

Q And when you say they, the Diaz-Burnett children were separated?

A I'm sorry. The Diaz-Burnett children were separated. Two were in one foster home, and two were in another. Then we brought them together in one foster home.

Q Okay. And then when you brought them together in one foster home, what were the foster parents' name in that home?

A That home, that was the Solanders, Solander, Dwight and Janet.

Q Do you see Janet here in the courtroom today?
A Yes.
Q Okay. Can you describe an article of clothing that she's wearing for the record, please.

A Blue sweater.
MS. BLUTH: Your Honor, may the record reflect the identification?

THE COURT: It will. MS. BLUTH: Thank you. BY MS. BLUTH:

Q Now, as their caseworker, explain to me how it is decided in which home children go? Like who makes those decisions?

A Placement. We have a department called placement, a section, and they review the case, the need, and they decide where the children are going to be placed.

Q Okay. You, as their caseworker, do you do anything, you know, once you're assigned those children or when you're working with those children if you -- say you don't think it's a good match or you get to the home for the first time and things don't seem to be right to you, do you have the ability to pull them out?

A I do not.
Q So what would be -- what would be your mode of action if that were the case?

A Well, depending on the circumstance and what it is, is to address it with the foster parent, one. If it can be resolved at that point, then, yes. Otherwise, I would take the information, go back to my office, speak to my supervisor about it, and that's called a staffing, and then after that, my supervisors staffs, and it kind of goes up the chain to decide or determine whether or not it's going to be a removal and/or

Q Okay. Now, when you were working with the children and they -- so when you're working with them initially, they're in two separate homes; correct?

A Right.
Q So you were actually the perm worker when the children go to the Solanders for like the very first day?

A Yes.
Q And to your knowledge, did they have any significant medical issues that you are aware of? And when I say significant, I'm talking about, you know, either diseases or things of that nature, not just like, you know, a scabbed knee or something like that?

A At the onset of the case, no.
Q Okay. Any significant eating issues where they needed to be given specific types of foods or any special diets?

A No.
Q Any out-of-ordinary toileting issues with either Demyer, Kaeshia or Areahia?

A $\quad$ No.
Q When the children are placed in the custody of the Solanders as their foster parents, as their permanency worker, were you aware that Janet had been investigated after a call from a mandated reporter for physical abuse in February

A No.
Q When the children were placed in the custody of the Solanders, were you aware that Janet and Dwight had been investigated after a call to the hotline by a mandated reporter who was also a CPS worker for physical abuse as to the same child in August of 2011?

A No.
Q When the children were placed in the custody of the Solanders, were you aware that Janet and Dwight had been investigated for physical abuse and neglect in February of 2013, so just three months before, after a call to the hotline by the children's own live-in nanny?

A No.
Q When you were working as a permanency worker and the children were placed in the Solanders' home, were you aware that there were two other foster children who had been in the home earlier that year, Autumn an Ivy Skike as foster children -- excuse me Autumn and Ivy Stark as foster children?

A No.
Q Is there a reason why you wouldn't know that information?

A Yes.
Q Can you explain it to me.
A Yes. The department is split into different JD Reporting, Inc.
sections, and when they place children into a foster home, that information is not provided to the caseworker ahead of time.

Q Okay.
A Because the caseworker is not the person making the decision for the placement of the child.

Q Do you think it would be important for you -- I mean, you've testified that it's your job to make sure that these kids are safe and that they're in a good environment and to thrive; right?

## A Yes.

Q Do you think in order for you to do your best job it would be important for you to know those things?

MR. FIGLER: I'm going to object, Your Honor.
THE COURT: Overruled.
MR. FIGLER: We're talking about policy and
speculation. There's so many factors involved.
THE COURT: Overruled. She can answer.
BY MS. BLUTH:
Q Do you want me to repeat the question?
A Yes, please.
Q As a caseworker and, you know, your duties owed to the Diaz-Burnett children, do you think it would be important for you to know those things that I just discussed?

A Yes.
Q When you were the permanency worker with the JD Reporting, Inc.

