

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2 JANET SOLANDER,)

CASE NO. 76228

3 Appellant,)

4 vs.)

5 THE STATE OF NEVADA,)

6 Respondent.)

VOLUME XIII

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7 **APPENDIX TO APPELLANT'S OPENING BRIEF**

8 (Appeal from Judgment of Conviction (Jury Trial))

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1 Amaya, Ava and Anastasia.

2 A Yes.

3 Q When you went to the home and you saw them, where
4 would they be in the house?

5 A They were primarily -- I only saw them downstairs in
6 the kitchen-living room area.

7 Q Okay. And what would they be doing?

8 A Most of the time they were on -- they were doing
9 homework, but they were sitting at the kitchen counter on pots.

10 Q Okay.

11 A Just shirts on.

12 Q When you say pots, like, could you explain to me,
13 like, when you use the term pot --

14 A Uh-huh.

15 Q What does that mean?

16 A So something similar to like a Home Depot pot, like a
17 construction pot or maybe like a -- it wasn't a trashcan, but
18 it was just a round -- yeah, like a round pot. I can't
19 explain.

20 Q Okay. And you said that they were sitting on these
21 pots with nothing on except for a shirt?

22 A They were sitting on the pots with a toilet seat
23 cover in a --

24 Q Okay.

25 A -- in shirts.

1 Q Okay. And when you saw that, like, did you think
2 that was odd?

3 A I did.

4 Q And showing you what's in evidence as State's 161, do
5 these things look somewhat similar to what you were looking --

6 A That's -- yeah. That's the shape of the pot, yeah.

7 Q Okay.

8 A That's the shape of it.

9 MS. BLUTH: Okay. And, Judge, I don't know if I said
10 it for the record. That was State's --

11 THE COURT: You did.

12 MS. BLUTH: -- 161. Okay.

13 BY MS. BLUTH:

14 Q All right. And so when you saw this, did you ask
15 Janet any questions, like, why are those kids sitting on pots?

16 A I don't believe I asked her, but she told me why.

17 Q What did she say?

18 A That they have Irritable Bowel Syndrome, Crohn's
19 Disease. They have a lot of intestine difficulty.

20 Q Okay. And so she stated that the girls have
21 Irritable Bowel Syndrome and Crohn's Disease?

22 A Yes. And that they use the bathroom often so they
23 needed to sit on the pots.

24 Q Okay. And did you -- did she ever discuss those
25 three girls, Amaya, Ava and Anastasia -- any trouble that they

1 had gotten into at school?

2 A Yes.

3 Q What did she say that they had done?

4 A That -- it was to do with food. I believe they were
5 stealing food. Well, she told me that they were stealing food,
6 and they were complaining to the school admin about it, and a
7 CPS case came out of it.

8 Q That the girls were the complaining to the school?

9 A Yes.

10 Q About being hungry?

11 A Uh-huh.

12 Q Is that a yes?

13 A Yes. Sorry.

14 Q No. No worries. It's hard to get used to. Was
15 there ever a time when you were in the home that you witnessed
16 one of the Solander girls -- and you don't know the difference
17 between them; right? Like if I brought in Amaya, could you say
18 that's Amaya?

19 A No.

20 Q Okay. Was there ever a time when, either of the
21 Solander girls, you witnessed them having an accident?

22 A I did.

23 Q Can you explain the circumstances of that.

24 A Uh-huh. So me and Janet were down at the bottom of
25 her stairs talking, and at the top of the stairs one of the

1 girls ran to the top of the stairs from -- I don't know where
2 she was, and she just had these big eyes, this look of just
3 terrified and she was saying, Janet. Janet. And she was just,
4 like, frozen standing there, and I remember Janet she just
5 looked at her, like, what's wrong, and she said, I have to go
6 to the bathroom, and then Janet said go, but she froze. She
7 wouldn't move. She was just standing there. She told her
8 again, go to the bathroom, and she was still frozen. I think
9 she told her three times to go.

10 Q And the little girl just stood there?

11 A She was standing there frozen, terrified and then
12 eventually ran to the bathroom.

13 Q Did she have an accident while in front of you?

14 A Not in front of me. I saw pictures.

15 Q Okay. And when you say you saw pictures --

16 A Uh-huh.

17 Q -- first of all, who showed you the pictures?

18 A Janet.

19 Q And what did the pictures say -- what did it show?

20 A The picture showed her smeared with feces.

21 Q The little girl?

22 A Yes.

23 Q And where were the feces?

24 A Over her body.

25 Q Okay.

1 A Uh-huh.

2 Q Janet showed you that picture?

3 A She did.

4 Q After seeing -- after seeing that incident did you go
5 back to Lori Wells and talk about that as well?

6 A I did.

7 Q And you also discussed at some point -- I'm not
8 saying it was the same day -- the fact that you had seen the
9 girls on pots?

10 A I did.

11 Q And to your knowledge was CPS called in regarding to
12 what you saw?

13 A I did.

14 Q You, yourself, called CPS?

15 A I did.

16 Q Did you ever attempt to find out what was going on in
17 the house, like, through Kaeshia?

18 A I did.

19 Q And what would be her response when you asked?

20 A Shut down. She would not say a word.

21 Q If you talked to her about other things, like, not
22 about that, would she be open with you?

23 A Uh-huh. Yes, she would.

24 Q Thank you so much.

25 MS. BLUTH: That concludes my direct examination,

1 Your Honor. I'll pass the witness.

2 THE COURT: All right.

3 Cross.

4 CROSS-EXAMINATION

5 BY MS. MCAMIS:

6 Q Good afternoon, Ms. Day. All right. So you
7 testified that you were employed as a BST worker through Legacy
8 Health and Wellness for -- specifically assigned for Kaeshia;
9 correct?

10 A Yes.

11 Q Okay. So your duties included picking up Kaeshia
12 Burnett and taking her back and forth between the Solander home
13 and her therapy appointments at Legacy three days per week;
14 correct?

15 A Those were some of the duties, yes.

16 Q Right. Okay. And so you were working generally with
17 Kaeshia on self-control and calming techniques when she was
18 angry; right?

19 A Those were some of the things we were working on,
20 yes.

21 Q Okay. So this means that you were working with her
22 on not, like, hitting her siblings anymore; right?

23 A You said we were working on that?

24 Q Right.

25 A I don't recall.

1 Q You gave a statement to police in this -- you were
2 interviewed by the police rather about your connection to
3 Kaeshia and what your BST worker skills and what assignments
4 you were working with; correct?

5 A Yes.

6 Q Okay. And so if I suggested to you that in your
7 initial statement to police that was on -- pardon me -- March
8 26th of 2014, you indicated that you were working with
9 Kaeshia on things including not hitting others like her
10 siblings. Do you have a reason to dispute that?

11 A I wouldn't.

12 Q Okay. Now, Kaeshia was one of a sibling group of
13 four that generally have been referred to as the Diaz-Burnett
14 sibling group; right?

15 A Yes.

16 Q Okay. And they came from a home of severe neglect;
17 correct?

18 A Yes.

19 Q Okay. So that included no running water, electricity
20 or regular nourishment with food; correct?

21 A Yes.

22 Q Okay. All right. So I want to direct your attention
23 specifically to your interactions at the Solander home. You
24 testified you were there approximately three days per week for
25 a period of approximately four to five months; correct?

1 A Yes.

2 Q So you would have been there between the period of
3 approximately of July 2013 and October or maybe early November
4 of 2013; correct?

5 A Yes.

6 Q Okay. All right. And you disclosed that you made
7 observations about the children sitting on potties with no
8 bottoms at the kitchen table; correct?

9 A Yes.

10 Q And you gave this statement to police about those
11 observations; correct?

12 A Yes.

13 Q And at that time your observations were much more
14 recent; correct?

15 A My observations -- I don't understand what you're
16 saying.

17 Q That's fair. At the time that you gave your
18 statement to police that was closer in time to when you made
19 those observations about the potties; correct?

20 A I do not recall what the dates were of --

21 Q Okay.

22 THE COURT: She means when you made the statement it
23 was closer in time to the observations than today.

24 THE WITNESS: Oh, yes. I'm sorry. Yes.

25 MS. MCAMIS: That's okay.

1 THE WITNESS: Yes.

2 MS. MCAMIS: Thank you, Your Honor.

3 BY MS. MCAMIS:

4 Q All right. Now, at the time that you gave your
5 statement to police they asked you how many times you had seen
6 the children on potties, the Solander children; correct?

7 A Yes.

8 Q And you said that you did not recall specifically how
9 many times; correct?

10 A Yes.

11 Q Okay. You indicated that it could have been more
12 than once but definitely less than five times; correct?

13 A On pots?

14 Q On pots.

15 A Yes.

16 Q Okay. And you were in and out of that home three
17 days per week for a period of four to five months; correct?

18 A Yes.

19 Q Okay. And at the time that you gave your statement
20 to police you did not recall the color of the children's pots
21 that they were sitting on?

22 A I don't recall.

23 Q My question to you -- I understand that you didn't --
24 you testified that you didn't recall as you sit here today.

25 A Uh-huh.

1 Q But at that time, when you gave your statement to
2 police, you did not recall the color of the pots; correct?

3 A Yes.

4 Q You could not, you know, physically describe them;
5 correct?

6 MS. BLUTH: Judge, I'm going to object because I
7 think she's saying that she doesn't recall what she recalled.

8 MS. MCAMIS: Okay. Well, I'd be happy --

9 THE COURT: Do you recall whether or not you could
10 tell the police the color of the pots?

11 THE WITNESS: I don't remember that part.

12 THE COURT: Okay. As you sit here today, do you -- I
13 mean, you saw a picture, but other than what you saw in the
14 picture, do you independently remember the color of the pots?

15 THE WITNESS: I just remember they were Home Depot
16 pots. I don't remember the --

17 THE COURT: Okay. And then you don't remember what
18 you told the police regarding --

19 THE WITNESS: I don't.

20 THE COURT: -- the color of the pots.

21 THE WITNESS: I don't.

22 THE COURT: Okay. So if you want to refresh her
23 memory.

24 BY MS. MCAMIS:

25 Q Yes. I'm going to ask that you review your statement

1 that you provided to police about the pots, specifically pages
2 6 and 7.

3 MS. BLUTH: Thank you.

4 BY MS. MCAMIS:

5 Q That's your initial disclosures. I'm going to have
6 you read that to yourself and look up you're already done. If
7 that refreshes your memory. Generally, you're going to want to
8 start -- if you could start there and then continue on through
9 the next page.

10 Ms. Day, did that refresh your memory about the
11 statements that you gave to police about your observations
12 about the pots?

13 A Yes.

14 Q Okay. And in your statement to police you did not
15 include an observation about the color of the pots; correct?

16 A No. No.

17 Q And in your statement to police you did not include
18 any mention of Home Depot or any kind of brand name on those
19 pots that you observed; correct?

20 A No.

21 Q Okay. All right. So you were asked on direct
22 examination about an observation you had where one of the
23 adopted girls stood at the top of the stairs and then asked
24 that she had to go to the bathroom. Do you recall those
25 questions?

1 A Yes.

2 Q Okay. Now, you observed that the child wouldn't move
3 and just stood there like she was stuck; correct?

4 A Yes.

5 Q And at this time Janet was saying go to the bathroom,
6 go to the bathroom; correct?

7 A Yes.

8 Q You actually have a recall of that?

9 A Yes.

10 Q And even as Janet was urging the child to go to the
11 bathroom, the child just stood at the top of the stairs;
12 correct?

13 A Yes.

14 Q And then you actually observed this child wet herself
15 as she stood at the top of the stairs?

16 A I did not -- I don't know -- I didn't see her wet
17 herself. I saw the pictures the next day.

18 Q Okay.

19 MS. MCAMIS: Court's indulgence.

20 BY MS. MCAMIS:

21 Q All right. And you recall giving a statement to
22 police in this case; correct?

23 A I do.

24 Q Okay. And would reviewing your statement about this
25 specific incident refresh your memory as far as what you had

1 told police what you'd observed?

2 A Yes.

3 MS. MCAMIS: Page 7.

4 MS. BLUTH: Thank you.

5 BY MS. MCAMIS:

6 Q If I could direct your attention to this statement
7 and specifically it's this bottom section. So if you could
8 read that silently to yourself, and then let me know when
9 you're done, and I'll ask you more questions.

10 A Okay. Yes.

11 Q Did that refresh your memory, Ms. Day?

12 A Uh-huh. Yes.

13 Q Okay. And at that time you told police regarding the
14 little girl, and she just went all on herself at the top of the
15 stairs; correct?

16 A Yes.

17 Q Okay. Now, you testified that you had some concerns
18 about the home based on Kaeshia and just generally eating
19 habits; correct?

20 A Yes.

21 Q Now, you knew that the Diaz-Burnett children,
22 including Kaeshia, had dental issues; correct?

23 A I did.

24 Q And that when Kaeshia initially was in the Solander
25 home her teeth were rotten, decayed and brown.

1 A Yes.

2 Q And that Kaeshia actually had to have dental surgery
3 because of how severe her teeth were?

4 A Yes.

5 Q So Kaeshia has, from a very young age, been dealing
6 with health issues and food intake; correct?

7 A Yes.

8 Q Okay. And Janet actually disclosed to you that she
9 had them on a healthier diet to prevent further tooth decay;
10 correct?

11 A Yes.

12 Q And she reported to you that she'd been taking them
13 to the dentist; correct?

14 A Yes.

15 Q Okay. Now, Kaeshia never disclosed anything to you
16 about what the adopted children said or did in the home;
17 correct?

18 A No.

19 Q Okay. And you and Janet had a conversation that she
20 was writing a book about the foster care and adoption process;
21 correct?

22 A Yes.

23 Q Okay.

24 MS. MCAMIS: Court's indulgence.

25 THE COURT: Uh-huh.

1 BY MS. MCAMIS:

2 Q Ms. Day, you testified that you actually called CPS
3 yourself; correct?

4 A I did.

5 Q Okay. Now, isn't it true that you actually reported
6 your observations to Lori Wells at Legacy Health and Wellness,
7 and it was Lori Wells who did the follow up with CPS directly?

8 A No.

9 Q If there was no CPS investigation or independent kind
10 of report from you that anyone else has testified to, would
11 that surprise you?

12 MS. BLUTH: Judge, I'm going to object because it
13 misstates not -- it misstates facts not in evidence.

14 THE COURT: That's sustained.

15 MS. MCAMIS: All right. Court's indulgence.

16 THE COURT: How did you make that report?

17 THE WITNESS: I called.

18 MS. MCAMIS: I'll pass the witness.

19 THE COURT: All right.

20 Any redirect?

21 REDIRECT EXAMINATION

22 BY MS. BLUTH:

23 Q You were just asked the question in regards to the
24 conversations with Janet about her book.

25 A Yes.

1 Q Did she discuss -- when you were talking about her
2 book, did she discuss with you what she did for a living?

3 MS. MCAMIS: Objection. Beyond the scope of
4 cross-examination.

5 THE COURT: It is, but you're -- you're right. But
6 I'll let her ask it.

7 Did she discuss what she did for a living?

8 THE WITNESS: Yes.

9 MS. MCAMIS: Objection. Relevance as to the book.

10 MS. BLUTH: Okay. Well, then I won't --

11 THE COURT: Well, it has nothing to do with the book.
12 I agree with you there.

13 MS. BLUTH: Okay.

14 BY MS. BLUTH:

15 Q Did Janet tell you what she did for a living?

16 A Yes.

17 Q What did she say she did?

18 A That was she was a nurse.

19 Q Okay. Did she talk to you about the degrees that she
20 held?

21 A She did.

22 Q Did she talk to you about the universities that she
23 went to?

24 A She did.

25 Q Okay.

1 A She did.

2 Q In regards to your conversations about the book, did
3 she say anything in regards to what she was writing about and
4 her feelings towards her adopted kids?

5 A Yes. She was telling me the book was about the --
6 about CPS and their practices and that she was in disagreement
7 with them. She also made the statement that these are the type
8 of children --

9 MS. MCAMIS: Well, objection. It's narrative at this
10 point.

11 MS. BLUTH: No, it -- no, it isn't. It's responsive.

12 THE COURT: It's -- I mean, overruled.

13 BY MS. BLUTH:

14 Q And she said what?

15 A These are the type of children that would make you
16 kill them.

17 Q About the Solander girls?

18 A I am -- I'm not sure. That was just the statement.
19 I'm not sure which -- if she was talking about the girls or
20 not. But --

21 Q Okay. Would looking at the synopsis of your
22 statement on April 2nd of 2014, help refresh your
23 recollection?

24 A Yes.

25 MS. BLUTH: And I'm on page 5 of the officer's

1 report, Your Honor. I don't have all --

2 If you could just look right here.

3 THE COURT: Just read it quietly to yourself.

4 MS. BLUTH: To yourself, yeah.

5 BY MS. BLUTH:

6 Q Does that help refresh your recollection?

7 A Yes.

8 Q And in regards to that statement -- in regards to
9 speaking with the police, what did you say?

10 A Can you repeat that last part.

11 Q When you spoke with the police --

12 A Uh-huh.

13 Q -- when you were talking about Janet making that
14 statement, what did you say who she was making that statement
15 about?

16 A That she referred to her -- the adopted children.

17 MS. BLUTH: Okay.

18 Nothing further, Your Honor. Thank you.

19 THE COURT: Anything else, Ms. McAmis?

20 MS. MCAMIS: Yes. Court's indulgence.

21 RECROSS-EXAMINATION

22 BY MS. MCAMIS:

23 Q Ms. Day, you gave two statements in this case;
24 correct? You spoke to the police twice; correct?

25 A Yes.

1 Q And you told the police about Janet talking about the
2 different experiences she had in writing the book; correct?

3 A Yes.

4 Q And that Janet was talking very generally about her
5 criticism of the Child Protective Services and their failures
6 for little children; correct?

7 A Yes.

8 Q And that other people, other people in the foster
9 care system who have children had been -- she was critical of
10 their treatment of the foster children; correct?

11 A I don't recall saying that.

12 Q All right.

13 MS. MCAMIS: Court's indulgence.

14 BY MS. MCAMIS:

15 Q Isn't it true that when you spoke to police, Janet --
16 or you told the police that Janet was telling me some things
17 of -- telling you some of the things in the book, like, going
18 to the bathroom or some of the behaviors, and she was saying
19 that are the same as her three adopted children; correct?

20 A Yes.

21 Q Okay. But she was also describing other children
22 doing those behaviors in the book; correct?

23 A Yes.

24 Q Okay. So she was describing multiple different
25 foster care situations; correct?

1 A Yes.

2 Q And other people's reactions to foster children who
3 have wetting, soiling issues; correct?

4 A Yes.

5 Q Okay. And that's when she made the statement, these
6 are the type of children that someone would kill; correct?

7 A No.

8 Q Page 3.

9 MS. BLUTH: Can I see it [unintelligible]? I just
10 want the first [unintelligible]. I'm sorry.

11 BY MS. MCAMIS:

12 Q I'm going to ask you to review your statement to
13 police specifically on this topic about the statements you
14 attributed to Janet. Just go ahead and read that page to
15 yourself, and let me know when you're done reading.

16 A I'm done.

17 Q Okay, Ms. Day, did that refresh your memory on what
18 you said to police back when you spoke to them in --

19 A Yes.

20 Q -- early 2014.

21 A Yes.

22 Q Okay. So the statement was generally these are the
23 type of children that someone would kill; correct?

24 A Yes.

25 Q Not that she said I would kill; correct?

1 A I didn't say.

2 Q My statement -- or my question to you was she never,
3 Janet, never said to you I would kill; correct?

4 A No.

5 THE COURT: Janet never said that she, Janet, would
6 kill.

7 THE WITNESS: No, she didn't say -- no.

8 BY MS. MCAMIS:

9 Q Right. This was a book about other foster kids and
10 their treatment or their treatment and interactions with their
11 foster parents in the system generally; correct?

12 A Yes.

13 Q Because the book was a discussion and criticism of
14 how the CPS system generally fails the children in their care?

15 A Yes.

16 Q Okay.

17 MS. MCAMIS: Pass the witness.

18 THE COURT: Anything else, Ms Bluth?

19 MS. BLUTH: Yes, please.

20 Can I have page 3. I'm sorry.

21 MS. MCAMIS: Uh-huh.

22 MS. BLUTH: I only brought statement one. So I'm
23 asking Ms. McAmis to share with me.

24 (Pause in the proceedings)

25 / / /

1 FURTHER REDIRECT EXAMINATION

2 BY MS. BLUTH:

3 Q Okay. So do you remember what this says, or do you
4 want me to reread it because I have a couple of specific
5 questions, but I don't want to --

6 A Yeah. Yes.

7 Q You remember what it was?

8 A Uh-huh. That's what I just read.

9 Q Do you remember what it said -- yeah.

10 A Yes.

11 Q Okay. So in this statement she is talking about the
12 book that she's writing; right?

13 A Yes.

14 Q And she's talking about behaviors of foster children
15 in general?

16 A Yes.

17 Q And in here she was saying that those behaviors are
18 the same as her three adopted kids?

19 A Can I see.

20 Q That's okay. If you could just start right here and
21 end right here. So you don't have to read the whole page.

22 Okay. So does that help refresh your recollection?

23 A Yes.

24 Q Okay. So she's talking about these behaviors of
25 foster kids with, like, toileting issues; right?

1 A Uh-huh. Yes.

2 Q And then she discusses the fact that those behaviors
3 are just like her adopted children?

4 A Yes.

5 Q And then you said, and then she made the statement,
6 these are the type of children that someone would kill?

7 A Yes.

8 Q Okay.

9 MS. BLUTH: Nothing further.

10 MS. MCAMIS: I have no further questions.

11 THE COURT: Do we have any juror questions for this
12 witness? Any juror questions?

13 All right, ma'am, I see no additional questions.

14 Thank you for your testimony. Please do not discuss your
15 testimony with anyone else who may be a witness in this case.

16 Thank you, and you are excused, and just follow the
17 bailiff from the courtroom.

18 THE WITNESS: All right. Thank you.

19 THE COURT: All right, ladies and gentlemen. We're
20 going to go ahead and take our evening recess. I have good
21 news for everyone. We'll be able to start at 9:00 a.m.
22 tomorrow morning -- 9:00 a.m. Another Judge has graciously
23 agreed to hear my calendar. So for that reason we'll be able
24 to start right at 9:00 a.m.

25 Before I excuse you for the evening recess I must

1 remind you that you're not to discuss the case or anything
2 relating to the case with each other or with anyone else.
3 You're not to read, watch or listen to any reports of or
4 commentaries on the case, person or subject matter relating to
5 the case. Do not do any independent research by way of the
6 Internet or any other medium, and please do not form or express
7 an opinion on the trial.

8 Please place your notepads in your chairs and follow
9 the bailiff through the double doors.

10 We'll see everyone back at 9:00 a.m. tomorrow.

11 (Jury exiting 4:59 p.m.)

12 THE COURT: All right. On the record -- is the door
13 shut? Out of the presence of the jury.

14 I haven't had a chance to make copies of the new CPS
15 records concerning what happened that Ms. Bluth disclosed
16 today. I'm a little uncomfortable giving out all of them just
17 because they're concerning the current adoptive parents.
18 There's no allegation of any kind of -- well, wrongdoing, per
19 se, on the part of the adoptive parents, but I think I
20 disclosed at the bench, basically the adoptive parents want to
21 essentially give back the three children because of their
22 behaviors and their running away and disciplinary problems.

23 So that's what's in here, and I guess the only thing
24 that is different than what we knew this morning is this wasn't
25 an isolated incident of running away. There's also an issue

1 that's been reported from the school with suicidal ideation.
2 It looks like, I can't remember if it's one girl or two girls.

3 MS. BLUTH: I know that Ava has had problems with
4 suicidal ideation.

5 THE COURT: And one has to do with -- somebody was
6 talking about a best friend that died and one of the children
7 is depressed about that. And then I had a question. Do you
8 know what this means, Ms. Bluth, or anybody? PC hearing has
9 been held. Plea is scheduled for March 7th.

10 MS. BLUTH: So whenever you take children out of a
11 home like that, there has to be, like, a court finding or court
12 order --

13 THE COURT: Right.

14 MS. BLUTH: -- you can't just keep children.

15 THE COURT: Right. Exactly.

16 MS. BLUTH: And so my --

17 THE COURT: So this is the Family Court Abuse Neglect
18 Proceeding?

19 MS. BLUTH: Yeah. So my understanding --

20 MS. MCAMIS: Protective custody or protective
21 capacity hearing, something like that.

22 THE COURT: Oh, okay.

23 MS. BLUTH: So my understanding is, is that they
24 don't want to, you know, terminate Debbie McClain's rights or
25 anything, but they want to provide services so that -- because

1 Debbie when --

2 THE COURT: Okay.

3 MS. BLUTH: Okay. Sorry.

4 THE COURT: I'm sorry.

5 MS. BLUTH: No, that's --

6 THE COURT: I shouldn't have interrupted you.

7 MS. BLUTH: No, no, no. I'm just saying that that's
8 the point of that hearing is that Debbie --

9 THE COURT: Okay.

10 MS. BLUTH: -- explained to me because I asked her,
11 you know, what was going on, and she said they're not -- they
12 don't want to take the children away from me, but they can't
13 just have the kids and not have a court hearing.

14 THE COURT: Right. But consistent with your
15 discussions with Debbie McClain, she does not want the children
16 back; correct?

17 MS. BLUTH: No. That's what I'm saying though. She
18 does.

19 THE COURT: She does? Because --

20 MS. BLUTH: So when she was --

21 THE COURT: -- in here it says she doesn't.

22 MS. BLUTH: Right. And she -- she had said to me
23 when this whole thing had happened, like, we're considering
24 whether or not at this point to keep our adoption, but after my
25 initial conversation with her then she said, look, I was mad.

1 We, you know -- and she -- like I said, she has Amaya and
2 Anastasia back right now, and Ava's going to the home.

3 THE COURT: Okay. Isn't Ava -- Ava's the one --

4 MR. FIGLER: Who ran away.

5 MS. BLUTH: Yeah.

6 THE COURT: -- who ran away. Ava's the one in the
7 home.

8 MS. BLUTH: Yeah. Did I not --

9 THE COURT: You said -- I mean, in the home in
10 Amargosa Valley.

11 MS. BLUTH: Yes.

12 THE COURT: And Anastasia and --

13 MS. BLUTH: Amaya.

14 THE COURT: -- Amaya are in the McClain home?

15 MS. BLUTH: Yes.

16 THE COURT: And just -- okay. That's inconsistent
17 with what's in the records.

18 MS. BLUTH: With right now?

19 THE COURT: Yeah. I had kind of redacted the Vernon
20 comments, but they were -- because he's not going to be a
21 witness -- but they are consistent with what Debbie said in
22 that Vernon, the husband, also says because of the children's
23 behavior, he does not want -- they don't -- they can't deal
24 with them in the home.

25 MS. BLUTH: When -- what was the date of that?

1 THE COURT: You know, I have trouble reading the
2 dates on these things. So --

3 MR. FIGLER: And what's that -- who generated that --
4 that's a CPS generated report; correct?

5 THE COURT: Yeah. These are the CPS reports.

6 MR. FIGLER: Okay.

7 THE COURT: So, anyway, they haven't been copied, but
8 they're here.

9 MR. FIGLER: Right.

10 THE COURT: And that's essentially what it says. So
11 just to kind to give you guys a heads-up. I found that to be,
12 you know, there's nothing about health or anything like that
13 other than the mental health about the suicidal thinking and --

14 MR. FIGLER: So here's the defense concern at this
15 juncture based on these new disclosures. There was a time
16 postremoval where they were placed under the care of DFS with
17 Debbie McClain prior to her being identified as an adoptive
18 resource and the actual adoption being finalized.

