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Respondent.

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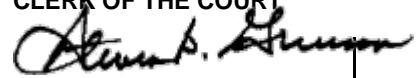
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RTRAN

DISTRICT COURT
CLARK COUNTY, NEVADA

* * * * *

THE STATE OF NEVADA,)	CASE NO. C-16-316382-1
)	
Plaintiff,)	DEPT. NO. XII
v.)	
)	
ARMANDO VASQUEZ-REYES,)	
a/k/a ARMANDO VASQUIEZREYES,)	
)	
Defendant.)	
)	

BEFORE THE HONORABLE MICHELLE LEAVITT, DISTRICT COURT JUDGE

FRIDAY, OCTOBER 11, 2019

RECORDER'S TRANSCRIPT OF HEARING:
JURY TRIAL - DAY 5

APPEARANCES:

FOR THE STATE:	JAMES R. SWEETIN, ESQ. Chief Deputy District Attorney
	WILLIAM C. ROWLES, ESQ. Deputy District Attorney
FOR THE DEFENDANT:	MIKE FELICIANO, ESQ. NADIA HOJJAT, ESQ. Deputy Public Defenders

ALSO PRESENT:

RICARDO PICO
XIMENA FIENE
IRMA SANCHEZ-GASTELUM
CAROL ANDERSON
XIMENA CHICA
Spanish Interpreters

RECORDED BY: KRISTINE SANTI, COURT RECORDER
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

1 LAS VEGAS, NEVADA, FRIDAY, OCTOBER 11, 2019

2 (Case called at 9:24 a.m.)

3 (Outside the presence of the jury)

4 THE COURT: Good morning.

5 The record will reflect that the hearing is taking
6 place outside the presence of the jury panel. Anything
7 before I bring our panel in?

8 MR. SWEETIN: We do have a few things.

9 THE COURT: Sure.

10 MR. SWEETIN: The first thing, I think our third
11 witness today is going to be the interpreter that you heard
12 from and she'll be --

13 THE COURT: Okay.

14 MR. SWEETIN: -- discussing the interview that was
15 done with the defendant. So the video and then the related
16 transcript.

17 THE COURT: Okay.

18 MR. SWEETIN: So we had some open issues in regards
19 to what we were going to use as far as that -- that video,
20 how many redactions were going to be in the video. And so, I
21 guess, we're just trying to figure out if we want -- when we
22 might be able to resolve that. We'd need to do it before she
23 testified.

24 THE COURT: Oh, there's objections?

25 MR. SWEETIN: So there's --

1 THE COURT: There's objection -- okay.

2 MR. SWEETIN: -- there's two -- there's two
3 redactions, remember, that were going to be made, one that
4 had to do with alcohol and drugs.

5 THE COURT: Sure.

6 MR. SWEETIN: And the other -- and the Court had
7 reserved ruling on that one. There was another redaction
8 that's already been made, and that had to do with other sex
9 you mean conduct that was made mention of.

10 And so as to that one redaction, we're trying to
11 figure out whether or not we want that in the transcript or
12 out of the transcript.

13 THE COURT: Well, I don't believe anything has
14 changed at this point. So I would redact that from the -- do
15 you have to redact it from the transcript and the video,
16 correct?

17 MR. SWEETIN: We do. And the issue would be, State
18 has always contended that if, in fact, the defense gets into
19 questioning the voluntariness of the confession itself, that
20 that evidence would be relevant because it would go to the
21 defendant's explanation as to why he couldn't remember
22 certain things.

23 The State would expect that what's -- the defense
24 is going to do since they certainly said this in their
25 opening over and over again is he forgot, he forgot, he

1 couldn't remember, he couldn't remember.

2 So we would not have that in -- in the transcript
3 to be able to say well, he said why he couldn't remember some
4 things because he was using alcohol and drugs there. It's
5 not because of a reduced mental capacity of him not making
6 things up as he went along and he just couldn't remember
7 things.