Diaz-Burnett children, how often would you see them?
A Once a month.
Q And when you would see them, would that be -- well, you tell me. Where would that be at?

A Once a month in the foster home.
Q Okay.
A And also I saw them outside of the foster home before.

Q Sometimes would it be difficult to make contact with them at the home?

A Yes.
Q And why was that?
A Well, because either the children -- some would be at school and/or they would have things already scheduled or planned. Per the foster parents, so like it could be an outing, could be doctor's appointments or, you know, someone not home so that I could get in to see them.

Q Were there a lot of doctors' appointments?
A Yes.
Q So we're talking about -- were you ever in the home more than once a month?

A Not to my recollection.
Q All right. In the five or six months that you worked with the Diaz-Burnett children, did you ever see the three adopted Solander children?

A I don't recall.
Q You don't recall if you saw them or not?
A Yes.
Q Okay. If you did see them, do you think you would remember?

A Yes.
Q Did Janet ever speak to you about what she did for a living?

A Yes.
Q And what was it that she stated?
A She's a nurse.
Q After the children were placed with the Solanders, did you -- right after that, did you begin kind of being bombarded with emails from Janet and Dwight?

A Yes.
MS. MCAMIS: Objection. Argumentative as to
bombardment. Foundation.
THE COURT: That's sustained. Just rephrase.
Did you start receiving a number of emails from the
Solanders?
THE WITNESS: Yes.
THE COURT: Okay. Go on, Ms. Bluth.
BY MS. BLUTH:
Q And what were some of the topics about these emails?
A Topics about the children's behaviors, requesting for JD Reporting, Inc.
a pay increase, what we call a rate setting or a higher level of care payment, visitation for the children and their parents, health issues, issues with the therapist.

Q Were the emails or the phone calls, whichever way it was, were they pretty constant?

A They were constant.
Q The behaviors of them, we're talking obviously, I know it seems like an obvious question, but we're talking about the behaviors of the Diaz-Burnett children; correct?

A Yes.
Q And what were the Solanders' issues with the Diaz-Burnett children?

A Issues with potty training, screaming and yelling, doctors' appointments, medical cards, visitation times to be set up at our visitation center versus their therapeutic environment which we had.

Q Okay. And then you talked about the rate setting, and they wanted a higher level of care. What you mean by those terms?

A So rate setting is -- let me think a little bit. Let me reverse. I'm sorry.

Q Okay.
A Higher level of care is a special, I would say, fee or what DFS would pay to a provider. We have third-party providers that specialize in children let's say with sexualized JD Reporting, Inc.
behaviors, suicidal behaviors, or they may have some mental health issues that aren't able to be normally cared for in what we would say a normal environment, and it's where people are trained and take specific classes to be able to deal with those type of behaviors and assist a child to thrive and to overcome those behaviors.

If you are not a third-party provider specifically designed for higher level of care children, then you could ask for a rate setting. Also, with a rate setting, that's when these behaviors are either, A, discovered or, B, they may already be there; however, you would be taking specific classes and trained to address those behaviors. And also when a foster parent has to take out extra time or do something special or different within normal parameters for a child, then it's adjusted and given on a point system of how they would be provided extra -- I wouldn't call it income, but a subsidy for that, yeah.

Q Okay. So more issues, more money?
A Yes.
Q And the Solanders wanted more money because of the issues they were reporting the Diaz-Burnett children had?

A Correct.
Q Did they request that to you via phone call, email, person-to-person, or do you remember?

MS. MCAMIS: Objection. Leading. Just -JD Reporting, Inc.

MS. BLUTH: It doesn't suggest the answer.
THE COURT: State your question.
BY MS. BLUTH:
Q Did the Solanders request that from you via email, telephone conversation or person-to-person?

THE COURT: Overruled.
THE WITNESS: I can answer?
THE COURT: Sure.
THE WITNESS: Okay. Via email, via phone call. BY MS. BLUTH:

Q So it happened more than once?
A Yes.
Q I want to ask you a few questions about some medical issues. In regards to Kaeshia, did Janet have any concerns in regard to Kaeshia?

A Kaeshia I believe at the time was four years old, and she allegedly was anorexic and failure to thrive, wouldn't eat.