19 So there are going to be a set of Unity notes that
20 cover that period of time that no one has reviewed yet. I know
21 the State hasn't reviewed it because Ms. Bluth told me she
22 hasn't reviewed it. The Court hasn't reviewed it because it
23 hasn't been presented to the Court. I don't know if there are
24 other CPS investigations akin to this one, but it sounds like
25 from what Your Honor is saying that there might be -- there

1 might be some other -- there is some other --

2 THE COURT: I'm not getting that from this. I mean,
3 basically as Ms. Bluth indicated, CPS was called because Debbie
4 McClain --

5 MR. FIGLER: I got that.

6 THE COURT: -- refused to get the kids.

7 MR. FIGLER: I don't know now if this is an isolated
8 incident, or if there have been other times when something like
9 this has happened. It hasn't been disclosed. It may very well
10 be relevant to the potential cross-examinations of the children
11 and/or Debbie McClain based on what she says, and so again, I
12 would request that the Court review all DFS Unity notes for the
13 Solander girls post being in the Solander house, and if there
14 are any other CPS reports akin to the one you just saw in that
15 period of time for the Court.

16 The Court has been an outstanding gatekeeper as to
17 what is relevant and what isn't, and the Court understands both
18 the theory of prosecution and the theory of defense here I
19 think very well because Your Honor has stated it very well. So
20 I would be comfortable with the Court being a gatekeeper of
21 that information.

22 Absent this new disclosure, I don't know if I have a
23 basis, but now with this new disclosure it appears as though
24 that would be an appropriate request made of the Court to order
25 the Unity notes and any CPS interventions or investigations in

1 this interim period of time.

2 MS. BLUTH: And, Judge, so here's -- my issue about
3 that is this. I was very clear in not doing substantial mental
4 harm for this very reason because with substantial mental harm
5 I agree that the defense is absolutely entitled to everything
6 afterwards because then it becomes a causation issue both
7 before and after. I didn't do that. I kept it to substantial
8 bodily harm because it doesn't matter what the girls do or
9 don't do after they're taken out of the Solander home because
10 it's about were they beaten with sticks, were they sexually
11 assaulted with -- I mean, you know, was a catheter placed in
12 their -- so there isn't relevance to records after they've
13 left.

14 THE COURT: The only relevance could be if they're
15 talking about the, in some way, they're talking about the
16 Solander situation, and they're saying something inconsistent
17 or exculpatory or if they make a similar allegation against
18 another unrelated party that is substantially similar to the
19 allegations --

20 MR. FIGLER: Correct.

21 THE COURT: -- they've made against the Solanders.

22 MR. FIGLER: 100 percent.

23 THE COURT: That would be the only relevance of --

24 MR. FIGLER: Well, that's the primary --

25 THE COURT: -- subsequent in my opinion, that would

1 be the only relevance or, which I don't think we would find,
2 but or if it turns out, oh, yeah, they were diabetic or they
3 did have Crohn's Disease or something like that, that would be
4 the only relevance to me of subsequent records. Like I said,
5 if they talked about the Solanders and they recant, or they say
6 something different, or like I said, if they're making similar
7 allegations, you know, now --

8 MR. FIGLER: About Debbie.

9 THE COURT: -- somebody else's hitting them with
10 paint sticks or somebody else --

11 MS. BLUTH: Well, sure.

12 THE COURT: -- is raping them with paint sticks or,
13 you know, something like that.

14 MR. FIGLER: Right.

15 THE COURT: Those would be the kinds of records I
16 would disclose as well as any kind of, just because now this
17 medical thing has become such an issue, anything regarding
18 subsequent, you know, medical --

19 MR. FIGLER: Right now.

20 THE COURT: Look, okay, if the kid needs eyeglasses,
21 no.

22 MS. BLUTH: Right.

23 THE COURT: Or, you know, if the kid becomes, you
24 know, in puberty, has some issue then no.

25 MR. FIGLER: Well, we also know there was that

1 follow-up lab --

2 THE COURT: -- and anything that's similar.

3 MR. FIGLER: -- from Dr. Dewan, and there's no
4 indication if they did that or what it came out to or anything.
5 Remember he said, I told the CPS -- I told McClain to get this
6 lab done, or I told CPS to go get this lab done, yeah, I mean,
7 so there's more there.

8 THE COURT: In any event, that would be -- that would
9 be the only thing I would be looking for in subsequent records
10 is just those two --

11 MS. BLUTH: So has the Court made a ruling? I'm
12 still stuck on why is it relevant that she ran away? How is
13 that relevant to what she behaved in as an 11 year old? It
14 doesn't matter if these kids did have behavioral issues. You
15 still can't do the things to them.

16 THE COURT: No. It's true. But --

17 MS. BLUTH: So there's no -- there is absolutely not
18 one relevant reason that you can get into why she ran away.

19 THE COURT: Well, I don't think the issue of why she
20 ran away -- the only potential that I'm telling everybody this
21 is for possible impeachment of the McClain woman when she
22 testifies. That's why I didn't think anything Vernon McClain
23 said is relevant because he's not going to be a witness.

24 MS. BLUTH: But if she's --

25 THE COURT: But if she says something that's

1 inconsistent with what she stated in the CPS records then that
2 could be obviously something they could use for impeachment.
3 That would be the only relevance.

4 MS. BLUTH: Right. But I mean, I guess my thing is,
5 is I'll ask Debbie, you know, once the girls got to you, did
6 they have any eating issues, did they have any toileting
7 issues? I'm not going to talk about behavioral issues because
8 the fact of the matter is, is she'll tell you these are a whole
9 different set of girls.

10 THE COURT: But isn't it sort of implicit in the
11 State's case that the behavioral issues relating to the
12 bathroom accidents were exaggerated by the Solanders?

13 MS. BLUTH: Oh, with the Solander girls?

14 THE COURT: Yes.

15 MS. BLUTH: No. The Solander girls will tell you
16 they were peeing and pooping on themselves all the time.

17 THE COURT: Okay.

18 MS. BLUTH: That, like, they were scared to death to
19 go to the bathroom, and there were a few times they'll admit --

20 THE COURT: They did it on purpose.

21 MS. BLUTH: -- there were a few times they did it on
22 purpose because they were pissed at her, yeah. For sure.
23 So -- but that's what I'm saying is, like, I don't
24 understand --

25 THE COURT: Well, all I'm saying is I, you know, it's

1 their case. I'm just telling them what's in here. If there's
2 something that's inconsistent with what Ms. McClain says then I
3 think they can cross-examine her about it. If she says, you
4 know, something, like, oh, the girls are a complete joy, you
5 know, or something like that, then I think that would open the
6 door to well, they're running away all the time. You tried to
7 give them back.

8 MR. FIGLER: Did the girl say why she ran away?

9 THE COURT: I mean, if she were to say something
10 inconsistent --

11 MR. FIGLER: Did the girl say why she ran away?

12 THE COURT: Yeah. It's consistent with what
13 Ms. Bluth said. That she ran away because -- well, actually
14 it's a little different. She slept outside in the desert two
15 nights. There's nothing about the teacher, and she didn't like
16 the teacher. She said she ditched class and went to a friend's
17 house. She spent the night at the friend's house. She didn't
18 go to school, and then the adoptive mom refuses to let her go
19 home. So she sleeps in the desert. So we don't know if the
20 motivation was the thing with the teacher. I mean, it's silent
21 as to that.

22 MR. FIGLER: It's all very interesting. The question
23 is it could lead to impeachment.

24 THE COURT: So like I said, that would be the only
25 usefulness. If there is somehow somebody opens the door by

1 saying something that's inconsistent with this.

2 MS. BLUTH: Right. So I guess my -- because --
3 because you know I have to be careful just like when, you know,
4 a defense does a motion in limine.

5 THE COURT: Right.

6 MS. BLUTH: As long as they don't open the door, I
7 can't get into it. So I always have to be very careful in the
8 way I, you know, question the witness.

9 THE COURT: Right.

10 MS. BLUTH: And I had no intentions on, you know,
11 saying, are the girls wonderful now, you know, but I did intend
12 on saying, any toileting issues, any eating issues and then
13 were they different -- was their demeanor or countenance any
14 different than when you had them before and she would -- she
15 will say, you know, yeah. They're a lot different, you know.
16 They --

17 MR. FIGLER: Well, I think that does open a little
18 bit of a door to us to say, isn't it true that they're a lot
19 different now because you are not --

20 MS. BLUTH: But that doesn't necessarily --

21 MR. FIGLER: -- doing these things, and they're
22 running away from you. Or this or that [unintelligible]. I
23 don't know. I haven't seen these records. So I don't know
24 exactly --

25 THE COURT: Right.

1 MR. FIGLER: -- how close attached to what would be
2 relevant impeachment or not, but again, we also have a pending
3 motion now for the Court to review in camera, all the Unity
4 notes for the three girls post Solander and any CPS records, if
5 any. There might be none. If there's none, it's no big deal.

6 MS. BLUTH: Oh, of course there's going to be two --
7 there's going to be three years' worth because she doesn't
8 adopt them until last year. So, I mean, there's going to be
9 years of --

10 THE COURT: Well, wouldn't there only be CPS notes
11 if --

12 MR. FIGLER: There was an investigation.

13 THE COURT: -- if there was an investigation?

14 MS. BLUTH: Oh, no. No, no, no.

15 THE COURT: No, there's the Unity notes --

16 MR. FIGLER: That's DFS.

17 THE COURT: If it just has foster kids.

18 MS. BLUTH: Oh, you're asking me if there's any
19 investigative notes?

20 THE COURT: Yeah, CPS.

21 MS. BLUTH: Oh, I have no idea.

22 THE COURT: So maybe just get any kind of
23 investigative notes --

24 MS. BLUTH: Oh. Oh, okay, yeah. Sorry, I didn't
25 understand what you were saying.

1 THE COURT: -- of CPS and that way that would cover
2 if they've made any similar allegations --

3 MR. FIGLER: That's true.

4 THE COURT: -- against any other people --

5 MS. BLUTH: Okay.

6 THE COURT: -- that I think would be discoverable.
7 Any kind of recanting -- you know what I actually found really
8 easy to read, as opposed to the Unity notes, were the court
9 reports, the periodic court reports.

10 MR. FIGLER: Oh.

11 THE COURT: So why don't we get those instead of the
12 Unity notes.

13 MR. FIGLER: And CPS, if there's any.

14 THE COURT: If there's a CPS investigation because
15 honestly, to go through all of those Unity notes --

16 MS. BLUTH: Well, yeah. Because it will be like I
17 took to doctor so and so.

18 THE COURT: Yeah.

19 MS. BLUTH: She had a dentist appointment, you know,
20 because she has to update and all that.

21 MR. FIGLER: Plus the court order seems to be a
22 summary; correct, Your Honor?

23 THE COURT: What's that? The court order is a
24 summary of the Unity notes and they, as you saw, they put
25 education --

1 MS. BLUTH: Okay. So summary of Unity notes and any
2 investigative --

3 THE COURT: Any CPS investigation.

4 MS. BLUTH: -- any investigation. Okay. I'll do
5 that right now.

6 THE COURT: And then the court -- the court reports,
7 the periodic court --

8 MS. BLUTH: Okay.

9 THE COURT: -- the six-month court reports that had
10 to be filed at the Family Court.

11 MS. BLUTH: So here's the deal. We're out of
12 witnesses in regards to -- so in the morning we'll have the
13 computer guy come in. We'll have Yvette Gonzalez come in. I
14 don't --

15 MR. FIGLER: The computer guy's short. Yvette
16 Gonzalez about the same length as --

17 MS. MCAMIS: As Emery.

18 MR. FIGLER: -- as Emery.

19 MS. BLUTH: Well, the issue is, is that, I mean, I
20 can't get into McClain until I know what we can get into.

21 THE COURT: Well, that's all that's in these. I
22 mean --

23 MR. FIGLER: For right now. Yeah, we don't know if
24 there's something else that's coming down the pipe. So we can
25 always have her subject to recall; right?

1 THE COURT: Yeah. I mean, I think there's really,
2 like I said, the only thing in here that --

3 MS. BLUTH: Okay. I --

4 THE COURT: -- could be potentially used for
5 impeachment is if she says, oh, they're great. I haven't had
6 any problems with them or something like that --

7 MS. BLUTH: [unintelligible].

8 THE COURT: -- that they are having significant
9 mental health issues and there's running away and other
10 behavioral issues --

11 MS. BLUTH: Right. And --

12 THE COURT: And by mental health I mean suicidal --

13 MS. BLUTH: Yeah. And to be honest I --

14 MR. FIGLER: And we don't want any of that coming in.

15 MS. BLUTH: Right. I was going to say --

16 MR. FIGLER: Because A, it's not charged and B, it
17 would be prejudicial, but we need to know what's out there,
18 both sides do, if the Court finds it to be relevant. So that's
19 why I appreciate the Court being this gatekeeper.

20 THE COURT: Well, all I'm saying is that would be the
21 only thing in here that I would see as something that --

22 MS. BLUTH: So is -- if Crystal --

23 THE COURT: -- you even need to know.

24 MS. BLUTH: If Crystal is still here, we could change
25 the -- if I could step back with Mr. Figler --

1 THE COURT: Yeah. Go ahead.

2 MS. BLUTH: -- and just change the information in
3 that order.

4 THE COURT: That's fine.

5 MS. BLUTH: Do you guys mind if I go put the new
6 information in the letter so Judge can print it and sign it?

7 MR. FIGLER: No, not at all.

8 MS. MCAMIS: Hey, can I get those two exhibits
9 before --

10 MS. BLUTH: Okay. But I don't --

11 MS. MCAMIS: It was the letter --

12 MS. BLUTH: I know what it was but are you -- Dayvid.

13 MR. FIGLER: Yeah, I might have taken it.

14 MS. BLUTH: Yeah, I think that you did.

15 MR. FIGLER: If it's the marked one.

16 MS. BLUTH: This letter --

17 MR. FIGLER: I have one. I thought it was my copy.
18 If I did you know it wasn't intentional. Let me find it.

19 THE CLERK: Kenny, I need your TASER.

20 MR. FIGLER: No. The one I have is not marked.

21 MS. BLUTH: Because I've gone through literally every
22 single page --

23 THE CLERK: And then the Metro letter also.

24 MS. BLUTH: The preservation --

25 MR. FIGLER: Oh, I never touched the Metro letter.

1 THE CLERK: Okay.

2 MS. BLUTH: It's not up there with you is it, Judge?

3 THE COURT: No, I never --

4 MS. BLUTH: Because sometimes when I'm done I hand it
5 to you.

6 THE COURT: I've been -- no, I've never -- I've never
7 seen the Metro letter.

8 MR. FIGLER: Okay. I stole it.

9 THE COURT: This is actually --

10 MS. BLUTH: I knew it.

11 THE CLERK: Ah ha. He admitted it.

12 THE COURT RECORDER: It's on the record.

13 MR. FIGLER: Well, I kept looking. I didn't stop
14 looking. I don't know how it got swept up. They are the least
15 relevant documents in the entire case so there was no benefit
16 [unintelligible].

17 THE COURT: Okay. I'm sorry. Couldn't we have just
18 had the woman who witnessed them sitting on the pots with the
19 toilet seat and the kids and done this in a week?

20 MS. MCAMIS: We don't have -- we don't have a say,
21 Your Honor.

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2 THE COURT RECORDER: We're not on anymore?

3 THE COURT: No, we're not on.

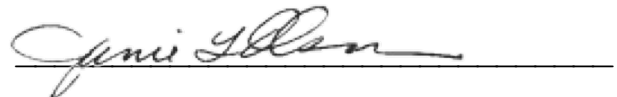
4 (Proceedings recessed for the evening 5:17 p.m.)

5 -oOo-

6 ATTEST: I do hereby certify that I have truly and correctly
7 transcribed the audio/video proceedings in the above-entitled
8 case.

9

10

A handwritten signature in cursive script, reading "Janie L. Olsen", is written over a horizontal line.

11

Janie L. Olsen
Transcriber

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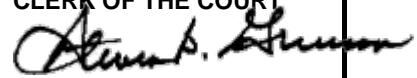
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TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,

Plaintiff,

vs.

JANET SOLANDER,

Defendant.

CASE NO. C299737-3
DEPT NO. XXI

**TRANSCRIPT OF
PROCEEDINGS**

BEFORE THE HONORABLE VALERIE P. ADAIR, DISTRICT COURT JUDGE

JURY TRIAL - DAY 13

THURSDAY, MARCH 1, 2018

APPEARANCES:

FOR THE STATE:

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CHRISTOPHER S. HAMNER, ESQ.
Chief Deputy District Attorneys

FOR THE DEFENDANT:

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DAYVID J. FIGLER, ESQ.
KRISTINA WILDEVELD, ESQ.

RECORDED BY: SUSIE SCHOFIELD, COURT RECORDER
TRANSCRIBED BY: JD REPORTING, INC.

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1 **LAS VEGAS, CLARK COUNTY, NEVADA, MARCH 1, 2018, 9:19 A.M.**

2 *** * * * ***

3 (In the presence of the jury)

4 THE COURT: All right. Court is now back in session.
5 The record should reflect the presence of the State through the
6 deputy district attorneys, the presence of the defendant and
7 her counsel Ms. McAmis and Ms. Wildeveld, the officers of the
8 court, and the ladies and gentlemen of the jury.

9 And is the State ready to call its next witness?

10 MS. BLUTH: Yes, Your Honor. Thank you. The State
11 calls Yvette Gonzales.

12 THE COURT: All right.

13 **YVETTE GONZALEZ**

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

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

18 THE WITNESS: My name is Yvette Gonzalez.
19 Y-v-e-t-t-e. Last name Gonzalez, G-o-n-z-a-l-e-z.

20 THE COURT: All right. Thank you.

21 Ms. Bluth.

22 MS. BLUTH: Thank you.

23 DIRECT EXAMINATION

24 BY MS. BLUTH:

25 Q Good morning, ma'am. How are you employed?

1 A I am employed through the Clark County -- or Clark
2 County Department of Family Services.

3 Q And how long have you been with the department?

4 A I've been with the department for 13-plus years.

5 Q And what is your current role within that department?

6 A I am -- currently my title is a Senior Family
7 Services Specialist.

8 Q What does that mean?

9 A I currently -- I conduct abuse and neglect
10 allegations. I am currently assigned to the licensing unit.

11 Q Okay. And when you say what your role is, so do
12 you -- if a report comes in, do you then do an investigation on
13 the licensing side in regards to any allegations of abuse or
14 neglect?

15 A Correct. I do.

16 Q Okay. What was your job in the 2013-2014 time range?

17 A I was a senior family services specialist. I did
18 work for Child Protective Services. I worked in a unit that
19 was called Four and Under Unit. It's a specialized unit at
20 that time.

21 Q Okay. And on the Child Protective Services aspect of
22 it, were you still an investigator investigating allegations of
23 abuse and neglect but for children 4 and under?

24 A Yes.

25 Q Okay. Can you just briefly explain, you know, your

1 training and education that led you to your position.

2 A In regards to my schooling?

3 Q Yes.

4 A I did attend Arizona State University, graduated, and
5 as far as training, once I got hired through the department, I
6 do all of the mandated training that's required per year on top
7 of any training that's pertaining to my particular field.

8 Q And what are your degrees in?

9 A Psychology, and family and human development.

10 Q Okay. And what degrees are those, bachelor's?

11 A Bachelor's, yes.

12 Q Okay. Thank you. I'd like to turn your
13 investigation -- or turn your attention to an investigation
14 that you conducted, that began in February of 2014 that kind of
15 led us to why you're here to testify today, okay. Now, the
16 initial phone call --I apologize.

17 MS. BLUTH: Your Honor, may we approach briefly,
18 please?

19 THE COURT: Sure.

20 (Conference at the bench not recorded)

21 MS. BLUTH: Sorry about that. I needed some
22 clarification.

23 BY MS. BLUTH:

24 Q So on February 26th, a report comes in to CPS from
25 Shining Star Therapeutic Services in regards to some concerns

1 about Kaeshia and Demyer; correct?

2 A Correct.

3 Q And in the next day, which would be February 27th,
4 the report is assigned to you?

5 A That's correct.

6 Q Now, when the report gets assigned to you, do you
7 just grab the report and run, or is there a meeting? Like what
8 happens?

9 A My supervisor will look over the case, review the
10 history. Whenever a case is assigned to me, it comes directly
11 from my supervisor. At that time, she has reviewed the
12 history. We'll briefly staff the case, what's reported in the
13 actual report and go over any history if there is any history.

14 Q Okay. So before the report even comes to you, it
15 goes to your supervisor?

16 A Correct.

17 Q And then she pulls up any previous reports?

18 A Yes.

19 Q And when we say any previous reports, obviously we're
20 talking about two different sets of children here; right?

21 A Yes.

22 Q So the initial report that comes in from Shining Star
23 is regarding the Diaz-Burnett children?

24 A Correct.

25 Q But obviously the Solanders fostered them, but they

1 also had fostered and adopted their own three children --
2 Amaya, Anastasia and Ava; is that right?

3 A Correct.

4 Q So does your supervisor pull reports for both sets?

5 A Yes. So it's reviewed. It's also reviewed at the
6 intake process. When the call is made into our abuse-neglect
7 hotline, they're able to also document in the report that there
8 is -- if there is history, that there's history under this
9 case, under this case. That leads us to look also into
10 reviewing those additional past reports.

11 Q Okay. And you stated earlier in this time frame you
12 were investigations for 4 and under?

13 A Yes.

14 Q Now, Kaeshia and Demyer, they were 4 and under?

15 A Correct.

16 Q And so is that how you get involved?

17 A Yes.

18 Q Okay. So when you -- when that meeting occurs -- I
19 know it was a long time ago -- do you remember who was in that
20 meeting?

21 A Well, once the case was assigned to me, it was only
22 my supervisor and I who had briefly just looked over the
23 history and discussed what was reported. At that time then I
24 respond to the case.

25 Q Okay. Got it. So when you were staffing it with

1 your supervisor, do you have an idea of both the previous
2 allegations for the Diaz-Burnett children as well as the
3 previous allegations in regards to the Solanders?

4 A Yes.

5 Q And why was -- well, first of all, was that important
6 to you in your investigation?

7 A Yes, it is.

8 Q And why?

9 A It just -- it just shows that this -- that there may
10 be a pattern. It may be an ongoing concern that's been
11 occurring for some time.

12 Q Okay. And so after you staff it with your
13 supervisor, what's the next thing you do?

14 A I respond to Areahia's school.

15 Q Okay.

16 A I made contact with her.

17 Q Where was Areahia?

18 A Areahia, she was at school.

19 Q And I mean like where in the school exactly.

20 A Oh, sorry. I actually when I walked into the school,
21 it was lunchtime. So she was in the front office eating her
22 lunch.

23 Q Okay. All right. Was she with any other children,
24 or was she by herself?

25 A She was by herself.

1 Q All right. And did you speak with Areahia?

2 A I did.

3 Q And did she talk to you about some of the things that
4 were going on in the home?

5 A Yes.

6 Q And after you speak with Areahia, what happens next?

7 A I go back. We had a -- I was informed that there was
8 a scheduled meeting at that time with all the professionals at
9 work. Whoever had any involvement with the case, we go into a
10 meeting to discuss what's been going on with the case and the
11 ongoing concerns that each individual had.

12 Q And who was present, if you remember, to the best of
13 your ability, at that meeting?

14 A I know my supervisor was present.

15 Q I apologize. Did you already say her name?

16 A Christina Carol [phonetic].

17 Q Christina Carol. Okay.

18 A She was present. I want to say the director at the
19 time was present.

20 Q The Director of Department of Family Services?

21 A Sorry, yes. The Department of Family Services. The
22 assistant director of Department of Family Services. We had
23 the permanency specialist, who was actually who carried the
24 ongoing case for the Burnett-Diaz children. She was present.

25 Q Who was that?

1 A Anya, and I cannot recall her last name.

2 Q Is it Aya, Aya Orenick?

3 A Yes.

4 Q Okay.

5 A She was the current permanency specialist assigned to
6 the case at that time. She was present, and I believe along
7 with her supervisor at the time, which was Laura Hammack. I
8 believe that the supervisor for our nurse case management
9 Patrick Barkley was also present along with the licensing
10 investigator who was also assigned to the case. Richard Nelson
11 was present.

12 Q Okay. So you kind of have, like you said, it's a
13 meeting of the professionals that are involved one way or the
14 other with these children?

15 A Yes.

16 Q Okay. And what was the point of the meeting?

17 A I believe just to go over the concerns and what the
18 plan was for the children at the time.

19 Q Okay. And as a group, did you discuss the history of
20 the Diaz-Burnett children in that home?

21 A We did because at this time I'm still learning. I'm
22 still learning. I'm still gathering all the information and
23 just putting, you know, the pieces together as far as what
24 happened prior.

25 Q And was there any discussion about previous

1 investigations revolving around Amaya, Anastasia and Ava
2 Solander?

3 A Yes.

4 Q At the conclusion of that meeting, was a decision
5 made in regards to what was going to happen to the Diaz-Burnett
6 children?

7 A It was decided that the children will be removed.

8 Q And whose decision was that?

9 A I can't pinpoint a person. I know it was -- I mean,
10 I was -- it was my decision.

11 Q Okay.

12 A As well it was approved through the supervisors and
13 managers at the time.

14 Q Okay. And what did you base that decision on?

15 A Based on the ongoing concerns.

16 Q Okay. And those ongoing concerns, when you say the
17 ongoing concerns, the concerns from whom?

18 A Sorry. From the -- in regards to the Diaz-Burnett
19 children, there were ongoing --

20 MR. FIGLER: Your Honor, I just want to --

21 MS. BLUTH: And I'm going to lead.

22 MR. FIGLER: That's fine.

23 BY MS. BLUTH:

24 Q Okay. Were those concerns from -- I think I'm -- I
25 know that there's a word for people who work with the children.

1 What is it?

2 A Community providers, service providers.

3 Q Community providers.

4 A Yes.

5 Q So BST workers?

6 A Yes. Correct.

7 Q The children's clinician Lori Wells?

8 A Yes.

9 Q Individuals at the school?

10 A Yes.

11 Q Now, so when you leave that meeting, do you go to the
12 Solander home that same day?

13 A I do.

14 Q All right. And when you get to the home, do you
15 bring anyone with you?

16 A I do. I brought -- sorry. I did. I brought the
17 licensing investigator Richard Nelson with me.

18 Q Okay. And is that common practice to have two people
19 when you're going to be removing children?

20 A Yes. And he was also assigned to the investigation
21 because this is occurring in a foster home. He's automatically
22 a licensing investigator is assigned to a case. So, yes, it
23 is. It could be common practice. Even if we weren't removing,
24 a second individual could come with us.

25 Q Okay. And when you get to the home, who was present

1 in the home?

2 A Ms. Solander is present with the three foster
3 children.

4 Q And had you ever met Ms. Solander before?

5 A No.

6 Q And I assume that when you go to the house you, like,
7 knock on the door, ring the doorbell; right?

8 A Right. So we knock on the door. She answers the
9 door. I've never met her before. So I introduced myself to
10 her.

11 Q What was her demeanor when you, you know, said who
12 you were and where you worked?

13 A She was clearly upset. At this time, she's rolling
14 her eyes, and I informed her that I need to discuss a report
15 that was recently received. I needed to discuss it with her,
16 and she rolled up her -- she rolled her eyes up and opened the
17 door and said, Come in.

18 Q Okay. Now, I don't want to get into, like -- we've
19 heard about all the different reports. So I'm not going to get
20 into, like, the specifics of this specific report, but when --
21 when a report is called into the hotline and an investigation
22 is opened, is one of your duties to sit down with the foster
23 parents and say this is the report, these are the allegations?

24 A Yes.

25 Q Okay. And because of the report, did you ask to see

1 the three younger children?

2 A I did.

3 Q And did she bring -- were they brought down to you
4 one by one?

5 A Yes.

6 Q And after seeing the children, did you then have a
7 conversation with Janet in regards just to some of your
8 questions and concerns that had come up in the meeting?

9 A I did.

10 Q And I want to ask about that conversation. Did you
11 talk to her about any health concerns Janet had regarding
12 Areahia?