8 There was a reason why he couldn't remember these
9 particular things.

10 THE COURT: And I do believe that may become
11 relevant if those issues -- I mean, if the defense makes an
12 issue out of oh, this wasn't freely and voluntarily entered
13 into. See, he can't remember everything, and he's repeatedly
14 saying he can't remember, but he's still being questioned,
15 then that may become relevant because I don't think it's fair
16 to attribute it to something else when the defendant said in
17 the transcript what it was.

18 So again, it was their opening statements. I think
19 it depends on how they treat this.

20 MR. SWEETIN: So how would we --

21 THE COURT: But I do believe it may become
22 relevant.

23 MR. SWEETIN: Okay. So how would the Court want us
24 to address that if, in fact, that it does become relevant to
25 bring that up at some point that there were other statements

1 that were made in the course of the statement that weren't
2 included or redacted? Is that something we're going to bring
3 up in front of the jury or how does the Court want us to
4 bring that up?

5 THE COURT: Well, I mean, if I do believe it
6 becomes relevant, I think -- I mean, you could put a witness
7 on the stand, I don't know, the detective, whoever you wanted
8 to, and you could bring that up.

9 I mean, I don't know how you'd want to handle it.
10 I don't know if you'd want to tell -- I would caution you not
11 to tell the jury, oh, this was redacted originally --

12 MR. SWEETIN: Right.

13 THE COURT: -- but then -- I mean, we'll figure it
14 out when we get to that issue.

15 MR. SWEETIN: Okay.

16 THE COURT: But I don't think there's any reason to
17 tell the jury we redacted it originally, but now it is. You
18 could probably bring the -- I mean, would you want to
19 actually show it in the video?

20 MR. SWEETIN: Show what was -- what he said in the
21 video? I'm not sure. I --

22 THE COURT: Or would you just want --

23 MR. SWEETIN: -- I mean, the reality --

24 THE COURT: -- testimony?

25 MR. ROWLES: That's -- that's the concern of the

1 State is --

2 THE COURT: Okay.

3 MR. ROWLES: -- when would that statement have
4 happened other than inside the interrogation room, unless we
5 create a false narrative.

6 So unless -- we can't have the detective say, oh,
7 after this ended, he said, oh, wait, when I said I don't
8 remember, I meant because of drugs and alcohol. So if that
9 opens the door, we're left between a rock and a hard place in
10 the sense that we want to play the video showing this is what
11 he's saying to the detective at that time, but then it also
12 implies to the jury that we've left stuff out of the video
13 previously because we've already done so.

14 And so my thought process would be is if something
15 from the Court -- if that ever happens then can the Court
16 suggesting that I instructed the State to remove this aspect
17 and only this aspect of the video, and I've reviewed it in
18 its entirety, and that was the only thing I asked State to
19 remove, then I think that might cure it.

20 THE COURT: Okay.

21 MR. ROWLES: Because I don't want the State to
22 think -- I don't want the jury to think that we're redacting
23 stuff and not --

24 THE COURT: Okay.

25 MR. ROWLES: -- presenting the full evidence other

1 than with the Court's instruction.

2 THE COURT: Okay. I understand that. If we got to
3 that, I would indicate that it was at my order that it be
4 removed.

5 MR. ROWLES: Okay.

6 MR. SWEETIN: And, Judge, I provided defense
7 counsel with a copy of the video in its entirety, the
8 unredacted version, and what we have done to the video is
9 we've actually captioned it with portions of the transcript
10 -- with the transcript, essentially, of the -- of the
11 interview. So that's on the video.

12 We also have copies of the transcript itself.

13 THE COURT: Okay.

14 MR. SWEETIN: And the reason I think that we need
15 to have that is because, as you remember, the translator's
16 going to make reference to two translation errors in the --

17 THE COURT: Right.

18 MR. SWEETIN: -- transcript itself, and so we would
19 ask to distribute that to the jury, to mark that as an
20 exhibit, distribute it to the jury and we wouldn't admit
21 that, but the actual statement that is captioned, since this
22 is a Spanish translation, would go back to the jury. That
23 would be our request.

