

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

2 JANET SOLANDER,)

CASE NO. 76228

3 Appellant,)

4 vs.)

5 THE STATE OF NEVADA,)

6 Respondent.)

VOLUME XIX

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

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

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1 nothing on except for a shirt, would that be concerning to you?

2 A Yes.

3 Q You said that the investigators -- well, actually
4 before I get to investigators I want to ask you some questions
5 about permanency workers. Now, permanency workers are the
6 individuals tasked with -- they kind of stay with the child
7 throughout the process to make sure that that child's needs are
8 being met; is that right?

9 A Yes.

10 Q When a permanency worker has children and they go
11 into a new foster home, is the permanency worker supposed to
12 background check or look into any history of that foster home
13 where their children are now going into?

14 A I don't recall if that's part of the process.

15 Q So, and I apologize because I don't remember if you
16 answered this question, were you ever a permanency worker
17 within --

18 A No.

19 Q Okay. The permanency worker's, though, job is to
20 make sure that those children are okay, that they're doing
21 well?

22 A Yes.

23 Q So would you agree with me that it would be important
24 to know if these foster -- this new foster family has, let's
25 say 7 to 10 unsubstantiated reports? Would that be important

1 for a DFS worker to know who's bringing new children into that
2 home?

3 A Yes.

4 Q In regards to investigators, what type of
5 education -- you told -- you said that there was a, I think, is
6 the word academy or --

7 A Correct.

8 Q Can you tell me what that entails.

9 A I believe it's 12 weeks of they go through
10 training -- on-the-job training, and it's instructional
11 classroom time, and it talks about all the different types of
12 assessments they have to do, the requirements of the job, what
13 their roles and responsibilities are.

14 Q What tools or classes are they given in regards to,
15 like, investigative practices? And when I say that I mean,
16 like, how to interview a child, or how to corroborate either
17 what an adult caregiver is saying or a child is saying?

18 A They would have some training on that, but then they
19 also get on-the-job training when they go out into the field.

20 Q And what training would, besides on the job, can you
21 explain to me the training that they would receive in regards
22 to investigative practices?

23 A Like some of the things that they would learn from
24 the academy would be motivational interviewing. So how to
25 interview and get information back that's -- that solicits

1 response that's helpful to understanding the case.

2 Q Okay.

3 A Those things to that nature.

4 Q Okay. And as an investigator, I mean, that job is
5 different than a permanency worker. A permanency worker is
6 making sure that the child is safe, making sure that the
7 child's needs are being met; right?

8 A While in a foster care placement, yes.

9 Q Yes. Now, an investigator is there, they get a
10 report, and they're there to decide whether or not that report
11 is credible or not?

12 A Correct.

13 Q And in doing that investigators, if they are doing a
14 complete investigation, they need to get as much information as
15 possible to make this decision on whether or not this report
16 should be either substantiated or unsubstantiated?

17 A Yes.

18 Q And they have access to Unity notes in making that
19 decision if they choose to use them?

20 A Yes.

21 Q And through Unity notes they would be able to see how
22 many previous investigations have been opened on that family or
23 that foster parent?

24 A Yes.

25 Q They would be able to look and see who the previous

1 investigators were that investigated those previous
2 investigations?

3 A Yes.

4 Q They would be able to look at interviews with the
5 children involved in those investigations?

6 A Yes.

7 Q Interviews with the foster parents, if they gave
8 interviews as well.

9 A Yes.

10 Q So that would be a bevy of information for them to
11 look to in able to -- which would enable them to look at the
12 bigger picture; correct?

13 A Yes.

14 Q Now, they don't have to look at this in a vacuum;
15 right? Like, they don't have to say, okay, this is the report.
16 I can only look at this information?

17 A That's correct.

18 Q They are allowed to go back and look globally at the
19 entire situation.

20 A It's policy that they look at department records.

21 Q It's policy that they look at department records?

22 A Investigative policy.

23 Q What is the policy?

24 A It's an investigations policy.

25 Q Okay.

1 A I want to say it's 2330.

2 Q But what is the policy?

3 A That they have to review department records. So
4 whatever records we have, they should be looking at the prior
5 history.

6 Q So if there were, let's say three previous
7 investigations, it would be -- it's the department's policy
8 that they look at those?

9 A Uh-huh.

10 Q Yes?

11 A Yes. Correct. I'm sorry.

12 Q That's okay. And obviously you would find those
13 previous records to be relevant?

14 A Yes.

15 Q And part of the reason for that policy is -- I mean,
16 look, if the same issue is coming up over and over and over
17 again, that would be important for an investigator know; right?

18 A Yes.

19 Q Versus this is just a one time thing?

20 A That's correct.

21 Q And if this is -- if this type of behavior is
22 happening over and over and over again, not with just with one
23 set of children, but with a completely second set of children,
24 that would also be important to know?

25 A Yes.

1 Q Why is it -- why can't the same investigator be
2 utilized for the same foster family? And let me make that a
3 little bit more clear. So let's say a foster family has had
4 six cases; okay?

5 A Uh-huh.

6 Q Why can't the same investigator, if they're still
7 working within the department, be the investigator that works
8 it every time so we don't have to start from scratch every
9 time? Does that make sense?

10 A Yes.

11 Q And why isn't that utilized?

12 A Sometimes investigators may move from one area to the
13 next of one division. They may become permanency workers, or
14 they may go do something else in the department and so they're
15 not there, and it's also because it's based on a rotation
16 basis. So they may have just gotten a case, and the case that
17 comes in that would go to the them -- goes to the next person.

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

19 THE COURT: Sure.

20 MR. FIGLER: Sorry, Jacqueline.

21 MS. BLUTH: That's okay. Don't worry about it.

22 (Conference at the bench not recorded)

23 BY MS. BLUTH:

24 Q Okay. Okay. So we were talking about the same
25 investigator not being used, and the first part of your answer

1 you said that often they move, you know, within the department,
2 but I think there was a second part of your answer, and I don't
3 remember it right now.

4 A So often if it's -- if the case -- if the report is
5 taken, it's in the same ZIP Code --

6 Q Right.

7 A -- in the same area it would go to that same unit,
8 but that unit goes through rotation because we get cases on a
9 regular basis, and so I may be up today and get a case, and I'm
10 already out on one, and then another case comes in, somebody
11 else has to take it to respond.

12 Q Okay. So let's say Investigator A worked, you know,
13 there's six; okay. And so Investigator A works the first three
14 investigations, and then Investigator B starts to go up for
15 four, and then C takes five and D takes six, if those people
16 aren't communicating with one another, and if they're not
17 looking at Unity notes then nobody is globally discussing what
18 is going on?

19 A That's a possibility, yes.

20 Q As an investigator would you agree with me that it's
21 important to interview the child in a place where the -- in
22 hopes the child will feel comfortable enough in speaking with
23 the investigator?

24 A Yes.

25 Q And in a lot of situations that is done, like, at

1 school because the child is away from the person that's being
2 reported on?

3 A That's correct.

4 Q And that becomes even more important if children in
5 the home are -- it's being reported that they are being A, told
6 not to speak about what's going on in the home?

7 A I'm sorry, say that again.

8 Q So interviewing the child in a place where they feel
9 safe to talk is important.

10 A Yes.

11 Q And it becomes either equally important or more
12 important if it has come to the attention of the investigator
13 that those children in the home are being instructed not to
14 talk about what's going on in the home?

15 A Yes.

16 Q Would 10 -- as an investigator, would 10 minutes
17 alone with the child be sufficient enough time to gather
18 information of that child?

19 A It really depends on what the child is -- how
20 cooperative the child is or how comfortable the child is.

21 Q And if the child seems to be not cooperative or seems
22 not to be forthcoming with information, should the investigator
23 take more time or come back and try again?

24 A Take more time or come back.

25 Q Besides speaking with the child and, I'm going to use

1 the word like alleged abuser, but the person, you know, who got
2 the phone call, called in on them.

3 A Uh-huh.

4 Q So, like, let's say the foster parent -- so besides
5 speaking with the foster parent and the child who else should
6 the investigator be speaking with?

7 A They should be speaking to the reporting party. So
8 whoever called in the report, we should be contacting them. If
9 it's any school personnel, if the kids are attending school, we
10 get information from them. Any doctors that may have seen the
11 kids, they should be getting information from them. Any
12 collaterals that may have information in reference to the
13 family around the specific allegations would be something they
14 should be getting information from.

15 Q Okay. Now, when children are homeschooled, your
16 access to other contacts can be quite limited?

17 A Yes.

18 Q And in those cases do investigators, you know, have
19 to become creative or work a little bit harder to make sure
20 they're getting information to really understand what's going
21 on?

22 A Yes.

23 Q Should the investigator ever just take the
24 caregiver's word for it?

25 A No.

1 Q Should they ever take the child's word for it?

2 A No. If there's information to collaborate we should
3 be doing -- collaborating the information.

4 Q If a caregiver states, well, this child is very ill
5 so therefore I have to do these things to this child, is it
6 imperative to get documentation to show, okay, yes, this child
7 actually really is ill?

8 A Yes.

9 Q Can you give me a definition for what substantiated
10 means.

11 A The department uses substantiation when we find
12 credible evidence that abuse or neglect has occurred in the
13 home.

14 Q And what is credible evidence?

15 A Found to be true.

16 Q And how -- I mean, if you have an adult and you have
17 a kid, how is that being decided?

18 A I'm sorry. I don't -- I don't think I --

19 Q So if you have an adult's word and a child's word,
20 then how are you ever going to figure out what's the credible
21 evidence?

22 A I would want to get more information from collateral
23 contacts. Whatever the child may have said and did he say that
24 to somebody else or would somebody else have known that
25 information. I would have wanted to seek that information out.

1 Q Okay. So if a child is saying, you know, I'm hungry,
2 I'm not being fed, water is being withheld from me and the
3 adult is saying, well, I have to do this because this is what
4 doctors are saying, you would need the doctors. You would need
5 that documentation?

6 A Correct.

7 Q Do you have any statistics on how many
8 investigations -- like, let's say in the last year, on how many
9 investigations were ruled as unsubstantiated versus
10 substantiated?

11 A I don't have that offhand.

12 Q Have you ever ran, like, in the last five years,
13 statistics to show unsubstantiated findings versus
14 substantiated findings?

15 A We have statistics ran out of a data book, but I
16 don't know that number offhand. I'm sorry.

17 Q Would you say that unsubstantiated would come out on
18 top?

19 A That's correct, yes.

20 Q And by a large percentage?

21 A Yes.

22 Q And in those cases when it is unsubstantiated, a
23 majority of those cases the children are left in the home?

24 A That's correct.

25 Q And sometimes if it's in foster care, new children

1 are brought into the home?

2 A Yes.

3 Q There is a push to close out investigations within 30
4 days; is that right?

5 A There is a requirement that they should be completed
6 within 30 days.

7 Q And why is that?

8 A Because we don't want cases lingering, and we want to
9 make sure that information is gathered timely and quickly, and
10 so they don't languish, and so if the kid really unsafe, that
11 we're getting that information quickly and timely so that we
12 make sure that kid is safe going forward.

13 Q So is that told to investigators like, the reason why
14 we want this is because if the kids aren't safe, we want them
15 out of there.

16 A We want to make sure they're being -- that if they're
17 determined to be unsafe, we want to make them safe, yes.

18 Q Has the department ever discussed the fact that that
19 30 day time limit could potentially cause people to rush
20 through their jobs?

21 A Have we discussed that?

22 Q Yeah. Or has it been considered?

23 A If there's more time that needs to be done, it's
24 allotted. It doesn't mean it's a hard fast, hey, it's 30 days,
25 you're closing. If you need to gather more information, we

1 have to be doing something on that case and not just leaving it
2 lingering because you don't want to have a hundred cases that
3 are just sitting and nobody's tending to them because they
4 haven't done anything on them.

5 Q Are people disciplined or, you know, warned, like, if
6 they go over the 30?

7 A They are told that cases are -- they're getting close
8 to the 30 day mark.

9 Q And the goal of the department is reunification; is
10 that right?

11 A It's required by the state statute and also federal
12 statute that we look to reunify first thing with families.

13 Q If a family -- it doesn't need to be a foster family;
14 it can be just a regular family. If the department sees that
15 there is that consistent basis of -- or a consistent amount of
16 investigations and they continue to be unsubbed, unsubbed,
17 unsubbed, at what point does it become worrisome or alarming to
18 the department?

19 A When we see unsubstantiations that are occurring,
20 like, in with in close proximity of each other, like, you get a
21 report one month after next, and it's the same similar
22 allegations and the same perpetrator, that is concerning, and
23 we will look to kick that up to a management review.

24 Q And at what point would that be done at, like, within
25 a, you know, a certain period of time, like, are we talking

1 two, three, four?

2 A I'm sorry, two, three, four?

3 Q Unsubstantiated investigations.

4 A Three.

5 Q Is that per policy?

6 A I believe so, yes.

7 Q And when you say it gets kicked up to office
8 management, what does that mean?

9 A To the manager.

10 Q And the manager will look at it?

11 A Uh-huh.

12 Q All right. Sorry, and that's a yes?

13 A Yes.

14 Q Okay. I want to ask you some specific questions
15 about the case in this -- at hand, and you're aware of the
16 investigations that have been done in this case?

17 A CPS investigations?

18 Q Yes.

19 A Yes.

20 Q And you've been privy to the Unity notes that
21 discussed such?

22 A Yes.

23 Q Okay. And you would agree with me that some of the
24 things you've -- sorry, some of the things that you've
25 discussed today that investigators should be doing were not

1 done in this case?

2 A That's correct.

3 Q And multiple times with multiple different children?

4 A Yes.

5 MR. FIGLER: I would ask for a foundation of that.

6 That was a very general statement.

7 MS. BLUTH: Okay. I'm actually going to get into
8 each of them. So if I could just keep going, Judge.

9 THE COURT: And how do you know that?

10 THE WITNESS: I reviewed the documents.

11 THE COURT: Okay.

12 BY MS. BLUTH:

13 Q In regards to -- there was a -- forgive me, I don't
14 know the dates offhand. All right. I just want to talk about
15 the Amaya, Ava and Anastasia first. In February of 2011, there
16 was an investigation opened -- or sorry, an info only report
17 about Amaya, who had gone to school stating that she was
18 hungry, and that when she talks about being hungry her mother
19 beats her with a belt.

20 A February of 2011?

21 Q Yes. February -- it was opened on February 21st of
22 2011.

23 A Info only, yes.

24 Q And during that individuals spoke with the family --
25 or excuse me, spoke with the little girl, and then spoke with

1 Mrs. Solander who said that the girls have worms in their
2 stomach, but no documents were provided?

3 A When you're saying the person -- the person that made
4 the report is saying that in the report?

5 Q It says that -- sorry, let me just --

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

7 THE COURT: Sure.

8 (Conference at the bench not recorded)

9 THE COURT: All right. Ms. Bluth, try to focus your
10 inquiry.

11 MS. BLUTH: Yes.

12 One second, Ms. Hammack.

13 BY MS. BLUTH:

14 Q Okay. I am -- okay. So any investigator who opened
15 up a case after this info only report that I was just talking
16 about would have had access to the fact that this was about
17 food and about Janet discipline regarding being hungry.

18 A Yes.

19 Q Would also have had access that she stated that the
20 children had worms in their stomach?

21 A Yes.

22 Q So now I want to fast-forward to the next
23 investigation which would have been six months later, and I'm
24 not going to go through every fact of every investigation, but
25 in regards to this one -- in regards to the investigation that

1 I'm about to talk to you about is when Heather Richardson, the
2 Solander girls previous permanency worker, sees Amaya with
3 bruises at the dentist. Do you remember -- do you know what --

4 MR. FIGLER: I'm going to -- the objection is it's an
5 allegation. I appreciate that. So the -- I don't know if the
6 witness knows.

7 THE COURT: All right.

8 Ms. Bluth, just to be clear you can question her
9 regarding what the DFS or CPS employees did, that they were
10 supposed to do, or failed to do that they were supposed to do.

11 MS. BLUTH: So I -- can we approach?

12 THE COURT: Sure.

13 (Conference at the bench not recorded)

14 THE COURT: Is everybody okay without a break? Does
15 anyone need a break?

16 UNIDENTIFIED SPEAKER: Well, for how long?

17 UNIDENTIFIED SPEAKER: Let's go for it.

18 THE COURT: If anyone needs a break, just raise your
19 hand. I don't think we have too much longer with this witness,
20 and then we may have to take a break. There's a brief witness
21 appearance on Skype, very, very brief. So we need to set up
22 for that, but if anyone wants to take a break right now, don't
23 be shy. Raise your hand, and if you feel yourselves needing a
24 break just get my attention or Kenny's attention.

25 Do you need a break?

1 UNIDENTIFIED SPEAKER: Oh, no. I can --

2 THE COURT: Okay. All right.

3 MS. BLUTH: Okay. I'm getting the lasso. Okay. All
4 right. So we're back. Okay.

5 BY MS. BLUTH:

6 Q So I want to be really clear about the La Petite one
7 that I just spoke about in February 2011. That was info only
8 so no investigation was opened?

9 A That's correct.

10 Q Okay. So now I want to move to six months later,
11 August of 2011, which is a report from a CPS worker, Heather
12 Richardson, who alleged to have seen Amaya at the dentist
13 covered in bruises.

14 A She was a DFS employee, not the CPS.

15 Q Yes. DPS employee -- DFS employee. Thank you. Now,
16 in this investigation it was noted that the child stated the
17 fact that she was openly afraid to talk about what was going
18 on.

19 A I'm sorry. I don't recall that.

20 Q Okay. Would looking at the notes help refresh your
21 recollection?

22 A Yes.

23 Q Okay.

24 MR. FIGLER: Can I see them before you do that?

25 MS. BLUTH: Yes, you can.

1 MR. FIGLER: Okay, that's fine. That's a clean
2 source.

3 MS. BLUTH: Okay. Thank you.

4 MR. FIGLER: Thank you.

5 BY MS. BLUTH:

6 Q I'm going to approach you with page 4 of 8, and then
7 if you could just read the last line of that for me.

8 A Yes.

9 Q Okay. And in regards did the child state that she
10 was afraid to discuss what was going on in the home?

11 MR. FIGLER: Objection. That misstates.

12 THE COURT: Yeah.

13 BY MS. BLUTH:

14 Q Was she afraid to state about that her parents were
15 going to find out what she had reported?

16 MR. FIGLER: Objection. It misstates evidence. That
17 misstates evidence. That's the objection, Your Honor.

18 THE COURT: I don't have it in front of me. Is that
19 what it says, or if it says something different then tell us
20 that that's not what it says.

21 MR. FIGLER: The objection is foundation. The source
22 of the information, if it comes directly from the child, or if
23 it comes from someone else.

24 THE COURT: Does that come from the child, or does
25 that come from someone else, or can you even tell from that

1 note?

2 THE WITNESS: The source states the child is making
3 the statement.

4 THE COURT: Okay. So that would indicate not the
5 child, but a source; is that true?

6 THE WITNESS: Correct.

7 THE COURT: Okay. And from the note we don't know
8 who this source is; is that correct?

9 THE WITNESS: That's correct.

10 THE COURT: And you, yourself, didn't have contact
11 with the source, just to be clear. You're relying on a note of
12 another DFS worker when you're reading that; is that --

13 THE WITNESS: Yes.

14 THE COURT: Okay. All right. I think that clarifies
15 it.

16 MR. FIGLER: It does, Your Honor. Thank you.

17 THE COURT: All right. And now, Ms. Bluth, you can
18 ask your question in terms of what should the employee have
19 done upon receiving that information. Is that your question?

20 MS. BLUTH: No.

21 THE COURT: Oh.

22 MS. BLUTH: I'm not there yet, but I'll get there.

23 BY MS. BLUTH:

24 Q You do know who the source is? Who reported this?

25 A On this report, yes, I do. I'm sorry.

1 Q Correct. And who was that?

2 A Am I allowed to disclose that?

3 Q Yeah. Yeah, we've already -- yeah, that horse has
4 left the barn.

5 A Okay. I'm sorry.

6 THE COURT: Yeah. You're directed to answer the
7 question.

8 THE WITNESS: Okay. Heather Richardson.

9 BY MS. BLUTH:

10 Q Okay. And then the actual investigator went and
11 spoke with Amaya; is that correct?

12 A Yes.

13 Q Okay. And in that interview with Amaya, Amaya
14 discussed the fact her mother told her not to tell anybody what
15 happens when she is really bad.

16 A Yes, I believe so, yes.

17 Q And she was encouraged to tell the worker, but she
18 would not.

19 A Correct.

20 Q And the Solanders were both interviewed and discussed
21 the medical issues that these children had?

22 A Yes.

23 Q Yet no documentation was provided from the Solanders?

24 A That's correct.

25 Q And that was closed out?

1 A Yes.

2 Q And within a few months, Autumn and Ivy Stark were
3 brought in?

4 A I don't recall when they were brought in, but, yes,
5 they came to the Solander house.

6 Q So what did that investigator -- first of all, was
7 that investigator acting pursuant to policy?

8 A No.

9 Q And what did she not do?

10 A We would have been looking for information from the
11 medical provider.

12 Q To verify whether or not those children had issues?

13 A Correct.

14 Q Now, are you aware of the next investigation that
15 occurred -- let me make sure that my dates are right. I
16 believe it's February 26th, but I want to check. It's, yeah,
17 February 26th of 2013, when the children's nanny, Jan
18 Finnegan, reported what was going on in the home?

19 A Yes, I reviewed that.

20 Q And in that investigation were Janet and Dwight
21 Solander interviewed?

22 A I believe Dwight was, and I'm sure Janet was later
23 on, but I think she was out of the home on that case, when that
24 case came in. She was --

25 Q Okay.

1 A She had traveled somewhere.

2 Q Okay. But ultimately, after she came back from where
3 she was traveling, was she also interviewed?

4 A Yes.

5 Q And in those interviews did both of the Solanders
6 admit to several of the allegations, but gave medical reasons
7 for why they needed to do what they did?

8 A I don't know if they admitted to the allegations, but
9 they did provide medical information that said this is why they
10 were doing what they were doing.

11 Q Okay. And let me know if you don't remember, and
12 I'll provide you with documentation, but did he discuss the
13 fact that due to their medical issues their food was blended?

14 A Yes.

15 Q And that liquid intake was stopped at 12:00?

16 A 12:00 p.m, yes.

17 Q That the girls have bladder issues and have been
18 known to constantly have accidents on themselves?

19 A I don't recall that statement.

20 Q Okay. That they need to check the girls' panties?

21 A Yes.

22 Q And discuss the bowel issues and the urinating issues
23 the girls had?

24 A I don't recall that off hand. I'm sorry.

25 Q That's okay. Do you want to -- so you don't have to

1 read the whole thing let me get you to a good part. Right
2 there. So if you could just start with Mr. Solander and then
3 this next line right there.

4 A Okay.

5 Q Okay. Did Mr. Solander discuss bowel, like, medical
6 issues having to do with urology and, like, gastrointestinal
7 issues?

8 A Yes.

9 Q In that investigation were any medical documents
10 provided by the Solanders?

11 A No.

12 Q And were any medical documents received from any
13 doctors confirming what the Solanders were stating?

14 A No.

15 Q Now, had that investigator looked into the CPS
16 investigative history, they would have seen the previous
17 investigation regarding Heather Richardson?

18 A Yes.

19 Q And they would have seen the previous invest -- the
20 not investigation, but info only report regarding La Petite.

21 A Yes.

22 Q Okay. That was also closed out as unsubstantiated;
23 correct?

24 A Yes.

25 Q And then the Diaz-Burnett children were put in within

1 21 days?

2 A I don't recall when they were brought into the
3 Solander house. I'm sorry.

4 Q Now, the permanency worker for both Autumn and Ivy
5 Stark and the permanency worker for the Diaz-Burnett children
6 would have had access to the Unity notes to see these previous
7 investigations that we've been talking about right now?

8 A Yes.

9 Q And I know that you said it's investigative policy
10 for investigators to go back and look at the history, and I
11 apologize if I asked you this because I don't remember, is
12 there policy for permanency workers to go and look back in
13 history?

14 A I don't recall.

15 Q Okay. And then the Diaz-Burnett children, there were
16 two investigations opened in regards to calls from the -- calls
17 or reports from the therapist or other workers in the home,
18 like, BST workers or those type of people?

19 A There was calls, yes.

20 Q And investigations were opened?

21 A I recall one.

22 Q Okay. And that investigator was Nona Ocloo; is that
23 correct?

24 A Correct.

25 Q Okay. And Nona Ocloo, in regards to her

1 investigation would have had an opportunity -- or she did have
2 an opportunity to speak to both Janet and Dwight?

3 MR. FIGLER: Can we get a day, Counsel. I'm sorry.

4 MS. BLUTH: Yeah. 11-5-2013, was the first
5 investigation.

6 BY MS. BLUTH:

7 Q So in regards to the investigation with Nona Ocloo,
8 she -- this was --

9 MR. FIGLER: Your Honor, I'm going to object to any
10 investigations that occurred after the last date of the
11 allegations in the criminal information.

12 THE COURT: Unless they're concerning this case
13 they're --

14 MS. BLUTH: This is November 5th of 2013.

15 MR. FIGLER: Involving Diaz-Burnett so a not charged
16 in this document and after the time of the outside in this
17 document I believe.

18 MS. BLUTH: No.

19 MR. FIGLER: It's close. Outside 11 --

20 MS. BLUTH: No. It's within the timeframe.

21 THE COURT: As long as it's before the contact was
22 made.

23 MS. BLUTH: Right. It is. It's within both.

24 THE COURT: She can ask about it.

25 / / /

1 BY MS. BLUTH:

2 Q This was the report opened by the therapist -- by a
3 therapist, Lori Wells, in regards to the treatment of the
4 children; correct?

5 A She was of source.

6 Q Yes.

7 A Yes.

8 Q And an investigation was opened and both Janet and
9 Dwight were interviewed?

10 A Yes.

11 Q And their reason for what was going on in their house
12 was medical and psychological issues of the Diaz-Burnett
13 children?

14 A Yes.

15 Q And again, no medical documentation was provided?

16 A That's correct.

17 Q The investigators that we have been talking about
18 right now who didn't do what they were supposed to be doing,
19 were they disciplined in any way?

20 A I don't recall.

21 Q If they were, like, how would that be kept? Would
22 there be, like, a log? Would -- how would we find that
23 information out?

24 A Through Clark County Human Resources.

25 Q Do those individuals, to your knowledge, still have

1 their job?

2 A Yes. But not in the same capacity that they had as
3 it relates to this case.

4 Q Okay.

5 A They're not doing case work.

6 Q And was that --

7 A At least one of them isn't.

8 Q Was that because of her performance in this case?

9 A I couldn't say it's just this performance.

10 Q Okay. Has DFS made changes, either structurally or
11 in policy, because of the lack of investigations in this case?

12 MR. FIGLER: Objection. Can we approach?

13 THE COURT: Sure.

14 Maybe we'll take our break now, ladies and gentlemen.
15 Just a quick -- just about 10 minutes. That will put us right
16 around, a little bit before 4:30.

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

24 Notepads in your chairs and follow the bailiff
25 through the double doors.

1 (Jury exiting 4:17 p.m.)

2 THE COURT: Please don't discuss your testimony
3 during the brief recess.

4 THE WITNESS: Can I stay here?

5 THE COURT: Well, you can I think.

6 THE WITNESS: I'll -- I'll exit.

7 THE COURT: We might stick you in the vestibule for a
8 few minutes.

9 THE WITNESS: I'll be fine.

10 (Pause in the proceedings.)

11 MR. FIGLER: Do you want me to make my objection on
12 the record?

13 THE COURT: I do. Now that -- I did and just for the
14 record, jury's out of the room. I asked the witness to go wait
15 in the vestibule because --

16 MS. BLUTH: Okay.

17 THE COURT: -- I didn't know if we'd be talking about
18 her or not.

19 MS. BLUTH: Okay. Thank you.

20 MR. FIGLER: And I think Ms. Jorgenson, after we're
21 done with the objection, might have an inquiry of scheduling
22 with regard to the [unintelligible].

23 THE COURT: Okay. Go ahead, Mr. Figler. What's your
24 objection?

25 MR. FIGLER: So the objection was that the State was

1 attempting to bring in postincident change of policy based on
2 this case which would be completely --

3 THE COURT: Well, I think it's irrelevant once they
4 began investigating the case which was in, what, March? When
5 did they start investigating the case?

6 MS. BLUTH: March of '14.

7 MR. FIGLER: Yeah, but they first --

8 THE COURT: Right. So that's why I said December
9 of 2013 is obviously before March.

10 MS. BLUTH: No. But he -- my last question was due
11 to what you have being saying was --

12 THE COURT: Yeah. That's irrelevant. That's like
13 a --

14 MS. BLUTH: How is it --

15 THE COURT: It's like a subsequent remedial measure.

16 MR. FIGLER: Correct, Your Honor.

17 THE COURT: I know that's the civil standard, but it,
18 I mean, what they did to change things isn't relevant.

19 MS. BLUTH: It is if the defense says they did
20 everything right. It absolutely is completely relevant if the
21 defense says CPS did everything right, then it's, yeah, no,
22 they didn't, and they've made changes because they didn't.

