

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

2 JANET SOLANDER,)

CASE NO. 76228

3 Appellant,)

Electronically Filed
Apr 17 2019 09:28 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

4 vs.)

VOLUME XVIII

5 THE STATE OF NEVADA,)

6 Respondent.)

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

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

9 KRISTINA WILDEVELD, ESQ.

STEVEN B. WOLFSON

Nevada Bar No. 005825

Nevada Bar No. 001565

10 CAITLYN MCAMIS, ESQ.

District Attorney

Nevada Bar No. 012616

STEVEN OWENS

11 The Law Offices of Kristina Wildeveld
& Associates

Nevada Bar No. 004352

Chief Deputy District Attorney

12 550 E. Charleston Blvd., Suite A

Office of the District Attorney

Las Vegas, Nevada 89104

200 Lewis Ave., Third Floor

13 (702) 222-0007

Las Vegas, NV 89155

(702) 671-2750

14 AARON FORD

15 Nevada Bar No. 007704

Nevada Attorney General

555 E. Washington Ave., Ste. 3900

Las Vegas, Nevada 89101

17 (702) 486-3420

18 *Attorneys for Appellant*

Attorneys for Respondent

INDEX

<u>VOL. NO.</u>	<u>DOCUMENT</u>	<u>PAGE NO.</u>
III	Amended Information filed February 6, 2018	0622-0637
XXII	Defendant's Proposed Jury Instructions Not Used at Trial filed March 12, 2018.....	5281-5293
III	Excerpt of Proceedings: Jury Trial – Day 1 heard February 5, 2018 filed August 28, 2018.....	0560-0579
III	Excerpt of Proceedings: Jury Trial – Day 2 heard February 6, 2018 filed August 28, 2018.....	0580-0621
I	Findings of Fact, Conclusions of Law and Order filed June 17, 2015.....	0074-0080
I	Information filed July 28, 2014.....	0001-0019
XXII	Instructions to the Jury filed March 13, 2018	5310-5363
I	Joinder to Defendant Dwight Solander's Motion to Suppress filed January 22, 2018.....	0143-0144
XXII	Judgment of Conviction (Jury Trial) filed June 22, 2018.....	5493-5498
I	Motion to Strike Notice of Expert Witness filed January 26, 2018.....	0192-0197
I	Motion to Suppress Evidence filed January 22, 2018.....	0145-0152
I	Notice of Appeal filed March 30, 2015	0071-0073
XXII	Notice of Appeal filed June 21, 2018	5491-5492
I	Opposition to State's Notice of Motion and Motion to Admit Evidence of Defendants Janet and Dwight Solander's Abuse of the Foster Children in their Home filed January 18, 2018.....	0128-0142
I	Order of Reversal and Remand filed April 19, 2016 ..	0081-0090

1	I	Petition for Writ of Habeas Corpus filed	
2		November 5, 2014	0028-0046
3	I	Recorder's Transcript of Proceedings: Calendar Call; State's	
4		Motion to Admit Evidence of Defendant Janet and Dwight	
		Solander's Abuse of Foster Children in their Home heard	
		January 23, 2018 filed July 27, 2018.....	0156-0191
5	I	Recorder's Transcript of Hearing: Further Proceedings:	
6		Continue Trial Date heard January 29, 2018 filed August 28,	
		2018.....	0198-250
7	II	Recorder's Transcript of Hearing: Further Proceedings:	
8		Continue Trial Date heard January 29, 2018 filed August 28,	
		2018 (continuation).....	0251-0252
9	II	Recorder's Partial Transcript of Proceedings: Joinder to	
10		Defendant Dwight Solander's Motion to Suppress, State's	
		Motion to Quash Dr. Sandra Cetl's and Jacqueline Bluth's	
11		Subpoena Duces Tecum heard February 1, 2018 filed August	
		10, 2018.....	0423-0500
12	III	Recorder's Partial Transcript of Proceedings: Joinder to	
13		Defendant Dwight Solander's Motion to Suppress, State's	
		Motion to Quash Dr. Sandra Cetl's and Jacqueline Bluth's	
14		Subpoena Duces Tecum heard February 1, 2018 filed August	
		10, 2018 (continuation).....	0501-0543
15	XXII	Recorder's Transcript of Proceeding: Sentencing heard June 5,	
		2018 filed July 24, 2018.....	5423-5490
16	XXII	Sentencing Memorandum filed June 1, 2018	5375-5422
17	I	State's Bench Memorandum Pursuant to Court's Request	
18		Regarding Issue in Pretrial Writs of Habeas Corpus filed	
		October 15, 2014	0020-0027
19	I	State's Notice of Expert Witnesses [NRS 174.234(2)] filed	
		January 4, 2018.....	0091-0096
20	I	State's Notice of Witnesses [NRS 174.234(1)(a)] filed	

1		January 9, 2018.....0125-0127
2	I	State’s Notice of Motion and Motion to Admit Evidence of
3		Defendants Janet and Dwight Solander’s Abuse of the Foster
		Children in their Home filed January 8, 2018.....0097-0124
4	I	State’s Opposition and Motion to Dismiss Defendant’s Petition
		for Writ of Habeas Corpus filed November 19, 2014 .0047-0052
5	III	State’s Opposition to Defendant Janet Solander’s Joinder to
6		Dwight Solander’s Motion to Suppress Evidence filed February
		1, 2018.....0544-0553
7	III	State’s Opposition to Defendant’s Motion to Strike the State’s
		Experts filed February 2, 2018.....0554-0559
8	I	State’s Return to Writ of Habeas Corpus filed December 17,
9		2014.....0053-0070
10	I	State’s Supplemental Notice of Witnesses [NRS 174.234(1)(a)]
		filed January 22, 2018.....0153-0155
11	II	Transcript of Proceedings: Evidentiary Hearing – Day 1
12		Excerpt heard January 31, 2018 filed
		February 13, 20180253-0371
13	II	Transcript of Proceedings: Evidentiary Hearing – Day 2
14		Excerpt heard February 1, 2018 filed
		February 13, 20180372-0422
15	III	Transcript of Proceedings: Jury Trial – Day 4 heard February
		15, 2018 filed August 28, 20180638-0750
16	IV	Transcript of Proceedings: Jury Trial – Day 4 heard February
17		15, 2018 filed August 28, 2018 (continuation)0751-0845
18	IV	Transcript of Proceedings: Jury Trial – Day 5 heard February
		16, 2018 filed August 28, 20180846-1000
19	V	Transcript of Proceedings: Jury Trial – Day 5 heard February
20		16, 2018 filed August 28, 2018 (continuation)1001-1172

1	V	Transcript of Proceedings: Jury Trial – Day 6 heard February 20, 2018 filed August 28, 20181173-1250
2	VI	Transcript of Proceedings: Jury Trial – Day 6 heard February
3		20, 2018 filed August 28, 2018 (continuation)1251-1433
4	VI	Transcript of Proceedings: Jury Trial – Day 7 heard February
5		21, 2018 filed August 28, 20181434-1500
6	VII	Transcript of Proceedings: Jury Trial – Day 7 heard February
7		21, 2018 filed August 28, 2018 (continuation)1501-1706
8	VII	Transcript of Proceedings: Jury Trial – Day 8 heard February
9		22, 2018 filed August 28, 20181707-1750
10	VIII	Transcript of Proceedings: Jury Trial – Day 8 heard February
11		22, 2018 filed August 28, 2018 (continuation)1751-1936
12	VIII	Transcript of Proceedings: Jury Trial – Day 9 heard February
13		23, 2018 filed August 28, 20181937-2000
14	IX	Transcript of Proceedings: Jury Trial – Day 9 heard February
15		23, 2018 filed August 28, 2018 (continuation)2001-2226
16	IX	Transcript of Proceedings: Jury Trial – Day 10 heard February
17		26, 2018 filed August 28, 20182227-2250
18	X	Transcript of Proceedings: Jury Trial – Day 10 heard February
19		26, 2018 filed August 28, 2018 (continuation)2251-2500
20	XI	Transcript of Proceedings: Jury Trial – Day 10 heard February
		26, 2018 filed August 28, 2018 (continuation)2501-2552
	XI	Transcript of Proceedings: Jury Trial – Day 11 heard February
		27, 2018 filed September 18, 2018.....2553-2750
	XII	Transcript of Proceedings: Jury Trial – Day 11 heard February
		27, 2018 filed September 18, 2018 (continuation).....2751-2757
	XII	Transcript of Proceedings: Jury Trial – Day 12 heard February
		28, 2018 filed September 18, 2018.....2758-3000

1	XIII	Transcript of Proceedings: Jury Trial – Day 12 heard February 28, 2018 filed September 18, 2018 (continuation).....3001-3076
2		
3	XIII	Transcript of Proceedings: Jury Trial – Day 13 heard March 1, 2018 filed August 28, 20183077-3250
4	XIV	Transcript of Proceedings: Jury Trial – Day 13 heard March 1, 2018 filed August 28, 2018 (continuation)3251-3363
5		
6	XIV	Transcript of Proceedings: Jury Trial – Day 14 heard March 2, 2018 filed September 5, 20183364-3500
7	XV	Transcript of Proceedings: Jury Trial – Day 14 heard March 2, 2018 filed September 5, 2018 (continuation)3501-3664
8	XV	Transcript of Proceedings: Jury Trial – Day 15 heard March 5, 2018 filed September 5, 20183665-3750
9		
10	XVI	Transcript of Proceedings: Jury Trial – Day 15 heard March 5, 2018 filed September 5, 2018 (continuation)3751-3947
11	XVI	Transcript of Proceedings: Jury Trial – Day 16 heard March 6, 2018 filed September 18, 20183948-4000
12		
13	XVII	Transcript of Proceedings: Jury Trial – Day 16 heard March 6, 2018 filed September 18, 2018 (continuation)4001-4149
14	XVII	Transcript of Proceedings: Jury Trial – Day 17 heard March 7, 2018 filed August 28, 20184150-4250
15		
16	XVIII	Transcript of Proceedings: Jury Trial – Day 17 heard March 7, 2018 filed August 28, 2018 (continuation)4251-4379
17	XVIII	Transcript of Proceedings: Jury Trial – Day 18 heard March 8, 2018 filed September 18, 20184380-4500
18		
19	XIX	Transcript of Proceedings: Jury Trial – Day 18 heard March 8, 2018 filed September 18, 2018 (continuation)4501-4601
20	XIX	Transcript of Proceedings: Jury Trial – Day 19 heard March 9, 2018 filed September 18, 20184602-4750

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

XX	Transcript of Proceedings: Jury Trial – Day 19 heard March 9, 2018 filed September 18, 2018 (continuation)	4751-4914
XX	Transcript of Proceedings: Jury Trial – Day 20 heard March 12, 2018 filed September 18, 2018	4915-5000
XXI	Transcript of Proceedings: Jury Trial – Day 20 heard March 12, 2018 filed September 18, 2018 (continuation)	5001-5250
XXII	Transcript of Proceedings: Jury Trial – Day 20 heard March 12, 2018 filed September 18, 2018 (continuation)	5251-5280
XXII	Transcript of Proceedings: Jury Trial – Day 21 heard March 13, 2018 filed September 18, 2018	5294-5309
XXII	Verdict filed March 13, 2018	5364-5374

1 A It was on her legs and her face and arms.

2 Q Okay. Did you --

3 A And her face and arms. Yes.

4 Q What did you -- did you recommend anything for it?

5 Or what did you kind of determine it to be?

6 A Just skin care instructions.

7 Q Okay. Any complaints at this time as far as any

8 other further complications with bedwetting? I know you

9 recommended the medicine the last time.

10 A Nothing reported at that time.

11 Q Do you see her on May 25th, 2010 at this time?

12 A Yes.

13 Q Okay. What is she coming in for?

14 A It was for a well checkup.

15 Q Did everything appear normal or was there anything

16 out of the ordinary?

17 A Everything was normal.

18 Q A month later -- or not a month later, about two

19 weeks later on June 10th, 2010, does she come in at that

20 time?

21 A Yes.

22 Q And what is she coming in for?

23 A That was for a physical.

24 Q Okay. Anything -- everything normal; abnormal?

25 What do you remember?

1 A It was just a well checkup.

2 Q Turning your attention to July 15th, 2010, does the
3 child come back, does Anastasia come back or Yarely come back
4 into your office?

5 A Yes. It says she has problems controlling her
6 bladder.

7 Q Okay. Is it --

8 A For a few --

9 Q Go ahead.

10 A It says for a few weeks, day and night. No pain to
11 urinate.

12 Q And this is July of 2010, is that right?

13 A Yeah. July 15, 2010.

14 Q Okay. Does -- is it explained kind of what sort of
15 steps are being taken to maybe kind of cure the situation or
16 help with rectifying the urinating?

17 A I did check the urine. The urine was normal. Urine
18 analysis done in the office was normal. I did send some urine
19 culture. That was normal. Then I sent her or referred her to
20 a pediatric urologist at that time.

21 Q Okay. And ultimately did you kind of review some
22 records from the urologist that saw her?

23 A Uh, yes.

24 Q Was that a Dr. Clare Close?

25 A Dr. Clare Close. Everything was normal.

1 Q Okay. So did they -- let me ask you this. You saw
2 the child on August 16th, 2010, is that right?

3 A That's correct.

4 Q And by that time you had gotten the results back
5 from the urologist, is that right?

6 A I don't remember exactly the date when we got the
7 results.

8 Q Well, I'm not asking you the date, but by the time
9 you saw her on August 16th of 2010, you had received reports
10 back from the urologist about the tests that were performed?

11 A Yes.

12 Q Had the urologist at that point ruled out all
13 organic causes of the enuresis?

14 A Yes.

15 Q Okay. So when we say organic causes, is that things
16 like physical abnormalities in the bowel?

17 A Yes.

18 Q Does that involve things like having a twisted
19 bowel?

20 A Yeah. Any, you know, urinary bladder problems.
21 Everything was ruled out.

22 Q Okay. Was the kidney also examined as well?

23 A Yes.

24 Q Okay. And was that normal?

25 A Yes.

1 Q So at this point did you make some recommendations
2 kind of going forward for her?

3 A I recommended continuing the medication, DDAVP, and
4 I did order some blood work during that visit.

5 Q Okay. In October on October 30th, 2010, does
6 Yarely, aka Anastasia, come in to see you again?

7 A Yes.

8 Q Okay. What is she coming in for?

9 A That was for a physical.

10 Q Okay. Any other complaints reported or was it just
11 kind of a physical checkup?

12 A It was just a physical checkup.

13 Q Okay. And was everything normal? Was there things
14 that were abnormal when you did this physical checkup?

15 A No, everything was normal.

16 Q During the times that you met kind of all these
17 kids, did you have any notations that the kids were acting
18 like out of control or anything like that, or was it all
19 pretty normal when you -- these kids came in your office?

20 A No, they were all normal.

21 Q Okay. And to be clear, I know we kind of did this
22 in reverse chronological order, but ultimately you did see
23 Anastasia in March of 2014 for a checkup with Ms. McClain and
24 everything was normal?

25 A Yes.

1 MR. HAMNER: Okay. I have no further questions at
2 this time.

3 THE COURT: All right. Ms. McAmis, cross?

4 MS. McAMIS: Yes. Thank you.

5 CROSS-EXAMINATION

6 BY MS. McAMIS:

7 Q Dr. Stephen, can you hear me?

8 A Yes.

9 Q Okay, thank you. All right. So you testified that
10 you were the pediatrician for the girls who came to be known
11 as Ava, Amaya and Anastasia; correct?

12 A Yes.

13 Q And you saw them between the period of June of 2009
14 through -- it looks like the latest contact would have been
15 October of 2010 and then again beginning in March of 2014;
16 correct?

17 A Yes.

18 Q Okay. Now, you did office visits, wellness checks
19 on each of the visits that the prosecutor asked you about;
20 right?

21 A Yes.

22 Q Okay. And you talked about what the limits were to
23 your body checks; right?

24 A Yes.

25 Q Okay. So you did not conduct a physical examination

1 of either Ava, Amaya or Anastasia's buttocks area; correct?

2 A No, I haven't.

3 Q Okay. And so none of your office notes from the
4 June 2009 through October 2010 reflect any notation either
5 way that there were or were not scars as to the children's
6 buttocks; correct?

7 A No.

8 Q Okay. Now, you testified about the period of time
9 where each of the girls were brought in by the foster mother,
10 Debbie McClain; correct?

11 A Yes.

12 Q Okay. And when you were interacting with Debbie
13 McClain, that was the person who was the historian for all
14 of the information you were getting about the girls; right?

15 A Yes.

16 Q Okay. Because the girls were younger, you were
17 getting the medical background primarily from Debbie; correct?

18 A Yes. I talked to the patients, too. If they are
19 able to talk, I talk to the patients, too.

20 Q Sure. But they were a little bit younger at that
21 time; right?

22 A Yes.

23 Q Like the youngest was six years old?

24 A Yes.

25 Q Okay. So Debbie McClain didn't disclose anything

1 to you about the girls being in Hope Counseling or Agape
2 Counseling Services; correct?

3 A No.

4 Q Okay. And if she had disclosed that, you would have
5 put that in your notes; correct?

6 A Yes.

7 Q Okay. And so Debbie McClain didn't bring you any
8 of the girls' counseling or other medical records; right?

9 A No.

10 Q Okay. And then is it accurate to say that you
11 received no medical records from a Dr. Lisa Shaffer as to the
12 middle girl, Amaya, aka Jacqueline?

13 A Not that I remember. What kind of doctor is that?

14 Q Dr. Shaffer, a psychologist or a psychiatrist.

15 A No.

16 Q Okay. You just don't have that notated anywhere
17 that Debbie McClain disclosed that or provided medical records
18 from Dr. Shaffer to you?

19 A No.

20 Q Okay. All right. So I want to direct your
21 attention to specifically the youngest girl, Yarely, who came
22 to be known as Anastasia, and an office visit that you had
23 with her on October 23rd, 2009. And you've had an opportunity
24 now to review your notes about that office visit; correct?

25 A Yes.

1 Q Okay. And at that time in October of 2009, the
2 child had been brought in by her foster mother, Debbie
3 McClain; right?

4 A Yes.

5 Q Okay. And there was a discussion or counseling,
6 as you referred to it in your notes, about talking about the
7 cause for urinating at nighttime; correct?

8 A Yes.

9 Q And you made a recommendation for a medication that
10 you testified about, DDAVP; correct?

11 A Yes.

12 Q And you also noted in your October 23rd, 2009
13 counseling and plan discussion that you talked with Debbie
14 about bedwetting alarms, behavioral management and scheduled
15 voiding during the day; correct?

16 A Yes.

17 Q And you saw that in your notes on page 2. I read
18 that correctly from your own notes; correct?

19 A Yes.

20 Q Okay. And so you also indicated handouts were given
21 to Debbie and then you started young Yarely, aka Anastasia,
22 on DDAVP .2 milligrams. And then could you -- Doctor, it says
23 .2 milligrams, p.o. q.h.s. What does that mean?

24 A To take at bedtime.

25 Q Okay. So you prescribed DDAVP at bedtime for this

1 child with two refills; correct?

2 A Yes.

3 Q Did Ms. Debbie ever tell you that she refused to
4 give the DDAVP to Yarely, aka Anastasia --

5 A I don't recall.

6 Q -- at any subsequent office visit?

7 A I don't recall.

8 Q Okay. Do your notes reflect that Debbie disclosed
9 to you that she refused to give this child the DDAVP
10 prescription?

11 A Where does it say that?

12 Q No, that's my question to you. When you're
13 reviewing your notes, do you have any discussion about Debbie
14 McClain refusing to give Yarely, aka Anastasia, the DDAVP?

15 A No, I don't. I don't remember. I don't see it.

16 Q Okay. You just don't see it in your notes?

17 A No.

18 Q Okay. Now, you were asked questions about office
19 visits with the children again in March of 2014; right?

20 A Yes.

21 Q And specifically you had an office visit with a
22 physical examination of them on March 25th of 2014; right?

23 A Yes.

24 Q And so that would have also been a wellness check
25 with a physical examination; right?

1 A Yes.

2 Q And you would have done that as to each of the three
3 girls, Ava, Amaya and Anastasia; correct?

4 A Yes.

5 Q All right. And as to the eldest one, Ava, after you
6 did your physical examination isn't it accurate to say that
7 you made no notation in your records about any scars as to
8 this child?

9 A I'm sorry, what was your question?

10 Q In March of 2014, the March 25th, 2014 office visit,
11 directing your attention to that --

12 A Uh-huh.

13 Q -- as to Ava, isn't it accurate to say that you made
14 no notes in your medical records that Ava had any scarring on
15 her body?

16 A Yes.

17 Q Okay, so that's correct, there were no notes of any
18 scarring?

19 A No.

20 Q All right. And as to Amaya, the middle child, the
21 same office visit on March 25th, 2014, in conducting your
22 physical examination of that child and entering your notes,
23 you also noted no scarring as to that child after a body
24 check; correct?

25 A Yes.

1 Q Okay. And then as to the last child, Anastasia, on
2 that same March 25th, 2014 office visit, after you did your
3 body check, the physical examination of this child, you noted
4 no scarring on that child; correct?

5 A Yes.

6 Q Including no scarring or marking at all of any kind
7 on that child's ear, either of them; correct?

8 A Yes.

9 Q Okay. And so after I asked you to testify about
10 all of those, isn't it accurate to say that you were reviewing
11 your records to check for that accuracy; right?

12 A Yes.

13 Q Okay. And so the word scar does not appear on any
14 of the March 25th, 2014 reports as to Ava, Amaya or Anastasia?

15 A Yes.

16 Q Okay. Now, I want to direct your attention back to
17 the later visits in 2010 with Ava, Amaya and Anastasia when
18 they came in with their adoptive mother or foster-to-adopt
19 mother, Janet. You recall having at least a few visits with
20 Janet at that time and the girls; right?

21 A Yes.

22 Q Okay. And you're a mandatory reporter; correct?

23 A Yes.

24 Q And you understand that means that if you have even
25 a suspicion of child abuse or neglect, then you have a legal

1 obligation to call the authorities, CPS or law enforcement, to
2 report your suspicions; correct?

3 A Yes.

4 Q And after your office visits with the children when
5 they were brought in by Janet Solander, you made no such
6 referrals to CPS or law enforcement; correct?

7 A No, I haven't.

8 Q Right. You saw nothing that triggered your
9 mandatory duty as a mandatory reporter to report anything;
10 right?

11 A Yes.

12 Q And if you could clarify for me, Doctor, the rash
13 that you were asked to testify about as to Anastasia in 2009,
14 that rash on the child was when she was in the care of the
15 foster mother, Debbie McClain; correct?

16 A Which date was that?

17 Q Give me just a moment, Doctor. Doctor, isn't it
18 correct you remember testifying on direct as to a rash that
19 was on the child, Anastasia, and that you had to prescribe
20 a cream for it; right?

21 A Yes.

22 Q All right, and I misspoke. You testified about the
23 middle child, Amaya, having the rash; right?

24 A Uh --

25 Q If I could direct your attention to the June 10th,

1 2010 entry for Jocelyn.

2 MR. FIGLER: Court's indulgence.

3 BY MS. McAMIS:

4 Q All right. So, Doctor, I had asked you questions
5 but I wanted to clarify. This is my actual question. If I
6 could direct your attention to the note you made for Yarely
7 Ramirez, aka Anastasia, on May 4th of 2010. You saw Yarely
8 for ringworm; correct?

9 A Yes.

10 Q Okay. And so you treated her for an evaluation of
11 a rash related to the ringworm in May of 2010; correct?

12 A Yes.

13 Q And that was when she was in the care of the foster
14 mother, Debbie McClain; correct?

15 A Yes.

16 MS. McAMIS: Okay. All right, I have no further
17 questions.

18 THE COURT: All right. Any redirect?

19 MR. HAMNER: Yeah, briefly, Your Honor.

20 REDIRECT EXAMINATION

21 BY MR. HAMNER:

22 Q Let's -- I want to turn your attention, Doctor, if
23 you can go back to, with respect to Yarely, the October 23rd,
24 2009 visit. You were asked some questions about the
25 bedwetting and the things that you talked with Ms. McClain

1 about going forward. Do you remember that being asked to you
2 on cross-examination?

3 A Uh, yes.

4 Q Okay. So you remember on cross-examination when
5 counsel started to ask you about such as bedwetting alarms
6 with Ms. McClain. Do you remember that?

7 A Yes.

8 Q Okay, you remember her asking you that question.
9 What did you mean when you noted bedwetting alarms?

10 A Yeah, that bedwetting alarm was discussed.

11 Q Yes. So what does that mean?

12 THE COURT: What's a bedwetting alarm?

13 THE WITNESS: There is an alarm for, you know, deep
14 sleepers and bedwetters. They can use an alarm to alert when
15 their bladder is full, and when they are starting to wet the
16 bed they can go and, you know, go to the restroom.

17 THE COURT: So it wakes them up?

18 THE WITNESS: Yeah, it wakes them up.

19 BY MR. HAMNER:

20 Q Okay. So it's not a lock on the door, is it?

21 A No, no.

22 Q Does it involve -- do these alarms involve gates to
23 put in front of bathrooms?

24 A No.

25 MS. McAMIS: Well, objection. Argumentative.

1 THE WITNESS: No. It's just like a vibration.
2 MR. HAMNER: I want to know what was being talked
3 about.
4 MS. McAMIS: She's already explained it.
5 THE COURT: Well, what is this alarm? I mean, is
6 it something the patient wears on their wrist, or how is this
7 alarm set up?
8 THE WITNESS: It's usually connected to the, you
9 know, bed. They put it in the bed and, you know, they'll get
10 the vibration movement so they wake up when the bed is wet.
11 THE COURT: Okay. So it feels the moisture in the
12 bed and then that would trigger the patient to wake up?
13 THE WITNESS: Yes.
14 THE COURT: Okay.
15 BY MR. HAMNER:
16 Q Okay. And so you talked about that sort of device
17 with Ms. McClain, is that right?
18 A Yes.
19 Q You didn't talk about that device with Ms. Solander,
20 did you, the adoptive mother?
21 A No, I don't remember.
22 Q Did you ever recommend to either one of those
23 parents that they should lock the door to the bathroom at
24 night?
25 MS. McAMIS: Well, objection. Argumentative.

1 MR. HAMNER: It's not argumentative. It's about
2 a medical recommendation.

3 THE COURT: All right. It's getting a little
4 argumentative. I'll let her -- she can answer that question.

5 BY MR. HAMNER:

6 Q Did you ever recommend to any parent of Anastasia
7 that a lock be placed on the bathroom door to deal with --

8 A No.

9 Q -- the enuresis?

10 A No.

11 Q Your answer was no. You also have a notation and
12 you talked on cross-examination about scheduled voiding during
13 the day. What does that mean?

14 A Whenever they feel like their bladder is full, then
15 you do -- will urinate so they won't have the accidents.

16 Q Okay. So when you say scheduled voiding, what
17 you're saying is if a child feels an urge to use the bathroom,
18 they should go and do that?

19 A Yeah, they should go and empty their bladder.

20 Q Okay. And that was what you told to Ms. McClain,
21 is that right?

22 A Yes.

23 Q You did not have a discussion about that necessarily
24 with Ms. Solander, is that right?

25 A Yeah, I don't remember.

1 Q Did you make a recommendation to either parent that
2 a catheter be used to deal with --

3 MS. McAMIS: Objection.

4 THE COURT: Overruled. She can answer.

5 BY MR. HAMNER:

6 Q Did you ever make a recommendation to either Ms.
7 McClain or Janet Solander with respect to Anastasia or Yarely
8 for this bedwetting issue that they administer a catheter to
9 check the level of urine in her bladder?

10 A No, not at all.

11 THE COURT: On this scheduled voiding issue, did you
12 recommend that if a child hadn't gone to the bathroom within
13 a set period of time, that the child should, you know, quote,
14 "try" every, you know, two hours or every three hours or
15 anything like that?

16 THE WITNESS: Not specifically the time. Whenever
17 they feel, you know, their bladder is full, then you go to
18 avoid the, you know, bladder incontinence.

19 THE COURT: Okay.

20 BY MR. HAMNER:

21 Q So you did not recommend -- did you recommend ever
22 to deliberately hold your bladder?

23 A No.

24 Q Okay. With respect to the visit on March 25th,
25 2014, there was a series of questions that you were asked

1 about when you were examining the children not noticing any
2 marks on Anastasia. Is that right?

3 A Yes, but I do not check the buttocks or anything
4 for that age children.

5 Q Okay. So to be clear for --

6 A Unless there is any concerns.

7 Q Okay. So to be clear, and this is March 25th, 2014,
8 you were not examining their buttocks area, any of these three
9 children when they came in for their well visit?

10 A No, not at all.

11 Q Okay. Did you note on that day any mark or scar
12 behind the ear of Anastasia?

13 A Not recall.

14 Q Okay. Do you believe, though, you did a thorough
15 review or body check of this child?

16 A Yes.

17 Q Okay. Did you notice any marks on her right
18 shoulder or down kind of the upper part of her right back?

19 A I don't remember.

20 Q When Ms. McClain brought them in on March 25th,
21 2014, these three girls, did she report to you that they had
22 just seen a woman -- a doctor by the name of Sandra Cetl on
23 March 14th, 2014, just eleven days before? Was that ever
24 reported to you?

25 A No.

1 Q Okay. So you didn't know about them going to meet
2 then?

3 A No.

4 Q But eleven days later you're not noticing the scar
5 or any discoloration on the back of this young child,
6 Anastasia?

7 A No.

8 MR. HAMNER: Okay. I have no further questions.

9 THE COURT: Any recross?

10 RECROSS EXAMINATION

11 BY MS. McAMIS:

12 Q Dr. Stephen, are the records that you've testified
13 to today, the ones that were faxed over and including the ones
14 you already had in your possession from 2014, are they a fair
15 and accurate depiction of the medical records as to all of
16 these children?

17 A Yes.

18 Q And that was created in like the normal, ordinary
19 course of business in your position as a pediatrician for
20 these children?

21 A Yes.

22 MS. MS. McAMIS: Okay.

23 THE COURT: Nothing else?

24 MS. McAMIS: Nothing further.

25 THE COURT: Anything else?

1 MR. HAMNER: No, Your Honor.

2 THE COURT: Do we have any juror questions for this

3 witness? All right, I'll see counsel at the bench.

4 Doctor, some of the jurors may have questions for

5 you, so just hang on a minute and we'll see.

6 (Conference at the bench not recorded)

7 THE COURT: All right. Doctor, we have a juror

8 question up here. A juror asks: Am I understanding correctly

9 that all three Solander girls were diagnosed with rash at some

10 point?

11 THE WITNESS: Two of them had eczema and one was

12 seen for ringworm.

13 THE COURT: Okay. So one has ringworm and the other

14 two have eczema?

15 THE WITNESS: Yes.

16 THE COURT: All right, thank you.

17 State, any follow-up?

18 MS. BLUTH: Court's indulgence.

19 MR. HAMNER: No, Your Honor.

20 THE COURT: Defense, any follow-up?

21 MS. McAMIS: Yes.

22 FURTHER RECROSS EXAMINATION

23 BY MS. McAMIS:

24 Q Doctor, the eczema and the ringworm issues, those

25 were observations you made while the children were in the care

1 of Debbie McClain; correct?

2 A Yes.

3 Q Okay. The first time? I meant the first time, not
4 post 2014.

5 A Yes.

6 MS. McAMIS: Okay. No further questions.

7 THE COURT: Anything else, Mr. Hamner?

8 MR. HAMNER: No, Your Honor.

9 THE COURT: Any additional juror questions for this
10 witness? All right.

11 Doctor, I see no additional questions. Thank you
12 for your testimony. You are excused at this time. Thank you.

13 THE WITNESS: Thank you.

14 THE COURT: All right. Ladies and gentlemen, we're
15 going to go ahead and take our lunchtime recess. We'll be in
16 recess for the lunchtime until 2:35. 2:35.

17 During the lunchtime recess you're all reminded
18 you're not to discuss the case or anything relating to the
19 case with each other or with anyone else. You're not to read,
20 watch or listen to any reports of or commentaries on the case,
21 persons or subject matter relating to the case. Do not do
22 any independent research by way of the Internet or any other
23 medium, and do not form or express an opinion on the trial.
24 Please place your notepads on your chairs and follow the
25 bailiff through the double doors.

1 (Jury exits the courtroom)

2 THE COURT: All right, scheduling.

3 (Colloquy between the Court and counsel regarding
4 scheduling of remaining witnesses)

5 MR. FIGLER: Also, I need to bring to the Court's
6 attention that there is a possible matter of dispute. We
7 had done a subpoena duces tecum on DFS for emails about the
8 book, communications about the book, communications about the
9 Solanders in general. Catherine Jorgenson responded to me
10 that there were well in excess of 2,500 emails that reference
11 those things; that she has been going through all of them and
12 that she found 650 that she felt were relevant. That of the
13 650 that she felt were relevant, she felt that a number of
14 them encompass attorney-client privilege and that she was
15 going to create a privilege log and that she was going to
16 address the issue with Your Honor.

17 So I told her in our last email exchange that we're
18 going to be in recess until 2:35 -- I think I said 2:30
19 because that was what you said at the time, and that she needs
20 to bring that in front of the judge at some point. But I also
21 discharged Paula for today. I released Paula for today and
22 Paula was going to come in tomorrow right now at two o'clock,
23 but I can move that back to 11:30. But at some point I think
24 that the Civil D.A. is going to want to address Your Honor
25 about a production request from the defense.

1 THE COURT: Okay.

2 MR. FIGLER: Just a heads up that's out there, too.

3 THE COURT: So that means there's probably 2,000

4 emails I'll have to read.

5 MR. FIGLER: I don't know that. I think that

6 they're going to have to -- they're going to give you a

7 privilege log and that she's going to make representations

8 that --

9 THE COURT: How she edited the 650.

10 MR. FIGLER: About how she edited it down to 650.

11 THE COURT: Right. Okay.

12 MS. BLUTH: All right.

13 MR. FIGLER: And that does not -- she does not

14 even include the attachments because most of the time the

15 attachment was the book itself, but she is going to note that

16 the book is attached.