Q Who said that?
A Ms. Solander.
Q Okay. Did she ever discuss that Kaeshia had gauze in her stomach?

A Yes.
MS. BLUTH: And if I can have your indulgence for one second.

Your Honor, can we please approach?

JD Reporting, Inc.

THE COURT: Sure.
(Conference at the bench not recorded)
BY MS. BLUTH:
Q In regard --
MS. BLUTH: Sorry, Your Honor. May I proceed?
THE COURT: You may.
BY MS. BLUTH:
Q In regards to Areahia, did Janet have any concerns in regards to Areahia's health?

MR. FIGLER: And again we're going to just place an objection on the record as far as relevance, and there were things that were discussed at the bench conference.

THE COURT: All right. Your objection is overruled, and the Court would note the continuing nature of your objection as to this line of questioning.

MR. FIGLER: Thank you, Your Honor.
BY MS. BLUTH:
Q You can answer the question.
A Yes.
Q And what did Janet tell you about Areahia's health?
A She was a diabetic, Type 2 diabetes.
Q Okay. When Areahia was with the Solanders, was there a special setting I guess or a circumstance at school where she didn't eat with the other children?

A Yes.

Q And were you aware of that?
A I was made aware of that.
Q And at whose request was that done?
THE COURT: Well, wait. Who made you aware of that? THE WITNESS: A schoolteacher.

BY MS. BLUTH:
Q And did you speak to Janet about that as well?
A I did not.
Q Okay. But did you have independent knowledge that Areahia was sitting away from her peers at lunchtime?

A Yes.
Q Did that concern you at all?
A Yes.
MR. FIGLER: Objection.
THE COURT: Yeah, that was hearsay or --
MR. FIGLER: Yeah.
THE COURT: Did you, yourself, see Areahia sitting
away from her peers at lunch?
THE WITNESS: I did not.
THE COURT: All right. That's sustained.
MS. BLUTH: Okay.
THE COURT: The jury will disregard the last answer, not the immediate last answer, but the answer prior to that. BY MS. BLUTH:

Q Did Janet or Dwight discuss any concerns with you JD Reporting, Inc.
about Areahia's functioning at school, just like at an academic level?

A Yes.
Q And what did they state to you?
A They were concerned that Areahia was functioning below school level. In fact, it was more so Mr. Solander that I discussed that matter with, that she was functioning below school level. In regard to Mrs. Solander, it was the fact that she had missed so much school that she had to be behind.

Q Why had she missed so much school?
A In living with her family, she wasn't made to go to school.

Q Oh, in her biological family?
A Yes. Uh-huh.
Q Okay. Now, I'm not getting into the conversations that you had at the school, but did you go to the school to make sure everything was either okay or not okay with Areahia at school?

A I never visited the school.
Q Did you make contact with Areahia's teacher?
A I did.
Q Okay. And after speaking with Areahia's teacher, did you have any concerns about Areahia functioning at grade level?

A I did not.
Q Did you ever request any medical records about, you JD Reporting, Inc.
know, Kaeshia being anorexic or having gauze in her stomach?
A Yes.
Q Did you receive them?
A I do not recall.
Q Did you ever receive any medical records in regards to Areahia having diabetes?

A No, I did not.
Q I'm sorry. No, you did not request them, or no, you did not receive them?

A I requested them. I requested all medical records for all the children.

Q Okay. And did you receive any about Areahia having diabetes?

A No, I did not.
Q Were there any times during your term of casework with these children that, for lack of a better term, you either pushed back to the Solanders or questioned any of the things they were doing?

A Can you rephrase?
Q Yeah. Was there any time during the time period in which you were working with the Diaz-Burnett children while they're in the Solander care that you either questioned the Solanders or kind of pushed back on what they wanted?

A Yes.
Q And what would be their response when you did that? JD Reporting, Inc.

A Send an email to my supervisor or call my supervisor or call ombudsman.

Q What is an ombudsman?
A I'm not exactly for sure, but ombudsman is usually called when you or I or a foster parent has an issue with a government entity to get the issue resolved.