23 MR. FIGLER: The State's been able to --

24 MS. BLUTH: That's so relevant.

25 MR. FIGLER: The State's been able to establish that

1 through the witness contemporaneous.

2 MS. BLUTH: No, I haven't.

3 MR. FIGLER: It cannot be -- we would absolutely
4 object that postoffense remedied by the Department of Family
5 Services is in any way relevant. In fact, it is so prejudicial
6 based on this case. Now, if she said, have changes been made
7 at DFS? Sure, that's what we've gained.

8 MS. BLUTH: Why would that be relevant?

9 MR. FIGLER: But based on this case that is highly
10 objectionable.

11 MS. BLUTH: It wouldn't be relevant if the defense
12 wasn't CPS was in that home every day and everything was fine
13 and they did their job, but they made it relevant when they
14 said -- when they made their defense CPS did their job.

15 MR. HAMNER: Right.

16 MS. BLUTH: If she's saying that they have looked at
17 this and policy has changed, then that's completely relevant to
18 show no, CPS wasn't doing their job.

19 THE COURT: Well, was it that they weren't -- I
20 thought the question was they weren't doing their job according
21 to what their job was at the time, meaning the rule was verify.
22 They didn't verify.

23 MS. BLUTH: Right. And so now my question is, is
24 after looking at this case has policy been changed or has the
25 way you guys do things been changed because of what was done or

1 not done in this case? How is that not relevant if the defense
2 is they did their job?

3 MR. HAMNER: Correct.

4 MR. FIGLER: At the time, I mean, they're talking
5 about when was --

6 THE COURT: At the time.

7 MS. BLUTH: And I'm saying at their time did you have
8 to change things?

9 THE COURT: No, that's different. You can ask them
10 at the time was the rule to, you know, verify medical records,
11 yes, and did they verify --

12 MS. BLUTH: Well, they -- she already said all that.

13 THE COURT: -- medical records, no.

14 MR. FIGLER: Right.

15 MS. BLUTH: But my point --

16 THE COURT: But your point is that because this was
17 such a screwup --

18 MS. BLUTH: Right.

19 THE COURT: -- that and an embarrassment to DFS that
20 they've changed their policies.

21 MR. HAMNER: But -- right.

22 MS. BLUTH: Because their defense is that they did
23 such a great job that obviously she wasn't doing anything wrong
24 because the CPS did their job. Not only did they not do their
25 job but they had to look at this case and try to fix the

1 system.

2 MR. FIGLER: We haven't presented any broad stroke
3 evidence of that on any level, and if it's proper argument, but
4 I don't think that that's going to be argued, but the State can
5 argue the other way.

6 THE COURT: Well, it can't be argued unless they get
7 in the evidence. They can't argue it.

8 MR. FIGLER: Right.

9 MR. HAMNER: Well, Your Honor, can I --

10 MS. BLUTH: Can't argue what?

11 THE COURT: Well, if he --

12 MR. FIGLER: The defense can't argue that CPS did --
13 I can't go up there and say, CPS did everything right based on
14 what evidence? That would be a specious argument for me to
15 make.

16 MS. BLUTH: But that was your entire opening.

17 MR. HAMNER: Your Honor, I --

18 MR. FIGLER: The opening was --

19 THE COURT: Okay. Wait a minute.

20 MR. FIGLER: -- that CPS sent people in there and
21 they were mandatory reporters and they didn't see anything that
22 caused them to make a mandatory report.

23 THE COURT: To report.

24 MR. FIGLER: That's fine. That's what I said.

25 THE COURT: That's what he said.

1 MR. FIGLER: That does not rebut it in any way by the
2 fact that in 2018 or 2017 they change their policy because they
3 look back at this case. That was not [unintelligible].

4 MR. HAMNER: Your Honor --

5 MS. BLUTH: He said that's not -- one second, sorry,
6 Chris. I swear I'll let you talk right after this.

7 MR. HAMNER: Okay.

8 THE COURT: Well, why does he get no -- poor
9 Mr. Hamner.

10 MS. BLUTH: But one thing that Mr. Figler said is
11 that every single time it was unsubstantiated. So he didn't
12 just say that people were in the house. He said they had eyes
13 on them and every single time it came back as --

14 THE COURT: Well you can follow it up on
15 unsubstantiated --

16 MR. FIGLER: Correct.

17 THE COURT: -- and does that really mean anything and
18 I think you've done that. That just means they can't verify
19 it.

20 MS. BLUTH: Oh, I know I --

21 THE COURT: Moving on to the --

22 MR. FIGLER: So the objection is sustained?

23 THE COURT: Yeah. I mean --

24 MS. BLUTH: So what can I get into then?

25 THE COURT: You can get into what the rules were then

1 and whether they followed the rules then and didn't follow the
2 rules and, you know, whatever that was.

3 MS. BLUTH: Okay. Well, I can -- can I say that they
4 have looked at -- they have looked at this case?

5 THE COURT: That's the same question.

6 MR. FIGLER: Yeah.

7 MS. BLUTH: That they looked at the case? I'm not
8 asking if they made any -- have you as a department looked at
9 this case, vetted it, looked at the investigations that were
10 done.

11 MR. FIGLER: After the fact, what's the relevance of
12 that?

13 MS. BLUTH: Because your entire defense is that they
14 did everything right. That they were in the house. That they
15 were watching these kids. That it was all unsubstantiated so
16 obviously nothing Janet was doing was --

17 THE COURT: Well, you can ask -- okay. You can ask,
18 you know, were -- did you review your employees' conduct with
19 respect to this case? That's a different question than have
20 you changed your policies as a result of this case. So, I
21 mean, I thought that's where you were going with this. Yes,
22 Worker A was supposed to do this, and she didn't do it. Worker
23 B was supposed to do that, and that person didn't do it. You
24 can ask them that. As the supervisor, where did people not do
25 what they were supposed to do? They didn't verify. They

1 didn't request records. They didn't talk to other people.
2 They didn't whatever.

3 MS. BLUTH: So is the Court's ruling that it's not
4 relevant or that it's not probative -- that it's more prejudicial
5 than probative?

6 THE COURT: It's more prejudicial than probative for
7 subsequent policy changes generally. I think you can ask with
8 respect to this case, you know, so-and-so went to the house and
9 was told the person had worms. Were they supposed to verify
10 that with a medical professional? Yes. Did they verify it?
11 No.

12 MS. BLUTH: Well, she already did all that.

13 MR. FIGLER: Yeah.

14 THE COURT: You know, that I think you could do. Did
15 they --

16 MR. FIGLER: And she did that.

17 THE COURT: -- did they follow the - at the time did
18 they follow the procedures and policies of DFS at the time?
19 No, because they were supposed to do this, that and the other
20 thing, but I think in terms of the changes they've made I think
21 it's more prejudicial than probative.

22 MR. FIGLER: Thank you, Your Honor. Ms. Jorgenson's
23 here for scheduling.

24 THE COURT: All right. What is Ms. Jorgenson going
25 to testify about?

1 MR. FIGLER: She was just going to authenticate the
2 e-mails. I was going --

3 THE COURT: About the book?

4 MR. FIGLER: About the book only. And I was going to
5 have her indicate the names of the individuals who were
6 e-mailing back and forth from those.

7 THE COURT: Okay.

8 MR. FIGLER: Or I would move for their -- I don't
9 know if I necessarily need to move for their admission, but
10 maybe I have to then to do that. So why don't I do that? I'll
11 move for their admission --

12 THE COURT: Okay.

13 MR. FIGLER: -- and then have Ms. Jorgenson read the
14 names of the individuals with county e-mails, whatever. If
15 Ms. Jorgenson knows who they are, I'll ask her if you know who
16 they are, you can please tell me. If you don't, that's fine
17 and then --

18 THE COURT: Okay. Well --

19 MS. BLUTH: Wait, I would object to the every e-mail.
20 The e-mails coming in?

21 MR. FIGLER: About the book, the book only.

22 THE COURT: So you just want to show that everybody
23 at DFS was aware of the book?

24 MR. FIGLER: Correct.

25 MS. BLUTH: I mean, you can --

1 THE COURT: The only relevant time though would be
2 before --

3 MS. BLUTH: Right.

4 THE COURT: -- the March date when they started
5 investigating that. So I think the first was December, and
6 then they circulated it, but all of the newspaper and all that
7 stuff, anything after the investigation now they're circulating
8 the book. Who cares?

9 MR. FIGLER: Well, because it --

10 THE COURT: Do you see what I'm saying, I mean --

11 MR. FIGLER: But the reason that we would think that
12 all of the e-mails would be relevant even past the
13 investigation date is that it could influence or show bias for
14 them when they came in and testified today. For instance,
15 Heather Richardson made her initial report in August of 2011,
16 well before the book's existence. But Heather Richardson is
17 right in there sending e-mails about this book to people over
18 at DFS, and that is all before she testified in this case. So
19 it does show a bias, and we are trying to impeach Heather
20 Richardson --

21 THE COURT: Okay. How much -- so we're going to
22 finish hopefully with this woman today, this witness?

23 MS. BLUTH: Oh, yeah. She's almost done.

24 THE COURT: Okay.

25 MS. BLUTH: I mean, with me. I mean, Dayvid, you did

1 overshoot your after lunch by 45 minutes.

2 MR. FIGLER: I do. I did.

3 MS. BLUTH: You took up my time and your time.

4 MR. FIGLER: I did. I still think I have between --
5 depending on smooth it goes --

6 THE COURT: In any event, can we just focus on how
7 much longer is she going to be without blaming everybody and --

8 MR. FIGLER: I -- I --

9 MS. BLUTH: I'm just pointing something out. I mean,
10 I literally have -- since you won't let me get into what I want
11 to get into I, like, have three minutes.

12 THE COURT: Okay.

13 MR. FIGLER: Okay. I can get this done by 10 of.

14 MS. BLUTH: Yeah, but what about Ava?

15 THE COURT: Can we do her and Ava maybe today --

16 MS. BLUTH: Yes.

17 THE COURT: -- and then do you want to put Dr. Cetl
18 on a 9:00 and then rest, and then have Ms. Jorgenson come in
19 after Dr. Cetl, or do we want to just put on Ms. Jorgenson at
20 9:00 and --

21 MS. BLUTH: Yeah. Well, what I --

22 MR. FIGLER: Well, there's no reason at that point to
23 do it before -- because she's a defense witness.

24 THE COURT: Right. Okay.

25 MS. BLUTH: Well, just one second though.

1 THE COURT: I know that.

2 MS. BLUTH: At some point I would like to get Mueller
3 up here because --

4 THE COURT: Right.

5 MS. BLUTH: -- because I don't want to break up
6 Cetl's testimony if possible. So I mean, obviously I
7 understand she's your witness so she goes at the end, but,
8 like, Mueller should be here at 9:00 with Dwight.

9 MR. FIGLER: We could --

10 THE COURT: Well, you said he wouldn't be back till
11 midmorning.

12 MR. FIGLER: I don't know what that means. He said
13 midmorning.

14 THE COURT: I don't know if he's flying back from
15 Reno in the morning?

16 MS. BLUTH: You said he was getting a flight tonight
17 though; right?

18 MR. FIGLER: He said he was trying to change flights
19 to get back tonight. This is exactly what he said in the one
20 minute conversation I had with him.

21 MS. BLUTH: Okay, tell me.

22 MR. FIGLER: He's trying to change flights to get
23 back tonight, and that he could be available tomorrow
24 midmorning if he --

25 THE COURT: All right. Why don't we do this? Let's

1 try to get Mueller and Dwight here at 9:00, but let's also have
2 Dr. Cetl here at, like, 9:00, 9:15.

3 MS. BLUTH: I will have her here at 9:00, unless I
4 get from defense that Dwight and Mueller are going to be here
5 at 9:00.

6 THE COURT: Okay.

7 MS. BLUTH: Then I'll have her come at 10:00.

8 THE COURT: Okay. And then why don't we say
9 Ms. Jorgenson for, like, 1:00?

10 MS. MCAMIS: Tomorrow?

11 MS. BLUTH: Yeah, that's good; right? And if you
12 give me your cell then I can text you, like, we're running
13 late.

14 MS. MCAMIS: Which, by the way, we will be running
15 late.

16 THE COURT: Which we will be. So it will probably
17 when we get back from lunch at 2:30.

18 MS. BLUTH: Remember today when we were going to be
19 done at 2:00?

20 MR. FIGLER: Yeah.

21 THE COURT: So I would say sometime between, like,
22 1:00 and 2:30.

23 MS. JORGENSEN: Okay.

24 MS. BLUTH: Okay.

25 THE COURT: If we're on schedule maybe 1:00.

1 MR. FIGLER: Thank you, Cathy.

2 THE COURT: And that's all you have for tomorrow;
3 right?

4 MR. FIGLER: Just Ms. Jorgenson right now. Unless
5 Mr. --

6 THE COURT: And then we're going to -- both sides
7 will rest and we can settle jury instructions in the afternoon.

8 MR. FIGLER: Sure.

9 THE COURT: All right. What are you looking for in
10 the Gail Anderson records?

11 MR. FIGLER: Anything that would suggest reasons for
12 her being removed from this case other than the mere
13 dissatisfaction of Janet Solander.

14 THE COURT: Yeah. I mean, I'm just going to tell you
15 guys what's in the records.

16 MS. BLUTH: Okay.

17 THE COURT: Generally, you know, she has incomplete
18 files and doesn't complete her tasks. She has a problem coming
19 in -- I told you the one at the bench. She was supposed to
20 report to work at 7:00, and she gets there at 10:58 with a no
21 call, no show. She's frequently late for court. She's late
22 for work. They're on Kronos. She's inefficient. She's either
23 missing meetings and court hearings or late. I call this
24 disrespectful to the Court, but at one point she's -- what did
25 she do that I thought it was funny. She throws up her hands

1 and says Jesus Christ and another --

2 MS. BLUTH: That's so bad.

3 THE COURT: These were the ones that I found amusing.
4 Another point, I think she says this to the Judge. She's
5 ordered to do something and she says, Why bother? They get
6 whatever they want anyway. So it's like a lack of respect and
7 professionalism. So the -- you know, it doesn't bear on her
8 credibility. It's just her general work performance.

9 MR. FIGLER: Well, which with --

10 THE COURT: I'm reluctant -- look, you know, I'm
11 reluctant to release personnel records unless there's a
12 compelling interest in releasing them. Those are sort of the
13 general issues that are addressed.

14 MR. FIGLER: If the defense and State can fashion the
15 stipulation with regard to general content of those records
16 then maybe we could avoid --

17 THE COURT: Well, but she -- was she let go from DFS,
18 or is she still there?

19 MS. BLUTH: No.

20 MR. FIGLER: No. She's still there. We're talking
21 about --

22 MS. BLUTH: In the same role.

23 THE COURT: So there's nothing in this about being
24 removed from the Solander case because she was inept.

25 MS. BLUTH: Nope.

1 MR. FIGLER: Here's the question --

2 THE COURT: It's just like she's put on performance
3 reviews like they do at the county, and they document things
4 and okay, you have to do better.

5 MR. FIGLER: I'm interested in pre her removal from
6 this case which would have been around October or November
7 of 2013. So anything post that unless it refers to the
8 Solanders is probably irrelevant, but anything --

9 THE COURT: Yeah. I mean, I don't really see
10 anything, and there's nothing specifically, again, there's
11 nothing about her credibility that I recall.

12 MR. FIGLER: But you understand that the State's
13 theory here is that Gail was doing a great job, and she was
14 removed from this case because Janet didn't want her digging
15 deep and doing her job.

16 THE COURT: It looks like they really started
17 reviewing her after this.

18 MR. FIGLER: Interesting.

19 THE COURT: Yeah, I mean, it's just incomplete files
20 and missing meetings --

21 MR. FIGLER: Well, her Unity notes are not good
22 compared to the Unity notes of every other.

23 THE COURT: -- late -- late for meetings. That sort
24 of -- yeah, I mean, this looks like it's all after.

25 MR. FIGLER: Okay. Well, if it's after, it's after.

1 We'd ask that a copy of that be made a court exhibit, but if
2 it's before --

3 THE COURT: Yeah.

4 MR. FIGLER: If it's after, if it doesn't relate to
5 the Solanders explicitly, then I'd understand the Court's
6 feeling.

7 THE COURT: Yeah, I mean --

8 MR. FIGLER: But if it's before, it's absolutely
9 irrelevant. Unless there's an allegation of lying somewhere in
10 there.

11 THE COURT: I didn't see one. Like of her lying
12 about being late or --

13 MR. FIGLER: Anything that has to deal with veracity
14 I feel would be relevant at any time. So just to sum up, Your
15 Honor, performance prior to November of 2013, veracity at any
16 time or comment with regard explicitly Solander at any time.
17 That specifically.

18 THE COURT: I don't see any -- now, you have to
19 realize too. They use numbers. They don't say the name of the
20 case.

21 MR. FIGLER: Oh.

22 THE COURT: So --

23 MR. FIGLER: We have a case number.

24 THE COURT: It would be something like --

25 MR. FIGLER: We have a case number.

1 THE COURT: It's a U number, and then it's, like,
2 failed to confirm birth certificate or failed to provide
3 adequate summary.

4 MR. FIGLER: Oh, I wonder if we have -- because she
5 was involved with the Diaz-Burnett and Solander.

6 THE COURT: But these are all after. This is all
7 looks like after all that.

8 MR. FIGLER: Yeah. Because we have a case number
9 which is 1389873. Does that sound like the right amount of
10 numbers?

11 THE COURT: Yeah. Those are the right kinds of
12 numbers. Most of it's from 2015. Like I said, it concerns
13 tardiness, sick, you know, missing meetings because she's out
14 sick. That kind of thing. It looks like they really started
15 monitoring her after.

16 MR. FIGLER: We've heard comments.

17 THE COURT: What's that?

18 MR. FIGLER: Are we on record or off record right
19 now?

20 THE COURT: We can be off the record. That was on
21 the record.

22 MR. FIGLER: Okay.

23 THE COURT: It just went.

24 MR. FIGLER: Yeah. I'm done. If you want to bring
25 back the jury maybe we could finish up with Paula.

1 THE COURT: Yeah. We need to use the restroom. Does
2 anyone else need to rest?

3 MR. FIGLER: If you do, I will rest.

4 THE DEFENDANT: I do, but I -- they got to go. So --
5 (Proceedings recessed 4:34 p.m. to 4:42 p.m.)

6 (Jury entering 4:42 p.m.)

7 THE COURT: All right. Court is now back in session.
8 And, Ms. Bluth, you may resume your
9 cross-examination.

10 MS. BLUTH: Thank you.

11 BY MS. BLUTH:

12 Q Okay. Ms. Hammack, we're almost done. Nowhere in
13 Unity notes does it show that the investigator for the Heather
14 Richardson dentist investigation ever looked at the La Petite
15 notes, no Unity notes reflect that; is that correct?

16 A That's correct.

17 Q And then the investigator, Crystal Rosas, who looked
18 at the nanny investigation, there are no Unity notes to reflect
19 that she ever looked at the Heather Richardson investigation or
20 the La Petite investigation?

21 A That's correct.

22 Q And then, Nona Ocloo, the investigator for the
23 Diaz-Burnett children, there are no notes to reflect that she
24 ever looked at the three previous investigations that I've been
25 discussing?

1 A That's correct.

2 Q And I think you already testified to this, but to be
3 clear, there is not any Unity note that reflects any of these
4 investigators got backup medical documentation or verification
5 that any of these children had the medical issues the Solanders
6 were claiming?

7 A That's correct.

8 Q A common theme in each of these investigation is that
9 Janet Solander is a nurse and has some type of medical
10 knowledge?

11 A That's correct.

12 Q But no one was able to verify whether or not she was
13 a nurse?

14 A I don't recall anybody verifying that.

15 Q You stated that one of the previous investigators was
16 moved to a different position. Which investigator was that?

17 A I believe Nona Ocloo is now working in a different
18 division in the department.

19 Q And Crystal Rosas is also working as a call -- an
20 intake caller at this point; is that right?

21 A I believe so, yes.

22 Q And so that would be two out of the three
23 investigators?

24 A That's correct.

25 Q And then you stated that there were three that, I

1 don't know if it's policy or just kind of protocol, but once
2 there are three reports of unsubstantiated, then it goes up to
3 management for management to take a look at what's going on?

4 A Yes. I think there's two other precursors to that
5 occurring, but I can't recall them.

6 Q Okay. But nowhere in the Unity notes does it reflect
7 that any one of these cases or investigations was staffed with
8 upper management?

9 A No.

10 MS. BLUTH: Thank you so much, Ms. Hammack.

11 I'll pass the witness.

12 THE COURT: All right. Thank you.

13 Redirect.

14 MR. FIGLER: Thank you, Your Honor.

15 REDIRECT EXAMINATION

16 BY MR. FIGLER:

17 Q All right. I'm going to follow up on some questions
18 that were just asked of you by the district attorney.

19 A Okay.

20 Q I remember during the cross-examination there was a
21 hypothetical that said if there were 7 or 10 unsubstantiated
22 claims that would be important to you; right?

23 A Yes.

24 Q Do you remember that question 7 to 10? She used
25 those words; correct?

1 A Yes.

2 Q Okay. You just went over four CPS investigations
3 with the prosecutor; is that correct? If I might use this
4 demonstrative aid, you talked about February 2011, what I'm
5 going to call La Petite, which was info only. You talked about
6 August 2011 with Heather Richardson, which was unsubstantiated.
7 You talked about February of 2013 with Jan Finnegan, which was
8 unsubstantiated, and I believe there was some reference to
9 August 2 -- somewhere between August and November of 2013
10 related to what I'm calling Lori Wells. That name has been
11 disclosed to us involving the Diaz-Burnett children. Those
12 were the ones that you just talked about with Ms. Bluth; isn't
13 that correct?

14 A That's correct with the February 21 being an info
15 only not an investigation.

16 Q Okay. Info only so that's not even an investigation.
17 The prosecutor also said, so if the same issues keep coming up
18 over and over and over again, you remember that
19 characterization?

20 A Yes.

21 Q Okay. This was an info only in 2011. Now, let's
22 talk about August 2011, Heather Richardson. There was a lot of
23 discussion between you and the prosecutor about that
24 August 2011 with Heather Richardson; correct?

25 A Yes.

1 Q Okay. And you were shown that that actually opened
2 up on August 12th, 2011, at 19:55 hours. So 19:55 would be
3 about 7:00 at night, almost 8:00 at night? I don't know
4 military time very well. I think that's, like, 8:00?

5 A Yes. Yes.

6 Q Okay. And the source and it's singular; is that
7 correct? The source, single source?

8 A Yes.

9 Q Okay. We now know that to be Heather Richardson who
10 is also an employee of DFS; correct?

11 MS. BLUTH: Judge, I'm going to object as to leading.

12 MR. FIGLER: Fair enough.

13 THE COURT: All right.

14 BY MR. FIGLER:

15 Q Do you know who the source is?

16 A Yes.

17 Q And who is the source?

18 A Heather Richardson.

19 Q Does that document indicate multiple sources or just
20 one source?

21 A Just one.

22 Q Okay. Does that document reference any doctor who
23 made a report?

24 A No.

25 Q Does that reference any medical assistant at a

1 dentist's office who made a report?

2 A No.

3 Q Does that reference any photographic evidence that
4 was taken of the allegations of bruises in that report?

5 A No.

6 Q Okay. And that was August 12th, 2011; is that
7 correct?

8 A Yes.

9 Q Okay.

10 MS. BLUTH: [Unintelligible] can you just --

11 MR. FIGLER: I'm sorry.

12 MS. BLUTH: That's okay.

13 MR. FIGLER: You could correct.

14 MS. BLUTH: Yeah.

15 MR. FIGLER: If you want to correct, that's fine.

16 MS. BLUTH: Okay. Okay, thank you.

17 MR. FIGLER: Sure.

18 There's going to be a correction on the demonstrative
19 evidence --

20 THE COURT: Okay.

21 MR. FIGLER: -- I'll accept the representation as the
22 State on that. I did that pretty quick. So --

23 THE COURT: All right.

24 MR. FIGLER: Okay.

25 THE COURT: Thank you.

1 BY MR. FIGLER:

2 Q But I am talking about August 12th of 2011, that
3 was when -- August -- I just want to make that date very clear.
4 So the first investigation is August 12th, 2011; correct?

5 A Yes.

6 Q Okay. Now, did somebody from family services go out
7 to interview the three girls on a date close in time to that?

8 A I don't recall.

9 Q Okay. I'm going to show you a document and perhaps
10 it will refresh your recollection. I'm showing you a Unity
11 note. Those are the same Unity notes that we've been talking
12 about; correct?

13 A Yes.

14 Q Okay. If you could review that Unity note and see if
15 it aligns your memory or if that's a report that you rely upon
16 in your position as the Assistant Director of the Department of
17 Family Services, if that allows you to present the jury with
18 information about, I believe, the very next morning.

19 A Yes.

20 Q Okay. Who from the Department of Family Services
21 went out to interview those children?

22 A Pat Kelly.

23 Q And do you know who Pat Kelly is?

24 A She was a Family Services Supervisor at the time.

25 Q Okay. So she was another government employee from

1 the Department of Family Services; correct?

2 A Yes.

3 Q Okay. And does that note indicate whether or not the
4 three girls, the three Solander girls, were interviewed the
5 next day, August 12th, 2011?

6 A Yes.

7 Q Okay. Does it indicate whether or not the girls were
8 separated or interviewed in private away from their mom?

9 A Yes.

10 Q Okay. Does it indicate how long the girls were
11 interviewed?

12 A Thirty minutes.

13 Q Okay. Does it indicate whether or not the girls
14 presented as credible and comfortable speaking with the
15 interviewer?

16 A Yes.

17 Q And to that regard were they comfortable speaking
18 with the interviewer?

19 A Yes.

20 Q Did the interviewer find them to be credible?

21 A Yes.

22 Q Did the interviewer discuss abuse issues in the home
23 with the three girls?

24 A When you say -- bruises?

25 Q Well, first of all, whether or not they have been

1 spanked by their parents as of August of 2011?

2 A Yes.

3 Q Okay. And what did the interviewer note from the
4 girls with regard to whether or not in August of 2011, their
5 parents have spanked them or not?

6 A One of the children said that the mother spansks her
7 on her bottom.

8 Q Okay. And the other two children?

9 A No. I don't see it. They said that they never
10 stated -- the document says that they never stated, they've
11 never seen Amaya getting hit by their mom or dad -- mommy or
12 daddy.

13 Q Okay. So they said they never saw Amaya get hit; is
14 that correct?

15 A That's correct.

16 Q Okay. Did that government worker inspect those
17 children for the bruises that were alleged to have been seen by
18 Heather Richardson the night before?

19 A She only observed -- the only injury observed on
20 their --

21 Q I'm sorry. I'm going to interrupt you. I'm going to
22 let you get to that.

23 A Okay.

24 Q That was a yes or no question. Did the interviewer
25 examine the child for any of the bruising that was reported by

1 Heather Richardson?

2 A Neither Ava or Anastasia had any observable injuries
3 based on their documentation.

4 Q Okay. So it appears from there that he did an
5 inspection based on the CPS hotline report from Heather
6 Richardson of not just Amaya, but does it appear he also did a
7 head to toe check of Ava and Anastasia?

8 A It says they didn't observe any injuries. I can't
9 say that they did a head to toe check.

10 Q Okay. I'm sorry. Pat Kelly's a female. So she did
11 say that she didn't observe any injuries. Did she also say
12 that she did look at Amaya, who was the subject of this
13 allegation or this report?

14 A Yes.

15 Q And what was the only thing noted on Amaya the next
16 day after the report that Heather Richardson had said she was
17 covered in bruises?

18 A The note indicates the only injury observable on her
19 face was a scratch on her nose. She got it from falling.

20 Q Okay. Now, is it clear that Pat Kelly was doing a
21 follow-up based on a report that was coming in that there might
22 be abuse in that house?

23 A She was making initial contact on the report
24 received.

25 Q Okay. And do Pat Kelly's findings contradict the

1 source Heather Richardson? If Heather Richardson was saying, I
2 saw bruises all over Amaya and Pat Kelly is saying I went in
3 and looked at Amaya, and I only saw a scratch on her nose.
4 Those are contradictory; aren't they?

5 A Yes.

6 Q So the source's report of injury on August 12th,
7 2013, was not substantiated based --

8 MS. BLUTH: Objection. Leading.

9 THE COURT: Well, he's --

10 MR. FIGLER: Fair enough.

11 BY MR. FIGLER:

12 Q Pat Kelly's findings pudiate [phonetic] the source's
13 or not?

14 A For the report on August 12th, 2011; right? I
15 think you said 2013 so I don't want to --

16 Q I'm sorry.

17 A Okay.

18 Q I got a little excited.

19 A Sorry.

20 Q Heather Richardson said, I saw bruises all over the
21 child's body 8-12-2011 -- Amaya. Pat Kelly saw the child the
22 very next day -- has a different assessment of the child; isn't
23 that true?