17 THE COURT: Right.

18 (Off-record colloquy)

19 (Court recessed from 1:49 p.m. until 2:39 p.m.)

20 (Jury is not present)

21 (Ms. Jorgenson, Civil D.A., enters the courtroom)

22 THE COURT: ...who apparently is here with a large

23 box.

24 MS. JORGENSEN: If I may?

25 THE COURT: You may.

1 MS. JORGENSEN: We received a subpoena from the
2 defense -- it was pretty broad -- requesting emails that had
3 Janet Solander or Dwight Solander, and then it was maybe five
4 different departments or divisions. We requested I.T. to run
5 a search. We can go back about five years so we have emails
6 back to 2013, and came up with a little over 2,600 emails.
7 I've been looking through them and quite a few of them are
8 non-responsive, so I weeded those out.

9 THE COURT: What do you mean non-responsive?

10 MS. JORGENSEN: Well, as best as I could tell, so
11 there was -- for instance, there were emails that -- they want
12 a list of foster parents, so there was a huge list. Those
13 probably went out maybe -- there's probably 10 to 20 emails
14 that were that. There were other lists about people who
15 received checks. So these --

16 THE COURT: Okay. So they have nothing to do with
17 this case --

18 MS. JORGENSEN: Right.

19 THE COURT: -- or them in relation to this case.
20 Okay.

21 MS. JORGENSEN: And then there were other emails
22 that were duplicative, so.

23 THE COURT: Okay.

24 MS. JORGENSEN: And then some emails were people --
25 they had initially started talking about this case or

1 something related to it and then they started going back and
2 forth just talking about other stuff that was not related.

3 THE COURT: Okay.

4 MS. JORGENSEN: And so I did my best to weed all
5 that out.

6 THE COURT: Okay.

7 MS. JORGENSEN: Ended up with about a little over --
8 I think about 650 emails.

9 THE COURT: Okay.

10 MS. JORGENSEN: I did not print out any attachments.

11 THE COURT: Okay.

12 MS. JORGENSEN: So I assume that some of the
13 information is already in the record, plus there was probably
14 multiples. So if it's deemed that -- obviously that it needs
15 to be submitted, then I can go back and pull that.

16 THE COURT: Okay.

17 MS. JORGENSEN: And I imagine some of those
18 attachments I'll need to redact. There will be Social Security
19 numbers and other information.

20 THE COURT: Okay.

21 MS. JORGENSEN: I kind of just split it up into like
22 what I deemed foster, adoptive, and then I have a section, a
23 smaller one that is -- that I deemed to be confidential or
24 privileged.

25 THE COURT: Okay.

1 MS. JORGENSEN: And so I wanted to -- so I have a
2 disk of everything.

3 THE COURT: Okay.

4 MS. JORGENSEN: And then I put together a log for
5 you quickly about --

6 THE COURT: I'm impressed that you did all this.

7 MS. JORGENSEN: Well, it was --

8 MR. FIGLER: I told you she was being awesome, did
9 I not?

10 THE COURT: Mr. Figler did compliment you.

11 MS. JORGENSEN: Oh, well that was very nice of him.
12 So if I could approach?

13 THE COURT: Sure.

14 MS. JORGENSEN: Actually, I do need to hang on to
15 this one just so I can explain.

16 THE COURT: Okay. Now, are these ones that you
17 don't have any objection turning over to the attorneys what's
18 in this?

19 MS. JORGENSEN: No. And what I did is I -- oh, the
20 other -- let me go back.

21 THE COURT: No objection; right?

22 MS. JORGENSEN: No.

23 THE COURT: Okay.

24 MS. BLUTH: Without in camera review?

25 MS. JORGENSEN: Oh, I do -- I'm sorry, I do think

1 there should be in camera review, Your Honor --

2 THE COURT: Okay.

3 MS. JORGENSEN: -- just because it could be that
4 they already have it or you're going to look at it and say
5 this really has nothing to do with anything.

6 THE COURT: All right. But other than that there's
7 no objection to these being turned over?

8 MS. JORGENSEN: No. I looked through them. There
9 was a few things that we redacted, but there may be -- I felt
10 pretty good about what is left.

11 THE COURT: Okay.

12 MS. JORGENSEN: Now, again, there are no attachments.

13 THE COURT: Okay.

14 MS. JORGENSEN: So you could see an email has an
15 attachment and you may think, okay, that needs to be produced
16 and then --

17 THE COURT: Okay.

18 MS. JORGENSEN: -- we'd have to go back.

19 This -- if I could approach?

20 THE COURT: Sure.

21 MS. JORGENSEN: I put together a log and divided it
22 into -- I kind of divided the confidentiality versus privilege
23 as best I could.

24 THE COURT: Okay.

25 MS. JORGENSEN: I gave a reason. Some of them are

1 432B. So, for instance, there's a case in here that is a --
2 it was a report that was made to DFS. It involved one of the
3 foster children while they were in the Solanders' care, but
4 it didn't involve the Solanders --

5 THE COURT: Right.

6 MS. JORGENSEN: -- it involved the family, their
7 biological --

8 THE COURT: Right. And I think some of these
9 records they may already have gotten --

10 MS. JORGENSEN: I imagine.

11 THE COURT: -- through the UNITY and the other CPS --

12 MS. JORGENSEN: Right.

13 THE COURT: -- relating to the abuse that --

14 MS. JORGENSEN: So it could be that this -- and then
15 when you come to the cases, there's three different cases.
16 There's the criminal case, the juvenile case and then the
17 substantiation or administrative case.

18 THE COURT: All right.

19 MS. JORGENSEN: Those, I believe this information
20 should not be produced based on attorney-client privilege or
21 attorney work product or prosecutorial work product or
22 research.

23 THE COURT: Okay.

24 MS. JORGENSEN: And so that is all divided up. I
25 tried to describe what they are. I do have copies for the

1 prosecution and defense of the log.

2 THE COURT: Okay. The only ones, just looking at
3 this quickly, that -- and they've gotten some of this already
4 -- might be relevant are the first two, the Bates numbers 1
5 through 15.

6 MS. JORGENSEN: Oh, and if I could --

7 THE COURT: 1 through 9 and then 1 through --

8 MS. JORGENSEN: And I apologize, we kind of just --
9 so when you look at the Bates numbers --

10 THE COURT: Right. I see they're duplicative.

11 MS. JORGENSEN: So the numbers repeat --

12 THE COURT: Right.

13 MS. JORGENSEN: -- on here, but they don't repeat --
14 so they have like CON for confidentiality fosters.

15 THE COURT: Uh-huh, I see. Okay.

16 MS. JORGENSEN: CON Adoptive. So this is -- oh,
17 this is my copy. That's for you. And I have a -- I think I
18 have a rubber band. Oh, and this is yours as well.

19 THE COURT: And some of this may be relevant because
20 the defense I think is trying to show some of the problems
21 with the kids may have preceded their placement with the
22 Solanders.

23 MS. JORGENSEN: Right. When I had some communication
24 with the defense, they indicated they were very interested in
25 any emails related to the book that Ms. Solander had written,

1 and so any emails related to that I actually separated out in
2 those.

3 THE COURT: Okay.

4 MS. JORGENSEN: Again, going to the confidentiality
5 ones, those -- again, the ones that were set apart --

6 THE COURT: Right.

7 MS. JORGENSEN: -- as to attorney-client privilege
8 or research or work product, again, it was my --

9 THE COURT: Right.

10 MS. JORGENSEN: They may be -- yeah, it was my
11 opinion they didn't belong.

12 THE COURT: Okay, great.

13 MS. JORGENSEN: Again, no, I did not provide any
14 attachments, so if you determine that, yes, this needs to be
15 provided, then if you could let me know.

16 THE COURT: Okay.

17 MS. JORGENSEN: I would print out the attachment.
18 I would redact as necessary --

19 THE COURT: Okay.

20 MS. JORGENSEN: -- again, Social Security numbers,
21 unrelated children.

22 THE COURT: Right.

23 MS. JORGENSEN: But this is what I have.

24 THE COURT: Okay.

25 MS. JORGENSEN: Oh, and I did believe that this was

1 the first wave of emails and there would be another wave of
2 emails.

3 THE COURT: Oh, God.

4 MS. JORGENSEN: I found out today that this is the
5 one wave of emails.

6 THE COURT: Okay. All right. Well, thank you for
7 all the work you've done. Before we excuse Ms. Jorgenson --

8 MS. JORGENSEN: If I could just say one other thing?

9 THE COURT: Oh, sure.

10 MS. JORGENSEN: I did receive an order for a
11 personnel file.

12 THE COURT: Right.

13 MS. JORGENSEN: That -- just so you know, the
14 personnel -- Family Services doesn't hold the personnel file,
15 H.R. does.

16 THE COURT: Okay.

17 MS. JORGENSEN: I mean, we're still going to respond
18 to it.

19 THE COURT: So it's just County Human Resources;
20 correct?

21 MS. JORGENSEN: Yes, County. So in anticipation of
22 the order I requested the file yesterday. I'm not sure how
23 soon it will be ready, but as soon as it is I will --

24 THE COURT: And I think we tried to be more specific
25 in terms of just the kind of information that we're looking --

1 MS. JORGENSEN: We'll probably just produce the
2 whole file.

3 THE COURT: Okay.

4 MS. JORGENSEN: And then I'll hand it over to you
5 for your review.

6 THE COURT: Okay.

7 MS. JORGENSEN: I believe there are emails in there
8 related to complaints that were made to the ombudsman, but I
9 didn't see any that were related to that particular employee.

10 THE COURT: Okay.

11 MS. JORGENSEN: So I don't know if there's going to
12 be anything in her file. They just didn't happen to make it
13 in the emails, but.

14 THE COURT: Okay.

15 MS. JORGENSEN: Okay.

16 THE COURT: Did anyone have any questions for Ms.
17 Jorgenson before we excuse her? No? All right.

18 MR. FIGLER: We're all on the record, right?

19 THE COURT: Yeah.

20 MR. FIGLER: Okay. Just --

21 THE COURT: We were on the record, right, Susie?

22 COURT RECORDER: Yes.

23 MS. JORGENSEN: Did you want the box?

24 THE COURT: Good, because I would hate to make you
25 say all that again.

1 MS. JORGENSEN: Sure.

2 THE COURT: You could just give it to Kenny.

3 MS. JORGENSEN: Just if it makes it easier to
4 transport things. Should I stay up here or --

5 THE COURT: Yeah, that's fine.

6 MS. JORGENSEN: Okay.

7 MR. FIGLER: So just a couple things.

8 Ms. Jorgenson, you had indicated to me that there
9 were some emails that were identified that just had the book
10 attached to it but no text in there.

11 MS. JORGENSEN: Yes.

12 MR. FIGLER: Are those noted anywhere? In other
13 words, can we get an assessment of who was transferring the
14 book from party to party on email? Is that in the records
15 that the judge has?

16 MS. JORGENSEN: Yes. So the list of records,
17 there's three different categories for the ones that I don't
18 think are at issue other than relevance. I divided the
19 categories the book, foster and adopted.

20 MR. FIGLER: Okay.

21 MS. JORGENSEN: And so the book one, I believe
22 there's about 66 emails. Most of them are just you can see
23 the To and From. Some of them do have some brief comments,
24 but I believe they're all like single page, if I remember
25 correctly.

1 MR. FIGLER: And if we were to be required to call
2 a custodian of records or someone who is most knowledgeable
3 about the emails and the retrieval, who would that individual
4 be?

5 MS. JORGENSEN: I believe in this case the
6 appropriate person -- and if we could -- it would be nice if
7 we could it by affidavit, but regardless the appropriate
8 person would be the I.T. person who ran the search and pulled
9 them, and then I suppose me in terms of what I did and what
10 I provided.

11 MR. FIGLER: Okay. Do you know that I.T. person's
12 name off-hand?

13 MS. JORGENSEN: I think it's Brack, but I can't
14 remember his last name right now, now that I'm on the spot.

15 THE COURT: Does he work in your office?

16 MS. JORGENSEN: Not in my office, but I can -- I
17 have his number, I can contact him.

18 THE COURT: Okay.

19 MR. FIGLER: You can just forward that to me and
20 then we'll make our decision with the Court as to whether
21 it's you or him or both and we'll let you know as soon as
22 we can.

23 MS. JORGENSEN: Well, he would be able to testify
24 as to all the emails that he pulled.

25 MR. FIGLER: Right.

1 MS. JORGENSEN: He wouldn't be able to testify as
2 to --
3 MR. FIGLER: Got it.
4 MS. JORGENSEN: Yeah.
5 THE COURT: Right.
6 MR. FIGLER: So we could probably just do an
7 affidavit with him as far as authenticity of the emails --
8 THE COURT: Right.
9 MR. FIGLER: -- if that becomes an issue. Okay.
10 THE COURT: You could probably -- if you were going
11 to use any, you could probably stipulate to authenticity.
12 MS. BLUTH: Yeah.
13 THE COURT: I mean, right?
14 MR. FIGLER: All right. So unfortunately I think
15 you might be on the hook to kind of explain some of it, if it
16 even comes down to that.
17 Okay. And then I also -- again, Ms. Jorgenson has
18 been really helpful in coordinating potential witnesses and
19 we told Ms. Hammack to be here tomorrow at 11:30.
20 THE COURT: Okay.
21 MR. FIGLER: So that still holds true, is that
22 correct for now?
23 THE COURT: That's fine.
24 MR. FIGLER: Okay. I think -- Oh, with regard to
25 the emails to and from Ms. Bluth as the District Attorney,

1 there seem to be approximately 106 pages of those. Were those
2 given to the Court in --

3 MS. JORGENSEN: Yes.

4 MR. FIGLER: Okay, so the Court has those.

5 MS. JORGENSEN: So all the ones that are under that
6 I -- that are kind of described -- well, all the ones that are
7 on here, those have all been provided, in addition to all the
8 others.

9 THE COURT: They're right here.

10 MR. FIGLER: Oh, okay.

11 MS. JORGENSEN: They're not the majority of the
12 emails, they're probably about maybe a quarter or maybe a
13 fifth, but they're all separated out as described here.

14 MR. FIGLER: Okay. So are you invoking the
15 prosecutorial privilege on behalf of Ms. Bluth?

16 MS. JORGENSEN: Well, I believe that Ms. Bluth could
17 do that for herself, but we -- the Civil D.A. does represent
18 the County, including County employees, and I believe it would
19 be appropriate at this time to invoke that, to the extent that
20 I can.

21 MR. FIGLER: Okay. Thank you for that record.

22 MS. BLUTH: I already invoked it myself.

23 THE COURT: Okay. All right, thank you very much.

24 MS. JORGENSEN: Thank you.

25 THE COURT: We'll let you know if we have any more

1 questions.

2 MS. JORGENSEN: Okay. And again, there's no

3 attachments, so.

4 THE COURT: Okay. Hopefully we won't need --

5 MS. JORGENSEN: Maybe you already have them all.

6 THE COURT: Hopefully we won't need anything else.

7 Thank you so much.

8 MS. JORGENSEN: Thank you.

9 THE COURT: Okay. Kenny, do you want to get Ms.

10 McClain and the jury?

11 THE MARSHAL: Yes, Judge.

12 (Ms. McClain returns to the witness stand)

13 THE COURT: Just have a seat while Kenny gets the

14 jury.

15 (Pause in the proceedings)

16 THE MARSHAL: All rise for the presence of the jury,

17 please.

18 (Jury is present)

19 THE COURT: All right, court is now back in session.

20 The record should reflect the presence of the State through

21 the Deputy District Attorneys, the presence of the defendant

22 and her counsel, the officers of the court and the ladies and

23 gentlemen of the jury.

24 And Ms. McClain, of course you are still under oath.

25 Do you understand that?

1 THE WITNESS: Yes.

2 DEBORAH McCLAIN, STATE'S WITNESS, PREVIOUSLY SWORN

3 THE COURT: All right. Ladies and gentlemen, we're
4 going to resume the questioning of Ms. McClain, and we
5 interrupted Mr. Figler I think in the middle of his cross-
6 examination.

7 So, Mr. Figler, you may proceed.

8 MR. FIGLER: Thank you.

9 CROSS-EXAMINATION (Continued)

10 BY MR. FIGLER:

11 Q I think we left off when we were talking about
12 Anastasia.

13 A Yes.

14 Q Okay. And we were talking about that you didn't
15 remember some of the repeated bedwetting conversations that
16 had happened during that time frame. You forgot that part;
17 correct?

18 A Yes.

19 Q Okay. And I think I had asked you, pardon me if
20 this is a little redundant, that Heather Richardson -- you
21 didn't remember Heather Richardson discussing with you that
22 you should take Anastasia to a pediatrician or rule out
23 medical issues related to her bedwetting. You didn't remember
24 that?

25 A No.

1 MS. BLUTH: Mr. Figler, I'm sorry, would you give me
2 page numbers if you refer.

3 MR. FIGLER: Sure. That's on page 55 of 103.

4 MS. BLUTH: Thank you.

5 BY MR. FIGLER:

6 Q Okay. And so you don't remember taking Anastasia
7 in October of 2009 to Dr. Stephen specifically for her
8 bedwetting?

9 A No.

10 Q Okay. And you don't remember Dr. Stephen
11 prescribing a medication called DDAVP for Anastasia?

12 A No.

13 Q And you don't remember having any conversation --

14 MR. FIGLER: And now we're on page 60 of 103,
15 counsel.

16 Q -- with Heather Richardson, telling her that you
17 weren't going to give that DDVAP or AVP -- DDAVP medication
18 to Anastasia; correct?

19 A No.

20 Q Okay. And I think we left off -- specifically I had
21 said that there was a time in March of 2010 when you had been
22 very -- you were excited and proud that Anastasia had not wet
23 the bed for some time and the UNITY note, refreshing your
24 recollection, said two weeks but you remember that there was
25 some other celebration about three months?

1 A Yes.

2 Q Okay. Still speaking about Anastasia, you had
3 testified on direct examination, I believe, that when you
4 handed off Anastasia to the Solanders essentially in June of
5 2010, that there were no problems with their skin or having
6 any marks or anything like that; correct?

7 A No, there was no problems with the skin.

8 Q No problems with the skin?

9 A No marks. Yeah.

10 Q Okay. No problems with the skin at all?

11 A No.

12 Q Okay. Do you remember if there was anything about
13 ringworm with Anastasia or anything like that?

14 A No.

15 Q Okay. You don't remember that?

16 A No, I don't remember. I don't recall that.

17 Q Okay.

18 A Yeah.

19 Q And you don't recall there being rashes all over the
20 body of Amaya at any time?

21 A No.

22 Q Legs, face, nothing like that?

23 A No.

24 Q Okay.

25 A Like a heat rash or something? No, I don't recall

1 nothing like that.

2 Q Okay. I'm talking about a rash that would require
3 you going to a doctor for treatment.

4 A A dermatologist for treatment or like -- okay, no.

5 Q Okay. So you don't recall ever being given any
6 creams or anything like that to put on any of the children
7 when they were your --

8 A When they were in my care, had they ever had any
9 cream or anything to put on them? Let me see. I can't recall.
10 I really can't.

11 Q Okay, thank you. Okay. Let's talk about Ava for a
12 second. Do you remember in June of 2009 that Ava, also known
13 as Jocelyn, was having pains in her leg?

14 A No.

15 Q Okay. Do you remember ever taking her to a spine
16 and bone doctor at all?

17 A No.

18 Q Okay. So you don't have any recollection of taking
19 Ava to a spine and bone doctor in June of 2009?

20 A No.

21 Q And you don't have any recollection of taking Ava
22 to a bone and spine doctor -- well, if you don't have a memory
23 of doing it once, you probably don't remember doing it four
24 times; right?

25 A No. No.

1 Q All right.

2 A What would be the doctor's name? The only doctor,
3 like I said, I had that pediatrician.

4 Q Okay. So you don't remember a doctor David Stewart
5 at all?

6 A No. Oh, no.

7 Q Okay. All right. And do you ever remember having
8 to take Ava over to Steinberg Diagnostic to do radiation or
9 X-rays and stuff like that on her leg and knee?

10 A No.

11 Q Okay. And do you remember that in August of 2009,
12 which would have been two months later, that also Amaya
13 started complaining about pain in her leg, too? Do you
14 remember that?

15 A No.

16 MR. FIGLER: I'm sorry, counsel, that would have
17 been page 50 of 103.

18 MS. BLUTH: Thank you.

19 BY MR. FIGLER:

20 Q And you don't recall taking Amaya to a pediatric
21 orthopedic on August 17, 2009 because she also started
22 complaining about pain in her knee at that time? You don't
23 remember that?

24 A No.

25 Q Okay. Do you remember in June of 2009 that Ava had

1 been tested for and had been found to have high sugar in her
2 blood?

3 A No.

4 Q Nothing like that?

5 A No.

6 Q Okay. So if you don't remember her being tested and
7 being found to have high sugar, you don't remember who would
8 have given that test, if anyone?

9 A No, I sure wouldn't.

10 Q Okay. And you were the person who was in care of
11 her in June of 2009; correct?

12 A Right.

13 Q Okay.

14 MS. BLUTH: Could I have page numbers, Mr. Figler?

15 MR. FIGLER: Sorry. That one would have been page
16 30 of 103.

17 MS. BLUTH: Thank you.

18 BY MR. FIGLER:

19 Q Do you remember later after Amaya -- well, if you
20 don't remember Amaya complaining about knee pain, how about in
21 August 23rd that Amaya had to be taken over to the Quick Care
22 because her left hand had swollen all up? Do you remember
23 that?

24 MR. FIGLER: And I'm sorry, counsel, I'm on --

25 MS. BLUTH: 51?

1 MR. FIGLER: 52.

2 BY MR. FIGLER:

3 Q Do you remember that?

4 A No.

5 Q Okay. So if you don't remember taking her to Quick
6 Care, you don't remember orders to take her back in 10 to 14
7 days if that didn't get better; right? You don't remember?

8 A I didn't -- No, I don't.

9 Q Okay. Do you remember in March of 2010 having a
10 discussion with Heather Richardson about how Anastasia --
11 I'm sorry, I'm flipping back to Anastasia, how Anastasia had
12 a hard time -- I'm sorry, that Anastasia had a hard time
13 differentiating about reality and what she sees on TV?

14 MR. FIGLER: Page 79, counsel, of 103.

15 BY MR. FIGLER:

16 Q Do you remember that conversation with Heather
17 Richardson?

18 A No.

19 Q So if you don't remember that conversation, you
20 don't remember what would have prompted that?

21 A No, I sure wouldn't.

22 Q Okay. I'm sorry to keep going back and forth, I
23 just want to make sure I don't miss anything. Do you remember
24 bringing Anastasia over to Dr. Lisa Shaffer for a
25 psychological evaluation in August of 2009?

1 MR. FIGLER: Page 51.

2 THE WITNESS: Yes.

3 BY MR. FIGLER:

4 Q Okay. Do you remember what that was all about?

5 A All the girls have fully been tested.

6 Q Okay. Do you know why?

7 A That was a requirement. They had told me that I
8 needed to bring the girls down to be evaluated.

9 Q Who told you that?

10 A Heather. It was County or -- no, the agency.

11 Q Which agency?

12 A Agape.

13 Q That's the one you worked for?

14 A Uh-huh. Well, Brighter Day now.

15 Q Okay.

16 A It was Agape and then it changed over to Brighter
17 Day.

18 Q Okay. And so Brighter Day or Agape at the time --

19 A Yeah.

20 Q -- in 2009, Agape told you that you needed to take
21 Anastasia to Dr. Shaffer for a psychological evaluation?

22 A Yeah. All three girls.

23 Q Okay. And did they tell you why they needed you to
24 bring all three girls to a psychologist for an evaluation?

25 A Well, that's part of the agency. When the kids go

1 into foster care and everything, it's part of the, what do you
2 call it, when kids are -- the assessment of the kids, you
3 know, placement for -- if there's any issues, mental issues or
4 -- so every kid, foster kid I had I had them tested. They've
5 been evaluated.

6 Q Okay. Is that before they come to you or --

7 A No, after. After they're in the home, placed in the
8 home.

9 Q Okay. So Anastasia as well as the rest of the girls
10 had been there quite awhile by August of 2009. You said they
11 started in '08.

12 A Okay.

13 Q I mean, that was your testimony, they started in
14 2008.

15 A Right.

16 Q I don't have records before 2009.

17 A No. No, I'm -- yeah.

18 Q Okay.

19 A I got them in 2008.

20 Q So you don't have any independent recollection,
21 other than that the agency told you to do it, on why Anastasia
22 was taken to Dr. Shaffer?

23 A Because they were with -- first of all, they were
24 with Hope Foundation, first of all. And then when Hope
25 Foundation was out of the picture, then they get -- because

1 they were doing therapy through Hope Foundation and then we
2 got a new therapist for them.

3 Q Do you remember in October of 2009 --

4 MR. FIGLER: I'm now on page 55 of 103, counsel.

5 BY MR. FIGLER:

6 Q -- that there was a problem with Ava and Anastasia
7 instigating Amaya to react? Do you remember that?

8 A To react to what?

9 Q I'm just reading from my notes here.

10 A I just -- but to what? I mean, you know, react to --

11 Q Anything?

12 A -- fighting or --

13 Q Well, yeah, let's say fighting.

14 A I don't know. You know, to react to what, you know.

15 Q Okay. So you don't remember a conversation with
16 Heather Richardson about that?

17 A No.

18 Q Okay.

19 MS. BLUTH: Judge, I'm going to object and ask to
20 approach.

21 THE COURT: Sure.

22 (Conference at the bench not recorded)

23 BY MR. FIGLER:

24 Q I'm with you, I don't know exactly what it meant
25 when it was reported that you told Heather Richardson that

1 the two girls are instigating Jacqueline to react, but I do
2 know that you also indicated that you're going to talk to
3 Dr. Shaffer about it.

4 MS. BLUTH: Judge, I'm going to object to Mr. Figler
5 testifying.

6 MR. FIGLER: Okay. Do you recall -- I'll rephrase
7 it.

8 THE COURT: Right, that's -- right. I mean, you
9 can't read directly from --

10 MR. FIGLER: Sure.

11 THE COURT: -- the notes as if they're in evidence.

12 BY MR. FIGLER:

13 Q Whatever react means, do you remember talking about
14 that with Dr. Shaffer, the psychologist?

15 A No.

16 Q Okay. And that would have been in October of 2009
17 when they were in your care?

18 A Yes.

19 Q Do you remember a disclosure in January of 2010 --

20 MR. FIGLER: We're on page 70 of 103, counsel.

21 BY MR. FIGLER:

22 Q -- made by Amaya that her grandmother made her
23 sleep outside because she was hitting her sister?

24 A Yes.

25 Q Okay. And do you remember a disclosure that

1 Jacqueline said that grandma hit her so hard that her nose
2 bled?

3 A That I don't remember.

4 Q Okay. And do you remember a discussion with Heather
5 Richardson or anyone else from Family Services that it didn't
6 make sense in January of 2010 because the child had not been
7 with the grandma since March of 2009?

8 A Do I remember -- would you rephrase that again?

9 Q Sure. So there was a disclosure in January of 2010
10 about grandma making her sleep outside and grandma hitting her
11 so hard that her nose bled, and that there was confusion
12 because Amaya --

13 MS. BLUTH: Judge, I apologize, I'm going to object
14 to him reading the document. If she doesn't recall, then she
15 can't call.

16 MR. FIGLER: Well, she said she did recall the
17 incident and I'm just trying to get into the specifics, Your
18 Honor. I'm leading because I'm on cross.

19 THE COURT: All right, but again, you can't read
20 directly from the document that's not admitted into evidence.

21 MR. FIGLER: Okay.

22 BY MR. FIGLER:

23 Q Do you remember that there was some concern and
24 discussion between you and DFS of how is that possible since
25 she hasn't even been with grandma since March of 2009?

1 A No. The only thing I recall is that Jacqueline said
2 that she had slept out in the backyard. Grandma had her --
3 made her sleep out in the backyard. And that's the only thing
4 I recall.

5 Q Okay. And do you remember that Ava had made that
6 same disclosure at that same time, too?

7 A No, Ava never made that -- not to me.

8 Q Okay. I want to talk about Hope Counseling. You
9 had indicated that you remember that Lisa Taylor was removed
10 from the case right after the conversation --

11 A Yes.

12 Q -- about I'm going to kick your ass --

13 A Yes.

14 Q -- or ask?

15 A No, not -- no, not right after that conversation,
16 no.

17 Q When was Lisa --

18 A It was when we went to the CFT when we had the
19 meeting.

20 Q All right, you had a CFT meeting. Do you remember --

21 A We had the meeting about the girls.

22 Q Okay. Do you remember when that would have been?

23 A No, I don't.

24 Q Let's try to figure out in relation to some of the
25 other things that we're talking about. You testified, or I

1 think there's some information at least, that the I'm going
2 to kick your ass conversation happened in June of 2009. Does
3 that sound about right?

4 A That's -- well, that's the date -- that's the time
5 you gave me.

6 Q Okay. Do you remember --

7 A I don't -- you know, I'm not -- I can't recall
8 exactly. We're talking about nine years ago, right?

9 Q Okay.

10 A So I can't exactly recall. So if you give me --
11 if you tell me the month, then the only thing I can say, well,
12 you know.

13 Q Okay. So if I told you that on June 17th is when
14 I'm going to kick your ass and the reports of you yelling at
15 the children inappropriately was made and that Lisa had
16 witnessed some of that, and that on July 2nd of '09 that Lisa
17 Taylor was no longer -- was removed from being the PSR for the
18 girls, does that sound about right, July?

19 A Okay. When you said Lisa --

20 Q So within a month?

21 A I'm sorry.

22 Q Lisa Taylor.

23 A When you said Lisa had witnessed that, she didn't
24 witness that.

25 Q Okay.

1 A She wasn't there.

2 Q Okay. So if Heather Richardson was told that Lisa
3 Taylor saw different yelling by you against the children,
4 that's a falsehood?

5 A Uh-huh. Yes.

6 Q Okay.

7 MS. BLUTH: Page number, please.

8 MR. FIGLER: Oh, boy. The report of Lisa observing
9 the yelling independent would have been -- it's going to be
10 page 31.

11 MS. BLUTH: Thank you.

12 MR. FIGLER: The second note on 31.

13 MS. BLUTH: What?

14 MR. FIGLER: The second note on 31.

15 MS. BLUTH: On 31. Got it.

16 MR. FIGLER: Sorry.

17 MS. BLUTH: That's okay. Thank you.

18 MR. FIGLER: Sure.

19 BY MR. FIGLER:

20 Q Okay. And do you remember that when Lisa was
21 removed that especially Amaya was very sad?

22 A No.

23 Q So you have no recollection of Amaya crying and
24 saying this is Ms. Debbie's fault?

25 A No.

1 Q Ms. Debbie had her taken off?
2 A No, that never happened.
3 Q That never happened?
4 A Never happened.
5 Q Okay. So if that was noted in the Hope Counseling
6 notes, that would be an inaccuracy?
7 A Well, it never happened as far as I know of. This
8 is the first I heard of that, but -- coming from you.
9 Q And you know that once Ms. Lisa was removed as the
10 PSR, that Amaya went at least a month or more without a PSR?
11 Do you remember that?
12 A The agency got her -- that's when she ended up with
13 Tanya.
14 Q Right. And that would have been in August of 2009.
15 A I can't recall the month, but if you say it.
16 Q Okay. So Lisa from Hope eventually got replaced
17 with Tanya from Agape --
18 A Yes.
19 Q -- in 2009, is that right?
20 A Yes.
21 Q And Agape is the same company that you worked for
22 at the time?
23 A Yes.
24 Q Is that a yes?
25 A Yes. Yes.

1 Q Okay. All right, talking about -- Do you remember
2 any of the concerns while the children were in your house
3 about the children sexually acting out with each other at all?

4 A Do I remember the concerns from whom?

5 Q From DFS or CPS?

6 A Do I -- wait. You say do I remember the concerns
7 from DFS about the kids acting out sexually?

8 Q Sexually with each other in your home?

9 A Uh, yes. Yes.

10 Q And do you remember that there was -- and I don't
11 want to misstate it -- because of those observations a CPS
12 investigation launched, not about you.

13 A Uh-huh.

14 Q I want to make it really clear that there was a CPS
15 investigation launched about maybe something that had happened
16 to the girls before they came to you.

17 A Yes.

18 Q Do you remember that?

19 A Yes.

20 Q Okay. And did you ever get disclosures of a specific
21 nature from Amaya about things that allegedly happened to her?

22 A Yes.

23 Q And so you do remember talking to DFS and then
24 having to call CPS about that incident; correct?

25 A Yes.

1 Q Okay. And you remember CPS had done some
2 investigation with regard to that; correct?

3 A Yes.

4 Q Okay. All right. You were not considered to be
5 an adoptive resource during your initial time with the girls
6 in 2008 through 2010, isn't that correct?

7 A Right.

8 Q Okay. And so we all saw the "Wednesday's Child"
9 TV thing. Remember --

10 A Yes.

11 Q -- they had shown you that on direct --

12 A Yes.

13 Q -- what seems like two or three weeks ago? I think
14 that was actually yesterday; right?

15 A Yesterday.

16 Q Okay. And so that was an effort to get the girls
17 adopted; correct?

18 A Yes.

19 Q Okay. Now, we're talking about a lot of things,
20 the sexual conduct, the anger issues, the psychological
21 treatments, especially to Amaya. That kind of stuff doesn't
22 go out in looking for adoption. It's just kind of like these
23 are big girls, they need structure, they need a good place to
24 live; right?

25 A Yes.

1 Q Okay. And to your knowledge at some point the
2 Solanders were identified as being a house that would be able
3 to take those girls; right?

4 A The adoptive parents, yes.

5 Q Okay. So what they used to call foster to adoptive.
6 Does that sound right to you? Or maybe that was explained to
7 you as a possible adoptive home, something like that?

8 A Well, they -- it was explained to me that they were
9 a possibility to be adoptive parents.

10 Q Okay.

11 A That's why I took the girls to meet the Solanders.

12 Q Okay. Now, when you get a foster kid, there's a
13 medical passport that comes with them; right?

14 A Yes.

15 Q Okay. Do you have any recollection if all the
16 things that we talked about today were in that medical
17 passport?