13 A Yes.

14 Q And what did she say in regards to Areahia's overall
15 health?

16 A She said she was -- at first it was initially thought
17 that she was diabetic; however, after several testing was done,
18 it was determined that she was not diabetic, and she was
19 hypoglycemic.

20 Q Hypoglycemic?

21 A Yes.

22 Q And did she state that although Areahia wasn't
23 diabetic she was prediabetic?

24 A Yes.

25 Q And who had given her that information?

1 A I believe she received that information from a
2 cardiologist whose name she couldn't recall at the time.

3 Q And did she say anything in regards to there being
4 certain marks on Areahia, and that was the reason that
5 diagnosis was given?

6 A Yes. The skin tags and the dark spots, the dark
7 pigmentations on her skin.

8 Q And that's what the cardiologist told Janet?

9 A Yes.

10 Q Per Janet?

11 A Yes.

12 Q But was Janet able to provide you -- well, you said
13 she wasn't able to provide the name of the cardiologist?

14 A Correct.

15 Q Was she able to provide any medical documentation to
16 what she was saying?

17 A No.

18 Q Did she discuss with you any toileting issues that
19 were happening in the house in regards to Areahia, Kaeshia and
20 Demyer?

21 A She did.

22 Q What did she say about that?

23 A She mentioned that all of the children had toileting
24 issues, and most recently, the kids have accidents almost daily
25 and that most recently Demyer had just started smearing his

1 feces.

2 Q Okay. And then did you ask her whether or not she
3 checked Areahia's underwear?

4 A I did.

5 Q And also watches her shower at times?

6 A I did.

7 Q And what was her response to that?

8 A In regards to the underwear, she says that she does.
9 She does ask Areahia if she has soiled or if her underwear were
10 dirty because she wanted to put cleaning supply on it.

11 Q Okay. And then when you asked her if you watched
12 Areahia shower, did that question upset her?

13 A It did.

14 Q And what was her response?

15 A She said -- I believe she said no.

16 Q Did she discuss frustration and anger in regards to
17 all of the children in the home with their toileting issues?

18 A Yes.

19 Q At any point in your conversation with Janet, did you
20 ask her what she did for a living?

21 A I did.

22 Q And what was her response?

23 A She says she was a registered nurse.

24 Q And did you ask her for any of her nursing
25 credentials?

1 A I did.

2 Q And what was her response that?

3 A She told me that she was practicing in Montgomery,
4 Ohio, and that she didn't believe that her license was active
5 at that time.

6 Q Did you ever ask her whether or not she was a nurse
7 here at the Air Force Base?

8 A I did.

9 Q And what was her response to that?

10 A And that's -- she got really -- she said it was none
11 of my business, and that question really upset her.

12 Q Now, did she bring up or did you bring up, did
13 anybody bring up the book that Janet had written?

14 A She brought it up.

15 Q Okay. Did you know about that book?

16 A In passing I was told that she wrote a book but
17 briefly. I didn't know much about what the extent of it was.

18 Q I was going to ask you did you know what the book was
19 about?

20 A I didn't. I just knew like it was -- I was informed
21 of the title which is given what the book was about, but I
22 never saw the book, never read the book. So I didn't know much
23 about it.

24 Q Okay. So you knew the book was -- I think the title
25 is *Foster Care: How to Fix a Corrupted System* (sic)?

1 A System.

2 Q I think I have that right.

3 A Yeah.

4 Q So you knew the title of that?

5 A Yes.

6 Q Okay. And did she make any comments to you in
7 regards to why you were there and the book?

8 A She did. She said she felt that this was done out of
9 retaliation, and I asked her why, and she goes, Oh, I know what
10 this is about. And I pressed her. I'm like, Well, what is it
11 about, and she said, I recently wrote a book about how the
12 department is corrupted.

13 Q Okay. Did you -- did you care about that book?

14 A I did not.

15 Q Okay. To your knowledge, were you mentioned -- you
16 personally, were you mentioned in that book?

17 A No.

18 Q Okay. Did Janet writing that book have anything to
19 do with why you were there on February 28th?

20 A No. No.

21 Q Did you -- you knew that Janet had adopted Amaya, Ava
22 and Anastasia; correct?

23 A Correct.

24 Q When you got to the home, were they there?

25 A They were not.

1 Q Did you ask Janet where they were?

2 A I did.

3 Q And where did she say they were?

4 A She mentioned that they were in Nebraska with, I
5 believe, Mr. Solander's parents.

6 Q Okay. And did you ask for the contact information?

7 A I did.

8 Q And what was her response?

9 A She said, no, she would not provide it to me.

10 Q Did you tell her you would kind of be forced to do
11 something if she didn't give you that information?

12 A I did. We did mention that we were going to file a
13 missing persons report if I was not provided with that
14 information.

15 Q Okay. Now, at this point, you don't have an open
16 investigation in regards to the Solander children?

17 A I do not.

18 Q So why do you want to know where they are or speak
19 with them?

20 A Part of an investigation is you have to make contact
21 with all the kids on the case, and this is an actual
22 investigation. There are allegations of abuse and neglect, and
23 I need to make contact with every individual that's -- every
24 child that's listed in this home.

25 Q Okay. After the conversation in regards to where,

1 you know, the Solander children are -- well, actually strike
2 that. So you had previously -- you had already made the
3 determination that you would be removing the Diaz-Burnett
4 children from the home that day?

5 A I did.

6 Q And did you leave the home, like voluntarily, or were
7 you asked to leave?

8 A No, she did ask. After, towards the end, she said,
9 You guys need to go.

10 Q Okay. And you took the children with you?

11 A I did.

12 Q And did you personally transport any of the children
13 back to what we refer to as Child Haven?

14 A Yes. I personally transported Kaeshia.

15 Q Okay. And during the transport of Kaeshia, how would
16 you explain her demeanor?

17 A She, within a few minutes, she was complaining that
18 she was starving. She was hungry, and I said -- she was
19 like -- she's like -- she just kept talking.

20 MS. MCAMIS: Well, objection. Narrative. Relevance
21 at this point.

22 MS. BLUTH: State of mind and --

23 MR. FIGLER: Hearsay.

24 THE COURT: Well --

25 MS. BLUTH: -- and it's relevant --

1 MS. MCAMIS: Objection. Hearsay.

2 THE COURT: The question was, What was her demeanor
3 like?

4 THE WITNESS: She was starving.

5 BY MS. BLUTH:

6 Q Okay. And did she discuss with you whether or not
7 she wanted to go back to Janet's home?

8 A She did.

9 Q And what did she say?

10 A She did. She did not want --

11 MS. MCAMIS: Objection. Relevance and hearsay.

12 THE COURT: Counsel, approach.

13 (Conference at the bench not recorded)

14 THE COURT: Ms. Bluth, rephrase.

15 MS. BLUTH: Thank you.

16 BY MS. BLUTH:

17 Q On the way to Child Haven, did Kaeshia state you that
18 she just didn't want to go back to Janet's house because she
19 was too hungry?

20 A Yes.

21 Q And that she couldn't talk anymore because she was
22 just too hungry?

23 A Yes.

24 Q Okay. Now, I want to move to -- let's see, I want to
25 talk about February 28th of 2014, and I apologize because I

1 think I said February 28th of 2014, a second ago, but the day
2 that you removed the children, was that the 27th?

3 A Yes. And that was the day that I was assigned to the
4 case. Everything occurred that day on the 27th.

5 Q Okay. Thank you for that clarification. The
6 following day, did you contact missing persons?

7 A We did, yes.

8 Q And kind of discuss with them the situation in
9 regards to trying to find the Solander children?

10 A Yes.

11 Q And the detective in missing persons, was he able to
12 make contact with Dwight?

13 A Yes.

14 Q And through contact with Dwight, were you guys able
15 to figure out where the girls were?

16 A Yes.

17 Q And where was that?

18 A Marvelous Grace Academy in Florida.

19 Q And where is that?

20 A That's located, I believe, Pace, Florida.

21 Q Okay. Did you make contact with anyone at the school
22 to make sure that the children were actually there?

23 A Yes. Contact was made with the director of the
24 academy, Steven Blankenship, and he confirmed that the children
25 were there.

1 Q All right. So you're in Nevada, and the girls are in
2 Florida.

3 A Yeah.

4 Q So unless you travel there, it's kind of difficult to
5 do that point of contact like you were talking about.

6 A Yes.

7 Q So did you make a decision or request that someone go
8 and speak with them?

9 A We did, yes.

10 Q And who was it? How did you do that?

11 A I contacted the abuse-neglect hotline in Florida.

12 Q Okay.

13 A And made a report in regards to previous concerns
14 that were reported to our hotline and that we had a current
15 investigation and the kids, the children in that home were
16 removed. So we wanted to see if they would make a report.

17 Q Okay. And to be clear, at this point in time your
18 investigation is still to the Diaz-Burnett children?

19 A It is.

20 Q All right. And so was there a, I don't know the
21 exact wording that they use for their workers, but a Department
22 of Family Services worker from Florida, did he or she make
23 contact with Ava, Amaya and Anastasia?

24 A She did.

25 Q And what was her name?

1 A Her name was Jackie Henry.

2 Q Okay. And Ms. Henry makes contact with the girls,
3 and does she sit down and speak with them?

4 A She does.

5 Q Now, when you requested that, is that, that
6 interview, is that like a sitdown formal forensic-type
7 interview?

8 A I believe she went out to the school and conducted
9 just a --

10 MS. MCAMIS: Well, objection. Speculation.

11 MS. BLUTH: Well, can I lay a better foundation, Your
12 Honor?

13 THE COURT: Yeah, lay a foundation.

14 BY MS. BLUTH:

15 Q Did you speak to Ms. Henry either before or after in
16 regards to the interview she conducted with the girls?

17 A I did.

18 Q And was that a formal, like, forensic interview?

19 MS. MCAMIS: Objection.

20 THE COURT: Yeah, I don't know. I mean, she can say
21 what she requested.

22 MS. BLUTH: Sure.

23 THE COURT: But anything else would be hearsay in
24 terms of the --

25 / / /

1 BY MS. BLUTH:

2 Q What was your request in regards to the type of
3 interview or fact-finding that Ms. Henry would do?

4 THE COURT: If you made a specific request.

5 THE WITNESS: I didn't. I think we just -- just to
6 be interviewed.

7 BY MS. BLUTH:

8 Q Okay. But you've had an opportunity to review that
9 interview; correct?

10 A Correct.

11 Q And that was not audio-recorded?

12 A No.

13 Q Or was it? I don't --

14 A I don't believe so. It was documentations.

15 Q Okay. Now, after those interviews were done, based
16 on what the Solander girls discussed what was happening to
17 them, were they then put in protective custody?

18 A Yes. Florida placed the children in protective
19 custody.

20 Q What does that mean when we use that term "protective
21 custody"?

22 A That means that they -- they're removing the rights
23 from the parents.

24 Q So after the girls spoke with Jackie Henry, is an
25 investigation now opened as to the Amaya, Ava and Anastasia?

1 A Yes. So once I received the information from Florida
2 stating that the girls disclosed the following information, I
3 then took that information, called it into our own
4 abuse-neglect hotline here in Department of Family Services and
5 opened an investigation here.

6 Q Okay. Now, simultaneously while that's going on in
7 Florida, are the Diaz-Burnett children being forensically
8 interviewed here in Las Vegas?

9 A Yes.

10 Q And we had a -- we had testimony from Detective Emery
11 yesterday. So I'm not going to go into the specifics of when a
12 forensic interview is done, but those interviews with the
13 Diaz-Burnett children forensically; right?

14 A Correct.

15 Q And that was done at the children's advocacy center?

16 A Correct.

17 Q Now, I want to turn your attention -- well, actually
18 let me step back for a second. When the investigation is now
19 opened in regards to Amaya, Ava and Anastasia, at what point
20 does a cross-reporting go to Metro?

21 A That same day.

22 Q Okay.

23 A Right after I make a report to our abuse and neglect
24 hotline, we then take that report and cross-report it to Metro.

25 Q And so what's the point of doing that?

1 A For Metro to investigate to see if there was any
2 criminal action.

3 Q Okay. And so now I want to move your attention to
4 March 4th. Did you attempt to make contact with Dwight and
5 Janet to conduct kind of, like, an interview-type situation?

6 A Yes.

7 Q And who were you able to make contact with?

8 A Mr. Solander called me, returned my call, and I was
9 able to speak to him.

10 Q Okay. And did you inform him that the Solander girls
11 had been interviewed in Florida?

12 A I did.

13 Q Okay. Did you discuss with Mr. Solander what Amaya,
14 Ava and Anastasia had disclosed to Florida CPS?

15 A Briefly. I had mentioned that the children had
16 disclosed excessive physical discipline.

17 Q And did you also discuss that the children had
18 disclosed food being withheld from them?

19 A Yes.

20 Q And what was Mr. Solander's reaction?

21 MR. FIGLER: May we approach, Your Honor?

22 THE COURT: Sure.

23 (Conference at the bench not recorded)

24 MS. BLUTH: Okay.

25 MR. FIGLER: And, Your Honor, the objection was --

1 THE COURT: It's overruled.

2 MR. FIGLER: Thank you.

3 BY MS. BLUTH:

4 Q In speaking with Mr. Solander did he, after you
5 informed him of what the girls had said, did he tell you that
6 they were lying?

7 A He did.

8 Q Did you inform him that there would be a protective
9 custody hearing in Las Vegas?

10 A I did.

11 Q And did you also let him know that a criminal
12 investigation had been opened by the Las Vegas Metropolitan
13 Police Department's Child Abuse and Neglect Unit?

14 A I can't recall if I did during that conversation or
15 not. I cannot recall that for sure.

16 Q Did you have several conversations with him, or how
17 many would you say?

18 A We were trying to schedule an interview, and he was
19 out of town. So we spoke I want to say at least three or four
20 times on the phone just trying to schedule a time to meet.

21 Q Sure. And in those conversations though with him in
22 early March, was he made aware that the investigation by Metro
23 had been opened as well?

24 A Yes.

25 Q So as early as early March, Dwight Solander knew

1 about a criminal investigation?

2 A Yes.

3 Q And then the following day, on March 5th, did you
4 attend the court hearing for the protective custody?

5 A I did.

6 Q And as a -- I'm sorry. As an investigator, you have
7 to attend those; is that right?

8 A Yes, I do.

9 Q And do you have to testify? How does that work? I
10 don't know.

11 A I write a protective custody report which is pretty
12 much the outline of the allegations, what brought the girls
13 into custody.

14 Q Okay. Now, during your investigation, I know we
15 talked about you had made initial contact with Steven
16 Blankenship just to make sure the girls were there, but a
17 couple of days later on March 6, did you make telephonic
18 conversation with him again?

19 A Yes.

20 Q And then what was your goal in making contact with
21 him again?

22 A I wanted to know if the girls were on any special
23 diets, any medications and just to see how the girls were doing
24 there.

25 Q Okay. When they were there?

1 A When they were there. Correct.

2 Q And did he send a letter discussing that the children
3 didn't have any special diets or any toileting issues like that
4 to you and Frances Emery?

5 A I can't recall if he sent one directly to me, but I
6 know he -- I got it verbal from him.

7 Q Okay. At any point in time -- and I'm not going to
8 ask you what was said. At any point in time did he report to
9 you whether or not the Solander children had reported to staff
10 things that had happened to them in Las Vegas?

11 A Yes.

12 Q On March 8th, did you, yourself, travel to Florida
13 to get Amaya, Anastasia and Ava to bring them back to Las
14 Vegas?

15 A Yes, I did.

16 Q And why did you need to bring them back to Las Vegas?

17 A We, at the protective custody hearing, there was a
18 UCCJEA hearing that was in between that was held between the
19 Judges here -- between the Judge here in Las Vegas and in
20 Florida, and we obtained jurisdiction of the girls. So then we
21 had the jurisdiction of the girls and brought them back.

22 Q And what is UCCC --

23 A I think it's when a child is out of jurisdiction.
24 Sorry. I can't remember what the abbreviation is. When the
25 child is out of jurisdiction -- outside of our jurisdiction, we

1 contact the hearing master in that particular jurisdiction to
2 see who is going to continue with jurisdiction of the children.

3 Q Okay. Understood.

4 A Sorry.

5 Q And then at that hearing, it was decided that the
6 Solander girls would be under Nevada jurisdiction?

7 A Correct.

8 Q And so you were the person tasked with going and
9 getting them?

10 A Yes.

11 Q Okay. And so that would be on March 8th that you
12 travel and pick them up?

13 A Correct.

14 Q What was their demeanor in leaving the girls' home?

15 A They were fearful. They were fearful. They did not
16 want to -- they didn't want to come back. I had to reassure
17 them that they were not going to the Solander home.

18 Q Okay. And when you actually get to Las Vegas, is
19 there an incident at the airport with Amaya where she believes
20 that she sees Janet?

21 A Yes.

22 Q And can you explain Amaya's demeanor when she thinks
23 she sees Janet Solander.

24 A A couple of the girls were in the bathroom, and I was
25 outside the bathroom with Amaya that we're coming out, and

1 Amaya and I were just talking, and she -- in the middle of our
2 conversation, she freezes and goes up against a wall and
3 express fears that that's Janet, that's Janet, and from a
4 distance, I couldn't really -- the person who she believed was
5 Janet was wearing a hat. So I couldn't really identify who
6 that person was, but she did. She froze up and expressed fear.

7 Q Okay. But to the best of your knowledge, that wasn't
8 Janet?

9 A No. No. No, I don't believe so.

10 Q And you know it Janet looks like?

11 A Yes.

12 Q And I should have asked you do you see her in the
13 courtroom today?

14 A I do.

15 Q And what type of clothing is she wearing?

16 A She is wearing a white vest with a blue long sleeve
17 shirt underneath.

18 MS. BLUTH: Okay. Thank you.

19 Your Honor, may the record reflect the identification
20 of the defendant?

21 THE COURT: It will.

22 MS. BLUTH: Thank you.

23 BY MS. BLUTH:

24 Q Now, on March 13th, the girls were taken for exams by
25 Dr. Sandra Cetl; is that correct?

1 A Correct.

2 Q And we spoke about forensic interviews of the
3 Diaz-Burnett children. At your request and/or Frances's
4 request, was contact made with Autumn and Ivy Stark as well?

5 A Yes.

6 Q And were they forensically interviewed?

7 A They were.

8 Q At some point in your investigation, did you make
9 contact with other states to see if the Solanders had been
10 foster parents in any other jurisdictions?

11 A I did.

12 Q And why was that done?

13 A To see if there was any history, to see if there's
14 been any other issues of any violations, any abuse-neglect
15 history.

16 Q Okay.

17 A Just background check.

18 Q Okay. And were they foster parents in any other
19 state?

20 A They were not.

21 Q To your knowledge, were Amaya, Anastasia and Ava,
22 were those the first foster children in their home?

23 A I don't -- I know there's other foster children. I
24 just can't recall the exact --

25 Q Like the chronology?

1 A Exactly.

2 Q Okay. Fair enough. On March 17th, you conduct an
3 interview with Dwight Solander; is that correct?

4 A I do.

5 Q And in that interview, he denied to you that the
6 girls ever disclosed any type of abuse to him that Janet had
7 done to them?

8 A That's correct.

9 Q And he discussed the fact that Amaya had been
10 diagnosed with a seizure disorder and a hypothyroid?

11 A Yes.

12 Q And that all the girls had serious intestinal
13 problems and had several -- and had had several colonoscopies?

14 A Correct.

15 Q He stated that they decided to send the girls to
16 Florida for behavioral issues and repeated bathroom accidents?
17 Is that right?

18 A That's correct. Sorry.

19 Q And that the girls would hold their urine for hours,
20 sometimes up to days which would end up causing UTIs and
21 bladder infections?

22 A Correct.

23 Q He denied ever using -- that catheters were ever used
24 on the girls but that they were threatened with the catheters?

25 A Uh-huh.

1 Q Is that a yes?

2 A That's correct.

3 Q He did not -- he said that he had no concerns in
4 regards to Janet's care of the children?

5 A Correct.

6 Q And that he wasn't a big believer in corporal
7 punishment?

8 A Correct.

9 Q He denied ever seeing any scarring, specifically to
10 Anastasia in the back of her ear?

11 A Yes.

12 Q And I think that's the totality of that interview.
13 And then on that same day, was a protective custody and hearing
14 conducted?

15 A Yes.

16 Q On March 20th, did you attend the search warrant
17 when Metro served it on the Wakashan home of the Solanders?

18 A I did.

19 Q At that point in time on March 20th, it had been at
20 minimum a couple of weeks since you had informed Dwight of the
21 open investigation?

22 A Correct.

23 Q After the search warrant is served, about a week
24 later, did you reach out and make contact with any points of
25 contact or any people who had had contact with the Solander

1 girls either before they went to the Solander home or while
2 they were there?

3 A I did.

4 Q And who did you reach out to?

5 A I reached out to two of the previous hired nannies.
6 Would you like their names?

7 Q Yes, please.

8 A Jan Finnegan, Andrea Lidgeworth [phonetic]. I
9 reached out to community therapy providers Lori Wells,
10 Christina Day. Oh, geez. There was other individuals who I
11 can't recall.

12 Q That's okay. But some of the community providers
13 that have provided care not to the Solander children but to the
14 Diaz-Burnett children?

15 A Correct.

16 Q So Jan Finnegan and Andrea Lidgeworth were nannies in
17 the home with the Solanders; right?

18 A Yes.

19 Q And then you -- did you reach out to Debbie McClain?

20 A I did.

21 Q And who is Debbie?

22 A Debbie was the foster parent for the girls prior to
23 going into the Solander home.

24 Q Okay. And why did you reach out to her?

25 A Just to get some history on the girls, find out if

1 there was -- just to get a history on the girls: How were the
2 girls like in their home? Were there any issues, medical, any
3 toileting issues back when she had them in her care.

4 Q Okay. And then I think you already spoke about it,
5 but in regards to the Diaz-Burnett children, you reached out to
6 community providers like Lori Wells and Christina Day?

7 A Yes.

8 Q And interviews were done with those individuals;
9 correct?

10 A Yes.

11 Q Now, as part of the, you know, if Ms. Emery or
12 Detective Emery spoke about it, it's a dual investigation;
13 right? Metro runs their investigation, and you run yours, and
14 there's kind of different points and outcomes; is that right?

15 A Correct.

16 Q As part of your investigation and the fact that you
17 potentially have to go to court, were medical records of Ava,
18 Amaya and Anastasia ordered?

19 A Yes.

20 Q And what's the point in ordering those?

21 A Just to review the history, to review all the
22 history, see what the girls -- what all the testing that's been
23 done. Also, I wanted Dr. Cetl to review all the medical
24 records; also, if there was ever a trial in our courts, that we
25 would have all the medical documents that would be needed.

1 Q And were those medical documents also shared with
2 Metro and eventually with my office?

3 A Yes.

4 Q And the medical records I was just speaking about
5 were for the Solander girls, but were some medical records in
6 regards to the Diaz-Burnett children received as well?

7 A Yes.

8 Q And then in April, we heard testimony yesterday about
9 a search warrant that was done in regards to Dwight's email.
10 Did you have access to those as well?

11 A No, I did not.

12 Q And that was done by Metro?

13 A Yes.

14 Q Is there anything that I have missed in regards to
15 your investigation, or did it conclude upon -- I mean, I don't
16 want to say conclude because I know you continued working on
17 the case because there's a family court hearing, but in regards
18 to the interviews you did, the records you did, did I cover
19 everything?

20 A I believe so.

21 MS. BLUTH: Okay. Thank you so much.

22 Your Honor, that concludes my direct examination.

23 THE COURT: All right. Cross.

24 MS. MCAMIS: Yes. Thank you.

25 / / /

CROSS-EXAMINATION

BY MS. MCAMIS:

Q Good morning, Ms. Gonzalez.

A Good morning.

Q All right. So you are here testifying today based on your observations and interactions with this joint investigation that you did with Detective Emery as it relates to the Solander home; correct?

A Correct.

Q Okay. Now, at the time that you received this investigation or this request for investigation rather, it was as to the Diaz-Burnett children only; correct?

A Correct.

Q There was no disclosure or discussion at all about any allegations of abuse or neglect of any kind as to the three adopted Solander daughters; correct?

A In this particular report that was received on February 26th, no.

Q And that's right. That's my question to you is the initial report had nothing to do with the Solander girls; correct?

A Correct.

Q Okay. And the initial report, that's the one that you followed up on; correct?

A Correct.

1 Q Okay. Now, when you received this report, you are a
2 CPS investigator; right?

3 A Correct. Yes.

4 Q And you are supposed to be neutral; correct?

5 A Yes.

6 Q You're supposed to go in and gather information and
7 enough to be able to make a decision or see if there's a need
8 for further investigation; correct?

9 A Yes.

10 Q Okay. So you're not going in to an investigation
11 with any kind of -- with your mind made up; is that fair to
12 say?

13 A In regards to --

14 Q The allegations.

15 A No, not in regards to the allegations.

16 Q Right. Because you're supposed to be neutral; right?

17 A Still gathering my information to make the
18 determination.

19 Q Okay. And you testified that Ava, Amaya and
20 Anastasia were not physically in the home when you made that
21 initial contact in late February of 2014; correct?

22 A Correct.

23 Q Okay. And there's actually no policy or guidebook
24 requiring you to make face-to-face contact with children who
25 are not physically in that home at that time; correct?

1 A No. I have to -- I have to make contact with every
2 child under the age of 18 that resides in the home.

3 Q Okay. But you had no information at that time that
4 Ava, Amaya and Anastasia and were regularly residing in the
5 home in February of 2014; correct?

6 A Ask your question one more time because I --

7 Q You had no information that Ava, Amaya and Anastasia
8 were actually physically residing in the Solander home in
9 February of 2014?

10 A They were supposed to be physically living in that
11 home based on their adoption subsidy that Ms. Solander had
12 completed.

13 Q Okay. Now, as a CPS investigator, you testified that
14 you have access to all of the prior notes; correct?

15 A Correct.

16 Q And so that would've been you also had contact or
17 been able to review the notes for any of the permanency workers
18 who'd been in the home; correct?

19 A Correct.

20 Q So that would have included notes that reflected that
21 Janet was looking into behavioral schools for her girls;
22 correct?

23 A Behavioral schools, residential treatment centers.
24 It was inpatient.

25 Q Okay. So you actually had that information when you

1 went in to do that CPS investigation in February. You had
2 reason to know that the girls had been sent to inpatient
3 treatment or a residential facility; correct?

4 A Yes.

5 Q All right. So I want to direct your attention to the
6 contact that you had with Jackie Henry, and that's the person
7 you identified as the Florida CPS point of contact; correct?

8 A Yes.

9 Q Okay. So Jackie Henry gave you a summary of her
10 contact with the girls; correct?

11 A Correct.

12 Q That all of her contact with the girls, none of that
13 was videoed; correct?

14 A I can't recall if it was videoed, if she "audioed."

15 Q If it had been videoed or "audioed," you would have
16 noted that in your -- as part of your investigation; correct?

17 A Yes.

18 Q Because you also use Unity, don't you?

19 A Yes.

20 Q Okay. So if you had all of these additional
21 materials, you would have noted it; correct?

22 A I had her documentation.

23 Q You had her documentation --

24 A That she --

25 Q -- the documentation that you are referring to, an

1 eight-page-summary report; correct?

2 A Yes.

3 Q And that's all she gave you?

4 A Yes.

5 Q Okay. Because you weren't asked on direct
6 examination about any audio or typed statements of the girls
7 back when Jackie Henry had contact with them; correct?

8 MS. BLUTH: Objection, Judge. That misstates. I
9 actually did ask if there was audio of that.

10 THE COURT: State your question.

11 BY MS. MCAMIS:

12 Q My question was and you weren't actually asked
13 about -- well, my question really should have been you weren't
14 asked about any specifics of any audio or video or transcribed
15 statements from the contact with Florida?