24 A Yes.

25 Q A very different assessment; isn't that true?

1 A Yes.

2 Q Okay.

3 MR. FIGLER: Did you fix my note?

4 MS. BLUTH: No. No, I'll get there.

5 [Unintelligible].

6 MR. FIGLER: Okay. Thanks.

7 BY MR. FIGLER:

8 Q All right. So that -- I've covered February of 2011,
9 which I call La Petite, info only. And let me ask you
10 this -- let me ask you this generally speaking. You said in
11 all those -- medical records or medical documentation was not
12 provided; correct?

13 A Correct.

14 Q Okay. Does that mean that medical documentation
15 doesn't exist or it just wasn't provided?

16 A It wasn't provided by Mrs. -- Mr. or Mrs. Solander.

17 Q Okay. So you don't know whether it exists or not;
18 correct?

19 A Correct.

20 Q All right. Do you know if during that relevant
21 timeframe, any of the children were seeing a
22 gastroenterologist?

23 A I do not.

24 Q Because I did not provide you with medical
25 documentation; correct?

1 A That's correct.

2 Q Okay. How about if they were regularly seeing a
3 pediatrician? Do you know if the children were regularly
4 seeing a pediatrician around this time?

5 A I do not.

6 Q Because I haven't provided you with medical
7 documentation; correct?

8 A That's correct.

9 Q Okay. But they may very well have been seeing a bevy
10 of doctors during that time. I just haven't provided you with
11 the documentation so you don't know; isn't that right?

12 A That's correct.

13 Q Okay. Can you say right now that that medical
14 documentation, if it did exist, would it have made a difference
15 in these investigations?

16 MS. BLUTH: Objection. Speculation.

17 THE COURT: Can you answer that without guessing?

18 THE WITNESS: No.

19 MR. FIGLER: Okay.

20 BY MR. FIGLER:

21 Q If Pat Kelly didn't see any bruises that were
22 reported, what further medical documentation would have been
23 necessary for that Heather Richardson investigation?

24 MS. BLUTH: I'm sorry. Could you restate? I didn't
25 hear.

1 MR. FIGLER: Sure.

2 BY MR. FIGLER:

3 Q If Pat Kelly didn't observe any bruises on Amaya the
4 next day, what possible utility would additional medical
5 documentation have provided in that investigation?

6 MS. BLUTH: Objection. Argumentative.

7 THE COURT: State that question again.

8 MR. FIGLER: Sure.

9 BY MR. FIGLER:

10 Q If Pat Kelly had not seen any of the bruises alleged
11 that Heather Richardson saw, would medical documentation have
12 provided any additional benefit for that investigation?

13 THE COURT: If she can answer.

14 THE WITNESS: If there was information that the child
15 was seeing a doctor we would want that information to see if
16 he's seeing any concerns.

17 BY MR. FIGLER:

18 Q Okay. Do you know of any doctor who as a mandatory
19 reporter reported any allegations of any type of child abuse or
20 neglect in this case?

21 A I don't believe so.

22 MS. BLUTH: Here you go, Dayvid. Those are
23 investigations.

24 MR. FIGLER: Okay.

25 / / /

1 BY MR. FIGLER:

2 Q All right. So the State has conveniently helped me
3 out here, and they made a longer list, based on their -- and so
4 let's go through it. That's the same, February 2011 --

5 THE COURT: Is there anything on your monitor?

6 THE WITNESS: Yes.

7 THE COURT: Oh, okay.

8 MR. FIGLER: Okay. Can you see?

9 BY MR. FIGLER:

10 Q February 2011, La Petite; correct? You see that?

11 A Yes.

12 Q And we talked about that?

13 I'm sorry?

14 THE COURT: And ladies and gentlemen, we might have
15 to go a little bit past 5:00. Is there anybody who can't stay
16 a little bit past 5:00 by a show of hands?

17 MR. FIGLER: I could wrap literally in two minutes.

18 THE COURT: Okay. Go ahead.

19 MR. FIGLER: I don't know about redirect but for
20 recross.

21 THE COURT: Is it a childcare issue?

22 UNIDENTIFIED SPEAKER: Yeah.

23 MR. FIGLER: I'll wrap up mine at least.

24 THE COURT: All right.

25 / / /

1 BY MR. FIGLER:

2 Q So you got La Petite, 2011. You got this Heather
3 Richardson that you and I just talked about, 2011. You got the
4 Jan Finnegan in February 2013; correct?

5 A Yes.

6 Q So you've got three allegations over a two-year
7 period of time. One's an info only. One we just talked about,
8 and the last one is Jan Finnegan, and with regard to the Jan
9 Finnegan, it was your testimony on cross that Ms. Finnegan --
10 I'm sorry, that Mr. Solander explained things that were
11 happening in the house and talked about things that were
12 happening in the house and admitted spanking the children?

13 A Yes.

14 Q Okay. So that was revealed? That was disclosed by
15 Mr. Solander?

16 A Yes.

17 Q Okay. And that was not found to arise to the level
18 of substantiated child abuse by the standards of DFS; is that
19 correct?

20 A Correct.

21 Q Okay. So now the State has conveniently told me that
22 there are now one, two, three, four, five, six reports but it
23 does appear as though two of them are from Lori Wells, and
24 one's an unknown source around 2013; correct?

25 A Yes.

1 Q Okay. Do you remember looking at all the records
2 that those allegations in August of 2013 were all about the
3 same thing involving the Diaz-Burnett children?

4 A Yes.

5 Q Okay. And you remember Lori Wells just kept sending
6 e-mails over to Gail Anderson and DFS and all that. Do you
7 remember that whole scenario?

8 A I remember Ms. Wells communicating to DFS, yes.

9 Q Okay. And then there's a report about Diaz-Burnett
10 kids in 2014, and then BST workers about the Diaz-Burnett kids
11 also in 2014. You see that there; right?

12 A Yes.

13 Q So when the Stark children were placed in the home of
14 the Solanders, the only thing to look at would have been La
15 Petite, info only, and that Heather Richardson thing we just
16 talked about, if they were placed in there in 2011; is that
17 correct? If you -- accept for me that the Stark girls came --

18 A Yes.

19 Q Okay. And then with regard to the Diaz-Burnett kids
20 coming in, the only additional thing for the Diaz-Burnett kids
21 came in, if they came in before August 21, 2013, which they
22 would have had to necessarily because of this chart, the only
23 additional thing would have been those Jan Finnegan allegations
24 that were investigated; correct?

25 A Yes.

1 Q Okay. Last question, the prosecutor -- when did you
2 become acting director in 2013? You said you were acting
3 director in December of 2013. How far before then were you --

4 A I was never acting director in 2013.

5 Q Oh, I'm sorry. When you sent that note about the
6 book, what was your position at that time?

7 A I was Assistant Director.

8 Q You were Assistant Director?

9 A Uh-huh.

10 Q Oh, I'm sorry.

11 THE COURT: And now you're Acting Director?

12 MR. FIGLER: But you were, now you're back to
13 Assistant Director?

14 THE WITNESS: That's correct.

15 THE COURT: Oh, okay.

16 THE WITNESS: That's correct.

17 MR. FIGLER: Got it.

18 BY MR. FIGLER:

19 Q So, I'm sorry, when were you Assistant Director in
20 2013? Do you remember?

21 A When did I become an Assistant Director?

22 Q Yeah.

23 A May of 2008.

24 Q All the way through December of 2013?

25 A Yeah. I still hold the title.

1 Q Got it. Okay. So here's the last question. The
2 State asked you -- this is the last question. That was just a
3 clarification.

4 The State asked you a bunch of stuff. Would it be
5 concerning to you if you heard about buckets and would it be
6 concerning to you if you heard about ice, et cetera, et cetera?
7 Do you remember that line of questioning?

8 A Yes. Yes.

9 Q And you said yes to all of those. It would be
10 concerning to you; right?

11 A Yes.

12 Q Okay. Concerning to you doesn't necessarily mean
13 that it's illegal; correct?

14 MS. BLUTH: Objection. Beyond the scope of this
15 witness's knowledge.

16 THE COURT: Well, when you say concerning, does that
17 mean to you illegal, or does that mean something else?

18 THE WITNESS: It means to me that I would be
19 concerned about the welfare of those kids in those homes.

20 BY MR. FIGLER:

21 Q And that you would want to do an investigation based
22 on that perhaps; correct?

23 A Yes.

24 Q And the things that were said to you, you would want
25 to verify exactly what we're talking about. You're not going

1 to just accept the word of Ms. Bluth here; right?

2 A That's correct.

3 MR. FIGLER: Okay. No further questions.

4 Thank you, Your Honor.

5 Thank you for that extra time, jury.

6 MS. BLUTH: I can literally do this in 30 seconds.

7 THE COURT: Okay.

8 MS. BLUTH: Okay. I got it.

9 RECROSS-EXAMINATION

10 BY MS. BLUTH:

11 Q Okay. So in regards to Heather Richardson, no one
12 actually went to the dentist's office to meet with the dentist
13 or dentist staff; correct?

14 A That's correct.

15 Q And you previously talked about it being policy for
16 investigators to reach out to other, like, contacts or lay
17 witnesses?

18 A That's correct.

19 Q And in regards to your investigators could have gone
20 to doctors' offices or could have requested records from
21 doctors' offices?

22 A Correct.

23 Q And then in the seven investigations that
24 Mr. Figler -- we had up here, that's not here, that did not
25 include the plethora of times Lori Wells either called, wrote

1 e-mails or wrote a letter?

2 A That's correct.

3 MS. BLUTH: Nothing further.

4 MR. FIGLER: Nothing further, Your Honor.

5 THE COURT: All right. Let's go ahead and take our
6 evening recess.

7 Ladies and gentlemen, we're going to recess for the
8 evening. We will resume tomorrow morning at 9:00 a.m.,
9 9:00 a.m. tomorrow morning.

10 And, ladies and gentlemen, during the evening recess
11 you're all reminded that you're not to discuss the case or
12 anything relating to the case with each other or with anyone
13 else. You're not to read, watch or listen to any reports of or
14 commentaries on the case, person or subject matter relating to
15 the case. Do not do any independent research by way of the
16 Internet or any other medium. Don't form or express an opinion
17 on the case.

18 All right. Ladies and gentlemen, notepads in your
19 chairs and follow the bailiff through the double doors.

20 Ma'am, do not discuss your testimony with any other
21 witnesses in this case, and I would like Juror Number 5,
22 Mr. Pistana to remain in the courtroom.

23 (Jury exiting)

24 You're excused, but do not discuss your testimony
25 with any other potential witnesses in this case.

1 THE WITNESS: Yes, ma'am.

2 THE COURT: You can have a seat.

3 JUROR NO. 5: Oh.

4 All right. Excuse me.

5 Mr. Pistana? Am I saying that correctly?

6 JUROR NO. 5: Pistana.

7 THE COURT: Pistana. All right. Apparently you've

8 being voicing your concerns about this case taking into last --

9 next week to my bailiff; is that right?

10 JUROR NO. 5: Yes.

11 THE COURT: And you have a conflict with your work

12 schedule? Can you just tell me a little bit about that.

13 JUROR NO. 5: Yeah. I'm traveling -- I have a

14 business trip that's -- so I work for MGM Resorts, and in my

15 role I'm one of the vice presidents in sales. So we're going

16 to visit the executive leadership of our -- we have a property

17 in National Harbor right outside of Washington DC. It opened a

18 year ago. So we --

19 THE COURT: Okay.

20 JUROR NO. 5: We're going there to meet with their

21 leadership, talk, you know, strategize for this year and talk

22 about our stuff, and then were heading to MGM Detroit which we

23 have a property in Detroit and then coming back. So --

24 THE COURT: All right. And when is your meeting

25 in --

1 JUROR NO. 5: The meeting's Tuesday morning.

2 THE COURT: Okay.

3 JUROR NO. 5: And then so we fly Monday.

4 THE COURT: Now, are you flying on a MGM plane or are
5 you flying on a regular --

6 JUROR NO. 5: I wish. I wish I was.

7 THE COURT: Are you flying on Southwest Airlines like
8 the rest of us?

9 JUROR NO. 5: I'm actually on Southwest. Which is --
10 yes. So it's one of these, I mean, obviously, you know, I've
11 talked to my boss too, and they understand I'm in this, and I
12 mean, if I had to not go on this trip, I mean, just always
13 being open and honest here in court, they could survive without
14 me.

15 THE COURT: Okay.

16 JUROR NO. 5: This is just, but, I mean, it's ideal
17 that I go for what I do in the role, but, you know, because we
18 were discussing that the other day, like --

19 THE COURT: Okay.

20 JUROR NO. 5: -- hey, this might keep going. So --

21 THE COURT: Okay. And then who else from MGM here in
22 Las Vegas is going?

23 JUROR NO. 5: It's two other people. My boss, my
24 bosses, Lee Ann Benavidez, she's the vice president -- one of
25 the vice presidents of sales and the other gentlemen, Jeff

1 Eisenhart, another vice president. So the three of us are
2 going on this trip.

3 THE COURT: Okay.

4 JUROR NO. 5: So, yeah. So there's other --

5 THE COURT: And it's basically to meet with other MGM
6 executives in you said Florida?

7 JUROR NO. 5: In Washington DC.

8 THE COURT: Okay.

9 JUROR NO. 5: And then Detroit.

10 THE COURT: And Detroit. All right. And your travel
11 plans are for Sunday you said -- your flight?

12 JUROR NO. 5: Monday morning -- I have a 7:30 flight
13 Monday morning.

14 THE COURT: Okay.

15 JUROR NO. 5: And then I come back Wednesday. It's
16 like 6:00 or something.

17 THE COURT: Okay. All right. Hopefully, you'll
18 still be able to do that. I am going to ask you to come back
19 tomorrow.

20 JUROR NO. 5: Oh, yeah.

21 THE COURT: We may be finishing up tomorrow. So,
22 but --

23 JUROR NO. 5: You're saying there's a chance.

24 THE COURT: What's that?

25 MS. BLUTH: You're saying there's a chance.

1 THE COURT: But, you know, keep your plans in place.
2 JUROR NO. 5: Okay.
3 THE COURT: Now, some of the other jurors may want to
4 know, why did they make you stay? What did they talk about?
5 Please do not discuss this issue or what we've just
6 discussed --
7 JUROR NO. 5: Sure.
8 THE COURT: -- with any of the other --
9 JUROR NO. 5: I won't tell any of the others.
10 THE COURT: -- any of the other jurors.
11 JUROR NO. 5: No problem.
12 THE COURT: All right. Thank you, sir.
13 JUROR NO. 5: Okay.
14 THE COURT: And you are excused. Like I said, don't
15 cancel your plans.
16 JUROR NO. 5: Okay.
17 THE COURT: We're mindful of them, and do come in
18 tomorrow at 9:00.
19 JUROR NO. 5: Okay. I appreciate that.
20 THE COURT: All right.
21 JUROR NO. 5: And like I said, even we got a lot of
22 time invested in this so it would -- yeah. At the end of the
23 day if -- I really didn't need to go --
24 THE COURT: All right.
25 JUROR NO. 5: -- it would be okay, but I do, like,

1 kind of need to be there.

2 THE COURT: So am I hearing that you would still
3 prefer to be able to go?

4 JUROR NO. 5: I'd prefer to be able to go, yeah.

5 THE COURT: Okay.

6 JUROR NO. 5: Because I -- yes. It's kind of an
7 important once a year kind of trip we do.

8 THE COURT: Okay. All right. We're mindful of that.
9 Keep your plans.

10 JUROR NO. 5: No problem.

11 THE COURT: And we'll see you back tomorrow morning
12 at 9:00 a.m.

13 JUROR NO. 5: I appreciate it, Your Honor.

14 THE COURT: All right. Thank you.

15 (Juror No. 5 exiting)

16 MS. BLUTH: I think he's giving us an out.

17 THE COURT: What?

18 MS. BLUTH: I think he's giving us an out.

19 MR. HAMNER: I think so too.

20 MS. BLUTH: I mean, he said, you know --

21 THE COURT: Right.

22 MS. BLUTH: -- there's a lot of time that's been
23 spent and invested on this.

24 THE COURT: Well, right. It was almost like he kind
25 of --

1 MS. BLUTH: If you want to make me stay, it's okay.

2 THE COURT: Right. That's kind of what I heard.

3 UNIDENTIFIED SPEAKER: Well, who wants to go to
4 Detroit?

5 THE COURT: Detroit is like one of the top
6 destinations right now. They've invested a ton of --

7 MR. FIGLER: Detroit is popular right now. It is the
8 fastest growing community in the United States right now with
9 economic growth.

10 THE COURT: Right. It's supposed to be, you know --

11 MR. FIGLER: Well, they started so low.

12 THE COURT: There's lots of great architecture, like,
13 art supposedly. I don't know. I haven't been there.

14 MR. HAMNER: Because I was even thinking, you know,
15 what if he, you know, if they're able to kind of deliberate and
16 finish up within a day or two maybe he's able to fly out.
17 Because they're going to multiple locations.

18 MS. BLUTH: Right. So he could meet up for the
19 second location.

20 MR. HAMNER: Right.

21 MR. FIGLER: Or he's a day late to the trip and
22 maybe --

23 THE COURT: Right. I mean, I knew we weren't going
24 to finish tomorrow, but --

25 MS. BLUTH: Yeah. I was looking at you, like, double

1 take, like, what?

2 THE COURT: I mean, I'm not going to -- I still want
3 him to come in tomorrow because we'll decide tomorrow whether
4 to excuse him for Monday or whether to make him stay --

5 MS. BLUTH: Right.

6 THE COURT: -- and deliberate. So --

7 MS. BLUTH: Okay. All right then.

8 MR. HAMNER: All right. Sounds good. So tomorrow at
9 9:00. Sounds good.

10 MS. BLUTH: And Mueller's just going to come when --
11 right, whenever --

12 MR. HAMNER: Whatever the general wants.

13 THE COURT: So has anyone had contact with him?

14 UNIDENTIFIED SPEAKER: I called and left a message on
15 his cell phone. [Unintelligible].

16 THE COURT: So no one's confirmed, like, when he's
17 going to be here anything like that?

18 MS. MCAMIS: No. [Unintelligible].

19 THE COURT: I mean, I guess your folks's task --
20 well, never mind. I mean, at this point we don't even know if
21 there's anything good on the tape that you would even want.

22 MS. MCAMIS: Given how much time we've spent in court
23 respectfully, Your Honor, I've not really had an opportunity to
24 look at more than 60 seconds maybe.

25 THE COURT: No, that's what I'm saying.

1 MR. FIGLER: It was like Caitlyn, are those the kids?
2 Caitlyn, yes.

3 MS. MCAMIS: As I'm prepping to case.

4 THE COURT: But like -- all right.

5 MR. FIGLER: That was literally before we came to
6 court.

7 (Colloquy off the record.)

8 MR. FIGLER: Jaqueline, can you send me your proposed
9 tonight?

10 MS. BLUTH: Yes. I will do that right now.

11 MR. FIGLER: And then when I get them, I'll send you
12 our proposed --

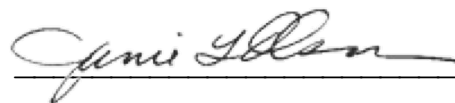
13 (Proceedings recessed for the evening 5:14 p.m.)

14 -oOo-

15 ATTEST: I do hereby certify that I have truly and correctly
16 transcribed the audio/video proceedings in the above-entitled
17 case.

18

19



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Janie L. Olsen
Transcriber

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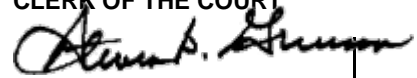
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TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

THE STATE OF NEVADA,)	
)	
Plaintiff,)	CASE NO. C299737-3
)	
vs.)	DEPT NO. XXI
)	
JANET SOLANDER,)	
)	
Defendant.)	Transcript of
)	Proceedings

BEFORE THE HONORABLE VALERIE ADAIR, DISTRICT COURT JUDGE

JURY TRIAL - DAY 19

FRIDAY, MARCH 9, 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: JULIE POTTER, TRANSCRIBER

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1 LAS VEGAS, NEVADA, FRIDAY, MARCH 9, 2018, 9:14 A.M.

2 (Outside the presence of the jury)

3 MS. BLUTH: Judge, Dayvid wants to -- he needs a
4 specific slide from Dr. Cetl, so she's just going to pull it
5 up --

6 THE COURT: Okay.

7 MS. BLUTH: -- for him real quick.

8 THE COURT: Do we have any update on Craig Mueller?

9 MS. BLUTH: Dayvid, what's up with Craig Mueller?

10 MR. FIGLER: I've got no communications from Mueller.

11 THE COURT: What was our last communication? I mean,
12 when --

13 MR. FIGLER: Kenny had left messages for Mr. Mueller.
14 I don't think Mr. Mueller --

15 THE COURT: Does he know to show up? We have Mr.
16 Solander.

17 MS. BLUTH: I'm calling his office.

18 MR. FIGLER: And I told Mr. Solander, and that's all I
19 told Mr. Solander yesterday is that --

20 THE COURT: Is just to be here.

21 MR. FIGLER: And that his attorney needed to be here,
22 too, and that --

23 THE COURT: Can you find -- did he have contact?

24 Did you call your lawyer?

25 MR. SOLANDER: I left a message and texted him both.

1 THE COURT: And you haven't heard back?

2 MR. SOLANDER: I haven't heard back. He may be on a
3 plane. He might be driving. I don't know if he drove or flew.

4 MR. FIGLER: It sounded like he was flying, though,
5 Your Honor.

6 THE COURT: He must have flown because, otherwise, he
7 -- I mean, yeah, unless he drove all night.

8 MS. BLUTH: Your Honor, I'm calling them right now.

9 MR. FIGLER: He mentioned flying.

10 (Pause in the proceedings)

11 THE COURT: Are they all here?

12 THE MARSHAL: Nope. We're waiting on one juror still.

13 MR. FIGLER: Judge, in the documents that we got
14 yesterday, not the book stuff but the other stuff --

15 THE COURT: Right.

16 MR. FIGLER: -- the only thing that was of particular
17 relevance was Heather Richardson says that she was contacted by
18 DFS to talk about those allegations. That's contrary to what
19 she said, but there's nothing else.

20 THE COURT: I didn't catch that.

21 MR. FIGLER: Yeah, there's nothing else.

22 THE COURT: Okay.

23 MR. FIGLER: And it was all about the County freaking
24 out and --

25 THE COURT: Right.

1 MR. FIGLER: -- doing press releases.

2 THE COURT: That's why I just gave it to you. I
3 didn't catch that that was a discrepancy.

4 MR. FIGLER: Yeah. So unless they're going to recall
5 her, I'm not going to.

6 THE COURT: Right.

7 MS. McAMIS: And, Your Honor, we did receive the UMC
8 medical records from Ms. Solander's most recent hospital stay,
9 the ones that we requested and said that we were waiting on. I
10 did --

11 THE COURT: Are we on the record?

12 MS. McAMIS: -- offer them to Ms. Bluth. Oh, I'm
13 sorry.

14 THE RECORDER: Yes.

15 THE COURT: Okay. Go ahead.

16 THE RECORDER: It's recording, but I didn't know.
17 Okay.

18 MS. McAMIS: Okay. I did offer those records to the
19 State for their review first. I see that it's still on their
20 table, but I did want to alert the Court that it's been received
21 and I do intend to give that to the Court.

22 THE COURT: Okay.

23 MR. FIGLER: Just housekeeping.

24 THE COURT: Yes.

25 (Pause in the proceedings)

1 MS. McAMIS: Your Honor, if I could approach with the
2 UMC records.

3 THE COURT: Sure. Yes. These are the hospital
4 records?

5 MS. McAMIS: Correct.

6 THE COURT: All right.

7 MS. BLUTH: I went through them.

8 THE COURT: And did the State have a chance to review
9 those?

10 MS. BLUTH: Yes, ma'am.

11 THE COURT: All right. Any comment by the State?

12 MS. BLUTH: Well, I think that I -- the reason for the
13 admission was the irregular EKG, and then that the -- the notes
14 from the doctor state that there were no complaints of blood
15 either vaginally or anally, which I felt like we had been
16 hearing about complaints for anal bleeding for several weeks,
17 and the doctor said there had been complaints -- no complaints
18 about it.

19 THE COURT: Right, which would suggest they asked the
20 question. All right. We'll go ahead and make -- we have
21 numerous Court exhibits in this case, as you all know, so we'll
22 make this another Court's exhibit. And -- oh, yeah. You
23 mentioned both sides got the new stack of stuff from yesterday,
24 and I didn't really think there was anything in that. We went
25 over that already.

1 THE MARSHAL: All the jurors are here, Judge.

2 MS. BLUTH: All right. I'm asking them right now.

3 Are you guys ready for the call?

4 THE COURT: Are we ready?

5 MS. BLUTH: Are they on?

6 THE RECORDER: No.

7 THE COURT: So -- all right. We're doing Ava first,
8 then?

9 MR. HAMNER: Yeah.

10 THE CLERK: Do you needs these records, Judge?

11 THE COURT: Oh, yeah. These records will be another
12 different Court exhibit. But those should be sealed, as well,
13 because they're her medical records. All right.

14 (Pause in the proceedings)

15 (Inside the presence of the jury)

16 THE COURT: All right. Court is now back in session.
17 The record should reflect the presence of the State through the
18 Deputy District Attorneys, the presence of the defendant, Ms.
19 Solander, along with her counsel, the officers of the court, and
20 the ladies and gentlemen of the jury.

21 Ladies and gentlemen, the State has recalled a
22 witness, Ms. Ava Solander, who is appearing via Skype. Can
23 everybody see the monitor okay, or does Kenny need to move the
24 monitor?

25 JUROR: Yeah.

1 THE COURT: You know, I've never been seated where
2 Juror No. 15 is seated and asked to look at a monitor, so I'm
3 not sure what Juror No. 15, who's the farthest away, can see.
4 In any event, if everybody can see, we can proceed.

5 And, Ava, would you please stand up so that the court
6 clerk can administer the oath to you again. And then raise your
7 right hand, please.

8 MR. FIGLER: She froze?

9 THE CLERK: Ava, can you hear me?

10 THE COURT: What happened?

11 THE MARSHAL: Did we lose connection?

12 THE COURT: We shouldn't have let him leave. The IT
13 person was here setting this up before you folks walked in. And
14 then, stupidly, we thought it was working and we let him leave.
15 So we'll just be at ease for a moment. I think he's probably
16 still on the floor, so we can just grab him and bring him in.

17 THE CLERK: I got him.

18 THE COURT: It was on, and I asked her to stand up for
19 the oath and then she disappeared.

20 (Pause in the proceedings)

21 THE COURT: It's working. Can you hear us? If you
22 can move over and let Ava back. All right. There, we see Ava
23 now.

24 AVA McCLAIN, STATE'S WITNESS, SWORN

25 THE CLERK: Thank you. Have a seat. State and spell

1 your first and last name for us, again.

2 THE WITNESS: Ava McClain.

3 THE CLERK: Can you spell it, please.

4 THE WITNESS: A-V-A M-C-C-L-A-I-N.

5 THE CLERK: Thank you.

6 MS. BLUTH: May I proceed, Judge?

7 THE COURT: You may.

8 DIRECT EXAMINATION

9 BY MS. BLUTH:

10 Q Good morning, Ava.

11 A Good morning.

12 Q Did you just wake up?

13 A Yeah.

14 Q I'll try to make this quick. Ava, we talked a little
15 bit when you testified about Miss Janet using a catheter on you,
16 and so I just have one question. When that happened, did you
17 want her to do that to you?

18 A No.

19 MS. BLUTH: Nothing further, Judge. Thank you.

20 THE COURT: Any questions just based on that?

21 MS. McAMIS: Just based on that.

22 CROSS-EXAMINATION

23 BY MS. McAMIS:

24 Q Ava, this is the defense attorney, Ms. McAmis. I have
25 a question or two for you, okay? Can you hear me?

1 A Yes.

2 Q Okay. Thank you. Ava, when you gave your statement
3 to CPS in March of 2014 when you were in Las Vegas, isn't it
4 true that you did not disclose the catheter until the very end
5 of the interview?

6 A I don't remember if I did it at the end of the
7 interview.

8 Q Okay.

9 MS. McAMIS: It's page 65, counsel.

10 MS. BLUTH: Okay.

11 BY MS. McAMIS:

12 Q Isn't it true that you were asked is there anything
13 else that Miss Janet would do to make you pee, and you asked
14 what do you mean? And in response the interviewer asked, like
15 was there any -- excuse me -- like was there another way of
16 getting the pee out of your body? And you indicated no verbal
17 response. And then the interviewer said, your sister was
18 telling me something about some kind of a tube thing with a bag,
19 and that's when you said, oh, catheter; isn't that correct?

20 A Yes.

21 Q Okay. And, Ava, just as a point of clarification, you
22 did not say anything about catheters in Florida to CPS; right?