18 MS. BLUTH: Objection. Speculation.

19 MR. FIGLER: Well, if she knows.

20 THE COURT: Did you ever see the medical passport?

21 THE WITNESS: Yes.

22 THE COURT: Okay, then she can answer if she
23 recalls.

24 BY MR. FIGLER:

25 Q Okay. Did you see the medical passport before it

1 went to the Solanders?

2 A Yes.

3 Q Okay. And did it have all the things that you and
4 I talked about?

5 A No.

6 Q Okay. Now let's go back to the time when you got
7 the three girls, the Ramirez children, Jocelyn, Jacqueline and
8 Yarely. Did it come with any head to toe, like here are all
9 the marks on them, like a diagram with little marks on it one
10 way or another?

11 A Yes.

12 Q It did?

13 A Yeah.

14 Q Okay. Do you have that document still?

15 A No. Nine years ago; no.

16 Q Okay. How about photos of their bodies to show if
17 there was any things on them? Did you see things like that?

18 A They have them, yeah.

19 Q They have those?

20 A They have those but I don't have -- you know, right
21 before I got the girls back I took all my --

22 Q Oh, no. I just --

23 A -- records and I was --

24 MR. FIGLER: I'm going to stop her as non-responsive,
25 Your Honor.

1 THE WITNESS: Yeah. Okay. Okay, I'm sorry.

2 MR. FIGLER: Because I'm talking about when you
3 first got the girls.

4 THE COURT: When you first got the girls before they
5 ever went to the Solanders.

6 THE WITNESS: Right. Right.

7 MR. FIGLER: That's what I want to focus on.

8 THE WITNESS: Yeah, okay. Yeah.

9 BY MR. FIGLER:

10 Q Did they give you pictures of what the girls' bodies
11 looked like with any marks or no marks?

12 A Yes. Yes.

13 Q So you actually saw physical photos in 2008 when you
14 got those kids; correct?

15 A Yes.

16 Q Do you still have those photos?

17 A No. I told you -- I was going to tell you I
18 shredded all -- I took a lot of foster care records because
19 I was retiring and I shredded a lot of stuff because I just
20 didn't want it hanging around, you know.

21 Q Okay. All right, let's go back to 2014 when the
22 police came to you and they asked you to give a statement
23 about what you knew about the girls. Do you remember that?

24 A Yes.

25 Q Okay.

1 MR. FIGLER: Court's indulgence.

2 BY MR. FIGLER:

3 Q All right. Ma'am, I'm going to ask you a few
4 questions about that. I have the statement here just in case
5 if you don't remember something, or if you think that I'm
6 stating something wrong you could ask if you could see it
7 and I can approach you and we can see if it refreshes your
8 recollection or not.

9 A Okay.

10 Q Okay. So, ma'am, isn't it true that when you were
11 asked by the police if any of the girls had behavioral
12 problems you said yes, Amaya did?

13 A Uh-huh. Yes.

14 Q Okay. And isn't it true that you also described
15 Amaya as aggressive?

16 A Yes.

17 Q Okay. And so when the police were talking to you,
18 you don't have them yet back in your foster care, so you're
19 talking about back from '08 to 2010. You were giving them
20 information about --

21 A In the past.

22 Q -- the past. I just want to make it clear. So you
23 said that Amaya was aggressive; correct?

24 A Yes.

25 Q Okay. And you said that Amaya was mean to her

1 sisters, is that correct? You used that expression?

2 MS. BLUTH: Counsel -- [unintelligible].

3 MR. FIGLER: Page 9.

4 BY MR. FIGLER:

5 Q Do you remember that?

6 A Yes.

7 Q Okay. And you told them that Amaya would steal
8 things, isn't that correct?

9 A Yes.

10 Q Okay. And you also told them that, like say if one
11 of the sisters got a new toy, Amaya would steal that toy and
12 hide it. Do you remember telling them that?

13 A Yes. Yes.

14 Q Okay. And do you remember telling them because of
15 her outbursts you had to refer her to the Boys and Girls Club?
16 Do you remember that?

17 A Yes.

18 Q Okay. And do you remember telling them that at the
19 Boys and Girls Club Amaya also stole a little girl's purse?
20 Do you remember that?

21 A Yes.

22 Q Okay. And do you remember describing Amaya as
23 being, quote, "hard to work with"?

24 A I probably said -- I probably said that.

25 Q Okay. And did you also tell the police that Amaya,

1 quote, "would lie a lot"? Page 10 now.

2 A Yes.

3 Q Okay. And do you remember in 2014 when you were
4 talking to the police that you told them that Anastasia and
5 Amaya, when they lived with you they acted out sexually? You
6 did them that?

7 A Yes. Yes.

8 Q And you gave very specific examples of sexual
9 conduct between the children in your house that you personally
10 witnessed, isn't that correct?

11 A Yes.

12 Q Okay. And you disclosed to the police during that
13 interview that Amaya actually used to cuss out Ava in Spanish
14 to make her cry?

15 A Yes.

16 Q And you told the police and I think you testified
17 on direct that you also told Amaya, stop acting like a donkey;
18 right?

19 A Yes.

20 Q And that often or that sometimes -- on page 24 now
21 -- that sometimes Amaya just refused to go inside and refused
22 to listen to you sometimes?

23 A Not sometimes. That was that one time.

24 Q Oh, one time?

25 A That was that one time.

1 Q Okay. And you described the incident where she
2 threatened to tell Heather Richardson that you pushed her
3 to get her way?

4 A That was that one time.

5 Q Okay. And you knew that wasn't true; correct?

6 A Right.

7 Q Okay. But she had made that threat to you?

8 A Yes.

9 Q Okay.

10 A But she cleaned it up.

11 Q Okay. Do you remember telling a Hope therapist --
12 I'm sorry. Do you remember a Hope therapist, presumably
13 Heidi, telling you that you couldn't say things to the kids
14 like "just because you witnessed domestic violence in your
15 life doesn't mean you get to act like that in this home"?

16 A Say that again.

17 Q Sure. Remember how earlier we were talking about
18 how Hope counselors were telling you not to yell at the girls
19 and say certain things to the girls? Do you remember that?

20 A Yeah. No, I remember you saying that.

21 Q Okay. So do you have any specific recollection at
22 some point that one of the Hope therapists said you can't say,
23 Ms. Debbie, to the girls "just because you witnessed domestic
24 violence doesn't mean you get to act like that in this home"?

25 MS. BLUTH: Objection. Relevance.

1 THE COURT: She can answer.

2 BY MR. FIGLER:

3 Q Do you remember that conversation with you and a
4 Hope therapist not to say those words?

5 A Uh, you know what, it's kind of hard to recall me
6 talking to Heidi or a Hope counselor about, oh, Ms. Debbie,
7 you can't yell at the girls, because I never really -- I never
8 yelled at the girls. You know, that was that one time about
9 when Amaya acted up throwing the soda, but no, we never really
10 had a conversation about me yelling at the girls because I
11 never really yelled at the girls.

12 Q Okay. So that quote that I just read --

13 A I talked to them.

14 Q Okay. That quote I just read you about not
15 witnessing -- "just because you witnessed domestic violence
16 doesn't mean you get to act like that in this home," you don't
17 remember saying anything like that to any of the girls?

18 A No, because I don't recall them witnessing domestic
19 violence. That's why, you know -- where did they see domestic
20 violence at? I know they were with their grandparents, but I
21 don't recall that we -- we didn't discuss that.

22 Q Okay. The last thing in that written statement,
23 page 34. Do you remember calling Anastasia pee-pee mama?

24 A Yeah. Yeah, that was a joke. Yeah.

25 Q Okay. Did you call that to her face?

1 A We used to play with her. I used to call her pee-
2 pee mama. But it was -- you know, it wasn't, you know.

3 Q All right. Did you ever get charged with any abuse
4 or anything like that for calling her that?

5 A No.

6 Q Okay. All right. I'm going to direct your
7 attention to 2014 now when we pick back up with the girls.
8 I've just got to get my notes together; give me a sec. All
9 right. So now we're fast-forwarding.

10 A Okay.

11 Q We're going to get to May of 2014, all right. So
12 this is when the girls are now back in your foster care, is
13 that right? Does that sound about right, May of 2014?

14 A March. I think it was March.

15 Q Okay. So if it was --

16 A Or May. If you say May --

17 Q No, no, no, I don't want to confuse you. I'm just
18 saying if you took the girls back in March, then you certainly
19 did have them in May two months later?

20 A Right.

21 Q Okay, I'm sorry.

22 A No, I understand that. But I was trying to -- you
23 know, it was March or May.

24 Q Yeah. I have a little gap in my notes, so mine
25 picks up on May 13th and it looks like you're the foster mom

1 on May 13th.

2 A Okay.

3 Q So that where I'm going to go --

4 A Okay.

5 Q -- with the notes that I have. I'm now on page 35

6 of that 75 page cite. Do you remember you got a new case

7 worker. It wasn't Ms. Heather anymore, it was Ms. Stacie,

8 Stacie Dastrup (phonetic).

9 A Yeah.

10 Q Okay. And do you remember on May 20th of 2014 that

11 you took the girls to Dr. Stephen again over at Southern Hills

12 Pediatrics? Do you remember that?

13 A Did I take them there for what? They've been to

14 Dr. Stephens quite a bit.

15 Q Okay. Do you remember taking them in May of 2014?

16 A Probably for --

17 Q Let me ask you specifically. Do you remember taking

18 Ava on 2014 to Dr. Stephen for a follow-up regarding abdominal

19 pain? I'm sorry, abdominal pain. Do you remember that?

20 A Probably. It would have -- yeah, okay. Yes.

21 Q Okay. And do you remember taking the girls to

22 another doctor to do a follow-up with regard to Crohn's

23 Disease?

24 A What's the doctor's name?

25 Q Dr. Rhee.

1 A Rhee. Yes.

2 Q Do you remember that?

3 A Yes.

4 Q Okay. And they were checking back up on Crohn's

5 Disease at that point?

6 A That was the old doctor that Janet had took her to

7 because we were looking for the old doctor about the Crohn's

8 because Ava told me that Janet said she had Crohn's Disease.

9 Q Okay. And do you remember if there was follow-up

10 for like inoculations and stuff like that?

11 A Yes.

12 Q Okay. Do you recall that Hope Counseling had a

13 final meeting with you regarding the girls in -- I believe it

14 was October of 2009? Do you remember that? Do you remember

15 there being a final meeting with the Hope counselors and you

16 kind of did like a little bit of a wrap-up? Does that sound

17 familiar?

18 A A wrap-up of?

19 Q Of Hope's counseling services.

20 A The services?

21 Q Yeah.

22 A Not really.

23 Q Okay. On October 25th of 2009, what they called a

24 closure session, do you remember that?

25 A No.

1 Q Okay. But after November --

2 A And this is -- excuse me. With Hope?

3 Q With Hope. Yeah.

4 A Hope. No.

5 Q Okay. So do you recall that after November of 2009
6 all the services under your care were provided by Agape?

7 A I don't know exact time, but yes, eventually it was
8 all the services went to Agape, yeah.

9 Q Okay. And again, that was the company you were
10 still working for?

11 A Yes.

12 Q Okay.

13 MR. FIGLER: Can we approach, Your Honor?

14 THE COURT: Sure.

15 (Conference at the bench not recorded)

16 BY MR. FIGLER:

17 Q Ma'am, last question. You testified that you --
18 I want to make sure I say it right. We started my cross-
19 examination asking you a question talking about your testimony
20 where you said the girls now are different girls than the
21 girls that you had 2008 through 2010; correct?

22 A Yes.

23 Q Okay. But isn't it true that you're dealing with
24 many of the same type of anger issues that we discussed and
25 other problems about fighting with the sisters and problems

1 with the sisters that you had when you had them in 2008
2 through 2010?

3 A No, it's different.

4 MR. FIGLER: Based on our bench conference, Your
5 Honor, may I inquire to a further area, or is that my last
6 question?

7 THE COURT: Let me see counsel at the bench.

8 (Conference at the bench not recorded)

9 THE COURT: Anything else, Mr. Figler?

10 MR. FIGLER: No. Your Honor, at this time that
11 would conclude our cross-examination of Ms. McClain.

12 THE COURT: All right, thank you.

13 Redirect?

14 MS. BLUTH: Thank you. One second, Ms. Debbie.

15 THE WITNESS: Okay.

16 REDIRECT EXAMINATION

17 BY MS. BLUTH:

18 Q Okay, I just have a few -- well, I mean, I have more
19 than a few, but there's a few things that I didn't understand.
20 Yesterday you were talking about fees and getting -- you said
21 the County pays you less and the agency pays more. Do you
22 remember making that statement?

23 A Yes. Yeah.

24 Q Can you -- I didn't understand. Could you explain
25 to me what that means?

1 A Well, it's like there's two -- working for -- you're
2 either working for a county or you work for an agency.

3 Q Okay.

4 A And the agency is -- the County is -- you know, they
5 have a flat fee they pay you and the agencies have a fee that
6 they pay you. So, you know, the County pays less and the
7 agency pays a little bit more.

8 Q Okay, understood. And then you -- Mr. Figler's last
9 question to you was weren't the childrens' behaviors -- some
10 of the behaviors that you were dealing with back in 2008
11 through 2010 were the same as in March of 2014. Do you
12 remember that question?

13 A Yes.

14 Q And you said that when you got the girls back they
15 were different.

16 A They were different.

17 Q So I'd like to start with Ava. Was Ava different
18 in any way than when you had had her previously?

19 A Yes.

20 Q Can you explain how she was different?

21 A She was more aggressive. She's not -- she's -- oh,
22 gosh, I'm trying to get these words out.

23 Q It's okay.

24 A She's -- she doesn't -- what do I say? She's --
25 oh, gosh, my mind just went totally blank.

1 Q Do you want to start with another child?

2 A Well, they're all about the --

3 Q We can. There's three of them.

4 A Yeah, right, right. But like I said, Ava wasn't as

5 aggressive as Amaya, but when I got Ava back she was defiant,

6 she's aggressive. And she just [unintelligible] about how she

7 felt about her siblings. When I say that, they were at each

8 other so much in Janet's home until it just -- they kind of --

9 they're separate. They separated from each other. They're

10 detached, you know, from -- because they always -- the biggest

11 scene in our house that we have to talk about is who got

12 abused the most in Janet's house and they felt like that Ava,

13 the girls felt like that Ava was more the pick, Janet's pick.

14 Q Like Janet's favorite?

15 A Yeah. Yes.

16 Q Is that -- does that still -- when you say this is

17 the common issue in our home, meaning those conversations are

18 still happening?

19 A They're still happening, yes.

20 Q And then when you had described Ava when you were

21 here the first time, you said that she was like more shy and

22 quiet.

23 A Yes.

24 Q More --

25 A Introverted.

1 Q And so is she still shy and quiet?

2 A No.

3 Q Okay. And then tell me about -- has Amaya changed
4 at all?

5 A Yes. She's -- Amaya is -- she's going through a lot
6 of therapy, whereas Ava don't feel like she needs therapy.
7 And Amaya is sticking to it because Amaya -- she wants to get
8 right. She wants to get her life right. She says she wants
9 a better future for herself. So --

10 Q Now, what about behaviorally, is she -- you said
11 that as -- when you had her before that she was angry, she was
12 aggressive.

13 A Yeah.

14 Q How would you say now in regards to the anger or the
15 aggression?

16 A She's still angry and aggressive because, you know,
17 she fights back, you know. But she -- you know, her -- like
18 I said, all of them came back with fears. And the aggression,
19 Amaya has always been a little bit more aggressive than the
20 other ones. But the other ones, they're kind of mutual with
21 each other now; about the same in aggression and defiance.

22 Q Okay. And then what about Anastasia?

23 A Anastasia, she's the same. She hangs in there with
24 them. She's just as aggressive as Ava is.

25 Q You said they all came back with fears. What do you

1 mean by that?

2 A The fears of something bad is going to happen to
3 them. Fears of demons. And all three of them have the same,
4 you know, fears of, you know, demons are watching them. And
5 I had to convince them that, you know what, when we bought
6 our house we had, you know, the pastor come in and bless the
7 house, you know. And I told them, no, we don't have the evil
8 demons that you're talking about in here. So, you know,
9 there's a constant -- well, once in awhile when things
10 surface, when -- because all three have been -- they've got
11 PTSD.

12 MR. FIGLER: I'm going to object, Your Honor.

13 THE COURT: That's sustained.

14 MR. FIGLER: Thank you. Move to strike.

15 THE WITNESS: Well, all, you know --

16 THE COURT: In terms of a medical or psychiatric
17 diagnosis.

18 MS. BLUTH: Understood.

19 THE COURT: So the jury will disregard.

20 On the pastor, did you ask the pastor to come bless
21 the house?

22 THE WITNESS: Yes.

23 THE COURT: That was your idea.

24 THE WITNESS: Yes. Oh, yeah. Yeah, my brother-in-
25 law, he was the pastor. He's from San Diego --

1 THE COURT: Okay.

2 THE WITNESS: -- but he's a pastor.

3 THE COURT: So it wasn't the girls' idea, it was
4 your idea?

5 THE WITNESS: No, no, no. No, we do that.

6 THE COURT: Okay. Go on.

7 MS. BLUTH: That's okay.

8 BY MS. BLUTH:

9 Q And then but all three of them have this fear of
10 demons?

11 A Yes.

12 Q Did any of them have a fear of demons when you had
13 them when they were younger?

14 A No, never.

15 Q Did -- you said they have a fear of something bad
16 happening to them. Can you explain to me what you mean by
17 that?

18 A Yeah. And Ava is the biggest one, like, for dreams.
19 Like, Ms. Debbie, you know, I -- well, like I said, I had a
20 dream about some kids were chasing me or somebody was doing
21 something and I died. Every time she would tell me about her
22 dream, you know, she got killed in the dream. And she said
23 I'd be scared, you know. Ava has the most dreams.

24 Q Okay. You said that the last time you had to talk
25 to Amaya about, you know, that there aren't any demons was

1 about five to six months ago?

2 A Yes.

3 Q And was that because of a nightmare or how did that
4 come up? Was it just --

5 A Nightmare. When they have a nightmare, you know, we
6 had to go through it, over it again, you know, about prayer.
7 You say the Our Father prayer, you know, and there's no demons
8 here.

9 Q You were asked some questions about when you -- when
10 Amaya had thrown the drink at her sister and you told Amaya
11 that you were going to kick her ass.

12 A Ask. Uh-huh.

13 Q Okay. Besides the ask versus ass part --

14 A Uh-huh.

15 Q -- what Amaya was saying was the truth? You had
16 told her I'm going to kick your ask?

17 A Ask. Yeah. And I spelled it out, A-s-k. And, you
18 know, she knew what I meant, you know.

19 Q And when you went to court that day, that was
20 nothing related between you and the girls, that was just a
21 normal hearing with their grandma?

22 A Yes. Yes.

23 Q All right. And then there was some confusion in
24 regards to Hope Counseling and then Hope Foundation.

25 A Yes.

1 Q Can you explain why that's a bit confusing?

2 A Because, well, he had told me -- they had said Hope.
3 First I thought he was talking about a person, Hope, you know,
4 but then Hope, it was Hope Foundation, the company that
5 Anastasia was going to for day treatment, you know. So that's
6 why I was -- you know, I got a little stuck at. But it's no
7 -- it's the same company.

8 Q So when Anastasia -- when you first got Anastasia,
9 was she old enough to go to elementary school?

10 A No. She was in day treatment.

11 Q So is that what Hope day treatment is?

12 A Yes.

13 Q And then also did the girls go to counseling at
14 Hope?

15 A Yes.

16 Q Okay. Was that where the --

17 A Had Lisa.

18 Q -- confusion was, though?

19 A Yes. Yes.

20 Q Okay. Now, I want to ask you, there was a couple of
21 questions about this Lisa. I'm sorry, what was her last name?

22 A Taylor, I think it was.

23 Q Lisa Taylor. What was the incident that caused --
24 I don't know what would be the best word, but caused the havoc
25 or that she got taken off the case, there had to be a meeting.

1 Can you explain to me a little bit about that?

2 A Okay. It was a thing, like I said, we worked for
3 an agency, foster -- as a foster mother I was working for an
4 agency, not directly for County but I was working for an
5 agency. And when I got the girls, Hope Foundation had the
6 contract for therapy, for medical, for everything, you know,
7 because the agencies, they cover all that, wrap-around
8 services and, you know, make sure the kids have all the
9 services that they need to be provided for them in foster
10 care. And Hope had the therapy side of it because I guess the
11 girls had went into Child Haven and -- they were taken from
12 grandma and then Hope had a portion of it. And then when the
13 agency came in, the part -- the thing was that the agency had
14 part of the contract and Hope had part of the contract. And I
15 think the feud was that, you know, somebody wanted 100 percent
16 of the contract, you know, and I was just in -- I was just the
17 foster parent caught in the middle of the feud that was going
18 on between Agape and the foundation.

19 Q Okay. And where did Lisa come into the mix?

20 A Lisa was telling a lot of lies to her boss about me,
21 because she came to my house and did PSR with the girls.

22 Q Okay.

23 A She came to the house and serviced the girls. And
24 she was telling a lot of lies, you know. And when I found
25 out about it, then, you know, that's what happened. We had --

1 a CFT emergency meeting was called.

2 Q Okay.

3 A And she said that the girls were afraid of me and
4 so on, you know, and it wasn't true.

5 Q Okay. And then so at some point later she was
6 removed off the case?

7 A No, she was removed that day; not later, but that
8 day. Before we left the CFT meeting, her boss was there and
9 she told her when she gets to the office to clean her desk out
10 because she wasn't no longer working for Hope Foundation.

11 Q Okay. So she wasn't just removed off your case, she
12 was removed from just working?

13 A Yes.

14 Q Okay. Now, I wanted to -- in regards to Anastasia's
15 bedwetting, was that an issue throughout her stay with you the
16 first time?

17 A It never was an issue with me about her bedwetting.

18 Q Oh, sorry. When I say issue, I mean was that
19 something she would do? Would she bed wet when she was
20 staying with you that first go around?

21 A Yes, she -- yeah.

22 Q And would there be stints where she would go without
23 having an accident?

24 A Yes.

25 Q Sometimes as little as two weeks --

1 A Yeah.

2 Q -- and sometimes as big as three months?

3 A Yeah.

4 MR. FIGLER: I'm going to object, Your Honor. I

5 think that misstates the testimony; as little as two weeks.

6 There was more --

7 BY MS. BLUTH:

8 Q Or I should say would the stints be sometimes two

9 weeks long without going --

10 A Yeah. Yes.

11 Q -- and sometimes as long as three months?

12 A Yes.

13 MR. FIGLER: Thank you, Your Honor.

14 THE COURT: When she was bedwetting, would that be

15 like a daily occurrence sometimes?

16 THE WITNESS: No, not every day, not every night.

17 You know, it didn't really bother me because, like I said, I

18 wet the bed for a long time, too. So it didn't -- you know,

19 I didn't feel bad for her. You know, that's why I always

20 teased her, you know.

21 BY MS. BLUTH:

22 Q And tell me about what you guys -- who would call

23 her pee-pee mama?

24 A I did.

25 Q And what would she do when you would call her that?

1 A She's just laugh.

2 Q And you stated that you stopped liquid intake after

3 6:00?

4 A Yes.

5 Q And I'm assuming that's 6:00 p.m.

6 A Yeah, 6:00 p.m.

7 Q Could she have as much liquid as she wanted --

8 A Uh-huh. Yeah.

9 Q -- up until 6:00 p.m.?

10 A Yeah.

11 Q And then bedtime was, you said 8:00?

12 A Yes.

13 Q Okay. Now, you -- when you say you're not

14 considered an adoptive resource, was that your decision or

15 CPS's or --

16 A That was my decision.

17 Q And was that just for those girls or for any

18 children?

19 A Any children.

20 Q But then you became an adoptive resource because

21 you adopted them?

22 A Yeah, because that was -- because when I got them

23 back into foster care the second time and Stacie told me they

24 was going back up for adoption, I said, well, no need, don't

25 do that.

1 Q Okay. I want to ask you a few questions in regards
2 -- Mr. Figler had asked you some questions in regards to some
3 CPS notes, okay, and one of those was about a time outside of
4 court. He had asked you about some time outside of court
5 where there had been some type of issue with the paternal
6 aunt. Do you remember that line of questioning?

7 A Yes, I remember that.

8 Q Okay. Do you remember that day?

9 A I never had an argument with nobody in her family --
10 their family.

11 Q Okay. So if I gave you a page, like a note from
12 UNITY regarding that situation, would that maybe refresh your
13 recollection in regards to what had happened that day?

14 A Yes.

15 MS. BLUTH: And I'm approaching with page 31,
16 counsel.

17 BY MS. BLUTH:

18 Q And if you could just read that small little
19 paragraph. It's like four lines.

20 A Okay.

21 Q If you wouldn't mind, to yourself, and then let me
22 know.

23 A Uh-uh, this never happened.

24 Q So that doesn't say anything about you having any
25 argument?

1 A No. It never happened. Can I respond to that?

2 Q Yeah.

3 A Jessica was about 17 years old. She was the aunt

4 when I had the girls. She was young during the time. Jessica

5 right now is twenty-something years old. But we never had an

6 argument. It was Amaya had made a statement that -- they were

7 allowed to go spend the weekend at grandma's house during that

8 time and Amaya had made a statement that they were going to

9 Mexico and they were going to live with their dad. And I

10 reported that to Heather that the girls might disappear on one

11 of their weekend visits with grandma.

12 But never -- we never had no argument, never talked

13 -- as a matter of fact, grandma and I got along good, you

14 know. Grandma didn't speak too good of English, but I never

15 had an argument with the family.

16 Q And this note does not talk about you having an

17 argument?

18 A Yeah. It talks about that we -- I don't know,

19 something going on between me and Jessica.

20 Q That the aunt seemed aggressive?

21 A Yeah.

22 Q But nothing about you fighting?

23 A But it wasn't the aunt, though. She -- no, she

24 never approached me. The aunt -- that very aunt right now,

25 her and I get along good.

1 THE COURT: So the family never confronted you about
2 your fears that they were going to take the girls to Mexico?

3 THE WITNESS: No. No, but I told --

4 THE COURT: Okay. But you were afraid that they
5 would take the girls to Mexico?

6 THE WITNESS: Yeah.

7 THE COURT: Okay.

8 THE WITNESS: Because I report -- when Amaya came
9 back and said we're going to go -- oh, we're going to go stay
10 with our dad, you know, and I know where the dad is at, and
11 I reported that to Heather. But we never -- I never had a
12 confrontation with the family or never -- we never --

13 BY MS. BLUTH:

14 Q And that note doesn't say you had a confrontation?

15 A Yeah. The aunt never said nothing to me about, you
16 know. Like I said, we --

17 Q Now, in regards to Mr. Figler had asked you about
18 Amaya and one of the other children, that you had said that,
19 hey, Amaya and one of the other kids, they bump heads in the
20 home?

21 A Yeah.

22 Q But were you clear that that was not physical, that
23 that was a term you used but that they weren't physical with
24 one another?

25 A They weren't physical, no. And -- oh, I'm sorry.

1 THE COURT: I think we all understood that. When
2 you say bump heads, you're talking about like arguing and not
3 getting --

4 THE WITNESS: Arguing and fussing.

5 THE COURT: Yeah. I think we all got that.

6 THE WITNESS: Yeah, but they never -- the only one
7 I can think of was Inez because Inez got along with nobody
8 anyway and that was the only one in the house. And Inez was
9 a couple years older than they were, but it was kind of a
10 mutual thing between the kids.

11 BY MS. BLUTH:

12 Q When you spoke to CPS about -- Mr. Figler had asked
13 you questions about you reporting to CPS that Amaya at times
14 could be hard to handle?

15 A Yes.

16 Q Did you report to CPS about feeling like that was
17 fine and you could handle the situation?

18 A You know, Amaya could be a handful and especially
19 with her siblings and everything, but Amaya, you know, she --
20 if you talk to Amaya -- and that's one thing I did do, just
21 sit her down -- if you talk to her and ask her what's going
22 on, let her explain to you, you know, what's happening and
23 everything, Amaya could be pretty reasonable. You know, she
24 -- like I said, she could be aggressive and she could be --
25 you know, but if you just calm down and talk with Amaya,

1 she'll calm down and she'll talk with you, you know, and then
2 she'll start thinking then, you know.

3 Q And did you also report that you were emotionally
4 very close to Amaya?

5 A Yes.

6 Q Now, when Mr. Figler was asking you questions about
7 Amaya threatening herself with a knife while with you --

8 A Yes.

9 Q -- if I showed you a note in regards to that, would
10 that help refresh your recollection?

11 A Yes.

12 BY MS. BLUTH:

13 Q Page 77. If you could just read that paragraph
14 right there, please.

15 A Okay.

16 Q Was that incident, was that at your house?

17 A Uh, now that I -- now that -- you know, I think it
18 was a time when Amaya had said -- she didn't have no knife or
19 nothing, you know. Jocelyn, you know --

20 Q Ava?

21 A Ava. Ava. I saw the name on there.

22 Q That's okay.

23 A Ava had came to me and said that Amaya wanted to
24 kill herself. And -- kill herself? You know, she wanted to
25 stab herself. With what? And that's what we were talking

1 about. Yeah, I --

2 Q Where were the children's family visitations? Like,
3 where would they have --

4 A Sometimes it would be at the park. Sometimes they
5 go spend the weekend with grandma.

6 Q Okay. And does this note discuss that this happened
7 after a family missed visitation? Do you want to read it
8 again?

9 A Yeah. No, I saw it. No, I read it, but I don't
10 think that's why it happened.

11 Q Well, let me ask you this. You only found out about
12 this because Ava told you about it?

13 A Yes. Yes.

14 Q So it wasn't when they were with you?

15 A Right.

16 Q The note talks about that you found out about it
17 because Ava later told you about it?

18 A Yes.

19 Q So this didn't happen in your presence?

20 A No.

21 Q And then my last question about the CPS notes, do
22 you remember telling the doctor or telling CPS why you did
23 not want to put Anastasia on the bedwetting medication?

24 MR. FIGLER: I think the testimony was she didn't
25 recall the bedwetting --

1 THE WITNESS: Yeah, I'm trying to -- you know, I
2 don't -- I don't recall. I really don't recall them putting
3 -- me taking her to the doctor.

4 THE COURT: All right. She said she doesn't recall.
5 BY MS. BLUTH:

6 Q Would looking at the note help refresh your
7 recollection?

8 A Let me see. Let me see -- yeah, let me see it.

9 Q Page 60. If you could just read the four lines
10 right there.

11 THE COURT: While she's doing that, I'll see counsel
12 at the bench.

13 (Conference at the bench not recorded)

14 BY MS. BLUTH:

15 Q Does that help refresh your recollection as to why
16 you didn't want her to have the medication?

17 MR. FIGLER: I'm going to object to the form of
18 the question, Your Honor.

19 THE WITNESS: I don't recall her --

20 THE COURT: Okay. Does that refresh your
21 recollection about the medication?

22 THE WITNESS: No.

23 THE COURT: All right.

24 BY MS. BLUTH:

25 Q When you said that -- Mr. Figler asked you during

1 your statement to the police you had said that Amaya lies
2 a lot or Amaya does lie or something like that.

3 A Uh-huh. Yes.

4 Q Did you also tell the police that she's actually
5 pretty truthful?

6 A Yes.

7 Q So what do you mean by those two things?

8 A Well, see, Amaya would -- she would lie. She would
9 say -- okay, if she's mad at you, she'd say, oh, I'm going to
10 tell -- I'm going to report you. I'm going to tell on you,
11 you know. I'm going to tell you did something to me, you know
12 -- Amaya. But like I said, Amaya, she will think about it,
13 you know, and she'd be like, nah, you know. I would say
14 between the three girls Amaya is the most truthful because
15 she would make statements but then she would correct them,
16 you know. She would -- her conscience would be bothering her
17 and she would correct it. She'd say no, that wasn't true.
18 She would tell me, Ms. Debbie -- like, she would come in late
19 from school, say for instance, you know. Where have you been,
20 Amaya? How come, you know, you're 20 minutes late? And she
21 would be like, well, I walked home from school. Then she
22 would say, you know, not really, I went over to my
23 girlfriend's house. Okay.

24 Q Okay.

25 A You know, that's what she'll do, you know.

1 Q When you spoke to CPS about different techniques
2 you use with each of the children, did you tell them that the
3 use of restrictions worked with Amaya?

4 A Yes.

5 Q Did you ever have to resort to any physical
6 discipline in order to get her to behave?

7 A No.

8 Q All right. And then my last -- I have three
9 questions and that is in regards to, you know, nine, ten years
10 ago, do you remember every doctor's appointment that you took
11 these girls to?

12 A No.

13 Q All right. And you were asked if you ever remember
14 taking Ava to the doctor in regards to like a limp or a
15 problem with her leg. Do you remember Mr. Figler asking
16 that?

17 A Yes.

18 Q Okay. Would looking at Dr. Stephen's medical record
19 from that date help refresh your recollection --

20 A Yes.

21 Q -- as to why you brought her there?

22 A Yes.

23 Q And if you could just read these top three lines.

24 MS. BLUTH: And that would be June 3rd of 2009,
25 Mr. Figler.

1 THE WITNESS: Oh. Oh, yeah, I remember.

2 BY MS. BLUTH:

3 Q So what was the main reason you took her that day?

4 A Well, it was for her physical, but you know, Ava
5 kind of like copies me because I have arthritis and I go --
6 when I go up the stairs, I go up one leg, you know. You know
7 how you go --

8 Q One leg at a time?

9 A Yeah. And that's your back-up, of course. So she
10 follows me, so she goes down the stairs one leg -- Ava, why
11 are you walking like that? She says, I don't know. She --
12 actually she follows me. And I took her to the doctor because
13 she was complaining about her back, but -- because I know when
14 I walk up the stairs like that I have problems.