Q Okay. So if someone -- if someone that you're working with, I mean, like a foster parent, has an issue with you or a complaint, they can go to an ombudsman?

A Yes.
Q Is that like a formal court process? How does it work?

A It does not. You just call the ombudsman. You tell them your issue, and then the ombudsman will contact the individual, myself, my supervisor, our management, get some records, get some information and then review it and then make a decision or give a directive.

Q Okay. Understood. Thank you. Now, would you be in constant contact and communication with Janet and Dwight throughout the term you were working with the Diaz-Burnett children?

A Yes.
Q And what methods would you guys used to communicate?
A Telephone, email.
Q Would you have sometimes person-to-person contact?

A Yes, face to face when I visit the home. Yes.
Q Okay.
A Yes. Face to face when I visit the home; emails, responding and corresponding back and forth; telephone calls.

Q And do you remember their emails off the top of your head, like their email addresses?

A No.
Q Okay. If I showed you an email between you, Dwight and Janet, would that help refresh your recollection as to what their addresses were?

A Yes.
Q Okay. I'm approaching you with an email from yourself on October 31st of 2013, and then the email below is the same thing -- same thing for October 31st of 2013. Could you just go ahead and read these emails to yourself, and then I'll have a question for you when you're done.

A [Witness complies.]
Q Do you see the email addresses?
A Uh-huh.
Q Okay. And after looking at that, does that help refresh your recollection?

A Yes. Uh-huh.
Q Okay. Can I see the paper for a second. And what was the email for Dwight Solander?

A Oh, do you want me to recall it to you? JD Reporting, Inc.

Q Yeah. It's okay if you have to look at it. That's okay. And then when you're done looking at Dwight's, hand it to me. And what was Dwight's?

A Dwight's email is D, Solander at Source Refrigeration.

Q Okay. And then do you see an email that you would correspond to Janet with on this as well?

A Yeah. Hers is --
Q Go ahead and read it, and then tell me when you're done.

A Okay.
Q What is it?
A Janet, Dwights at Cox Communications?
Q I'm sorry. I know that that's a --
A Sorry.
Q -- weird exchange that we have to have, but that is how it goes. All right. Now, when you would -- you talked about going to, like, therapy sessions or visitations as well.

A Yes.
Q And who were the children seeing as a counselor during that time period?

A They were seen at Legacy Health and Wellness, and they were seen by a Lori Wells and another lady. I can't recall her name.

Q Okay. And I think you talked about this earlier on JD Reporting, Inc.
in your testimony, but that one of your jobs is to stay in contact with the health providers and review documents; is that right?

A Yes.
Q Now, during the time period that the children were working with Lori Wells, would you be in contact with Lori about how the children were doing and things like that?

A Yes.
Q You said that one of the issues the Solanders would email you about and complain about was the children's therapist Lori Wells?

A Yes.
Q And what were their issues with Lori?
A The times that she had therapy with them, how much therapy they were providing with them, if all this therapeutic services they provided were needed, and on some of the rules and suggestions that Lori had for them as foster parents for the children.

Q Okay. Would it be fair to say that you were kind of the middleman between the Solanders and Lori a lot?

A Yes.
Q How many times do you think Lori Wells contacted you personally regarding concerns about the Diaz-Burnett children in the Solanders' care?

A I would say three, four, five.

Q Okay. And is that just emails? Are those person-to-person? Are those phone contacts?

A Emails, person-to-person.
Q Okay.
A And phone contacts.
Q Okay. And you think that it was maybe, like, three, four, five times altogether?

A It could have been more.
Q Now, I'm going to approach you. I'm going to show you an email from Lori to you on Tuesday, October 8th if you wouldn't mind just going over that part second.

A Okay.
Q Okay. So I'm not going to get into the actual content of the letter, but in that letter, does Lori Wells express concern to you about the Diaz-Burnetts' well-being while in the care of the Solanders?

A Yes.
Q I'm showing you the next email which is a couple hours later from Lori Wells to you after a meeting with Dwight -- or excuse me, with Dwight Solander.