23 A I don't remember if I did.

24 Q Okay.

25 MS. McAMIS: Nothing further.

1 THE COURT: Anything else, Ms. Bluth?
2 MS. BLUTH: No.
3 Thank you, Ava.
4 THE COURT: All right, Ava. Thank you very much, and
5 you're excused.
6 THE WITNESS: All right.
7 THE COURT: All right. We can turn off the Skype.
8 THE WITNESS: All right. Bye.
9 THE COURT: Thank you, Ava.
10 MS. BLUTH: Bye, Ava.
11 THE COURT: Can you turn off the --
12 THE RECORDER: I'm working on it.
13 THE COURT: There we go.
14 All right. State, call your next witness.
15 MR. HAMNER: State is going to call Dr. Sandra Cetl to
16 the stand.
17 THE COURT: All right.
18 SANDRA CETL, STATE'S WITNESS, SWORN
19 THE CLERK: Thank you. Please have a seat. State and
20 spell both your first and your last name for the record.
21 THE WITNESS: Sandra, S-A-N-D-R-A, Cetl, C-E-T-L.
22 THE COURT: Thank you.
23 Mr. Hamner.
24 MR. HAMNER: Thank you.
25 ///

1 DIRECT EXAMINATION

2 BY MR. HAMNER:

3 Q Good morning, ma'am. Could you explain to the jury
4 what you do for a living?

5 A Sure. So I'm a pediatrician that evaluates concerns
6 of child physical abuse, child sexual abuse, and possibly
7 neglect. I additionally work as a pediatric emergency room
8 physician. I work out of two different facilities in town, out
9 of Sunrise Children's Hospital, as well as the Southern Nevada
10 Children's Assessment Center.

11 Q If you could, explain your medical educational
12 background.

13 A Sure. So a bachelor's of neuroscience at UCLA,
14 followed by a medical degree at the University of Vermont, after
15 which a specialty residency in pediatrics at the University of
16 Nevada in the Las Vegas program. I attended an apprenticeship
17 with a child abuse pediatrician that I had been working with
18 during residency, and then continued a peer review process for
19 two and a half years after that apprenticeship. Afterwards, I
20 took over the practice myself. And then I continue with
21 continuing medical education, yearly conferences, literature
22 reviews, and so on.

23 Q When you say you continue with conferences and doing
24 things of that nature, what are you -- are you a speaker, are
25 you just attending for educational purposes?

1 A Both. I'm a speaker at some conferences, but I attend
2 -- most of them I attend, so I will attend either live and in
3 person. So if they're in a different location I will go to, or
4 sometimes I will -- they have webinars or I can get the actual
5 CDs of the entire conference and so I can watch from home.

6 Q And how many years have you been practicing medicine?

7 A Totally would be about ten, ten years.

8 Q And has it all been here in Las Vegas?

9 A Yes.

10 Q Okay. I'd like to ask you a little bit about just
11 first your work in the peds ER at Sunrise. Kind of on a -- on a
12 daily basis, how many kids are you usually seeing a day that
13 come into the ER?

14 A So if I'm taking a shift in the ER, it's a 12-hour
15 shift, and I'll see probably about 30 to 45 patients.

16 Q A day?

17 A Yes.

18 Q And how many days a week do you work at Sunrise?

19 A Currently, I will work between two to five shifts in a
20 month in the ER, and previous to that it was about ten shifts a
21 month.

22 Q Now, you -- you are over at the Southern Nevada
23 Children's Assessment Center, as well?

24 A Correct.

25 Q How many days a week do you work over there?

1 A Two days a week.

2 Q Okay. And what's the shift like when you work at the
3 Assessment Center?

4 A So that's kind of a classic outpatient clinic, and so
5 it's relatively 9:00 to 5:00 where we see patients at an
6 outpatient setting, not in an emergency department.

7 Q On average, how many would you see a day if you were
8 working there?

9 A It depends. Average, I would say six.

10 Q Okay. And we'll talk more about the Assessment Center
11 in a minute. I want to talk about a couple other things. I
12 know that you mentioned teaching classes. Now, sometimes you
13 give educational classes. Usually -- what's the topic that
14 you're usually talking about, or topics that you discuss when
15 you're teaching?

16 A So there's several topics. I teach about overdose
17 deaths and accidents, I teach about child physical abuse, child
18 sexual abuse, child neglect. I do sometimes teach about general
19 pediatrics topics. I talk about neurobiology of trauma. And
20 then there are a few outlier subjects, but those are the
21 majority of them.

22 Q When you teach these classes, what sort of groups are
23 you working with? Who are you educating?

24 A Whoever asks. So basically it goes from medical
25 students, residents, attendings, so my colleagues, social

1 workers, case managers, sometimes law enforcement, attorneys,
2 Child Protective Services, foster parents, anybody who is
3 interested in learning more about the topic.

4 Q Okay. So when you say teaching lawyers, does that
5 include members of the District Attorney's Office?

6 A Yeah.

7 Q Okay. How about the criminal defense bar, do you
8 do --

9 A Yes.

10 Q Okay.

11 A I do.

12 Q Public Defender's Office, as well?

13 A Yes.

14 Q Okay. Have you ever -- have you ever done any work
15 where you've maybe worked or consulted or maybe answered
16 questions from defense -- criminal defense attorneys about cases
17 they might have?

18 A Oh, yes. Absolutely.

19 Q Tell us about that.

20 A So there are several occasions in which instead of
21 coming to a court process I may meet with either an attorney and
22 his or her client or a District Attorney all together and
23 discuss any of the medical questions that they might have. And
24 sometimes a lot of things can get resolved just by being able to
25 all talk together in a group. Sometimes I educate caregivers

1 about the concerns that may have come up or things that are not
2 concerning. So I will meet oftentimes with defense attorneys,
3 as well as District Attorneys in order to clarify anything
4 medical.

5 Q Okay. I know that you mentioned that you work at the
6 Assessment Center. And when you're there, are you -- what sort
7 of exams are you performing at the Assessment Center?

8 A So the great majority of the exams that we have are
9 for sexual abuse concerns. Because that's not always just the
10 concern, we also look at neglect, we look at the possibility of
11 physical abuse if that's a concern that has come up, and then
12 additionally I staff cases with outside agencies that may bring
13 cases to me in order to render a medical opinion.

14 Q Okay. When you're working -- when you're working
15 there, do you make findings of abuse every single time, or
16 what's kind of -- what's kind of the ratio from -- from your
17 work there?

18 A From a sexual abuse perspective, I would say probably
19 maybe 5 to 10 percent of the time is a definitive for abuse, or
20 less than that. Probable abuse, again, it depends on the
21 context, so maybe 25 percent of the time, and then the majority
22 will be possible or no findings of abuse.

23 Q I want to switch gears just for one second in your
24 kind of ER capacity, okay. So I know that you're saying that
25 you do assessments for possible abuse at the Children's

1 Assessment Center, but at the ER are you -- are you a mandated
2 reporter?

3 A Yes.

4 Q Okay. So if -- if there is a kid that comes in where,
5 based on your training and experience, you think might be a case
6 of possible abuse, what do you do at that point?

7 A So at that point it depends on where in the evaluation
8 we are and what the concerns are, but the appropriate agencies
9 would be contacted, so Child Protective Services and/or law
10 enforcement, usually both.

11 Q Okay. On average for most of the kids that come into
12 the ER, are you making calls like that or are you not? I mean,
13 how does that kind of --

14 A Oh, no. Maybe every few shifts. I mean, I would say
15 that it's the minority of shifts would we have a call that needs
16 to go out. Yeah.

17 Q Okay. And, again, you said that usually in a normal
18 shift at the ER you're seeing about 35 to 40 kids?

19 A Yes.

20 Q And you can go entire shifts without you making a
21 call?

22 A Yeah. Absolutely.

23 Q Okay. I want to talk to you about the Children's
24 Assessment Center. What is the Children's Assessment Center?

25 A So it's considered kind of a one-stop shop, basically,

1 for concerns of child abuse, especially with child sexual abuse.
2 What that means is that it uses a national accreditation
3 program, as well as a rubric in order to have all the of the
4 appropriate agencies that are either evaluating, investigating,
5 or looking into concerns of child abuse. and so a child doesn't
6 have to go all the way around town or spend a lot of time trying
7 to meet with certain advocates. We have family advocates that
8 can set up any needs that they have resource-wise.

9 We also have counselors onsite, we have forensic
10 interviewers who are able to -- who are trained to talk to young
11 children about things that, you know, of concern, and there's a
12 medical clinic we have twice a week. There's -- law enforcement
13 is represented there, as well as Child Protective Services.
14 District Attorney has a representation there, as well. And so
15 that we can all meet and discuss these cases as a
16 multi-disciplinary team, as well as so the child doesn't have to
17 -- to be bothered by meeting new people every day.

18 Q And just for a point of clarification, the
19 representative from the DA's office is not someone from the
20 criminal division?

21 A Oh, no, no, no. It's from the family court division,
22 civil -- civil court.

23 Q Okay. I want to -- you mentioned that part of your
24 assessments that you do there are for potential sexual abuse.
25 I'd like to -- one second. I want to talk about the vagina for

1 a second, in that kind of general area, if we could.

2 A Sure.

3 Q And maybe we just need to wait until I get that
4 photograph. But can you kind of generally describe what parts
5 of that area kind of make up that general area?

6 A Sure. The vaginal area, and although it seems
7 obvious, tends to have a lot of myths about the anatomy. So
8 essentially that the outer part that we look at we call labia
9 majora. Those are the larger lips that are on the outside. And
10 then kind of from top to bottom we're looking at labia minora,
11 which are the smaller set of lips. Once we are past that, we
12 see the clitoris or the clitoral hood, so skin over the
13 clitoris. And then as we go down further, as we pass the labia
14 majora are the urethra, so that's where we pee from, the vagina,
15 so that is lower and below the urethra, and then we culminate in
16 an area called the posterior fourchette. And it's just --
17 basically it's just extra skin that is covered by the labia
18 majora.

19 Q At this time I'm going to --

20 MR. HAMNER: Let the record reflect I'm showing
21 opposing counsel what's been marked as -- sorry about that --
22 State's Proposed 245. Let the record reflect I'm approaching
23 the witness with State's Proposed 245.

24 BY MR. HAMNER:

25 Q Do you know what we're looking at there?

1 A I think we're looking at a vagina.

2 Q Okay. Good. Is that a fair and accurate depiction or
3 drawing of a vagina?

4 A Yes, it is.

5 Q All right.

6 MR. HAMNER: At this time I'm going to ask for
7 permission to admit State's Proposed 245. It's been previously
8 published, I think.

9 THE COURT: As a demonstrative exhibit?

10 MR. HAMNER: Yeah.

11 MR. FIGLER: As a demonstrative exhibit. We'll submit
12 that, Your Honor.

13 THE COURT: All right.

14 (State's Exhibit 245 admitted)

15 MR. HAMNER: Thank you.

16 THE COURT: And I think the jury can recognize that
17 that's a demonstrative exhibit, not an actual photograph. All
18 right.

19 Would that aid you in testifying?

20 THE WITNESS: Yes.

21 THE COURT: All right. Go ahead.

22 BY MR. HAMNER:

23 Q Okay. So what -- what parts that we're looking at
24 here kind of -- kind of encompass this general area? What parts
25 are we talking about here?

1 A Okay.

2 Q Go ahead. You can touch it. Yeah, you can touch the
3 screen and it will make marks.

4 A Okay. Fair enough. So this arrow here, that's
5 pointing to this mons pubis. So that's kind of the top area.
6 And so now what I was discussing earlier is kind of going from
7 there down. So the clitoris at the -- at the top. But what
8 we're looking at here is with the labia majora spread outwards
9 and to the sides. Usually, typically they're going to be kind
10 of put together, okay. So these are the larger -- the larger
11 labia majora. What I was saying earlier, the labia minora. And
12 they can be in different shapes and sizes for a variety of
13 reasons, most to do with the hormones and just we're born
14 looking different. So those are the smaller lips, if you will.

15 This is the -- well, that little square, just above
16 that little square here is the urethral opening, and so let's
17 see if I can -- nope, I can't do it. Okay. So just above those
18 three little squares, that's where urine comes out of. And then
19 below that, the larger opening, that's the vagina. The vagina
20 -- a female will be born with a vagina with an open hole.

21 And what is lot labeled here is hymenal tissue. The
22 hymen is just skin that follows around like a collar around that
23 vaginal opening. It's a lot like the inside of the mouth, it's
24 the same type of skin. And then as we go down, what I was
25 speaking out, the posterior fourchette, that's this area right

1 there. And so that kind of culminates the entirety of the
2 vagina. The area between the anus and the vagina is called the
3 perineum, and then below that is the anus where we poop from.

4 Q Okay.

5 A Sorry. Pediatrician. Bowel movement.

6 Q From the perineum up, is that the entire kind of
7 genital --

8 A Yes.

9 Q -- area of -- for a female?

10 A Yes.

11 Q Okay. And when you were mentioning the labia majora
12 are generally closed, does that kind of enclose some of these
13 other parts that you've talked about in many situations, the
14 labia minora, the vagina, the urethra, and not necessarily -- I
15 don't know if in this case the clitoris, but at least those
16 parts can many times be completely enclosed by the labia majora?

17 A Right. It is enclosed. The way we sit, stand, walk
18 around, it'll be enclosed like that.

19 Q Okay. And so in order to reach some of these internal
20 areas, you'd have to kind of spread that area apart --

21 A Yes.

22 Q -- to get there?

23 A Correct.

24 Q Okay. When -- when you are usually doing exams on
25 female genitalia, when you're doing a sexual exam, how often do

1 you actually have kind of physical scarring or physical findings
2 when you do an examination on average?

3 A Well, even nationally, about less than 5 percent of
4 the time are there findings definitive for any kind of injury.

5 Q Doctor, based on your education and training, is there
6 something about that area of the body that kind of tends to lend
7 itself to those type of numbers?

8 A Right. Well, there's a couple of different reasons.
9 Especially for children, the type of contact may have not caused
10 any injuries. That's a possibility. And, also, when injuries
11 occur in the genital area, like I said, like the inside of the
12 mouth, you bite or cut or do something, burn the inside of the
13 mouth, similarly to the vaginal area, it'll heal so quickly, and
14 it doesn't typically heal with any kind of scar. So unless
15 there's skin that's actually removed forcefully off of that
16 area, we're not going to be able to see anything if it's a week,
17 two weeks, two months, two years down the road.

18 Q Okay. So if you have, for example, a delay in
19 reporting or a delay between, you know, the suspected abuse and
20 at the time of the examination, you're likely not going to find
21 anything?

22 A That is correct.

23 Q So I guess that would probably take -- apply if it's a
24 year or two years out?

25 A Oh, absolutely.

1 Q Okay. But you're even saying things that much as --
2 as little as a week?

3 A Yes.

4 Q Okay. Let's talk about this -- the urethra for a
5 second. Doctor, are you familiar with what a catheter is?

6 A Yes.

7 Q Okay. What is a catheter?

8 A So a catheter is a tube. It's a device that is used
9 by medical staff in order to reach the bladder, which is from
10 the urethra upwards, to go into the bladder in order to extract
11 urine. Sometimes it's for one time just to get a urine sample,
12 and then sometimes it's left in there in order to collect urine
13 for some medical either processes or evaluation.

14 Q So if you're having surgery and you're kind of laid up
15 and you can't get around --

16 A Right.

17 Q -- maybe you have a catheter in for a prolonged period
18 of time?

19 A Correct.

20 Q Okay. That urethra opening, how far is it kind of to
21 the bladder generally? I mean, is it -- I guess another way of
22 putting it is the bladder right up against that urethra opening,
23 or is there kind of a distance that you have to travel?

24 A So there's some distance you have to travel depending
25 on the size of the person. And so if you imagine to where from

1 the urethra is and the bladder will be kind of in the lower
2 abdomen, it could be anywhere from a smaller segment to a longer
3 one, depending on the size of the person.

4 Q Okay. Now, I'm just guesstimating, but you had made
5 your hand in the shape, for the record, maybe about six inches,
6 and then you stretched it up possibly as much as 12 inches,
7 maybe a little bit longer than that?

8 A Well, I mean, potentially about four or five inches
9 to, yeah, potentially about ten inches.

10 Q Okay. And it all depends on the size of the person?

11 A Correct.

12 Q But to be clear, there is a distance that you're
13 traveling from that opening just to get to the bladder?

14 A That is absolutely correct.

15 Q Could you just rest a catheter up against this opening
16 and successfully have urine travel out, or do you need to get to
17 the actual bladder?

18 A You have to get to the bladder. That's the whole
19 point. It needs to enter the bladder in order for it to extract
20 urine.

21 Q Tell me about the front part of a catheter. What is
22 it generally made out of?

23 A A lot of the ones that we use are kind of a rubberized
24 material, and so it'll have almost like a bullet shape to the
25 top of it, maybe a rounded little dome shape to it.

1 Q Okay. During your career, have you seen catheters
2 administered either in medical school or during your normal
3 practice?

4 A Oh, yeah. Absolutely.

5 Q Okay. So in a typical hospital setting, how is that
6 done?

7 A So typically it takes two people to insert a catheter
8 appropriately. So we have to maintain a fairly sterile or clean
9 environment due to the fact that you're inserting something
10 foreign into the body, and we've got feces and urine and skin
11 cells and bacteria in the genital area. And so what happens is
12 the area is cleaned with iodine or some sort of cleansing
13 solution. Usually a drape is put over to make sure that contact
14 with anything that may have bacteria or any kind of other
15 soiling material will not contact the area that's being
16 catheterized. Once that is cleaned sufficiently and that
17 sterile field is put, and then one person usually will, for a
18 female, separate those outer lips to --

19 Q For the record, you actually took your hands, you held
20 them out in front flat, and you spread them apart as if you were
21 going from the middle to the outside of your shoulders.

22 A That's correct.

23 Q Okay.

24 A So we're going to do a lateral traction, so moving the
25 outer lips away. Because, otherwise, you can't really see the

1 catheter -- or, excuse me, the urethra. And then the tip of the
2 catheter usually will have some lubricant on it so that it
3 doesn't -- it's an uncomfortable procedure. And so to minimize
4 that discomfort, lubricant is put on the tip of it and then it's
5 inserted into the urethral area, and then it's placed all the
6 way up until urine is coming out of it.

7 Q And for the record, I just watched your hand. It
8 almost looked like you were kind of gesturing or moving
9 something up. I mean, it was kind of like the inverse of
10 climbing a rope with your fingertips.

11 A You have to feed it into the -- to the bladder area.
12 And then once you get some urine that comes out of there, either
13 you collect the urine and then you remove the catheter, or you
14 blow up a little balloon that's on the other end of it so that
15 it can't get out of the bladder very easily and so it can
16 stabilize in there if you need it for a prolonged period of
17 time.

18 Q So that's kind of like if you're laid up in a
19 hospital, you can't move around and you --

20 A Correct.

21 Q -- keep that in there. But the bottom line is in
22 order to get that collection of urine, you have to feed not only
23 the tip, but portions of that connected tube up through that
24 urethra all the way until it hits the bladder and connects with
25 the bladder?

1 A Yes, absolutely.

2 Q Okay. So urine wouldn't be coming out and filling
3 that bag unless you have -- that tip has penetrated through the
4 opening of where the bladder actually is to get to the urine?

5 A Correct.

6 Q Okay. I want to turn your attention to March 13,
7 2014. Doctor, did you -- were you working at the Children's
8 Assessment Center on that day?

9 A Yes, I was.

10 Q Okay. Did you perform an assessment, sexual and
11 physical, upon three children, Ava Solander, Amaya Solander, and
12 Anastasia Solander?

13 A Yes, I did.

14 Q Okay. When -- when you typically do this exam, you
15 mentioned there's a sexual component, but there's also a
16 physical component. Which one do you typically start with
17 first?

18 A So typically we do the sexual component first simply
19 because that is -- the clinic is set up for sexual abuse
20 concerns, and obviously we wouldn't ignore any further concerns
21 if there are any. So the sexual abuse is sometimes
22 simultaneously done with the physical, but the actual genital
23 exam is done prior.

24 Q Okay. When you do these exams prior to kind of
25 conducting an examination, be it physical or sexual, are you

1 kind of given at least a general briefing either by law
2 enforcement or CPS just about what potential areas of concern
3 might be from the people who are kind of asking for this
4 assessment to be done?

5 A In order to have a referral, yes, there's usually a
6 general concern that is described to me.

7 Q Okay. Was -- in these kids' cases, was there a
8 reference to potentially use of a catheter?

9 A There was, yes.

10 Q Okay. Was there a reference to potentially a paint
11 stick being used in the genital area in at least one of the
12 children?

13 A Yes, there was.

14 Q And was there references made to physical striking
15 with potentially like a paint stick or something along those
16 lines?

17 A There was potentially.

18 Q Okay. So those are kind of the basic details you had
19 before you kind of walk into this assessment for these kids?

20 A For that exam, yes.

21 Q Additionally, Doctor, do you review medical history of
22 the kids at the time that you're doing the assessment?

23 A I try to get as much as I can at the time depending on
24 what the timing of the exam is, so that is my hope. But if I
25 don't have any medical records at that time, then I wait to get

1 some more.

2 Q And to kind of clarify my question, before you do the
3 exam are you at least reviewing medical records that you have
4 access to?

5 A Yes.

6 Q Okay. In some cases do you then subsequently even
7 follow up and look for maybe if there's some holes or some
8 things you want to kind of complete, do you do some further
9 work?

10 A Yes, I do.

11 Q Okay. With respect to Ava, when she came in, were you
12 aware that she had had some like colonoscopies and endoscopies
13 performed?

14 A That was my understanding.

15 Q Okay. Did you know anything about whether or not she
16 was seeing Dr. Bernstein potentially for a blood disorder?

17 A Potentially, and the diagnosis was unclear at the
18 moment that we had seen her at clinic that time.

19 Q Okay. And what disease was that, again? Do you
20 remember?

21 A At the time at clinic it was unknown. Later on
22 through looking at records I think it was Von Willebrand
23 disease.

24 Q And did you do some subsequent follow-up after your
25 assessment on the -- on March 13, 2014?

1 A Yes, I did.

2 Q Did you come to a determination as to whether or not
3 that was ruled out or if it was indicated as positive?

4 A It was ruled out.

5 Q Okay. So -- and just to be clear, that general
6 history about things that may have happened allegedly before,
7 that was kind of the information you got for all three kids; is
8 that right?

9 A Yep.

10 Q Okay. I just wanted to make that clear so we can walk
11 through. Let's talk about the sexual assault portion or the
12 sexual assessment first. Is that the first test that you -- or
13 first assessment that you did, or do you do physical -- if
14 you're doing both, which one do you typically do first?

15 A That exam was done first.

16 Q Okay. If you could explain to the jury a little bit
17 about just what is done when you perform one of these
18 examinations.

19 A Sure. So the nurses take a little while to do some
20 triage, vital signs, height, weight, we kind of get the general
21 gist of what the kids' understanding is of their medical
22 history. And then if there's a caregiver we'll ask any
23 questions of that caregiver. And then the entire exam is
24 described to them before they get into any kind of gown so that
25 they're prepared. They get to see all of our equipment, touch

1 it, feel it, look at what we're going to be doing.

2 And then my portion of it is I come in, I do take
3 photo documentation, so I do take pictures of the genitals only
4 during the examination. I will look at the vagina area, so I
5 will have my gloved hands kind of lower down at the labia majora
6 and I'll pull kind of towards me and a little bit down, that way
7 I can see the urethra, the vaginal area in totality. I also
8 will spread the -- the cheeks of the buttocks, as well, to see
9 the anus so that I can make sure that there's no findings there.
10 After which the nurse that is working with me will assist me
11 with Q-tips, and I will use a Q-tip to wipe the -- usually the
12 outside of the anus in order to test for certain sexually
13 transmitted infections.

14 And then we use a set of Q-tips to move around the
15 skin of the vagina and the hymen to better be able to see all of
16 the skin around, and then additionally to take samples for
17 testing for sexually transmitted infections. And then at the
18 conclusion of that I talk to the child and let them know what
19 their body looks like, answer any other questions, and, you
20 know, offer them any reassurance that they're asking for.

21 Q Okay. Did you do this process for all three children?

22 A Yes.

23 Q Okay. And I'm just kind of doing it to kind of speed
24 things up. When you reviewed Ava's genital area, did you make
25 any physical -- did you find any physical findings or anything

1 of that nature?

2 A Nothing significant, no.

3 Q Now, I want to jump back just for a quick second.

4 When we were talking about catheters and how they're
5 administered, if the -- you know, we'll just talk about in a
6 hospital setting and by, you know, appropriate professionals, I
7 guess. If a catheter is administered, does it typically result
8 in scarring or tearing or anything of that nature?

9 A No, it shouldn't. No.

10 Q Okay. I know you mentioned it was uncomfortable, but
11 you're saying typically if it's lubricated properly and done
12 well, it shouldn't actually have any --

13 A Absolutely not.

14 Q -- scarring or tearing? Okay. Great. So with
15 respect to the -- the sexual portion, with respect to Ava and
16 that assessment, did you make a finding of probable abuse with
17 respect -- in the sexual component?

18 A I did.

19 Q Okay. Now, Doctor, you said before, though, there was
20 no physical markings or findings. Why do you make a notation of
21 probable abuse in this scenario? Why do you mark that down?

22 A So there's a lot of -- unfortunately, as we've learned
23 through science, there's a lot of myths and cautionary tales and
24 what we learn about. And oftentimes there's a misunderstanding
25 that a normal exam means nothing could have possibly happened to

1 a child. The idea, for instance, of virginity. It's actually a
2 philosophy. Doctors can't tell. That's not a thing. And so as
3 scientists and physicians have been examining how to
4 appropriately document our findings, if there are concerns of
5 sexual abuse and it's a normal exam, I do note that. But it's
6 to clarify the fact that normal doesn't mean nothing has
7 happened. It's actually quite normal to have a normal exam in
8 the scope of child sexual abuse. So it was noted due to, I
9 believe, their disclosures to either a forensic interviewer or
10 somebody who had interviewed them.

11 Q And to be clear, did you note that this particular
12 child, Ava, had disclosed to an interviewer potential abuse of
13 some kind?

14 A Correct.

15 Q And, additionally, was there further notation that the
16 other two siblings indicated to a forensic interviewer that they
17 may have witnessed, allegedly, potential abuse happening to Ava
18 herself?

19 A That is correct.

20 Q Okay. So essentially you marked this down because you
21 can't necessarily definitively rule it out, but you are
22 indicating, look, physically it's normal, but here are these
23 other things that were happening at the Assessment Center and
24 you wanted to note that down?

25 A They're very concerning, yes.

1 Q Okay. And to be clear, though, that's generally what
2 happens when you have a physical exam on kids. You're usually
3 having actually non-physical findings?

4 A Correct.

5 Q Okay. Let's talk about the physical assessment that
6 you did, okay. What areas of the body are you focusing on now?

7 A Head to toe, so it would be having the child is in a
8 gown, but essentially I have that child completely naked with a
9 gown over and I look at parts of the body from head to toe.

10 Q All right. Doctor, when you performed both of these
11 assessments, after that -- well, let me ask you this. When you
12 are doing these assessments, are there times where you make
13 notations about whether you find something?

14 A Yes.

15 Q Okay. Do you sometimes have little like body charts
16 of like a little kid and you make little notations or marks,
17 here are some places where I saw some things?

18 A Yes, I did.

19 Q Is there anything that you do in addition to that in
20 some cases to further memorialize things that you actually saw
21 with your eyes?

22 A It's very rare, but on, I think it's three cases now,
23 when there are so many findings on the skin, regardless of what
24 those findings are or indicate or mechanism or anything like
25 that that I don't feel that just drawing on a little diagram of

1 a person would sufficiently memorialize that or sufficiently
2 explain what they look like, then I will ask for someone who is
3 a professional photographer through the ID department, whatever
4 jurisdiction is working on this case, to come in and take
5 pictures.

6 Q Now, how many years have you been at the Assessment
7 Center?

8 A Seven and a half.

9 Q Okay. And you said you've only had three cases where
10 you've done that?

11 A Yes.

12 Q Okay. And on average, how many kids did you see a
13 year? Do you have an idea about how many kids you see in a
14 year?

15 A I think we see about 300 a year.

16 Q Okay. And so was this an instance where you actually
17 called in someone from Metro, their forensic, you know, crime
18 scene investigations to take some documented photographs?

19 A Yes.

20 Q Okay. Did you do that with respect to all three
21 children?

22 A Yes.

23 Q Okay.

24 MR. HAMNER: I'm showing, for the record, counsel just
25 State's Proposed 32 through 47. I've previously shown. May I

1 approach the witness? And I don't have permission -- I have
2 permission. Let the record reflect I'm approaching the witness.
3 Of course, I have it. Of course, I have it, Your Honor.

4 THE COURT: Mr. Hamner doesn't even need a witness.
5 He can just keep a conversation going by himself.

6 BY MR. HAMNER:

7 Q I want you to take a look at State's Proposed 32
8 through 47 --

9 A Okay.

10 Q -- real quickly for me.

11 A Thank you. Okay.

12 Q Do you recognize what we're looking at in these photos
13 -- or in these documents?

14 A Yes, this is the --

15 Q What are they?

16 A These are the images that we took in my clinic. You
17 can see me in the background, actually, while we were helping
18 her and the crime scene photographer take images of her
19 injuries.