16 THE COURT: That's sustained.

17 Counsel, approach.

18 (Conference at the bench not recorded)

19 THE COURT: Ms. McAmis, rephrase.

20 MR. FIGLER: Court's indulgence.

21 BY MS. MCAMIS:

22 Q All right. So, Ms. Gonzalez, so the prosecutor asked
23 you if Jeffrey -- excuse me, if the Jackie Henry interviews
24 were recorded, and you testified that you just didn't know?

25 A Yes.

1 Q Okay. But you did review the summary of the
2 interview with Jackie Henry and the girls?

3 A Correct.

4 Q Okay. Now, it's important for an investigation and
5 evaluation of all of those disclosures to know what the girls
6 are saying; right?

7 A Yes.

8 Q Okay. So if it had been recorded or at least
9 summarized by the interviewer, you'd want to see that?

10 A Yes.

11 Q Now, you were asked questions about all of the
12 forensic interviews. Do you recall that line of questioning?

13 A Yes.

14 Q Okay. Now, forensic interviews are an important
15 investigation tool; wouldn't you agree?

16 A Yes.

17 Q Okay. And forensic investigations are done with
18 children, and they're recorded; right?

19 A Correct.

20 Q Meaning including audio and video; correct?

21 A Yes.

22 Q Okay. And it's very important that the trained
23 specialist who's asking questions of the children doesn't ask
24 any leading questions; right?

25 A Correct.

1 Q Because you're just trying to gather information,
2 again as a neutral party, and not elicit information that's not
3 accurate; right?

4 A Right.

5 Q All right. And so as part of the joint
6 investigation, not only were Ava, Amaya and Anastasia
7 interviewed, but additional foster children were interviewed as
8 well?

9 A Yes. That's correct.

10 Q Okay. And they were asked about their observations
11 in the home and their observations as it related to the
12 treatment of the adopted Solander children; correct?

13 A Yes.

14 Q Okay. Now, Ava, Amaya and Anastasia made certain
15 disclosures in the March -- the recorded forensic interviews in
16 March of 2014; correct?

17 A Yes.

18 Q Okay. And is it accurate to say that Amaya actually
19 did not disclose anything about catheters in that forensic
20 interview?

21 A That's correct.

22 Q Okay. And that it was Anastasia who disclosed
23 something about a catheter generally; correct?

24 A Yes.

25 MS. BLUTH: And, Judge, I apologize. I'm just going

1 to object in regards to any of the -- like I would -- the
2 Florida statements.

3 THE COURT: That's sustained.

4 MR. FIGLER: We're not talking about Florida.

5 MS. MCAMIS: We're not talking about Florida.

6 THE COURT: Okay.

7 MS. BLUTH: Oh, I apologize. I apologize.

8 MS. MCAMIS: This was the March.

9 MS. BLUTH: Okay. That's my bad then. I apologize.

10 BY MS. MCAMIS:

11 Q And I know that my questions were all about those
12 forensic interviews. Were your answers responsive to the
13 content of just those forensic interviews and not the Florida
14 statements?

15 A Yes.

16 MS. BLUTH: And so I apologize, but my objection
17 would also be obviously to the forensic interviews as well
18 because it still hearsay.

19 MS. MCAMIS: Well, it goes to state of mind and
20 investigation.

21 MS. BLUTH: It would still be hearsay.

22 THE COURT: Well, that's overruled.

23 Go ahead.

24 MS. MCAMIS: Okay.

25 THE COURT: Your question was about the disclosure

1 relating to the catheters; correct?

2 MS. MCAMIS: Correct.

3 THE COURT: Okay.

4 BY MS. MCAMIS:

5 Q Okay. And I believe you answered that, that I asked
6 if Amaya had disclosed or I asked you to confirm Amaya had not
7 disclosed anything about catheters in that March 2014
8 interview; correct?

9 A Correct.

10 Q Okay. And then the other children, the foster
11 children, none of them had made any disclosures about
12 overhearing catheter or threats of catheters; correct?

13 A No. Correct. Sorry. Yeah.

14 Q I understood. That came out, but I appreciate your
15 clarification for the record.

16 A Uh-huh.

17 Q All right. Now, when you're doing these interviews,
18 you want to collect as much relevant information as is
19 available; correct?

20 A Correct.

21 Q And part of the allegations or some of the concerns
22 perhaps is a better word that you were worried about was some
23 of the medical documentation; correct?

24 A In regards to the three girls?

25 Q Yes, in regards to the three adopted girls.

1 A Ask your question again. Sorry.

2 Q Okay. So when you're doing a thorough
3 investigation --

4 A Yes.

5 Q -- you want to collect as much relevant information
6 as is possible; right?

7 A Yes. Correct.

8 Q Okay. And so that includes any kind of medical
9 treatment that the adopted girls would have been receiving;
10 correct?

11 A Correct.

12 Q Okay. And so you talked about having some phone
13 contact with Dwight; correct?

14 A Correct.

15 Q And in that phone contact, he actually disclosed that
16 the girls had seen Dr. Crispin, a pediatrician; correct?

17 A I can't recall. I don't recall that.

18 Q Okay. All right. So when you're doing all of your
19 investigations, you make contemporaneous notes in Unity;
20 correct?

21 A Correct.

22 Q Okay. And so if you'll bear with me for just a
23 moment. And then you would've worked with your supervisor
24 Christina Carell at the time; correct?

25 A Carol, yes.

1 Q Oh, thank you. Carol.

2 A Uh-huh.

3 Q And both of you would have been entering Unity notes
4 and working together in conjunction with trying to investigate
5 who you need to contact to interview; right?

6 A Yes.

7 Q Okay. And so as a result of the investigation and
8 Chris Carol's contact with Dwight, it was reported that Dr.
9 Crispin was the children's pediatrician; correct?

10 A Correct.

11 Q Okay. And that would have been a disclosure
12 approximately --

13 A March 17th.

14 Q -- the middle of March 2014; correct?

15 A Yes. Correct.

16 Q Okay. Now, you were asked questions about the
17 different people that you interviewed. Do you recall that?

18 A Yes.

19 Q You interviewed the children's -- the adopted
20 children's two nannies; right?

21 A Correct.

22 Q Okay. And we already talked about how you
23 interviewed with the different children and foster children;
24 right?

25 A Yes.

1 Q Okay. You never actually interviewed Dr. Crispin;
2 correct?

3 A I did not.

4 Q And to your knowledge, no one as part of this
5 investigation followed up on interviewing Dr. Crispin?

6 A Interviewing, I don't -- no.

7 Q Okay. As part of your investigation, you and/or your
8 supervisor made contact to Steven Blankenship at The Marvelous
9 Grace Girls Academy in Florida; correct?

10 A Correct.

11 Q Okay. And so that contact was started approximately
12 February 28th, 2014; correct?

13 A Correct.

14 Q Okay. And so Mr. Blankenship confirmed the girls
15 enrollment at the school; correct?

16 A Correct.

17 Q He also confirmed that tuition was paid by the
18 adoptive parents and their insurance is not billed for the
19 school; correct?

20 A Correct.

21 Q And he reported that the girls were doing very well
22 academically and had a few behavior issues, but that the
23 behavior had improved; correct?

24 A Correct.

25 Q And so in that initial contact with Mr. Blankenship,

1 there is no statement or disclosure that he said the girls had
2 contacted his staff about potential excessive physical
3 discipline; correct?

4 A Correct.

5 Q Okay. And so your investigation continued, and then
6 there was a follow-up phone call with Mr. Blankenship on March
7 6th of 2014; correct?

8 A Correct.

9 Q And that was a follow-up on, again, the girls'
10 medical issues and documentation; correct?

11 A Correct.

12 Q And so it was confirmed to you and/or your supervisor
13 as part of your joint investigation --

14 A Yes.

15 Q -- the medications that Amaya had been on; right?

16 A Correct.

17 Q And it was confirmed that she was on the medicine for
18 hypothyroidism and medication for seizure management?

19 A Correct.

20 Q And then as part of your investigation, there was
21 just general discussion about how the girls were doing in the
22 school and their eating habits; correct?

23 A Correct.

24 Q And again in this phone conversation, Mr. Blankenship
25 reported to you that he didn't know anything more specific

1 about any disclosures the girls had made; correct?

2 A Correct.

3 Q And, in fact, he had said that any disclosures would
4 have been made to his staff and not to him; correct?

5 A Yes, if --

6 Q He just didn't have anything specific to offer to
7 your investigation?

8 A Okay. Yes.

9 Q Is that correct?

10 A Sorry. Yeah. I don't have my notes right in front
11 of me, but, yeah.

12 Q Would you like to review the notes?

13 A No, it's okay. No. If you are reading them --

14 Q Do you have any reason to doubt that these are the
15 notes that were documented --

16 A No.

17 Q -- from that February --

18 A No.

19 Q And I appreciate you're being so responsive. Because
20 this is a recorded record, we just have to take turns --

21 A Yes.

22 Q Okay. So you don't have any reason to doubt that
23 after -- I'm asking about the Unity note entries from the
24 February 28th and March 6th date from 2014. You don't have
25 any reason to doubt that that's what the entries were?

1 A No.

2 Q Okay. And again, when there was that conversation
3 with Mr. Blankenship, there was no report or the disclosure of
4 anything to do with catheters; correct?

5 A No.

6 Q And nothing to do with, like, for instance razor
7 blades; correct?

8 A No.

9 Q Okay.

10 MS. MCAMIS: Court's indulgence.

11 BY MS. MCAMIS:

12 Q All right. So you were asked questions on direct
13 examination about a book that Janet wrote?

14 A Yes.

15 Q I want to direct your attention to that. Now, you
16 said that the fact that Janet wrote a book that was titled
17 basically corruption, what to do with this -- or, no, basically
18 what to do with this corrupt foster care system. I apologize.
19 But that didn't have any bearing on your investigation;
20 correct?

21 A It did not.

22 Q But you already had information that the Department
23 of Family Services was aware that she'd written a book that was
24 critical of the department?

25 A Yes.

1 Q And you said that that was information you received
2 in passing?

3 A Yes.

4 Q Who gave you that information?

5 A I cannot recall. I don't know. I cannot recall who
6 told me, just it was, like I said, it was in passing. I cannot
7 specifically say who informed me of the book.

8 Q Okay. But as part of your joint investigation with
9 the Metro side of abuse and neglect, that was the information
10 that was shared to them as well; correct?

11 A Yes.

12 MS. MCAMIS: Okay. Court's indulgence.

13 BY MS. MCAMIS:

14 Q Ms. Gonzalez, you recall when I was asking questions
15 about your investigation and your contact with The Marvelous
16 Grace Girls Academy in Florida?

17 A Correct.

18 Q Okay. So at the time that you were assigned as the
19 investigator, you came to learn that the girls -- Ava, Amaya
20 and Anastasia -- had been at the Marvelous Grace Girls Academy
21 for four months by the time that the interviews happened with
22 Jackie Henry; correct?

23 A Correct.

24 Q Okay. And you -- did you investigate the history of
25 Marvelous Grace Girls Academy at all?

1 A No.

2 Q Okay. And you're aware that they have multiple staff
3 members, and it was not just Steven Blankenship who worked at
4 Marvelous Grace; right?

5 A Yes. Uh-huh.

6 Q Okay. But you didn't investigate with anyone else at
7 Marvelous Grace Girls Academy who would have been involved in
8 the girls' lives; correct?

9 A Correct.

10 Q So they had, like, teachers there; right?

11 A Correct.

12 Q And they had, like, church services there; right?

13 A Yes.

14 Q And you didn't interview any of those individuals?

15 A I did not.

16 Q And no one as part of your team interviewed any of
17 those individuals?

18 A No.

19 Q Now, you talked about gathering all of the medical
20 records for the Solander girls and the Diaz-Burnett children.
21 You didn't actually talk to the doctors to interview any of
22 them; right?

23 A I did not.

24 Q Okay. And to your knowledge, no one on the
25 investigative team did that?

1 A They did not.

2 Q Okay. Now, as a CPS investigator at that time in
3 2014 when you were working as a CPS investigator, you would
4 have been able to be in a position where if you saw conduct you
5 believed to be criminal you could've referred that over to
6 Metro abuse and neglect; correct?

7 A Correct.

8 Q Okay. And that's true of any licensed CPS
9 investigator who's employed with the Department of Family
10 Services in Clark County; correct?

11 A Correct.

12 Q Okay. And so if a prior abuse and neglect allegation
13 is found to be unsubstantiated, that's an indication that there
14 was no referral for criminal charges; correct?

15 A Yes.

16 MS. MCAMIS: Okay. Court's indulgence.

17 BY MS. MCAMIS:

18 Q All right. Okay. Now, Ms. Gonzalez, as part of your
19 ongoing obligations in the case, you're aware that Ava, Amaya
20 and Anastasia were brought over to the district attorney's
21 office after they returned to Las Vegas; correct?

22 A To the district attorney's office?

23 Q For a pretrial conference; correct?

24 A Okay. Yeah.

25 MS. BLUTH: Objection. Speculation.

1 THE COURT: Did you know that?
2 THE WITNESS: For, like, recently?
3 THE COURT: Well, if you don't know.
4 MS. MCAMIS: No, on the return.
5 THE WITNESS: Yeah.
6 THE COURT: I mean, do you know whether or not they
7 were brought over for a pretrial conference?
8 THE WITNESS: I believe they were.
9 MS. BLUTH: And, Judge, objection. Well, just some
10 foundation in regards to which district attorney's office. Is
11 it my office?
12 THE COURT: Right. Or the family in the juvenile
13 division.
14 MS. MCAMIS: Court's indulgence.
15 THE COURT: When you say you believe they were, are
16 you guessing, or what are you talking about?
17 THE WITNESS: I heard they were, but I didn't
18 transport them. So I wasn't -- I mean, I can't say for sure
19 when or --
20 THE COURT: Okay.
21 MS. MCAMIS: If I can just have the Court's brief
22 indulgence.
23 One more minute if you wouldn't mind, Your Honor.
24 THE COURT: Sure.
25 / / /

1 BY MS. MCAMIS:

2 Q Okay. Do you have knowledge that on April 14th of
3 2014, the girls, meaning Ava, Amaya and Anastasia, had been
4 scheduled for a pretrial interview at the DA's office for April
5 17th, 2014?

6 A For our district attorney or for --

7 THE COURT: When you say "our district attorney" --

8 THE WITNESS: Sorry. For Department of Family
9 Services or for this courthouse?

10 MS. MCAMIS: Well, either.

11 THE WITNESS: I believe so. I can't recall, but I
12 believe yes, they went.

13 THE COURT: Okay. And it's one office, correct --

14 THE WITNESS: Okay.

15 THE COURT: -- under Steven Wolfson, but when you say
16 our district attorney, you're talking about the attorney that
17 deals with DFS in the juvenile division; is that right?

18 THE WITNESS: Yes. Correct. Yes.

19 THE COURT: As opposed to Ms. Bluth, who is in the
20 adult criminal division?

21 THE WITNESS: Yes. Okay. So I --

22 THE COURT: Is that what you're talking about?

23 THE WITNESS: Yes.

24 THE COURT: Okay.

25 THE WITNESS: That was.

1 THE COURT: Just to clarify --

2 THE WITNESS: Yes.

3 BY MS. MCAMIS:

4 Q And in your, you know, training and experience, you
5 have knowledge that sometimes children are brought over to be
6 pretried by a district attorney?

7 A Yes.

8 Q And that's a common practice?

9 A Yes.

10 Q Okay. And to your knowledge, those pretrial
11 interviews are not recorded; correct?

12 A Correct.

13 Q And they're not videoed; correct?

14 A Correct.

15 Q They're not turned over, disclosed to anyone other
16 than the district attorney; correct?

17 A Correct.

18 Q As an investigator when you were doing all of this
19 information gathering and you were conducting these kinds of,
20 like, forensic interviews, you want to make sure that the
21 interviews that are taking place and the people who are asking
22 the questions, like the specialists who ask the questions, they
23 don't unduly make suggestions to the kids or even put --
24 innocently plant ideas in their minds; right?

25 A No. No.

1 Q Okay. And that's one of the reasons and rationales
2 for why these interviews are recorded; correct?

3 A Correct.

4 Q Okay. So you've testified that you are aware that a
5 pretrial meeting with the Solander girls occurred in April
6 of 2014, but you were not present for that?

7 A Correct.

8 Q Okay. And no summary of that meeting was made or
9 entered into Unity; correct?

10 A Correct.

11 Q And it wasn't produced as part of a court report;
12 correct?

13 A I did not, no.

14 Q Okay. And the same would've been true for the foster
15 children in this case. They would've also been pretried by
16 the district attorney's office; correct?

17 A They could have, but I have no knowledge to that.

18 Q Okay. You just have no knowledge either way if they
19 were pretried or if any of those pretrials were recorded or
20 documented in some way; correct?

21 A Correct.

22 MS. BLUTH: Objection. Compound.

23 MS. MCAMIS: It was an either/or.

24 THE COURT: Well, can you answer? Do you know if
25 they were recorded?

1 THE WITNESS: I don't know because I don't know if
2 they were pretried.

3 THE COURT: Okay.

4 MS. MCAMIS: And so similarly she wouldn't know if
5 they were documented in any way.

6 THE COURT: If she doesn't know if they had them, she
7 wouldn't have seen any documents or recordings.

8 BY MS. MCAMIS:

9 Q Okay. And there is no documentation in Unity based
10 on your investigation and review of the Unity notes in
11 preparing for today's testimony?

12 A Not that I'm aware of, no.

13 MS. MCAMIS: Okay. All right. Pass the witness.

14 THE COURT: All right. Redirect.

15 MS. BLUTH: Thank you.

16 REDIRECT EXAMINATION

17 BY MS. BLUTH:

18 Q I just want to clarify because it kind of can get
19 confusing in regards to the different courts.

20 A Yes.

21 Q Most of the time when you testify are you here in
22 this courthouse?

23 A No.

24 Q Okay. So where do you testify?

25 A At the family courthouse.

1 Q All right. And so the district attorney's office
2 that works in that courthouse is a completely different
3 division than the division I work on?

4 A Correct.

5 Q And here we're discussing criminal allegations?

6 A Yes.

7 Q And in the other courthouse, what are you guys
8 determining?

9 A Civil.

10 Q And then are you also determining parental rights,
11 like --

12 A Yes.

13 Q -- does someone keep the children, or are their
14 rights terminated?

15 A Yes.

16 Q And as of today, the Solanders are no longer the
17 parents of Amaya, Ava and Anastasia?

18 A That's correct.

19 Q When we talked a little bit earlier about -- as part
20 of your investigation, you went back and you looked at previous
21 investigations by other CPS investigators --

22 A Yes.

23 Q -- in regards to both the Diaz-Burnett children and
24 the Solander children?

25 A I did.

1 Q In looking at those investigations for both sets of
2 those children, did you take into account the information found
3 in those investigations in making your decision on whether or
4 not to remove the children? Do you understand the question?

5 A Yeah. Can you say it one more time. Sorry.

6 Q Sure. So you talked about the fact that you had
7 looked at the Diaz-Burnett history; right?

8 A Correct. Yes.

9 Q And you had seen that there had been investigations
10 in regards to those children?

11 A Yes.

12 Q And then you looked at the Solander history of Ava,
13 Amaya and Anastasia?

14 A Yes.

15 Q And you looked at there had been investigations in
16 regards to those children as well?

17 A Yes.

18 Q Did you take what you saw, those allegations and
19 those investigations --

20 A I did.

21 Q -- did you take those into account in making your
22 decision whether or not to remove the children?

23 A I did.

24 Q You were asked by Ms. McAmis about the fact that
25 Amaya had not discussed the catheters in her interview.

1 A Yes.

2 Q But Ava and Anastasia did?

3 A Yes.

4 Q Did all three girls speak about the buckets, that
5 they were on buckets?

6 A Yes.

7 Q And that their toilet paper was limited?

8 A Yes.

9 Q That they would sleep on boards in the loft with fans
10 blowing on them?

11 A Yes.

12 Q That they were given cold showers and ice water or
13 ice was dumped on them?

14 A Yes.

15 Q That they were beaten with sticks?

16 A Yes.

17 Q That they were -- that food and water was withheld
18 from them?

19 A Yes. Yes.

20 Q And that they were timed while they ate or timed
21 while they went to the bathroom?

22 A Yes.

23 Q In regards to the questions about, you know, did you
24 know where the Solander girls were at that point in time, when
25 someone adopts a foster child, do they receive like an adoption

1 subsidy?

2 A They do.

3 Q And at that time, were the Solanders receiving that
4 adoption subsidy for Amaya, Anastasia and Ava?

5 A They were.

6 Q So did you believe, at that point in time, did you
7 believe them to still be living with them?

8 A Yes.

9 Q You were asked about some notes in regards to maybe
10 plans to send them to a treatment center?

11 A Yes.

12 Q But did you know whether or not those girls were at
13 any treatment center?

14 A I did not.

15 MS. MCAMIS: I don't have anything further, Your
16 Honor. Thank you.

17 THE COURT: Anything else, Ms. McAmis?

18 MS. MCAMIS: Yes, just briefly.

19 RECROSS-EXAMINATION

20 BY MS. MCAMIS:

21 Q Ms. Gonzalez, do you have any doubt that the DA
22 criminal office pretrialed the Solander girls and the foster
23 children to prepare for this trial?

24 MS. BLUTH: Objection. Relevance --

25 THE COURT: Yeah, that's sustained.

1 MS. BLUTH: -- beyond the scope.

2 BY MS. MCAMIS:

3 Q Ms. Gonzalez, in preparation for your testimony
4 today, did you review any notes from any pretrials with the
5 Solander girls or the foster children that were documented in
6 Unity after any pretrials?

7 A You're going to have to ask that question again
8 because --

9 THE COURT: Did you have a pretrial conference with
10 the DAs prior to testifying?

11 THE WITNESS: Did I?

12 THE COURT: Yes.

13 THE WITNESS: Yes, I did.

14 THE COURT: Okay.

15 BY MS. MCAMIS:

16 Q Okay. As part of your pretrial, did you review any
17 notes of any of the pretrials done with the Solander girls or
18 the foster children with the DA's office?

19 A No.

20 Q Okay. There were no notes provided to you about
21 those interviews or pretrials?

22 A No.

23 MS. MCAMIS: Okay. Pass the witness.

24 THE COURT: Anything else, Ms. Bluth?

25 MS. BLUTH: No.

1 THE COURT: Do we have any juror questions for this
2 witness? No juror questions?

3 (No audible response)

4 THE COURT: All right. Ma'am, thank you for your
5 testimony.

6 THE WITNESS: Thank you.

7 THE COURT: Please don't discuss your testimony with
8 any other witnesses in this case.

9 THE WITNESS: Thank you.

10 THE COURT: Thank you and you are excused, and just
11 follow the bailiff from the courtroom.

12 Ladies and gentlemen, we're going to take a quick
13 recess. Is 10 minutes enough for everybody? Don't be shy.

14 Okay. That'll put us right at 10:45.

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

23 Please place your notepads in your chairs and follow
24 the bailiff through the double doors. We'll see everyone back
25 at 10:45.

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(Jury recessed 10:33 a.m.)

(Colloquy off the record regarding scheduling)

(Proceedings recessed 10:35 a.m. to 10:49 a.m.)

(Outside the presence of the jury)

THE COURT: Oh, right.

MS. MCAMIS: There's no service.

MR. FIGLER: Well, that said, I don't --

THE COURT: But she filed a complaint.

MR. FIGLER: This is just what this is going to be a proposed State's exhibit, and we might have, like, I don't know [unintelligible], per se, I mean, it came out that there was a lawsuit for defamation. I mean, all of that came out in front of the jury. So I don't even --

THE COURT: It's a pro per lawsuit though. So, I mean, you can't even -- I think it's admissible. It's their pro per lawsuit.

MR. FIGLER: But what's the relevance of that other than we don't dispute the fact that it was already brought out to the jury, but that could be prejudicial. Don't know what's in there specifically or -- I don't know that that would be probative of anything.

MS. BLUTH: It goes to her credibility, number one, and it goes to the fact of their motive that anyone who speaks against them, they either go above their head or sue them, which is --

1 THE COURT: Well, they've only sued one person;
2 right?

3 MS. BLUTH: Well, they threatened Lori Wells with a
4 lawsuit as well.

5 MR. FIGLER: But that didn't even move forward.

6 MS. BLUTH: But it doesn't matter if it goes forward
7 or not. The fact is is that they threatened it, and in this
8 one, they filled out paperwork.

9 MR. HAMNER: It's corroborative.

10 THE COURT: They filed it, but they didn't serve it.
11 There was never service, is that --

12 MR. FIGLER: There was never service effectuated.

13 MS. MCAMIS: There was never service.

14 THE COURT: So but they didn't take a default; right?

15 MR. FIGLER: No.

16 THE COURT: They didn't serve by publication or
17 anything?

18 MR. FIGLER: No.

19 MS. MCAMIS: No.

20 THE COURT: So the case was just closed for
21 inactivity?

22 MR. FIGLER: In all likelihood unless it's still
23 pending.

24 THE COURT: Well, it would have been closed.

25 MR. FIGLER: Yeah, because 30 days or whatever, 60

1 days [unintelligible] civil [unintelligible].

2 THE COURT: Well, yeah, they --

3 THE MARSHAL: All rise for the presence of the jury,
4 please.

5 (Jury entering 10:51 a.m.)

6 THE COURT: All right. Court is now back in session,
7 and the State may call its next witness.

8 MS. BLUTH: Thank you, Your Honor. The State calls
9 Zachary Johnson.

10 **ZACHARY JOHNSON**

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

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

15 THE WITNESS: My name is Zachary Johnson.
16 Z-a-c-h-a-r-y, J-o-h-n-s-o-n.

17 THE COURT: All right. Thank you. Ms. Bluth.

18 MS. BLUTH: Thank you.

19 DIRECT EXAMINATION

20 BY MS. BLUTH:

21 Q Sir, how are you employed?

22 A I'm a detective with the Las Vegas Metropolitan
23 Police Department.

24 Q How long have you been employed with the department?

25 A Approximately 13 years.

1 Q And what department are you -- what section are you
2 currently in?

3 A Currently I'm in the computer forensics lab.

4 Q Okay. And how long have you been there?

5 A Approximately five years.

6 Q Can you explain the training and experience that
7 allows you to have that position.

8 A I have over 1,000 documented hours of training
9 related to computer forensics, the methodologies and the
10 techniques used. Some of that includes basic computer
11 forensics, advanced computer forensics, Windows operating
12 system, the registry artifacts, Macintosh computers, cellular
13 phones, basic tear down and rebuild of computers. I have
14 certifications from several of our software vendors that we use
15 including ACE, which is the Access Data Certified Examiner, the
16 ENCE, which is EnCase Certified Examiner, the CCME, which is
17 the Cellebrite Certified Mobile Examiner. I also have a
18 Bachelor's degree in criminal justice, and I'm working on a
19 Master's degree in cybersecurity.

20 Q And have you testified as an expert here in the
21 judicial -- Eighth Judicial District Court previously?

22 A Yes, ma'am.

23 Q Okay. Now, in a moment I'm going to ask you some
24 specifics about the case that we're here to -- for you to
25 testify in today, okay, but before we get there, I want to ask

1 you let's say that there is a case and a cell phone. Someone
2 deems it to be perhaps have evidence on it, and so the
3 detective gives you the evidence -- the cell phone and asks you
4 to work on it. Explain to the ladies and gentlemen what you
5 do, how you get information on it, et cetera.

6 A The way our case flow works on those as it goes
7 through the sergeant for the unit. They'll present it with a
8 search warrant for the phone. They'll review that and assign
9 it to the detectives. We go and collect the evidence from the
10 evidence vault, or the detectives bring it to our labs. We
11 photograph and document the item in question.

12 And then for cell phones in particular, we use what's
13 called a Ramsey Faraday Box, which we place the phone inside of
14 it, and it prevents the phone from making connections to the
15 cellular networks. That way we can power on the phone and
16 place it into an airplane mode and take it off the network. We
17 do that so that no remote wipe commands can be sent. It can't
18 receive text messages, can't send text messages, phone calls,
19 that kind of sort.