A Okay.
Q Same thing. Does she continue --
A Yes.
Q -- to express her concerns?
A Yes.

Q Now I'm going to show you what's referred to as a DAP report. Did Lori Wells send you a signed copy of her DAP report regarding her concerns of the Solanders' treatment of the children?

A Yes.
Q Now, were you aware that on October 31st, BST workers in the home had seen the children sitting on pots and when I say pots, I mean the Solander girls?

A Was I aware that the BST worker had --
Q Yes.
A According to the report, yes.
Q Okay. And so a report for investigation was opened; correct?

A Yes, it was called in.
Q And on that same day, does Dwight Solander request a change in therapists?

A Yes.
Q And that was done via email; correct?
A Yes.
Q And in that same email, does he request a higher rate of pay?

A Yes.
Q Now, I'm going to show you an email on Saturday, November 2nd, addressed to you and Laura Hammack. Who was Laura Hammack?

A Laura Hammack at the time was my supervisor.
Q Okay. And in that email is Lori Wells addressing both you and Laura Hammack in regards to her concerns of the Diaz children -- Diaz-Burnett children?

A [Witness complies.]
Q And again, is she e-mailing you and Laura Hammack in regards to her concern of the Diaz-Burnett children in the home?

A Yes.
Q And I apologize. I need to back up. On October 31st, does she write you an email in regards to just a follow-up on a telephone conversation that she had had with you earlier that day?

A What's your question?
Q Just the same thing. Does she write an email memorializing a telephone conversation you guys had had earlier that day?

A Yes.
Q Where she had expressed her concerns about the Diaz-Burnett children?

A Yes.
Q And then on November 4th -- you don't have to read this entire thing -- did she send you and Laura Hammack a four-page letter specifically delineating her concerns for the Diaz-Burnett children?

JD Reporting, Inc.

A Yes.
Q On November 6th, same question, does she send you and your supervisor an email regarding her concerns?

A Does who?
Q Lori Wells.
A At this point they had me provide [unintelligible] at their request.

Q But it's stating that Lori just got off the phone with Janet, the first line?

A Yes.
Q Okay. And then lastly, on November 9th, are you given a DAP report as part of your case file from Lori Wells expressing her concerns for the Diaz-Burnett children?

A Yes.
Q Is that a yes?
A Uh-huh.
Q Sorry. You just have to say it out loud.
A Yes.
Q Thank you. So just in email form or writing form, there are nine that we just went through?

A Yes.
Q And there were also telephone conversations?
A Uh-huh.
Q Is that a yes?
A Yes. Yes, it is.

Q And there were also face-to-face contacts where she expressed her concerns?

A Yes.
Q Did you, you know, after speaking with Lori, did you have concerns yourself that you felt you needed to get to the bottom of?

A Yes.
Q And did you try speaking with the children?
A Yes.
Q And would they speak to you about anything?
A No.
Q So these children are not the Solanders' biological children. They're not their adopted children. They're just their foster kids; right?

A Yes.
Q So all of these issues are happening in this home. Why can they not just be taken out? I mean, it's obviously not a good fit.

MR. FIGLER: Objection, Your Honor. That's argumentative.

THE COURT: Okay.
MR. FIGLER: It's obviously.
THE COURT: Just rephrase --
MR. FIGLER: Come on.
THE COURT: -- is why weren't these children, well, JD Reporting, Inc.
as foster children taken out of the home. Is that your question, Ms. Bluth?

MS. BLUTH: Yeah. You know, there's a difference -THE COURT: Ms. Bluth, you don't need to explain. Just ask the question. BY MS. BLUTH:

Q As foster children, why can't they just be taken out? MR. FIGLER: Asked and answered. I think that was already --

MS. BLUTH: She can't answer if it's objected to. MR. FIGLER: That she said that she can't do that. THE COURT: Well, overruled.

Just answer, ma'am.
THE WITNESS: Foster children can -- foster children cannot be removed from a foster home just on the inclination or the request of a caseworker.