24 THE COURT: Okay. And when we do these redactions,
25 I usually like the State to provide the original as a court

1 exhibit.

2 MR. SWEETIN: Okay.

3 THE COURT: So that's part of the record. An then
4 obviously, the redacted one will be marked and admitted.

5 MR. SWEETIN: That's fine. And so the original
6 would be a court exhibit; is that correct?

7 THE COURT: Correct.

8 MR. SWEETIN: Okay.

9 THE COURT: Right, with no redactions. Is that it?

10 MR. ROWLES: The second issue, Your Honor, is last
11 night I was at the multi-gen gym in Henderson.

12 THE COURT: At the what?

13 MR. ROWLES: Multi-gen gym. Multi-generational, I
14 think is the full name of a gym in Henderson.

15 THE COURT: Okay. Don't tell me a juror was there.

16 MR. ROWLES: I was discussing the case with other
17 attorneys in our community. I didn't realize a juror was
18 there after the discussion of the case and witness testimony.
19 I looked up, and they were on the second level immediately
20 above me. A juror I believe to be Juror No. 9, Ms. Lutz.
21 And so I would just ask that she be questioned as to whether
22 she heard anything, if she was even there.

23 THE COURT: How close was she to you?

24 MR. ROWLES: She was about a foot above me. Not a
25 foot -- a floor above me.

1 THE COURT: Okay.

2 MR. ROWLES: And then there was a basketball game
3 going on on my floor, so it's very likely she didn't hear
4 anything. But there was discussion regarding witness
5 testimony. There was discussion regarding hurdles the
6 defense would have to go over with the confession and my --
7 what I would refer to as my personal thoughts on the matter.

8 THE COURT: Okay.

9 MR. ROWLES: That was -- having that discussion at
10 that time.

11 THE COURT: And you looked up, and there she was?

12 MR. ROWLES: After that conversation was over, a
13 good ten minutes, I think, afterwards, I -- I was just
14 looking up, I saw her. So I'm not even sure if she was there
15 at that time when that discussion happened.

16 THE COURT: Okay. You didn't like wave to her or
17 anything?

18 MR. ROWLES: No, no.

19 THE COURT: Do you think she saw you?

20 MR. ROWLES: I -- I don't think she ever saw me.
21 We never made eye contact.

22 THE COURT: Okay.

23 MR. ROWLES: But I was --

24 THE COURT: Okay.

25 MR. ROWLES: -- looking at her to determine if that

1 really was her. But I never made eye contact with her, and
2 she never acknowledged my presence, I never acknowledged her
3 presence.

4 THE COURT: Okay.

5 MR. ROWLES: So I'm not even sure it was her. But
6 when I saw her this morning, if I was a gambling man, I'd put
7 money on it that that was her.

8 THE COURT: Okay.

9 MS. HOJJAT: So before we reach that issue, sorry,
10 there was actually one more thing I wanted to discuss about
11 the interrogation just because I assume we're going to have
12 to bring her in and talk to her.

13 MR. ROWLES: Sure.

14 MS. HOJJAT: If we can just finish up this
15 statement.

16 MR. ROWLES: Yeah.

17 MS. HOJJAT: Sorry. So in terms of the
18 redacted/unredacted, I wanted to clarify there is a redacted
19 version of the video as well, correct?

20 MR. SWEETIN: That's correct.

21 MS. HOJJAT: Okay.

22 MR. SWEETIN: The video would track with the
23 transcript.

24 MS. HOJJAT: Perfect. And so the only thing we
25 wanted to bring to the Court's attention because the State

1 has been -- they're reading the transcript as him saying that
2 he was using the drugs and alcohol as an explanation for the
3 I don't remember, and that's not how we read this transcript.
4 And we have a copy here if Your Honor would like to take a
5 look.