20 Q And who is this?

21 A Ava.

22 Q Okay. Is this a fair and accurate depiction, these
23 photographs, of what Ava looked like on March 13, 2014?

24 A Yes.

25 Q And were you present in the room when the crime

1 investigator was actually taking these photos?

2 A Yes.

3 Q Okay.

4 MR. HAMNER: At this time we're going to ask -- and,
5 actually, State's 32 has actually been admitted, so we're going
6 to ask permission for State's 33 through 47 to be admitted into
7 evidence.

8 THE COURT: Any objection?

9 MR. FIGLER: We didn't get -- I was going to ask for a
10 little voir dire, but I think that Mr. Hamner can take care of
11 it. Can we get the name of the person who took the photographs?

12 THE COURT: All right.

13 BY MR. HAMNER:

14 Q Doctor, do you know offhand who that was?

15 A I do not know.

16 Q Do you know if they were a part of Metro?

17 A Yes, it would have been CSI with Metro that was
18 contacted by Detective Frances Emery, I believe, at that time.

19 Q Okay.

20 MR. FIGLER: And can I make inquiry if the
21 photographer's initials appear anywhere on any of those
22 documents?

23 THE COURT: Do you need to look at the photo?

24 THE WITNESS: I would have to look at them again.

25 THE COURT: Okay.

1 THE WITNESS: I apologize.

2 THE COURT: Hand her the photo. And just let us know
3 whether there's any notation on that as to who actually took
4 those.

5 THE WITNESS: So I think these do. So 34 and 35 on
6 the scale that is being used to measure, there appears to be
7 some kind of identifier. I don't know if that's their unique
8 identifier, but I would believe that that's what that would
9 indicate.

10 BY MR. HAMNER:

11 Q But just as a follow-up, you were there when these
12 were taken?

13 A Yes.

14 Q And you actually physically examined this child?

15 A Yes.

16 Q And based on what you're looking at here, is this a
17 fair and accurate representation of what that child actually
18 looked like on the day that you examined her?

19 A Yes.

20 Q Okay.

21 MR. HAMNER: We're going to ask for admission of
22 State's Proposed 33 through 47.

23 THE COURT: Any objection?

24 MR. FIGLER: We'll submit with reservation, Your
25 Honor.

1 THE COURT: All right. Those will be admitted.

2 (State's Exhibits 33-47 admitted)

3 MR. HAMNER: Thank you.

4 BY MR. HAMNER:

5 Q Publishing what's already been -- well, has been
6 previously admitted as State's 32. Is that -- is that Ava?

7 A Yes.

8 Q Okay. Publishing 33, is that kind of the gown that
9 you kind of have her set up in for this examination?

10 A Yes, those are our gowns.

11 Q Now, when you did this examination, are there parts of
12 the body that you typically see that kind of get a lot of marks,
13 scuffs, scrapes, and scars?

14 A Yes.

15 Q Okay. What type -- what body parts are those?

16 A How when kids explore the world is usually forward, so
17 it's going to be maybe the hand, bottoms of the palms, a lot of
18 times we see forearms, but the knees and the shins, those are
19 the ones that get hit the most when enjoying the world and
20 playing.

21 Q Are there other areas of the body that you would
22 consider more protected?

23 A Yes.

24 Q What parts of the body would that be?

25 A So partially a lot of parts of our body are protected

1 by clothing, so underwear, pants, shirts, bras, things of that
2 nature. Other parts of our body are protected due to where they
3 are. So, for instance, in between the legs is protected because
4 that's how our body shape is. Our ears are protected because
5 our shoulders and other things are in the way. And so the neck
6 is a very protected area. The back particularly is protected,
7 the buttocks, the genitals, the in between the legs, and also in
8 the armpit kind of area. Those are all typically our protected
9 areas.

10 Q Now, Doctor, when you were doing this head to toe
11 examination, were there parts of the body that were of concern
12 to you?

13 A Yes.

14 Q Okay. What parts of the body were those?

15 A The buttocks, in between the thighs right almost to
16 the genital area, and the lower back area.

17 Q And we're going to get to those in a minute, but when
18 you were doing this head to toe examination on Ava, were there
19 other parts of the body where you maybe noted some scars or some
20 scrapes?

21 A Yeah.

22 Q Okay. Were those of concern to you?

23 A Not particularly.

24 Q Why not?

25 A Because they were located, again, knees or shins or

1 they were over bony prominences, the areas that we all end up
2 injuring as a child or as adults.

3 Q So but let me ask you this. Did you have this
4 photographer document all of the markings that you were
5 noticing, or just the ones that you were concerned about?

6 A Oh, I asked for everything, and that's their protocol,
7 as well. I don't involve myself in that.

8 Q Why did you -- and I can't speak -- you can't speak
9 for them, but I want you to speak for yourself. Why did you,
10 Doctor, want them to take a picture of all of those areas?

11 A Because it's important to make sure that we fairly
12 document the entire child and not just certain parts of them.

13 Q I'm going to show you what's been admitted as State's
14 34. Are you seeing one of these kind of areas that you were not
15 concerned about in this photograph?

16 A Yes.

17 Q Okay. Could you circle where that area is if you can
18 see it? Okay. And for the record, in State's 34 the witness
19 has circled -- I know the lighting is --

20 A Yeah.

21 Q From this angle I can't tell.

22 A It's not really coming up.

23 Q Well, actually, it's pretty good from this angle.
24 It's not so great from over here. But let the record reflect
25 the witness has marked what appears to be kind of a darker

1 pigmentation in the center of the child's wrist in State's 34.

2 THE COURT: And, I'm sorry. What part of the body is
3 this we're looking at?

4 THE WITNESS: A wrist.

5 THE COURT: Okay.

6 BY MR. HAMNER:

7 Q You mentioned there were areas near the buttocks that
8 were concerning to you.

9 A Yes.

10 Q What -- what sort of marks were you seeing?

11 A So there were larger scars, some which had some shape
12 to them, as well, like recognizable shapes, lines or curves, and
13 they were located on an area kind of below the buttocks that is
14 very soft. It's kind of a cushion area, something we don't
15 typically injure, so those were the ones that worried me the
16 most.

17 Q I'm publishing State's 39. Is this the position you
18 had Ava in when you were examining that part of the body?

19 A Yes.

20 Q I'm publishing State's 40. What are we looking at
21 here?

22 A So this is her buttocks, and it's -- the scarring is a
23 bit distorted on this image. A lot of the scarring is in this
24 area, and then in this area here.

25 Q Okay. And why don't we do this. I'd like to at least

1 approach so you can at least maybe see it up close first.

2 Showing the witness State's 40.

3 A Thank you.

4 Q Do you see the areas that were of kind of concern to
5 you in State's 40?

6 A Yes. On the right buttocks towards the outwards, and
7 then also towards the crease that meets with the leg, and then
8 there's a mark on the left buttocks, as well.

9 Q Okay. And if we could --

10 MR. FIGLER: Sorry, Your Honor. Computers do stuff
11 sometimes. That was very bizarre. Thank you.

12 BY MR. HAMNER:

13 Q Could you circle --

14 THE COURT: I thought it was your band practice.

15 MR. FIGLER: Again? Everyone is invited after this
16 jury trial.

17 BY MR. HAMNER:

18 Q All right. And for the record, let's let the record
19 reflect that the witness has on the -- what appears to be on our
20 near the left butt cheek of the child circled what seems to be a
21 line.

22 A Yes.

23 Q It appears to be a scar. It may look very faint on
24 the monitor.

25 MR. FIGLER: I'm going to just object to the --

1 THE COURT: Mr. Hamner's narrative of what it is.

2 It would be better, Doctor, if when you made the
3 circle you described what you were circling, as well as its
4 location on the body as opposed to Ms. Hamner -- Mr. Hamner.
5 I'm sorry. So if you could just tell us, please --

6 THE WITNESS: Yes.

7 THE COURT: -- what you've circled.

8 THE WITNESS: So on the left buttocks there is what I
9 would call a linear scar. It's in a line. As we head to the
10 right, the second circle shows actually a set of lines that are
11 scar tissue. And then towards the upper right is a circular
12 rounded scar on the right buttocks.

13 BY MR. HAMNER:

14 Q All right. Publishing State's 43. What are we
15 looking at there?

16 A Okay. So this is her left butt cheek, her right butt
17 cheek, so this is the crease at which it meets her leg. And
18 this is the back of her leg. And here is -- it was quite long,
19 it was about a four-centimeter linear scar.

20 Q Why were you concerned about this?

21 A This is a very well protected area. It also suggests
22 a shape that I can recognize, a line, which is often not how we
23 injure ourselves when we are falling, especially when we're
24 falling on our buttocks. And so it was very concerning for the
25 mechanism in which this was obtained.

1 Q Okay. You're familiar with like a stretch mark;
2 right?

3 A Yes.

4 Q Is this a stretch mark --

5 A No.

6 Q -- in your -- in your medical opinion?

7 A No.

8 Q What's -- why not? What is it about, based on your
9 training, why would you differentiate that?

10 A Well, it's a little of a nodular tissue and so it has
11 a different feel to it, it has a different look, it's a little
12 more puffy, the coloration. And also, stretch marks don't occur
13 typically under this under area. They're in areas of growth.
14 So whether someone is bulking up and lifting a lot of weights
15 and they're growing a lot around their arms or they're gaining
16 weight and they're growing a lot around their thighs or the
17 abdominal area, that area in those places where the skin start
18 stretching at the normal area of creasing, they can sometimes
19 have a lighter or even darker look to them and they look almost
20 like a lightning strike or roots of a tree. So, again, not
21 necessarily linear and would be underlying the skin color
22 change, not something that you can actually feel.

23 Q Doctor, you -- you heard about -- well, you heard
24 about some reportings of, at least allegedly, the child may have
25 been hit with some sort of paint stick or something along those

1 lines.

2 A Correct.

3 Q Based on the shape of this marking, in your medical
4 opinion is that consistent or inconsistent, the shape of this
5 marking?

6 A It would be consistent.

7 Q Doctor, I want to show you State's 100A. Let the
8 record reflect I'm showing the witness State's 100A. Based on
9 the shape of that exhibit, is there anything -- based on the
10 shape of that exhibit, is that consistent or inconsistent with
11 what you're seeing -- seeing there in State's 43?

12 A Consistent.

13 Q Why is that?

14 A Again, it has a linear quality to it, and blunt force
15 trauma that interrupts the skin with implements we would
16 typically see often reflect the shape of that implement to some
17 extent, so loops or straight lines or whatever it is that is
18 used. And so I think that that would be consistent if that was
19 the given history to me.

20 Q Okay. And to be clear, you don't know exactly how
21 this mark got here?

22 A No.

23 Q You don't know when it got there?

24 A That's correct.

25 Q Or how it was done exactly?

1 A Not exactly.

2 Q Okay. But based on your observations and your
3 understanding, you do believe that object in State's 100A could
4 potentially provide a consistent marking as what you're seeing
5 in State's 43?

6 A Yes, it could.

7 Q Publishing State's 42. Are you seeing anything of
8 concern in this photograph?

9 A So these are the marks that I had circled in that
10 initial. There is a line right here. Oh, and I just covered
11 it. Sorry. And on this area here that I'm pointing to, there's
12 -- there's several lines, as well, and those are scars.

13 Q Okay. Based on your training and experience, Doctor,
14 in your opinion, what type of force would be used to make such a
15 mark?

16 A My concern would be blunt force trauma with some type
17 of implement creating that -- that linear shape that we
18 recognize.

19 Q Okay. Are there any other markings that you're seeing
20 here in State's 42? And I can approach with the document if
21 that might help.

22 A I know that there -- yes, please, can you --

23 Q Sure.

24 A -- show it to me?

25 MR. HAMNER: Let the record reflect I'm showing the

1 witness in person State's 42.

2 THE COURT: Okay.

3 THE WITNESS: Okay. Yeah. So it's this one.

4 BY MR. HAMNER:

5 Q Republishing State's 42. Doctor, were there any other
6 areas of concern in this photograph?

7 A There is a rounded scar right here that can be seen.
8 Oh, that looks better. Yeah, so there's a rounded scar there.
9 And the scar tissue is actually within -- it's encompassed
10 inside the rounded area.

11 Q What does that mean?

12 A It's a looped type of mark, which is concerning.

13 Q Why is that?

14 A Accidents, when falling, we don't, statistically
15 speaking, and just from physics, don't engage with objects where
16 it leaves an impression of its shape. So the concern that it's
17 blunt force trauma by some type of implement inflicted on the
18 skin.

19 Q Would the implement -- I know you noticed that it's
20 curved. Does the shape of the object necessarily have to be
21 curved to leave a curved mark based on your training and
22 experience?

23 A Not necessarily, but most usually, yeah.

24 Q Okay. Based on the two markings, the sets of markings
25 that you are seeing here in State's 42, and looking at State's

1 100A, that object that's still there up at the stand, based on
2 your training and experience, can an object like that, if it's
3 used in a blunt force way, make markings consistent with this or
4 inconsistent with this?

5 A It would be consistent.

6 THE COURT: May I see counsel at the bench.

7 (Off-record bench conference)

8 THE COURT: Ladies and gentlemen, we're going to go
9 ahead and take our morning recess. We'll be in recess until
10 about 10:35.

11 During the morning recess you are all reminded that
12 you're not to discuss the case or anything relating to the case
13 with each other or with anyone else. You're not to read, watch,
14 or listen to reports of or commentaries on the case, person, or
15 subject matter relating to the case. Do not do any independent
16 research by way of the Internet or any other medium. Please
17 don't form or express an opinion on the trial.

18 Please place your notepads in your chairs and follow
19 the bailiff through the double doors.

20 (Court recessed at 10:20 a.m., until 10:30 a.m.)

21 (Outside the presence of the jury)

22 THE COURT: Mr. Mueller is now here. Thank you for
23 being here. I guess there was some confusion about the time.
24 And what are we -- how are we proceeding, Mr. Figler?

25 MR. FIGLER: The defense is not intending to call Mr.

1 Solander, nor trying to introduce the video footage that was
2 produced to the defense Wednesday morning. Today is Friday.

3 THE COURT: All right. So we can excuse Mr. Figler,
4 and --

5 MR. FIGLER: I would love to be excused, but I can't.

6 THE COURT: I'm sorry. We can --

7 THE WITNESS: Yeah, go. Go away.

8 THE COURT: We can excuse Mr. Mueller and his client
9 can be excused, although his client is welcome to stay, but it's
10 not required; is that correct?

11 MR. FIGLER: Correct. Unless the State had anything
12 further.

13 MR. HAMNER: No. No, Your Honor.

14 THE COURT: All right. So Mr. Solander isn't going to
15 be a witness, you're not going to use the tape.

16 Thank you for coming down, Mr. Mueller. You're
17 excused.

18 MR. MUELLER: Not a problem. I will be downtown most
19 the rest of the day meeting with clients. I can probably be
20 over in five to ten minutes if anything comes up.

21 THE COURT: All right. Thank you.

22 MR. FIGLER: Thank you, Your Honor.

23 THE COURT: All right. Then we can bring the jury in
24 and Mr. Hamner can resume his direct.

25 And, Mr. Hamner, just an estimate, how much longer do

1 you have?

2 MR. HAMNER: Maybe -- maybe 30 minutes, maybe 20
3 minutes.

4 THE COURT: Okay. And then who is doing cross?

5 MS. McAMIS: Mr. Figler.

6 MR. FIGLER: I am.

7 THE COURT: Okay.

8 MR. FIGLER: Right now, depending on that last 30
9 minutes, we're at about 20 minutes of cross.

10 THE COURT: Okay.

11 (Pause in the proceedings)

12 (Jury reconvened at 10:33 a.m.)

13 THE COURT: All right. Court is now back in session.

14 And, Mr. Hamner, you may resume your direct
15 examination.

16 MR. HAMNER: Thank you very much.

17 BY MR. HAMNER:

18 Q So with respect to -- we've talked about kind of these
19 markings on Ava's buttocks area. We've kind of gone through
20 that. What findings did you make with respect or assessments
21 did you make with respect to Ava when you completed your
22 physical examination of her?

23 A Beyond the markings?

24 Q Yeah. Well, let me -- let's just do it this way.

25 With respect to Ava in the sexual assessment component you made

1 a notation of probable abuse.

2 A Correct.

3 Q Did you make a notation on the physical assessment
4 side?

5 A I did.

6 Q Okay.

7 A My notation involved the multitude of markings are a
8 pattern in -- excuse me, pattern in nature, but mostly that they
9 were in protected areas, very unusual. And so my determination
10 was definitive for some type of physical abuse. I additionally
11 had some concerns about her growth and, therefore, was concerned
12 about neglect.

13 Q We're going to talk about that in a second, the growth
14 element to it. But what's the difference, I guess, between
15 probable and definitive, at least in the -- in your world in
16 terms of making these assessments?

17 A Right, because, typically, I mean, it's a spectrum. I
18 mean, it isn't necessarily black or white, yes or no answers,
19 and so I look at kind of all the factors. But when I look at
20 objectively from actual examination findings of what I can see,
21 the definitive indicates that this was an inflicted injury. The
22 probable indicates that I have high concerns about it, but
23 either I have more questions, I need more information, or it's
24 not as clear as definitive.

25 Q So was that location, that protected area location,

1 was that a factor for you for making this definitive notation?

2 A That was one of the factors, yes.

3 Q And what -- and what other factors played into it?

4 A So what did it look like, the fact that there were
5 scars and the location being protected, and that it's a soft
6 cushioned area that doesn't typically injure itself in that way.

7 Q So I know those are kind of the observational
8 notations. Did at least what was being kind of the brief
9 history that you were given before walking into the assessment
10 about what was alleged to maybe have happened, did that have a
11 factor in that notation for definitive, or is it solely based
12 off of what you're seeing?

13 A No. Any history that I get, I'm not always sure what
14 source or how much it's been clarified. And so when I get a
15 history, that usually helps me with what tests I like to run.
16 For some kids, if we don't have to do shots and check for HIV,
17 for instance, I try not to do that. And so when I get a history
18 on, you know, the initial evaluation or referral form, I go,
19 okay, you know, I see what history we're concerned about, how
20 much testing do I have to do? In and of itself, though, no, it
21 doesn't influence the definitive portion of it.

22 Q Okay. You mentioned also there were some concerns
23 that you had about her rate of growth. What concerns did you --
24 and before we get into that, how did you kind of make an
25 evaluation on a rate of growth? Because I know you've talked

1 about this kind of physical looking at a kid. What else were
2 you doing that -- that led you into that area?

3 A So I check every child's height and weight if they
4 tolerate it. So we check their height and weight, and then we
5 plot it on a growth curve. Every pediatrician, if you have
6 children or are around them, you'll see that they have a curve
7 where where do you fit in that, from 0 percent to 100 percent,
8 meaning that if you were in a room of 100 kids, how many kids
9 would be bigger, how many kids would be smaller? And that gives
10 us an indication of how is your size going, are you growing
11 okay?

12 And that one point is not quite enough, but that can
13 give us some clues. So what I do, and what I had at the time
14 was, I believe, her medical passport. And so I had some early
15 data on her weights and her heights, and then I plotted those
16 and then I looked at what she was when she came to our office.
17 And my concern was that she seemed to be growing steadily around
18 the 50th percentile or so for her height, and then when I saw
19 her she was down to the 10th percentile.

20 Q And to be clear, was the last kind of data point that
21 you had was from around 2010?

22 A That is correct.

23 Q Okay. And so you see this kid four years later, and
24 now she's even lower than where she was in 2010?

25 A That is correct.

1 Q And was that with respect to height, is that respect
2 to weight?

3 A Her height.

4 Q Okay. With respect to weight, what were you seeing?

5 A I believe she was a little lower, but it wasn't
6 crossing enough percentiles, necessarily, to be a dramatic drop,
7 but she did have -- she did have somewhat of a drop for her
8 weight, as well.

9 Q Okay. So that's how you made that kind of notation.
10 For a child that's kind of growing, is nutrition a big factor in
11 those things?

12 A Yes.

13 Q Can that be a factor, the type of food that you're
14 getting?

15 A Yes.

16 Q How much water that you're getting or hydration?

17 A Yes, it could be.

18 Q I'm sure genetics plays a role in it.

19 A Absolutely.

20 Q Okay. But nutrition, would those kind of be your big
21 main factors, your genes and kind of what you're eating at the
22 end of the day, or maybe exercise? I don't know.

23 A Well, it's multifactorial, so it would be your health,
24 then environmental exposures, and then additionally it would be
25 your genetics. So if you have short parents and you are short,

1 that's okay. But if you have taller parents and you're
2 following a taller curve and then you drop, that's when we start
3 worrying.

4 Q Yeah, I was going to kind of follow up on that. So
5 you had a kid who was actually up in a higher percentile with
6 those same genes, and then four years later --

7 A That's correct.

8 Q -- she's now down?

9 A That's the concern.

10 Q Okay. So let's turn -- let's move on to Amaya, okay.
11 Now, again, as you had stated, you got that same kind of
12 synopsis about what alleged to have happened; right?

13 A Yes.

14 Q And you did both a sexual and a physical exam with
15 respect to her?

16 A Yes.

17 Q Or assessment with respect to her?

18 A Yes.

19 Q Okay. Let's -- I'm not going to get into exactly how
20 you did the whole thing from the sexual assessment side. The
21 findings, did you have any physical findings with respect to
22 her?

23 A I --

24 Q From a sexual assessment.

25 A I believe she had a little -- I found a little scar

1 tissue around her anus.

2 Q Was that of any concern to you?

3 A It's not really specific.

4 Q Why not?

5 A You know, a hard stool can cause a little tear or cut
6 in the anus as it's coming out. Could it be an injury from
7 something worse? Yeah, it could be, but, you know, it's fairly
8 common to see those types of findings.

9 Q Back in March of 2014 when you did this assessment,
10 was one of the things noted in her prior medical history a
11 possibility of hypothyroidism?

12 A Yes.

13 Q Okay. Did you -- did you take a look at some of her
14 medical records subsequent to this assessment?

15 A Yes, I did.

16 Q Okay. Do you know whether or not from subsequent
17 medical examinations -- and do you do this so you can kind of
18 assess this kid?

19 A Yes.

20 Q Is that why you do it? Did you learn as to whether or
21 not she was ever formally diagnosed with hypothyroidism?

22 A So it was a bit unclear at first, but it didn't appear
23 that any of her labs were extremely abnormal. But then she did
24 end up -- she was on a course of thyroid medicine for
25 approximately two years. The labs of which to confirm

1 hypothyroidism of which I couldn't -- I didn't get a sense of
2 where that came from.

3 Q Okay. So to be clear, what you learned was that she
4 was given some medication, but you never saw an actual diagnosis
5 for hypothyroidism?

6 A Correct.

7 Q Okay. Let's -- with respect to the kind of sexual
8 assault assessment or the sexual assessment, sexual abuse
9 assessment, do you make a probable abuse finding kind of like
10 you did with Ava?

11 A Yes.

12 Q Okay. And is it for the same reasons?

13 A Same reasons.

14 Q Because of these -- the reporting and what this child
15 had reported to a forensic interviewer?

16 A Yes.

17 Q Okay. Let's move over to the physical assessment
18 side. Same head to toe examination?

19 A Yes.

20 Q Okay.

21 MR. HAMNER: Let the record reflect I'm showing
22 opposing counsel State's Proposed 48 through 91. Let the record
23 reflect I'm showing opposing counsel State's Proposed Exhibits
24 48 through 91.

25 ///

1 BY MR. HAMNER:

2 Q Take a look at these. I know there's a lot, but just
3 kind of sift through them.

4 A Okay.

5 Q All right. What are we looking at in State's Proposed
6 48 through 91?

7 A So very similarly in my clinic, Amaya's images, her
8 body was photo documented by a CSI individual with me present
9 during this examination.

10 Q Okay. Is this a fair and accurate depiction of what
11 Amaya looked like on that day, March 13, 2014, when you did your
12 examination?

13 A Yes.

14 Q Okay. And was it the same photographer who documented
15 Ava?

16 A Yes.

17 MR. HAMNER: At this time we're going to ask
18 permission to admit State's Proposed Exhibits 48-91.

19 MR. FIGLER: In the interest in time, Your Honor, we
20 will submit with the same reservations from the prior set of
21 photos, and we will have the same concern with the next set of
22 photos, as well.

23 MR. HAMNER: And that, for the record, those will be
24 with respect to Anastasia, and those are State's Proposed 1-31.

25 THE COURT: Those will be admitted.

1 (State's Exhibits 1-31 and 48-91 admitted)

2 MR. HAMNER: Thank you.

3 BY MR. HAMNER:

4 Q Publishing 48. Who is that?

5 A That's Amaya.

6 Q Okay. Did you note markings on kind of non-protected
7 areas, as well as protected areas --

8 A Yes.

9 Q -- with respect to Amaya? Did you have, you know,
10 non-protected areas documented, as well, in terms of
11 photographs?

12 A Yes.

13 Q And did do that for the same reasons you explained
14 before?

15 A Yes.

16 Q Okay. Let's talk about were there some areas on her
17 body that you were concerned about --

18 A Yes.

19 Q -- for possible abuse?

20 A Yes.

21 Q What -- where on her body was that?

22 A Very similarly she had marks on her buttocks on the
23 same place as Ava, and on her legs, so that was the -- the major
24 concern, and she had some marks on her back, as well.

25 Q Okay. What's I'd -- what I'd like you to do, one

1 thing I've never asked you before with respect to Ava, but when
2 you're doing this examination, are you asking these kids when
3 you see something, hey, how did you get that one, honey? Are
4 you doing anything like that?

5 A No, I don't. Some of them were more or less
6 cooperative with the exam. So in order to offer as much comfort
7 as possible, we mostly just chitchat about the iPad we have or
8 the games we're playing, blowing bubbles, things of that nature.

9 Q So it's really not -- when you're doing these
10 assessments, it's really not a chance for you to try to ferret
11 out from an actual kid exactly how each one of these things
12 showed up?

13 A No.

14 Q You're just trying to see if you see something with
15 your own two eyes that's of significance to you?

16 A That is correct.

17 Q Okay. I'd like to -- you mentioned the back, so I
18 just want to at least approach with what's already been admitted
19 as State's 64, 65, and 66. Why don't you take a look here and
20 see is there anything there that you were noting that may have
21 been of a concern to you.

22 A Yeah, so the top of her right shoulder coming towards
23 her back, the back of the shoulder, there was substantial scar
24 tissue.

25 Q Okay. And I'm showing you State's 66. Do you see

1 that in this photograph?

2 A I do.

3 Q Okay. Publishing State's 66. Could you please circle
4 the area that -- that you found concerning?

5 A We're looking -- this is her hair, her right ear would
6 be here, this is her right shoulder and collarbone.

7 MR. FIGLER: Can we touch a little bit better? She
8 said her right here would be here for orientation. That didn't
9 show up on the monitor.

10 THE WITNESS: Hair.

11 MR. FIGLER: Got it.

12 THE WITNESS: And then right ear is probably under
13 here somewhere. This is the right collarbone. And then so this
14 would be the top of her shoulder, and this area here has scar --
15 this is a bit unruly. I apologize.

16 BY MR. HAMNER:

17 Q And what was concerning about that to you?

18 A It's an unusual area for a scar. Again, it's on the
19 top, kind of protected area. And it had a different quality
20 than the one on her buttocks. I was concerned that it may have
21 been from a burn, maybe a scald burn due to the shape, as well
22 as the quality of the scar itself, the way it looked.

23 Q Okay. I want to show you what's been published as --
24 did you have Amaya kind of lay in that same kind of prone
25 position when examining her buttocks?

1 A Yes.

2 Q Publishing State's 69. Do you see an area of concern
3 in this photograph?

4 A There's a scar on her left butt cheek.

5 Q Okay. Is that -- is that kind of flush with all the
6 rest of the skin, is it raised, is it depressed?

7 A A little bit raised, so there is texture to it.

8 Q Okay. Why is that of a concern to you?

9 A Some -- for some people they will have raised scars
10 when they do scar. They can keloid or they can add extra tissue
11 to that area. The other indication may be the severity of the
12 injury, too, can sometimes -- if you mash up the skin enough and
13 interrupt it enough, the way it heals, it heals with
14 unevenness, and so you can feel a texture to it.

15 Q And if you could explain to the jury what is a keloid
16 or what do you -- what do you mean by that?

17 A A keloid -- so, again, certain individuals, when they
18 burn or when they get cut or some kind of injury, instead of
19 having a flat or an almost flat scar that you feel, they
20 actually have these almost sausage-shaped type of extra skin
21 tissue to them. They can be painful and they can be difficult
22 to get rid of.

23 Q Okay. Showing you State's 70. Is there an area here
24 that you wanted to note?

25 A I don't know if you guys can see it, but there is also

1 -- excuse me -- scar tissue in that area on her right buttock.

2 Q And the shape of that was what?

3 A It was a little bit more nebulous. It didn't have
4 lines to it. It looked more rounded.

5 Q Okay. I am going to show you -- and why were you
6 concerned about these markings?

7 A They are in a protected, soft area that aren't injured
8 with normal play or accidents, and they are literally on the
9 same area that they are on her sister, and so that was even more
10 concerning.