15 Q But the -- oh, I'm sorry.

16 A She was going for a physical, but she was going, you
17 know, for a regular checkup, but I told the doctor about the
18 limp; you know, her limping up and down the stairs.

19 Q But the main reason you took her there was for a
20 physical?

21 A Yeah, for her regular checkup. And then, you know,
22 I told the doctor about her because she followed me. It was
23 kind of funny because all the kids, everybody and even my
24 husband would say Ava -- every time you walk down the stairs,
25 she walks the same way you walk.

1 Q And then lastly I want to ask you some questions in
2 regards to Mr. Figler had asked had you ever taken any of the
3 girls to the doctor for rashes on their legs. Do you remember
4 him asking you about that?

5 A No. Yeah, I remember him asking --

6 Q Okay.

7 A -- but I don't recall taking them for rashes.

8 Q Okay. So would looking at May 25th and June 10th
9 help refresh your recollection?

10 A It could be, yes.

11 Q So I'm going to ask you to look at the reason why
12 you took -- Jacqueline would be Amaya -- on June 10th, under
13 the chief complaint, please.

14 A Okay.

15 Q And what was the reason you took Amaya?

16 A Because, you know, I think this is the time when
17 they was rolling in the grass.

18 Q But what was the reason you took her for?

19 THE COURT: Well, does that refresh your memory of
20 why you took her that time?

21 THE WITNESS: Yeah.

22 THE COURT: Okay.

23 THE WITNESS: They were rolling in the grass and she
24 got -- you know how the kids get those bumps from the grass;
25 you know, whatever it is. They get rashes on them from --

1 MS. BLUTH: Rolling around?

2 THE WITNESS: -- the grass, you know. And I took

3 them up there to have it checked out.

4 BY MS. BLUTH:

5 Q But the actual appointment was for her seven year

6 physical?

7 A Yeah.

8 Q And they talked about the rashes?

9 A Yeah. I -- yeah, because they used to go to the

10 park a lot.

11 Q And now on May 25th of 2010, where Mr. Figler had

12 also asked you about some rashes, what was the reason that --

13 Jocelyn is Ava -- Ava went to the doctor for what purpose on

14 that day? If that -- let me know if that helps --

15 A It's probably the same thing. Was it close to the

16 same date of the --

17 THE COURT: Well, just look it over quietly to

18 yourself --

19 THE WITNESS: Okay.

20 THE COURT: -- and tell us whether that refreshes --

21 THE WITNESS: Okay.

22 THE COURT: -- your memory of that doctor's

23 appointment. If it doesn't refresh your memory and you still

24 don't remember why you went, then just let us know that you

25 still don't remember.

1 BY MS. BLUTH:

2 Q After reading that, does that help refresh your
3 recollection as to why you took her there on that day?

4 A Uh-uh. Uh-uh.

5 THE COURT: The witness said no, so.

6 THE WITNESS: No.

7 BY MS. BLUTH:

8 Q Are you saying no?

9 A I said no.

10 Q Okay.

11 A Yeah, I was -- [unintelligible].

12 THE COURT: All right. So we need to move along.
13 If you don't remember --

14 THE WITNESS: No.

15 THE COURT: -- that's fine.

16 THE WITNESS: No.

17 MS. BLUTH: I thought you were still reading. I'm
18 sorry.

19 THE WITNESS: I'm sorry.

20 MS. BLUTH: That's okay. Court's indulgence.

21 BY MS. BLUTH:

22 Q And then my last question is after you got the girls
23 back in March of 2014, did you take them to several doctors
24 that they had seen while they were with Janet?

25 A Yes.

1 Q And why did you do that?

2 A Because the Crohn's was -- because of the Crohn's
3 and Amaya's seizures, so we had to find the doctors. We drove
4 around and Ava -- Dr. Rhee, he was the doctor that supposed to
5 have said that she had Crohn's. And --

6 Q So did you try to find all those doctors?

7 A Yeah. We went to another doctor up in Summerlin --

8 Q And after --

9 A -- that Ava had went to for her weight. Well, she
10 was real, real skinny and when he saw her he was like, oh,
11 no, this is not the same girl. But it was a doctor up in
12 Summerlin.

13 Q And after going to all those doctors --

14 A They said --

15 Q -- are any of the girls on any medications --

16 A No.

17 Q -- or treatment?

18 A No. No.

19 MS. BLUTH: Okay, thank you. Nothing further.

20 THE COURT: Recross?

21 RECROSS EXAMINATION

22 BY MR. FIGLER:

23 Q Are any of the girls currently getting any help with
24 weight issues or diet issues, anything like that?

25 A Yeah. Ava was going to a dietician.

1 Q Right now?

2 A She was. She went to -- they had a class. She went
3 to a 13-week class.

4 Q How long ago was that?

5 A It was a couple of months ago, about -- I'd say five
6 months ago.

7 THE COURT: And was that to help her lose weight?

8 THE WITNESS: Yes.

9 THE COURT: Did she lose any weight? No one ever
10 does.

11 THE WITNESS: No, no.

12 THE COURT: Did she -- but she went to the class
13 and that was to help her with losing weight. Did she lose
14 any weight?

15 THE WITNESS: No, not really.

16 THE COURT: Okay.

17 THE WITNESS: No, she -- maybe a pound here, a pound
18 there, then she gained it back, you know.

19 BY MR. FIGLER:

20 Q And you're feeding the kids the same thing you fed
21 them back in the old days, right, the basic same menu?

22 A Not really, no, because sometimes, you know, I've
23 got to adjust for Ava, you know. And, I mean, I cook the same
24 foods, what you're saying, but, you know, certain things that
25 I would, like, cook for Ava.

1 Q And back in the original foster care time, 2008 to
2 2010, you were the one who took them to all their doctor
3 appointments, though?

4 A Yes.

5 Q Is that correct?

6 A Yes.

7 Q Okay. And when you received the three children,
8 Ava, Amaya and Anastasia, give or take because birthdays are
9 scattered at different times, but you got them basically at
10 age 7, age 5 and age 4, is that correct?

11 A Yes.

12 Q Okay. And when they left you they were approximately
13 age 9, age 7 and age 5, is that correct?

14 A Yes.

15 Q Okay. Have you ever raised teenage girls before
16 these three?

17 A Yes.

18 Q Okay. So would it be your position that with normal
19 girls, normal situation, the transition from when they're 4,
20 5, 7 that sometimes they're a little different with regard to
21 aggression and obstinance, etcetera, when they become like
22 13, 15, 16 years old? Would you say that's a normal thing
23 for girls?

24 A You said was it a normal thing for girls when
25 they're teenagers --

1 Q As they get older, yeah.

2 A -- to be more aggressive?

3 Q A little more obstinate, a little more feisty?

4 THE COURT: Less respectful, maybe.

5 THE WITNESS: Yeah. Yeah. Yeah, that seems just

6 about right.

7 BY MR. FIGLER:

8 Q Okay. And that's with girls who haven't suffered

9 sexual abuse or physical abuse when they were little kids.

10 So that's normal for all girls; right?

11 A I can't speak for all girls but, you know, I mean,

12 you say that's normal for all girls who haven't experienced

13 any kind of abuse.

14 Q Right.

15 A Yeah, okay.

16 Q The girls that you raised from young to being

17 teenage -- Do you have girls of your own? I'm sorry, I never

18 asked that question.

19 A Yeah.

20 Q You did? How many?

21 A Yeah, I have a daughter and a son. I have -- my

22 daughter passed, but I raised two other girls. I raised my

23 niece because her dad passed --

24 Q Right.

25 A -- and I got her when she was nine or when she was

1 eight. And then I had another niece that I raised. They were
2 the same age -- a year apart from my kids.

3 Q Okay. So they never had -- your biological kids,
4 they never had to go to a psychologist almost weekly --

5 A No.

6 Q -- right?

7 A No.

8 Q And your kids didn't have to have PSRs --

9 A No.

10 Q or BSTs or any of that stuff?

11 A No.

12 Q Okay. A couple questions. I remember the
13 prosecutor just now on redirect brought you up forms from Dr.
14 Stephen and you were like, oh, that's Jocelyn, she was just
15 pretending to be like me limping up the stairs; right?

16 A Uh-huh.

17 Q Okay. You don't remember that Dr. Stephen referred
18 Ava to Dr. Stewart, who is a bone and spine specialist? You
19 don't remember that?

20 A No.

21 Q You don't remember repeated visits with Dr. Stewart?

22 A No.

23 Q Okay. If it was just a jokey thing, she probably
24 wouldn't have to go to a bone and spine specialist?

25 A But I don't recall her going to a bone specialist.

1 Q Okay.

2 MR. FIGLER: If I could approach, Your Honor?

3 THE COURT: Sure.

4 BY MR. FIGLER:

5 Q I'm going to show you a document. See if this --

6 MR. FIGLER: Oh, I'm sorry, I didn't show you,

7 counsel.

8 MS. BLUTH: Oh, no, that's okay. I know what you're

9 talking about.

10 MR. FIGLER: All right.

11 MS. BLUTH: Thank you.

12 BY MR. FIGLER:

13 Q If I show you a document, I want you to look at that

14 and see if it refreshes your recollection about the questions

15 I'm asking. You can read both pages.

16 A Uh-uh. Uh-uh.

17 Q Did you look at the second page? Keep reading and

18 see if that jogs your memory.

19 A Uh-uh. I don't recall this.

20 Q Okay. And I don't think the prosecutor asked you

21 on redirect, but I remember she showed you a number of records

22 from Dr. Stephen. You still don't remember there being a

23 ringworm issue with Anastasia?

24 A No ringworms. No.

25 MS. BLUTH: Judge, I'm going to object as to asked

1 and answered and also beyond the scope of direct.

2 MR. FIGLER: Well, there were some records from --

3 THE COURT: Well, overall she said she didn't
4 remember, so.

5 MR. FIGLER: Can I approach? Because this was not
6 shown to her.

7 THE COURT: Sure.

8 BY MR. FIGLER:

9 Q I'm going to ask you to review that document and see
10 if that refreshes your recollection about either the ringworm
11 incident or taking the child to UMC for ringworm.

12 A Uh-uh.

13 Q Have you ever seen a child with ringworm?

14 A Yes.

15 Q Okay. That's not something you can forget usually;
16 right?

17 A Right. Right.

18 Q Okay. You were asked some questions on redirect
19 about that Amaya would lie. Are any of the girls -- do they
20 lie to you sometimes now?

21 A Yes.

22 Q Okay. Do they exaggerate things somewhat?

23 A When you say exaggerate, lie?

24 Q Sure. Well, let me say this. Do they maybe
25 overstate things to get their way a little bit?

1 A Yes.

2 Q Okay. And you told me that -- or, I'm sorry, you
3 testified on direct -- redirect just now that for the last
4 four years them girls still talking about all the stuff that
5 happened in the Solander house back and forth; right?

6 A Oh, like -- are you talking like daily or just once
7 in awhile it pops up, it would be a conversation coming up?

8 Q I don't know; you tell me. Is it more daily, is it
9 more monthly?

10 A It comes -- it just's a conversation that pops up.
11 You know, it's not like that they sit around and -- you know,
12 it's just a conversation.

13 Q Okay. And you said that during the time that you
14 had them since 2014 they're like you were -- you got treated
15 better than us or we got abused more than you, and that sort
16 of conversation going back and forth?

17 A It would be a conversation going back and forth.

18 Q Okay.

19 A When it does it's three of them.

20 Q Right. And so one goes, this happened to me, this
21 happened to you. I got worse than that. That kind of thing?

22 A Yes.

23 Q Okay. So the sisters, even -- when was the last
24 time that you think you heard them talking about what happened
25 to them allegedly in the Solander house?

1 A It was recently.

2 Q Okay. And they don't have any problem talking to
3 each other about those issues? In other words, all three of
4 them talking to each other?

5 A They do have problems talking about it because it
6 ends up into an argument.

7 Q Oh, okay. But they do talk to each other about it?

8 A Yes.

9 Q Okay. The prosecutor on direct talking about a
10 conversation between the aunt, you say there was never any
11 exchange of words between you and the aunt; correct?

12 A No.

13 Q All right. Now, the prosecutor showed you page 31
14 of 103, the top part. I'm going to show you page 31, the
15 bottom part, so I'm going to show you a different part of that
16 same page, okay?

17 A Okay.

18 Q And I'm going to direct your attention, Ms. Debbie
19 -- I'm going to come up here because it's a little easier
20 for me -- talking about the specialist, meaning Heather
21 Richardson -- oh, here we go, that last paragraph. Does that
22 refresh your recollection about Ms. Heather's observations
23 of you and the aunt exchanging pointed words prior to court?

24 A No.

25 Q You don't have any recollection of that?

1 A No.

2 Q Okay. So if Ms. Heather put that in there, she
3 would be mistaken?

4 A Yes.

5 Q Okay. I think you testified on direct initially
6 and then again on redirect you don't believe in corporal
7 punishment. You don't hit or touch or spank the kids, is
8 that correct?

9 A I don't believe in that, no.

10 Q So you don't do that at all?

11 A No.

12 Q Okay. But you know that as -- and you've fostered
13 a lot of kids; right?

14 A Yes.

15 Q You know it's against DFS policy to spank or hit
16 a kid while they're a foster kid; right?

17 A Yes.

18 Q Okay. So even if you wanted to do corporal
19 punishment, spank a kid or whatever, you can't do that as a
20 foster parent?

21 A Right.

22 Q But as an adoptive parent or a biological parent,
23 you know you're allowed to if you wanted to spank or hit a
24 child; right?

25 A Yes.

1 Q Okay. In fact, there's a lot of rules, some might
2 say too many rules with regards to foster parents about what
3 they can and can't do with the kids; right?

4 A Oh, there's rules for a reason.

5 Q Okay. Because they're in the foster care system;
6 right?

7 A Yes.

8 Q Okay. And they might be moved out into another
9 home, etcetera, etcetera, you just don't know; right?

10 A Right.

11 Q Okay. But there's also probably reasons why
12 adoptive parents or biological parents don't have the same
13 rules; right?

14 MS. BLUTH: Objection, speculation. Beyond the
15 scope. Relevance.

16 THE COURT: I mean -- I don't know.

17 MR. FIGLER: It's just a follow-up.

18 THE COURT: I think it's obvious.

19 BY MR. FIGLER:

20 Q Do you think it's obvious that there's going to be
21 different rules between foster kids and biological kids?

22 A Yes, it's obvious.

23 MR. FIGLER: No further questions.

24 THE COURT: Ms. Bluth, you have about four minutes.
25 Any other questions?

1 MS. BLUTH: No.

2 THE COURT: Do we have any juror questions? I know
3 a juror has an appointment, so we're going to -- Counsel,
4 approach.

5 (Conference at the bench not recorded)

6 THE COURT: I have a couple of juror questions up
7 here. A juror asks: Since you have been a part of the foster
8 care system, can you estimate how many children have come
9 through your home as foster children?

10 THE WITNESS: Oh, gosh. I'd say about forty.

11 THE COURT: Forty different children?

12 THE WITNESS: Yes.

13 THE COURT: Okay. And another question: Are the
14 number of doctor visits, therapist interactions, psychologist
15 interactions and meetings with care workers such as Heather
16 Richardson experienced with Ava, Amaya and Anastasia common
17 for most foster care children, or did these particular girls
18 require extra attention compared to your typical foster care
19 child?

20 THE WITNESS: They didn't require no more attention
21 because when you get foster cares into your home they're
22 required to be observed by -- whether they need therapists or
23 not. Most of the time you get kids, they will end up in
24 therapy because of whatever the situation is that brought them
25 to you.

1 THE COURT: Because most of the kids you're getting
2 have been victims --

3 THE WITNESS: Right.

4 THE COURT: -- of either neglect or abuse?

5 THE WITNESS: Right. Right. So --

6 THE COURT: Okay. So it's not uncommon to have a
7 child that was the victim of sexual abuse --

8 THE WITNESS: Right.

9 THE COURT: -- or physical abuse?

10 THE WITNESS: Right.

11 THE COURT: Okay. Knowing that Anastasia wet the
12 bed at times, how did you choose to handle it other than
13 restricting liquids after 6:00 p.m.? For instance, did you
14 have plastic sheets under her bedding to protect the mattress
15 or did you have extra pajamas she could change into? Did you
16 have a specific location for the wet sheets or pajamas? How
17 did you deal with all that?

18 THE WITNESS: Well, I had plastic on all my
19 mattresses. And, like, just change the sheets. I'd just
20 have her, when she gets up in the morning if she wet the bed,
21 just pull your sheets off, you know.

22 THE COURT: Now, did you have to then wash the
23 sheets like every day or did you have just a bunch of extra
24 sheets, or how did you --

25 THE WITNESS: I have a closet full of sheets.

1 THE COURT: Okay.

2 THE WITNESS: So at the end of the week you just get
3 them all together and wash them.

4 THE COURT: Okay. So you weren't like washing the
5 sheets --

6 THE WITNESS: No, not every --

7 THE COURT: -- every day?

8 THE WITNESS: No.

9 THE COURT: Okay.

10 THE WITNESS: And then I had a special hamper where
11 it didn't stink up the house with a lid to it.

12 THE COURT: Okay. And did Anastasia have more than
13 one pair of pajamas?

14 THE WITNESS: Oh, she had -- yeah, she had plenty of
15 pajamas. Yeah.

16 THE COURT: Okay. Did you ever discipline Anastasia
17 when she wet the bed?

18 THE WITNESS: No.

19 THE COURT: Okay.

20 THE WITNESS: And the only reason why, because --
21 can I answer that with --

22 THE COURT: Sure. Go ahead.

23 THE WITNESS: The only reason why because I wet
24 the bed until I was 12 years old and it was -- you know, like
25 I said, it kind of reminded me of me, you know, when I was

1 coming up. So, you know, it wasn't no big thing. Nobody
2 wanted to sleep with me, you know, and that was good. I had
3 the bed all to myself.

4 THE COURT: So you had a lot of sympathy for that.

5 THE WITNESS: Yeah.

6 THE COURT: Okay. Did anyone have any follow-up in
7 the next minute or two? Otherwise we have to take our evening
8 recess because as I said, one of the jurors had a appointment.

9 MS. BLUTH: I don't have anything, Judge. Thank you.

10 MR. FIGLER: I do really quickly.

11 FURTHER RECROSS EXAMINATION

12 BY MR. FIGLER:

13 Q So we were talking -- just now the question asked
14 you about what was normal and what was more. Even within that
15 house Amaya was getting way more psychological treatment than
16 the other two girls, isn't that right?

17 A They all went to the same -- no.

18 Q Okay. So I understand they all --

19 A They all had just about the same -- the same amount.
20 They had the same amount of time.

21 Q So is it your testimony that all three girls went
22 to a doctor like Dr. Shaffer every single week?

23 A Yeah. Yeah, and they were back to back to back.
24 I sit there for each one to have their visits with their
25 therapist.

1 Q Okay. Now, I know about the therapists.
2 A Yeah. Dr. Shaffer.
3 Q So all the girls had therapists?
4 A Yeah.
5 Q They all had PSRs?
6 A Yes.
7 Q Okay. But are you saying that all three girls had
8 a psychologist as well every day or every week?
9 THE COURT: Like Dr. Shaffer.
10 BY MR. FIGLER:
11 Q Like Dr. Shaffer?
12 A Yeah. They went every week, yeah.
13 Q All three?
14 A Yeah.
15 Q Okay. And then with all the other 37 foster kids
16 that you've had, all of them went to psychiatrists every week,
17 too?
18 A They had therapists, not psychiatrists. Maybe not
19 a psychiatrist, but they had therapists, you know, that they
20 go to. Some of them did. Everybody didn't need a therapist.
21 Q I keep saying psychiatrist, I meant psychologist.
22 A Yeah. Psychologists.
23 Q Yeah.
24 A Psychologists, therapists; whatever you want to
25 call it.

1 Q Okay.

2 A But everybody didn't have a therapist. But they
3 have to be tested anyway when they come into the home because
4 of whatever -- like I said, whatever reason they came into our
5 home.

6 Q Okay. So in addition to therapy and PSRs, it's your
7 testimony that all three of these girls, unlike most of the
8 girls who you had as foster or boys, also had weekly visits
9 with a licensed psychologist as well. Is that your testimony?

10 A You said -- what did you just say? You said all
11 three of the girls are unlike other kids I had in the home;
12 right?

13 Q Let me just try to clarify. I know we've got to go
14 here. You said that just like all the foster kids, they had
15 some kind of counseling or some kind of therapy. I get that.

16 A Yeah, if they needed it. Yes.

17 Q But now I'm going the extra step. Is it your
18 testimony that in addition to therapy and PSR counseling, that
19 all three of the girls, Ava, Anastasia and Amaya, all had a
20 psychologist --

21 A Yes.

22 Q -- weekly after that?

23 A Yes.

24 Q Okay. Can you recall the other foster kids, you
25 said about 40 so let's say the other 37, did they also in

1 addition to their therapist and their counselor have to go see
2 a psychologist weekly?

3 A No.

4 Q Okay. So that was something special to the Solander
5 kids; right?

6 A Right.

7 Q Okay. And then also, you remember that Amaya also
8 had to get school counseling because she had fallen a little
9 bit behind. Do you remember that, too?

10 A School she had fallen behind?

11 Q In school she needed some tutoring and help. Do you
12 remember that?

13 A Amaya ended up A/B student.

14 Q Okay.

15 THE COURT: I think we're going a little beyond --

16 THE WITNESS: She ended up being an A/B --

17 MR. FIGLER: Okay.

18 THE COURT: That maybe you can get in somewhere
19 else.

20 MR. FIGLER: Court's indulgence. No, I'm sticking
21 with that.

22 THE COURT: All right.

23 MR. FIGLER: I guess that's --

24 THE COURT: That's it for Ms. McClain?

25 MR. FIGLER: Yeah.

1 THE COURT: All right. Ladies and gentlemen, we're
2 going to take our evening recess. We will reconvene tomorrow
3 morning at 11:30 -- 11:30 tomorrow.

4 During the evening recess you are all reminded
5 you're not to discuss the case or anything relating to the
6 case with each other or with anyone else. You're not to read,
7 watch or listen to any reports of or commentaries on the case,
8 persons or subject matter relating to the case. Do not do
9 any independent research by way of the Internet or any other
10 medium, and please don't form or express an opinion on the
11 case.

12 You are all excused. I would ask that Juror No. 6,
13 Ms. Mulvey, remain in the courtroom.

14 And, Ms. McClain, you are excused.

15 MR. FIGLER: Oh, before you do that, Your Honor,
16 I'm sorry. There's one short answer question that I wanted
17 to ask Ms. McClain.

18 THE COURT: Just ask it.

19 MS. BLUTH: Oh, my gosh, Dayvid.

20 MR. FIGLER: Sorry, Jacqueline, but this didn't come
21 out.

22 THE COURT: Just ask it.

23 BY MR. FIGLER:

24 Q Were you the only adult in the house taking care of
25 these girls during the relevant time, 2008 through 2010?

1 A I have a husband.

2 THE COURT: Vernon.

3 BY MR. FIGLER:

4 Q Okay. And what's your husband's name?

5 A Vernon.

6 MR. FIGLER: Okay, thank you. That was it. Thank

7 you.

8 THE COURT: All right. Now you're excused. Don't

9 discuss your testimony with anyone else. All right, thank

10 you.

11 THE WITNESS: Am I done?

12 THE COURT: You're done.

13 THE WITNESS: You can leave, hopefully.

14 THE WITNESS: Okay, thank you.

15 MR. FIGLER: You didn't have any follow-up to that?

16 (The jury exits the courtroom)

17 THE COURT: Ms. McClain is excused. Thank you,

18 Ms. McClain.

19 THE WITNESS: Thank you.

20 THE COURT: We're still on the record out of the

21 presence of the other jurors.

22 Ms. Mulvey, the reason I asked you to remain in the

23 courtroom, you probably have guessed. It came to my attention

24 that you lost your job.

25 JUROR MULVEY: I did.

1 THE COURT: And I feel terrible about that. I don't
2 know if there's anything I can do. You know, the law says
3 basically if your employer, you know, discharges you because
4 you're serving as a juror it's a gross misdemeanor and you
5 have a civil cause of action. You know, it's not clear
6 because we weren't in session those days how that would really
7 apply. I thought that, you know, maybe I could contact
8 corporate counsel for United Health Care. I don't know if
9 that would do any good or not but I'm certainly happy to try
10 because even if they didn't technically violate the law, in my
11 opinion it's not -- they're not good corporate citizens in
12 not really facilitating their employees in serving as a juror.
13 So I wanted to just ask you if you would like me to do that.
14 I'm certainly happy to do it and I kind of want to call them
15 anyway because it really makes me angry that they would do
16 something like that.

17 JUROR MULVEY: Well, and in all honesty they're
18 going to say it was insubordination, which it ended up being
19 because they told me they couldn't understand what the problem
20 was, I'm just sitting in jury duty. So -- and this was going
21 to lead me to working seven days a week the entire time I'm
22 here. And they just had no regard for it and when I walked
23 away I uttered, Now I understand why people go postal, this
24 is -- it sucks.

25 THE COURT: Uh-huh.

1 JUROR MULVEY: And it was overheard that I had said
2 that and they said that's why they fired me.

3 THE COURT: Okay. Who actually fired you? Did it
4 go through Human Resources or was it your superior or -- ?

5 JUROR MULVEY: It was my supervisor's boss who
6 called me Monday morning on the phone and stated -- and she
7 stated they had H.R. in the room with her. And then they said
8 this was overheard that you had said this and they kind of
9 rambled a whole bunch out. I said no, that's not what was
10 said and I explained to them what was said, just as I did to
11 you now. And then she said were there expletives? And I said
12 there was one. And that's when she said, okay, well, that's
13 against company policy.

14 THE COURT: Can I get the name of your supervisor?

15 JUROR MULVEY: My immediate supervisor is Vicky
16 Lisotto, and that's L-i-s-o-t-t-o.

17 THE COURT: And the person who is her supervisor?

18 JUROR MULVEY: That is Dana Zucherman. And I'm not
19 quite sure, I think it's Z-u-c-h-e-r-m-a-n.

20 THE COURT: Did you say Zuberma?

21 JUROR MULVEY: Zucher. Zucherman.

22 THE COURT: Oh, Zucher. Okay. And then my other
23 question was, I know we were in session Friday until 5:00.
24 When was the day -- what time and day did they then want you
25 to show up for work? Saturday?

1 JUROR MULVEY: Yeah, the very first Saturday and
2 then that following Sunday, and then Monday, President's Day,
3 because they were closed here. And it was Monday, President's
4 Day, that I had gone to both of them and said please -- I
5 showed them your note -- can you please look, you know, into
6 maybe giving me next weekend off? And my supervisor said,
7 well, you think it's me making the decision, and she marched
8 me into the office with the letter and they sat there and
9 said, you know, this is H.R. and you signed up for it and this
10 is how you're going to have to make it work.

11 THE COURT: So you had already worked Saturday,
12 Sunday and Monday?

13 JUROR MULVEY: Yeah. And then the following week
14 they called and said can you come in tonight to work?

15 THE COURT: Uh-huh.

16 JUROR MULVEY: And that one Friday we didn't get out
17 until 5:30.

18 THE COURT: Right.

19 JUROR MULVEY: And they said, well, try again
20 tomorrow, so. Oh, no, that was a Thursday night. I'm sorry,
21 I can't remember now. But anyway, Friday they texted me and
22 said we got somebody to cover you over the weekend. Dana is
23 going to call you Monday morning.

24 THE COURT: And that was the Monday, the holiday?

25 JUROR MULVEY: No, that was the following Monday.

1 THE COURT: So it was a Monday we were in session?
2 JUROR MULVEY: Yeah, that morning --
3 THE COURT: Okay.
4 JUROR MULVEY: -- before I came to session they
5 called and fired me.
6 THE COURT: Okay. And when was the confrontation,
7 the President's Day Monday?
8 JUROR MULVEY: Yeah.
9 THE COURT: Okay. So they didn't fire you that
10 President's Day --
11 JUROR MULVEY: Correct.
12 THE COURT: -- it was actually --
13 JUROR MULVEY: A week later.
14 THE COURT: -- a week later.
15 JUROR MULVEY: Yeah.
16 THE COURT: Okay. And did you work that weekend
17 or no?
18 JUROR MULVEY: No, because suddenly they just
19 magically had somebody to cover me.
20 THE COURT: Oh, okay.
21 JUROR MULVEY: When they said they couldn't do it.
22 THE COURT: But they made you work the weekend
23 before?
24 JUROR MULVEY: Yeah.
25 THE COURT: Okay.

1 JUROR MULVEY: And I even went up and apologized.
2 I said I understand you're strapped here as well, so I'll do
3 my best to make this work.

4 THE COURT: Uh-huh.

5 JUROR MULVEY: And they still --

6 THE COURT: What were your shifts? What were the
7 hours of your shifts?

8 JUROR MULVEY: Tuesdays through -- no, wait.
9 Thursday through Sunday. No, I'm sorry. I was off Tuesdays,
10 Wednesdays, so Thursday, Friday, Saturday, Sunday, Monday.
11 And Monday through -- or the weekdays were 10:00 to 7:00 and
12 the weekend shifts were 9:00 to 6:00 or 8:00 to 5:00.

13 THE COURT: Okay.

14 JUROR MULVEY: It varied a lot because I covered
15 a lot of different hours for them.

16 THE COURT: Like I said, you know, they didn't
17 technically violate the law, although I think, you know,
18 frankly, they should be more supportive of people who are
19 serving as jurors because -- two things. First of all, you
20 can't work nonstop, number one. And number two, obviously
21 we want jurors who are awake and alert and able to give this
22 matter their full attention. So I don't know if there's
23 anything I can do. I'm certainly happy to reach out to their
24 counsel and see. You know, I can't make any promises or
25 anything like that.

1 JUROR MULVEY: I understand. And I appreciate that
2 so much.

3 THE COURT: And I feel terrible that this happened
4 to you.

5 JUROR MULVEY: Thank you. It's not a job that was
6 my bliss, so in a way it's like the universe's way of saying
7 find something else.

8 THE COURT: Right. It's that -- well, hopefully
9 it's one of those when a door closes, a window opens --

10 JUROR MULVEY: Absolutely.

11 THE COURT: -- or something like that.

12 JUROR MULVEY: That's what I'm hoping.

13 THE COURT: All right. Well, thank you. And again,
14 I'm so sorry that --

15 JUROR MULVEY: Thank you.

16 THE COURT: -- you serving as a juror has resulted
17 in this hardship for you because honestly a big corporation
18 like that -- I mean, they're one of our major employers here
19 in Clark County --

20 JUROR MULVEY: I'm just a cog in the wheel.

21 THE COURT: -- you would hope that they would be
22 a little more supportive of jury service. But I'll see if
23 there's anything I can do, but like I said, no promises.

24 JUROR MULVEY: I understand completely.

25 THE COURT: All right.

1 JUROR MULVEY: Thank you so much.

2 THE COURT: Thank you, ma'am. And please don't
3 discuss this, what we've just talked about with the other
4 jurors. They're obviously going to be curious as to why I
5 asked you to stay.

6 JUROR MULVEY: I'll just smile at them knowingly.
7 (I'm just kidding). Thank you.

8 THE COURT: All right. Thank you, ma'am.

9 (Juror Mulvey exits the courtroom)

10 THE COURT: Before we take our evening recess and
11 I jump into all of the emails, I mean, I'm assuming you're
12 looking for emails that would suggest some kind of retaliatory
13 motive --

14 MR. FIGLER: Right.

15 THE COURT: -- based on the book.

16 MR. FIGLER: Correct.

17 THE COURT: So I'll be looking for that. What else
18 would you be looking for in these emails, other than something
19 that jumps out, something that's inconsistent?

20 MR. FIGLER: Right. Anything that suggests that
21 Janet Solander was given deference; that she asked for
22 something to happen and so they were going to do that, that
23 sort of thing. Anything that really contradicts what I think
24 the Court is keenly aware of, the narrative with regard to
25 CPS/DFS involvement with the Solanders, overlooking things or

1 getting things wrong or anything like that; you know what I'm
2 saying? Or a suggestion that, you know, there's an accusation
3 or we solved that or anything like that. Any discussions
4 about the Solanders for what Your Honor had already stated
5 and anything that would contradict that narrative --

6 THE COURT: All right.

7 MR. FIGLER: -- especially the Gail Anderson stuff,
8 if there's anything about that specifically because I think
9 the insinuation was that Gail Anderson was -- or Lori Wells,
10 who didn't work for DFS but she was a provider, that somehow
11 Ms. Solander felt they were getting too close to the truth and
12 so Ms. Solander manipulated the system so that they were fired
13 or taken off the case. That to me seems to be the suggested
14 narrative by the State. At least that's the impression I feel
15 that they're trying to leave with the jury, and anything that
16 would contradict that would be fair game. And I think that
17 when you review Gail Anderson's file we're looking for that
18 type of stuff, too.

19 THE COURT: Okay. And I don't -- did we get the
20 Gail Anderson employment file yet?

21 MR. FIGLER: I don't know if it's come over yet.
22 I know that Ms. Jorgenson said she was going to present that
23 to Your Honor in camera.

24 MS. BLUTH: Yeah. No, I don't think we have it yet.

25 THE COURT: Okay. Unless she dropped it off in

1 the back --

2 MR. FIGLER: Right.

3 THE COURT: -- I don't think I've gotten that yet.

4 MR. FIGLER: Okay. The other thing, Your Honor, is
5 that the defense wanted to just request of the Court, the
6 Court had reviewed a number of DFS records and UNITY notes
7 that were not provided to the defense because the Court felt
8 that there was no relevance. I'd just ask the Court if its
9 opinion of that is in any way altered by the testimony that
10 you've heard today that would require really some additional
11 documents or not? And I'd just leave that to the Court
12 because I don't know what's there, so.

13 THE COURT: Right. I mean, I've tried to be mindful
14 of that. Nothing jumped out at me. Like I said, I was
15 looking already for anything that suggested anything
16 inappropriate by Ms. McClain.

17 MR. FIGLER: Specifically, Ms. McClain now has said
18 that all three of the children received psychological weekly
19 sessions.