6 They're asking him how it started. He says, I
7 don't remember how it started. But -- or I'm sorry, they ask
8 him when everything started, and he says he doesn't remember
9 when it started.

10 Then they say, okay, how did it start? And then he
11 said, okay, well, how it started during those times I was
12 doing a lot of drugs and everything back in those days, I
13 drank a lot, and so then that happened. Afterwards, I
14 realized I was doing wrong and I stopped taking drugs and
15 everything.

16 So we disagree with the characterization of him
17 saying he was taking drugs and that why he doesn't remember.
18 We don't believe what's what he said in his statement. They
19 asked him when it started, and he couldn't give a date. He
20 said I don't remember in response to the date of when it
21 started.

22 And then when they were asking him how it started,
23 he provided the drugs and alcohol as an explanation of how it
24 started. And so for that reason, we don't believe that us
25 cross-examining on the I don't remember should open the door

1 because he was not answering drugs and alcohol in response to
2 that's why I don't remember. He was answering drugs and
3 alcohol in terms of how did this come about, why were you
4 touching this child? He provides that as the explanation.

5 I've got the transcript here. It's page 12, from
6 the bottom of page 12 to the top of page 13, if Your Honor
7 would like to take a look at it.

8 THE COURT: You know what, I -- I have reviewed
9 this a million times, and so -- but I'd like to look at the
10 whole thing.

11 MS. HOJJAT: Okay.

12 THE COURT: But I don't think I have it handy.

13 MS. HOJJAT: We have one here.

14 THE COURT: Is that --

15 MS. HOJJAT: Yes.

16 THE COURT: Can I have that one?

17 MS. HOJJAT: Yes. And the relevant --

18 THE COURT: Okay.

19 MS. HOJJAT: -- portion that we're citing to right
20 now is the bottom of page of -- like from about halfway down
21 page 12 from about here to did you through page 13.

22 THE COURT: Okay. I'll review it again.

23 MS. HOJJAT: Thank you.

24 THE COURT: But do I believe that at some point
25 this may be become relevant. At this point, I've said it's

1 not coming in, and the State has to redact it.

2 MS. HOJJAT: Right. And so --

3 THE COURT: So --

4 MS. HOJJAT: -- I guess our position is because we
5 believe the drugs and alcohol are so prejudicial that we will
6 not be introducing the "I don't remember" argument if the
7 Court makes this ruling.

8 But we believe that that deprives Mr. Vasquez-Reyes
9 of an argument he has a right for us to make and it's
10 fundamentally unfair and a due process violation for us to
11 not be allowed to put on parts of our defense in order to
12 keep out bad acts when that's not what he was talking about
13 when he talked to --

14 THE COURT: Well, alcoholism --

15 MS. HOJJAT: -- the detective.

16 THE COURT: -- isn't a bad act.

17 MS. HOJJAT: Well, the drugs.

18 THE COURT: Okay. Yeah, alcohol is legal.

19 Okay. Anything else? I mean, I think how it's
20 interpreted, I mean, I think it can be interpreted either
21 way, so --

22 MS. HOJJAT: We just wanted to bring that shift in
23 the questioning to the Court's attention because we do
24 believe that we should have the right to go into the fact
25 that he responded I don't remember numerous times as an

1 indication of his awareness, and that there is that shift in
2 the questioning.

3 When they ask when it starts, he says I don't
4 remember. When they ask how it starts, then he starts
5 talking about the drugs and alcohol. He never provides drugs
6 and alcohol as an explanation of why he doesn't remember,
7 which is the way it was argued to the Court. And so we would
8 ask the Court to --

9 THE COURT: That's a pretty --

10 MS. HOJJAT: -- be able to go into that --

11 THE COURT: That's a pretty reasonable inference
12 from the testimony. So at this point, it's not going to come
13 in. However, if it becomes relevant, the State may be able
14 to bring it in.