11 Q So the fact that you're seeing markings in same
12 geographic areas on both children is significant to you?

13 A Yes.

14 Q Why is that?

15 A It just furtherances the fact that an accidental
16 mechanism where one, two, or three people have fallen in an
17 accident that's very unusual, that's in an unusual place to
18 leave scars and to injure, and they all looked very similar
19 would strike me as unusual and a mechanism being more inflicted
20 in nature.

21 Q Publishing 72. Where -- what are we looking at? Can
22 we tell what part of the body we're looking at from this
23 perspective?

24 A No.

25 Q Does that help at all?

1 A Yes.

2 Q Sorry.

3 A Thank you. So we've got some butt cheeks over here,
4 okay. So left and right. And so we have some markings on her.
5 That would be her lower back.

6 Q Okay. And what's the shape of that marking?

7 A A line.

8 Q Okay. So this one is linear in shape?

9 A Yes.

10 Q And that, was that different than the other markings
11 that you had seen?

12 A Yes.

13 Q Okay. Same -- did you have same similar concerns,
14 protected area, things of that nature?

15 A Yes.

16 Q Okay. With respect to these kind of three sets of
17 markings that you've made on the -- on the buttocks area, left
18 and right, when looking at State's 100A -- well, let me ask you
19 this. Could those markings be inflicted by blunt force trauma
20 in your medical opinion?

21 A Yes.

22 Q Okay. Could an object such as State's 100A
23 potentially provide markings that are consistent or maybe
24 inconsistent?

25 A Potentially, yes, consistent.

1 Q Okay. Were there -- when you made notations about
2 your assessment for Amaya, did you make a similar assessment of
3 definitive abuse?

4 A Yes.

5 Q Why did you do that in this case?

6 A For the same reasons as with Ava. They are in
7 protected areas, on several planes, it's soft tissue, it's on
8 the buttocks. It didn't have as recognizable shapes on the
9 buttocks, but it was in the exact same place as her sisters,
10 which is very unusual. And then on the back we did have some
11 linear marks.

12 Q Okay. And to be clear, you don't know exactly how
13 these were caused or how they got there?

14 A Correct.

15 Q And you don't know if an implement was even used
16 definitively, you can't say that?

17 A No, I can't.

18 Q Okay. But you are saying at least something, an
19 object like that, could make a consistent marking?

20 A Yes.

21 Q Okay. Did you have any concerns about her growth and
22 height levels?

23 A Yes, I did.

24 Q Okay. What were you seeing in that respect?

25 A So similarly where we're following a certain

1 percentile, appropriate percentile of growth, and then there was
2 a subsequent change from the time that she last had -- I last
3 had records for her to when I saw her.

4 Q Okay. I want to turn to Anastasia now. Publishing
5 State's 2. What are we looking at there?

6 A That's Anastasia.

7 Q Okay. Where -- when you did the sexual assessment of
8 her, did you find any physical findings?

9 A No.

10 Q Okay. Did you make, though, a noting for probable
11 abuse?

12 A Yes.

13 Q Was it for the same reasons you've discussed before?

14 A Yes.

15 Q Let's move on. And by the way, as far as kind of
16 medical history-wise with respect to Amaya, anything that you
17 were -- you were hearing as far as any diseases or --

18 A For Amaya?

19 Q I'm sorry, Anastasia. I misspoke.

20 A Anastasia? No, I don't believe so.

21 Q Okay. So you did -- let's move on the physical
22 assessment. Were there parts of the body that were of a concern
23 to you?

24 A Yes.

25 Q Okay. What -- what were you seeing? What parts of

1 the body were a concern?

2 A Her buttocks.

3 Q Okay.

4 A And back and leg area.

5 Q Okay. Let's -- let's first take -- let's first talk
6 about the back. Publishing State's 4. Can you see in this area
7 a general area of concern that you had in this photograph? I
8 don't know if you can or not, but --

9 A Yeah. So here just towards the right armpit and
10 towards the shoulder. My marks are terrible. I'm so sorry.

11 Q Okay.

12 A But it's that area.

13 Q Publishing State's 5. Is that a close up, a closer
14 version of that area that you just circled in State's 5?

15 A It is. So for orientation, this is her armpit here,
16 shoulder is up here, and so this is the area of scar tissue.

17 Q And what's the general size that we're talking about
18 of this marking?

19 A So this is in centimeters, and so we're looking at it
20 being about 3 centimeters by about 6 to 7 centimeters.

21 Q Publishing 6. Is that just another angle of that
22 same?

23 A It doesn't -- yeah. So this is right here. That's
24 that area with the armpit here, shoulder right here, neck is up
25 here.

1 Q All right. I want to publish State's 8 for a second.
2 Do you see anything that you noted at this point in this
3 photograph?

4 A So there was a linear -- a curvilinear scar
5 culminating in a smaller little patch of scar here. This is her
6 back.

7 Q Publishing State's 11. Can you tell what area of the
8 body we're looking at there?

9 A I'm not quite -- I believe this is her kind of back
10 flank area, as well.

11 Q Do you see the other scar that you noted, the other
12 linear scar that you noted in this photograph?

13 A Yes.

14 Q Okay.

15 A That would be her -- I believe her right flank.

16 Q Would these areas be considered protected?

17 A Yes, they are.

18 Q Did you have concerns about these two particular
19 markings?

20 A I did.

21 Q Okay. Was it for the same kind of reasons that you've
22 mentioned before, kind of --

23 A Yes.

24 Q -- the shape, the protected area, things of that
25 nature?

1 A Correct.

2 Q All right. I didn't -- I forgot to ask you. With
3 respect to Amaya, did you at least note -- let me see if I can
4 find it. Do you remember noting something on her elbow?

5 A Yes.

6 Q Publishing -- and this is with respect to Amaya.
7 Publishing State's 51. Do you see the markings that you noted?

8 A She had a little bruise here, but then she -- a little
9 bruise here and then she had two scars on the elbow.

10 Q I'd like to go back to Anastasia for a second. With
11 respect to kind of that -- the marking on the back, did you
12 notice anything on her ears?

13 A She did have some redness, crusting, and also
14 potentially a light lightening of the skin from the scarring on
15 her right ear.

16 Q And, again, this is Anastasia, publishing State's 15.
17 Do you see that, those markings on the ear --

18 A Yes.

19 Q -- in this photograph? Could you circle it, please?

20 A That's the back of the ear.

21 Q Is this considered a protected area, as well?

22 A Very protected.

23 Q Okay. Publishing State's 17. Is there an area of
24 concern here, and what part of the body are we looking at?

25 A So we can see her chin is here, her neck is here. I

1 don't know what I just did. I'm so sorry.

2 Q Just touch it. There you go.

3 A I apologize. So this would be kind of the clavicle
4 shoulder bone, so we're looking at her shoulder.

5 Q Okay.

6 A And so that's what we're looking at.

7 Q With respect to these markings on this clavicle and
8 just behind the -- the -- the shoulder on the back, based on
9 your training and medical experience, did you have any initial
10 impressions as to what that possibly could have been caused
11 from?

12 A The shape of it and as it kind of evolved and
13 progressed down the back of the shoulder, I had been concerned
14 that it was a scald or a hot liquid type of a burn.

15 Q And to be clear, was anything like that reported to
16 you prior?

17 A No.

18 Q Okay. So that's just based off of what you're seeing?

19 A Yes.

20 Q What is it about these markings, and reshowing State's
21 5, what is it about these markings that makes you think that
22 it's a possible scalding mark?

23 A It's more to do with the shape and how it has a flow
24 to it and how it's flowing from one area to the other, and also
25 the -- the texture of it and how the healing progressed.

1 Q Okay. And so the idea is that water travels
2 downwards?

3 A Water, liquid, something like that. Yep.

4 Q Okay. And that shoulder shot that we see, that's the
5 same shoulder up here and it -- and so the marking is up on this
6 shoulder here --

7 A Yes.

8 Q -- and then you've got the same marking on the back --

9 A Yes.

10 Q -- of the shoulder blade? Okay. After you had done
11 your assessment back in 2014, were you provided a photograph for
12 your review a couple of years later with respect to Anastasia?

13 A Several years later, yes, I was.

14 Q Okay. I'm publishing State's 192. Did you review
15 this photograph?

16 A I did.

17 Q Okay. Is there anything -- based on your assessment
18 of those areas on Anastasia, are you seeing any markings on this
19 child in your medical opinion that are consistent with the
20 markings that you saw back in 2014?

21 A Yes. So, yeah, the scarring that's kind of on top of
22 the shoulder, as well as coming down in the back of the shoulder
23 area.

24 Q So if you could circle that area. What are you seeing
25 -- what is it about what you see in this picture that makes you

1 think that there -- there is some consistency there?

2 A Their shape and location.

3 Q Okay. Were there -- was there any kind of linear
4 markings with respect to this -- with respect to this marking
5 here? And maybe I can show you up close. I'm approaching with
6 State's 17, as well as State's 192. Doctor, do you see any
7 similarities in terms of anything raised in those general areas?

8 A Well, similarities in the areas that are raised, yes.
9 Not necessarily that they're linear in nature --

10 Q Okay.

11 A -- but that the shapes are very similar in a similar
12 location.

13 Q Okay. And I can --

14 MR. FIGLER: I just need clarification for the jury
15 because she's talking about one thing and there's others up.

16 MR. HAMNER: Sorry. I apologize. Yeah.

17 BY MR. HAMNER:

18 Q So if you could show us in State's 192 where that
19 raised marking was. And if you could show us in State's 17
20 where you're also seeing maybe a somewhat consistent marking.

21 A And the other one is hidden back here.

22 Q Okay. I'm publishing what's been admitted already as
23 State's 196. Are you seeing anything in this photograph that
24 has some similarities or consistency with the markings that you
25 had noted back in 2014?

1 A The one on the -- kind of where the armpit and
2 shoulder meet.

3 Q Okay. Publishing State's 5. Is this the same area?

4 A This area here.

5 Q In your review of her medical passport, in any of her
6 medical records, did you find any indication that Anastasia was
7 brought in at any time for treatment of potentially a scalding
8 burn or anything of that nature?

9 A Not that I noted, no.

10 Q I want to go towards -- move over to your examination
11 of Anastasia's buttocks area. Did you have her lay in that same
12 kind of position?

13 A All was the same.

14 Q All right. Publishing State's 20. Are you seeing any
15 areas of concern here?

16 A May I -- may I see it?

17 Q Sure. And I -- and I'm going to approach with just,
18 because the color is here.

19 MR. HAMNER: I'm going to approach with State's 20,
20 21 --

21 THE COURT: Sure.

22 MR. HAMNER: -- 19, 22, and 23.

23 BY MR. HAMNER:

24 Q I'm showing you, for the record, those documents. Do
25 you see some -- any areas that you noted? And you can take a

1 look and tell me if you see any.

2 A So scar tissue to the right lower buttock, and as well
3 this is similar just -- it's the same scarring to the right
4 lower buttock.

5 Q Okay. And that you're now saying similar scarring on
6 State's 21.

7 A And so this is pretty much the same picture here.

8 Q Okay. And you're noting that's State's 19.

9 A And so overall on the buttocks it's the right sided
10 scar tissue on the lower buttocks, and then on the left, right
11 at the crease of where the leg and the buttock meet, there is
12 scar tissue. And this is just the scale of that. So now I see
13 it.

14 Q And that is State's 22. And just given the glare, I'd
15 ask permission for the witness just to step down and just
16 publish it to the jury explaining just what she's seeing.

17 A Yeah.

18 THE COURT: You may step down.

19 THE WITNESS: Okay.

20 BY MR. HAMNER:

21 Q So if you could, in State's 22, Doctor, if you could
22 just show this jury.

23 A All right. We're looking at the buttocks here.

24 Again, this is a kid that's laying down on her belly. And so
25 what we're seeing -- are you good? Okay. So these are her two

1 legs, this is her left butt cheek, and right here at the area
2 where the butt cheek meets the left back of the leg we have some
3 scar. And then we have some scarring here on the right butt
4 cheek on the lower area, as well. And this is her right leg.
5 And so those are the two areas that I was concerned about.

6 Q And is that for the same kind of reasons --

7 A The exact --

8 Q -- you talked about?

9 A -- same reasons.

10 Q Okay. And based on your medical training and
11 experience, what sort of -- what would generate those sort of
12 markings?

13 A So the concern, that would be blunt force trauma.

14 Q Okay. When you made notations with respect to
15 Anastasia, was -- did you make a notation for definitive abuse?

16 A For physical abuse, yes.

17 Q Okay. And is it for the reasons that we've just kind
18 of discussed?

19 A Exact same ones.

20 Q Did -- did your -- given that you're examination of
21 the other two children, did they -- was Anastasia the last one
22 you looked at? I don't know if you know or not, but --

23 A I don't remember.

24 Q Well, let me just rephrase it this way. Given the
25 fact that you had children, two other siblings with similar

1 locations, was that of a concern with respect to assessing
2 Anastasia?

3 A It was highly concerning. Yes.

4 Q Okay. Did you have any concerns about her growth, as
5 well?

6 A I did.

7 Q Okay.

8 A So similarly she was heading in her direction, and
9 then changed.

10 Q Okay. I'm almost done, but I just wanted to ask you a
11 couple other questions just to go back to the catheter. When
12 you were describing kind of how it's done in a hospital, you
13 were saying, you know, typically one person does this and
14 another person does this. Is it possible to administer a
15 catheter with just one person?

16 A Yeah.

17 Q Okay. Would -- if -- you mentioned steps that you
18 typically take to try to kind of keep the area clean because you
19 don't want to get certain things in there. If you get bacteria,
20 urine, and poop in that area while administering a catheter,
21 does your risk to a potential like a urinary tract infection
22 increase?

23 A That is the main risk, yes.

24 Q Yeast infections, can that increase?

25 A Yeast infections potentially, but a urinary tract,

1 bladder, or kidney infection is what we're trying to prevent.

2 Q Okay. And with respect to Amaya, looking at her past
3 history, did you -- did you note anything about a seizure
4 history or anything of that nature?

5 A She presented to Summerlin hospital at some point, and
6 there was a concern she was passing out. And then ultimately, I
7 believe, had a seizure while she was inpatient or in the
8 emergency department, yes.

9 Q Okay. Did you do any subsequent research or looking
10 up any kind of subsequent medical history with respect to that,
11 with respect to Amaya?

12 A I read all of her medical records, yes.

13 Q Okay. Did you see any other further incidences of her
14 having a seizure?

15 A No. No, there weren't any other seizures. She was
16 placed on medication at that point.

17 Q When she was -- when you were reviewing those
18 Summerlin notes, was there any notations that you noted with
19 respect to her body temperature?

20 A Yes. So she came in, her body temperature was 90.8.
21 Typical body temperature is 98.6, and so that would be
22 considered hypothermia.

23 Q Okay. So what -- what are some of the causes of
24 hypothermia?

25 A You can have some medical causes with little tiny

1 babies, sometimes infections can cause that, but she was out of
2 that realm. Potentially an infection. Largely in the emergency
3 department we see that from environmental exposures to cold,
4 drowning victims, or people exposed, you know, out -- out in the
5 wilderness all night, something of that nature.

6 Q So I guess -- so it's exposure, kind of being exposed?

7 A Yeah, it could be. Uh-huh.

8 Q Can people be hypothermic if they're wet and they're
9 not kind of properly warming up after they're soaking wet or
10 something along those lines?

11 A Yeah, they can be.

12 Q Can people become hypothermic if they're not -- they
13 don't have proper bedding or clothing while they sleep and
14 they're out in the elements if it's -- it's colder outside?

15 A Potentially, yes.

16 Q Okay. So those are all potential risk factors?

17 A Yes.

18 Q Can becoming hypothermic potentially have a factor in
19 an onset of a seizure?

20 A Yes, it can.

21 MR. HAMNER: I have no further questions for this
22 witness.

23 THE COURT: All right. Cross.

24 ///

25 ///

CROSS-EXAMINATION

BY MR. FIGLER:

Q Good morning, Dr. Cetl. We always have to check before and after.

A Good morning.

Q Good morning. So I'm going to have quite a few questions, obviously. This isn't the first time that you've been in court, even with Mr. Hamner; isn't that correct?

A Yeah. I think I've been in court with him, yes.

Q Okay. And, indeed, you are often retained by the Clark County District Attorney's Office to testify in criminal allegations of child abuse or sexual abuse, isn't that true?

A I'm not sure how you define retained, but I am subpoenaed by them, yes.

Q Okay. And when I say retained, I mean, you send an invoice to the District Attorney's Office, the District Attorney's Office sends you a check. You've been doing that for a little bit, huh?

A Yep. So after each, whether it's a trial or a prelim, I will count up the hours that I spent, and so I will send them a charge for my time, yes.

Q And you're doing that in this case, as well; isn't that true?

A Yes, I am.

Q Okay. Now, you also indicated that you're -- you

1 sometimes work, I think you said, two to five shifts a month
2 over at the Sunrise Emergency Room on those shifts; is that
3 correct?

4 A Correct.

5 Q Okay. So do you -- are you on salary at Sunrise
6 Hospital? How do you get paid for the time you work at Sunrise
7 Hospital?

8 A Okay. So I work -- so Nevada physicians cannot be
9 employees of a hospital. We have to be employees of a
10 physicians group. So I work for a group called Mednax Pediatrix
11 with an "x". And they give me a salary, and through that salary
12 I work as a child abuse consultant at Sunrise, as well as the
13 Southern Nevada Children's Assessment Center. And then
14 additionally I work per diems at Sunrise Children's Hospital's
15 emergency department, which is not salary. That would be an
16 hourly wage.

17 Q Okay. And how do you get paid? Do you get paid in
18 addition to your salary -- I'm sorry, it was Mednax Pediatrix?

19 A Correct.

20 Q Besides the salary you get from Mednax Pediatrix, how
21 do you get compensated for your two days a week over at the
22 Southern Nevada Children's Assessment Center?

23 A That is a part of my salary.

24 Q Okay. So do you know if the Southern Nevada
25 Children's Assessment Center compensates Mednax, and then that

1 flows to your salary, is that fair?

2 A I believe that they have -- they have a contract. I'm
3 not a part of that.

4 Q Okay. So it's a contract or a grant, something along
5 those nature.

6 A Yes.

7 Q And you know that the Southern Nevada Children's
8 Assessment Center, SNCAC --

9 A Yes.

10 Q -- is operated by Clark County government; correct?

11 A Correct.

12 Q Okay. And so that's the same Clark County government
13 that has the Department of Family Services in it?

14 A Yes.

15 Q And the same Clark County government that has the
16 Clark County District Attorney's Office in it; isn't that
17 correct?

18 A I believe so, yes.

19 Q And then you also testified that there are
20 representatives from the Clark County District Attorney's Office
21 over at the -- do call it CAC?

22 A CAC.

23 Q Okay. So when I say the CAC, I'm talking about
24 Southern Nevada Children's Assessment Center. We'll save a lot
25 of time.

1 A Good.

2 Q CAC. So District Attorneys, Clark County District
3 Attorneys are working over there, as well; correct?

4 A Yes. One of the family District Attorneys who covers,
5 I believe, sex abuse cases is in that building.

6 Q Okay. Now, I want to talk about children who are
7 brought over by law enforcement to get an assessment done by the
8 CAC, okay. So those children, there's already an allegation for
9 the most part that they said somebody did something to me or
10 there's some other documentation that something was done to me,
11 and so you're there just to assess what you see working at this
12 government clinic; is that correct?

13 A Yes, I perform medical examinations. Yes.

14 Q Okay. And so when you do that, there's already some,
15 for lack of a better word, testimony or statements that have
16 probably been made before you even get to that; correct?

17 A Sometimes, yeah.

18 Q Okay. So sometimes there's already photographs that
19 have been taken before they come to you, is that a possibility?

20 A For sex abuse, I hope not.

21 Q But for physical abuse. Let's talk about physical
22 abuse.

23 A Potentially. If I staff a case based on photographs
24 because a child doesn't make it to the hospital, that might be
25 one aspect like what you're talking about. In a case where I'm

1 doing an exam myself, I wouldn't know if there's pictures until
2 after I do the exam.

3 Q Okay. But oftentimes if there's a prior examination,
4 there are photo documentation of exams that are made; correct?

5 A Potentially.

6 Q That's not out of the ordinary in any way, is it?

7 A I don't know if it's ordinary, but I think that
8 happens. That exists.

9 Q Okay. And you certainly have testified in this
10 courthouse being showed photo documentation of prior exams?

11 A Yes.

12 Q Okay. And you engaged in photo documentation of your
13 exam in this particular case; correct?

14 A Yes, I did the genital examination or photo
15 documentation.

16 Q Okay. Now, I want to talk about in the same order
17 that the prosecutor did, but I just want to lay out some
18 groundwork. And so we can start with -- I think you started
19 with Ava.

20 A Yes.

21 Q So I'm going to start with Ava, as well. But you
22 indicated that you reviewed the medical records that were
23 available to you. I remember that was your -- your testimony;
24 correct?

25 A Yes.

1 Q Okay. Did you review the medical records before or
2 after you did your first exam with Ava?

3 A I don't recall. I think logistically I would have to
4 suspect that I did afterwards because those tend to be very busy
5 days, and so I would suspect that I looked at it afterwards.

6 Q Okay. So did you look at them before or after you
7 made your findings?

8 A Which findings?

9 Q Any findings that you are testifying here to today.

10 A So to the examination portion of the scars, things
11 like that, I may have looked at it after those findings. But in
12 terms of my concerns of their growth, that would more than
13 likely have been after.

14 Q Okay. Now, precision is obviously an issue for any
15 doctor making any sort of analysis; correct?

16 A Potentially.

17 Q Okay. So I need to know exactly what medical records
18 you looked at with regard to Ava. Can you specifically tell me,
19 just give me a list of the medical documents that you looked at
20 with regard to Ava?

21 A So for Ava I had Target Pharmacy medical -- or like an
22 invoice of any prescriptions she had. I looked at her
23 medical --

24 Q Okay. I'm sorry to interrupt you. I'm going to let
25 you complete your response, I just want to make sure I get each

1 one as it goes so that we don't get lost. So there was some
2 pharmaceutical.

3 A And are you asking me at the time that I examined
4 them, or since them? Because many medical records were coming
5 in over the last several years.

6 Q Oh. Okay. Well, I'm assuming, based on the
7 testimony, that you made your assessment back in March of 2014,
8 is that true?

9 A That is true.

10 Q So let's talk about all the medical records that you
11 looked at up and to your assessment in March of 2014, how is
12 that?

13 A Sure.

14 Q Okay. So what did you specifically look at before you
15 made your assessment in March of 2014.

16 A Her medical passport, which --

17 Q Okay. So let's stop right there. Medical passport.
18 Do you know what year that medical passport was from?

19 A I would have to look back. 2010, I believe, is where
20 it ended, and I know that there was some comments on her birth,
21 as well. So up to 2010.

22 Q Okay. Now, let me ask you about the medical passport.
23 Do you have that with you today?

24 A I don't have it with me today, no.

25 Q Do you know where it is?

1 A I do.

2 Q Okay. So that could be produced?

3 A Yes.

4 Q Okay. Great. All right. Besides the medical
5 passport, what else do you have?

6 A Oh, gosh. For Ava there were, I believe,
7 gastroenterologist records and --

8 Q Okay. Let me stop you there. Can you tell me which
9 doctors you looked at?

10 A I believe it was Dezenberg and Dr. Rhee, R-H-E-E.

11 Q Next?

12 A I believe she saw Dr. Sheikh, as well. It's possible.
13 I think that was the initial appointment, and then she went to
14 Dezenberg and -- and others.

15 Q All right. Let me ask you this. You're testifying
16 you believe she went to Dr. Sheikh. Everyone that you're
17 talking about here, is this your memory of who she went to, or
18 your memory of the records that you actually reviewed?

19 A The records that I reviewed.

20 Q Okay.

21 MS. BLUTH: And I apologize, Dayvid. Can we just get
22 a clarification? Are we talking about before the physical exam
23 or just in total?

24 MR. FIGLER: By March of 2014 when she made her
25 assessment.

1 MS. BLUTH: Thank you.

2 BY MR. FIGLER:

3 Q Okay. So those gastroenterology, you think you also
4 looked at Dr. Sheikh's records?

5 A That may have been after the March -- the March 2014.
6 I don't recall.

7 Q Okay. Did you generate a single report after March of
8 2014 in this case?

9 A I did not.

10 Q Okay. What other medical records of Ava did you see?

11 A Prior to the exam I know I -- I did look at, I
12 believe, endocrinology, but I don't think it was prior to that
13 exam. I think I was still waiting for those to come out.

14 Q Okay. Anything else?

15 A For Ava --

16 Q Do you note them anywhere, what --

17 A -- vaccine records --

18 Q -- records you saw?

19 A Yes, I --

20 Q Do you have that document where you noted what records
21 you saw?

22 A Not with me.

23 Q So you don't have the medical -- that documentation of
24 what you reviewed with you?

25 A Not here, no.

1 Q Okay.

2 A But she had vaccine records; she had seen a Dr.
3 Surpure, S-U-R-P-U-R-E, I believe. I had seen those. I don't
4 recall the names of the other physicians that I -- that I looked
5 at.

6 Q Okay. All right. So we're going to talk about that
7 and we're going to talk about Ava Solander and we're going to
8 start with the sexual exam. Do you remember when Mr. Hamner
9 first asked you, he's like, well, how many do you find that are
10 definitive abuse, how many do you find -- you remember that;
11 right?

12 A Yes.

13 Q Okay. I want to get a little bit more -- I appreciate
14 they were just rough estimates anecdotally, you don't have all
15 your stats, and I'm not going to challenge you on that. But I
16 wrote down that you said 5 to 10 percent are definitive abuse;
17 right?

18 A For findings, yes.

19 Q I'm just writing down what you said.

20 A Just about. Yeah.

21 Q So it was your testimony on direct that you said 5 to
22 10 percent were definitive abuse, sexual abuse; correct?

23 A That is what I said, yes.

24 Q Okay. And then another 25 percent are probable abuse;
25 correct?

1 A Yes.

2 Q And then you said the rest, the majority are possible
3 or no finding?

4 A Correct.

5 Q Okay. I want to break that down just a little bit.
6 How many are possible versus how many are no finding? So let's
7 ask that. What percentage of children presented to you at the
8 CAC are no finding, the box that marks no finding or no abuse?

9 A It would be a rough estimate. Probably maybe 10
10 percent.

11 Q Maybe 10. Okay. So, then, the vast majority are
12 possible?

13 A Correct.

14 Q Okay. And you testified in this case it was possible?
15 Oh, no, probable.

16 A Probable.

17 Q Probable. Okay. Probable is even more than possible,
18 right, in the order that it goes?

19 A Yes.

20 Q It starts out with no indication -- no medical
21 indication of abuse?

22 A Correct.

23 Q And then possible abuse?

24 A Correct.

25 Q Then probable abuse?

1 A Yes.

2 Q And then definitive evidence of abuse or sexual
3 conduct; correct?

4 A Yes.

5 Q Okay. Those are the four categories pre-printed on
6 the abuse form; correct?

7 A Correct.

8 Q Okay. All right. Now, I'm showing you what appears
9 to be a standard abuse form. Now, this is filled out, but when
10 you -- when you get it, this is page 4 of 4, this is what your
11 abuse form looks like that's been created by the CAC; correct?

12 A No, this was created by my former medical partner, a
13 child abuse pediatrician.

14 Q Okay. So your former medical partner made up this
15 form, and this is the form that is used by the CAC; correct?

16 A It is used by my clinic. I don't know, the CAC
17 doesn't have much say in what the forms look like or how they're
18 used.

19 Q Oh. So there might be other forms?

20 A I don't know. I mean, not for medical.

21 Q Okay. Is this the form that you use when you're
22 determining which of the four categories, no medical indication
23 of abuse, possible abuse, probable abuse, or definitive evidence
24 of abuse? That's the form you use?

25 A In 2014 that's the form we used, yes.

1 Q Okay. Great. So what are the -- the indicators that
2 there is no medical indication of abuse? In other words, the
3 lowest level, no medical indication of use where you get 10
4 percent. What's the first box?

5 A So a normal exam, no history or behavioral changes, no
6 witnessed abuse.

7 Q Okay. Stop right there. So with Ava was there a
8 normal exam?

9 A Yes.

10 Q Okay. Was there a history of abuse?

11 A Yes.

12 Q Okay. And that history came from the biological
13 house; isn't that correct?

14 A I don't -- I don't know that I had specific
15 information about it either way.

16 Q Okay. And then it talks about witnessed abuse; right?

17 A Yes.

18 Q Okay. Non-specific findings with no history. Do you
19 have non-specific findings with no history in this particular
20 case?

21 A No.

22 Q Okay. Physical findings consistent with a history of
23 accidental injury. Did you have any physical findings at all in
24 this case?