BY MS. BLUTH:
Q So what has to happen for them to be removed?
A There is a procedure. One, if there is a concern that the home is not a good fit or a match, if the foster parents are overwhelmed or not able to care for the children or meet the kids' needs in respect to their behavioral issues and concerns. It could be food. It could be clothing, what have you.

After the safety assessment is completed and/or the JD Reporting, Inc.
concern of the caseworker and then you go back. You staff with your supervisor, and after you staff with your supervisor, that supervisor staffs with their supervisor, and after that, if they want to do a removal or think there should be a removal, then they go to management level.

Q And how much time does all that take?
A It all depends. It could take a day. It could take hours. It could take weeks.

Q Okay. And I'm not -- I'm not talking about this case, but you, as a caseworker, if you go in and a child is physically abused, like they're either bleeding or something like that, can you take the kid out then?

A No.
Q So what happens?
A What happens is, once again, as a caseworker, I also have to call into the child protective services hotline and/or send an email into the child protective services hotline so that an investigation can begin. Prior to that, I call my supervisor or simultaneously you could say. I call my supervisor, and also advise them of what's going on in the home, and at that point, I wait there. I don't leave if I were to see something like that. Then they give the go-ahead yay or nay to remove.

Q But if they don't give you the go-ahead, then you have to leave?

A I have to leave.
Q Is it difficult to find foster parents who are an adoptive resource?

A Yes.
Q Is it difficult to find foster parents who will take in multiple siblings?

A Yes.
Q Because of that and the need, do things have to reach a certain level of concern before something will be done?

MR. FIGLER: Objection. Foundation. Speculative. Improper hypothetical. Host of things, including relevance. MS. BLUTH: Do you want me to speak now or up at the bench?

THE COURT: No. No.
I think if you can answer that question. If you can't answer, then just tell the lawyer you can't answer it but don't guess.

THE WITNESS: I'm not guessing.
THE COURT: Okay.
THE WITNESS: Yes, I can answer the question.
Sibling groups are hard to place all in one home together; therefore, we have a limited amount of foster parents that can take sibling groups into care. When we find a home that is willing to take kids in the care, a sibling home, that is a home that we want to place them all together because we don't
want to split children. We want to keep them together. It is difficult to find a foster family that will adopt a large sibling group, more than one, more than saying two, three, four, five sometimes at a time. So therefore, we, I would say DFS markets towards that, getting people to foster large groups, sibling groups and/or adopt large sibling groups. THE COURT: But if you thought a child was in danger, you would take the steps regardless of whether that child was a sole child or part of a sibling group that had been placed; correct?

THE WITNESS: I would remove. THE COURT: Okay. THE WITNESS: I would take the steps to remove and to build a foundation so the removal could be done.

THE COURT: Okay. Go on, Ms. Bluth.
BY MS. BLUTH:
Q There are foster parents who could do those things we just talked about, adoptive resource, take sibling parents
(sic). Are they looked at differently in the system? MR. FIGLER: I'm going to object. THE COURT: Counsel, approach on this.
(Conference at the bench not recorded)
BY MS. BLUTH:
Q Sorry, Ms. Anderson.
A No problem.

JD Reporting, Inc.

Q And working with the department -- did you say you've got 10 years now?

A No. I said 14.
Q 14. I'm sorry. Do you think that foster families who either, A, are foster to adopt or, B, foster groups of large siblings are treated differently within the department? MR. FIGLER: And we're going to object, Your Honor, as stated at the bench based on foundation, speculation. We'd ask for an NRS 47 hearing. This is new to us.

THE COURT: All right. That's overruled, but I would advise the witness don't, you know, guess or speculate as to what other DFS employees may or may not have been thinking.

So --
BY MS. BLUTH:
Q It's just a yes or no question, Ms. Anderson. Do you feel they're treated differently?

A No.
MR. FIGLER: We'll withdraw the objection. We didn't know what she was going to say. THE COURT: Mr. Figler.

BY MS. BLUTH:
Q Were you taken off the case?
A Yes.
Q When were you taken off the case?
A About the beginning of November, first week or two of JD Reporting, Inc.