20 Once the phone has been taken off the network through
21 airplane mode, we remove the phone from the box. Cellebrite is
22 the main tool that we use for cell phone extractions. They're
23 the industry leader in cell phone extraction tools. We use a
24 device is provided by them that we've been trained in to
25 connect the phone to our computer, and it runs various software

1 to speak to the phone and extract the data from the phone.

2 The data is presented in a readable format for us in
3 to another software program that Cellebrite provides, and we
4 can then analyze that data and create an electronic report that
5 the detective who requested the initial examination can read
6 and understand what data was collected on that phone.

7 Q Thank you. So at the end of all of that, you have a
8 copy, I mean, it might not be an exact copy, but you have a
9 copy of some of or all of the things that were on that phone;
10 is that correct?

11 A A copy of some or all, depending on which device
12 we're trying to extract data from, yes.

13 Q So if someone took photos or sent emails,
14 hypothetically, if these systems are working correctly, you
15 would be able to look at what was on that individual's phone?

16 A Yes, ma'am.

17 Q Okay. So now I want to move into -- turn your
18 attention to Event Number 140304-1293. That's the event number
19 in regards to the Solander investigation; is that correct?

20 A Yes, ma'am.

21 Q And just to be clear, every criminal investigation
22 has an event number so that just like if you're doing evidence
23 or if you're running tests, everybody knows that that event
24 number is assigned to that specific case; is that fair?

25 A Yes, ma'am.

1 Q Okay. And like I said, the event number that I just
2 read is regarding the investigation of Janet and Dwight
3 Solander and Danielle Hinton; is that correct?

4 A Yes, ma'am.

5 Q Now, you were tasked with doing some forensics in
6 this case, and one of those things was -- I always say a flash
7 drive, but what would be the correct term?

8 A It can be called a flash drive or a thumb drive.

9 Q Okay. And so explain to me what you received and
10 what you were requested to do with it.

11 A Detective Emery with the Las Vegas Police Department
12 came to our lab and requested that I make the files that are on
13 the thumb drive viewable on a format that she can understand.

14 Q Okay. And was it your understanding that the files
15 on the thumb drive were a replica of Dwight Solander's emails?

16 A Yes, ma'am.

17 Q And so what process do you go about in doing what you
18 do with that thumb drive?

19 A For that particular device, we used what's called a
20 write blocker. It is a device that we -- it's a physical
21 device that we hook up to our forensic machines, and we plug in
22 the media, like the thumb drive, into it so we can read the
23 information on the thumb drive. The write blocker allows us to
24 read the data, but not write to the data. So it protects the
25 integrity of the evidence.

1 For that particular file, I created an image of what
2 was on that thumb drive. And image is a bit for bit copy of
3 what's on there, including a digital fingerprint so we can
4 verify later on that, yes, that is the exact copy of what was
5 on the original thumb drive. I then do my examination with the
6 copy that we've made, and then I used a program called Access
7 Data Forensic Toolkit to view the files that were contained on
8 the thumb drive.

9 Q Okay. And so were you able to make an exact replica
10 of the thumb drive?

11 A Yes, ma'am.

12 Q And then do you organize it into a case report so
13 either detectives, investigators, defense attorneys,
14 prosecutors can navigate through that to see what you found?

15 A Yes, ma'am.

16 Q Okay. And if I showed you the first page of your
17 report, would you recognize it?

18 A Yes, ma'am.

19 Q I'm showing you what's been marked for purposes of
20 identification as State's Proposed 226. Could you just take a
21 look at that. Is that a fair and accurate copy of if I were to
22 open your report what I would see, how it's organized?

23 A Yes, ma'am.

24 MS. BLUTH: Okay. Your Honor, at this time I'd move
25 to admit into evidence State's Proposed 226.

1 THE COURT: Any objection?

2 MR. FIGLER: May we approach?

3 THE COURT: Sure.

4 (Conference at the bench not recorded)

5 THE COURT: Do you have a CV that you use?

6 THE WITNESS: Yes, ma'am.

7 THE COURT: And were you asked to provide that by

8 Ms. Bluth or by Mr. Hamner or anyone in the prosecutor's

9 office?

10 THE WITNESS: Yes, ma'am.

11 THE COURT: You were asked to provide that. And,

12 Ms. Bluth has a document. It says examiner's report. Is that

13 what you're talking about, or do you have some other kind of a

14 CV that you've utilized in other cases?

15 THE WITNESS: No. I have a different CV. I e-mailed

16 it two --

17 MS. BLUTH: Two days ago.

18 THE WITNESS: A couple days ago.

19 THE COURT: Oh, so a couple of days ago you e-mailed

20 the CV?

21 THE WITNESS: Yes, ma'am.

22 THE COURT: Okay. And that was, I'm assuming, at the

23 request of the prosecutor?

24 THE WITNESS: Yes.

25 THE COURT: Okay. Counsel approach.

1 (Conference at the bench not recorded)

2 THE COURT: All right. Ms. Bluth, you may proceed
3 with your direct examination.

4 MS. BLUTH: Thank you. And I -- before the
5 objection, Your Honor, I was just asking permission to publish
6 State's Proposed 226.

7 THE COURT: All right. 226 is admitted.

8 (State's Exhibit Number 226 admitted.)

9 MS. BLUTH: Thank you.

10 THE COURT: And the State may publish it.

11 MS. BLUTH: Thank you.

12 BY MS. BLUTH:

13 Q So I'm going to zoom in. All right. So can you
14 explain to the ladies and gentlemen of the jury what we're
15 looking at here on the left side of the paper.

16 A This is a copy of my electronic report that I created
17 in regards to the artifacts that I found on the thumb drive.
18 It's outlined in the bookmarks section there for emails, photos
19 of interest with all the different categories underneath that,
20 and those categories were created by me.

21 Q Okay. And it states emails, photos of interest, and
22 then it goes Amaya, Anastasia, Autumn, Ivy, Maya [phonetic],
23 other, and then keyword search catheter, keyword search
24 underwear, and keyword search poop. So where did you get those
25 terms?

1 THE COURT: That was my question. How did you come
2 up with the terms, the search terms that you used?

3 THE WITNESS: After speaking with Detective Emery as
4 well as preliminary looking at the artifacts that are in the
5 PST file that was on that thumb drive, those were terms that I
6 thought would be of importance to the case.

7 BY MS. BLUTH:

8 Q Okay. And when you say the PST file, I'm sorry, what
9 does that mean?

10 A I apologize. That's the file that was contained on
11 the thumb drive. That is the container that holds the archived
12 email account.

13 Q Okay. And so when you're just glancing through the
14 file, you're seeing some of these terms, like, repeated, and so
15 that also goes into why you make certain subsets?

16 A Yes, ma'am.

17 Q Okay. Now I'm going to approach you with
18 Exhibits 186 through 225. I'm going to ask you to thumb
19 through. So before I do so, this week, did you come to my
20 office for what's referred to as a pretrial conference?

21 A Yes, ma'am.

22 Q And do you have a pretrial conference with a district
23 attorney before cases go to trial just generally?

24 A Yes, ma'am.

25 Q Okay. And in that pretrial, did you go through these

1 exhibits that I've shown you?

2 A Yes, ma'am.

3 Q And did you make sure that those were fair and
4 accurate depictions of the emails and the photos on the drive
5 that you were just talking about?

6 A Yes, ma'am.

7 Q And then also in several of these documents, there is
8 more than one page. The first page will be an email, and then
9 the second page will be a photo that was attached to that
10 email. Did you go through and make sure that the email is the
11 email that goes with the photo that it is stapled to it?

12 A Yes, ma'am.

13 Q Okay. And if you wouldn't mind just thumbing through
14 those really quick just to make sure that it's the same ones
15 that I had showed you in my office.

16 A These appear to be the same ones I reviewed in your
17 office.

18 Q Okay. And those are fair and accurate depictions of
19 the emails, documents, and photographs that you received off of
20 the drive from Source Refrigeration?

21 A Yes, ma'am.

22 MS. BLUTH: Okay. Your Honor, at this time I move to
23 admit into evidence. I recognize the Court's ruling, but they
24 will be --

25 THE COURT: All right. The Court will delay ruling.

1 MS. BLUTH: Okay.

2 BY MS. BLUTH:

3 Q In the emails that you did -- that you were just
4 viewing, all of the emails that I have -- well, let me say,
5 like, 98 percent of the emails that have been taken and
6 e-mailed are from an individual listed as Janet Hinton at
7 JanetDwights@Cox.net; is that correct?

8 A Yes, ma'am.

9 Q And then the other person is Dwight Solander,
10 DSolander@sourcerefrigeration.com?

11 A Yes, ma'am.

12 MS. BLUTH: And, Your Honor, that would be my
13 preliminary questions before photos.

14 THE COURT: Okay. All right. Counsel approach.

15 (Conference at the bench not recorded)

16 THE COURT: Ladies and gentlemen, it looks like we're
17 going to take an earlier lunch break today. Those of you who
18 were anticipating the late lunches and maybe ate a big
19 breakfast, I'm sorry to you. We'll go ahead and take our lunch
20 break until 12:45.

21 So during the lunch break, you are all reminded you
22 are not to discuss the case or anything relating to the case
23 with each other or with anyone else. You're not to read, watch
24 or listen to any reports of or commentaries on the case, person
25 or subject matter relating to the case. Do not do any

1 independent research by way of the Internet or any other
2 medium, and please don't form or express an opinion on the
3 trial.

4 Please place your notepads in your chairs and follow
5 the bailiff through the double doors.

6 (Jury recessed 11:17 a.m.)

7 THE COURT: And, Detective, please don't discuss your
8 testimony with anybody else during our lunch break.

9 (Colloquy off the record.)

10 THE COURT: All right. Does either side mind if we
11 excuse the detective?

12 MS. BLUTH: No, Your Honor.

13 MR. FIGLER: No.

14 THE COURT: Does anyone need to question?

15 (No audible response)

16 THE COURT: All right. Detective, you're free to go
17 to lunch. Make sure you're back by 12:45 because we'll be
18 resuming your testimony after the lunch break.

19 All right. Out of the presence of the jury.

20 Mr. Figler and Ms. McAmis had approached the bench,
21 objecting to the continued testimony of this witness because
22 they had never received a CV. Ms. Bluth's counterargument was
23 that the witness was not testifying as an expert.

24 MS. BLUTH: Well, it's actually two part, Judge, if I
25 may.

1 THE COURT: Sure.

2 MS. BLUTH: So first though I'd like to send the CV.
3 I have it up right here, and it was sent to me on Monday at
4 1:52 p.m.

5 So, okay. In regards to computer forensic people, I
6 generally don't believe that they are experts because I don't
7 ask them to offer an opinion. This issue came up in another
8 case of mine. So after that, I started noticing them as
9 experts, but I still do not ever ask them to give their
10 opinion, and I understand the Court is saying, well, then why
11 did you qualify him as an expert, and I understand because I
12 never was going to ask him as an opinion, but because the main
13 thing is is that I do have to go through his training and
14 education, just like I do with all the CPS people, crime scene
15 analysts, the police officers just to say you are not just Joe
16 Schmoe, and you work on computers.

17 THE COURT: Right. You did job correctly because
18 you've been trained on operating this software that you are
19 utilizing to download the emails, and so you know what you're
20 doing with respect to the software; is that right?

21 MS. BLUTH: Right. So in regards to the curriculum
22 vitae, whenever I have had these cases, I always give them the
23 forensic report because in the beginning the forensic report,
24 and I would like this marked as a court exhibit, but if I can
25 make a copy because mine is a disaster.

1 THE COURT: Sure.

2 MS. BLUTH: It just talks about how long they've been
3 with the department, how many hours they have in police
4 specific training, how many hours they have in computer
5 forensic training, and then the certifications that they hold
6 in the computer forensics field, and that's always what I give
7 because it comes with the report. So in any of the cases I've
8 done with this, this is what I give when I give over the CVs
9 which is what I did in this case. So that's why I was kind of
10 surprised at this objection.

11 We had originally talked about this when we were
12 talking about the notice of experts, and one thing I did say
13 when we were arguing about that weeks ago is that I had noticed
14 him as an expert, and I had provided this report which talked
15 about his certifications. That's why I was kind of confused
16 at --

17 So do I think I could ask those questions. Are you
18 an expert? Yes, I do think I can. I think I properly noticed
19 him, but, B, I was never going to ask him for an opinion. So I
20 don't think technically he is an expert under the statute.
21 Either way, I think I've done what I was supposed to in both
22 situations.

23 On Monday, I asked for him to -- this file, the way
24 you do it is you go in. You click on an email, and then after
25 you click on the email, you have to click on the attachments,

1 and so what I asked him to do was go through the photos and the
2 emails that I had told and make sure to document that the
3 proper email was with the proper photo. So on Monday when we
4 were in court, he came in, and he worked through all of that
5 and made sure I had done everything correctly. So I asked him
6 did I, you know, is everything accurate; he said it was.

7 When we were walking back, I said -- I talked to him
8 about his examiner's report and his training, and he said, oh,
9 I have an updated CV if you would like it, and he just e-mailed
10 it to me. So I apologize. I didn't give that to the defense.
11 Number one, I didn't think it was an issue, and number two,
12 quite frankly, it never came to my mind because I had been
13 doing witness's now for three weeks. So it's not like I'm
14 trying to hide anything from them.

15 THE COURT: Right.

16 MS. BLUTH: And so I guess my argument is this.
17 Number one, if -- I do believe that today if I wanted to give
18 him -- him to give an opinion, he's properly noticed as an
19 expert. Even if the defense's argument is well, you didn't
20 properly notice him, I believe that he still gets to testify
21 because I'm not asking him to opine on anything, and I would be
22 happy to say today you're not giving any expert opinion, and
23 you are not technically testifying as an expert. I'd be happy
24 to do that. I'd be happy to do that, or if the Court wants to
25 give a, you know --

1 THE COURT: And to be clear, the Court did offer to
2 give an instruction to the jury that the witness was not here
3 to testify as an expert or something like that.

4 MS. BLUTH: Right. And so anyways, I guess my point
5 is I think on either ground I've done what was appropriate to
6 do. So I'll wait for the Court's ruling.

7 THE COURT: Well, out of an abundance of caution, up
8 here at the bench, the Court indicated that Ms. Bluth was to
9 immediately email the CV to the defense team, and that's why we
10 took our lunch break, to allow the defense team time to review
11 the CV should they want to cross-examine the witness on the CV
12 or should they want to take him on voir dire prior to the
13 admission of any of the emails and photos that Ms. Bluth wants
14 to admit into evidence if there is a real question as to
15 whether those are authentic or were properly downloaded or
16 anything like that. I indicated that they could have time to
17 review the CV to either use in their cross-examination, or, as
18 I said, if they wanted to take the witness on voir dire.

19 So anything from the defense?

20 MR. FIGLER: A little bit.

21 THE COURT: Okay.

22 MR. FIGLER: NRS 50.275 refers to expert testimony.
23 It doesn't say anything about opinion. The word opinion is not
24 in the statute at all. That is not the qualifier as to whether
25 there's someone is testifying as an expert or not. It is

1 specifically if scientific, technical or other specialized
2 knowledge will assist the trier of fact to understand the
3 evidence or to determine a fact in issue.

4 Okay. That is what this witness is being offered to
5 do. So he is under NRS 50.275 an expert. He is offering
6 testimony of a technical nature to explain to the jury where
7 these emails came from, how they were downloaded and assurances
8 of accuracy as the State indicates repeatedly, how they were
9 updated properly, how the emails match up with the photos, et
10 cetera, and only through his technical and specialized
11 knowledge will the jury be able to consider those pieces of
12 evidence which are being offered presumably to determine facts
13 in this case.

14 NRS 174.234 subsection 2 requires that any said
15 expert witness not only needs to be noticed 21 days before
16 trial, and certainly the defense will concede that this witness
17 was noticed 21 days before, but also shall file and serve upon
18 the opposing party not less than 21 days before trial. Now, it
19 is undisputed that no CV has been filed, undisputed, and we are
20 in the third or fourth week of trial, and the witness is on the
21 stand, and the State still hasn't filed a CV.

22 Now, the defense brought this to the Court's
23 attention on January 26th of 2018, that this was an issue,
24 that the defense was going to -- we had formally moved to
25 strike the witnesses, but we also indicated to the Court that

1 as the trial proceeded that we were remaining open and that
2 Your Honor denied that without prejudice that we could bring it
3 up at any time, and so that should be the clear record.

4 THE COURT: Well, I think I also indicated if the
5 State had CVs or could get CVs that they should forward those
6 to the defense, but that a lot of the witnesses --

7 MR. FIGLER: Might not have.

8 THE COURT: -- particularly the treating physicians,
9 were not retained experts --

10 MS. BLUTH: And I did.

11 THE COURT: -- and they were under no obligation to
12 cooperate with the State by providing CVs or anything like
13 that.

14 MR. FIGLER: Correct.

15 THE COURT: So that that could pose some difficulty,
16 and as treating physicians, they were really percipient
17 witnesses, although they had expertise in whatever their area
18 of medical --

19 MR. FIGLER: And the defense understood --

20 THE COURT: -- specialty was.

21 MR. FIGLER: The defense understood the Court's
22 ruling and concern on that, but the Court also noted at the
23 bench that Mr. Johnson is uniquely different from a treating
24 physician. Indeed, Mr. Johnson is an employee of the Las Vegas
25 Metropolitan Police Department. He is a forensic technician or

1 a forensic technical person to be able to testify as to such
2 matters, and he was requested to do what he did well after the
3 arrest in light of litigation.

4 Indeed, it was brought up by the State in their
5 direct examination that it was for this exact purpose that he
6 did what he did in conjunction with the request of Detective
7 Emery. So the State now suggests well, okay, the rule is what
8 the rule. We don't think that they're really experts, though
9 we noticed them as experts. We did our direct where we
10 presented him as an expert. We will be asking him about
11 technical information of a very specialized nature with regard
12 to the retention of these photos and now the introduction of
13 these photos, but we gave some sort of general notice, not a
14 CV, of some of the qualifications of this individual in a
15 forensic document.

16 The State's representations to the Court that this
17 person probably doesn't have a CV at the bench are not true.

18 MS. BLUTH: I absolutely did not say that.

19 THE COURT: No, no. That's not what she said.

20 MS. BLUTH: I said he did.

21 THE COURT: I said maybe he doesn't even have a CV.
22 Maybe this expert report that Ms. Bluth showed me at the bench
23 is listing some classes he took --

24 MR. FIGLER: Okay.

25 THE COURT: -- is the only thing, excuse me --

1 MR. FIGLER: Well, we now know that not to be
2 accurate.

3 THE COURT: Wait. Wait. Let me finish.

4 MR. FIGLER: Go ahead, Judge.

5 THE COURT: -- is the only thing that he had. That
6 was the Court's question, and then Ms. Bluth said, No, he
7 absolutely has a CV. And I said, Well, did you get it, or have
8 you seen it or something like that, and that's when Ms. Bluth
9 indicated something, and that's when I said, Let me just ask
10 him about the CV.

11 MS. BLUTH: Yes.

12 THE COURT: So I questioned him in front of the jury
13 about the CV that he said he sent Ms. Bluth two days ago or
14 three days ago or whatever he said --

15 MR. FIGLER: Okay. So --

16 THE COURT: -- so just to be -- you know, look, if
17 you're going to make representations as to what was said at the
18 bench and I disagree with your representation, then I'm going
19 to interrupt you, and I'm going to correct the record.

20 MR. FIGLER: Of course.

21 THE COURT: Now, that I've corrected the record, does
22 that comport with your recollection of what was actually said
23 up here at the bench?

24 MR. FIGLER: That's consistent.

25 THE COURT: Okay.

1 MR. FIGLER: But what I was trying to get to that
2 point was that Ms. Bluth seemingly only made inquiry of the CV
3 a couple days, and it had turned out that the witness now had
4 offered up the CV incumbent upon the prosecutor's
5 responsibility, and I appreciate if this is a technicality, but
6 it is a technicality with obvious substance because of the
7 Nevada Legislature's intent is that the State should have made
8 inquiry prior to listing this witness and listing it under NRS
9 and, I mean, it was filed pursuant to NRS 50.275, to have made
10 inquiry and not to guess whether he had a CV or not.

11 I'm guessing right now that if you were to bring that
12 witness back in and ask him, Did you have a CV in January
13 of 2018, he will likely say, yes, I did. Whether it's been
14 updated or not recently is of no concern and no moment.

15 Then, so they didn't file it when they should have
16 asked him for it. We put them on notice saying it's too late
17 now. The Court gave them an opportunity and, in fact, directed
18 them to give compliance with the rule to at least give this
19 defense the CV ahead of time, but also the rules still clearly
20 requires them to have filed it, and they haven't, and it's
21 really unfair now to the defense to receive this CV while the
22 witness is testifying. As the Court did note up at the bench,
23 it's not the -- or maybe you noted either at the bench or on
24 the record --

25 THE COURT: No. I noted it at the bench that --

1 MR. FIGLER: -- it's not the defense's
2 responsibility --

3 THE COURT: To request it.

4 MR. FIGLER: -- to keep begging for the CV from an
5 individual in compliance with the rules of evidence. So the
6 evidence that is going to be presented is rather important to
7 the State, and it would seem as though it is also rather
8 important to the defense and that if the State has
9 requirements, before introducing such testimony, that they
10 should be held to those requirements.

11 The Court seemingly by its prior ruling, which was
12 denying our motion without prejudice, gave them an extra
13 opportunity of a month to be able to comply with this, and they
14 still haven't done that. They still haven't done it. As we
15 speak right now, it still hasn't been filed, and as such, Your
16 Honor, it is not compliant, and the witness should not be able
17 to testify as to any scientific, technical or other knowledge
18 assisting the trier of fact to understand these photographs,
19 and if he can't do that, then the photograph shouldn't be
20 admitted in any way.

21 And so, I mean, and there is a secondary issue.
22 Yesterday or maybe the day before yesterday -- time has kind of
23 run into each other -- Ms. Bluth indicated to me that the
24 person who originally downloaded the flash drive from the
25 company's database or whatever was not going to be brought in

1 to testify, and if I had a problem with regard to that part of
2 the chain of custody.

3 I indicated to Ms. Bluth, and she can confirm this,
4 that we would want that for chain of custody, but we would
5 consider an affidavit --

6 THE COURT: Right.

7 MR. FIGLER: -- that we would consider an affidavit
8 for chain of custody. Yesterday, Ms. Bluth presented the
9 defense with a letter that was written to the detective. It
10 was admitted. There was a letter from that individual to
11 Detective Emery, the person from Source Refrigeration to
12 Detective Emery. The defense at no time has waived its
13 objection to chain of custody. We did say that we would
14 consider an affidavit if one was presented to us in lieu of his
15 testimony. So in addition to this expert not being properly
16 noticed, there is still a lack of chain of custody with regard
17 to the flash drive going to Detective Emery and then Detective
18 Emery giving it to this witness.

19 THE COURT: Well, we might need a playback then of
20 that because --

21 MS. BLUTH: Yeah, we definitely do.

22 THE COURT: Okay. I have a couple of things I'm
23 going to say, and, please, Counsel, both sides, don't interrupt
24 me.

25 First of all, I think we need a playback of that

1 because my recollection, which may be incorrect, is that
2 Mr. Figler or Ms. McAmis indicated that they wanted an
3 affidavit, but there was this letter and they would review the
4 letter to see whether or not it was sufficient or something
5 like that. So at that point in time, it appeared that the
6 defense was willing to stipulate to the chain, as far as the
7 downloading from the refrigeration company went, based upon
8 whatever was in that letter, but that it was subject to further
9 review. That's my recollection, but if we need a playback, we
10 can certainly do that.

11 Number two, I think at this juncture it's important
12 to carefully consider exactly what this witness is testifying
13 to. The witness is not imparting his own technical expertise
14 on computer science or computer software or computer systems.
15 The witness is testifying that he's had training in operating a
16 particular piece of software which is utilized by his
17 department and that he took the flash drive, and he downloaded
18 it, or he -- I can't remember exactly, but he utilized that
19 using a series of --

20 MS. BLUTH: Computer programs.

21 THE COURT: -- search terms that were provided to him
22 or that he developed based on his consultation with Detective
23 Emery and that then that downloaded -- and then that ran and
24 provided him with emails and/or photographs.

25 So to be quite clear, the witness is not, maybe I'm

1 parsing words here, but he is not opining or providing any
2 technical guidance if you will --

3 MR. FIGLER: It's technical knowledge. So if that's
4 your ruling, that's --

5 THE COURT: Well, but what I'm saying is he's not
6 saying well, this is how the computer works or this is how the
7 program works or this is what the software -- this is how the
8 software works. He's only saying I've had training.

9 I mean, if you really parse it down, he saying I've
10 had training on this, and this is my job, and, you know, I run
11 this, these search terms based on what I'm told about the case
12 by the detective, and so, you know, look, this guy is, to be
13 fair, he's not a computer scientist. He's not a computer
14 programmer. He's not a hardware -- computer hardware engineer.

15 So the scope of his technical knowledge is, A, pretty
16 limited in the area of computer science generally, and, B, he's
17 really not explaining anything about the software that's
18 utilized or anything like that. So I think, you know, when we
19 consider whether or not he's an expert, I think we have to look
20 very carefully at what he's actually testifying to, and again,
21 he's had training on a particular software. He's utilizing
22 that, and it spitting out this information. So --

23 MS. BLUTH: Can I make a --

24 THE COURT: -- I just wanted to say that, you know,
25 is he really providing technical expertise? Maybe if you apply

1 that term very broadly, yes, but he's not here, as I said, as a
2 computer programmer or a computer scientist or an engineer, a
3 hardware engineer, a software engineer, anything like that.

4 Ms. Bluth.

5 MS. BLUTH: If I could just say so it's kind of akin
6 to when I call a crime scene analyst. I know there are people
7 who ask crime scene analysts for opinions, like in blood
8 splatter, and they do notice them, but a crime scene analyst
9 will talk about I took a specialized light, and I laid it on
10 the floor, and I detected blood or I detected semen. Those
11 people are not noticed as experts, and they don't have to be.

12 THE COURT: Right.

13 MS. BLUTH: And they don't give opinion. That's
14 exactly what he does. He has a computer software program. He
15 downloads it, and then he just puts it on a report so that I
16 can "sparse" through it. He's absolutely no different than a
17 crime scene analyst.

18 Mr. Figler keeps saying about we had this argument on
19 January 26, and on January 26, I said the same thing I'm saying
20 now. I have noticed him as an expert. I did give you the
21 examiner's report that discusses his credentials, but I don't
22 believe that he is an expert. I do that out of an abundance of
23 caution. I think that this whole thing, I don't believe he is
24 testifying as an expert today. Even if he was, I believe I am
25 still okay, but if he's not, I would just ask that the Court

1 say, Mr. Detective Johnson is not testifying as an expert here
2 today. He's offering no specialized knowledge.

3 But the one thing that I really take to heart --

4 THE COURT: Which by the way I offered to do up here
5 at the bench.

6 MS. BLUTH: I know. The one thing I really take to
7 heart is this thing about the foundation because we have been
8 very accommodating to the defense by letting them know who
9 we're going to call, when we're going to call them, and I have
10 been telling them for a few days Zach Johnson is coming, Zach
11 Johnson is coming. They know -- they knew about the pictures
12 that I was trying to get in. They've had those since the
13 beginning of when they got on this case. So that's why I'm
14 kind of caught off guard.

15 The one thing I spoke to them about was, hey, if I --
16 I wasn't planning on bringing the Source Refrigeration guy. I
17 know who he is. I know where he is. We have had contact with
18 him, but I thought, okay, we're trying to sparse this down.
19 That would be we don't have to bring that guy in. His name is
20 Johnson Kui. He's in California, and he said -- and when I
21 spoke to Mr. Figler, he said could he provide an affidavit or
22 such. So when I went back to get his contact information, the
23 detective said, no, remember he already wrote a letter doing
24 all of that. So yesterday I handed that to Dayvid before
25 Frances went up, and I said is this sufficient, and he said,

1 yes.