25 A Not on her vagina or anus.

1 Q Okay. Non-specific behavioral change, normal exam.

2 Was this a normal exam?

3 A Yes.

4 Q Okay. And yet that's not marked here because you have
5 a witness and the witness is the sibling; right?

6 A Yes.

7 Q Is there any other witness to the sexual abuse besides
8 the other little girls who are also claiming abuse?

9 A Not to my knowledge at that time.

10 Q So if those little girls are not being accurate or are
11 exaggerating or are telling a tall tale, a falsehood, then your
12 assessment is going to be affected; isn't that correct?

13 A Potentially, yes.

14 Q Okay. So when you get all the way down to probable
15 abuse, there are five boxes that are available; correct?

16 A Yes.

17 Q All right. There are only two checked here. One is
18 that the child gave a detailed description to a neutral fact
19 finder, and then the other one is it was witnessed by the
20 siblings. Those are the only two boxes that had you say that
21 this is probable abuse; correct?

22 A Yes.

23 Q Okay. So there is nothing scientific, nothing
24 medical, nothing outside the statements that those little girls
25 made to a forensic interviewer that caused you to mark probable

1 abuse; isn't that correct?

2 A Well, the medical is that a normal exam doesn't mean
3 nothing has happened to them.

4 Q Okay. Let's stop right there.

5 A So that's why --

6 MR. HAMNER: Objection.

7 MR. FIGLER: Really? Because I want a responsive
8 answer, and that wasn't responsive. I asked her the only two
9 things, and she started talking about something else.

10 MR. HAMNER: You've got to let --

11 MR. FIGLER: I wanted to follow up --

12 THE COURT: Counsel --

13 MR. HAMNER: -- the witness finish.

14 MR. FIGLER: -- with that response.

15 THE COURT: Counsel approach.

16 (Off-record bench conference)

17 THE COURT: I would just remind you that if Mr. Figler
18 answers -- asks you a yes or no question, just answer yes or no.
19 And then if Mr. Hamner wants you to elaborate or clarify your
20 answer, he can do that on redirect examination. Now, if Mr.
21 Figler asks you a yes or no question and it can't simply be
22 answered as a yes or no or I don't know, then just say I can't
23 answer that without providing an explanation. And then Mr.
24 Figler can decide whether he wants to follow up or whether he
25 wants to move on to another topic.

1 THE WITNESS: Thank you.

2 THE COURT: All right.

3 BY MR. FIGLER:

4 Q Now, I'll ask you about this because I read the
5 response I think you were going to make in prior testimony that
6 you gave in other cases, that --

7 MS. BLUTH: I'm going to --

8 MR. HAMNER: Counsel is testifying at this point. Is
9 there a question pending?

10 MR. FIGLER: I'll ask a question.

11 BY MR. FIGLER:

12 Q You have testified in the past in other cases, isn't
13 it true, that a medical exam, sexually, even if it shows
14 completely normal results, there still could be sexual assault?

15 A Yes.

16 Q Okay. And when you do find things in a medical exam,
17 that could be sexual assault; correct?

18 A Potentially.

19 Q Okay. So you do a medical exam, and whether there are
20 findings or aren't findings from your perspective, there still
21 could be sexual assault; correct?

22 A I can't answer that.

23 Q Okay. It could always be sexual assault. A medical
24 exam doesn't prove or disprove, and yet you still do it.

25 MR. HAMNER: Is that -- is that a question?

1 BY MR. FIGLER:

2 Q Isn't that true?

3 MR. HAMNER: Is that a question?

4 MR. FIGLER: I put an isn't it true at the end.

5 MR. HAMNER: A little delayed.

6 THE WITNESS: I feel like I'm not telling the whole
7 truth by saying yes or no.

8 BY MR. FIGLER:

9 Q Okay.

10 A I can't answer your question.

11 Q All right. So of the five boxes that would -- are
12 listed here for probable abuse for Ava, you don't have anything
13 that is purely medical. You only have things, isn't it true,
14 that rely on the siblings' disclosure?

15 A Yes, I marked two boxes.

16 Q And only two boxes?

17 A Only two boxes.

18 Q And other boxes were available regarding exam findings
19 or infection, which is medically consistent, or even another
20 category where you could fill in anything; isn't that true?

21 A There are only two boxes marked, yes.

22 Q Okay. And yet you still found probable as opposed to
23 possible?

24 A Yes.

25 Q Okay. And then under possible you also checked one

1 box, which is a lesser category, and the one box you clicked,
2 isn't it true, is contact with alleged sexual abuse perpetrator
3 of other children, the siblings; right?

4 A Right what? I marked that box?

5 Q Isn't that what you marked? Yeah.

6 A I marked that box. Yes.

7 Q You did mark that box for possible abuse; right?

8 A Yes.

9 Q Okay. So that is also related to the disclosure of
10 the siblings, and only the disclosure of the siblings; correct?

11 A Yes.

12 Q Okay. Were you aware, Dr. Cetl, that when they were,
13 all three girls, when Ava, Anastasia, and Amaya were all
14 interviewed by Florida CPS, all the physical abuse was
15 disclosed, but there wasn't a single mention of any sexual
16 abuse, did you know that?

17 MR. HAMNER: Objection. It's hearsay.

18 MR. FIGLER: She's saying she reviewed records and --

19 THE COURT: Yeah. Overruled. She can answer.

20 BY MR. FIGLER:

21 Q Did you know that?

22 A I don't believe I looked at CPS records of
23 interviewing with children, so, no, I don't believe I know that.

24 Q So you found great importance in the siblings'
25 disclosure at the forensic interview done by Las Vegas

1 Metropolitan Police Department, but you didn't even review the
2 prior interview that was done by the Florida CPS? You didn't
3 review it?

4 A So I believe it was done by forensic interviewers, not
5 police. However, no, I did not review it, and I did find it
6 important that there was a disclosure, yes.

7 Q Now, I want to skip real quick, I'll go back to Ava in
8 a second, I want to go to Amaya. Same form for Amaya. Is this
9 the Amaya form?

10 A Yes.

11 Q Okay. And there you only have one box of the five
12 boxes checked before you said it was -- what's that, probable
13 abuse; correct?

14 A Yes.

15 Q So you didn't even check the same two that you checked
16 with Ava; correct?

17 A Correct.

18 Q And that's because Amaya didn't disclose any sexual
19 abuse or a catheter or anything related to that in her forensic
20 interview, isn't that true?

21 A That's my understanding.

22 Q Okay. So the only thing that you checked off as
23 supporting your conclusion of probable abuse versus possible
24 abuse is the disclosure by the other children during that second
25 interview that they may have witnessed it?

1 A Yes.

2 Q Okay. And you also have one box on possible abuse,
3 the same box, contact with alleged sexual abuse perpetrator of
4 other children, siblings, based on the disclosure; right?

5 A Yes.

6 Q Okay. So just -- I'm trying to figure from a medical
7 standpoint, because you're a medical doctor, you've got one box
8 on probable abuse and no others, you've got one box on possible
9 abuse and no others. How did you decide to go with the one box
10 in probable versus the one box in possible?

11 A Sounds like a math question.

12 Q Yeah.

13 A I actually -- it's whatever the highest it reaches.
14 So if, for instance, I had no boxes checked and they had an
15 injury, that would only be one box for definitive, but that
16 would meet the criteria for definitive based on national
17 standard of care.

18 Q Okay. So even though they both have one box, you're
19 going to go with the higher every time? That's your testimony?

20 A Myself --

21 MR. HAMNER: I think that misstates --

22 THE WITNESS: -- and my colleagues.

23 MR. HAMNER: -- the testimony.

24 THE WITNESS: Yeah.

25 ///

1 BY MR. FIGLER:

2 Q And with regard to Anastasia's findings with which
3 category of the four, you also did probable abuse, and this
4 looks exactly like Ava's. You say to look at the physical
5 abuse, too, and I saw there's a note there, but as far as the
6 boxes that supported your conclusion through that government
7 center, you just had the same, the forensic interview and the
8 siblings saying that they saw it, too; right?

9 A Yes.

10 Q Okay. Did you review any of the voluntary statements
11 or did you review any voluntary statements in this particular
12 matter?

13 A I don't believe so, no.

14 Q Okay. Did you review police summaries of all the
15 various people that were talked to in this particular case?

16 A I don't believe so, no.

17 Q Okay. Did you talk to any DFS individuals in this
18 particular case?

19 A Yvette Gonzalez who was the -- I believe the
20 investigator for the initial case, yes.

21 Q Okay. And no one else?

22 A I don't recall. Oh, I believe I spoke to Detective
23 Frances Emery.

24 Q Okay. She's not at Family Services. She's at Metro;
25 right?

1 A She, yeah, is a detective at Metro.

2 Q Okay. Did you have any information from any source
3 that anyone other than those little girls reported seeing a
4 catheter actually go inside those girls?

5 A No.

6 Q Okay. Did you note that in your assessment of
7 possible, probable, or definitive?

8 A No.

9 Q You also said, I think Mr. Hamner asked you, is it
10 possible for one person to insert a catheter; correct?

11 A Yes.

12 Q Okay. Is it possible or is it likely for one person
13 on a child to insert a catheter one-handed?

14 A It's possible.

15 Q Is it probable, possible, or rare, not likely, that
16 you can do it with one hand? Have you ever done it with one
17 hand by yourself?

18 A That would be unethical and inappropriate and probably
19 illegal, so, no, I have never tried to do it with one hand.

20 Q It would probably be very difficult, too, wouldn't it?

21 A I couldn't even imagine. Probably difficult, yes.

22 Q Okay. And you know how catheters work. You testified
23 to that. The second you put it in the urethra, does pee start
24 coming out?

25 A Usually not.

1 Q Okay. And if it's going 6, 8, 10 inches inside to the
2 bladder, does it always start immediately, pee just starts
3 coming out the second it hits the bladder?

4 A Not always, but, I mean, usually that's what we're
5 waiting for, for it to come back.

6 Q You're waiting for the pee to come out?

7 A Uh-huh.

8 Q Okay. And is it just a second, just go, boop, and
9 it's out, or does it take some time to take out a catheter from
10 once it's reached the bladder?

11 A Depends on the size of the child. The older that a
12 child or adult is, it would take a little bit of time.

13 Q Take a little time. But it definitely would go into
14 the urethra, not the vagina. That's where that would have to
15 go; correct?

16 A That's where it should go, yes.

17 Q Okay. In order to get pee, it would have to go into
18 the urethra; correct?

19 A That's what I would hope so, yes.

20 Q All right. Unless there's something seriously wrong.
21 Got it. All right. So let's talk about Ava and the photographs
22 that you showed. You testified on direct that you really don't
23 know what caused those marks that you had circled; correct?

24 A Specifically what object at what time, no, I don't
25 know.

1 Q Okay. Are you familiar in any way with the abuse that
2 Ava endured in her biological home or with her biological
3 relatives?

4 A To some extent.

5 MR. HAMNER: Objection. Assumes facts not in
6 evidence.

7 THE COURT: Overruled.

8 BY MR. HAMNER:

9 Q What documents did you review to -- to look at what
10 physical abuse Ava endured from her biological family?

11 A I believe that there were summaries of her, I think,
12 counseling visits, and maybe even her passport. I would have to
13 review to see which -- which one specifically discussed that.

14 Q Okay. Could some of the marks -- and I noticed that
15 some of the marks were curved, and some of them were linear;
16 correct?

17 A Correct.

18 Q So there's a mixture of different types of little
19 marks that you saw on the child; correct?

20 A Correct.

21 Q Okay. You even said one was a looping mark; is
22 correct?

23 A Yes.

24 Q Okay. That would be consistent, based on your
25 experience, with a belt; isn't that correct?

1 A A belt or an extension cord or some type of looped
2 object potentially.

3 Q Okay. And belts also have linear edges and depending
4 on the angle, etcetera, it could case a linear mark, as well,
5 isn't that true?

6 A Absolutely.

7 Q So a belt is consistent with some of the linear marks
8 that you saw in that photo, as well; correct?

9 A Yes.

10 Q Okay. Now, I think you talked a little bit with Mr.
11 Hamner about aging. None of those photos, you can't age when
12 those -- when the injuries or the marks that you noted were
13 endured by the child; correct?

14 A Correct. No.

15 Q Okay. You can't.

16 A No.

17 Q To no degree of medical certainty can you tell me --

18 A Correct.

19 Q -- when those occurred; right?

20 A No.

21 Q Okay. You can't tell me if those happened between
22 December and February of 2013 into 2014 before they saw you or
23 not; correct?

24 A Correct.

25 Q Okay. You can't tell me if they were incurred prior

1 to June of 2010; correct?

2 A Correct.

3 Q Okay. And you can't tell me to any degree of medical
4 certainty that they were inflicted by another adult; isn't that
5 correct?

6 A It would take some force. I would say probably not a
7 small child, but I couldn't say it's an adult for sure.

8 Q You couldn't say. And you certainly can't tell me the
9 gender of the person who inflicted the marks that you saw;
10 correct?

11 A That would be out of the scope of my practice.

12 Q All right. And that would probably be -- you would be
13 laughed at by your peers if you could tell them what the gender
14 is by looking at the marks; right?

15 A I guess my peers would probably laugh. I don't -- I
16 don't know.

17 THE COURT: Or scoff or something.

18 BY MR. FIGLER:

19 Q Maybe they'd scoff. Maybe there would just be a
20 harrumph.

21 A Sure.

22 Q Fair enough. Okay. And that is going to be true not
23 just for Ava, but for Anastasia and Amaya, as well; correct?

24 A Yes. Correct.

25 Q Okay. So then it holds true for all three children.

1 What you did see on -- that was depicted in those photographs,
2 you can't tell me when, where, how with any specificity as to
3 implement, or by whom?

4 A That's correct.

5 Q Okay. Now, I just want to talk about Anastasia for a
6 second because we had some different testimony with regard to
7 Anastasia.

8 MR. FIGLER: Court's indulgence.

9 BY MR. FIGLER:

10 Q I'm going to show you what has been marked as State's
11 Exhibit 15. I'm going to put that up on there. Do you remember
12 the ear?

13 A I do.

14 Q Okay. You said there was red crusting on that --

15 A Yes.

16 Q -- when you saw it in 2014. What does red crusting
17 suggest to you?

18 A So it would suggest either something topical, so some
19 type of cream or lotion, or that the skin is breaking down to a
20 point that it's peeling and so it's a bit crusty.

21 Q Okay. So that would be something fairly recent that
22 would cause redness and crusting; isn't that correct?

23 A Yeah, I would agree with that.

24 Q Probably something within the last three months before
25 you saw that ear?

1 A Three months is probably even further out. So it
2 would probably be even closer to that. Yeah.

3 Q Okay.

4 A I would feel comfortable with that.

5 THE COURT: Would it be weeks or months or days?

6 THE WITNESS: Probably days or weeks, but I couldn't
7 age it specifically.

8 THE COURT: Okay.

9 BY MR. FIGLER:

10 Q Okay. So the redness you saw related to that ear is
11 likely, from your medical standpoint, to have been within days
12 or weeks of that March 2014 examination; correct?

13 A Yeah, I think that's fair.

14 Q Okay. And then this is also Anastasia. You testified
15 that there was some discoloration on the back of her shoulder
16 area; correct?

17 A Yes.

18 Q Okay. Doctor, just so we get that out of the way,
19 there are times when discoloration is found on children that has
20 absolutely nothing to do with potential abuse or non-accidental
21 injury; isn't that correct?

22 A Oh, yeah.

23 Q All right.

24 A Absolutely.

25 Q Okay. And you've referred to them in your prior talks

1 as being mimics.

2 A Yes.

3 Q Is that a fair description?

4 A Uh-huh.

5 Q Describe what a mimic is.

6 A So sometimes -- well, unfortunately, there was a time
7 in medicine where one doctor could know everything that there is
8 to know, and now we have a lot of specialists. So you go to ER,
9 you go to primary, you go to whoever you go to. And there can
10 be findings that come up that you show up to your physicians and
11 you go, gosh, that looks really weird, that's concerning, I'm
12 worried that that shape means maybe something bad is happening
13 or maybe that person has cancer or maybe that person has an
14 infection. And for mimics of abuse, we look at those findings
15 and go wait a minute, what if this is a disorder of some sort
16 that only looks like it's abusive? And so that would be how I
17 teach about mimics of abuse and to pay attention to those
18 factors.

19 Q All right. And so is there a test or a way to
20 determine whether or not something is a mimic or not, so a
21 little scar or discoloration just from a purely scientific -- I
22 know you'd want to get outside information about the
23 environment, etcetera, but from a purely scientific way, is
24 there a way to tell?

25 A Speaking just of a scar?

1 Q Yeah.

2 A So it would be the shape and the features of it, but
3 to take a biopsy, no, there wouldn't be anything like that if
4 that's what you're asking.

5 Q Okay. All right. Now, I'm going to show you what's
6 been marked 192. That was at -- years earlier a photograph
7 purported to be of Anastasia; correct?

8 A That's my understanding, yes.

9 Q All right. Does that appear to be irregular with
10 variable severity in the marks that you have there?

11 A Yes.

12 Q Okay. Are there any recognizable patterns?

13 A No.

14 Q No recognizable patterns. If the child was in the
15 shower, is that a protected or an unprotected area?

16 A Unprotected in the shower.

17 Q Okay. Do the -- the burns on there appear to be
18 varying in degrees or are they uniform throughout?

19 A It's a little bit tough to tell with the quality of
20 the picture. I would say they appear to be just about the same
21 degree.

22 Q Okay. And do they appear to all be apparent same age
23 and stage of healing?

24 A They appear to be. Sure.

25 Q Okay. And do they appear to be indistinct irregular

1 edges?

2 A Yes.

3 Q Okay. And do there appear to be maybe some splash
4 marks present?

5 A Potentially, yes.

6 Q Okay.

7 MR. FIGLER: I'd like to mark the next as Proposed
8 Exhibit Defense.

9 THE COURT: The next in order is what?

10 THE CLERK: Let me see.

11 BY MR. FIGLER:

12 Q Dr. Cetl, do you recognize this exhibit?

13 A Yes.

14 Q Is that an exhibit that you have either created or
15 that you utilize in PowerPoint presentations when you do all the
16 teaching that you do to law enforcement, etcetera?

17 A Yes.

18 Q Okay. Does that appear to be a fair and accurate
19 depiction of that document?

20 A Yes.

21 Q All right.

22 MR. FIGLER: Move for its admission, Your Honor.

23 THE COURT: Any objection?

24 MR. HAMNER: No, Your Honor.

25 THE COURT: And that's proposed what?

1 MR. FIGLER: X.

2 THE COURT: X will be admitted.

3 (Defense Exhibit X admitted)

4 BY MR. FIGLER:

5 Q Doctor, this is a chart that you use in talking about
6 the types of -- not as good as the others are.

7 THE COURT: It's pretty small on the screen.

8 MR. FIGLER: That's why I'm trying to blow it up. Oh.
9 I think that makes it a little big bigger. Can everyone in the
10 jury kind of see that and read that? You should have seen the
11 first version I got of that. It was microscopic. Can you all
12 see that?

13 THE COURT: Blow it up a little more.

14 And then, ladies and gentlemen, of course, to remind
15 you, all of the exhibits that are admitted into evidence will be
16 back in the jury deliberation room with you so you can examine
17 them throughout your deliberations.

18 MR. FIGLER: All right. That's a little better for
19 everybody?

20 BY MR. FIGLER:

21 Q Okay. So now I appreciate the title of Table 9 is,
22 from your presentation, is characteristics suggested of --
23 suggestive of accidental versus non-accidental burns; correct?

24 A Yes.

25 Q Okay. And I went down the list. And would you agree

1 with me that with at least regard to general appearance, the
2 geometric shape or pattern, the location, assuming it was in a
3 shower, the number and timing, the edges, and the splash marks
4 present, that all those characteristics are in what you teach to
5 be accidental. Would you agree that that testimony we just went
6 over are all checkboxes on the accidental side of that chart?
7 That's kind of a yes or no.

8 A I guess so. All the check -- everything you said are
9 on that side of the chart.

10 Q Thank you. So the child even has wet hair there,
11 doesn't that appear to be?

12 A Yes.

13 Q So those injuries could be consistent, if we use the
14 expressions that were used on direct, with an accidental injury
15 in a shower or with hot water being on the child; correct?

16 A Yes.

17 Q Okay. All right. Home stretch. Some of the jury are
18 laughing at me because they know that doesn't necessarily mean
19 we're almost done.

20 THE COURT: That could mean another hour.

21 BY MR. FIGLER:

22 Q Home stretch. Let's talk about the developmental
23 growth. All right. So you -- you discussed with the prosecutor
24 on direct somewhat that there are various growth charts and that
25 you felt that some of these children -- well, that all the

1 children had a height growth concern. Do you remember what
2 percentile that they were in that gave you that concern?

3 A They're each a little bit different, but overall they
4 were around the 50th percentile, and then they crossed to
5 percentiles and were about the 5th to the 10th, and it depended
6 on the child.

7 Q Okay. Now, you've spoken at length about growth,
8 charting, and developmental concerns with regard to possible
9 neglect, and that's usually under the category failure to
10 thrive, is that fair to say?

11 A Yes.

12 Q Okay. So you've determined in the past that there are
13 a couple of ways to look at it, there's organic causes and
14 non-organic causes; isn't that correct?

15 A Correct.

16 Q All right. And so in order to really track whether or
17 not there is a non-organic -- and organic would mean genetics or
18 disease --

19 A Uh-huh.

20 Q -- or things of that nature; is that fair to say?

21 A Yeah.

22 Q Okay. So in order to determine what would be causing
23 a concern of, say, height or weight, you'd want to look at
24 possible organic causes, as well; correct?

25 A Yes.

1 Q Okay. Now, one of the things -- so you want to get as
2 much information as possible about this child's life history so
3 that you can make a determination, is this organic, is it not
4 organic, is it possibly a combination of things; correct?

5 A Correct.

6 Q Okay. So one of the things that you've indicted in
7 your presentations in the past is that it's very important to
8 get the maternal medical history, as well; isn't that correct?

9 A Yes.

10 Q Okay. So what did the maternal medical history of the
11 Solander kids reveal?

12 A So for their biological maternal mother --

13 Q Yes.

14 A -- I think there was some drug use during pregnancy.
15 I believe that they were all term; however, there was very
16 limited to no prenatal care prior to birth.

17 Q Okay. Are those considered to be significant organic
18 factors with regard to the development of a child?

19 A In general it can be, yes.

20 Q Okay. Thank you. And then what about -- do you ever
21 look at the -- and this is not meant to be argumentative. I'm
22 sorry. It came out that way. It sounded snotty. Do you look
23 at the height of the mother or the height of the grandmother?
24 Is that something that's important to you?

25 A If it's available. And that goes more for the much

1 younger children because we don't know where they're headed in
2 their projection.

3 Q Right.

4 A But if we have a lot of numbers, so for several years
5 of life, birth length, and then go on to three, four years, then
6 not necessarily. I try when I can.

7 Q Okay. And you did testify on direct if you have
8 really tall parents and you have really short kids, that would
9 be an indicator that something might be a flip; correct?

10 A Correct.

11 Q All right. So how tall was the adult mother of the
12 Solander kids?

13 A I don't recall.

14 Q If I told you she wasn't any taller than 5', would
15 that sound about right?

16 A That sound about right.

17 Q Okay. How about the maternal grandmother, do you know
18 how tall she was?

19 A I don't know how tall she was.

20 Q Okay. If I told you she was about 5' tall, would that
21 sound consistent, or you just don't know?

22 A I don't know.

23 Q Okay. And then where did you get the maternal
24 mother's records?

25 A I believe that was a part of the birth records that I

1 ultimately looked at, and part of the passport.

2 Q Okay. Now, you also indicated that you had looked at
3 numbers from 2010, and then numbers from 2014, based on your
4 observations in 2014; correct?

5 A Yes.

6 Q Okay. Did you look at any other charts to be able to
7 kind of check if they've ever dipped or gone up or done anything
8 like that before?

9 A So I had about five or six measurements up until 2010,
10 and then mine at 2014. We concluded that evaluation, and then
11 the year is -- well, probably the year after that I received
12 more medical records for them so that I can flesh that out a
13 little bit.

14 Q Okay. And, you know, sometimes a child would get well
15 -- well visits --

16 A Yes.

17 Q -- by doctors, including pediatricians; correct?

18 A Yes.

19 Q And well visits are important because they're not just
20 sick visits focusing on an illness, but just looking at the
21 health and wellness of the child; correct?

22 A Correct.

23 Q Okay. And isn't it true, if you -- if you did review
24 all those records for the children, that during the time of care
25 in -- with Janet Solander with regard to pediatric records and

1 other well checks only, that the children were always described
2 as being well-nourished?

3 A That's what was documented on the charts, yes.

4 Q Okay. And you testified on direct that lack of good
5 nourishment is a factor; correct?

6 A Correct.

7 Q So no doctor who actually saw them during that time
8 frame, to your knowledge, ever said they were anything but
9 well-nourished during that time; correct?

10 A They did not document anything differently than that,
11 yes.

12 Q Okay. Did you, in your determination or any of your
13 findings that you've talked about here today, actually
14 physically speak one to one with any of the doctors who have
15 seen the Solander girls in the past?

16 A I believe I spoke to Dr. Rhee. I'm trying to think.
17 It was a couple of years ago. I did speak to some of their
18 doctors, but I don't recall.

19 Q Did you talk to Dr. Bernstein?

20 A I talk to Dr. Bernstein about so many things. I don't
21 know if it was specifically about that case. I'm sorry.

22 Q Okay. No problem. You physically examined all three
23 Solander children in March of 2014; is that correct?

24 A Yes.

25 Q Have you physically examined them at any time in 2015?

1 A No.

2 Q How about any time in 2016?

3 A No.

4 Q How about any time last year?

5 A No.

6 Q How about any time this year?

7 A No, I have not.

8 Q Okay. So you don't have any data with their growth
9 progress or where they are at right now, height?

10 A I believe I had some data that was presented to me,
11 but I did not physically examine them, no.

12 Q Okay. And we saw those photos of some markings that
13 appear to be on their buttocks, and then one on the ear. Do you
14 know of any other medical practitioner who has documented those
15 as being non-accidental?

16 A I don't know of any practitioner who looked or who
17 even addressed those marks.

18 Q Okay. How about since? Has anyone else, to your
19 knowledge, looked at those children to make a similar
20 determination that those were not accidental marks?

21 A I don't know.

22 Q Okay. Do you know if there's another picture in the
23 world, other than the ones that we just saw, that depict those
24 injuries, if you know?

25 A No, I don't know.

1 Q Okay. Can you say with any certainty that the injury
2 that -- or the marking behind the ear of Anastasia Solander that
3 you saw in 2014 that you said was either days or weeks old is
4 still there today?

5 A I don't know.

6 Q Okay. So it might not be there?

7 A Correct.

8 Q You'd want to see that with your own eyes; right? If
9 I'm asking a question about it, you'd like to see it with your
10 own eyes?

11 A Potentially.

12 Q Okay. It's because your eyes are important to process
13 data, you see it, you document it; correct?

14 A Yes.

15 Q Okay. You would agree with me that even different
16 doctors could look at things differently or document things
17 differently; correct?

18 A Oh, yes.

19 Q Okay. There was some discussion about demonstrative
20 evidence about the vagina and you identified all the parts of
21 the vagina; correct?

22 A Yes.

23 Q Okay. Isn't it true that the word genitals refers to
24 the reproductive organs of a person? Is that a general
25 analysis?

1 A If you think just like colloquial, yeah, that would --
2 that's what that would refer to.

3 Q And so the vagina is usually referred to as a genital;
4 correct? And the vagina is part of the reproductive system;
5 correct?

6 A Yes.

7 Q Okay. The urethra has nothing to do with
8 reproduction; correct?

9 A No.

10 Q How thick do you think the records of Amaya that you
11 reviewed in making your assessments were?

12 A I was just looking at them at home. About that thick.

13 Q Okay.

14 THE COURT: So you're indicating for the record --

15 THE WITNESS: Probably a couple of feet, a foot and a
16 half.

17 THE COURT: About a foot and a half, a foot to a foot
18 and a half.

19 THE WITNESS: That was the ones that I had printed
20 out. I'm sure that there are some electronic ones, as well.

21 BY MR. FIGLER:

22 Q Okay. So does this look about the size of the medical
23 documentation of Amaya?

24 A I think I had a little bit more than that.

25 Q So and this would be medical documentation, various

1 doctor visits, etcetera, prior to 2014; correct?

2 A Yes.

3 Q Okay. I'm guessing it might have been a little
4 smaller for Ava?

5 A A little bit smaller.

6 Q Okay.

7 A Oh, not that small.

8 Q Okay. Bigger than that?

9 A Yes.

10 Q Okay. And then for Anastasia's medical records. I'm
11 going to approach you with what's for Amaya. Can you just thumb
12 through there and look to see if those appear to be the medical
13 records that were prepared and created as medical records to
14 document the various visits and the various diagnoses and the
15 various communications and testing and findings and blood work
16 and labs and all the other things for Amaya Solander between
17 2010 and 2014.