November.
Q Okay. Do you know why you were taken off the case?
A Because, to my knowledge, they complained.
Q The Solanders?
A The Solanders complained that I was too involved with the case, too, I guess, committed, just for lack of better words or professionalism, that I was engaged, that I had a personal interest in the children. I was over involved.

Q Okay. As part of your job, did you often have to go into the houses, not because anything is wrong, but just because as part of your job to go in, do safety checks, take photos of the house?

A Yes.
Q Okay. And I'm showing you State's Proposed Exhibits 128 and 129, and you've had an opportunity to review the photos taken in September of 2013; correct?

A Correct.
Q And are these fair and accurate depictions of the photos that were taken during the visit in September of $2013 ?$

A Yes.
MS. BLUTH: Your Honor, at this time I'd move to admit into evidence State's Proposed 128 and 129.

THE COURT: Any objection?
MS. MCAMIS: None.
THE COURT: All right.

JD Reporting, Inc.
(State's Exhibit Numbers 128-129 admitted.) MS. BLUTH: And permission to publish?
(Pause in the proceedings)
MS. BLUTH: And, Your Honor, did you give me
permission to publish?
THE COURT: Yes.
MS. BLUTH: Okay. Thank you.
BY MS. BLUTH:
Q So I'm showing you State's 128. Let me zoom out. Would this be the loft area of the Solander home?

A Yes.
Q Is that a yes?
A Yes.
Q Okay. And showing you State's 129, what area of the Solander home would be here?

A Downstairs, kitchen area.
Q Okay. And in the bottom corner, do you see an orange bucket with a toilet seat on it?

A I do.
Q Did you have any conversations with Janet or Dwight about either the cot and the board upstairs in 128 that I was showing you, the cot and then this board, or in 129, the bucket in the bottom?

MR. FIGLER: Your Honor, can we get a foundational date?

MS. BLUTH: I did. I said September of 2013.
THE COURT: Okay.
THE WITNESS: There was no conversation.
MS. BLUTH: That concludes my direct examination,
Your Honor. I'll pass the witness.
THE COURT: All right. Thank you.
Cross.
MS. MCAMIS: Yes, Your Honor.
CROSS-EXAMINATION
BY MS. MCAMIS:
Q Good morning, Ms. Anderson.
A Good morning.
Q So you were the permanency worker for the Diaz-Burnett children, that sibling group. I believe you testified it was from -- you were assigned the case in about May through November of 2013; right?

A Yes.
Q And all of that sounds accurate to you?
A Yes.
Q Okay. So I want to direct your attention to that time period. You were familiar with the reasons that the Diaz-Burnett siblings were removed from their biological home; right?

A Yes.
Q They were the victims of severe neglect at home; JD Reporting, Inc.
right?
A Yes.
Q There was no food in their biological house? Right?
A There was food.
Q They were malnourished in their biological house; right?

A Were they malnourished?
Q Yes.
A I do not know.
Q Okay. But they were not fed regularly in their home, in their biological home; right?

A Yes, according to the reports.
Q According to the reports. And as part of your assignment on this case, you had to be familiar with those reports and disclosures in order to assess what needs the children had; right?

A Yes.
Q Okay. And that biological home had no running water, no working electricity; right?

A Yes.
Q Okay. And you knew that Areahia Diaz disclosed that she was the victim of sexual abuse by her mother's boyfriend; right?

A Yes.
Q So the Diaz-Burnett children were placed in the JD Reporting, Inc.

Solander home at approximately May of 2013; right?
A Yes.
Q And pursuant to your duties as a permanency worker, you had to make certain announced and unannounced home visits to the Solander home while you had that case?

A Repeat your question.
Q Uh-huh. So pursuant to your duties as a permanency worker, you had to make certain announced and unannounced home visits to the Solander home while you had this case?

A Yes.
Q Okay. And you did that?
A Yes.
Q And, in fact, you testified you were there at least once per month; right?

A Yes.
Q Okay. So these home visits, that means that at minimum once per month you went into the Solander home to make sure it was safe and appropriate for the foster children who were placed there; right?

A Let me rephrase that for you.
Q My question to you, no, you did not go into the home to make sure it was safe and appropriate for the foster children who lived there?