2 So that's why I'm, like, so caught off guard about
3 all of this because why would I be bringing in Mr. Kui when he
4 said that the letter was sufficient? Because I said to him it
5 discusses all of the things that you wanted. So --

6 MR. FIGLER: And so just to clear the record because
7 I don't want either side accusing anyone of -- so my
8 understanding was when she asked me is this letter okay, okay
9 for what, for the purpose of waiving any challenge to the chain
10 of custody? Absolutely not. Is it okay for admission? Sure
11 because if the detective relied on that, that's fine, and I
12 think I submitted.

13 THE COURT: What would be the point -- let's be -- I
14 mean, what would be the point of her introducing the letter --

15 MS. BLUTH: Right.

16 THE COURT: -- if you're going to object to chain of
17 custody and she had to bring in the witness anyway? What is
18 the point of doing that? My understanding was because we are
19 way over the schedule of what we had informed the jury, the
20 three weeks we told them during jury selection, that Ms. Bluth
21 was trying to pare down her case and that the defense was
22 cooperating with that. That's how I understood --

23 MR. FIGLER: Not with regard to chain of custody. I
24 asked to review an affidavit, and I have never faltered on
25 that. The letter -- the letter from Metro and the letter from

1 the individual, that's fine. If they want to include that in
2 there to bolster, but we do not believe --

3 THE COURT: But that doesn't make any sense,
4 Mr. Figler --

5 MR. FIGLER: Well, that's not my -- it's not --

6 THE COURT: -- to be fair --

7 MR. FIGLER: To be fair --

8 THE COURT: -- why would they be using a letter or an
9 affidavit if they're going to bring in the witness, and why
10 would we have discussed it on the record yesterday --

11 MR. FIGLER: To be fair --

12 THE COURT: -- as part of a conversation with regard
13 to scheduling and how we are going to try to get this done in
14 now a fourth week --

15 MR. FIGLER: Okay. To be fair --

16 THE COURT: -- as opposed to moving into a fifth
17 week --

18 MR. FIGLER: -- I do not recall --

19 THE COURT: Well --

20 MR. FIGLER: I do not recall waiving any objection to
21 chain of custody, only that, Is this letter okay? Well, I
22 don't have an objection per se to the letter, but it doesn't
23 establish chain of custody. Now, look, has a flash drive been
24 admitted into evidence?

25 THE COURT: I don't believe the flash drive --

1 MS. BLUTH: Well, into the actual --

2 THE COURT: -- they're seeking to admit the flash
3 drive.

4 MS. BLUTH: No.

5 MR. FIGLER: Okay. Well, that's --

6 THE COURT: -- they're seeking to --

7 MR. FIGLER: -- the chain of custody as well --

8 THE COURT: Excuse me. They're seeking to remove the
9 downloaded documents.

10 MS. BLUTH: Right.

11 THE COURT: And it wouldn't be appropriate to admit
12 the entire flash drive because there may be other things on
13 that flash drive that are not of an evidentiary value. So if
14 the flash drive were to go back to the jury, then they would be
15 able to review the entire flash drive. So of course they're
16 not going to admit the flash drive as a trial exhibit. Now,
17 they could possibly admit it as a court's exhibit, although I
18 don't know why, but again it would be inappropriate for that
19 flash, and I'm sure you would concede that as well --

20 MR. FIGLER: I would concede that, but the --

21 THE COURT: -- that it would be inappropriate for it
22 to be a trial exhibit.

23 MR. FIGLER: I will concede that, but the flash drive
24 itself needs to be preserved in a way that does not in any way
25 interfere with the chain of custody, and there's been no

1 discussion at all by this witness or any other witness about
2 the integrity or the sealed nature of that flash drive between
3 Detective Emery and this individual. He hasn't testified to
4 that. He hasn't discussed that at all. So there's another
5 part of the chain of custody that has not fulfilled the
6 technical requirements of chain of custody before publication
7 of these documents.

8 So there's the flash drive itself. There is the
9 contention between the parties as to what the defense meant by
10 and if the defense somehow waived its objection to the chain of
11 custody, even though we had requested at least an affidavit,
12 with regard to allowing that letter to be introduced by a
13 submittal.

14 THE COURT: Well, why would you have requested an
15 affidavit if you -- what's the point of an affidavit if you
16 anticipate the witness testifying? That doesn't even make any
17 sense --

18 MR. FIGLER: No, I said one or the other.

19 THE COURT: -- why would they have to give you an
20 affidavit if they're going to be calling the witness? That --

21 MR. FIGLER: If she didn't want to call --

22 THE COURT: -- that makes no sense.

23 MR. FIGLER: If she didn't want to call Mr. Kui,
24 then --

25 Or Mr. Huey is his first name or last name?

1 MS. BLUTH: Kui. Kui is his last name. K-u-i.

2 MR. FIGLER: If she didn't want to call Mr. Kui, I
3 said I'd be willing in the expedience of time to consider an
4 affidavit which would be necessary. That's what I said.

5 THE COURT: Okay.

6 MR. FIGLER: But if they want to bring in Mr. Kui,
7 they can bring in Mr. Kui to establish that, but we still --

8 THE COURT: So you did indicate you would consider an
9 affidavit.

10 MR. FIGLER: I absolutely said I would consider an
11 affidavit in lieu of testimony.

12 THE COURT: Okay. So --

13 MS. BLUTH: And so then I found a letter, and I said
14 is this sufficient? He said, Yes, and so I didn't do --

15 MR. FIGLER: That's not the same question. Is that
16 sufficient for waiving the chain of custody? That's never been
17 posed to me.

18 MS. BLUTH: Why would I put that letter in? Like --

19 MR. FIGLER: You said is this okay?

20 THE MARSHAL: Hold on, Counsel. Let's stop
21 interrupting each other.

22 THE COURT: Well, what does --

23 MR. FIGLER: I don't know what she's putting it in
24 for.

25 THE COURT: Well, that doesn't make --

1 MR. FIGLER: To say is this -- did she say is this
2 okay to satiate your desire to make sure that there's a proper
3 chain of custody? I would've said, no, but that was not the
4 question posed to me, a hundred percent.

5 THE COURT: Well, why would she have, I mean --

6 MR. FIGLER: I don't know why she would do it. It's
7 her case. She can put it on any way she wants. If she felt
8 that was relevant, let her put that in.

9 MS. BLUTH: The whole point in that whole
10 conversation was do I need to bring this person in, and that
11 was the reason he knows I said this is it. This is what he
12 says. Would this be sufficient, and I was told, yes.

13 MR. FIGLER: That was not the same conversation.
14 There was a conversation that said would you consider in lieu,
15 and I said an affidavit.

16 MS. BLUTH: Right.

17 MR. FIGLER: That was one conversation.

18 MS. BLUTH: Yes.

19 MR. FIGLER: And then later, with the document that I
20 have just seen and the Metro police letter, which I had to walk
21 up to see because I hadn't seen it, she said, Is this okay --

22 MS. BLUTH: No, I showed you that before the witness
23 though, Dayvid.

24 MR. FIGLER: No, the letter. Yeah. You showed it.
25 You did.

1 MS. BLUTH: I showed you the letter --

2 THE COURT: Can we talk about --

3 MR. FIGLER: I didn't see the Metro thing, but, yeah,
4 no, I mean, no one's misrepresenting to the Court. It's now
5 interpretation of what that sequence of events meant, and I
6 never waived. I still was waiting for an affidavit in lieu of
7 the testimony.

8 THE COURT: So now what you're saying is you don't
9 want the letter --

10 MR. FIGLER: It's not different.

11 THE COURT: -- to be sufficient. You want an
12 affidavit, a declaration, a sworn declaration by the witness --

13 MR. FIGLER: And I said exactly what would have to be
14 in it for us to consider it to be sufficient for us to waive
15 the objection, and I said it would have to be that he got
16 everything, that there was nothing left off, et cetera, and
17 that that would have to be a sworn statement by affidavit. I
18 think that's pretty much implied. It's a sworn statement when
19 I said by affidavit, and that has never been provided. I've
20 never waived that objection.

21 THE COURT: Okay. Here's -- look, we have a record.
22 I don't obviously know what was said between you and Ms. Bluth
23 out of my presence, but we do have a taped record on the JAVS
24 system.

25 MR. FIGLER: Absolutely.

1 THE COURT: So we can replay that portion, and it's
2 going to take Ms. Schofield -- well, she can look for it over
3 her lunch break because --

4 MR. FIGLER: If you see me waiving our chain of
5 custody objection at any point, I would be shocked.

6 THE COURT: Okay. Well, you didn't explicitly say
7 I'm waiving our chain of custody objection.

8 MR. FIGLER: Well, that's the issue, and that needs
9 to be made clear.

10 THE COURT: But if it was implicit to a person of
11 ordinary understanding, meaning Ms. Bluth and the Court, then I
12 think you've waived it.

13 MR. FIGLER: That was not our intention.

14 THE COURT: Again, Ms. Schofield, over her lunch
15 break, can attempt to locate that part.

16 Does anyone remember -- I remember discussing this.
17 Does anyone remember? I think it was after the lunch break
18 yesterday.

19 MR. FIGLER: It would have had to have been at the
20 introduction of the document, no?

21 THE COURT: I think it was after the lunch break.

22 MS. BLUTH: Well, what conversation are we talking
23 about though? Because --

24 THE COURT: I'm talking about when you guys were
25 discussing on the record the affidavit. It may have been in

1 the morning, but I don't know. You folks were discussing on
2 the record the affidavit and that we were talking about
3 scheduling, I believe, and this witness would not need to come
4 in because Mr. Figler would accept an affidavit, and then my
5 recollection is Ms. Bluth said, Well, we've got this letter.

6 MS. BLUTH: That was in the morning.

7 THE COURT: And Mr. Figler said, Well, I need to look
8 at the letter or something like that, and so it was left up in
9 the air to make sure that whatever requirements you wanted in
10 the affidavit were present in the letter, and the implication
11 thereof was that as long as those factors were set forth in the
12 letter you wouldn't be objecting to chain of custody or
13 requiring an affidavit. That was the implication because --

14 MR. FIGLER: I'll respectfully disagree.

15 THE COURT: -- why else would you need to review the
16 letter? Again --

17 MR. FIGLER: Well, see what's in it, if it provides
18 us with any indication for further investigation, et cetera,
19 but I have never ever waived the affidavit in lieu of
20 testimony.

21 THE COURT: That wasn't the implication the Court
22 took away, but instead of us all talking about what we think is
23 in the record, why don't we allow Ms. Schofield an opportunity
24 to actually find the record, and then we can watch it.

25 MS. BLUTH: It was in the morning.

1 MR. HAMNER: Yeah, and I remember it happening, and I
2 left at the lunch break because I had to step away. So I
3 remember it all being resolved in the morning.

4 THE COURT: Okay. Is there anything else we need to
5 discuss?

6 MS. BLUTH: Well, I mean --

7 THE COURT: I think if, Mr. Figler, if it's not clear
8 on the record, then Mr. Figler, you're still standing by your
9 representation that Ms. Bluth can obtain an affidavit from the
10 witness in lieu of having to fly him out here. Is that --

11 MR. FIGLER: Subject to our review, yes, absolutely.
12 If there's any fault with the affidavit, if we don't feel it's
13 sufficient, we reserve the right to object, but, yes, I made
14 that offer in the interest of expediting witnesses and not
15 having to have the State do that because if the affidavit is
16 sufficient, and that is a sworn statement, then I could not see
17 any further questioning in front of the jury that would resolve
18 that particular part of the issue; right? And so I thought
19 that was being fair.

20 THE COURT: Okay. And then why don't we make it
21 clear now. So if Ms. Bluth has to get the affidavit, what is
22 it that you're looking for in the affidavit other than that
23 it's a sworn statement?

24 MR. FIGLER: Okay. That no one else touched it
25 before he was able to get to it and that he did not change or

1 alter it in any way, a sworn statement that says that, that he,
2 whatever the technique he used to download it and that he
3 immediately put it into a sealed envelope sent to Detective
4 Emery because Detective Emery picks it up from that point,
5 okay.

6 We're just talking about chain of custody. This is
7 basic chain of custody stuff. So anything that establishes the
8 basic chain of custody from the computer to the retrieval to
9 the sending to ensure that no one else had access or did
10 anything to it becomes the chain of custody.

11 THE COURT: And just to be clear, you're objecting to
12 the letter because what? It's not a sworn statement, or it
13 doesn't have --

14 MR. FIGLER: Well, I'm not objecting to the letter.
15 I'm just saying that the letter is not -- the letter is not
16 sufficient.

17 THE COURT: Because --

18 MR. FIGLER: The letter is of no moment to me. It's
19 not sufficient to establish a chain of custody.

20 MS. BLUTH: So but it's the chain of custody because
21 the letter is actually very specific in regards to what he did.

22 MR. FIGLER: But it's not a sworn statement.

23 THE COURT: All right. So that's --

24 MS. BLUTH: Okay. When are we going to get him to go
25 get a sworn statement? Like, this isn't a lawyer. He's not

1 going to go to a courthouse. So we're going to have to Skype
2 him, and he's going to have to swear in.

3 MR. FIGLER: Well, I mean, if that's how the State
4 wants to do it. They have the responsibility of doing a chain
5 of custody --

6 MS. BLUTH: No, I don't when it's waived actually.

7 THE COURT: Well, again, we'll see what was done on
8 the record. The Court doesn't know what happened out of its
9 presence. So I can only rely on what was stated and what is a
10 part of the record.

11 Like I said, the implication I took away, Mr. Figler,
12 was that you would be reviewing the letter for sufficiency.
13 Now, we all knew that the letter was not a sworn statement. It
14 was not, you know, taken under oath. So, to me, if you
15 indicated that you might be willing to accept the letter
16 subject to its contents, then to me, you are waiving the
17 requirement that it be a sworn declaration --

18 MS. BLUTH: And for the record --

19 THE COURT: -- because clearly the letter was not.
20 So that's how I'm taking that representation if, in fact, it
21 was made as I recall.

22 MS. BLUTH: And for the record, this is exactly
23 what's going on. The defense knew I was calling Zachary
24 Johnson today. They knew I was calling -- this morning they
25 knew I was calling Zachary Johnson. At no time were any

1 objections raised at all. At no time did they tell me they
2 would be doing this.

3 On the break, they went and looked at those photos,
4 and they found State's Proposed Exhibit 192, which is a
5 photograph of Anastasia obviously being burned from her ear
6 down to her shoulder, and at that moment, there was a lot of
7 discussion. They spoke to their client, and then they left.
8 So now all of a sudden chain of custody is an issue. I didn't
9 properly notice everybody, and none of that was an issue until
10 they saw Exhibit 192.

11 MR. FIGLER: That's not true. It's been an issue
12 since we filed a motion to strike that witness, which was back
13 in January.

14 THE COURT: Well, there's two issues. The first is
15 the CV issue. We've now moved past that issue to the chain of
16 custody issue --

17 MR. FIGLER: Right. And when --

18 THE COURT: -- which is another witness who is out of
19 State, and that's a separate issue. So there's two issues.

20 MR. FIGLER: And that was all discussed as the State
21 so eloquently stated well before these pictures were reviewed
22 that the defense was trying to accommodate but would want to
23 have an affidavit that they could review before waiving any
24 objection to the chain of custody.

25 THE COURT: Right.

1 MS. BLUTH: But why didn't I know that?

2 THE COURT: Well, the longer we go back and forth
3 about --

4 MR. FIGLER: And that was before anything.

5 THE COURT: -- what was said, the less time
6 Ms. Schofield has to, A, take her appropriate lunch break, and,
7 B, find this on the record. So let's take our lunch break and
8 give Ms. Schofield time to do what she needs to do which is to
9 find that in the record.

10 MS. BLUTH: Okay.

11 MR. FIGLER: And for the record, the defense has now
12 received the three-page curriculum vitae of Zachary Johnson. I
13 just was able to open it up at 11:52. I think it was sent
14 about 5, 10 minutes ago, and there are a number of trainings
15 that date back to 2012 and education that dates back to 2005.

16 MS. BLUTH: Some of which all are on these. Some of
17 which are on this paper that I already provided.

18 THE COURT: Okay. Why don't we do this.

19 MS. BLUTH: I'll make a copy.

20 THE COURT: Ms. Bluth, make the expert report as a
21 court's exhibit, and you can also then make a copy of the CV as
22 a court's exhibit.

23 MS. BLUTH: Sounds good.

24 THE COURT: All right.

25 (Proceedings recessed 11:52 a.m. to 12:55 p.m.)

1 (Outside the presence of the jury)

2 THE COURT: -- came in in response to the records
3 order. I did yesterday which was the --

4 MS. BLUTH: Oh, right. The court reports and the --

5 THE COURT: -- the court reports, and there's a bunch
6 of Unity records here also.

7 MR. FIGLER: Okay. Was there any CPS?

8 THE COURT: I guess that's what I mean by -- well, I
9 haven't looked at them. I just got -- Crystal put them on the
10 table, and I didn't know what they were this morning. So I
11 haven't looked at them yet, but just to let you know -- what is
12 this -- about half an inch --

13 MR. FIGLER: Yes.

14 MS. BLUTH: Yeah.

15 THE COURT: -- of records.

16 MS. BLUTH: So but if we could go back to just a
17 second, Judge, because I think what the, you know, JAVS isn't
18 showing is that when we came back from lunch, and we wouldn't
19 be on the record when we came back from lunch. That's when
20 Detective Emery was coming on the stand, and that's when I
21 handed the letter to Dayvid and said, Dayvid, here's the letter
22 I was referencing. Is this sufficient?

23 And I understand both of us are agreeing to disagree
24 on what was meant. He said, yes, and then I had it marked and
25 put in, or I may have already had it marked, and then I went in

1 questioning. I went to Frances. So I understand what Dayvid
2 is saying is that he was saying that I could talk to Frances
3 with it. I was saying is this -- I said is this sufficient,
4 and so he said, yes. I thought that that was what it meant.
5 That's the whole reason I would've asked that. That's the
6 whole reason I laid that foundation with Frances.

7 At the end of the day, in that letter, it discusses
8 the process that Mr. Kui -- it's spelled K-u-i. I don't know
9 how you pronounce it -- the process in which he did it, the
10 process in which he sealed it and sent it. Zach Johnson will
11 talk about, you know, I received it from a sealed envelope,
12 brought it -- I think the chain of custody, you know, it always
13 goes to weight and not admissibility. I think that that has
14 been clearly shown in this case.

15 I did rely on, you know, the representations of
16 Mr. Figler, and what he meant by those representations, I took
17 it to believe, okay, we're good, and the reason why I believed
18 that that also was is because today when I said I was calling
19 Detective Johnson no one said, well, where is Kui Johnson --
20 well, yeah, where is Johnson Kui? So that's why I'm like, of
21 course, I relied on that because I would've had to bring in or
22 bring in a statement from Mr. Kui, and everybody knew that Zach
23 Johnson was first up today.

24 So that's why feel like the defense was in the same
25 position as I was because we both knew that Zach Johnson was

1 testifying first today. So if I would've known that there was
2 an objection, I obviously would've gotten an affidavit. It
3 wasn't until they saw what was going to get into that all of a
4 sudden this all came up.

5 MR. FIGLER: And I'll again disagree with that
6 version of events. In fact, I think that right before the
7 introduction of the letter for whatever purpose the State felt
8 it was going to do it, she said, okay. I didn't have an
9 objection to it being presented to Detective Emery. Why would
10 I? I don't remember ever being requested if it was sufficient.
11 That said, it's not on the record. So, you know, we could
12 agree to disagree on what was stated.

13 Secondly, as the Court knows, we have always been
14 objecting to this witness through the motion to strike, and
15 chain of custody, dating back to when the defense made a very
16 clear proclamation on the record that the State will have to
17 dot every I and cross every T, and the State's correct
18 representation to the Court on the record that we said that we
19 would consider an affidavit -- we'd have to look at it first --
20 we have never waived the chain of custody issue. We believe it
21 does go to the admissibility.

22 But more so than that, the entirety of the record
23 does not change the defense's position. We do not waive the
24 chain of custody. We do not waive the late and still
25 ineffective notice requirements or noncompliance with the

1 notice requirements as they relate to this witness. So, you
2 know, whatever the Court wants to do.

3 And I appreciate that outstanding is still the
4 Court's offer to admonish the jury that this witness is not an
5 expert. We believe he is being presented as an expert
6 irrespective of his title. If the Court feels that that is a
7 degree of mitigation, the defense sees no harm in that, but the
8 defense is not, and I'm just very explicitly, we are not
9 waiving our objection to his testimony because of noncompliance
10 with the statute.

11 THE COURT: Okay.

12 MR. FIGLER: So if, Your Honor, wants to --

13 THE COURT: No, I don't want to. I'm offering this
14 as a --

15 MS. BLUTH: I'm asking you to.

16 THE COURT: -- as a remedy. So if either --

17 MR. FIGLER: And we don't believe it's a clear
18 remedy.

19 THE COURT: -- side doesn't care or doesn't request
20 it, I'm not going to give it. So if you want it as a remedy,
21 recognizing that you're not waiving your objection, but you
22 think it might have a mitigating effect, then I'll give it. If
23 you think it will have no affect, then I won't give it. So, I
24 mean, I'm offering that as a potential remedy.

25 MS. BLUTH: I am requesting it as the State.

1 THE COURT: All right. The State's requesting it.
2 So I was going to say something like, ladies and gentlemen, you
3 are instructed that this detective is not testifying as an
4 expert or providing any specialized knowledge in the area of
5 computers or computer science or something like that.

6 MS. BLUTH: Yeah. That would be my request.

7 MR. FIGLER: We'll submit.

8 THE COURT: All right. Look, we could do this a
9 couple of ways. We could have the other witness up here on
10 Skype and swear under oath that everything he said in the
11 letter is true and correct in front of the Court, which would
12 be sort of the affidavit, or the Court could say, look, I'll
13 review the letter, and if I feel satisfied that the emails and
14 photos are -- that there is enough of an indicia of accuracy
15 and a lack of tampering, which, of course, is the issue when
16 you're talking about chain of custody, that the Court is
17 comfortable admitting those. So to me I see those --

18 Or a third possible option is just having the witness
19 appear via Skype and testify to everything in front of the jury
20 but, to me, if he swears under oath in front of the Court and
21 counsel and the defendant that everything he set forth in the
22 letter is true and accurate, I don't think we would need to put
23 him in front of the jury.

24 So, State, what's your preference?

25 MS. BLUTH: My preference would be before we go any

1 further for you to review the letter. So that would be what's
2 in evidence as State's Proposed 182.

3 THE COURT: Okay.

4 MS. BLUTH: And then I'm going to approach you with
5 the letters -- I'm sorry, with the exhibits.

6 THE COURT: I would just note I have reviewed the
7 pictures earlier this morning when they came into the --

8 MS. BLUTH: Oh, I didn't know that.

9 THE COURT: I don't know. I asked the clerk if I
10 could see them. So I did review these already. I have now
11 read the letter. I would just note that an additional indicia
12 of reliability and lack of tampering would be the subject
13 matter of the emails as well as the subject matter of the
14 photos, which, let's face it. Okay. Those could have been
15 placed on the laptop, but it's highly unlikely that the
16 refrigeration person would have confused emails from another
17 employee or something like that and mixed those in with
18 Mr. Solander's emails.

19 I mean, the issue is are those the emails that were
20 downloaded from his computer at his workplace. Are they true
21 and authentic copies of his email from his email files at his
22 workplace. So, you know, I think there's sufficient indicia of
23 authenticity and reliability. So I'm going to go ahead and
24 admit them over the defense's objection.

25 MR. FIGLER: There was an additional objection I

1 haven't made yet.

2 THE COURT: Okay.

3 MR. FIGLER: And so this -- and so Your Honor has now
4 ruled on the front end of the chain of custody issue, but there
5 still remains an issue with regard to the back end of the chain
6 of custody issue. At a minimum, I would like to take the
7 witness on voir dire to establish that back-end part of the
8 chain of custody. In other words, both, A, the transfer of
9 what the State represents in the sealed envelope to the witness
10 before his analysis of the flash drive. So that's one part of
11 the chain that needs to be established because Detective Emery
12 said she sent it over, but, you know, we have to get that
13 established.

14 THE COURT: Right.

15 MR. FIGLER: And then the second part is the witness
16 has testified that it was an email address of Janet Hinton
17 Solander that was the source of those, but I do not know if
18 this witness or some other witness that the State intends to
19 call was able to verify that the IP address associated with
20 that email address was indeed likely to be under the control of
21 Janet Solander during any of the relevant time frames. So I
22 have a right to ask about that as well, and if he cannot answer
23 that, I would move to strike any testimony related to his
24 conclusion that these emails legitimately came from Janet
25 Hinton Solander.

1 THE COURT: Well, all he can say is that -- he can't
2 say whether or not it's Janet Solander's email account unless,
3 as you said, he verified that the IP address went to her home
4 or something like that. Even then, there's always the argument
5 somebody else is using that email account like Dwight Solander
6 or Danielle Hinton.

7 MR. FIGLER: Sure.

8 THE COURT: So he really can't opine one way or the
9 other as to that. What he can say is I downloaded emails, and
10 it shows that they came from an email address called Janet
11 Solander at Gmail.com or whatever her email address was. Now,
12 the State's going to be able to link that in too, and I think
13 they partially have with the CPS workers who are communicating
14 with her at the same email address, but to be clear, I don't
15 think the detective can say it's her email address or she's the
16 one sending the emails or anything like that. All he can say
17 is they came from this email address.

18 MS. BLUTH: And just so you know, in the documents,
19 there are emails from that address speaking about the children,
20 and then Janet signs respectfully Janet Solander with her
21 information.

22 MR. FIGLER: But not all of them.

23 MS. BLUTH: No, not all of them, but I also had,
24 because I knew that this would be an upcoming issue. So I had
25 Lori Wells discuss the email address in which she communicated

1 with Dwight with and what she communicated --

2 THE COURT: Right. So, I mean --

3 MS. BLUTH: -- as well as Gail Anderson, who
4 communicated via email to both of them. They both stated that
5 with Dwight it was that email that they spoke to him. With
6 Janet, it was Janet and Dwight at dah, dah, dah. So I laid
7 that foundation knowing that this issue would come up.

8 THE COURT: So again, the detective has no personal
9 knowledge of who was using that email or not using it. All he
10 can say is this is the email address that the emails were going
11 to and from. That's all he can say, and then Ms. Bluth can tie
12 it up an argument that we know it's Janet Solander's because
13 it's the name Janet Solander and because of these other
14 contacts she was having with CPS workers that were consistent
15 with the in-person interactions the CPS workers had with Janet
16 Solander.

17 MS. BLUTH: Right.

18 THE COURT: So although if you want to take the
19 detective on voir dire, you're able to do that prior to the
20 admission of the photos. I think Ms. Bluth was turning -- you
21 weren't done with your direct, or do you want --

22 Okay. So we can let Mr. Figler take the witness on
23 voir dire prior to the admission of the photos. Then you can
24 move to admit them, the photos and the emails, move to admit
25 them into evidence, and then you can resume your direct

1 examination. All right?

2 MS. BLUTH: Okay. And before we get started, what
3 was the ruling in regards to the civil complaint filings?
4 Because I wanted to get that ruling before I sought a
5 publication.

6 THE COURT: I think it's admissible, particularly
7 because it was prepared by the defendant and her husband as pro
8 per litigants. A typical argument is if a complaint's been
9 filed by an attorney that that's prepared by the attorney, and
10 the litigant, him or herself has no really control over what
11 goes in the criminal complaint or the civil complaint, but in
12 this case, they prepared the complaint, and so I don't see why
13 it wouldn't be admissible.

14 MS. BLUTH: I just wanted to get a ruling before I
15 sought for publication.

16 THE COURT: I mean, I don't know that the minutes of
17 the court records of the certified minutes are really relevant
18 to anything, but the defense may want everything there if the
19 complaint comes in.