20 THE COURT: Can I interrupt you for a second? I
21 think that Ms. McClain -- and I know we were crunched for time
22 and I think we would have explored this probably for another
23 twenty minutes had we not had to take a break, but I think
24 Ms. McClain is confused about the difference between a
25 psychiatrist, a psychologist and a licensed therapist.

1 MS. BLUTH: I agree.

2 THE COURT: I don't think Ms. McClain knows, okay,
3 a psychologist is somebody with a Ph.D, a psychiatrist is
4 someone with an M.D. and a therapist is just some other degree
5 and they're a licensed -- you know, like a Master's. So I
6 don't know that she's aware of all these distinctions that
7 we're thinking about, so I was kind of getting when she kept
8 saying therapist she's confusing a psychologist for a
9 therapist. So I'm not sure she was really appreciating the
10 distinction like we all were because she kept saying, oh,
11 yeah, a psychologist or a therapist. And I was getting the
12 impression that she didn't really get the nuance between the
13 two, which I think would be consistent with --

14 MR. FIGLER: Sure.

15 THE COURT: -- you know.

16 MR. FIGLER: The thing is that I don't have the
17 psychologist's notes.

18 THE COURT: Right.

19 MR. FIGLER: I just have --

20 THE COURT: Neither do I.

21 MR. FIGLER: Well, but you have UNITY notes that
22 talk about the psychologists' visits that you blocked out
23 from us. And --

24 THE COURT: No, I don't --

25 MR. FIGLER: Yeah, you do. I mean, it was there.

1 THE COURT: I don't think that's what's blocked out.

2 MR. FIGLER: Because I did point that out to Your
3 Honor that --

4 THE COURT: Yeah, but that wasn't what was pointed --
5 that wasn't what was blocked out.

6 MR. FIGLER: Okay. I thought --

7 THE COURT: As I recall. I mean --

8 MR. FIGLER: I thought that the UNITY notes
9 referenced and my takeaway was that it does appear as though
10 Amaya, throughout the course of her time with Ms. Debbie
11 McClain, was seeing Dr. Lisa --

12 THE COURT: Shaffer.

13 MR. FIGLER: -- Shaffer on a weekly basis.

14 THE COURT: Right.

15 MR. FIGLER: That's what it appears to me. And I
16 don't know if those notes reflect otherwise.

17 THE COURT: Yeah. Well, I don't think the notes
18 reflect -- as I remember, I could be wrong -- one way or the
19 other. My point was just I don't know that what Ms. McClain
20 is testifying to is necessarily inconsistent because I think
21 she's using psychologist and therapist somewhat
22 interchangeably. And we are not using them interchangeably,
23 but I was getting that impression like she's really, you know.

24 MR. FIGLER: Well, I mean, all the defense can do
25 is request that the entirety of those records, but we have to

1 defer to the Court's in camera review because we don't have
2 any other knowledge base, so.

3 MS. BLUTH: But, I mean, she's been completely
4 honest the whole time, saying that these kids were getting
5 services, they were seeing therapists. I don't think she
6 appreciates the difference, but she said she saw a
7 psychologist, she saw a doctor. She's not -- I mean, I think
8 that she's -- hey, she said these kids lie, these kids go to
9 -- you know what I mean? I don't feel like she's -- there
10 are things that she doesn't remember, like all the doctors'
11 appointments and stuff like that, but there's nothing to show
12 or to infer that she's been lying about anything. She talks
13 about the kids lie, the kids do this, the kids do that.

14 THE COURT: And she had forty -- she's had forty
15 kids.

16 MR. FIGLER: I get it, but, you know, she's the
17 State's witness saying all this stuff did or didn't happen.

18 THE COURT: No, I mean, I like I said, I didn't
19 catch anything. And I don't think all three girls went to a
20 psychologist. I think Ms. McClain doesn't really appreciate
21 the difference.

22 MR. FIGLER: Fair enough.

23 THE COURT: That was my impression. I could be
24 wrong, but.

25 MR. FIGLER: Thank you, Your Honor.

1 THE COURT: All right.

2 MR. HAMNER: Just one little note. It's unrelated
3 to this. It's more related to the juror. In relation to the
4 whole thing with United, I know the former general counsel for
5 Sierra and I didn't know if -- you know, I don't want to do
6 anything inappropriate, but I could at least call and let him
7 know that this had happened in our trial. But that's your
8 call. I don't want to step on any toes. But I was pretty
9 shocked to hear that they let this lady go.

10 THE COURT: I mean, it's up to the defense. I would
11 be fine with that, so long as nothing would be made known to
12 her --

13 MR. HAMNER: Right.

14 THE COURT: -- until after verdict and the whole
15 case is over, because obviously we can't have any kind of
16 impression that one lawyer did more than another lawyer.

17 MR. FIGLER: Yeah, I would prefer that. And I'd
18 appreciate -- and if there's anything I could do that I would
19 help, but I think that we should all from the defense or the
20 plaintiff or the State side really refrain from doing anything
21 that might even possibly get back to the juror until after
22 it's done. If it comes from the Court, that's a neutral.

23 THE COURT: Right.

24 MR. FIGLER: And I appreciate Mr. Hamner, and I
25 would do the same, but.

1 THE COURT: But I would love it if I don't get any
2 results getting --
3 MR. HAMNER: I'll call after it's over.
4 THE COURT: My only thing would be if somehow
5 somebody said, oh, Mr. Hamner --
6 MS. BLUTH: Yeah.
7 MR. FIGLER: Yeah. Yeah.
8 THE COURT: -- interceded on your behalf --
9 MR. HAMNER: Yeah, and I don't want that, either.
10 THE COURT: -- and she would feel, you know --
11 MS. BLUTH: But after the trial if we could --
12 MR. FIGLER: Oh, after trial I don't give a care.
13 MR. HAMNER: Yeah.
14 THE COURT: Absolutely, because, I'm sorry, that's --
15 MS. BLUTH: Ridiculous.
16 MR. HAMNER: That's messed up.
17 THE COURT: It is.
18 MR. FIGLER: And I think that's invited for her to
19 say a cuss word --
20 MS. BLUTH: Yeah, come on.
21 MR. FIGLER: -- when they're telling her that she's
22 being let go, you know.
23 THE COURT: Right.
24 MS. BLUTH: It's ridiculous.
25 MR. FIGLER: Or being required to do whatever she

1 was being required to do.

2 MS. BLUTH: I'm sure she said it -- [inaudible].

3 MR. FIGLER: Invited error, as they say.

4 THE MARSHAL: Also, Juror No. 5 has to fly out to
5 D.C. on Monday.

6 THE COURT: I know.

7 THE MARSHAL: Okay.

8 THE COURT: We're mindful of that. We're going to
9 have Juror No. 5 hopefully here the whole trial.

10 THE MARSHAL: He keeps bringing it up to me.

11 MS. BLUTH: Well, would you just let him know that
12 he doesn't need to be worried about it, Kenny?

13 THE COURT: Yeah.

14 MS. BLUTH: He keeps bringing it up to Kenny, so.

15 THE COURT: Yeah. Kenny, just let him know --

16 THE MARSHAL: That the Court knows.

17 THE COURT: -- he will be able to take his trip.
18 That's all you need to say.

19 MS. BLUTH: Yeah.

20 THE COURT: Thank you.

21 MR. HAMNER: Thank you, Your Honor.

22 MS. BLUTH: All right, 11:30, we'll see everybody.

23 (Court recessed at 4:50 p.m. until the following day,
24 Thursday, March 8, 2018, at 11:30 a.m.)

25 * * * * *

INDEX

<u>STATE'S WITNESSES:</u>	<u>Page</u>
DEBORAH McCLAIN	
Continued cross-examination by Mr. Figler	2/139
Redirect examination by Ms. Bluth	169
Recross examination by Mr. Figler	194/208
ELIZABETH MILETI	
Direct examination by Mr. Hamner	27
Cross-examination by Ms. McAmis	47
Redirect examination by Mr. Hamner	55/59/64/66
Recross examination by Ms. McAmis	57/62/65/67
ALPHONSA STEPHEN	
Direct examination by Mr. Hamner	71/99
Cross-examination by Ms. McAmis	106
Redirect examination by Mr. Hamner	114
Recross examination by Ms. McAmis	120/121

* * *

EXHIBITS

<u>EXHIBIT NO.</u>		<u>ADMITTED</u>
<u>STATE'S EXHIBITS:</u>		
110	Photo of Lowe's box	68
112	Photo of 3 Home Depot buckets	68

* * *

CERTIFICATION

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE AUDIO-VISUAL RECORDING OF THE PROCEEDINGS IN THE ABOVE-ENTITLED MATTER.

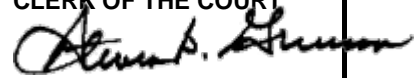
AFFIRMATION

I AFFIRM THAT THIS TRANSCRIPT DOES NOT CONTAIN THE SOCIAL SECURITY OR TAX IDENTIFICATION NUMBER OF ANY PERSON OR ENTITY.

**Liz Garcia
Henderson, Nevada 89002**



Liz Garcia, Transcriber
LGM Transcription Service



TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,)	
)	
Plaintiff,)	CASE NO. C299737-3
)	DEPT NO. XXI
vs.)	
)	
JANET SOLANDER,)	TRANSCRIPT OF
)	PROCEEDINGS
Defendant.)	

BEFORE THE HONORABLE VALERIE P. ADAIR, DISTRICT COURT JUDGE

JURY TRIAL - DAY 18

THURSDAY, MARCH 08, 2018

APPEARANCES:

FOR THE STATE:

JACQUELINE M. BLUTH, ESQ.
CHRISTOPHER S. HAMNER, ESQ.
Chief Deputy District Attorneys

FOR THE DEFENDANT:

CAITLYN L. MCAMIS, ESQ.
DAYVID J. FIGLER, ESQ.

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

I N D E X

WITNESSES FOR THE DEFENSE:

PAULA HAMMACK

Direct Examination by Mr. Figler	25
Cross-Examination by Ms. Bluth	115
Redirect Examination by Mr. Figler	170
Recross-Examination by Ms. Bluth	187

1 LAS VEGAS, CLARK COUNTY, NEVADA, MARCH 08, 2018, 11:35 A.M.

2 * * * * *

3 (Outside the presence of the jury)

4 MR. FIGLER: There have been some discussions between
5 State and defense, but we just wanted to bring it all to the
6 Court's attention and also make inquiry on the --

7 THE COURT: Records?

8 MR. FIGLER: -- records, yeah.

9 THE COURT: Okay. Well, can we start with the
10 records?

11 MR. FIGLER: Whenever you're ready and we're on the
12 record.

13 THE COURT: All right. When we're on the record,
14 we'll start with the record.

15 THE COURT RECORDER: We are. We're on.

16 THE COURT: All right. On the record, I'm still
17 reviewing all of the e-mails that were provided yesterday to
18 me. I must say I think Catherine Jorgenson did a nice job of
19 sorting everything in looking through them. They're a stack of
20 e-mails that basically concerned the book, and it's just
21 circulating the book in a PDF version among various employees.
22 Those were not in the privilege log.

23 There's one or two comments that were made about the
24 book, nothing exculpatory for Ms. Solander. I don't see a
25 problem with giving you those e-mails. It just shows that they

1 were aware of the book, and basically the gist of it is, you
2 guys shouldn't have to pay for this quote, crap, to use the
3 word of Heather Richardson, and let's circulate it for free.
4 Somebody else bought it for three dollars.

5 So you can have all that, but there's really nothing
6 exculpatory. It's basically they're just circulating the book.
7 So the reason I'm giving them is if the point is that everybody
8 was aware of this book --

9 MR. FIGLER: Sure.

10 THE COURT: -- and they're talking about the book,
11 I'm giving you the e-mails because then you can see who all got
12 the book.

13 MR. FIGLER: Okay.

14 THE COURT: So that's why you're getting it again.
15 There's nothing -- looks like the first mention of the book was
16 in December of 2013, and most of the activity of circulating
17 the book is in March of 2014. A lot of duplicative e-mails,
18 but I'm giving you all of that. Again, the point of that is
19 just to show that people are aware of the book, and you can see
20 who at least got a copy of it in the PDF version.

21 MR. FIGLER: Okay.

22 THE COURT: I'm going through these other records,
23 and I'm not done with that yet. The only interesting thing I
24 found so far -- it happened to be on the first page -- Heather
25 Richardson apparently used Ms. Solander, or they thought she'd

1 used her, as a witness in a case.

2 MR. FIGLER: Yeah, the Little case. She did.

3 THE COURT: Okay. So you already knew all about
4 that.

5 MR. FIGLER: I know vaguely about it. I don't know
6 anything specific, but I do know that --

7 THE COURT: And she identified her as a nurse on the
8 stand. That's Yvette Gonzalez is asking someone named Heather
9 Jordan[phonetic] about that. So you already knew about that.
10 I just --

11 MR. FIGLER: Oh, I don't -- I didn't -- all the
12 specifics used in here are new to me.

13 THE COURT: I just found that sort of interesting.

14 MR. FIGLER: It is.

15 THE COURT: I don't think it's, like, has really any
16 evidentiary value one way or the other, but --

17 MR. FIGLER: The Little kids were -- and Little
18 meaning that was their family name.

19 THE COURT: Yeah, their surname.

20 MR. FIGLER: Yeah. I think Phoenix and Spider?

21 THE DEFENDANT: No, not Phoenix.

22 MR. FIGLER: Not Phoenix. Spider?

23 MS. MCAMIS: Spider and Madison or something?

24 THE DEFENDANT: Addison.

25 MR. FIGLER: Addison?

1 MS. MCAMIS: Addison.

2 THE DEFENDANT: Uh-huh.

3 MR. FIGLER: We knew that there was some proceeding
4 and that Ms. Solander was called in that proceeding because
5 that was a --

6 THE COURT: Okay.

7 MR. FIGLER: -- those children's family court
8 proceeding. We knew that, but I didn't have any specifics, and
9 I haven't had any. So I'll be interested to see that.

10 THE COURT: You're getting the copy of the records.
11 That, again, just is mentioning the book --

12 MR. FIGLER: Right.

13 THE COURT: -- and the reason I'm giving them to you
14 is just because it will identify who all got copies of the
15 book.

16 MR. FIGLER: Okay.

17 THE COURT: All right. That's all I have to say.

18 MR. FIGLER: For now.

19 THE COURT: For now.

20 MR. FIGLER: On the records.

21 THE COURT: All right. What's new? What's --

22 MR. FIGLER: I'll make a representation to the Court
23 that I just made to the State. Ms. McAmis is here to make any
24 further representations as well, and then we can see where that
25 goes. So briefly, as brief as I can, after Mr. Solander

1 entered into his guilty plea agreement, I had a brief
2 conversation with Mr. Mueller about the potential of using
3 Mr. Solander now as a witness in the defense case in chief.
4 Mr. Mueller indicated to me that that was fine, that he
5 anticipated that, that that probably would serve me well, but
6 that all I need to do is make sure that Dwight talked to him
7 before he talked to me. I said, That's fine.

8 I cannot remember when I had the conversation with
9 Mr. Solander. It was sometime after court where I said, I
10 would like to talk to you, but your lawyer told me that he
11 needs to be in the loop, and you need to talk to him first and
12 clear everything before you come back and talk to me. He goes,
13 Absolutely. I said, All right. Let me know when that's done,
14 and then we'll schedule a time when you can come into my office
15 and talk with me and Ms. McAmis about your potential testimony.
16 He said, Will do.

17 So shortly thereafter he indicated to me in an
18 e-mail, so I can actually find out the date that that happened
19 if this becomes an issue, Mr. Solander told me that he had
20 spoken with Mr. Mueller at length. That Mr. Mueller was fine
21 with him coming over to my office, but only to make sure that
22 it was only the attorneys in the room with him at that time or
23 something like that. I said, Okay, fine.

24 So because of scheduling issues in court, Ms. McAmis
25 and I were not able to meet with Mr. Solander until Tuesday at

1 approximately 6:00 -- 6:30 at night. It was well after court
2 over at our office. Mr. Solander showed up, and we had dinner
3 with him -- came into our conference room, it was myself,
4 Mr. Solander and Ms. McAmis only. Ms. Wildeveld had gone for
5 the day.

6 Mr. Solander, we asked him general questions as I
7 think the Court would anticipate. We asked him about catheter
8 purchase, et cetera. We asked him about dates of when he moved
9 from Jubilee to Wakashan and tried to get, you know, timeline
10 stuff, and then Mr. Solander, unsolicited, revealed to the
11 defense for the first time that he had a hard drive full of
12 video footage from what he believed to be the Jubilee house.

13 I said, Okay. Can you provide that to us so we can
14 review that in our determination whether or not we want to call
15 you as a witness? He said, I can get that to you by tomorrow
16 morning. So we left for the evening. Mr. Solander --

17 THE COURT: Having not seen the video footage?

18 MR. FIGLER: Having not seen the video -- but he
19 didn't have it with him. He brought it in while we were in
20 court yesterday. I had communicated with Ms. Wildeveld and the
21 rest of our staff that they -- if they could open the video,
22 number one, if it was openable, if it was, lack of a better
23 word, there was some clarity, so we could see what was going
24 on, if you could identify any of the children in it, any other
25 parties in it, if there's time stamps, all the stuff that you

1 would do when you're evaluating a video.

2 So after court yesterday Ms. Wildeveld indicated that
3 we need to meet with her this morning before we went to court
4 because there is hundreds of hours of video footage. So
5 Ms. McAmis and I were working on jury instructions this
6 morning, then we went over to meet with the staff and
7 Ms. Wildeveld. They had --

8 THE COURT: Meaning your staff, your office staff?

9 MR. FIGLER: My staff.

10 THE COURT: Okay.

11 MR. FIGLER: My staff at our office. They had taken
12 copious notes about a lot of footage that they've already gone
13 through. Our legal assistant, whose name is Cole, said that he
14 had identified at least a hundred, if not hundreds of hours of
15 video footage that depicts all the parties. It depicts Dwight
16 Solander, Janet Solander, Danielle Hinton and what appears to
17 be three, young Hispanic girls, which when he showed us a clip
18 real quick, we were able to clearly identify as Ava, Amaya and
19 Anastasia, small.

20 There's a date stamp on it of May 23rd, 2010. It was
21 indicated to us that that is the date stamp on all of the
22 video, that the date stamp never moves. That would be an
23 impossible date stamp because the Solanders did not get the
24 three children until June of 2010.

25 THE COURT: So there's just something wrong with the

1 equipment or they don't update it -- whatever.

2 MR. FIGLER: On the date stamp. Whatever it is that
3 does not move. The time stamp moves at different times. So
4 say at 5:00 it will say midnight, it will say whatever --

5 THE COURT: But it's inaccurate? The times --

6 MR. FIGLER: We know at least the time is
7 inaccurate -- or the date stamp is inaccurate.

8 THE COURT: Right. But what about the time? Is it
9 inaccurate?

10 MR. FIGLER: It appears to coordinate with what is
11 coming in light --

12 THE COURT: What they're doing? Okay.

13 MR. FIGLER: -- and what they're doing and light
14 coming in and out.

15 THE COURT: All right.

16 MR. FIGLER: All right. So we didn't have time to
17 view much of the footage. I instructed Cole -- I gave him a
18 blank flash drive. I said download anything that has girls on
19 it. He did that, and I don't know how long that was -- was it
20 like two minutes? Five minutes?

21 MS. BLUTH: No, it was pretty long. I started
22 forwarding it.

23 MR. FIGLER: A lengthy clip of unknown length. I
24 don't know exactly how long it is, but I got the flash drive,
25 and I handed the flash drive as an exemplar of what's on the

1 video to the State when we walked into the courtroom.

2 I also made inquiry to them, because I know they had
3 pretried or proffered Dwight when the negotiations were going
4 on if he had spoke about, or if they had inquired about any
5 video footage. Ms. McAmis and I had previously been under the
6 impression, as is probably evident from the questions that we
7 have been asking, that this was a live streaming or something
8 that you see on your phone, like a nanny cam or something like
9 that. We didn't have knowledge of actual recording or
10 recording devices and none were discussed by the detectives
11 when they went into the Wakashan house. In fact, there were
12 some questions about whether or not a hard drive was recovered
13 or not. I think one even came from the jury.

14 THE COURT: I have a -- I'm sorry to interrupt you.

15 MR. FIGLER: That's really the fact and that brings
16 us right to the court.

17 THE COURT: Okay. Well, I had a question.

18 MR. FIGLER: Yeah.

19 THE COURT: Did anybody inquire or find out where
20 this tape was, this disc, when the police executed the search
21 warrant on the home?

22 MR. FIGLER: I have not made inquiry of Mr. Solander
23 about any of that.

24 THE COURT: Okay. So I'm just wondering, did they
25 just not seize it? Was it not there?

1 MS. BLUTH: No. They looked everywhere because that
2 was one of the things that the girls had talked about were the
3 cameras, and so when they did the search warrant, that they
4 looked for any computers, hard drives, cameras, and there was
5 nothing to be found, and so my issue is Janet Solander and
6 Dwight Solander lived together. They've been together since
7 before this trial and during this trial. So Janet Solander
8 knew about this camera footage. So we are on the last couple
9 days of trial --

10 MR. HAMNER: Right.

11 MS. BLUTH: -- and Janet Solander knew about those
12 videos. So for now for the defense to dump hundreds of hours
13 of video, the State would never in a million years be allowed
14 to do that.

15 MR. HAMNER: Right.

16 MS. BLUTH: The fault lies on their client and her
17 knowledge and her husband's knowledge of that. Had I been
18 given this, I don't know, months ago, years ago, then I could
19 have factored this in, but on the last -- tomorrow would be the
20 last day of the State's case in chief, and at this juncture
21 it's just -- it's too late.

22 Furthermore, we have no ability without the defendant
23 testifying, or Dwight Solander testifying himself, to be able
24 to figure out what house is this. I mean, there would be a ton
25 of questions from Dwight Solander, who by the way, I proffered

1 not once but twice, and I cannot even begin to explain the
2 depth of lies this man tells, and so if he gets up there, he
3 will literally be slayed because the amount of untruths and
4 lies that he was even counseled by his own attorney, you better
5 stop lying. So I've got a lot of problems with Dwight
6 Solander, A, taking the stand, but B, dumping video on us that
7 their client knew about.

8 THE COURT: I mean, he didn't take the stand. That's
9 up to the defense if they want to call him.

10 MR. FIGLER: Right.

11 THE COURT: The whole issue is the videotape and why
12 this wasn't disclosed either by your own client or by
13 Mr. Solander.

14 MR. FIGLER: Let me just make a record really quick,
15 and you know I'm new to the case. I talked to Ms. Wildeveld,
16 and Ms. McAmis will make representations, and she will do it
17 under oath if necessary, but I cannot say -- I will be very
18 clear.

19 Ms. Solander never disclosed to the defense that
20 there was any video footage in existence. I do not know if
21 Ms. Solander knows that there was video footage in existence.
22 It came directly from me from Mr. Solander, and Ms. Solander
23 was not in the room when I had that discussion. Ms. McAmis has
24 represented Ms. Solander. I have never had a solo conversation
25 with Ms. Solander in the entire term of my representation.

1 It's always either been with Ms. --

2 THE COURT: Ms. Wildeveld or --

3 MR. FIGLER: Or Ms. McAmis. Ms. McAmis is prepared
4 to represent to the Court that Ms. Solander has never revealed
5 to her that there is existence of video footage, and that
6 Ms. McAmis did not know from Ms. Solander that there was video
7 footage. So I appreciate the inference that the State is
8 making and I, with all due respect, I would probably make the
9 same inference if the roles were reversed, but I have no
10 personal knowledge, nor does Ms. Wildeveld or Ms. McAmis that
11 Ms. Solander even knew about this. So I --

12 THE COURT: I have one question, and it's really the
13 same question for both sides. Because there's been so much
14 talk about these video cameras and the police searching for
15 evidence it seems to me, number one, that when the State did
16 their proffer with Dwight Solander, somebody would have asked
17 him, were tapes retained of this video at any point? You know,
18 this could have been in his work location where --

19 MS. BLUTH: Right.

20 THE COURT: -- nobody searched. It could have been
21 in a safety deposit box. I don't know where it was, but all
22 I'm saying is that he could have had it in his drawer at his
23 desk at work, and the police didn't search that. So it seems
24 to me, number one, curious that the State wouldn't have asked
25 when they did their proffer, isn't there any videotape, and the

1 same question to defense.

2 Look, you don't have to -- it's a privileged
3 communication, but it seems odd to me that the defense wouldn't
4 have asked Ms. Solander. What did you guys do with these
5 videos? Were they retained in any way? So it just seems odd
6 to me that nobody asked anybody in this case. Now, Mr. Mueller
7 is not here so we don't know what Mr. Mueller may or may not
8 have known.

9 MR. FIGLER: And I have been communicating with
10 Mr. Mueller's office, and I have information from Ms. Hinds
11 that Mr. Mueller may have information for the Court, but he's
12 in Carson City today --

13 THE COURT: Okay.

14 MR. FIGLER: -- doing some interviews. I would --
15 look, the defense --

16 THE COURT: I mean, look, it's possible Mr. Mueller
17 knew and determined that it wasn't in his client's best
18 interest to share those videotapes and therefore, did not
19 disclose them intending not to use them.

20 MR. FIGLER: Right.

21 THE COURT: He may have decided it wasn't in
22 Mr. Solander's best interest and therefore, not have shared
23 them with Mrs. Solander's counsel initially because there may
24 be inculpatory things as to Mr. Solander. I don't know, but,
25 again, it seems curious to me nobody asked anybody, is there a

1 tape?

2 MS. BLUTH: Well, to answer the Court's question in
3 regards to our proffer, the first proffer was about an hour
4 long, and then Mr. Mueller said that he needed to go to pay his
5 employees, and the bank was closing. So we didn't even get
6 that far because we were just talking about physical abuse. We
7 didn't get any further. The second one lasted 15 minutes. He
8 lied three times, and I told him, I apologize, it would be a
9 disservice, honestly to your wife, to use you because I found
10 you to be so untruthful and it stopped. So we never -- that
11 was of course one of my main issues --

12 THE COURT: Right.

13 MS. BLUTH: -- was the cameras, but we didn't even
14 get there --

15 MR. HAMNER: We couldn't.

16 MS. BLUTH: -- he lied so much, and I was very open
17 with the defense. I told Mr. Figler at the evidence vault,
18 Look, I proffered him twice. He has been nothing but
19 dishonest, and I will not put someone who I know to be lying on
20 the stand.

21 MR. FIGLER: She made that representation to me.
22 That's true.

23 So here's my suggestion at this point, we can -- I
24 feel like I cannot call Mr. Solander at this juncture. The
25 best reason to call Mr. Solander at this juncture is to

1 authenticate the video which is what appears to be mostly
2 favorable to the defense. I would like the Court to review at
3 least a snippet of it so you know what we're talking about and
4 I would also --

5 THE COURT: Do you want me to review it now?

6 MR. FIGLER: Yeah. Just --

7 THE COURT: I mean, I guess what I would ask --

8 MR. FIGLER: Just so you know what it is.

9 THE COURT: -- is, you know, have you reviewed the
10 videotape to the extent that you've determined whether or not
11 there's something exculpatory on this video tape?

12 MR. FIGLER: Okay. So I have only --

13 THE COURT: I mean, it might be as inculpatory as it
14 is exculpatory, if at all exculpatory.

15 MR. FIGLER: If Ms. Bluth can approach the Court and
16 show us what it is.

17 THE COURT: That would be great.

18 MR. FIGLER: Based on my staff's assessment, I have
19 not looked at more than maybe a minute or two of this footage,
20 based on my staff's assessment it is mostly exculpatory to the
21 extent that it shows normal interactions of eating, studying,
22 bedtime --

23 MS. BLUTH: You can just -- it's 40 minutes long, but
24 there's nothing going on. So you can just move the mouse if
25 you want, but you'll see the little girls.

1 THE COURT: Okay.

2 MR. FIGLER: That was literally one clip of hundreds
3 of clips.

4 THE COURT: I would just note if this is at the
5 Jubilee residence, look, we can look at the photos from the
6 Wakashan -- huh?

7 MS. BLUTH: Can't we just ask Ms. Solander which
8 house it is? It's not like it's -- this is a major --

9 THE COURT: Right. I mean, but here's the thing. We
10 can tell from the photos it's not the Wakashan house.

11 MR. FIGLER: There is crossover though from Jubilee
12 during the time.

13 THE COURT: Yeah. But all I would say is, okay,
14 wasn't the testimony that when they were foster kids in the
15 Jubilee house, the interaction was somewhat regular and normal
16 when they were still foster children?

17 MR. FIGLER: Yes.

18 MS. BLUTH: Right.

19 THE COURT: So this wouldn't be inconsistent with the
20 testimony that's come out so far, and therefore, it isn't
21 really exculpatory. Now, if you get to the Wakashan house and
22 you see that it's the same normal interaction then that might
23 be the case, but unless this is reversed this doesn't look like
24 the footage that we saw of the kitchen area from the photos.

25 MR. FIGLER: Right.

1 THE COURT: So this would be -- it looks like the
2 Jubilee house.

3 MR. FIGLER: Correct.

4 THE COURT: So all I'm saying is --

5 MR. FIGLER: But there is crossover in the Amended
6 Information to a period of time that is approximately, I'm
7 going to say 10 months in the Jubilee house that is alleged to
8 be the conduct in the Information. I believe they were in the
9 Jubilee house 10 months postadopt.

10 MS. BLUTH: So, no, I used January 19th, 2011,
11 because they said that things started to change after they got
12 adopted, but when I said -- with both girls I was very clear,
13 now, the things I'm about to talk to you about that you spoke
14 to the police about, was that at Jubilee, or was that at
15 Wakashan, and all three girls said, No, that was at Wakashan.

16 THE COURT: Right.

17 MS. BLUTH: Because at the preliminary hearing, I was
18 having issues figuring out when that was, and so that's why I
19 really wanted to know well, are there any videos at Wakashan
20 because then I think that there -- we can have some
21 conversation, but at Jubilee -- I don't care what Jubilee shows
22 because there's nothing --

23 THE COURT: Yeah. I don't think there's -- I mean,
24 okay --

25 MR. FIGLER: But the problem is I don't know where --

1 if the jury believes that abuse doesn't start until -- because
2 the State's theory, and what they said very clear in their
3 opening, is that abuse starts right after adoption and Jubilee
4 encompasses approximately, I'm going to say conservatively 9 to
5 10 months of time postadoption. So that is charged in the
6 complaint, and so we would have a right to present that to the
7 jury, but I don't think that we can do that because I think
8 that everyone has unanswered questions about this video,
9 including chain of custody, et cetera, et cetera, and where was
10 and --

11 MS. BLUTH: Why can't we just have a hearing with
12 Dwight?

13 MR. FIGLER: I think we can have a hearing with
14 Dwight, but we can't have a hearing with Dwight on this topic
15 potentially until he talks to Craig Mueller I would imagine.

16 MS. BLUTH: We'll have him talk to Kristina.

17 THE COURT: Where is Craig Mueller?

18 MS. BLUTH: In Carson City.

19 MR. FIGLER: In Carson City.

20 THE COURT: Okay. So why don't we do this --

21 MR. FIGLER: Kristina said she didn't know enough
22 about the case. That she knew --

23 THE COURT: -- I mean, I don't need to watch all of
24 this.

25 MR. FIGLER: Okay. So you just have a general --

1 MS. BLUTH: There's nothing to see.

2 THE COURT: Right. No, I get it. I mean, first of
3 all, a lot of it may not even pertain to the time period. So
4 we can just get rid of all of that.

5 MR. FIGLER: It's just not time marked on dates.
6 So --

7 THE COURT: Right. But I mean, here's the thing,
8 look, I can't force your client to divulge any of this to me,
9 but you certainly can expect the cooperation of your client in
10 figuring out what time is what and when -- you know what I
11 mean?

12 MR. FIGLER: Well, there does appear to be --

13 THE COURT: I mean, she's in the video.

14 MR. FIGLER: Right. There also appears to be the
15 nanny, who was there from October 2010, which predates the
16 information to October 2011, which postdates the information.

17 THE COURT: Right. So it sounds like to me we need
18 to have a hearing out of the presence of the jury with
19 Mr. Solander.

20 MR. FIGLER: And counsel.

21 THE COURT: It sounds to me like the earliest we
22 could do that would be tomorrow, which is when the State's
23 resting their case in chief with Dr. Cetl. So --

24 MS. BLUTH: I think we can do it this afternoon
25 because they don't have any witnesses.

1 THE COURT: You don't have any witnesses?

2 MS. BLUTH: Oh, well, I meant, no. They have Paula

3 Hammack. I shouldn't have said that.

4 THE COURT: All right. So let's -- the jury is

5 waiting on the hall. Let's finish Paula Hammack, send them

6 home for the day and then do whatever we're going to do. Fair

7 enough?

8 MS. BLUTH: Yes.

9 MR. FIGLER: Yeah.

10 MS. MCAMIS: Yes.

11 THE COURT: All right. Kenny, go get the jury.

12 That's the only witness you were able to get for

13 today?

14 MR. FIGLER: Yeah. Well, it was going to be Dwight,

15 and then this video thing came up this morning. So --

16 THE COURT: So you're going to call Dwight either

17 way?

18 MR. FIGLER: I don't know what we're going to do with

19 Dwight.

20 MS. BLUTH: And then real quick, if you could just

21 admonish Ms. Solander to not have any contact with Mr. Solander

22 on this topic because I mean, obviously --

23 MR. HAMNER: He can't talk about the case. He's a

24 possible witness now so they can't talk about the case.

25 MR. FIGLER: That's fair.

1 MS. MCAMIS: Yeah.

2 THE COURT: All right. So Mr. Figler, what other
3 DFS, CPS witnesses are you going to be calling?

4 MR. FIGLER: This is going to depend on Ms. Hammack.
5 The hope is that Ms. Hammack is going to be able to all
6 encompass the entirety of what the defense was trying to
7 establish through the DFS.