A Yes, I did.
Q Yes, you did. Okay. When you did those home visits, JD Reporting, Inc.
you checked for things to make sure things like adequate food, to make sure there was adequate food for those children in the foster home; right?

A Yes.
Q And you would have made sure that there was adequate bedding and clothing for the children who were placed in that home; right?

A Yes.
Q And that's something that you would have done at these home visits in the Solanders' home as far as the Diaz-Burnett siblings between May and November of 2013; right?

A Yes. Uh-huh.
Q And then as part of your duties as the permanency worker, you actually had individual face-to-face contacts with the children at these home visits; right?

A Yes.
Q And as part of your duties as a caseworker, you end up documenting all of your contacts at these home visits in Unity notes; right?

A Yes.
Q And you will agree Unity notes is just like your computerized system that the department uses to document basically contemporaneously any contact that you're having with the children relevant to the case?

A Yes.

Q Okay. And you did that in this case?
A Yes.
Q All right. So in your first visit to the Solander home, you observed that the children were well groomed with clothing that fit properly and for the current season; correct?

A Yes.
Q Okay. You observed that the children had good hygiene while they were placed in the Solander home at that first home visit, and that would have been sometime in May of 2013; right?

A Yes.
Q Okay. You observed the home to be free of environmental hazards or offensive smells; right?

A Yes.
Q And you didn't see any blood all over the walls or blood or anything else like that all over the bathroom; right?

A No.
Q And that's something that if you had seen something like that you would have documented in your Unity notes; right?

A Yes.
Q And perhaps you would have even taken a step further and remained in the home and contacted a supervisor; right?

A Yes.
Q If you have to take those steps, that's something that you document in your Unity notes; right?

JD Reporting, Inc.

A Yes.
Q Okay. And so on that initial home visit, you didn't observe anything like that because, in fact, you found that the home was environmentally hazard free and free of offensive smells; right?

A Yes.
Q Okay. So you observed in that initial home visit that the home had appropriate sleeping arrangements for the Diaz-Burnett foster children?

A Yes.
Q And you confirmed they had adequate space and adequate food, and that's something you documented in your Unity note; right?

A Yes.
Q You also documented that the children were having initial trouble adjusting to the placement; right?

A Yes.
Q Now, that's not extremely uncommon for children who have just been removed from one home and placed into another to have some trouble adjusting; right?

A Yes.
Q Okay. And on your first home visit, you observed that Kaeshia had difficulty with naptime and eating nutritious meals; right?

A Yes.

Q You observed that she only ate a few bites of her lunch on that first home visit in May of 2013; right?

A Yes.
Q And you documented that she wanted to eat, but then she changed her mind and didn't want to eat. So she fussed back and forth about the eating of her lunch that day?

A Yes.
Q And then you observed her to throw a tantrum?
A Yes.
Q And you observed the foster parent Janet approach Kaeshia and try to calm her down and encourage her to enter into naptime; right?

A Yes.
Q So you saw that positive interaction between Janet and Kaeshia?

A Yes.
Q And you documented that; right?
A Yes.
Q And you observed that in response to Janet trying to calm her Kaeshia kicked, screamed and yelled at Janet as Janet was trying to guide her up the stairs to go to naptime; right?

A Yes.
Q So you documented that Kaeshia was extremely upset, and it was quite an event; right?

A Yes.

Q And those were your words that you entered into Unity, that, She was extremely upset and also that it was quite an event?

A Yes.
Q Okay. Now, you knew that Kaeshia came from a home where food was scarce, and there were just unavailable -unavailable and readily available food. So it was not surprising to you that Kaeshia was having these difficulties that you observed at that May 2013 home visit; right?

A Yes.
Q Now, at that same home visit, you also saw Demyer eating his lunch; right?

A Yes.
Q And he ate all of his food?
A Yes.
Q And he was reluctant to go to naptime but eventually went to naptime?

A Yes.
Q So all of these observations that you made were that Janet responded appropriately to feed these children lunch and then take them to naptime?

A Yes.
Q Now, you also documented that Kaeshia and Demyer had decayed teeth?

A Yes.