15 MS. HOJJAT: If I can approach and take back that
16 copy.

17 THE COURT: I asked you if I could have it.

18 MS. HOJJAT: Oh, sorry.

19 THE COURT: Do you know what, do you mind if I make
20 a --

21 MS. HOJJAT: Not at all. Yes.

22 THE COURT: Are you going to need it for the first
23 witness?

24 MS. HOJJAT: We're not calling the first witness.

25 THE COURT: Because I'll have Cam come in.

1 MS. HOJJAT: No. Then we don't need it for the
2 first witness, Your Honor. Thank you.

3 THE COURT: Okay. Thank you.

4 MS. HOJJAT: Thank you. And just for the record,
5 that copy that we provided Your Honor was the -- the copy the
6 State provided us that has the redactions as to the prior --
7 the statement that he made that she had been molested before,
8 but doesn't have the redactions as to the drugs and alcohol.

9 THE COURT: Okay.

10 MS. HOJJAT: So it was page 12 and 13 of that copy.

11 THE COURT: Okay.

12 MS. HOJJAT: Thank you. And sorry, so then the
13 issue with the juror.

14 THE COURT: Okay. Now we have to bring that juror
15 in, right?

16 MR. ROWLES: Please, Your Honor.

17 THE COURT: Okay. Ms. Lutz, Juror No. 9.

18 MR. FELICIANO: Oh, and before we start, we
19 discussed yesterday an admonishment about counsel using
20 phones if we --

21 THE COURT: Sure.

22 MR. FELICIANO: -- we'd ask the Court to give that
23 admonishment.

24 THE COURT: Okay.

25 MR. FELICIANO: Thank you.

1 MS. HOJJAT: Thank you.

2 (Pause in the proceedings)

3 (Juror No. 9 is present)

4 THE COURT: The record will reflect that Ms. Lutz
5 is in the courtroom with us, Juror No. 9, outside the
6 presence of the other jurors.

7 Good morning. Thank you very much for being here.
8 I just have a couple questions for you. Last night did you
9 see any of the attorneys or parties that are involved in this
10 case at any gym?

11 JUROR NO. 9: I was walking on the track --

12 THE COURT: Okay.

13 JUROR NO. 9: -- and there were people playing
14 basketball down below, and I thought one of the players
15 looked like the -- one of the --

16 THE COURT: Okay. Okay. Did you hear any
17 conversations that he may have been having?

18 JUROR NO. 9: No. In fact, I -- once I thought it
19 did look like him, I made a point of not look at him again.

20 THE COURT: Okay.

21 JUROR NO. 9: And it is -- it's on a different
22 level.

23 THE COURT: Right. That's what -- that's what I
24 was told, but we just wanted to make sure. And I -- I
25 appreciate you answering my questions, and I appreciate your

1 service. So if you don't mind going out with the -- no one's
2 in trouble. I just have to make sure. Thank you.

3 MR. ROWLES: Thank you, Your Honor.

4 (Juror No. 9 is not present)

5 THE COURT: You can bring them in.

6 I know. Out of all of Las Vegas and Clark County.

7 MR. ROWLES: I thought it was safe, Judge. It was
8 in Henderson.

9 (Pause in the proceedings)

10 THE MARSHAL: All rise for the entering jury,
11 please.

12 (In the presence of the jury.)

13 THE MARSHAL: Thank you, everyone. Please be
14 seated.

15 THE COURT: Does the State stipulate to the
16 presence of the jury panel?

17 MR. SWEETIN: Yes, Judge.

18 THE COURT: And the defense?

19 MR. FELICIANO: Yes, Your Honor.

20 THE COURT: Thank you. Good morning, ladies and
21 gentlemen. Before we get started, I just wanted to give you
22 another instruction.

23 During the proceedings, you may see the attorneys
24 and the parties on their phone doing things. I don't want
25 you to infer that they're not paying attention or that

1 they're doing other things that they shouldn't be doing. I
2 have indicated to the lawyers that they are permitted to be
3 on their electronic devices, their laptops, their phones.