8 So depending on how Ms. Hammack testifies, I have not
9 pretried her. I only have been communicating through
10 Catherine Jorgenson because I thought that was protocol, and so
11 I gave her a heads up on topics, et cetera, which she should be
12 prepared to talk about.

13 THE COURT: How long do we think for her testimony?

14 MR. FIGLER: I think an hour on direct, and, you
15 know, whatever the State feels --

16 THE COURT: I'm just going to call -- tell the jury
17 that the State's last witness wasn't available. Do we have
18 the -- Ava available?

19 MS. BLUTH: I'm actually just sending an e-mail on
20 that right now.

21 THE COURT: So we'll do her. I'm going to tell the
22 jury we're going to finish with the one witness today, and then
23 not take a lunch break so we can just go home when we're done,
24 and we're taking the -- we're starting the defendant's case in
25 chief to accommodate the scheduling of the -- these poor

1 people.

2 MR. HAMNER: I know.

3 MS. BLUTH: I know.

4 THE COURT: And then tomorrow -- or maybe then we'll
5 do -- I don't know if I want to excuse --

6 MR. HAMNER: Mr. -- number --

7 THE COURT: -- Juror No. 5 yet.

8 MR. HAMNER: Well, isn't his flight Friday?

9 MR. FIGLER: No, Monday.

10 MR. HAMNER: Okay.

11 (Jury entering 11:58 a.m.)

12 THE COURT: All right. Court is now back in session.
13 The record should reflect the presence of the State through the
14 deputy district attorneys, the presence of the defendant and
15 her counsel, the officers of the court and the ladies and
16 gentlemen of the jury -- in a minute.

17 Good morning, ladies and gentlemen.

18 UNIDENTIFIED SPEAKER: Good afternoon.

19 THE COURT: It's not quite at -- well, I'm going by
20 that clock.

21 Good morning, ladies and gentlemen. The State has
22 not rested their case in chief. Apparently they have one more
23 witness. That witness is not available until tomorrow morning.
24 For that reason we are going to allow the defense to begin
25 presenting their case in chief out of order.

1 Once again, I'll remind you that the order in which
2 the testimony comes in is of no importance. You are all
3 reminded that you need to keep an open mind until everything in
4 this case has been presented to you.

5 So, Mr. Figler, is the defense ready to call its
6 first witness?

7 MR. FIGLER: Yeah. We'll call one today, Your Honor.
8 We would call to the stand Paula Hammack.

9 **PAULA HAMMACK**

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

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

14 THE WITNESS: Paula Hammack. P-a-u-l-a,
15 H-a-m-m-a-c-k.

16 THE COURT: All right. Thank you.

17 Mr. Figler, you may proceed.

18 MR. FIGLER: Thank you.

19 DIRECT EXAMINATION

20 BY MR. FIGLER:

21 Q Ms. Hammack, what is it that you do for a living?

22 A I'm an Assistant Director for the Department of
23 Family Services.

24 Q And how long -- is that a Clark County agency?

25 A That's correct, sir.

1 Q Okay. So you work for our government; is that
2 correct?

3 A Yes, sir.

4 Q Okay. And can you tell me how long you've been
5 affiliated with the Department of Family Services here in Clark
6 County?

7 A I was hired in August of 1991, sir.

8 Q And you've maintained continuous employment then for
9 the last 26 years with the Department of Family Services here
10 in Clark County?

11 A Yes, sir.

12 Q Thank you. Can you tell me what positions you have
13 held within the Department of Family Services to the best of
14 your recollection over that period of time?

15 A Yes. I have been a Child Development Specialist,
16 Protective Services Officer, Senior Family Services Specialist,
17 Supervisor Family Services -- I'm sorry, Family Services
18 Supervisor, an Assistant Manager, a Manager, Assistant Director
19 for a period of 18 months and Acting Director.

20 Q Okay. So it sounds to me as though you have pretty
21 much had every position in the hierarchy of positions in the
22 Department of Family Services, or at least quite a few.

23 A Yes, sir.

24 Q Okay. And so the questions I'm going to ask you are
25 based on your training and experience as an employee of the

1 government through the Department of Family Services. What
2 other education and training do you have that's related to your
3 job functions here at the Department of Family Services?

4 A I have a Bachelor's Degree in Psychology, and a
5 Master's Degree in Organizational Management.

6 Q Okay. And where did you get those degrees from?

7 A Bachelor's degree is from the University of Nevada,
8 Las Vegas and the Master's is from the University of Phoenix.

9 Q Okay. Ms. Hammack, what I'm trying to do for the
10 jury is perhaps explain sort of the hierarchy because there
11 have been -- there's been testimony in the case about who were
12 supervisors, and who could sign off on things, and who reviewed
13 things and that sort of thing. So what I'd really like to do
14 is just try to get a good sense of the hierarchy.

15 We've heard about the Department of Family Services
16 and caseworkers who were involved with the foster care system.
17 Is that something that is in your department, the Department of
18 Family Services?

19 A Yes.

20 Q Okay. We've also heard about child protective
21 services or CPS, that go and investigate allegations as they
22 relate to both foster children and children who are adoptive or
23 biological children. Does that CPS department -- how does that
24 relate to DFS?

25 A Department of Family Services encompasses everything

1 that deals with child welfare. So we receive calls. We
2 investigate allegations of abuse, neglect, and we also provide
3 ongoing services to families that may be in need, and we also
4 provide foster care, which is your permanency services.

5 Q Okay.

6 A And then we also provide adoption services.

7 Q Okay. So those were a number of different services,
8 and I'm going to try to break down some of that as best I can.
9 What services are provided to -- first of all, how do children
10 become foster children?

11 A Our department receives calls from the community or
12 law enforcement and other community partners, reference
13 concerns about kids that may be unsafe or potentially abused,
14 neglected. We then, if it meets the criteria of abuse and
15 neglect, we then refer that case on to what we call
16 investigations, which is Child Protective Services. They would
17 go out and investigate the case. If they find that there's
18 information to support the allegations, they potentially can
19 substantiate, and the kids could be removed and placed in
20 foster care.

21 Q Is there an interim period before they go into a
22 foster home? What happens with children? Say there is
23 substantiated child abuse or neglect and a decision is made to
24 remove that child, who makes that decision to remove the child?
25 What is the process?

1 A If we believe a child is unsafe, we have to have
2 exigent circumstances that if the child stayed there then they
3 would potentially be harmed. We would place those children in
4 protective custody. That's our decision as a department, but
5 then it has to be placed on the court calendar in Family Court
6 for what we call a -- it's called -- it used to be called a
7 protective custody hearing. It's now called a preliminary
8 protective hearing.

9 Q Now, and I apologize, I'm taking notes as you talk.
10 You and I only met for the first time yesterday; is that
11 correct?

12 A That's correct, sir.

13 Q Okay. And I've been communicating to you technically
14 through your county attorney, Catherine Jorgenson; isn't that
15 correct?

16 A Correct.

17 Q Okay. So you know the subject matter of the topics
18 of conversation through Catherine Jorgenson at the Clark County
19 District Attorney's Office, but you and I have not specifically
20 gone through questions back and forth; correct?

21 A That's correct, sir.

22 Q Okay. So I'm going -- I apologize if I have to take
23 some notes in-between. I just want to get through some of
24 this. So you described a process where a community member
25 identifies -- or someone from the community, it could be Metro

1 police, it could be an individual who just cares, it could be
2 any number of different sources, reports that there is
3 potential for children at risk in where they are located. Is
4 that a fair assessment of how kids who become foster kids first
5 come to the attention of the Department of Family Services?

6 A Correct.

7 Q Okay. And so essentially every child who gets placed
8 in foster care is brought to the attention of DFS in this
9 particular way; is that fair?

10 A Correct.

11 Q Okay. So any foster kids who were discussed through
12 the Nevada -- or the Clark County Department of Family
13 Services, that would be their process including this Family
14 Court calendar that you spoke about; correct?

15 A I'm sorry. Can you repeat the question.

16 Q Yeah, sure. So I want to focus on, like, say a time
17 between 2008 and the present. I understand you testified that
18 there's been a change of the name, but was the procedure always
19 the same generally speaking?

20 A Correct. Based on Nevada Revised Statutes 432B,
21 we're required to have a court hearing.

22 Q Okay. And that has been in existence since '08?

23 A Longer than that, yes.

24 Q Oh, longer. Okay. But at least as far back as '08?

25 A Yes.

1 Q Okay. So what happens at these Family Court
2 proceedings? Who's there? What information is given to the
3 Family Court Judge?

4 A So the information is provided to the Judge via
5 either affidavit or report that's prepared by the department on
6 the circumstances that brought the kids into care that are
7 required for them to be removed. Usually who is present is the
8 Deputy District Attorney in the Civil Division for juvenile,
9 one of our representatives is there from DFS, our staff, case
10 manager and then sometimes there's other attorneys if the
11 parents have been appointed attorneys or have attorneys coming
12 to that hearing.

13 Q Okay.

14 A And then, of course, the sitting Judge.

15 Q Okay. And as a result of those court hearings, what
16 are the possible options for those children who are being
17 discussed?

18 A The purpose of that hearing is to determine whether
19 we have enough information to keep the kids detained. So out
20 of home, and so that determination is either they remain in
21 protective custody, is what we call it, or they are returned.

22 Q Okay. And is protective custody on some level
23 synonymous with Child Haven?

24 A Yes.

25 Q We've heard that expression Child Haven. Can you

1 explain what Child Haven is.

2 A Child Haven is our emergency shelter here in the
3 community. So when kids are removed they would go there to
4 process and then potentially placed in the community within
5 foster homes, and sometimes we look at the most least
6 restrictive option, and so we'll look for relatives. So
7 relatives are what we call fictive kin, somebody that has a
8 relationship with the family or the child that could
9 potentially be a placement. So the child doesn't have to --
10 doesn't return home based on our information.

11 Q Okay. Is there a general mission statement of the
12 Department of Family Services that could be summed up in a
13 line? What's the most important thing to the Department of
14 Family Services with regard to children?

15 A Sure. Safe children, healthy families, caring
16 communities.

17 Q Okay. All right. So just to kind of go through what
18 you just testified to, a child is brought to the attention of
19 DFS. CPS would then go out and investigate. If CPS
20 substantiates that there is risk to the child or abuse and
21 neglect, then the child is removed from the home, eventually
22 goes to a Family Court calendar, information is provided by the
23 Clark County District Attorneys Civil Division, the Department
24 of Family Services enter reports potentially from CPS, the
25 parents if they wanted to be involved and all that is

1 adjudicated by the Family Court Judge. Is that a fair
2 assessment of the process up to that point?

3 A For the protective custody and then it's -- be
4 determined, yes, if the kids would stay in protective custody
5 and then it's set for what we would call -- it's set for
6 petition or a plea hearing. So then the DAs prepare a
7 petition.

8 Q Okay. So the DAs are involved in that as well?

9 A Deputy DAs for Juvenile Division, uh-huh.

10 Q Okay. All right. So that's that part of the
11 process. Now, I want to kind of flip the script. How does
12 someone become a foster parent or a foster resource?

13 A We do community outreach to seek potential foster
14 parents, and what they have to do is they conduct -- they
15 undergo a fingerprint background. So they have to be
16 background checked. That includes local law enforcement
17 background check, what we call a child and abuse neglect
18 review. So we call it CANS. So making sure they don't have
19 any prior child abuse neglect history within the State of
20 Nevada or elsewhere if they've only lived here five years.

21 And then they also have to complete 30 hours of
22 training, and they have to have a home study completed. So
23 their home is checked. Foster care process is governed --
24 foster care licensing is governed under NRS Statute 424 and
25 Nevada Administrative Code 424. So we have to follow those

1 codes to make sure that the house has appropriate square
2 footage and so on and so forth.

3 Q Okay. All right. So there were a couple things
4 there that I need to unpack for the jury. So you do a
5 background check of the individuals who want to be or who are
6 possible candidates as foster care; correct?

7 A Uh-huh. Yes.

8 Q All right. There was some testimony about an agency
9 that has employees who are potential foster placement. Does
10 that sound like something that you could describe what that
11 means?

12 A So we also contract with agencies in the community,
13 for example, like, Olive Crest or you may have heard of SAFY.
14 They are agencies that provide foster care in the community,
15 but those homes, they conduct the training, but they still are
16 background checked by us, those individuals. They still have
17 to do similar training. They still have to have a home study,
18 and it's still reviewed by us, and we license that home. We
19 provide the license.

20 Q Okay. So if I'm understanding your testimony
21 correctly, it could be individuals from the community, just a
22 person who has a desire to do that as long as they pass your
23 background checks, or it can be an agency that is facilitating
24 that as long as the people involved pass the same exact
25 background checks; is that fair to say?

1 A Yes. And we sign off on those licenses.

2 Q You being the Department of Family Services?

3 A Correct.

4 Q Okay. All right. So tell me about the child abuse
5 and neglect database to make sure that they don't have any
6 history of child abuse and neglect. How does that work -- the
7 person who is a potential foster parent?

8 A We would run their name through our system and
9 determine if they have any substantiation history or any
10 history.

11 Q Who in your department has access to that database?

12 A That database is available -- I believe it's
13 available to all of our staff.

14 Q Okay. And presumably it's searchable by a person's
15 name?

16 A That's correct.

17 Q Okay. So if a person has substantiated child abuse
18 and neglect, that pops up on your database, they are not
19 eligible to be a foster parent; is that fair to say?

20 A That would be correct.

21 Q Okay. What about if they have any kind of felonies?
22 Are felons allowed to be foster parents?

23 A There's certain felony convictions that are not
24 allowed.

25 Q Okay.

1 A Yes.

2 Q Probably anything to do with crimes of violence or
3 crimes of veracity or truthfulness, something like that?

4 A Specifically crimes about felony child abuse,
5 neglect, murder, homicide, domestic violence, things to that
6 nature.

7 Q Okay. Violent offenses?

8 A Correct.

9 Q Okay. There's also a home study that's done. Can
10 you describe the home study process and who does that?

11 A The home study process is done by our licensing unit,
12 and what it does is they are -- while the family is going
13 through classes then the licensing staff are also meeting with
14 that family and going through and reviewing their home and
15 making sure it meets the codes required to be licensed.

16 Q Okay. Who are the people in your office? What
17 designation of employee would do the home study?

18 A The home studies for foster care is done under our
19 licensing unit and their classification; is that what you're
20 asking?

21 Q Well, and just like if you have a name of that job
22 position?

23 A It's called the Family Services Specialist.

24 Q Okay. And that is also an employee of the government
25 of the DFS; correct?

1 A That's correct.

2 Q You don't outsource that. That's in-house; right?

3 A That's in-house.

4 Q Okay. All right. So if we heard testimony that
5 somebody was licensed as a foster parent and that their home
6 actually received foster children, is there any doubt in your
7 mind that they would have gone through the child abuse and
8 neglect check, the background check, the fingerprint check and
9 also a home study, and also that they did the training that was
10 required?

11 A They would have to have that before license.

12 Q Okay. Now, what if they move? If they go from one
13 house to another house. What is their requirement from you?

14 A There's a requirement in the Nevada Administrative
15 Code that as soon as they move or relocate that they have to
16 advise us as soon as possible.

17 Q Okay. And is a new home study done?

18 A They go out and check the house and make sure it's
19 appropriate.

20 Q Okay.

21 A So the home study's updated, I believe, at that time.

22 Q All right. So you find an appropriate foster parent
23 or parents. You find an appropriate home after the home study.
24 What is the next step in placing a child who has been deemed by
25 the Court to be eligible for foster placement? What would

1 happen next? So we talked about making determinations in court
2 that the child needs protection, and that they're temporarily
3 in the Child Haven. We have talked now about a foster
4 background check for a person. We've talked about the home
5 study. So you have an appropriate place with an appropriate
6 person. You have a kid in need. How do they get together?

7 A So when we have kids that need placement, we have a
8 placement unit that would then call prospective foster parents
9 that have beds that are open, so available for placement. So
10 those, a call would be made to a foster home and say, we have a
11 5 year old that needs placement. We see you have an open for
12 that age bracket.

13 Q Okay. We've heard some testimony about various
14 sibling groups. Is that a term of art over in the Department
15 of Family Services, sibling groups, or I mean, I think it's
16 probably pretty obvious, but is there something different about
17 sibling foster kids versus individual foster kids, or what is
18 that concern or consideration if any?

19 A The goal of the department is always to have siblings
20 placed together to keep that bond, and so that's why they refer
21 to it as sibling groups.

22 Q Okay. And so what efforts are made on behalf of the
23 sibling groups to keep them as a unit for foster homes? In
24 other words, do you put out the call for people willing to take
25 sibling groups, you're just looking at beds, people who have

1 had sibling groups in the past, I mean, how does that work?

2 A They really look for potential foster homes that have
3 sufficient amount of beds to keep the sibling groups together.
4 If we don't have enough beds, then we'll look at other foster
5 homes that are close in proximity so we can have a sibling
6 visitation, which we're required to have if the siblings are
7 split up.

8 Q Okay. We've also heard the expression foster to
9 adoptive resource.

10 A Uh-huh.

11 Q What does that mean?

12 A In the past we've had homes where they've been a
13 foster to adopt and so they would do -- they may take a
14 placement with the understanding that if these kids become
15 legally free, which means the biological parents' rights are
16 terminated, that that would be a potential adoptive placement
17 for those kids.

18 Q Okay. And is there anything else that is unique
19 about that situation? In other words, do the foster parents
20 have to -- I would assume that they'd have to agree to it, but
21 is there any other screening or qualifications to be a foster
22 to adoptive parent?

23 A Once they take a foster placement and if it becomes
24 that they would like to adopt, then there's another component
25 that gets involved, and that's our adoption unit, and they

1 would then work in conjunction with our licensing unit. They
2 would look at the foster adopt home making sure that they're an
3 appropriate match, review any prior history that foster home
4 may have had, review their training plan, any out of home
5 safety placement checklists, Unity notes, things to that
6 nature, and then they would update their home study if they
7 were moving towards adoption.

8 Q Okay. So there's a new concept that we're talking
9 about is that there's something called an adoption unit within
10 the Department of Family Services; correct?

11 A That's correct.

12 Q Okay. And that is a different unit or different
13 people generally than the people who are foster care
14 caseworkers?

15 A Correct.

16 Q Okay. And based on your testimony that there is an
17 entire new screening process with regard to potential adoptive
18 parents of the foster placement?

19 A It's not necessarily a new process. They would have
20 to be re-fingerprinted. They get their home study updated.
21 There's a review of their information while they were foster
22 parents.

23 Q Okay. And you said there's also a review of the
24 Unity notes.

25 A Correct.

1 Q That was your testimony? We've heard about the Unity
2 system from some caseworkers, and I think even a supervisor,
3 but if you can maybe talk to the information that's contained
4 within the Unity notes, how you rely upon the Unity notes and
5 why, just really, if you could give a better overview of the
6 Unity note system, what its purpose is, and also, if you could
7 talk about who has access to it. I could break that down if
8 you want because that's compound. So why don't we do it one at
9 a time. Can you just overall describe to me the Unity system
10 and what it's used for.

11 A The Unity system is our database that -- that's where
12 all of our information on the cases that we work with is saved
13 and held for. When there's an investigation, there's all the
14 information on the report that's received, and then all the
15 case notes or any assessments are housed in there. The case
16 notes speak to any and all contacts that we've had with the
17 family, what we've been doing, any information that we received
18 from the community and what's going on with the kids. That's
19 the basis of the Unity -- it's Unity notes.

20 Q Is there anyone in the Department of Family Services
21 that doesn't have -- who works with children who doesn't have
22 access to the Unity notes connected to those children?

23 A I believe everyone has access to the notes. Some may
24 not have access to be able to input information.

25 Q Oh, okay. So they could read it, but they might not

1 be able to write it; is that fair to say?

2 A Correct.

3 Q Okay. Now, tell me how the database works as far as
4 searches. Can you search it by child's name?

5 A Yes.

6 Q Can you search it by a foster resource's name?

7 A For specifically to Unity notes, yes.

8 Q Okay. So if one wanted to find out all the
9 information about a child as they exist in the system, is it as
10 simple as typing in their name, and then everything about that
11 child will pop up even if they've been in different locations?

12 A Can you repeat the question. I'm sorry.

13 Q Sure. So if there's a child named Jane Doe, and she
14 was in foster care, and she's gone to a bunch of different
15 houses and different things have been inputted about her in the
16 Unity notes, if you typed in Jane Doe or someone who has a
17 unique name, would all of her Unity notes come up irrespective
18 of where she lived?

19 A The Unity notes that would come up would be specific
20 to her biological case that she was associated with when they
21 first brought her in and any placements that if we got any
22 investigations on or referrals on. If I can offer, there is
23 also though in licensing notes that that information about
24 licensing and within that specific foster home would not
25 necessarily pop up in that review because they are in Unity but

1 outside of the case notes that are in the specific case.
2 They're in the licensing notes and the provider registry.

3 Q Okay. And would a supervisor have more access if
4 they needed it to those licensing notes if it came up as an
5 issue?

6 A I can't answer that.

7 Q Okay. How about a foster resource? If somebody was
8 a foster resource to people over different kids at different
9 times, can you get all of the kids that they've been a foster
10 resource by looking at their name? In other words, if you type
11 in the name Jane Smith and you know Jane Smith was a foster
12 resource, can you find out everything about Jane Smith's
13 contact with the DFS through the Unity program?

14 A Jane Smith being the --

15 Q Foster parent.

16 A Can I ask for a clarifier?

17 Q Sure.

18 A Are you asking if I would know how many -- all the
19 kids that they were placed in that Jane Smith's home?

20 Q Yeah. Basically can you find out that information?

21 A Not by just running Jane Smith, unless there was a
22 report of child abuse or neglect or an institutional abuse, no.
23 I would have to go to within Unity, the provider registry or
24 provider facility registry that sits outside of that case
25 directory hub.

1 Q Okay. But if there's substantiated causes of child
2 abuse and neglect, that those are accessible to anyone who's
3 searching for that person; right?

4 A Correct. If there's unsubstantiated or
5 substantiated.

6 Q Oh, both?

7 A Uh-huh.

8 Q Okay.

9 A If there's a report on the foster home or on that
10 parent as a parent to their kids.

11 Q Great. Okay. So let's talk about substantiated and
12 unsubstantiated for awhile. Is it your testimony, I'm trying
13 to remember, that it's CPS who makes those investigations and
14 makes those determinations; is that correct?

15 A Correct.

16 Q Can you describe that process? So if there's an
17 allegation, how does it first become first? How does it become
18 known to the Department of Family Services?

19 A It's initial that call from the community or mandated
20 reporters or law enforcement in expressing concerns for a
21 kid's -- a child's welfare.

22 Q Okay. And what does that do? So a call is made. So
23 Person A says, I suspect or I am a mandatory reporter, and I
24 suspect that there might be abuse or neglect. What happens
25 next?

1 A The information is gathered, and we make a
2 determination if it rises to the level of abuse and neglect,
3 and then if it does, we would send it out to our investigation
4 units, our child protective services units.

5 Q So let me stop you there. If there's a first level
6 of screening --

7 A Uh-huh.

8 Q -- and what does that entail, and who does that?

9 A So our hotline unit, it's referred to now as our
10 intake unit, does that first line of screening.

11 Q Okay. Are those just people without any training?
12 Are they low-level employees? Do they have some manner of
13 training to do that? Describe who are taking in those hotline
14 calls.

15 A All of our staff in intake are Bachelor-degree-level
16 staff, and they are trained. They go through a 12 week
17 academy.

18 Q Okay. So if a determination is made that there is
19 potential abuse or suspected abuse, you said it goes to an
20 investigator. How does that process work? Is it just
21 whoever's up next, or does it go to a unit for distribution, or
22 who handles it next?

23 A So I'll try to answer all three of your questions
24 there, sir.

25 Q Thank you.

1 A It's assigned based on ZIP Codes. So if let's say
2 for example I live in 89106, which is a central ZIP Code, if
3 that's my ZIP Code and that's where the report is saying this
4 is happening, it would go to our central unit for assignment,
5 and so they would assign it, and then that investigator would
6 go out and begin the process.

7 Q Okay. Do CPS investigators have access to Unity
8 notes?

9 A Yes.

10 Q Okay. Is it fair to say that workers of DFS rely
11 upon the information in Unity notes during the ordinary course
12 of their function in their various jobs?

13 A Yes.

14 Q Okay. And so that information is kept as a ordinary
15 business record of the Department of Family Services?

16 A I'm sorry?

17 Q As an ordinary business record in the Department of
18 Family Services?

19 A Yes.

20 Q And it's kept in the ordinary course of the actual
21 responsibilities that the Department of Family Services has; is
22 that correct?

23 A Yes.

24 Q All right. So take me through the CPS process. You
25 left off that an investigator is assigned. It's related to the

1 ZIP Code. What does that investigator -- first of all, who are
2 those investigators? Are they trained?

3 A Yes.

4 Q Who trains them?

5 A We go through a child welfare academy.

6 Q Have you been through a child welfare academy?

7 A A long time ago, sir.

8 Q Okay. So I want to ask you some questions about the
9 training of the individuals. Is there any kind of
10 certification that's related to that then?

11 A No.

12 Q Okay. Are you trained in what are criminal offenses
13 during the child welfare training academy?

14 A We're trained on 432B allegations -- the 432B
15 Statute, not specifically codes related directly to criminal
16 offenses.

17 Q Okay. When they do the investigation, if a CPS
18 worker sees criminal activity, what are they supposed to
19 do -- sees evidence of criminal activity or potential criminal
20 activity?

21 A Well, they should be calling the local law
22 enforcement, but if it's in regards to the children, that the
23 children are unsafe and that's happening, they should be making
24 a determination and potentially removing those kids.

25 Q Okay. And 432B does talk about child abuse and

1 neglect; correct?

2 A Uh-huh.

3 Q Is that true?

4 A Yes.

5 Q Okay.

6 A I'm sorry.

7 Q And I'm assuming that you -- well, I'm not going to
8 assume anything. Tell me how important is that training about
9 what constitutes child abuse and neglect to a CPS investigator?

10 A It's critical.

11 Q Have you supervised in any of the roles that you've
12 been in, directly or indirectly, CPS investigators?

13 A Yes.

14 Q Okay. And are there safeguards in place to ensure
15 that they are doing their job correctly?

16 A Yes, supervisor reviews.

17 Q Okay. Can you tell me about that.

18 A For child protective services --

19 Q Yes.

20 A -- when a case is submitted for closure, it should
21 be -- it has to be reviewed and approved by the supervisor.

22 Q Okay. And so someone other than the CPS investigator
23 would be required to sign off on that; is that correct?

24 A That's correct.

25 Q And does that person have training and experience as

1 well with regard to 432B and child abuse and neglect
2 allegations?

3 A Yes.

4 Q Okay. So what is the difference between a
5 substantiated and an unsubstantiated allegation?

6 A Substantiated means that there is sufficient
7 information that the allegations are found to be true.
8 Unsubstantiated means there is not sufficient information to
9 support a finding of substantiation.

10 Q Okay. Now, just because something is substantiated
11 doesn't mean it rises to the level of criminal activity; is
12 that fair to say?

13 A Correct.

14 Q Okay. But if something is unsubstantiated, then it
15 necessarily cannot result -- or it cannot be criminal activity;
16 is that fair to say if it's unsubstantiated?

17 A Can you repeat the question again. I'm sorry.

18 Q Sure. You indicated that if something is
19 substantiated, that doesn't necessarily mean it rises to the
20 level of criminal activity or referral to law enforcement, but
21 if something is actually unsubstantiated, there would be no
22 reason to refer that to law enforcement or because of concern
23 of criminal activity?

24 A I don't -- I don't know --

25 Q Which is the higher level of proof,

1 substantiated -- well, let me rephrase that. Which is a higher
2 level of evidence, substantiated or unsubstantiated?

3 A Substantiated means there is credible evidence.

4 Q Okay. And unsubstantiated means there's no credible
5 evidence or not sufficient credible evidence?

6 A Correct.

7 Q Okay. So if there is not sufficient credible
8 evidence in a CPS investigation, is it likely or unlikely that
9 it will ever go to law enforcement as a criminal investigation?

10 A Maybe not as likely.

11 Q Okay. But it's your testimony that even
12 unsubstantiated allegations are documented in the DFS database?

13 A That's correct.

14 Q Is that also called Unity, or is that a different
15 name?

16 A No. Unity is our main database, but there's
17 different hubs within that database.

18 Q Okay. So one of the hubs talks about caseworker
19 notes; is that correct?

20 A Uh-huh.

21 Q You have to say yes or no. I'm sorry.

22 A I'm sorry, yes.

23 Q And then one of the hubs talks about CPS
24 investigations?

25 A That's the same hub.

1 Q Okay. And if I wanted a printout of all CPS
2 investigations, substantiated or unsubstantiated, how does that
3 happen? How does that physically occur? Will there be a
4 document that shows substantiated, unsubstantiated,
5 substantiated or unsubstantiated, anything like that?

6 A There would be a list of reports particularly
7 associated with that family.

8 Q Okay. So going back to our Jane Smith, if there have
9 been numerous allegations of child abuse or neglect that were
10 investigated, there would be an easily accessible list that
11 would say substantiated or unsubstantiated; is that fair to
12 say?

13 A Yes.

14 Q Now, you say that supervisors sign off on it. Is
15 there any review of the supervisors? How does that work to
16 make sure the supervisors are doing their job with the
17 hierarchywise? How would that work?

18 A Not necessarily there's not. It's on certain cases
19 there may be a requirement for a management review, but not all
20 cases.

21 Q Okay. All right. So we have a little better
22 understanding of the Department of Family Services. Let's go
23 back to the foster care system. When a child is placed in
24 foster care -- and I want to direct your attention to 2010. If
25 it's significantly different or the same, I hope you'll reveal

1 that to me, but I want to talk about a very specific process
2 that might have been in place in 2010. I guess you'll hear
3 from my question whether or not it's different then or now.

4 When a child is ready to go into a suitable and
5 essentially investigated foster placement that's appropriate,
6 do they come with something called a medical passport?

7 A Yes.

8 Q Okay. And what is a medical passport?

9 A It provides all the information that we have on that
10 child, whether they have allergies, if they're on medication,
11 when is their next doctor's appointment, things to that nature.

12 Q Does it include Unity notes?

13 A No, it should not.

14 Q Okay. So if things were happening in a prior
15 placement, those don't necessarily show up in the medical
16 passport; is that correct?

17 A That's correct.

18 Q Okay. Indeed, is it correct to say that a foster
19 parent may never know what was in the Unity notes of a prior
20 placement?

21 A Not in the Unity notes. From the medical passport
22 they may know the child's, like, allergies and things to that
23 nature but not the Unity notes.

24 Q Okay. In 2010, when a foster child was placed into a
25 new, cleared and appropriate setting, do they come with a set

1 of head-to-toe photos that show any sort of marks or scarring
2 or anything like that in 2010?

3 A I don't recall.

4 Q Okay. And I don't want to appear crass. I'm just
5 using it as an analogy. You've checked out a rental car before
6 in your life?

7 A Yes, sir.

8 Q Okay. And then oftentimes they'll take a sheet of
9 paper that has a depiction of the vehicle, and they'll go
10 around the car and they'll mark wherever there is a ding or a
11 scratch or anything like that so that you're not liable later
12 for those --

13 A Yes, sir.

14 Q You're familiar with that concept?

15 A Yes.

16 Q Is there a similar diagram in 2010, to your
17 knowledge, where a child is evaluated from head to toe, and
18 things that are marked on there are depicted or denoted that
19 are preserved anywhere?

20 A When a child first comes into care and if a child is
21 seen by the doctor or the nurse on our campus at Child Haven,
22 they would have that type of body check sheet, and they would
23 note any kind of marks.

24 Q Okay. Do you know if a diagram is used or not?

25 A I believe there is.

1 Q Back in 2010?

2 A Yes.

3 Q Okay. Do you know if photos are sometimes taken or
4 not back in 2010?

5 A All the time in regards to photos of the kids, maybe
6 of their face and stuff, but if you mean, like, about body
7 parts not unless there's injuries or, of course, they would be
8 some type of noted on that sheet, but I can't recall if there's
9 always photos taken.

10 Q Okay. So if somebody had some significant marks or
11 something, there would be photos taken of that before they're
12 given to a new foster; that would be consistent?

13 A Can I asked for clarification.

14 Q Sure.

15 A Are you asking if the pictures are given to the
16 foster parents?

17 Q Correct.

18 A I don't believe the pictures are given to the foster
19 parents.

20 Q Okay. So if a foster parent said that she had
21 received pictures of head to toe, do you know if that -- where
22 that would have come from?

23 A I do not, sir.

24 Q Okay. What about today? To your knowledge is there
25 a diagram that is used for the children that show areas of

1 marks, et cetera?

2 A Yes.

3 Q Okay. All right. So once a child is in the care of
4 the new foster home, what are -- you mentioned that there is a
5 statute that controls the -- really DFS's involvement and
6 concerns with that foster family; is that fair to say -- 432B?

7 A I'm sorry, repeat the question.

8 Q Yeah. I know it's a very complicated question.
9 Okay. So I want to take this natural point where the foster
10 child or the sibling group has been placed.

11 A Okay.

12 Q There is obvious involvement with caseworkers; is
13 that correct?

14 A Yes.

15 Q Okay. What does that involvement generally entail?
16 Why are there caseworkers, and what do they do?

17 A So when a child goes into the foster care placement,
18 it's our requirement from our caseworkers to make sure that
19 they are seeing those kids and that the placement is okay, and
20 if there's any needs that the placement needs -- things or
21 support that the placement needs. So while the case is being
22 investigated and then when that investigation is complete and
23 the kids remain in foster care, it moves on to what we call our
24 foster care services or our permanency staff.

25 Q Okay. And how many times is a caseworker required to

1 go into the home to check on the children and the surroundings
2 and environment, et cetera?

3 A In a foster care placement they must be there
4 monthly.

5 Q Okay. And tell me about how medical care works for
6 foster kids. Can a foster parent do whatever they want at any
7 time with the kids with regards to medical care, or is there
8 some interaction for that foster parent and the foster child
9 with DFS? How does that work?