18 A Are you asking me if this is a complete list of --

19 Q No.

20 A -- her medical care?

21 Q I'm just asking if those records reflect the medical
22 records of Amaya Solander --

23 A Oh, I see.

24 Q -- during that time.

25 A I see.

1 THE COURT: So are you asking if that's what those
2 are, or those are the same records that she also looked at?

3 MR. FIGLER: I'm going to ask that as a second
4 question.

5 THE COURT: Okay.

6 BY MR. FIGLER:

7 Q The first question was do those all appear to be
8 medical documentation for Amaya Solander during the time that
9 Amaya Solander was with -- between 2010 and 2013?

10 A They do appear to be, and I believe her -- her birth
11 name was --

12 Q Ramirez.

13 A -- Jacqueline. The other was Jocelyn and Yarely. So,
14 yeah, that would be hers.

15 Q Okay. And those appear to be accurate medical
16 records; correct? I'm sorry. They appear to be medical records
17 that are treated every day by doctors?

18 A They are medical records.

19 Q Okay. And do any of those look familiar as stuff that
20 you may have looked at before?

21 A A lot of them do.

22 Q Okay.

23 MR. FIGLER: Your Honor, at this time we move for the
24 admission of the medical set of records related to Amaya
25 Solander.

1 MR. HAMNER: Yeah, we're -- we're going to object. If
2 we can approach.

3 THE COURT: Sure.

4 (Off-record bench conference)

5 THE COURT: Those will be marked proposed next in
6 order, which the large stack, what would you say that is, about
7 5 inches, Doctor? 5, 6 inches?

8 THE WITNESS: Sure. 6 inches sounds good.

9 THE COURT: You're supposed to be better at this than
10 us who are --

11 THE WITNESS: I use a ruler.

12 THE COURT: -- we're just lawyers.

13 THE WITNESS: I use a ruler.

14 THE COURT: All right. Those will be marked as
15 Proposed Y. Those are identified as Amaya. Next in order is
16 what?

17 MR. FIGLER: We'll go with Ava.

18 THE COURT: Ava. Less than -- it looks like less than
19 an inch. That will be Z. And then the next is Anastasia, and
20 that will be marked AA.

21 BY MR. FIGLER:

22 Q And, Doctor, I'm just going to ask you about Proposed
23 Z and Proposed AA. If you can just thumb through those.

24 A Sure.

25 Q And if they just appear to be medical records

1 pertaining to that child for that time frame that I discussed
2 between 2010 and 2014. Same character and characteristics of
3 medical records related to that child's name?

4 A These appear to be medical records pertaining to Ava
5 Solander, and her previous birth name of Jocelyn Ramirez.

6 Q Thank you. That's all I need from you. I'm not going
7 to ask you any questions about that. And the same question with
8 regard to Anastasia.

9 A These appear to be medical records for Yarley Ramirez,
10 also known as Anastasia.

11 Q Thank you, Doctor.

12 THE COURT: And the three stacks pertaining to each
13 child, do those appear to be the medical records you looked
14 through, or can you not tell?

15 THE WITNESS: I recognize most of it. I'm not sure
16 there's -- Anastasia, I thought that there were some that I
17 didn't see in there, but there are so many that I did not
18 specifically memorize thousands of papers.

19 THE COURT: Okay.

20 THE WITNESS: And so I would have to really compare
21 and contrast together.

22 THE COURT: And I think you said you may have seen
23 other records that aren't part of the stack.

24 THE WITNESS: I believe I may have, yes.

25 THE COURT: Okay. So there's some that you might not

1 have seen, as well as some that you think you saw, but aren't in
2 the stack, is that --

3 THE WITNESS: I think I've seen all of that. I think
4 I can add to it --

5 THE COURT: Okay. All right.

6 THE WITNESS: -- is what I'm trying to say. I
7 believe. I'd have to compare.

8 BY MR. FIGLER:

9 Q And you indicated that there is a list somewhere in
10 your notes that list every document that you saw?

11 A Yes.

12 Q Okay. That's not part of the CAC assessment sheet;
13 correct?

14 A Correct.

15 Q That's a different document. Can you still produce
16 that document?

17 A Yeah, I put it on my computer more for my reference,
18 okay, I looked at this, I looked at that. I like to be
19 organized with -- with that, you know, which medical records I
20 looked at it, so it's just a personal document.

21 Q I appreciate that. So what I'd be interested in is if
22 you could send it to the District Attorney's Office because then
23 they have to share it with me.

24 A Sure.

25 Q Any medical records you relied upon and any

1 assessments that you testified here in court today.

2 MR. FIGLER: I think that's a fair request, Your
3 Honor.

4 THE WITNESS: And --

5 THE COURT: You don't have any problem with emailing
6 that --

7 THE WITNESS: No.

8 THE COURT: -- when you're done testifying?

9 THE WITNESS: So you need that today?

10 BY MR. FIGLER:

11 Q Yes, please.

12 A Okay.

13 Q I will let my husband know I have to change some
14 things around, but I think I can do it today.

15 MS. BLUTH: No, I mean, Judge, she can --

16 THE COURT: All right. We can talk about --

17 MR. FIGLER: You know, she doesn't need to bring it
18 back.

19 THE COURT: Mr. Figler, we can talk about that after
20 the witness is done testifying. But, you know, we don't --

21 THE WITNESS: I'll get it this --

22 THE COURT: -- have to decide --

23 THE WITNESS: -- weekend for sure.

24 THE COURT: -- when you're going to send it. But
25 suffice it to say that that is available on your computer.

1 THE WITNESS: Oh, yeah. Yeah, I'll give that to you.

2 THE COURT: And I'm assuming your computer is at home
3 or in your office or where?

4 THE WITNESS: Yes. It's in my -- well, one part is in
5 my office, and one part is at home.

6 THE COURT: Okay.

7 THE WITNESS: So --

8 THE COURT: All right. So you can't do it from the
9 building or your --

10 THE WITNESS: No.

11 THE COURT: -- iPhone or anything like that?

12 THE WITNESS: No.

13 THE COURT: All right.

14 Go on, Mr. Figler.

15 MR. FIGLER: Thank you.

16 BY MR. FIGLER:

17 Q Do you know if you've provided that to the District
18 Attorney in the past?

19 A For this case?

20 Q Yes.

21 A No. No.

22 Q Okay.

23 THE COURT: Is that something you would customarily
24 give to the prosecutor, or is that more for your own --

25 THE WITNESS: That for my own --

1 THE COURT: -- review?

2 THE WITNESS: -- record keeping.

3 THE COURT: Okay.

4 BY MR. FIGLER:

5 Q In your clinic have you ever seen or do you remember
6 the names Ivy or Autumn Stark?

7 A Sounds familiar, but I'm not sure.

8 Q Do you have any idea if that's connected to any
9 criminal investigation or current criminal investigation?

10 A I don't know.

11 Q Okay. How about children referred to as Diaz-Burnett,
12 Arethia --

13 THE COURT: Areahia.

14 BY MR. FIGLER:

15 Q Areahia. Sorry. So many names. Areahia
16 Diaz-Burnett, does that name sound like someone that you've
17 participated in any kind of criminal case or anything like that?

18 A No.

19 Q All right. So to your knowledge, you don't have any
20 personal knowledge of any criminal cases at all related to
21 Starks or Diaz-Burnett kids?

22 A That doesn't sound familiar to me, but I don't know.

23 Q You haven't been called to testify in anything like
24 that?

25 A Oh, no. Those names don't sound familiar for those

1 reasons. No.

2 Q Okay.

3 A I mean, I see 20, 30,000 kids in my career, so if I
4 have, I don't know. Sorry.

5 MR. FIGLER: Your Honor, at this time we'd pass the
6 witness.

7 THE COURT: All right. Redirect.

8 MR. HAMNER: Thank you.

9 REDIRECT EXAMINATION

10 BY MR. HAMNER:

11 Q Okay. All right. Okay. So let's -- I want to go
12 back to kind of the beginning of cross. You remember when you
13 were asked a series of questions about the timing of you
14 reviewing medical records in relation to examining these kids?

15 A Yes.

16 Q Doctor, was there -- whether it's before or whether
17 it's after, was there anything in the reviewing of medical
18 records that affected what you saw with your own two eyes?

19 A No.

20 Q Okay. So when you made a determination about seeing
21 things physically on this kid, it wasn't affected by any of the
22 medical records?

23 A No.

24 Q And you reviewed them all before and after?

25 A Yes.

1 Q Okay. You were asked a lot of questions about the
2 percentages of what's definitive sexual abuse, which one is
3 probable, which one is possible, which one is no abuse. Do you
4 remember that?

5 A I do remember that.

6 Q Okay. To be clear, you have made findings of no abuse
7 in your career?

8 A Yes.

9 Q Okay. So -- and then there were a lot of questions
10 about, well, I mean, I guess they're all possible; right? You
11 remember that kind of being asked, and then there was like --

12 A Uh-huh.

13 Q -- an "isn't it true" kind of added on? Why is it,
14 and I think you were trying to explain, but why is it that you
15 will note possible findings -- a possible finding of potential
16 abuse if there's not a physical scar or marking on a part of a
17 child's genitals?

18 A Sex abuse, physical abuse, different things. So in
19 physical abuse you're going to have findings. I mean, that's
20 the whole point, that's a bruise or broken something or other.
21 So that's -- that's not what we're talking about. So for sex
22 abuse for children, because oftentimes either somebody who is
23 getting access to them is not hurting them or is going slowly,
24 this is their new normal, we call that grooming, they don't
25 injury the kiddo, or they injury the kiddo and it heals.

1 What we've learned over the last 20, 30 years in
2 science is that it's normal to be normal. So 95 percent of
3 these exams will be normal. And just based on a medical exam, I
4 cannot say that sex abuse did not happen. That is for the
5 multi-disciplinary team to further deal with. And so that is
6 why it is marked as such is to indicate. Because,
7 unfortunately, I think a lot of my colleagues even, and a lot of
8 parents and other people say, oh, whew, the exam is normal,
9 we're all good, nothing has happened. And so the reason why
10 it's structured that way is based on national standards of care.
11 This isn't something we've made up.

12 Q Okay. And I want to follow up on that. So when
13 you've got -- in these situations, you also noted as a basis
14 that the child, the particular child you were examining actually
15 made some sort of disclosure to a forensic interviewer?

16 A Yes.

17 Q You also noted the additional fact that other
18 witnesses, i.e., these other kids, were indicating to forensic
19 interviewers that you were -- that the patient you were seeing
20 was being subject to alleged abuse?

21 A Yes.

22 Q Okay. But you do have cases where you may not have
23 either one of those situations present; right?

24 A Oh, yeah.

25 Q So you may actually have a patient that doesn't

1 disclose that they were allegedly sexually abused in any way?

2 A Correct.

3 Q And you may have cases where there aren't any
4 witnesses to say I saw that person allegedly get touched; right?

5 A Most of them.

6 Q But that's not the situation here?

7 A No.

8 Q And that's why you noted it?

9 A That's why I noted it.

10 Q Because you weren't in the rooms at these points that
11 these things allegedly happened; right?

12 A No.

13 Q You were asked some questions about the fact that,
14 well, didn't you know that these little girls, when they spoke
15 to Florida CPS, didn't disclose any sexual abuse. Do you
16 remember being asked that?

17 A Yes, I do.

18 Q And you were kind of questioned about the fact that
19 you didn't review those sets of interviews; right?

20 A Correct.

21 Q You were also questioned a little bit later on about
22 the fact that you didn't review any police reports.

23 A Correct.

24 Q Or any witness statements.

25 A Correct.

1 Q You were even asked near the end of cross-examination
2 if you knew who Autumn -- Autumn and Ivy Stark, did you know who
3 they were?

4 A I don't think so.

5 Q Or Areahia Diaz?

6 A I don't think so.

7 Q Okay. And you were being asked in the context of, you
8 know, when you're doing your assessment; is that right?

9 A Yes.

10 Q Okay. So when you did your assessment, were you aware
11 that Autumn and Ivy reported seeing these children being struck
12 in the home?

13 A Oh, no.

14 Q Were you aware that an adult in the house named -- do
15 you know who Danielle Hinton is?

16 A Not off the top of my head.

17 Q Did you review her interview?

18 A I don't think so, no.

19 Q When you were doing your assessment, were you aware in
20 an interview Danielle Hinton had indicated that she had seen
21 these children hit with paint sticks?

22 A Oh, no, I didn't.

23 Q That she had seen catheters in the home?

24 MR. FIGLER: I'm going to object as outside the scope
25 of cross and argumentative.

1 MR. HAMNER: It's within the scope and a direct --

2 THE COURT: That's sustained. Counsel approach.

3 (Off-record bench conference)

4 THE COURT: Ladies and gentlemen, we're trying to
5 finish up with the witness before lunch. We're just going to
6 take a quick break until 12:35 and then finish up. If we don't
7 have -- if we don't have many more for today, we may just end
8 early and not take a lunch break like at, you know, 1:45 or
9 something like that instead of you folks having to go to lunch
10 and then come back for a little bit. So we'll see where we are.

11 And during the brief recess you are all reminded
12 you're not to discuss the case or anything relating to the case
13 with each other or with anyone else. You're not to read, watch,
14 or listen to any reports of or commentaries on the case, person,
15 or subject matter relating to the case. Don't do any
16 independent research by way of the Internet or any other medium.
17 Please don't form or express an opinion on the trial.

18 Please place your notepads on your chairs and follow
19 the bailiff through the double doors.

20 (Court recessed at 12:21 p.m., until 12:30 p.m.)

21 (Outside the presence of the jury)

22 THE COURT: The defendant is conferring with Ms.
23 McAmis privately in the vestibule. This just concerns the
24 objection that was made prior to the break and Mr. Hamner was
25 going through did the Stark -- did you know the Stark girls said

1 this, did you know that. And so I think Mr. Hamner is going to
2 say that Mr. Figler opened the door when he said, well, you
3 didn't -- you're not familiar with the Stark girls, you never
4 examined Areahia Diaz.

5 So what was the point of those questions, Mr. Figler?

6 MR. FIGLER: Well, I just wanted to get in that they
7 weren't involved in -- that they didn't come to them for abuse
8 or neglect, as well. There was some suggestion from the State
9 that there were investigations related to Stark girls or
10 Diaz-Burnett girls or that there was concerns or whatever, and
11 nobody ever brought her over to Dr. Cetl, who is the forensic
12 CAC person. It was just to exclude that those children were not
13 involved in this as part of any kind of abuse towards Ms.
14 Solander.

15 I just don't know if the jury gets that that there
16 were -- there was nothing further that happened after the
17 removal of those Diaz-Burnett kids, and certainly after the
18 reunification of the Stark girls, that nothing else attributable
19 to Ms. Solander was ever examined or investigated. It wasn't
20 about the Solander investigation. The point was that they
21 weren't part of that. And I didn't know the best way to do
22 that. Just --

23 THE COURT: Okay.

24 MR. FIGLER: -- Dr. Cetl didn't do that. And then
25 we're going to have a stipulation regarding that, as well,

1 between parties. So that was the extent of it.

2 MR. HAMNER: And, Your Honor, that -- the Court's
3 representations of what I was going to argue is not fully
4 accurate. The initial questions that he asked on
5 cross-examination was essentially an insinuation that her
6 assessment was -- is flawed in some ways because she wasn't
7 aware of the fact that the Solander girls didn't disclose sexual
8 abuse. Those were the initial set of questions.

9 MR. FIGLER: Correct.

10 MS. BLUTH: Yes.

11 MR. HAMNER: Then there were a follow up series of
12 questions of you didn't review this -- these arrest reports or
13 these voluntary statements. And, again, the insinuation is from
14 that line of questioning is that she doesn't have a complete
15 picture of what is being disclosed or shared in this case when
16 she is making an assessment for sexual abuse.

17 And the insinuation is because you have an incomplete
18 picture, your determinations of possible in sexual conduct and
19 definitive in another potentially, and I think it's more hemmed
20 in on the sexual, is, therefore, you lack credibility because
21 you didn't review these things. And because it's our burden, I
22 believe that absolutely opens the door to the fact and say,
23 yeah, you didn't review these things so you weren't aware that
24 these other witnesses disclosed seeing X, Y, and Z.

25 And that -- it's our burden to rebut that very -- that

1 very argument that's being made. Because the insinuation is
2 there's nothing else there when you didn't review it, but that's
3 actually not the case. Because these other witnesses do
4 disclose a series of things that are incredibly pertinent to her
5 assessment. The bottom line is she wouldn't review it, but the
6 jury shouldn't be left with the impression of no one else talked
7 about this, and these girls, the only other time that they
8 talked about it, you know, hid the fact that they were sexually
9 abused because that's just simply not true with this
10 investigation.

11 And I believe the State is entitled to meet our burden
12 to rebut that by asking these questions. And, furthermore,
13 these particular witnesses have already testified to these
14 things in open court, so it's not a situation as if we're
15 assuming facts not in evidence. They've already been testified
16 to. So I would ask that -- I know the Court sustained the
17 objection, but I would ask that the objection be overruled and I
18 be allowed to continue on this line of questioning because I
19 think it's extraordinarily relevant to rebut this insinuation.

20 MR. FIGLER: On this point, Your Honor, do you need me
21 to address the Court, or is --

22 THE COURT: Go ahead.

23 MR. FIGLER: It was a very narrow line of questioning,
24 and I think that Your Honor accurately assessed what I was
25 doing, which was it is part of this record that no one else

1 witnessed the insertion of catheters into those children. And I
2 was making that point with regard to her assessment of possible
3 versus probable abuse. She didn't take that into consideration.
4 That was it. That was the limited point and I -- I -- there was
5 no other insinuation, especially with regard to the physical
6 abuse.

7 Look, the defense is virtually in the position of
8 conceding that paint sticks were utilized on the girls, and I
9 didn't challenge that they weren't paint sticks. I also said
10 they could have been something else, and that was fair game.
11 But to say that I somehow opened up the door for Mr. Hamner to
12 reiterate and summarize the entirety of the State's physical
13 abuse case against her is not -- not a credible argument other
14 than just sort of cumulatively piling on that the State has so
15 much evidence --

16 THE COURT: Right.

17 MR. FIGLER: -- about physical abuse.

18 MR. HAMNER: But it --

19 THE COURT: I think it's more argumentative. You can
20 ask generally you didn't review any of the statements by the
21 Stark girls, you didn't review if there are statements.

22 MR. HAMNER: And I can make --

23 THE COURT: If there aren't statements --

24 MR. HAMNER: And I can make --

25 THE COURT: -- there's nothing for her to review.

1 MR. HAMNER: Well, and there are statements. So I can
2 at least -- can I at least do a series of questions of you
3 didn't review statements where this particular witness --

4 THE COURT: No, because that's really just argument.

5 MR. HAMNER: Well --

6 THE COURT: And it's -- you know, it's an effective
7 technique and you've used it a lot in the case, but I think it's
8 more argumentative because you're just reiterating all of the --

9 MR. HAMNER: I don't have to get into the --

10 THE COURT: -- prejudicial -- prejudicial --

11 MR. HAMNER: But if my question is simply limited to
12 this, so you didn't review the observations made by this
13 witness, not getting into a specific --

14 THE COURT: Right. If you --

15 MR. HAMNER: Is it -- am I permitted to at least ask
16 that in that general line because --

17 THE COURT: Yeah, so long as there was a statement or
18 something for her to review.

19 MR. HAMNER: There was.

20 THE COURT: If there's no statement for her to review,
21 if they just came into court and for the first time said I saw a
22 catheter, then there was nothing for her to review, and that
23 creates a false implication that there was. So if there's a
24 recorded statement by Ivy Stark, you can ask her --

25 MR. HAMNER: And Danielle Hinton --

1 THE COURT: -- did you review any --

2 MR. HAMNER: -- there absolutely was.

3 THE COURT: -- any recorded statements by the Stark
4 girls? Did you review the recorded statement of Areahia Diaz?
5 Boom, boom, boom, and that's all.

6 MR. HAMNER: I'll make it general. I won't even get
7 into specifics, but there are recorded statements of these
8 witnesses.

9 THE COURT: Yeah, anything that --

10 MR. HAMNER: And I just want --

11 THE COURT: I'm sorry. Anything she could have
12 reviewed that wasn't provided to her, you can ask her generally,
13 well, did you see the statements of the Stark girls, did you see
14 the statement of Areahia Diaz, did you see whatever else there
15 is?

16 MR. HAMNER: Okay.

17 THE COURT: And then was that provided to you? No.
18 Okay.

19 MR. HAMNER: All right.

20 THE COURT: But you can't go through each thing. Did
21 you review the statement where Ivy Burnett said -- Ivy,
22 whatever, Stark says A, B, and C.

23 Okay. Kenny, bring them in.

24 Oh, I guess Ms. McAmis --

25 MR. FIGLER: Yeah.

1 THE COURT: -- needs another minute.

2 (Pause in the proceedings)

3 THE COURT: Ms. Solander, Mr. Figler.

4 Ms. Solander, go over your Fifth Amendment rights with
5 you. All right.

6 THE DEFENDANT: Do I need to stand up?

7 MS. McAMIS: Yes.

8 THE COURT: And if you're uncomfortable standing --

9 THE DEFENDANT: It's just, yeah, hard.

10 THE COURT: -- you can remain seated. Normally, I
11 would make you stand. But --

12 MS. McAMIS: Thank you, Your Honor.

13 THE COURT: -- with your hip issue or leg issue, you
14 can remain seated if you would prefer.

15 All right. Ms. Solander, you have the right to take
16 the stand and testify on your own behalf. Are you aware of this
17 right?

18 THE DEFENDANT: Yes, I am.

19 THE COURT: If you choose to avail yourself of your
20 right to testify, the Deputy -- one of the Deputy District
21 Attorneys will have the opportunity to cross-examine you. And
22 anything you say, whether it's in response to a question from
23 your lawyer, the Deputy District Attorney, one of the jurors, or
24 even the Court, is the subject of fair comment by the Deputy
25 District Attorneys, both of them, in their closing arguments.

1 Do you understand that?

2 THE DEFENDANT: Yes.

3 THE COURT: Okay. And I don't believe she has any
4 convictions that can be utilized for impeachment purposes --

5 MS. BLUTH: Correct.

6 THE COURT: -- is that correct?

7 MS. BLUTH: That's correct.

8 THE COURT: All right. So I don't need to go over the
9 fact that if you did have a prior felony conviction within the
10 past ten years it could be used for impeachment. But since you
11 don't have any convictions, that's not an issue for you.

12 All right. You also have the right not to take the
13 stand and testify. If you should avail yourself of your right
14 not to testify, the Deputy District Attorneys are precluded or
15 forbidden from commenting upon your failure to testify in their
16 closing arguments. Do you understand that?

17 THE DEFENDANT: I do.

18 THE COURT: And if you choose to avail yourself of
19 your right not to testify, the Court will give an instruction if
20 asked to do so by your attorneys. The instruction essentially
21 says that it is a constitutional right of a defendant in a
22 criminal case that he may not be compelled to testify. Thus,
23 the decision as to whether he or she should testify is left to
24 the defendant on the advice and counsel of his attorney. It
25 tells the jury that they are not to draw any inference of guilt

1 from the fact that he or she does not testify, nor should that
2 be discussed or considered by them in their deliberations in any
3 way.

4 Did I fairly state that instruction, Mr. Figler, Ms.
5 McAmis?

6 MS. McAMIS: Yes, Your Honor.

7 THE COURT: All right. And as I said, if they ask me
8 to give the instruction, I am required to do that. Do you
9 understand?

10 THE DEFENDANT: I do.

11 THE COURT: All right. Have you had an opportunity to
12 discuss your right to testify, as well as your right not to
13 testify with your attorneys?

14 THE DEFENDANT: I did.

15 THE COURT: Okay. And before we resume the trial and
16 bring the jury in, do you have any questions you would like to
17 ask me, the Court, about either your right to testify or your
18 right not to testify?

19 THE DEFENDANT: No.

20 THE COURT: All right.

21 Ms. McAmis, Mr. Figler, did I cover that admonishment
22 to the satisfaction of the defense?

23 MS. McAMIS: Yes, Your Honor.

24 THE COURT: Did I cover that admonishment to the
25 satisfaction of the State?

1 MS. BLUTH: Yes, Your Honor.

2 MR. HAMNER: Yes, Your Honor.

3 THE COURT: And, Ms. Solander, have you made a
4 decision yet as to whether or not you wish to testify?

5 THE DEFENDANT: I have.

6 THE COURT: All right.

7 MS. McAMIS: Her decision is she's choosing not to
8 testify.

9 THE COURT: Okay. All right.

10 MS. McAMIS: And we are going to be asking for the
11 instruction, please.

12 THE COURT: All right. Very good. Make sure, State,
13 that's in the packet.

14 MR. HAMNER: Yes, Your Honor.

15 MS. BLUTH: It is, Your Honor.

16 THE COURT: All right. Kenny, bring the jury in.

17 MS. McAMIS: And thank you, Your Honor, for allowing
18 me that time.

19 THE COURT: All right. And, State, you don't have any
20 rebuttal witnesses; right?

21 MS. BLUTH: No, Your Honor.

22 MR. HAMNER: Nope.

23 THE CLERK: What time [inaudible].

24 THE COURT: I think start at 9:00 because,
25 otherwise --

1 MR. HAMNER: There's no one left.

2 THE COURT: Huh?

3 MR. HAMNER: There's no one left.

4 THE COURT: Because, otherwise, you're here and I'm
5 assuming the closings are going to be really long.

6 MR. FIGLER: Your Honor, as long as we're on the
7 record, very briefly, the defense had previously moved to strike
8 Dr. Cetl because of a deficiency with the notice requirements,
9 and the provision of the CV and some supporting documents.
10 Obviously, from my examination a PowerPoint upon the request of
11 defense was provided to us, and we utilized that during the
12 examination to the best that we could, but our objection was
13 ongoing, Your Honor, and I think Your Honor noted that earlier
14 at a bench conference.

15 So I didn't contemporaneously object when Dr. Cetl
16 went up in front of the jury. I didn't feel that was
17 appropriate because we had already made the record that it was a
18 continuing objection to Dr. Cetl's testimony.

19 THE COURT: All right. Your objection is noted on the
20 record.

21 Doctor, you can come back up here --

22 THE WITNESS: Thank you.

23 THE COURT: -- and have a seat.

24 (Jury reconvened at 12:53 p.m.)

25 THE COURT: All right. Court is now back in session.

1 And, Mr. Hamner, you may resume your redirect
2 examination.

3 MR. HAMNER: Thank you.

4 BY MR. HAMNER:

5 Q When we kind of last left off we were talking about
6 these questions about certain things you reviewed or not
7 reviewed. Do you remember that?

8 A I remember that.

9 Q Doctor, I think you may have mentioned previously that
10 you don't sit and kind of ask the kids questions as you're doing
11 the assessment; is that right?

12 A Correct.

13 Q And is that because you want to just base your
14 assessment off of the things that you see?

15 A It depends on the context. I think that partially
16 that's a really big reason why. I just want to see what I see
17 without talking to the kids. But if the children have gone
18 through a multitude of interviews by the time they've seen me or
19 I know they're going to be, you know, going through a multitude
20 of interviews afterwards, I ask them medical prudent questions,
21 and just support them.

22 Q But for the purposes of you making these assessments
23 kind of with your eyes and you examine these kids, do you want
24 to be -- do you want to review every single interview from every
25 single potential witness? Do you want that for what you do?

1 A No, I don't.

2 Q Why not?

3 A I like to remain objective based on the findings that
4 I have at hand.

5 Q Okay. With respect -- there were some questions about
6 the vagina. There were some questions about going into the
7 vagina, things of that nature. Do you remember being asked that
8 on cross-examination?

9 A Yes, I do.

10 Q Okay. Is -- I think before when you're publishing
11 245, when you were talking before about the female genitalia,
12 does it encompass everything that we're seeing here with the
13 exception of the anus?

14 A Yes.

15 Q Okay. So I know that sometimes -- I know that this
16 area here you've indicated this -- this specific biological area
17 is defined as the vagina.

18 A Yes.

19 Q But in kind of common lay terms, is all of this
20 sometimes referred to as the vagina?

21 A Yes.

22 Q Okay. But to be clear, you know, everything with
23 inside the labia majora, is that a genital opening for this
24 female genitalia?

25 A Yes.

1 Q Okay. So it starts with the labia majora and it works
2 its way inwards?

3 A Correct.

4 Q You were asked some questions about if you had
5 reviewed the sexual abuse history of Ava. Do you remember that?

6 A I remember.

7 Q Is there anything that you reviewed in those documents
8 that changed the things you actually saw with your two eyes when
9 you examined her?

10 A No.

11 Q Did it have an effect one way or the other on the
12 things that you saw with your own two eyes when you're examining
13 that child?

14 A No.

15 Q There was a series of questions about you don't know
16 if it was an adult or a kid who made these marks, you don't know
17 the gender, or things of that nature. From the markings you saw
18 on these three children, in your medical opinion based on your
19 training and experience, did you believe those particular
20 markings in those areas, in your opinion, were accidental?

21 A No.

22 Q Okay. What did you believe they were in your medical
23 opinion?

24 A Inflicted abusive injuries.

25 Q There were questions about Anastasia's ear.