20 Defense, do you want all the minutes and everything?
21 Basically what it was was they sought an extension of time to
22 serve I think, and then Judge Tao said, oh, well, that was
23 denied without prejudice, something like that, in the minutes.

24 MR. FIGLER: I just don't know what the relevance of
25 the document itself is. I mean, if the State is requesting a

1 stipulation that the Solanders attempted to file a civil suit
2 for defamation against the nanny Jan, I would be willing to
3 make that stipulation.

4 THE COURT: They didn't attempt to file. They did
5 file.

6 MR. FIGLER: Or that they filed.

7 MS. MCAMIS: Or attempted to.

8 THE COURT: I mean --

9 MR. FIGLER: And that didn't pursue it. I mean,
10 however they want to phrase it, but I just don't know. I think
11 it's misleading the jury or confusing of the issues to have a
12 civil complaint against Jan Finnegan that's in the record, but
13 I'll submit it to the Court. I did also want to make a --

14 THE COURT: But my question was, look, I've ruled
15 that the complaint itself is admissible. Do you want the
16 entire record which includes the certified copies of the court
17 minutes, or do you -- if it's going to be admitted.

18 MR. FIGLER: No, just that if you're going to admit
19 it, just the complaint.

20 THE COURT: Just the complaint. Okay.

21 So, Ms. Bluth, pull off those others certified. I
22 don't know that that's relevant to anything.

23 MS. BLUTH: It was just one.

24 THE COURT: It was. Okay.

25 MS. BLUTH: I'll make double sure. But you're

1 talking about the court minutes?

2 THE COURT: Yeah, the court minutes because
3 apparently somebody, it looks like, sought an extension of time
4 or something, and that was Judge Tao made a minute order on
5 that.

6 MS. BLUTH: There was two. So I just need to
7 restaple.

8 THE COURT: All right. I think that's it then.

9 MR. FIGLER: No. I just want to complete my record
10 with regard to the motion to strike the expert. For the
11 record, the defense made prior to the break, we had just
12 received approximately at 11:30 Detective Zachary Johnson's
13 three-page CV that was at least provided to the State a couple
14 of days ago. The defense has summarily looked at various
15 certifications. We have not had an opportunity to forward this
16 to our now-appointed investigator who's been working on the
17 case very diligently for the last week and a half.

18 There are plenty of areas that would be with regard
19 to his training and experience in being able to retrieve
20 documents in an appropriate fashion that the defense would have
21 potentially gone into in cross-examination. Certainly there
22 are about 40 entries of different certifications and some
23 conferences that he attended, et cetera, none of which the
24 defense is going to get into now because the defense has not
25 thoroughly examined that.

1 The statute says 21 days for a reason. With the
2 lunch break, et cetera, we probably had about 21 minutes. That
3 said, the defense would, if the Court is not inclined to strike
4 this witness because of the statutory deficiency, we would ask
5 for a modest 24-hour continuance so that we can give this to
6 our investigator and investigate some of the certifications to
7 see if they are reliable or not.

8 MS. BLUTH: I'm happy to recall him as a witness if
9 the defense wishes to do that, or they can recall him or they
10 can call him in their case in chief. His CV literally talks
11 about what classes he's been to. I mean, this isn't somebody
12 who's, like, published articles and published books and been a
13 keynote speaker. I mean, it talks about, like, a certification
14 class he went to. It's because he's not an expert. He goes,
15 just like I go to a CLE, just like you go to a judicial
16 college, he goes to classes that have to do with his work.

17 So if they want me to recall him to challenge some of
18 these things, I would gladly do that for them. If they want to
19 call him, that would be fine too, but, I mean, I don't see why
20 we need to --

21 THE COURT: All right. Well, they don't need to call
22 him in their case in chief. He will be subject to recall for
23 additional cross-examination at the defense's request.

24 MR. FIGLER: And we just request that the --

25 THE COURT: So it would still be part of the State's

1 case in chief, not the defendant's case in chief.

2 MS. BLUTH: Okay. Understood.

3 MR. FIGLER: Okay. And we would request that until
4 the Court requires us to make a determination if there is
5 further examination, which I can't because we haven't done any
6 investigation on it yet -- things that jump out are is that
7 he's indicating that he received evidence recovery training by
8 the United States Secret Service. I haven't had the
9 opportunity to look and see if there are protocols to
10 cross-examine him and whether or not those protocols were met
11 or not met, et cetera, and so there is some substance to what
12 might be --

13 MS. BLUTH: I'm sorry. Protocols for what? I just
14 missed it. What did you mean?

15 MR. FIGLER: Protocols for evidence recovery on
16 computers. I don't know.

17 MS. BLUTH: Okay.

18 MR. FIGLER: And as a result, the defense would
19 request that whatever amount of time the Court is going to give
20 us -- I guess till the end of the State's closing of the case
21 in chief --

22 THE COURT: Right. So you'll have the weekend.

23 MR. FIGLER: Right. And that's fine. That the
24 evidence not yet be published to the jury until that time
25 has --

1 MS. BLUTH: I -- well, I --

2 THE COURT: All right. I'm assuming, Ms. Bluth wants
3 to use the evidence with a subsequent witness; is that right?

4 MS. BLUTH: Right. And I have --

5 THE COURT: Including the children.

6 MS. BLUTH: Exactly.

7 THE COURT: Otherwise I could say well, just call the
8 children and Ms. McClain, and we'll recall the detective for a
9 later date, but my understanding is she wants to get the
10 exhibits in so the children can describe themselves in the
11 photos and talk about, okay, well, I received this injury on
12 this date or that.

13 MS. BLUTH: Right.

14 THE COURT: Is that your intent?

15 MS. BLUTH: Right. But anything he wants to
16 challenge wouldn't go to the admission of these photographs.
17 They would just go to that, you know, you said you could do
18 this. You said you could do that. I mean --

19 THE COURT: Well, I mean, it could conceivably go to
20 the --

21 MS. BLUTH: Go to the admission?

22 THE COURT: It's unlikely that the photos would not
23 be admitted; however, I am willing to risk it. So, Mr. Figler,
24 if you show that the photos are not reliably downloaded from
25 Mr. Solander's computer or were tampered with or something like

1 that, I would strike them, and that would be grounds for a
2 mistrial, okay.

3 MR. FIGLER: Uh-huh.

4 THE COURT: I am willing to take that risk.

5 MS. BLUTH: Okay. Me too.

6 MR. FIGLER: Really?

7 THE COURT: I mean, again, they're prejudicial
8 photos. They're not -- they're not unduly prejudicial. So I'm
9 saying they're more probative than -- but they are damaging
10 prejudicial photos. So if, for some reason, it would turn out
11 that, you know, they couldn't be relied upon, then I think your
12 remedy would probably be a mistrial because we can't unring
13 that bell. So I'm willing to risk it if Ms. Bluth is willing
14 to risk it.

15 MS. BLUTH: Yes, absolutely.

16 THE COURT: Okay. Do we want detective -- what was
17 his name? Richardson?

18 MS. BLUTH: Johnson. And, Mr. Figler is starting;
19 correct?

20 THE COURT: Right. Mr. Figler wanted to take him on
21 voir dire prior to the admission of the photos.

22 MS. BLUTH: Okay.

23 THE COURT: Bring them in.

24 Detective, come on back up here to the witness stand,
25 please.

1 So, Ms. Bluth, after Mr. Figler has voir dire, then,
2 procedurally you would then ask to admit the photos and the
3 email.

4 MS. BLUTH: Yes. Yes, Your Honor.

5 THE COURT: Okay.

6 (Jury entering 1:17 p.m.)

7 THE COURT: All right. Court is now back in session.
8 The record should reflect the presence of the State through the
9 deputy district attorneys, the presence of the defendant and
10 her counsel, the officers of the court and the ladies and
11 gentlemen of the jury.

12 And, Detective, you are still under oath. Do you
13 understand that?

14 THE WITNESS: Yes, ma'am.

15 THE COURT: All right. Ladies and gentlemen, you are
16 instructed that this detective is not testifying as an expert
17 or providing any specialized knowledge in the areas of
18 computers or computer science.

19 And, Mr. Figler, I believe you had wanted to take the
20 detective on voir dire; is that correct?

21 MR. FIGLER: Very briefly, Your Honor.

22 THE COURT: All right. Certainly you may proceed.

23 MR. FIGLER: Thank you.

24 / / /

25 / / /

1 VOIR DIRE EXAMINATION

2 BY MR. FIGLER:

3 Q All right. Detective Johnson, I just have a couple
4 of questions about the process that led up to your examination
5 of what we're ultimately calling the flash drive and I think
6 also thumb drive. You know what I'm talking about?

7 A Yes, sir.

8 Q Okay. You indicated that you received that from and
9 at the direction of Detective Emery to do further forensic
10 evaluation; is that correct?

11 A Could you define the further forensic evaluation.

12 Q To start doing whatever it is that you do with your
13 computers to unload information that is purportedly on that
14 flash drive.

15 A She asked me to place it into a readable format that
16 she could understand it.

17 Q Okay. Can you tell me right now who has -- did it
18 come to you in a sealed envelope? That's the first question.
19 Do you remember?

20 A No, sir.

21 Q It did not come to you in a sealed envelope, or you
22 don't recall?

23 A No, I don't remember, sir.

24 Q Okay. So you're not sure if it came to you in a
25 sealed envelope or not. Can you tell me who else had looked at

1 that or evaluated that flash drive between the time that
2 Detective Emery got it and the time that you received it?

3 A No, sir.

4 Q You don't know?

5 A I don't know of anybody else that viewed it between
6 the time that she gave it to me.

7 Q Okay. You don't know if anyone did, or you can
8 definitively say to the Court today that no one touched it
9 between the time that Detective Emery received it and you
10 received it?

11 A I don't know.

12 Q Okay. May we approach, Your Honor?

13 THE COURT: Sure. Before you do, I have one
14 question.

15 If it had come to you in a sealed envelope, would you
16 have signed your name and P-number on the front of that
17 envelope before you opened it?

18 THE WITNESS: Not before, it's after I open it to --
19 when I seal it back up to confirm that the same evidence is in
20 there that was when I got it.

21 THE COURT: Okay. Do you recall whether or not you
22 did that in this case?

23 THE WITNESS: I don't recall there being an envelope.
24 Usually there is, but if the detective brings it in, it might
25 have been something that they needed.

1 THE COURT: So she might have just had in her hand --
2 THE WITNESS: Yeah, exactly.
3 THE COURT: -- and given it to you. Okay.
4 THE WITNESS: I don't recall particularly in this
5 case.
6 MR. FIGLER: May I ask a follow-up based on that?
7 THE COURT: Sure. Sure.
8 MR. FIGLER: Thank you. Sorry.
9 BY MR. FIGLER:
10 Q Do you know where that flash drive or thumb drive is
11 right this second?
12 A It's not in my custody. It would be in --
13 Q So I don't want you to guess. Do you know where it
14 is right now?
15 A The last person I gave it to you was Detective Emery.
16 MR. FIGLER: Okay.
17 THE COURT: Approach.
18 (Conference at the bench not recorded)
19 THE COURT: All right. Ms. Bluth, did you want to
20 follow up on this issue of the state or condition of how he got
21 the thumb drive?
22 MS. BLUTH: Yeah. If I could just back up, Your
23 Honor, and just ask him some questions about what an examiner's
24 report is so I can lay the foundation for that.
25 THE COURT: Okay.

1 CONTINUED DIRECT EXAMINATION

2 BY MS. BLUTH:

3 Q When you do these types of examinations, do you then
4 fill out what's referred to as an examiner's report?

5 A Yes, ma'am.

6 Q And in the first couple of pages of your examiner's
7 report, do you discuss your examiner qualifications, meaning
8 how long you've been a police officer and your training?

9 A Yes, ma'am.

10 Q Okay. And including in that is, like, dates of
11 classes or certifications that you've been to?

12 A Yes, ma'am.

13 Q And then once you discuss that, is there a clause
14 regarding the search warrant or search authorization that
15 allows you to go into that device?

16 A Yes, ma'am.

17 Q And then next is there a scope of exam, and when I
18 use the term "scope of exam," exactly what it is that you're
19 trying to do to the device?

20 A Yes, ma'am.

21 Q After that, do you take pictures of the evidence to
22 be examined?

23 A Yes, ma'am.

24 Q And in that, do you discuss that the item, so the
25 flash drive that was given to you, had been previously

1 impounded by Detective Frances Emery? Would looking at this
2 help refresh your recollection?

3 A Yeah, I would like to refresh my memory.

4 Q That's okay. Referring to page 3 of 7 in regards to
5 your examiner's report. Just go ahead and look at that. It's
6 kind of crinkled. Sorry. I folded it. Let me know when
7 you're done.

8 A It doesn't discuss how it was presented to me on that
9 page.

10 Q So sorry. Does it discuss the fact that it was in
11 the custody of the Las Vegas Metropolitan Police Department
12 under a certain event number?

13 A Yes, ma'am.

14 Q And that the item was impounded by Detective Frances
15 Emery?

16 A Yes, ma'am.

17 Q Okay. And then do you document it with photographs
18 the way that the flash drive got to you?

19 A Yes, ma'am.

20 Q And then after you do your examination, you then put
21 this information on CDs; is that correct?

22 A That is correct, but that's not the CD that I created
23 there.

24 Q Oh, okay. Yes. So there were some personal emails
25 of Dwight's that were put on just a CD drive; correct?

1 A Yes, ma'am.

2 Q And did you do any analysis to those at all?

3 A I did look at them, yes, to determine they were the
4 same ones that were contained on the thumb drive.

5 Q Okay. And then do you make a recommendation that the
6 flash drive stay, after it leaves you, stay in the evidence
7 vault until adjudication of the trial, until the trial is over?

8 A Yes, ma'am.

9 Q And then was that done in this case? Did you make
10 that recommendation?

11 A I made that recommendation, yes.

12 Q Okay. And then after you're done with the evidence,
13 does it then go back to the submitting detective, Frances
14 Emery?

15 A Yes.

16 THE COURT: If the flash drive had come to you in an
17 evidence, like a sealed evidence envelope, would you have
18 photographed the envelope?

19 THE WITNESS: Yes, ma'am.

20 THE COURT: So the absence of the photograph of the
21 envelope in your report, would that suggest that the flash
22 drive did not come to you in a sealed evidence envelope?

23 THE WITNESS: Yes, ma'am. And in reviewing my
24 report, I did indicate that Detective Emery had impounded the
25 item.

1 THE COURT: Okay.

2 THE WITNESS: So typically if we get another case,
3 whether it's at evidence, we'll go and pick it up ourselves,
4 and I would photograph the package that it comes in.

5 THE COURT: Okay.

6 BY MS. BLUTH:

7 Q But in this case, Detective Emery --

8 A She brought it to me not impounded yet, and then I
9 indicated in my report that she had impounded it afterwards.

10 Q Okay.

11 THE COURT: All right. Thank you.

12 Any follow up on that, Mr. Figler?

13 MR. FIGLER: No, Your Honor.

14 THE COURT: All right. Thank you.

15 Ms. Bluth, you may continue your direct examination.

16 MS. BLUTH: Thank you. Before I go forward, Your
17 Honor, at this time I'd move to seek -- move to admit into
18 evidence State's Proposed 186 over 225 -- 186 through 225.

19 THE COURT: All right. Those will be admitted over
20 defense's objection.

21 (State's Exhibit Numbers 186-225 admitted.)

22 BY MS. BLUTH:

23 Q Okay. So I want to ask you some questions. Fair to
24 say, I think I just said 186 through 225. So there is a large
25 amount of emails and pictures that the State has marked as

1 evidence. I'm not going to go through every single one of
2 them, but I just want to ask you some questions on some that I
3 have marked; okay?

4 A Yes, ma'am.

5 Q In doing your search, I'm showing you now what's in
6 evidence as State's Proposed 186. Was this a -- first of all,
7 was this document in what was identified as Dwight Solander's
8 email?

9 A Yes, ma'am, as an attachment.

10 Q Okay. And then the lawsuit was Dwight and Janet
11 Solander versus Jan Finnegan; correct?

12 A Yes, ma'am.

13 Q Demand for relief from damages caused by false
14 allegations to DFS, defamation of character, slander and libel?

15 A Yes, ma'am.

16 Q In going through, were there also several pictures of
17 children and discussion of cutting their hair?

18 A Yes, ma'am.

19 Q All right. I'm going to show you now State's 202. I
20 had asked you earlier a couple of questions. Number one, I had
21 asked you was the majority of the emails between an email
22 from -- associated to what the words are as Janet Hinton, and
23 the email was JanetDwights@cox.net?

24 A Yes, ma'am.

25 Q And then Dwight Solander is

1 DSolander@SourceRefrigeration.com?

2 A Yes, ma'am.

3 Q So in these, when you met with me in my office, did
4 you go through each email and make sure that the picture I'm
5 about to show was associated with that email?

6 A Yes, ma'am.

7 Q Okay. So in regards to this email, it's August
8 27th of 2012, from Janet Hinton, who is supposedly -- I don't
9 know what word I should use -- the person it states is from
10 Janet Hinton to Dwight Solander on August 27th of 2012, and
11 it states, Anastasia Front View; is that correct?

12 A Yes, ma'am.

13 Q And the picture associated with that is a picture
14 of -- well, you don't know these children, but --

15 MR. FIGLER: A child.

16 MS. BLUTH: The what? Well, yeah, I was just going
17 to say that the --

18 THE COURT: Is this the picture that was
19 associated -- is this the picture that was the attachment to
20 that email?

21 THE WITNESS: Yes, ma'am.

22 BY MS. BLUTH:

23 Q And the subject matter of this email was, Anastasia
24 Front View; is that correct?

25 A Yes, ma'am.

1 Q Now, I'm going to show you the August 27th of 2012,
2 from Janet to Dwight, Anastasia Side View. This is State's
3 203, and then this would be the picture associated with that
4 email; is that correct?

5 A Yes, ma'am.

6 Q August 27th of 2012, State's 200, again, from Janet
7 Hinton to Dwight Solander. This is one of the attachments, the
8 second attachment and the third attachment; is that correct?

9 A Yes, ma'am.

10 Q Now, it's January 4th of 2012. State's 189, and
11 I'll zoom in for you, from Janet to Dwight, subject matter, I
12 Cut It, and then a picture of a child sitting down?

13 A Yes, ma'am.

14 Q Now, February 7th of 2012, from Janet to Dwight,
15 subject matter, Boy Cut, and a picture of another child, and
16 that's State's 190; is that correct?

17 A Yes, ma'am.

18 Q Showing you 192, September 27th, 2012, from Janet
19 to Dwight Solander, is this the picture that you found in
20 regards to that email?

21 A Yes, ma'am.

22 Q December 11th, 2012, which would be State's 204,
23 from Janet Solander to Dwight, subject, 300 cc. Do you know
24 what this is in this photograph? Do you know what that device
25 is?

1 MR. FIGLER: Object, Your Honor.

2 THE WITNESS: No.

3 MR. FIGLER: It's a photo, and he's not testifying as
4 an expert.

5 THE COURT: He's already said he doesn't know --

6 BY MS. BLUTH:

7 Q You don't know what that is?

8 A No, ma'am.

9 THE COURT: -- so move on. I think this photo speaks
10 for itself. He doesn't have any additional photo knowledge.

11 BY MS. BLUTH:

12 Q State's 197, from Janet Hinton to Dwight Solander on
13 April 17th of 2012 -- the light is kind of -- was this the
14 picture associated with that email?

15 A Yes, ma'am.

16 Q Showing you State's 187, one of the children and what
17 looks to be a hospital bed. Was that photo on Mr. Solander's
18 email?

19 A Yes, ma'am.

20 Q And showing you 188, was that photo on Mr. Solander's
21 email?

22 A Yes, ma'am.

23 Q And like I said, I've marked several documents. I'm
24 not going to go through all of them, but was there a large
25 number of emails and photos discussing toileting and pictures

1 of the accidents and underwear?

2 A Yes, ma'am.

3 Q Okay. Showing you State's 194, this is from Dwight
4 to Janet. The original email was regarding, Anastasia Pissed
5 In Her Pants. This was on October 15th of 2012, and the
6 response from Mr. Solander is, She's going to hate life
7 tonight; have her start crawling with Ava. Is that correct?

8 A Yes, ma'am.

9 Q This is an email on Dwight's -- excuse me, regarding,
10 Anastasia Pissed in Her Pants, with a picture -- let me zoom
11 out -- of just some panties; is that correct?

12 A Yes, ma'am.

13 THE COURT: Well, again I think the pictures --

14 MR. FIGLER: Thank you.

15 MS. BLUTH: Okay. Of some type of cloth.

16 THE COURT: -- may speak --

17 MS. BLUTH: Sorry. I don't know.

18 THE COURT: -- may speak for, you know.

19 BY MS. BLUTH:

20 Q State's 195, let me do it Mr. Figler's way, except I
21 am not as good at it. From Janet on October 23rd of 2012, to
22 Dwight, Ava's Panties, the associated photo with that email; is
23 that correct?

24 A Yes, ma'am.

25 Q August 22nd of 2012, from Janet to Dwight, subject,

1 Amaya's Panties. This is State's 199. Is that the photo that
2 was associated with that email?

3 A Yes, ma'am.

4 Q State's 201, from Dwight Solander to Janet, subject,
5 Get Your Scissors. Is this the photograph associated with that
6 email?

7 A Yes, ma'am.

8 Q State's 206, from Janet Hinton, October 22nd of
9 2012, to Dwight Solander, and the attachments, there are three
10 photographs; is that correct?

11 A Yes, ma'am.

12 Q I'll go ahead and show you each of those. Was this
13 the first attachment, or was this one of the attachments?

14 A Yes, ma'am.

15 Q Second attachment?

16 A Yes.

17 Q Third attachment?

18 A Yes.

19 Q January 15th of 2013, this is State's 208 from
20 Janet to Dwight. Is this the associated picture with that
21 email?

22 A Yes, ma'am.

23 Q From Janet to Dwight, April 9th of 2013, this is
24 State's 211, is this the photograph associated with that email?

25 A Yes, ma'am.

1 Q April 11th, 2013, this is State's 212, from Janet
2 Hinton to Dwight Solander. There are three photos associated
3 with this email; is that correct?

4 A There's four photos associated with this email.

5 Q Oh, sorry. Okay. One of the photos; is that
6 correct?

7 A Yes.

8 Q Second photo?

9 A Yes.

10 Q And third photo?

11 A Yes.

12 Q State's 214, from Dwight Solander to
13 JanetDwights@cox.net. The subject was, Laundry, and there are
14 four photos attached to this email; is that correct?

15 A Yes, ma'am.

16 Q Is that one of the photos?

17 A Yes.

18 Q Is that another one of the photos?

19 A Yes.

20 Q Is that another one of the photos?

21 A Yes.

22 Q Showing you State's 215, marked as July 16th of
23 2013, from Janet Hinton to Dwight Solander, subject, I Just Let
24 The Three Foster Kids See Anastasia With Her Pants Down. Is
25 this the associated photo with that email?

1 A Yes.

2 Q State's 216, from Janet Hinton to Dwight Solander,
3 the wording is, The First Picture Is From Yesterday; The Second
4 One Is For Today. Is this the first picture associated with
5 that email?

6 A Yes, ma'am.

7 Q And is this the second picture associated with this
8 email?

9 A Yes, ma'am.

10 Q State's 217, from Janet Hinton to Dwight Solander on
11 September 17th of 2013, at 9:00 o'clock p.m. Is this a
12 photograph associated with that email?

13 A Yes, ma'am.

14 Q State's 218, from Janet Hinton to Dwight Solander,
15 May 13th of 2013, at 10:20 p.m. is this the photograph
16 associated with that email?

17 A Yes, ma'am.

18 Q State's 220, from Dwight Solander to
19 JanetDwights@cox.net on December 29th of 2013, subject
20 matter, For Today's Viewing Enjoyment, is this the photograph
21 associated with that email?

22 A Yes, ma'am.

23 Q State's 222, from Janet Hinton to Dwight Solander, on
24 February 26th of 2014, the wording is, The top photo is what
25 I dealt with last night. The bottom two is what I am dealing

1 with right now. Where is the damn carpet cleaner? Did I read
2 that correctly?

3 A Yes, ma'am.

4 Q Is this the photograph associated with that email?

5 A Yes, ma'am.

6 Q Is this another photograph associated with this
7 email?

8 A Yes, ma'am.

9 Q And is this a photograph associated with that email?

10 A Yes, ma'am.

11 Q State's 223, subject matter, or the name is,
12 Anastasia Pissed On Herself Again. The photo attached -- is
13 this the photo attached to that email?

14 A Yes, ma'am.

15 Q State's 225, the name attached to the email is
16 Anastasia again. Is that the photograph attached to that
17 email?

18 A Yes, ma'am.

19 MS. BLUTH: Thank you, Detective.

20 That concludes my direct examination, Your Honor.

21 THE COURT: All right. Cross, Mr. Figler.

22 MR. FIGLER: Thank you, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. FIGLER:

25 Q Just a very few couple of questions depending on how

1 you answer. Let me ask you this. Was your assignment in this
2 case solely limited to opening up that flash drive presented to
3 you by Detective Emery so that it could be readable to her? Is
4 that all you did in this case?

5 A No, sir.

6 Q Okay. You also prepared and generated a report
7 associated with that; correct?

8 A Yes, sir.

9 Q What other forensic investigation did you do in this
10 particular manner?

11 A I conducted keyword searches.

12 Q Okay. Within that flash drive?

13 A Within the flash drive, yes, sir.

14 Q Okay. Maybe I should phrase it a better way.
15 Outside of that flash drive, did you have any other
16 responsibilities with regard to any investigation in this case?

17 A Yes, sir.

18 Q Okay. Besides the flash drive or things associated
19 with that flash drive, what else did you do?

20 A I did look at the CD that was provided along with the
21 flash drive.

22 Q Okay. And where did that CD come from?

23 A That was from Detective Emery.

24 Q Okay. Do you know where she got that?

25 A No, sir.

1 Q Okay. There are email addresses that are listed in
2 some of the documents that you just testified to; correct?

3 A Yes, sir.

4 Q Okay. Did you ever do any rundown of those emails?
5 In other words, did you find IP addresses associated with
6 those?

7 A No, sir.

8 Q Okay. So you didn't do any further investigation as
9 to when a computer footprint might say that certain things were
10 sent or geolocation or who might have had control of those
11 computers or anything like that?

12 A Some of that information is contained within the
13 headers of the emails that were within the thumb drive.

14 Q Okay. All right. Did you track any of that down for
15 to see its correctness or anything like that?

16 A No, sir.

17 Q Okay. And you didn't generate any reports or do any
18 investigation regarding any of that data that may or may not
19 exist in that flash drive that we just talked about; right?

20 A Correct, sir.

21 Q Okay. So what was the last date that you did
22 anything on this particular case?

23 A It would have been the day that Detective Emery
24 brought me that thumb drive and the CD.

25 Q So you did one day in this case?

1 A Approximately, yeah, unless it took me an extra day
2 to type my report, sir.

3 Q Okay. So that would've been back in 2014?

4 A Yes, sir.

5 Q Okay. So you've done nothing in this case with
6 regard to any information in 2015?

7 A Correct, sir.

8 Q Nothing in 2016?

9 A Correct.

10 Q Nothing in 2017?

11 A Correct.

12 Q And in 2018, nothing except testifying here today?

13 A Correct, sir.

14 MR. FIGLER: Okay. No further questions.

15 THE COURT: All right. Any redirect?

16 MS. BLUTH: Your Honor, if you could just give me a
17 second. I'm missing something.

18 MR. FIGLER: I didn't take it.

19 MS. BLUTH: No, I know.

20 Can the parties approach briefly, Your Honor?

21 THE COURT: Sure.

22 MR. FIGLER: Be right there.

23 (Conference at the bench not recorded)

24 BY MS. BLUTH:

25 Q And I apologize, Detective, I forgot to print off one

1 of these. So I will show it to you on my computer, and then we
2 will mark it in a moment. So if you could just give me one
3 second.