10 A If there is recommended follow-up, we should be
11 helping chart that and following up with the foster parent. If
12 it's anything to do with what we call psychotropic medication,
13 so anything like ADHD medication or whatever else, they don't
14 have the authority to just put a child on any type of
15 medication. It has to make sure we follow through a protocol.

16 Q Okay. So is it fair to say that the State is
17 technically -- the government is still technically the legal
18 guardian of the child for those type of consent purposes during
19 a foster time?

20 A It's a legal custodian, yes.

21 Q Legal custodian. Okay. So as the legal custodian
22 you get to dictate rules that the foster family must follow and
23 those rules are probably consistent with information found in
24 the 432B; is that fair to say?

25 A It's not just 432B, but foster care placements are

1 also governed under Nevada Revised Statutes 424 and Nevada
2 Administrative Code 424 which are the regulations.

3 Q Okay. So there's a whole body of regulations
4 involving foster care that must be followed in order to
5 maintain a foster parent, foster child relationship; is that
6 fair to say?

7 A Yes.

8 Q And DFS is involved in making sure that that set of
9 rules and regulations are followed; is that correct?

10 A Yes.

11 Q Okay. And that as the legal guardian there are some
12 things that the foster parents can't do, such as the example
13 you gave of prescribing -- or accepting prescriptions of
14 putting kids on psychotropic medicines, et cetera, that DFS as
15 the legal guardian has to sign off on; is that fair to say?

16 A Not only do we have to sign off, but they have to
17 be -- the child has to be seen by a doctor to determine that.

18 Q So both, you're the consent giver, but you're also
19 the party that makes sure that the medical service coordinates
20 or is consistent with that?

21 A Correct.

22 Q Okay. Is corporal punishment -- do you know what I
23 mean when I say corporal punishment?

24 A Yes.

25 Q Is corporal punishment allowed between foster parent

1 and foster child?

2 A No.

3 Q Okay. So it doesn't matter if a foster parent feels
4 that corporal punishment is appropriate for behavior correction
5 or behavior modification. There's an absolute ban foster
6 parents, even if they feel it's the right thing to do, can't
7 use corporal punishment in a foster child situation; is that
8 correct?

9 A No, they should not be.

10 Q Okay. What about regulations on, like, where they
11 sleep? Do they have to have certain types of bedding, et
12 cetera, under the foster care regulations and rules?

13 A There's a regulation around appropriate sleeping
14 areas. I don't remember all of the specifics though.

15 Q Okay. So that's something that is if a biological or
16 adoptive parent chooses to not follow that, that's not your
17 concern; is it?

18 A I'm sorry, repeat the question.

19 Q Sure. The foster -- let me rephrase that. The
20 foster rules and regulations, are they plentiful? Are there
21 many of them?

22 A There's many.

23 Q Okay.

24 A Yes.

25 Q They're only applicable to foster family situations;

1 is that a fair assessment to say?

2 A Correct.

3 Q Okay. So, like, with the example of corporal
4 punishment or maybe even with bedding or food or doctors or
5 anything, that set of rules is not in place for biological
6 parents?

7 A No.

8 Q Okay. So if someone was under the rule system of
9 foster care, for example that doesn't allow corporal
10 punishment, then they become an adoptive parent, and they
11 decide to institute corporal punishment, that's no concern of
12 the DFS; is that correct?

13 A Do they remain a licensed foster home?

14 Q If they're a licensed foster home, we're just talking
15 about the adoptive children. Are they still allowed to utilize
16 it with the adoptive children?

17 A It's different for the adoptive children.

18 Q It's different for the adoptive children. Okay. And
19 so now they don't even have to come for consent if they take
20 their child to the doctor and the doctor prescribes psychiatric
21 medicine or any other kind of medicine, again, that's all on
22 the adoptive parent now. You're no longer the guardian. You
23 no longer have your rules. You no longer have to give consent;
24 is that fair to say?

25 A That's correct.

1 Q Okay. And is that fair to say that that is one of
2 the -- I want to phrase this right. So when the department
3 finds an appropriate and cleared adoptive resource, then you're
4 no longer really the guardian at all. That transfers through a
5 legal proceeding?

6 A There has to be a legal proceeding to finalize that
7 adoption.

8 Q Okay. Who presides over that? Is it a judge or --

9 A It is a judge.

10 Q And that is in our Clark County Family Court?

11 A That's correct.

12 Q Okay. So theoretically you can have a foster care
13 home where foster kids are being treated with one set of rules,
14 and the adoptive kids are being treated with a different set of
15 rules; that's fair to say that that could happen?

16 A The foster kids would have to fall under the Nevada
17 Administrative Code and NRS for foster care licensing, follow
18 those.

19 Q Okay. Is there anything about treating the kids
20 differently that as a mandatory reporter you would think would
21 be a call to the CPS hotline just because, merely because the
22 children were being treated differently?

23 A It depends on what kind of treatment.

24 Q Fair enough. But the mere fact, as long as the
25 foster kids were being treated in ways that concorded with the

1 foster rules, if the adoptive kids were being treated
2 differently, does that warrant a CPS call just based on the
3 facts that I gave you right now, the mere fact of different
4 treatment?

5 A Again, it goes back to, sir, I'm not trying to be
6 difficult, is that it goes back to what type of different
7 treatment. Are they getting, you know, are they being abused
8 and neglected? That would require a call to the hotline, yes.

9 Q Fair enough. And that's exactly right, but I'm just
10 saying the mere fact that there's a difference. So if somebody
11 called you and said the -- they called the CPS hotline, and
12 they said there are foster kids and fully adopted kids in the
13 same house. The foster kids aren't being given any corporal
14 punishment. The adoptive kids are being given corporal
15 punishment. The foster kids are eating a steak. The adoptive
16 kids are eating cereal. Does that warrant a CPS investigation
17 based on the facts that I just gave you?

18 A It may not.

19 Q Okay. Now, I want to direct your attention
20 specifically to an adoptive resource in -- go ahead.

21 THE COURT: Go ahead.

22 MR. FIGLER: I think you have to push the button.

23 THE WITNESS: I got it.

24 MR. FIGLER: There you go.

25 THE WITNESS: Thank you.

1 BY MR. FIGLER:

2 Q Okay. An adoptive resource in 2010 -- well, let me
3 start first going back a little ways. There probably are tens
4 of thousands of cases that you -- let me ask you. I usually do
5 this as cross-examination, doing this direct is a little bit
6 different. How many cases do you think that you have been
7 involved with in your 27 years, if you were to have to estimate
8 in blocks of whatever would be the appropriate measure of
9 cases, have you been involved with in some level, either
10 directly or as a supervisor, as the director of DFS?

11 A I would say thousands.

12 Q And so it probably would be difficult for you to
13 recall any individual one, especially one that would be years
14 ago?

15 A It determines -- it's based on potentially the -- if
16 I had involvement prior, or if it's a high-profile case.

17 Q Okay. Now, you know the name of the defendant in
18 this particular case; correct?

19 A I do.

20 Q Okay. And have you been able to confirm that this
21 individual was a foster resource at one point that was -- who
22 interacted with the Department of Family Services?

23 A Yes.

24 Q Okay. Did you review anything or any notes related
25 to Janet Solander or any of the foster kids that were in her

1 care at any time before you came to court today?

2 A Yes.

3 Q Okay. And what were you able to review?

4 A I reviewed prior history. So any type of
5 investigations that were conducted on the home and any type of
6 licensing investigations.

7 Q Okay. Did you have a chance to look at any of the
8 Unity notes as it related to the three children who are listed
9 as alleged victims in this particular case? Specifically
10 Jocelyn Ramirez-Castillo, who is also known as -- oh, my chart.

11 MS. MCAMIS: Ava.

12 BY MR. FIGLER:

13 Q Ava Solander or Ava McClain. Jaqueline Ramirez, who
14 is also known as Amaya Solander, also Amaya McClain, and Yarely
15 or Jiselle Ramirez who is also known as Anastasia Solander and
16 then ultimately Anastasia McClain, did you see any notes about
17 those individuals?

18 A I have, yes.

19 Q Okay. Now, do you know prior to their -- do you know
20 that they became foster children at some point in the system?

21 A Yes, sir.

22 Q Okay. And do you know who they were first placed
23 with -- or let me phrase it this way. Do you know the
24 specifics of their removal from their biological home?

25 A I do not, sir.

1 Q Okay. But would there be Unity notes that reflect
2 the removal of the children from their biological home likely
3 in the Department of Family Services?

4 A Yes.

5 Q Okay. And are those records that you would, the type
6 of records that I'm talking about now, the removal of the
7 children from their home, would those be the type of records
8 that you have access to on a regular basis in your position
9 now?

10 A Yes.

11 Q And are they notes that you rely upon in making
12 certain assessments or doing certain activities related to your
13 job functions; is that fair to say? The Unity notes are
14 important for that?

15 A Yes.

16 Q Okay. So if I showed you Unity notes dating back to
17 2008 related to the removal of those three children I mentioned
18 from their biological home, would you be able to identify that
19 those were indeed the Unity notes that cover that timeframe and
20 that topic?

21 A I could confirm those are Unity notes. I mean, I
22 haven't seen them so I don't know.

23 MR. FIGLER: Okay. Can I approach just to show her?

24 THE COURT: Sure. You can move freely.

25 / / /

1 BY MR. FIGLER:

2 Q Okay. Going back to 2008, I'd like you just to thumb
3 through those documents. Do those appear to be Unity notes for
4 at least some of the Ramirez children we described, Jaqueline,
5 Yarely, possibly even Jocelyn related to their biological home?

6 A Yes.

7 Q Okay. And those are the types of notes that you keep
8 in your department to document why the kids are removed from
9 homes, what type of abuse they may have received, that sort of
10 thing; is that fair to say?

11 A Yes.

12 Q Okay. And do those Unity notes appear to have that
13 type of information in them?

14 A Can I ask for clarification? Are you asking if it
15 talks about why the kids were removed?

16 Q Yes. And if it talks about -- or if it talks about
17 marks on their body or if it talks about abuse that they
18 specifically suffered. Do those notes reflect that?

19 A It talks about marks on their bodies and yes, it
20 reflects that. I don't see here where it talks about the
21 allegation of what constituted their removal.

22 Q Okay. Is there a caseworker at all that's assigned
23 for that particular case based on those Unity notes?

24 A Yes.

25 Q And who is that caseworker?

1 A It appears to be Margo Oliver [phonetic].

2 Q Do you recognize that name, Margo Oliver, as someone
3 who worked for the Department of Family Services?

4 A I do not.

5 Q Okay. But it does indicate that that is a Family
6 Services Specialist. That's one of the individuals that you
7 had identified as being involved with these cases; is that fair
8 to say?

9 A She's identified as a Family Services Specialist,
10 yes.

11 Q Okay. Later a different Family Service Specialist
12 does seem to become involved in this particular case. Does
13 that document perhaps refresh your recollection of who might
14 have been with those kids or maybe a better way to phrase it,
15 based on your reliance on those notes in your everyday duties,
16 are you able to discern who the caseworker who subsequent to
17 the first individual was listed as their caseworker?

18 A The author of some notes are Heather Richardson,
19 known as a Family Services Specialist II.

20 Q Okay. And does the name Heather Richardson ring
21 familiar to you as someone who works for the Department of
22 Family Services?

23 A Yes, sir.

24 Q Okay. You have no reason to disbelieve that at some
25 point, Margo Oliver, listed as a Family Service Specialist, did

1 work for the Department of Family Services?

2 A Can you repeat it. I'm sorry.

3 Q Let me just go through it real quick so we can clear
4 this up. If a Unity note has a name of an author and a title
5 Family Service Specialist I, those are the people who have
6 access to Unity notes; is that fair to say?

7 A Correct.

8 Q They're the ones who are able to write, as you said,
9 as opposed to just read; is that correct?

10 A Correct.

11 Q Okay. So that person, Margo Oliver, would have had
12 to be a family specialist -- service specialist to input the
13 note into Unity regarding these children; is that fair to say?

14 A Correct.

15 Q How many employees -- you were the acting director --
16 how many employees of the Department of Family Services
17 approximately are there at any given time?

18 A Right now?

19 Q Sure.

20 A 900.

21 Q Okay. And I'm guessing people have come and gone
22 over the last 27 -- or let's just go back to 2008 -- over the
23 last 10 years?

24 A Yes.

25 Q Okay. So that's a lot of employees.

1 A That is a lot of employees.

2 Q I'm sure you try to know everybody's name, especially
3 when you're acting director, but that's a lot of employees.

4 A It is a lot.

5 Q Okay. And then is it fair to say that the department
6 tries to keep the same caseworker with children once assigned?
7 Is that a fair goal of the department? Or is that just
8 happenstance, I mean, obviously people come and go, but do you
9 try to keep the same caseworker with the kids?

10 A The caseworkers that are providing foster care
11 services?

12 Q Yes. I'm sorry.

13 A Yes.

14 MR. FIGLER: Okay. Court's indulgence. I just want
15 to not mix records up here. All right.

16 BY MR. FIGLER:

17 Q So if I were to show you records reported to be
18 between 2009 and 2010 with the relation to those same three
19 children, would you be able to identify of those as being your
20 department's Unity notes as it relates to those children?

21 A I should be able to, yes.

22 Q Okay. And does this appear to be Unity notes from
23 between 2009 and 2010 related to the three children that we
24 talked about, Jaqueline, Jocelyn, and Jiselle, also known as
25 Yasely(sic)?

1 A Yes.

2 Q Okay. And does that appear to have, for the most
3 part, Heather Richardson involved as their caseworker? I'm
4 sorry. You can take a look at that.

5 A She appears to have the most entries as a Family
6 Services Specialist.

7 Q Okay. And if I indicated to you that during that
8 timeframe between where those notes reflect '09 and 2010, that
9 they had a foster parent named Debbie McClain, does that sound
10 correct to you, or do you not know the name Debbie McClain?

11 A Yes. That sounds correct.

12 Q Okay. So you have heard of Debbie McClain as
13 connected to these children and this case?

14 A Yes.

15 Q Okay. I just want to ask you, there appears to be a
16 page number of number at the bottom. Is that something that
17 typically comes out in the Unity notes?

18 A Yes.

19 Q Okay. Obviously, it does skip around from page to
20 page, but for this one of the Unity notes there would be
21 approximately 103 pages; is that fair to say?

22 A Correct.

23 Q Okay. And how were the runs determined for the
24 pages? Is it based on a certain topic, or does it depend on
25 the person who puts in the data run?

1 A It's the time frame.

2 Q Oh, it's a time frame. Okay. So understanding that
3 these are not complete -- I didn't give you 103 pages, I just
4 gave you what I have, can you go through there and tell me how
5 many people had contact with those children from DFS? In other
6 words, people who were able to put a Unity -- to write a Unity
7 note as it related to those three kids, and as you find a new
8 one, if it has a name, if you could tell me what that name is.

9 A Angie Zimmerman [phonetic].

10 Q So and who is Angie Zimmerman?

11 A I believe she's one of our employees that was
12 connected to the medical case management unit I believe.

13 Q Okay. And I don't want you to repeat names so if you
14 could just go through the notes that I have and indicate any
15 new names of any DFS workers who were involved with those
16 children during that timeframe.

17 A Lynnette Johnson.

18 Q And what was her position?

19 A Her title was a Family Services Specialist
20 Supervisor.

21 Q Okay.

22 A Eisele Hansen [phonetic].

23 Q Okay. And what's that person's position?

24 A Family Services Technician.

25 Q Okay.

1 A Patty Meyers [phonetic], Family Services Specialist
2 Supervisor; Nikki Banks-Hanks [phonetic], Legal Office
3 Assistant II, Yearly Williams [phonetic], Senior Family Services
4 Specialist; Lan Tran [phonetic], Child Development Assistant;
5 Andre Wade [phonetic], Family Services Specialist Supervisor;
6 Denise Campbell [phonetic], Child Development Technician II;
7 Donna Edwards [phonetic], Family Services Specialist II; Naomi
8 Tabone [phonetic], Child Development Assistant; Nicole Dawson
9 [phonetic], Family Services Specialist II.

10 Q Okay. And those -- I'm sorry. Those individuals
11 would have had some level of interaction with the three
12 children while they were fostered by Debbie McClain during that
13 timeframe on those Unity notes if that is the timeframe that
14 Debbie McClain had them; is that fair to say?

15 A Personal contact?

16 Q Some type of contact -- some type of contact with the
17 case.

18 MS. BLUTH: Judge, I'm going to object as to vague in
19 regards to some type of contact.

20 MR. FIGLER: Okay.

21 THE COURT: Or wait. Would they have had some kind
22 of contact with Debbie McClain, either person to person or
23 e-mail, or telephonic contact with Ms. McClain?

24 THE WITNESS: Not necessarily.

25 THE COURT: Okay. Would they have had some kind of

1 contact with the case?

2 THE WITNESS: They may have received information on
3 the kids when they were entering, but not specific direct
4 contact with the kids.

5 THE COURT: Okay.

6 Go on, Mr. Figler.

7 BY MR. FIGLER:

8 Q Okay. So it may not have been in person, but it was
9 certainly related to the case. That's the only reason that a
10 person would put Unity notes under that -- those children's
11 case name; right?

12 A Correct.

13 Q Okay. Now --

14 I'm sorry?

15 Oh, I'm sorry. I thought the Judge said something.

16 With regard to that time, is it DFS's responsibility
17 to make sure that the children are receiving the type of
18 services that they need to help them? As the legal guardian of
19 those children, do you have to make sure that services that are
20 necessary for the children are being provided to the children?

21 A Yes.

22 Q Okay. What's a BST?

23 A Basic Skills Training.

24 Q Okay. And what's that entail?

25 A Basic skills training is teaching kids how to do

1 basic skills like tie their shoes, brush their teeth, things to
2 that nature and --

3 Q Okay. And what is the PSR?

4 A PSR stands for Psychosocial Rehab. So they would
5 help the child engage in more social activities so they become
6 more calm in areas. So it may be, like, going to the store and
7 things to that nature. So they would be rehabbing some
8 behaviors.

9 Q Okay. And what is a therapist? Generally speaking
10 as it relates to foster kids, which foster kids get therapists?
11 There's got to be an identified need, or does every single
12 foster kid get a therapist assigned to them as well?

13 A Not every single child, but children that may need
14 some ongoing services to deal with the trauma of what they may
15 have suffered.

16 Q Okay. And who makes the determination that they
17 suffered a trauma? Is a certain assessment done anywhere?

18 A There's usually an assessment done.

19 Q Okay. Do all the assessments result in children be
20 given therapists?

21 A Not necessarily, no.

22 Q Okay. What about PSRs? Does everyone get a PSR?

23 A No.

24 Q Okay. What about BST? Does every foster kid get a
25 BST?

1 A No.

2 Q Okay. Is there -- the assessments to determine what
3 services are needed by the child, a foster child who is in the
4 care of the Department of Family Services, does that person,
5 the assessor, is that in-house or is that sometimes done by a
6 third party?

7 A It can be done by a third party that we refer to.

8 Q Okay. And do those third parties need to be
9 licensed?

10 A Yes.

11 Q Okay. And do -- are there qualifications for those
12 third parties for the Department of Family Services to use
13 them?

14 A For a therapist?

15 Q For the assessment and the therapy provision and
16 things of that nature.

17 A I'm sorry. Can you repeat the question.

18 Q Sure. So I have a provider called Hope -- H.O.P.E.
19 Counseling, does that sound --

20 A Yes.

21 Q -- like some provider has been used in the past years
22 by the Department of Family Services?

23 A Yes.

24 Q Okay. So by being licensed, are there certain
25 requirements that H.O.P.E. Counseling has to have with regard

1 to their providers in order to engage with the county at DFS?

2 A We refer to community providers. We don't
3 necessarily put restrictions on if they have to be a licensed
4 therapist to meet their credentials.

5 Q Okay.

6 THE COURT: So they can have nonlicensed therapists
7 working for them and interacting with the children?

8 THE WITNESS: Potentially they could.

9 THE COURT: Okay.

10 BY MR. FIGLER:

11 Q Okay. But does the Department of Family Services
12 carefully pick what third parties are used for those
13 assessments, or is it just random?

14 A Sometimes it can be random.

15 Q Okay. If some agency had a complaint or something
16 like that [unintelligible] or had lost their licensing, would
17 it be likely or unlikely that the county would continue to use
18 them?

19 A Likely be unlikely if we knew about it.

20 Q Okay. And H.O.P.E. Counseling is someone that you're
21 still utilizing today?

22 A I don't know, sir.

23 MR. FIGLER: Okay. Your Honor, can we approach for a
24 moment?

25 THE COURT: Please do.

1 (Conference at the bench not recorded)

2 THE COURT: Ladies and gentlemen, we had hoped to
3 actually have an early day today and maybe finish before the
4 lunch break and everybody could go home. It doesn't look like
5 we're going -- that's going to happen. We still may have an
6 early day. So we may get out prior to 5:00 today, but it looks
7 like we probably will need to take a lunch break. So we may as
8 well take it now because I'm sure everybody's getting hungry.
9 So let's go ahead and take our lunch break now, and that will
10 put us right at 2:15.

11 Before I excuse you for the lunch break, I must
12 remind you that you're not to discuss the case or anything
13 relating to the case with each other or with anyone else.
14 You're not to read, watch or listen to any reports of or
15 commentaries on the case, person or subject matter relating to
16 the case. Do not do any independent research by way of the
17 Internet or any other medium. Please don't form or express an
18 opinion on the trial.

19 Please place your notepads in your chairs and follow
20 the bailiff through the double doors. We'll see everyone back
21 at 2:15.

22 And, ma'am, please do not discuss your testimony with
23 anybody else during the lunch break.

24 THE WITNESS: Yes, ma'am.

25 (Jury exiting 1:14 p.m.)

1 THE COURT: And can we excuse Ms. Hammack for lunch?
2 Since you're the defense's witness.

3 MS. MCAMIS: Mr. Figler? Can we -- Mr. Figler?

4 MR. FIGLER: Yeah?

5 MS. MCAMIS: Can we excuse Ms. Hammack for lunch?

6 MR. FIGLER: Oh, yeah. Of course, I'm sorry.

7 THE COURT: Just make sure you're back by 2:15.

8 THE WITNESS: Yes, ma'am.

9 THE COURT: Okay. So for my staff after -- so we're
10 still going to Skype Ava at the end of the day; right?

11 MS. BLUTH: Yeah. And I told them, and Crystal got
12 it all set up. So we're good.

13 THE COURT: All right. And I don't think there's
14 anything -- there is another stack of records here of these
15 e-mails. There's really nothing much in them. It's the same
16 thing over and over again, but there's some e-mails from Dwight
17 to them, and then they circulate them. So it's the same e-mail
18 over and over again, and then their press release based on the
19 Solander case. So I'm giving you that, and that's really
20 pretty much it. But --

21 MS. BLUTH: Do we want to have our hearing with
22 Dwight this afternoon since we'll have some dead time?

23 MR. FIGLER: No, I don't know that -- perhaps we
24 should contact Mueller's office.

25 THE COURT: I don't know that Mr. Mueller was going

1 to be available today.

2 MS. BLUTH: Oh. Oh. oh. Oh, got you. Sorry, I
3 forgot about that element.

4 MR. FIGLER: I don't know. So if maybe Crystal can
5 call his office to see, or if you want me to do it, I'll do it.

6 THE COURT: Well, okay, let's talk about timing
7 realistically. We'll be back from lunch at 2:15.

8 (Colloquy regarding scheduling)

9 THE COURT: Like I said, I'm giving you this big huge
10 stack. It's the same thing over and over again. I mean, I
11 thought about just pulling it out, but then you'd say oh, we
12 only got these pages. So I'm just giving you the same thing
13 over and over again. Some of the duplicative stuff I may have
14 pulled out, but it's really nothing. It's just what I told
15 you. I think this really looks like a lot more than what it
16 is.

17 MR. FIGLER: Fair enough.

18 MS. BLUTH: And I don't know --

19 THE COURT: And I don't even think it's useful, but
20 out of an abundance of caution I'm giving it over.

21 MS. BLUTH: Yeah. Yeah.

22 THE COURT: Anyway, I just didn't want it to seem on
23 the record like, oh, you're getting tons of useful documents
24 right here at the 11th hour, which by the way I just got
25 yesterday. It's, you know, that's what it is.

1 MS. BLUTH: So it's e-mails really about the book and
2 about --

3 THE COURT: You got the ones about the book. These
4 are about the kids and once they're arrested, e-mails to the
5 commissioners and e-mails back and forth about the press
6 release --

7 MS. BLUTH: Oh, okay. Sorry, I missed that part.

8 THE COURT: -- that DFS is going to issue and then
9 there may be some e-mails back and forth about the article that
10 appeared in the RJ. That's pretty much it.

11 MR. FIGLER: Okay. Have you reviewed the -- what was
12 deemed in the confidential log to be confidential materials
13 yet?

14 THE COURT: I'm still looking at that. So --

15 MR. FIGLER: Okay. Thank you.

16 THE COURT: Anyway, all right.

17 MS. BLUTH: All righty. We'll see you at 2:15.

18 THE COURT: So I guess, Mr. Figler, the upshot is
19 you're going to be contacting Mr. Mueller or Ms. Hinds to see
20 if --

21 MR. FIGLER: I'm going to contact Ms. Hinds right now
22 to see when he might be available next to have that hearing.

23 THE COURT: Well, maybe we can all stay late then
24 with --

25 MS. BLUTH: Yeah.

1 THE COURT: I mean, here's the other thing, even if
2 we're behind that, you know, and he can be here at 4:30 maybe
3 let's just put him on just with us at 4:30 and get that over
4 with tonight.

5 MS. BLUTH: And then just so you know, Dayvid, when I
6 was dealing with Mr. Mueller about Mr. Solander, he also had
7 that male associate working on the case a little bit too. So
8 and Craig -- I don't know. So that's an option too. He might
9 be available if Craig will allow it.

10 MR. FIGLER: Is that the really tall guy?

11 THE COURT: He's the military guy that he always
12 introduces as Lieutenant Colonel whatever.

13 MR. FIGLER: When are we coming back because it's
14 time to eat?

15 MS. BLUTH: 2:15.

16 (Proceedings recessed 1:23 to 2:22 p.m.)

17 (Colloquy regarding scheduling)

18 (Jury entering 2:23 p.m.)

19 THE COURT: All right. Court is now back in session.
20 The record should reflect the presence of the State, the
21 defendant and her counsel, the officers of the court and the
22 ladies and gentlemen of the jury.

23 And, Ms. Hammack, you are of course still under oath.

24 Mr. Figler, you may resume your questioning of the
25 witness.

1 MR. FIGLER: Thank you, Your Honor.
2 Court's indulgence.

3 I was, like, what did I do with my notepad, but I had
4 already set it up here. Look at that. I was ahead of myself.

5 BY MR. FIGLER:

6 Q All right. Ma'am, we were talking about that -- I
7 believe you testified not every foster child gets a BST, not
8 every foster child gets a therapist, not every foster child
9 gets a PSR, but there are some that get all of those things;
10 correct?

11 A Yes.

12 Q Okay. And those would be children with more issues
13 or more challenges perhaps; correct?

14 A It could be, yes.

15 Q Okay. How about a psychologist, a licensed
16 psychologist, does every foster kid get a licensed
17 psychologist?

18 A No.

19 Q Okay. So that would suggest that that person would
20 have those unique challenges that a psychologist would treat;
21 is that fair to say?

22 A Yes.

23 Q Okay. And if during the entire pendency of a
24 person's stay, a foster child's stay, if they had to see a
25 psychologist every week, that would suggest that there would be

1 some issues that were being appropriately dealt with for the
2 care of that child; does that sound right?

3 A Fair, yeah.

4 Q Okay. We were also talking a little bit about the
5 Unity notes and how those are important to people in the
6 Department of Family Services to document things that are
7 happening so that if somebody in the future needed to look back
8 or find out what was contemporaneously reported, they could
9 read the note of the caseworker, for example; that's correct?

10 A Yes.

11 Q Okay. And I had showed you some notes of caseworkers
12 about those three children, Jocelyn, Jaqueline and Yarely when
13 they were in foster care in 2009 with Debbie McClain. Do you
14 remember me showing you those notes before?

15 A Yes.

16 Q And you identified those notes as being at least
17 partially the Unity notes that were related to those children
18 at that timeframe. Do you remember that?

19 A Yes.

20 Q All right. I'm going to draw your attention to what
21 I have as page 32 of 103 which is June 17th, 2009. If you
22 could just look at this entry, does that appear to be an entry
23 from Heather Richardson, their caseworker of June 17th, '09?

24 A Yes.

25 Q All right. That doesn't appear to be, with the

1 exception I think I highlighted some things, but the actual
2 print on there appears to be -- would you have any doubt that
3 that is consistent with the information inputted by a DFS
4 worker on the date that it says it was inputted?

5 A Yes.

6 Q You have a question with that, or you believe that
7 that is representative of what the worker was inputting?

8 A That's representative of what the worker would put
9 in.

10 Q Okay. And is that the kind of note that you would
11 expect workers in the Department of Family Services to enter
12 into a Unity?

13 A Yes.

14 Q Okay. And notes like this are notes that talk about
15 behavioral problems that are observed by providers; isn't that
16 correct?

17 A Yes.

18 Q Okay. And in this particular case there is a note
19 about --

20 MS. BLUTH: Judge, I'm going to object as to hearsay
21 in regards to what the note's about.

22 THE COURT: What -- yeah. What's -- just ask her the
23 question without reading from the note.

24 MR. FIGLER: Okay. I won't read from the note, but
25 the note is about the child --

1 MS. BLUTH: I'm going to object as to anything the
2 note is about.

3 THE COURT: Counsel, approach.

4 (Conference at the bench not recorded)

5 BY MR. FIGLER:

6 Q Now, that note does reflect an incident that was
7 noted by the caseworker, Heather Richardson; is that correct?

8 A The note is written by Heather Richardson, yes.

9 Q Okay. Did you read the entirety of the note?

10 A No, I did not.

11 Q I'm going to let you do that right now, and then I'm
12 going to ask you just a couple questions about that note.

13 Now, that note depicts -- or rather let me ask you,
14 does that note depict a observation of one of those children
15 we're talking about, Jaqueline, acting out sexually after a
16 court appearance?

17 A It stated that, yes.

18 Q Okay. And that it indicated that the child was
19 masturbating, lifting her hips inappropriately, interacting
20 with her therapist inappropriately in a sexual manner? Does
21 the note reflect that?

22 A It states that she was masturbating, lifting her leg
23 inappropriately. I don't recall if it said in a sexual manner.
24 I'm sorry.

25 Q Okay. Do you remember that it also noted that she

1 was trying to get her little sister, Yarely, to engage in a
2 sexual behavior as well?

3 A I do not recall that. I'm sorry, sir.

4 Q No, no problem. So that's what the note indicates;
5 isn't that right? That she was trying to get Yarely to touch
6 her as well -- the child, Jaqueline, was trying to get --

7 A The note does state that, yes.

8 Q Okay. And that the specialist here being Heather
9 Richardson, was concerned that she thought the child was acting
10 out to get something to go home to her grandmother. Is that
11 reflected in there?

12 A It states that, yes.

13 Q Okay. And then that was forwarded for psychological
14 assessment to people named Lisa Taylor and Heidi Hinoosa
15 [phonetic]. Is that what the note reflects as well?

16 A Yes.

17 Q Okay. Thank you. And then it would be typical for
18 notations in a -- in Unity if the child, the foster child, had
19 to go to the hospital or get a medical exam for any incident
20 that occurred, is that fair to say, that those will sometimes
21 show up in Unity notes?

22 A Yes. If it required medical attention, yes.

23 Q Yes. Okay. I'm going to show you page 52 of 103,
24 and just tell me if this would be a typical note that would be
25 documented in Unity contemporaneous as to when things are

1 happening?

2 A Yes.

3 Q Okay. And so this particular note reflects that
4 Jaqueline had to go to a quick care for a swollen hand and that
5 there was a possible to follow up on that, something like that.
6 That's a typical Unity note; right?

7 A Correct.

8 Q Did I accurately represent what was in that note that
9 was in the Unity?

10 A Based on what you just showed me, yes.

11 Q Thank you.

12 THE COURT: Counsel, approach.

13 (Conference at the bench not recorded)

14 BY MR. FIGLER:

15 Q Now, I'm approaching you with what's marked as 55 of
16 103, or indicated by 55 of 103. If you could read the note
17 from October 7th, 2009. Just the part that is up on top
18 here. Does that appear to be a note from Heather Richardson
19 about a CFT meeting? I'm sorry. Just the question, does that
20 appear to be a note from Heather Richardson about a CFT
21 meeting?

22 A Yes.

23 Q And can you explain to the jury what a CFT meeting
24 is.

25 A It's a child and family team meeting where we bring

1 the family together and any of their support systems to discuss
2 the case and what we can do to move it forward.

3 Q Okay. And does it indicate who's present at the CFT
4 meeting?

5 A The note does, yes.

6 Q Okay. Is the foster mother present at that
7 particular CFT meeting?

8 A It states there's a foster mother, yes, present.

9 Q Okay. If you could read that note, and then I just
10 have a quick question about that before we move on to another
11 topic.

12 A Do you want me to read it out loud or just --

13 Q No, to yourself.

14 A Okay.

15 Q And again, what's the purpose of a CFT meeting?

16 A It's to discuss where the case is and any needs of
17 the family or the children.

18 Q Okay. And in that particular note there's a couple
19 of concerns about the children that are discussed with all
20 those parties present; is that correct?

21 A Yes.

22 Q And one of them is that Jaqueline was falling behind
23 in school and needs tutoring; isn't that true?

24 A It states that, yes.

25 Q Okay. And that it looks like two of the girls are

1 instigating the third girl, Jaqueline, and it used the
2 expression, to get her to react. Is that noted in that CFT
3 report or record?

4 A Yes.

5 MS. BLUTH: Can I have a date, please.

6 MR. FIGLER: Oh, I'm sorry. That's October 7th,
7 2009.

8 MS. BLUTH: All right. Thanks.

9 BY MR. FIGLER:

10 Q Okay. And it also talks about one of the children
11 and bedwetting; is that correct?

12 A Yes.

13 Q Which child is that?

14 A Yarely. Yarely.

15 Q Okay. And does it talk about the specialist
16 requesting the mother to go to a pediatrician to rule out
17 medical issues related to that bedwetting?

18 A Yes.

19 Q Okay. All right. Do you have personal knowledge or
20 were you able to confirm through the reports that you reviewed
21 that the Solanders, Janet and Dwight Solander, were able to
22 adopt those three children or first take them in as foster and
23 then ultimately adopt them?

24 A Yes.

25 Q Okay. And you talked briefly about the adoption

1 process earlier in your direct testimony. How long does a --
2 is there a required -- let me ask you this. Is there a
3 required wait period of fostering care before those children
4 can become adopted?

5 A Yes. Per law they have to be in the home for six
6 months prior to the adoption being finalized.

7 Q Okay. So there has to be at least six months
8 elapsed; is that correct?

9 A Correct.

10 Q All right. So if I told you that the Solanders went
11 in -- the three children went in to the Solander kids as foster
12 in June of 2010, and that the adoption was finalized in January
13 of 2011, does that sound like it was a pretty -- close to the
14 minimum time of required statutory wait before adoption?

15 A Yes.

16 Q Okay. You did talk about how they have to check and
17 do some renewed checks and background checks, et cetera, before
18 they become adopted. Who pays for that adoption?

19 A The department has the ability to assist with the
20 adoption process.

21 Q Okay. And when you say with the adoption process
22 sometimes you have to have lawyers or fill out paperwork and
23 that sort of thing, and is it your testimony that the DFS has
24 some resources to pay for that type of thing to happen?

25 A Yes.

1 Q And filing fees, meaning that sometimes when you file
2 a petition in the Family Court for things like adoption, there
3 may be fees that are associated with that?

4 A I don't believe there are filing fees.

5 Q Okay.

6 A I'm not sure.

7 Q Okay. Now, if I told you that in about November
8 of 2011, DFS placed new foster kids named Autumn and Ivy Stark
9 in the Solander home as foster kids, does that sound like
10 something you confirmed in the notes that you reviewed prior to
11 coming to court?

12 A I know that those children were placed in their home,
13 yes.

14 Q Okay. Do you have any reason to doubt that it would
15 have been around November of 2011?

16 A I don't know the specific date, sir.

17 Q Okay. If I were to show you the Unity notes, do you
18 think that might refresh your recollection about some of the
19 notes that you looked at before that confirmed the children
20 being in the home or that just using those Unity notes might
21 help you identify the date that --

22 A Okay.

23 Q Okay. So based on those Unity notes can you confirm
24 that in November of '09 that the Stark girls, and I'm just
25 going to call them the Stark girls, Ivy and Autumn, were in a

1 foster home, and that's consistent with being in the Solander
2 home?

3 A They were in a foster home. The notes don't reflect
4 what foster home it was.

5 Q Okay. It doesn't say the exact name, but you have no
6 reason to disbelieve my representation that at some point
7 around that time the Solanders had those children in their home
8 as foster children?

9 A Correct.

10 Q Okay. And indeed the Stark girls were assigned a
11 caseworker. Can you tell me from reviewing the Unity notes who
12 that caseworker is?

13 A These Unity notes because I don't know who the
14 caseworker is.

15 Q Yes, these Unity notes.

16 A I believe it to be Cherina Davidson.

17 Q Okay. Cherina Davidson. And did Cherina Davidson
18 conduct home visits -- you can look through the notes freely --
19 did Cherina Davidson conduct home visits at the foster home,
20 which I'm going to represent as the Solander home, pursuant to
21 the rules of DFS?

22 A Yes.

23 Q And did she document those home visits with her Unity
24 entries as she is -- what you're telling me based on the
25 procedure and policy of DFS, did she document all her home

1 visits in her Unity notes?

2 A I can see that she's documented home visits. I don't
3 know if it's all of them.

4 Q Fair enough. And as you go through the notes, and
5 I'm going to ask you to go through each page of the notes, if
6 you can identify when there was a home visit, does Cherina
7 Davidson indicate in her Unity notes the parties present? In
8 other words, if she was with another worker in that Solander
9 home in that timeframe in 2011, maybe we can go to the first
10 one, and does she typically have, or does she at least in the
11 first note, indicate in her note who would be present during
12 the home visit?

13 A In her first note, yes.

14 Q Okay. And so what I'm going to ask you to do is kind
15 of glance through the notes and whenever you see another DFS
16 worker present at a home visit, I'm going to ask you to tell me
17 who that person is and identify that person's name for the
18 record. I know there's quite a few there, but they should be
19 highlighted when you get to them.

20 A Katie Maddox [phonetic], Permanency Worker was
21 present with her.

22 Q Okay. And on what date was that?

23 A It was on January 11th, 2012.

24 Q Okay. And so it wasn't just Ms. Davidson, but there
25 was also a permanency worker named Katie Maddox who was there

1 as well?

2 A That's correct.

3 Q Okay. You can just continue to go through that and
4 try to be careful. I actually have a list here so I'm going to
5 use my list in case you miss one or -- I kept it.

6 A On February 10th, 2012, there was a Keyshi
7 Carruthers[phonetic].

8 Q Does it identify who she is?

9 A She's a Family Support Worker.

10 Q Okay. You can pretty much skip to April 2012.

11 A In April?

12 Q April 12th.

13 A April 12th, 2012, there was a coworker with her by
14 the name of Leo.

15 Q Okay. Thank you. Now skip to July 26th.

16 A On July of 26, 2012, there is a worker by the name
17 of -- coworker by the name of Katie Maddox.

18 Q Okay. Can you tell me if that was an announced or an
19 unannounced home visit, that last one in July of 2012?

20 A Based on the Unity notes it says unannounced.

21 Q Okay. I'll take those from you. And so while there
22 might have been a lot of different names of Department of
23 Family Service workers in those notes, we just focused on names
24 of people who were in the home at the time of the home visit;
25 is that fair to say?

1 A Yes.

2 Q Okay. And then just one last question on the Stark
3 case. This appears to be near the end of the stack of 174
4 pages; is that fair to say?

5 A Yes.

6 Q Okay. And so if I were to represent to you that this
7 would be about the time that the children were placed back with
8 their biological parents, do you have any reason to doubt that
9 based on the type of note that you're looking at right now.
10 Indeed, doesn't it represent it's a reunification CFT?

11 A Yes. The note indicates that.

12 Q And what's a reunification, just what the DFS does?

13 A Reunification is where we are working to return the
14 children back to their biological parents, and so that's what
15 they're discussing, if the kids can return safely back to their
16 biological parents.

17 Q Okay. And so what, approximately, I know that one
18 doesn't have a specific date on it, but approximately if I were
19 to tell you that these notes come follow in quick sequence,
20 approximately what date would that have been, what month or
21 what year?

22 A Around March of 2013.

23 Q Okay. So between what we identified as November
24 of 2011 and March of 2013, it appears to you from those Unity
25 notes that the Stark children were in the Solander home as

1 foster kids; is that correct?

2 A Yes.

3 Q Now, I can't remember if I asked you. I had it
4 somewhere my notes here, and I don't have a little checkmark on
5 it. In order to replace -- so there was a period of time when
6 the Solanders were authorized and cleared and checked to be
7 foster parents by the Department of Family Services, and that's
8 when they took the three girls in the first time in 2010;
9 correct?

10 A Correct.

11 Q Okay. And then there was a time in January of 2011,
12 when they were, again, rechecked and found to be appropriate to
13 be adoptive parents, and in fact that adoption was finalized
14 approximately January of 2010; is that fair to say?

15 A No.

16 Q I'm sorry, of 2011. Sorry, January of 2011, I'm
17 sorry.

18 A Yes.

19 Q Thank you. And then it does appear that the
20 Solanders are again acting as a foster family for the Stark
21 girls starting some months later, but the same calendar year in
22 2011, November of 2011, for the Stark girls; correct?

23 A Yes.

24 Q Okay. We didn't talk about whether or not there
25 was -- would the Department of Family Services had made sure

1 that they were still an appropriate foster resource by doing
2 all the various checks and checking the home and making sure
3 everything was okay before placing the Stark children in the
4 home.

5 A Foster parents have to be -- they go through a
6 relicense. It's like a renewal.

7 Q Okay.

8 A I believe during that period of time it was every two
9 years.

10 Q Okay.

11 A And so they had their home checked and things to that
12 nature. So I don't remember if that would have fell into about
13 that time because I don't remember -- I don't recall when they
14 were licensed.

15 Q But there would certainly have to be a home check
16 before you put foster kids into a home irrespective of whether
17 they were foster before or not.

18 A It would have found a home that was appropriate or a
19 bed that was available and then there would have been a
20 follow-up visit to that home when the child was placed.

21 Q And that is absolute policy of DFS?

22 A That is policy.

23 Q Okay. Now, I'm going to direct your attention --
24 Court's indulgence.

25 Did you become aware that there was another sibling

1 group that was placed by DFS in the Solander home in
2 approximately June of 2013, a group of four siblings known as
3 the Burnett-Diaz children?

4 A I recall that placement.

5 Q Okay. And just like all the other children in DFS,
6 are there Unity notes that are kept for the Diaz-Burnett
7 children's time in the Solander home?

8 A Yes.

9 Q Okay. And who was apparently, the initial at least,
10 caseworker who was assigned to the Diaz-Burnett children from
11 DFS?

12 A Gail Anderson.

13 Q Okay. We're going to talk a little bit about
14 Ms. Anderson in a little moment. She also does home visits; is
15 that correct?

16 A Yes.

17 Q All right. And she doesn't write her notes exactly
18 the same way that the prior, Cherina Davidson, wrote her notes;
19 isn't that correct?

20 A That's correct.

21 Q Okay. So we don't have a subcategory for home visits
22 that identify if there were other people in the house, per se;
23 is that correct? It doesn't appear that way. You can look
24 through that.

25 A Not as it was written by Ms. Davidson.

1 Q Okay. But it does appear for some time that Gail
2 Anderson was doing monthly home visits at the Solander home as
3 required by policy while those four Diaz-Burnett children were
4 in the home; is that correct?

5 A Based on the notes, yes.

6 Q Okay. And so if there were four Diaz-Burnett kids
7 and three Solander kids, and I think just doing basic math,
8 there was seven kids that the Solanders would have been
9 responsible for at that time, four who were under the care of
10 DFS and three who were their adoptive children. Is that a fair
11 assumption based on everything you know about this case?

12 A Yes.

13 Q Okay. There did come a time, however, when Gail
14 Anderson was -- and you can keep looking through those notes --
15 when Gail Anderson was no longer the caseworker and a different
16 caseworker was assigned to the Diaz-Burnett children. Is that
17 in line with your recollection?

18 A I believe there was a change in caseworkers, yes.

19 Q Okay. Now, I'd like to talk about the change of
20 caseworkers. First of all, if a parent doesn't like a
21 caseworker for any reason or has a concern about a caseworker
22 for any reason, do they have the power to, on their own, switch
23 caseworkers? In other words, a parent says, I want a new
24 caseworker, do they automatically get a new caseworker?

25 A Parents being the biological parents?

1 Q No, I'm sorry, the foster parent.

2 A No, not necessarily.

3 Q Okay. Is there a process to reassign caseworkers?

4 A Process in regards to a policy or documentation?

5 Q Yeah.

6 A No. I don't recall.

7 Q Okay. So let me ask you this, in 2013 if a complaint
8 was lodged against the caseworker, what would have happened?

9 A It would have likely have come to the attention of
10 the supervisor, and they would have had to staff it with the
11 individual worker and the potential manager and discuss the
12 next steps if warranted that it warranted a change of
13 caseworker.

14 Q Okay. Now, do you have an independent recollection
15 of a staffing related to Gail Anderson?

16 A I do not.

17 Q Okay. Is that staffing meeting documented anywhere?
18 Assuming a staffing meeting like that occurred, would there be
19 any documentation about that, either in the caseworker's
20 personnel file or somewhere else within DFS?

21 A Not that I know of.

22 Q Okay. Who would ultimately have to sign off on the
23 change of caseworker? Is it like a vote in the room, or is the
24 person with the most authority in the room, or does it go up
25 the chain? How does that work?

1 A It's usually discussed within that unit and with the
2 manager. That's how we've done it in the past.

3 Q Okay. And what if there is no accord? What if there
4 is dissent between the parties? Is it possible that it goes
5 higher up?

6 A It could. Yes.

7 Q Okay. And do you know an individual named Leah
8 Sternberg [phonetic]?

9 A Leah Stromberg [phonetic]?

10 Q Stromberg rather, yeah, sorry.

11 A Yes.

12 Q Okay. And was she employed by the DFS in 2013 to
13 your recollection?

14 A She was employed. I don't remember if it was in
15 2013.

16 Q Do you remember her position at that time?

17 A She was a manager.

18 Q Okay. And in 2013 would you have been in the
19 hierarchy above her?

20 A No, I was not. I was not her direct report.

21 Q Okay. Did Ms. Stromberg ever consult with you on
22 cases or talk to you about things to get your opinion based on
23 your experiences at the DFS?

24 A No, because I was not her direct report.

25 Q Okay. So you --

1 A She's not my direct report. I apologize.

2 Q So is your testimony that you've never talked to her
3 about cases while the both of you were employed there?

4 A I can't recall a specific staffing. I mean, there
5 could have been a time when I've been having conversations, but
6 not a specific staffing.

7 Q Okay. Would there be occasions when you would
8 sometime be brought into a staffing?

9 A Possibly.

10 Q Okay. And why do you think they would bring you into
11 a staffing?

12 MS. BLUTH: Objection. Speculation.

13 THE COURT: If she knows.

14 MR. FIGLER: If you know. Do you know --

15 THE COURT: I mean, was there a protocol when you
16 would be brought into a staffing?

17 THE WITNESS: No. No.

18 MR. FIGLER: Okay.

19 BY MR. FIGLER:

20 Q All right. So do you have any information that
21 you've since learned -- I'll ask you how this is really just a
22 yes or no question. Do you have any information since, say,
23 late 2013, somewhere around October or November 2013, of the
24 reason why Gail Anderson was switched out as the caseworker in
25 this particular case?

1 A I do not.

2 Q Okay. You testified -- I've got a couple of
3 questions. Let's talk about CPS investigations. You said as
4 an ordinary course in the DFS when a call comes out, there are
5 CPS investigations. So CPS investigators will go out and talk
6 to individuals to gather information and see if there is enough
7 evidence to substantiate a claim; is that a fair assessment?

8 A Yes.

9 Q Okay. And so as part of their job, the CPS worker
10 interact with potentially foster parents or people who are
11 connected somehow to foster kids; is that fair to say?

12 A I'm sorry. Can you repeat it again.

13 Q Sure. So if a call is made about a foster parent,
14 the CPS worker would in all likelihood talk with that foster
15 parent as part of their investigation that would be in the
16 ordinary; correct?

17 A Yes.

18 Q Okay. And DFS workers, who go in every month, they
19 will talk to foster parents as well and interact with them;
20 correct?

21 A Based on the investigation?

22 Q No. No, I'm sorry. I switched topics on you, and
23 that wasn't fair. Just in their ordinary course they do the
24 monthly home checks, or if there are reasons to come out, not
25 related to any investigation. They do interact with the foster

1 parents. That's part of their job; correct?

2 A Yes.

3 Q Okay. And would it be in the ordinary course of,
4 say, an ordinary DFS worker, so we'll hold CPS aside for
5 second, an ordinary DFS worker who has an ordinary caseload and
6 goes and does these monthly home visits and talks with the
7 parent, would it be in the ordinary course of their job duties
8 that if they see something that was a concern to them, that
9 they would talk to the parent about that? Is that what they
10 do?

11 A Yes.

12 Q Okay. And they're the government authority. They're
13 the government agent. They have the ability to give advice or
14 information to the foster parent; isn't that correct?

15 A Yes.

16 Q Okay. They can even give certain directives to the
17 foster parent that would say, this would be in line with foster
18 policy or this is in line with the rules of fostering and so
19 you should do this or not do this. Type of conversations like
20 that are very typical for DFS workers; correct?

21 A In regards to foster care licensing requirements?

22 Q Well, let me rephrase it to make it a little bit more
23 clear. If the DFS worker, a caseworker, is in a home, and they
24 go, I'm not sure that's appropriate bedding based on our rules.
25 You need to get better bedding for that. That would be

1 something typically that they would say or that would be a very
2 typical interaction for a DFS worker and the foster parent;
3 fair to say?

4 A They may, but they may also not know all the
5 regulations that govern foster parenting licensing.

6 Q Okay.

7 A So they could also connect with the licensing unit or
8 contact the licensing unit about any concerns.

9 Q Okay. What I'm trying to get at is that part of
10 their ordinary day-to-day activity is sometimes giving advice
11 to the foster parents; isn't that true?

12 A Sure. They can give advice.

13 Q Okay. And directives; correct?

14 A Yes.

15 Q Okay. And they have the authority to do that. I
16 mean, they work for the government after all; isn't that true?

17 A Yes.

18 Q Okay. And I would assume that the hope of DFS is
19 that if the DFS worker is giving a directive or advice that the
20 foster parent would follow that advice; is that the intention?

21 A Yes.

22 Q And that is not any different from a CPS worker. If
23 a CPS worker is out there as a government agent who works for
24 the DFS, if they see something that they have a concern about
25 and they talk with the foster parent, or anyone, really during

1 the investigation, it could be a biological parent or an
2 adoptive parent either, that they would be expected to give
3 certain advice or directives in hope they would be followed to
4 be in compliance with the rules; is that fair to say?

5 A Yes.

6 Q Okay. And again, you would hope that the person
7 they're talking to, whether it be a foster parent or adoptive
8 parent, would follow the directive that the CPS investigator
9 would give them; correct?

10 A Yes.

11 Q Okay. And you have personal knowledge related to
12 this case, the Solander case, that CPS workers and DFS workers
13 were both in the Solander home for various reasons between
14 January of 2011 and November of 2013; correct?

15 A Yes.

16 Q Okay. And you have personal knowledge that DFS
17 workers and CPS investigators interacted specifically with
18 Janet Solander during that same timeframe; isn't that correct?

19 A Yes.

20 Q And you also know from your personal review of these
21 records that when either a DFS worker or a CPS worker
22 interacted with Ms. Solander, if she said something material
23 that they would, as part of their training and experience, put
24 that in Unity notes; isn't that correct?

25 MS. BLUTH: Objection. Leading.

1 MR. FIGLER: Okay. Would the -- I'll rephrase it,
2 Your Honor.

3 THE COURT: He's rephrasing.

4 BY MR. FIGLER:

5 Q If a subject person, whether it's a foster or an
6 adoptive parent who is interacting with a DFS employee, a
7 government employee, if the subject person were to give a
8 material statement, is it the policy and procedure of DFS to
9 record those statements in Unity notes?

10 A When you say materials --

11 Q Relative to what they're investigating?

12 A Yes.

13 Q Okay. And indeed if you reviewed those notes you
14 would see certain statements of Ms. Solander; is that correct?

15 A Yes.

16 Q Okay. Have you heard of a provider of services
17 called Agape?

18 A Agape, yes.

19 Q Okay. You know them to have been taken over by
20 another group called A Brighter Day, or do you not? Do you
21 know that?

22 A I don't know that, no.

23 Q Okay. Do you know a provider called A Brighter Day?

24 A I've heard of that provider, yes.

25 Q Okay. And how have you heard of that provider?

1 A Based on a case.

2 Q Okay. What kind of case was it?

3 A Institutional investigation.

4 Q Of A Brighter Day?

5 A Yes.

6 Q Do you remember the approximate time frame that that
7 occurred?

8 A I do not.

9 Q Would it have been in the last five years?

10 A Approximately.

11 Q Okay. Are you allowed to share the results of that
12 investigation?

13 A No.

14 Q Okay. A couple more procedural questions for you and
15 then I'm almost done. Let's go back to when CPS substantiates
16 an investigation or an allegation; okay? Does that mean it
17 automatically goes to law enforcement, or are there other
18 options available to the CPS worker for referral?

19 A No. If Child Protective Services substantiates the
20 case, it doesn't necessarily mean it goes to law enforcement.
21 The only time it goes to law enforcement is if there's a
22 concern of a criminal element occurring, and so we can open the
23 case and provide services. Kids can be removed, and they go to
24 court, and that becomes a more formal case, or we can provide
25 services and voluntary. The family can work with us on a

1 voluntary basis as long as they're cooperative.

2 Q Okay. So there are, like, parenting classes that are
3 available to adjust something that was substantiated; is that
4 fair to say?

5 A It's not necessarily parenting classes. Sometimes we
6 just refer it even if there is no -- if it's an unsub we can
7 refer to parenting classes --

8 Q Okay.

9 A -- for purposes of further education.

10 Q Is there sometimes a court proceeding that occurs?

11 A Yes.

12 Q And out of those court proceedings what could happen?
13 What are some of the various options in those court proceedings
14 after a substantiated CPS investigation?

15 A Can I ask for a clarifier? You say it's a
16 substantiated, I've now gone to my first court hearing? Or --

17 Q Yeah. You're at your first court hearing. What are
18 some of the options that could come out of that?

19 A The Court can keep the kids in out of home care where
20 either they're in foster care or in a relative placement, or
21 they continue to gather more information, or the Court can
22 determine that we don't have sufficient information to detain
23 the kids and send them back home.

24 Q Okay. What's a safety plan?

25 MS. BLUTH: I'm sorry, what's what?

1 MR. FIGLER: Safety plan.

2 BY MR. FIGLER:

3 Q Do you know that expression, safety plan?

4 A Yes.

5 Q And what does that entail?

6 A So a safety plan is put in place when the department
7 has completed their investigation and determined that there are
8 threats within the home that need to be -- safety threats that
9 are in the home that need to be controlled for, and so then we
10 would put a safety plan in place. There are several different
11 types of safety plans though. We can do an in-home safety plan
12 or an out-of-home safety plan. There's a few others, and I
13 don't recall them off hand.

14 Q Okay. And then is that determined in a court
15 proceeding over in Family Court?

16 A That initial determination can be made prior to it
17 going to -- let me think back. So a court hearing would have
18 occurred, but a safety plan may not have been in place at that
19 point in time. It would have been called what we call a
20 present danger plan. So it's an immediate plan, and then
21 following further investigation a safety plan would become, and
22 that would be shared with the Court.

23 Q Okay. And who is present in the court? In other
24 words, who is advocating for CPS or DFS? Who is advocating for
25 DFS's position?

1 A Well, the DFS staff and then we also have deputy DAs
2 in the juvenile division that's there as well representing the
3 State.

4 Q And when you say DA you mean Deputy Clark County
5 District Attorney's Office?

6 A Correct.

7 Q Okay. I'm going to draw your attention to a book
8 written by Janet Solander. Are you aware of a book that was
9 written by Janet Solander regarding the foster care system?

10 A Yes.

11 Q Okay. Do you remember when you were made aware of
12 that?

13 A I want to say late in 2013.

14 Q If I were to tell you -- first of all, do you know
15 when the criminal investigation of Janet Solander with regard
16 to the three children -- you're aware there was a criminal
17 investigation in coordination -- were you aware -- sorry. When
18 you're on direct and cross you get to phrase them differently,
19 and I don't usually do this so I want to get it right.

20 Are you aware of a coordinated effort between the
21 Department of Family Services and law enforcement with regard
22 to potential criminal charges against Janet Solander?

23 A Yes.

24 Q Okay. Do you know the date that that criminal
25 investigation was launched?

1 A Not off hand, no.

2 Q Okay. If I told you that it wasn't until 2014 that
3 the Solander children were interviewed about potential
4 criminality, does that sound correct to you?

5 A Yes.

6 Q Okay. Did you ever purchase a copy of Janet
7 Solander's book?

8 A I don't recall.

9 Q Okay. I'm going to approach you with a document. It
10 looks like an e-mail. Does that appear to be an e-mail that
11 you authored?

12 A Yes.

13 Q Okay. And what is the date of that e-mail?

14 A It is dated December 19th, 2013.

15 Q And what is that e-mail about?

16 A It's an e-mail to the current -- the prior -- sorry,
17 the prior director and assistant director indicating there was
18 a link to Ms. Solander's book that was forwarded to me by
19 Shannon Edwards.

20 Q Okay. And does the e-mail indicate whether or not
21 you had purchased a copy of that book as well?

22 A Yes, it did.

23 Q So does that refresh your recollection that you
24 purchased Ms. Solander's book?

25 A Yes. Yes.

1 Q Okay. And you indicated that you sent that to the --
2 who are those two people?

3 A The prior director and assistant director.

4 Q Okay. And it appears as though Shannon Edwards was a
5 source of an original link --

6 A Yes.

7 Q -- to a Google book; is that fair?

8 A Yes.

9 Q And who does Shannon Edwards appear to send that to
10 in that e-mail?

11 A Patrick Barkley.

12 Q Who's Patrick Barkley?

13 A Patrick Barkley is one of our nurses on campus --

14 Q Okay.

15 A -- for the Department of Family Services.

16 Q And do you recall the date of the Shannon -- I'm
17 sorry. I keep pulling it away from you. Do you recall the
18 date of the Shannon Edwards' e-mail that you forwarded?

19 A The date that I forwarded the e-mail on?

20 Q No. The date of the e-mail that you -- from Shannon
21 Edwards. When did Shannon Edwards' e-mail --

22 A Patrick Barkley?

23 Q -- get sent to Patrick Barkley?

24 A December 10th, 2013.

25 Q Okay. And you seem to have some knowledge about

1 what's in the book without having even read it; is that fair to
2 say?

3 A Just a summary.

4 Q Okay. And what was your summary?

5 A Basically that she had called out some folks in the
6 foster care system in the book.

7 Q Okay. Do you remember how you knew that before you
8 read the book?

9 A I believe I just read the little brief -- there was a
10 brief on the book.

11 Q Okay. And who is Jolie Courtney?

12 A Jolie Courtney is a manager at the Department of
13 Family Services.

14 Q Okay. Do you recall getting an e-mail from Jolie
15 Courtney about the book?

16 A I don't recall.

17 Q Okay. I'm going to show you a couple of documents.
18 You can read those to yourself, and tell me if that refreshes
19 your recollection.

20 A Yes.

21 Q Okay. Do you remember having an e-mail conversation
22 with Jolie Courtney about this book?

23 A Yes.

24 Q Okay.

25 A Based on these documents.

1 Q Does that refresh your recollection of having that
2 conversation?

3 A Yes. Yes.

4 Q Okay. Do you remember being asked by Jolie if you
5 had read the book yet?

6 A Yes.

7 Q And what was your response?

8 A I said, No, but I will.

9 Q Okay. And do you remember the month and year that
10 those e-mails were sent between you and Jolie Courtney?

11 A I want to say it was late 2013. I don't remember the
12 month.

13 Q Okay.

14 Court's indulgence.

15 And in late December, 2013, what was your capacity at
16 the Department of Family Services, December of 2013?

17 A I was assistant director.

18 Q Oh, last question. Medical passport, if I asked you
19 to produce the medical passport that -- well, first of all, if
20 there was a medical passport for these children in 2010, the
21 three children we're talking about. I'm sorry, we've talked
22 about a lot of different children. Let's talk about the three
23 adopted Solander kids, Ava, Anastasia and Amaya. You indicated
24 that in 2010, they would have come with a medical passport
25 prepared by the DFS, and that medical passport would have been

1 given to the Solanders; is that fair to say?

2 A Yes.

3 Q Is it possible for the DFS right now to produce what
4 that document looked like, that 2010 document that was given to
5 the Solanders?

6 A I don't know.

7 Q Okay. Assuming that the three children, Ava,
8 Anastasia and Amaya, have been adopted for a couple years now,
9 do the medical passports stick around? Are they still around?
10 Their last medical passport that they have?

11 A I'm sorry. I don't know.

12 MR. FIGLER: Okay.

13 Pass the witness, Your Honor.

14 THE COURT: All right.

15 MS. BLUTH: Do you want me to start?

16 THE COURT: Yeah. Cross.

17 CROSS-EXAMINATION

18 BY MS. BLUTH:

19 Q All right. I have a few questions about the records
20 that Mr. Figler showed you. There was some questions about in
21 regards to some notes in 2009 about Yarely and a bedwetting
22 issue. Do you remember that?

23 A I remember the note, yes.

24 Q Okay. I'm now going to approach you with a note from
25 November 16th of 2009. If you could please read these four

1 lines right here. And in that note it discusses that the
2 foster mother, who is Debbie McClain, did take Yarely to a
3 pediatrician and medication was discussed for the enuresis; is
4 that right?

5 A Yes.

6 Q But the foster mother chose not to fill the
7 medication because she was afraid of the side effects, which
8 included severe headaches?

9 A Yes.

10 Q And instead the foster mother would just prefer to
11 get up in the middle of the night and help Yarely go to the
12 bathroom.

13 A Correct.

14 Q There was some questions in regards to whether or not
15 foster parents themselves can change out permanency workers or
16 therapists or things like that. If a foster family repeatedly
17 expresses concerns in regards to either a therapist or a
18 permanency worker, will the department take those concerns
19 seriously?

20 A I'm sorry. Can you repeat the question. I'm sorry.

21 Q Sure. If a foster parent continually makes
22 complaints to -- let's say it's a permanency worker that they
23 have complaints over; okay? And so they repeatedly make
24 complaints to that permanency worker's supervisor or the
25 ombudsman, will DFS take that into consideration in regards to

1 whether or not that permanency worker should stay in that
2 position?

3 A Yes. They will consider those.

4 Q And you're aware of the Solander case?

5 A Right. When you say that position or on the case?

6 Q On that case. Just on the case with them.

7 A On the -- on the case, yes.

8 Q And you were aware of the Unity notes in regards to
9 the Solanders in relation to this case? You've read them?

10 A Yes.

11 Q And you are aware that the Solanders were very
12 unhappy with several different workers or therapists involved
13 in their case?

14 A Yes.

15 Q And that several of those people were moved off the
16 case due to Solanders' complaints?

17 A I don't recall several, but I know of some.

18 Q Okay. You were asked some questions about an
19 investigation into Brighter Day, and I just want to make clear,
20 Debbie McClain, the foster mother and now the adoptive mother
21 of Ava, Amaya and Anastasia had nothing to do with that
22 investigation.

23 A I don't recall. I don't recall. I don't believe she
24 did.

25 Q Okay. And then your department works quite

1 frequently with deputy district attorneys in, like, the
2 juvenile division or the family welfare division; correct?

3 A Yes.

4 Q But that's a completely different division than where
5 myself and Mr. Hamner work?

6 A Yes.

7 Q And sometimes those -- the role of those two
8 divisions can be quite different when it comes to these cases?

9 A Yes.

10 Q And sometimes there are opposing opinions on how
11 these cases should be treated?

12 A That's correct.

13 Q For instance sometimes there will be a case where CPS
14 has unsubstantiated it and my division, the criminal division,
15 will still pursue criminal charges?

16 A That's correct.

17 Q I want to ask you a little bit about the process in
18 regards to call intake. Now, the person who answers the phone
19 calls, like, so that -- what would you call that person? Like
20 an intake call -- who -- what would be the formal position of
21 that individual?

22 A They're called Family Services Specialists Intake
23 Worker.

24 Q Intake worker. The intake worker is an important
25 person in the process because they are charged with gathering

1 the information and then figuring out what type of priority the
2 call is?

3 A Correct.

4 Q Now, what type of education do those individuals
5 have?

6 A They have a bachelor's degree or higher.

7 Q And what type of education or training do they have a
8 regards to in taking calls or working with CPS type issues?

9 A They go through an academy. It's about 12 weeks, and
10 they get intensive training around the intake assessment that
11 we use now.

12 Q And then that person can also look up history. So
13 let's say it's a foster family. They can look up history and
14 see, okay, there's been seven cases open for investigation, six
15 have been unsubbed -- unsubstantiated, one has been subbed, and
16 they can actually place that in the documents, in the
17 paperwork.

18 A Yes.

19 Q So either a permanency worker who works with those
20 children or a later investigator can see that there has been a
21 history with this family?

22 A Yes.

23 Q In regards to the background checks of foster
24 parents, if let's say a foster parent says what they do for a
25 living, they say I'm a nurse, does DFS background check to make

1 sure that they are who they say they are, that they are a
2 nurse?

3 A Do they check for their credentials? Is that what
4 you're asking?

5 Q Do they check any, I mean, is any checking done in
6 regards to what they're saying they do for a job?

7 A I don't recall. I don't know.

8 Q Mr. Figler asked you some questions in regards to the
9 role of DFS is different when, you know, checking on foster
10 care children's well-being and then either bio children of that
11 same family or adopted children of that same family.

12 A Uh-huh.

13 Q And you said, Yes, that's correct.

14 A Yes.

15 Q Because the rules or regulations are different when
16 it's not the foster parent's own child.

17 A Correct.

18 Q But would you agree with me that there are certain
19 situations in which it's not okay for either a foster parent or
20 a bio parent to treat children a certain way?

21 A That's correct.

22 Q So for instance, Mr. Figler brought up, like, maybe
23 sleeping arrangements may not be proper for a foster child due
24 to licensing requirements, but they could be possible for an
25 adopted child or a bio child?

1 A Correct.

2 Q But according to DFS or CPS standards, if you are in
3 a home and you saw biological children sleeping without clothes
4 on boards, would that be of concerning to you?

5 A Yes.

6 Q Would that be a reportable thing?

7 A Yes.

8 Q If you were in a home and you saw children who were
9 bio children or adopted children taking only cold showers with
10 ice being dumped on them, would that be a reportable thing to
11 you?

12 A Yes.

13 Q What if they were not allowed towels, but they were
14 allowed to dry off purely by a fan blowing on them, would that
15 be concerning to you?

16 A Yes.

17 Q If their food and water intake was being limited,
18 would that be concerning to you?

19 A Yes.

20 Q If they were being timed while using the toilet or a
21 timer was used to decipher when they could or could not use the
22 bathroom, would that be something concerning to you?

23 A Yes.

24 Q If they were not allowed to use the restroom, but
25 instead sitting on buckets for long periods of time with