4 THE COURT: And that will be, once it's printed out,
5 be marked next in order.

6 THE CLERK: 238.

7 THE COURT: Which is -- that will be marked as
8 State's 238.

9 Is that what you said?

10 THE CLERK: Yes.

11 (Colloquy off the record)

12 MS. BLUTH: I'm so sorry, Judge, but we're going to
13 ask to take a break for a second.

14 THE COURT: All right.

15 MS. BLUTH: I apologize.

16 THE COURT: Well, some of us may have needed a break
17 anyway.

18 Ladies and gentlemen, we're just going to go ahead
19 and take a break until 2:10.

20 During the brief recess, you're reminded you're not
21 to discuss the case or anything relating to the case with each
22 other or with anyone else. You're not to read, watch or listen
23 to any reports of or commentaries on the case, person or
24 subject matter relating to the case, and do not do any
25 independent research by way of the Internet or any other

1 medium, and please don't form or express an opinion on the
2 trial.

3 Please place your notepads in your chairs and follow
4 the bailiff through the double doors. We'll see you all back
5 at 2:10.

6 (Jury recessed 1:52 p.m.)

7 MR. FIGLER: Was there anything else on the record
8 that we needed to bring out?

9 THE COURT: I just wanted to -- I just wanted to
10 briefly say in response to the objection regarding the chain of
11 custody is, from what we saw with this witness, the majority of
12 the photos could have been authenticated by the children
13 themselves, who were the subject of the photos. So many of
14 those could have been authenticated by the children, and some
15 context might have been given in terms of the ones that were in
16 the Solander house.

17 So I would just note that would've been another way
18 for the State to get at least the photos in, not the emails,
19 but the photos themselves, which presumably were taken by one
20 of the adults in the Solander house, and I just wanted to state
21 that as well.

22 MR. FIGLER: Thank you, Your Honor. That was stated
23 up at the bench, and for the record, we have objection to
24 both -- well, all things that were obtained from the disc based
25 on the objections already made, including those emails, that

1 gave it either context or spin or something like that which
2 shaded the photos themselves. So I appreciate the bench is --

3 THE COURT: I mean, to be quite candid, I don't think
4 the emails and the content of the emails provided much more
5 impact to the photos given the subject matter of the photos,
6 and like I said, the children could identify themselves in the
7 photos, and some of them you could recognize the kitchen area
8 from previous photos that have already been admitted into
9 evidence as being taken within the Solander house. So I just
10 wanted to note that.

11 Ms. Bluth, do you want to email that exhibit to
12 Crystal so she can just print it out, and we can --

13 MS. BLUTH: There was, like, four that I -- I had
14 them printed out. I just --

15 THE COURT: Okay. Do you want to email those now?

16 MS. BLUTH: Yeah. I'm just putting them on a drive,
17 and that way -- because sometimes my email isn't working
18 efficiently.

19 THE COURT: Okay.

20 MS. BLUTH: So I was just going to go over there.

21 THE COURT: Either way, either show him the computer
22 and then print it out, and we'll mark those as next in order,
23 or print them out now, and we'll just use the printed out ones.

24 MS. BLUTH: Okay.

25 THE COURT: So if anybody needs to use the rest room.

1 (Proceedings recessed 1:54 p.m. to 2:11 p.m.)

2 (Outside the presence of the jury)

3 MR. FIGLER: -- make objection. We just have the
4 same objections, nothing new with regard to any additional
5 documents being introduced in this manner.

6 THE COURT: All right. Bring them in. I'm not sure
7 I understand what you --

8 MR. FIGLER: Oh, it's just that we had a new
9 objection with regard to Autumn but no new objection. It's the
10 same continuing objection.

11 THE COURT: Right.

12 MR. FIGLER: Okay.

13 THE COURT: That it's irrelevant and more prejudicial
14 than probative.

15 MR. FIGLER: As well as the chain of custody and the
16 expert witness, all of the above.

17 And the Court is just allowing them, instead of
18 reopening or recalling the witness, they're allowed to then
19 reopen direct. That was [unintelligible].

20 THE COURT: Right.

21 MR. FIGLER: So just indicate that to the jury
22 because this is not --

23 THE MARSHAL: All rise for the presence of the jury,
24 please.

25 MR. FIGLER: -- [unintelligible].

1 (Jury entering 2:12 p.m.)

2 THE COURT: All right. Court is now back in session.
3 Detective, you are, of course, still under oath.

4 And, Ms. Bluth, you may reopen your direct
5 examination to introduce these additional proposed exhibits.

6 MS. BLUTH: Okay. Thank you.

7 THE COURT: And you did, I believe, get those printed
8 out at the break; is that right?

9 MS. BLUTH: I did. Mr. Hamner is printing out one
10 additional one, but I have a couple to go through. I apologize
11 for that.

12 THE COURT: Okay. So those have been marked as
13 State's next in order; is that right?

14 MS. BLUTH: Yeah. So these are 238 through 242. And
15 before I approach the detective with that, there was one that I
16 wanted to go through that was already admitted, which was
17 State's 196.

18 CONTINUED DIRECT EXAMINATION

19 BY MS. BLUTH:

20 Q And that is on November 26th of 2012, from Janet to
21 Dwight, and I'm going to go through a series of photographs
22 that were attached to this email. So that would be the first
23 attachment. This would be the second attachment, and this
24 would be the third attachment. Is that correct?

25 A Yes, ma'am.

1 Q And now I'm going to approach you with the documents
2 that I was just talking about, 238 through 242. If you could
3 just thumb through those.

4 A Yes.

5 Q Are those fair and accurate copies of emails and
6 pictures that you got off of the flash drive we've been talking
7 about?

8 A Yes, ma'am.

9 MS. BLUTH: And, Your Honor, I move to admit into
10 evidence State's Proposed 238 through 242.

11 THE COURT: All right. Those will be admitted over
12 defense's continuing objection.

13 (State's Exhibit Numbers 238-242 admitted.)

14 BY MS. BLUTH:

15 Q Okay. And 242 is from Janet Hinton to Dwight
16 Solander on January 19th of 2012. The subject matter is
17 Autumn. And is this the photo that was associated with that
18 email?

19 A Yes, ma'am.

20 Q In regards to State's 241, this is an email from Info
21 at BedwettingStore.com on March 1st of 2011, to Dwight
22 Solander, and it's helpful alarm tips for your bedwetting
23 alarm; is that correct?

24 A Yes, ma'am.

25 Q State's 240, which is from Janet to Dwight, March

1 1st of 2013. Make sure you tell that bitch that I never told
2 her those kids could not have a teddy bear, and she needs to
3 stop judging before hearing the other side of the damn story.
4 Also, maybe if the bitch told me --

5 MR. FIGLER: Your Honor, the document speaks for
6 itself.

7 THE COURT: Overruled.
8 BY MS. BLUTH:

9 Q Also, maybe if the bitch told me that Anastasia was
10 sick, I would've made someone else clean up the poop. And kill
11 her with this one: I don't think she is in any position to
12 talk. Her sons don't even talk to her. Is that the subject
13 matter of that email?

14 A Yes, ma'am.

15 Q State's 238 is from Janet Hinton to Dwight Solander
16 on June 3rd, 2013. The subject matter is, 150 Isn't Going To
17 Be Enough. So I'm Not Going. This Is Not My Life Anymore.
18 And the substance of the email,

19 I don't like living this way when every
20 time I go somewhere it's a financial
21 struggle. I hate depending on this foster
22 care money because it makes me feel as if I
23 am on welfare. The cycle will never break
24 because we end up spending a massive amount
25 of money that we do not have on what these

1 kids need, and by the time my bills are paid,
2 there is nothing left for myself. Is that
3 correct?

4 A Yes, ma'am.

5 Q And then in a response email on that same day from
6 Dwight to Janet, a couple hours later at 6:03,

7 I can do \$200 and still be okay. I'll
8 put it in in the morning. You need to go.
9 That's why you went out there. I will be
10 very pissed off to find you did not go and
11 use a bunch of miles to get your first class
12 coming back.

13 I'm going to send a few pictures from
14 the laundry. We have a little problem, not
15 overly disgusting, but there needs to be some
16 hygiene lessons. I already talked to the
17 little girl and explained to her about it.
18 The older sister seems to be recycling her
19 stuff. She probably does not have very much
20 from what I saw, but she needs to be better
21 about cleaning. No smell, but it could get
22 nasty if left unchecked. Dwight Solander.

23 Is that correct?

24 A Yes, ma'am.

25 Q And then lastly, I'm approaching you with what's been

1 marked as Proposed Exhibit 243. Is that a receipt for a
2 purchase, and is that a fair and accurate depiction of what you
3 found on Dwight's email?

4 A Yes, ma'am.

5 MS. BLUTH: And, Your Honor, at this time, I'd move
6 to admit into evidence State's Proposed 243.

7 MR. FIGLER: Submitted.

8 THE COURT: All right. That'll be admitted.

9 (State's Exhibit Number 243 admitted.)

10 BY MS. BLUTH:

11 Q And this is December 8th of 2012, from customer
12 support at ET [unintelligible] supplies, dot, com, to Dwight
13 Solander, and that would be a purchase of what they're calling
14 [unintelligible] plus unisex intermittent catheter kits; is
15 that correct?

16 A Yes, ma'am.

17 Q And that was also found on Dwight's email?

18 A Yes, ma'am.

19 MS. BLUTH: Okay. And I appreciate the Court's
20 indulgence on that. That does conclude my direct examination.

21 THE COURT: All right. Any cross?

22 CONTINUED CROSS-EXAMINATION

23 BY MR. FIGLER:

24 Q All right. Detective, you're the one who went
25 through all these emails; correct?

1 A Yes, sir.

2 Q All right. I'm going to show you what's been
3 admitted now as State's 239. That was the email purportedly or
4 at least in the heading it says it was sent 6/3/2013, at
5 6:03 a.m.?

6 A Yes, sir.

7 Q Do you have with you the next email that came after
8 that? In order on Dwight's phone?

9 A Do I have it in order?

10 Q Or Dwight's computer. Yeah. Do you have it?

11 A I don't have it with me, no, sir.

12 Q How about the one right before it?

13 A No, sir.

14 Q Okay. Do you know if the one right after it or right
15 before was in this huge stack of documents that the State just
16 introduced?

17 A I believe she introduced the one that was right
18 before it.

19 Q Okay. And how about the one right before that? Do
20 you know if that's in the stack?

21 A I don't know, sir.

22 Q How about the one right afterwards? Do you know if
23 that's in the stack?

24 A No, sir.

25 Q Okay. Do you know how the emails that were

1 introduced into evidence were selected for introduction to the
2 jury?

3 A No, sir.

4 Q Can you tell me with any confidence that all the
5 emails that have been produced here are all the emails that you
6 reviewed, or did you review more emails even than what's in
7 that stack?

8 A [No audible response.]

9 Q How many emails in total did you review?

10 A I don't have an exact number. It was more than
11 what's in the stack.

12 Q More than what's in the stack?

13 A Yes, sir.

14 Q Okay. Could it have been double that stack?

15 A Possibly.

16 Q Maybe triple?

17 A Possibly.

18 Q Maybe quadruple?

19 A It's possible.

20 MR. FIGLER: Okay. No further questions.

21 THE COURT: Ms. Bluth.

22 REDIRECT EXAMINATION

23 BY MS. BLUTH:

24 Q Was there information on that email that had nothing
25 to do with this case?

1 A Can you be more specific.

2 Q Yeah. So like the files that were in Mr. Solander's
3 emails, were there documents in there in regards to his work or
4 health that had nothing to do with this case?

5 A Yes, ma'am.

6 Q And were there documents in regards to -- let's see.
7 Let me think about everything that was on there. So there was
8 work, like workplace-type documents as well; correct, for
9 Mr. Solander, for Dwight Solander?

10 A Could you rephrase that.

11 Q Yeah. Were there documents that he kept personally,
12 like, for his work, nothing to do with this case?

13 A Yes, ma'am.

14 Q And so those were not included in regards to that
15 stack?

16 A That is correct.

17 Q Were there also, like, health records for certain
18 members of the family?

19 A Yes, ma'am.

20 Q And did those have anything to do with this case to
21 your knowledge?

22 A I don't know.

23 Q Okay. And those weren't in those stack?

24 A Correct.

25 Q So there are things that are in that email that did

1 not come to court?

2 A Correct.

3 MS. BLUTH: Okay. Nothing further.

4 RECROSS-EXAMINATION

5 BY MR. FIGLER:

6 Q So who makes the decision what emails to present?
7 Was it Metro? Do they decide what's relevant and what's not
8 relevant?

9 A I don't know, sir.

10 MR. FIGLER: No further questions.

11 MS. BLUTH: Nothing further. Thank you, Judge.

12 THE COURT: Any juror questions for this witness?

13 All right, Detective, I see no additional questions.
14 Thank you for your testimony. Please do not discuss your
15 testimony with any other witness in this case. Thank you and
16 you are excused.

17 THE WITNESS: Thank you.

18 THE COURT: Is the State ready to call its next
19 witness?

20 MS. BLUTH: Yes, Your Honor. Thank you. The State
21 calls Debbie McClain.

22 MR. FIGLER: Your Honor, can we approach before we --

23 THE COURT: Sure.

24 (Conference at the bench not recorded)

25 THE COURT: Ma'am, my if you would please stand up,

1 this lady right here who is our court clerk will administer the
2 oath to you.

3 **DEBORAH MCCLAIN**

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

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

8 THE WITNESS: Deborah L. McClain. D-e-b-o-r-a-h.
9 McClain, M-c-C-l-a-i-n.

10 THE COURT: All right. Thank you.

11 And, Ms. Bluth, you may proceed.

12 **DIRECT EXAMINATION**

13 BY MS. BLUTH:

14 Q Good morning -- or, no, good afternoon, Ms. McClain.
15 How are you?

16 A I'm fine.

17 Q Okay. So I'd like to ask you some questions about
18 your daughters in a moment, but before I get there, I kind of
19 want to get some background information if you don't mind. So
20 are you retired now?

21 A Yes.

22 Q And what did you do for work before you were retired?

23 A I was doing foster care.

24 Q And what did you do in the foster care system?

25 A I took in kids that was having issues at home, that

1 was taken out of the home and took them in until they could be
2 placed back in the home or in another home.

3 Q Now, did you work within any agencies at any point
4 time?

5 A Yes.

6 Q Okay. And what agencies did you work with?

7 A Brighter Day, and Brighter Day name was changed. It
8 was something else before they named it Brighter Day.

9 Q But what did Brighter Day do?

10 A It took foster kids. It got kids from the county and
11 place them into foster homes.

12 Q And when you say, "it got kids from county," like
13 from a Child Haven type issue?

14 A Child Haven, yes.

15 Q Okay. All right. And how long did you work there?

16 A Several years with the agency.

17 Q Okay. And before you worked with the agency, what
18 did you do?

19 A I worked at Sunrise Hospital as a CNA.

20 Q Okay. And how long did you work in the hospital-type
21 setting for?

22 A Seven years at Sunrise.

23 Q Okay. And then after Sunrise, you worked for the
24 agency -- I apologize. Say the word again -- BrightStar?

25 A Brighter Day.

1 Q Brighter Day?

2 A Yes.

3 Q And how long did you work there for?

4 A Several years with them.

5 Q Okay. And then after you, like, formally retired
6 from them, did you become a foster mom as well?

7 A No. Well, after I retired from them, I was just
8 retiring. I mean, you know, not to work. I was just retiring
9 out of the workforce.

10 Q Okay. So but you were a foster mother while you were
11 working for that company as well?

12 A Yes. Yes. Because Brighter Day, Child Haven would
13 call them about kids that they have, that they have up at Child
14 Haven, and Brighter Day would, like, find homes for them to
15 place them in for temporary care until they could either get
16 back home with their family or go in to or be adopted.

17 THE COURT: Okay. So you were a foster home or
18 foster family, and you got placements through Brighter Day?

19 THE WITNESS: Yes. Yes.

20 THE COURT: Is that how that worked?

21 THE WITNESS: Yes.

22 THE COURT: Okay. But you didn't actually go into
23 work at, like, Brighter Day?

24 THE WITNESS: No. No. I'm sorry.

25 THE COURT: Okay.

1 BY MS. BLUTH:

2 Q That's okay. No. I think that was me that had it
3 confused. How many foster -- I'm going to say families
4 because, you know, sometimes children come in groups. So how
5 many different foster families did you have in your home?

6 A I could say anywhere between 25 or 30.

7 Q Okay. Now, this gets a little bit confusing because
8 there are name changes. So I'm going to ask you the original
9 names one time, and then from then on I'm going to ask you for
10 the adopted names; okay? But in March or between January and
11 March of 2009, did you become a foster home to Yarely Jiselle,
12 Jocelyn and Jaqueline Ramirez?

13 A Yes.

14 Q Okay. And from that point on -- from this point on,
15 I'm going to refer to them as Anastasia, Amaya and Ava just so
16 we can all stay on the same page if that's okay with you.

17 A Yes.

18 Q All right. Now, when the girls got to you, did you
19 know the reason that they had been removed from their
20 biological home?

21 A Not really because when I got -- when I got the
22 girls, they were with their grandma. They had been with the
23 grandma. So I assume -- well, what I was told, that the girls,
24 their mom had just left the girls at one of the neighbors, and
25 grandma went and got the girls, and she had them for a while

1 until they came into foster care.

2 Q Okay. When you're a foster parent, are you always
3 made privy to all of the, you know, the information surrounding
4 why the children are removed?

5 A Sometimes. It's according to how critical it is.
6 90 percent of the time, they'll tell you why the kids are there
7 in your home.

8 Q Okay.

9 A You know, so there won't be no issues going on with
10 other kids.

11 Q Sure. So Ava, Amaya and Anastasia had been removed
12 from their biological parents and gone to their grandma;
13 correct?

14 A Yes.

15 Q And then at some point they were at another foster
16 home for a brief period of time before they came to you; is
17 that right?

18 A Yes.

19 Q Okay. Now, when they get to you, how old are they?

20 A Anastasia was 4. Amaya was 5. And Ava was 6, 7.

21 Q Okay. And how long did you have them for?

22 A A year and a half.

23 Q All right. And I know this seems like a silly
24 question, but if I show you pictures of yourself and of the
25 girls, would you recognize them?

1 A Yes.

2 Q Showing you what's been marked -- actually one
3 second. I'm going to show you in a second what's been marked
4 as 184 and 227 through 237.

5 MS. BLUTH: I apologize, Judge. I thought I had
6 shown these to Ms. McAmis. So I'm just going to give her an
7 opportunity to look through them.

8 BY MS. BLUTH:

9 Q All right. And showing you a picture of yourself.

10 A Uh-huh.

11 Q Is that a fair and accurate depiction of what you
12 looked like when you took your driver's license photo?

13 A Yes.

14 MS. BLUTH: Okay. Your Honor, at this time I'd move
15 to admit into evidence State's 184.

16 THE COURT: Any objection?

17 MS. MCAMIS: None.

18 THE COURT: All right. 184 is admitted.

19 (State's Exhibit Number 184 admitted.)

20 BY MS. BLUTH:

21 Q And then did you in your pretrial did I ask you if
22 you could bring me some photos of the children while they were
23 in your care?

24 A Yes.

25 Q And are these photos 227 through 237, photos that you

1 had?

2 A Yes.

3 Q Okay. And would you just thumb through those to make

4 sure that I have the right ones.

5 A Okay.

6 Q And let me know if those are a fair and accurate

7 depiction of the photos that you provided me of the girls.

8 A Yes. I'm slow here.

9 Q That's okay. We've been here for weeks.

10 THE COURT: Literally.

11 THE WITNESS: Yes.

12 MS. BLUTH: Okay. Thank you so much.

13 At this point, Your Honor, I'd move for admission.

14 THE COURT: Any objection?

15 MS. MCAMIS: Submitted.

16 THE COURT: Those will all be admitted.

17 (State's Exhibit Numbers 227-237 admitted.)

18 MS. BLUTH: All right.

19 THE CLERK: I'm sorry. 227 through --

20 MS. BLUTH: 237.

21 THE CLERK: 237.

22 MS. BLUTH: And then before that it was 184.

23 THE CLERK: 184. Thank you.

24 MS. BLUTH: Yeah. Thank you.

25 / / /

1 BY MS. BLUTH:

2 Q All right. So I'm going to publish these photos in a
3 second, but I want to ask you a few questions about the girls.
4 So and I'm going to go by oldest to youngest if you don't mind.

5 A Okay.

6 Q So I'm going to ask you some questions about Ava.

7 A Okay.

8 Q So when you had her for that year and a half type
9 period, can you explain Ava's demeanor, her personality.

10 A It was pretty mild. She's pretty mellow. She didn't
11 rile too quick, you know. She was just easy, you know. She
12 was more of an introvert, but she was just an easy person to
13 talk to.

14 Q Out of the three, is she the loudest, the quietest?
15 What would you say?

16 A She is the quietest.

17 Q Okay. And what types of things did she like to do
18 for fun?

19 A She was in to sports.

20 Q Okay.

21 A She liked playing basketball. She liked playing
22 kickball, and she was in to sports. I showed her how to skate.

23 Q Okay. Showing you State's Proposed 227, could you
24 tell us -- I'm going to put my finger on it if you don't mind.
25 Starting with the little girl on the left, who's that?

1 A That's Ava.

2 Q Who's in the middle?

3 A That's Jiselle -- Anastasia.

4 Q And who's this on the right?

5 A And that's Jaqueline.

6 Q Okay. And Jaqueline is Amaya?

7 A Amaya.

8 Q I know. It's hard. It's hard. But we are just --
9 we're going to keep going through it. Okay. And now I'm
10 showing you State's 228. Who are these adults with them?

11 A Okay. To the left, that's with Amaya. That's
12 grandma. That's the grandma, Yolanda.

13 Q Okay. And then here.

14 A With Anastasia, that's the Aunt Jessica.

15 Q Okay.

16 A And with Ava, that's their Aunt Yolanda.

17 Q Okay. All right. So now tell me a little bit, same
18 kind of question, personality, demeanor of Amaya, which would
19 be the middle child.

20 A Oh, Amaya was pretty feisty. Yeah, she had a very
21 open personality that where she would tell you how she feels,
22 you know, but she had a lot of energy. She wouldn't go for --
23 you know, you can't just sit down and tell her anything. You
24 have to just sit down -- when you talk to Amaya, you have to
25 talk to Amaya, you know, because she's very sensitive, very

1 sensitive, but she had -- you know, she would take a picture of
2 this whole room, and she could just about tell you everything
3 that's in here just by, you know, by memory. You know, because
4 she pays attention to a lot of details.

5 Q Okay. Now, you said she was feisty. When you use
6 the word feisty, are we talking -- like, tell me the level of
7 feistiness. Are we talking about something you couldn't
8 control or what would you say about that?

9 A You could control it, but you had to know how. When
10 Amaya gets kind of riled, you have to know. You can't argue or
11 fuss back with her. You have to talk with her in a calm manner
12 where she would, you know, because if you argue with her, it's
13 going to blow up out of control.

14 Q Okay.

15 A So you have to give her time out. Okay. Amaya, take
16 time out. Go sit down and think about it. Then we'll come
17 back, and we'll talk about it, and that's how you have to deal
18 with Amaya because then other than that -- and then she'll say
19 I'm ready come and you can talk to her.

20 Q Okay. And now let's talk about Anastasia, the baby
21 of the three.

22 A Yeah.

23 Q Tell us about her.

24 A Oh, Anastasia, she was just loving. She's just a
25 typical little girl. She like her bike. She had a Big Wheel

1 that was kind of like we taped together, but she loved the big
2 wheel. She would ride it. Then the little wheel would -- not
3 the wheel, but the handle would fall off, and I'd have to tape
4 it back together for her to ride it down the street, you know,
5 but she liked -- the little girl likes -- I bought her the
6 little plastic glass Cinderella shoes. They clack around in
7 that house [unintelligible], and she liked dolls. She loves
8 the dolls and everything, and she liked playing makeup, dress
9 up, and I used to let her go in the bathroom, and she had a
10 little makeup kit, a kid's makeup kit, and she'd put that up.

11 Q Is she shy like Ava or is she a little bit talkative?

12 A She's a lot talkative.

13 Q Okay. Now, when the girls were with you, they would
14 go to therapy, and they had therapists and counselors that
15 worked with them on some of the things that they had seen and
16 been through?

17 A Yes.

18 Q Okay. Now, when you would have to discipline the
19 three --

20 I imagine there were times when you had to discipline
21 them?

22 A Yes.

23 Q -- what type of discipline would you use with Ava?

24 A With Ava, I would just, like, she can't go out to
25 play sports because she likes to play sports, and her thing

1 is -- so Ava was like I just -- it wasn't too much of nothing
2 because she really wouldn't get in trouble a lot. You know,
3 Ava kind of was, like I said, she's kind of shy, but, you know,
4 usually she was kind of careful about what she did. She didn't
5 want to get -- she didn't like getting in trouble.

6 Q Okay.

7 A So, you know, with her I would probably take
8 something away, the reading, because she loved reading. She
9 used to read a lot, and so I said okay, all right, but I didn't
10 take her reading away from her because that was her out in a
11 way. So it was kind of hard to really punish her because like
12 I said, she didn't really get in trouble a lot, you know, so --

13 Q Okay. Now, what about Amaya?

14 A Maya, she got in trouble.

15 Q Okay.

16 A You know, but she was busy, you know. Like Amaya,
17 you know, and she was always, like, mother hen to the other two
18 girls too. You know, she was always trying to take care of
19 them and protect them and, you know, so but she got in trouble.
20 She'd like to talk, you know, and like I said, with Amaya, you
21 have to be very careful with her because if you start yelling
22 and screaming at her, then she'll shut down, and you won't get
23 nothing, no response out of her. So you've got to kind of let
24 her simmer down some and let it come back to her, and if you
25 tell her you're going to come back to her, she'll go along with

1 that.

2 Q So how would you discipline her if you had to?

3 A Oh, I'd take away her stuff. I'd take away her toys
4 or something like that because that was special to Amaya. If
5 you take her toys or, you know, like sometimes -- sometimes she
6 wouldn't -- you know, she don't really care about that, but,
7 like, if we go to the store and I say, okay, everybody could
8 get a candy or something like that, now that hurt her feelings
9 if I say you can't have one because you know that's her
10 punishment.

11 Because, like, if I take away her doll, she'll be
12 like, oh, okay. You know, but if I take away, like if we go to
13 the store for certain things, you know, for goodies, then that
14 kind of --

15 Q She likes her treats?

16 A Yeah, she likes her goodies.

17 Q Okay. And then how would you discipline Anastasia if
18 you had to?

19 A I would take her toys away from her, and that hurt
20 her feelings. You know, she can't ride that Big Wheel, that
21 really hurt her feelings.

22 Q Okay. But each of the techniques in which you
23 discipline the children, did those methods work with them?

24 A Yeah.

25 Q Did you ever have to use physical discipline in any

1 way towards them?

2 A No.

3 Q When the girls came to you, were there any toileting
4 issues with any of the girls? And when I say toileting issues,
5 I mean either bedwetting or daytime urine accidents or pooping
6 accidents.

7 A Well, Anastasia, she wet the bed, but the other two
8 no, I didn't have no problems with them.

9 Q Okay. And then what about eating? Were they on a
10 special diet, or did you give them what you eat, like regular
11 food?

12 A I gave them what we ate.

13 Q What types of food would you cook back then?

14 A Oh, fried chicken, neck bones.

15 Q What was the second thing?

16 A Fried chicken, neck bones. Neck bones and --

17 Q What is it, neck bones?

18 A Yeah, neck bones.

19 Q Weird.

20 A And they like it, you know, and they eat cornbread
21 and, you know, beans.

22 THE COURT: Can I move in?

23 THE WITNESS: Yeah, and, you know, tacos and
24 burritos, you know, because my mother was from Texas. So we
25 ate a lot of Mexican food too. So, you know, and I fix a