4 They are usually arranging for witnesses and other
5 things that are going to take place during the proceeding.
6 So I just want to caution you not to make any negative
7 inference if you do see that.

8 And State may call their next witness.

9 MR. SWEETIN: State calls Ruth Leon.

10 RUTH LEON, STATE'S WITNESS, SWORN

11 THE CLERK: You may be seated.

12 THE WITNESS: Thank you.

13 THE CLERK: Please state and spell your first and
14 last name for the record.

15 THE WITNESS: Ruth, R-u-t-h, Leon, L-e-o-n.

16 DIRECT EXAMINATION

17 BY MR. SWEETIN:

18 Q Ms. Leon, how are you currently employed?

19 A I'm a investigator with the District Attorney's
20 Office.

21 Q And how long have you been an investigator with the
22 DA's Office?

23 A 12 years this November.

24 Q All right. How are you currently assigned?

25 A I am in the major violators unit.

1 Q And how long have you been there?

2 A Two years August.

3 Q And where did you work previous to that?

4 A I was a investigator with the special victims unit.

5 Q And how long were you on the special victims unit?

6 A A little shy of eight years.

7 Q So what were the general duties of investigator on

8 the special victims unit as you were there?

9 A Locate and coordinate the victims and witnesses

10 primarily for the court process.

11 Q Are the things that happened they're called --

12 called pretrial conferences?

13 A Yes.

14 Q And what are those?

15 A Pretrial conferences are meetings that we have with

16 victims and witnesses so that we can kind of explain the

17 court process and just kind of go through things.

18 Q Okay. And when you say we, who are you referring

19 to as we?

20 A It's usually myself and the prosecutor on the case.

21 Q Now, I want to turn your attention to approximately

22 May of 2016. You indicated you were assigned to the special

23 victims unit at that time; is that right?

24 A Yes.

25 Q Did you become familiar with a case captioned State

1 of Nevada versus Armando Vasquez-Reyes?

2 A Yes.

3 Q How did you become familiar with that case?

4 A I was assigned that case. The prosecutor at the
5 time had the case and I was her investigator.

6 Q Okay. And in regards to that case, do you remember
7 doing anything in regards to pretrial conferences?

8 A Yes. We met with the family and the victim.

9 Q How did that happen?

10 A So you know, again, through -- in coordination for
11 court, I contacted the mom and I set up a pretrial conference
12 for her and for Guadalupe.

13 Q Okay. Do you remember the mother's name?

14 A Rosalba.

15 Q Okay. And you mentioned that Guadalupe was who in
16 the case?

17 A She was our victim.

18 Q Okay. Upon contacting Rosalba what happened next?

19 A So I contacted her and told her, you know, who I
20 was and what we were doing and we agreed to meet, and she
21 brought Guadalupe if.

22 Q And when you say she brought her in, where did she
23 bring her?

24 A She brought her to our office.

25 Q Okay. And that's the District Attorney's Office?

1 A Yes.

2 Q Upon them arriving there, did you have an
3 opportunity or were you there and had an opportunity to
4 interview them?

5 A Yes.

6 Q And was it just Guadalupe and her mother, Rosalba,
7 who came?

8 A No, there was a sibling as well.

9 Q And did you later determine what her name was?

10 A Yes, Stephanie [sic].

11 Q Now, upon your initial observation of the three of
12 these individuals, was there anything that caught your
13 attention?

14 A Well, I wasn't obviously expecting to see
15 Stephanie, so that was surprising. But -- so we -- you know,
16 we -- we put them in a -- like a waiting room initially and
17 kind of explained the process and that we're going to, you
18 know, meet with everyone, that kind of thing, primarily,
19 which is our victim and the mom to explain everything.

20 But as I was talking to them, I can see Stephanie
21 kind of -- her body language was -- she was kind of tense.

22 MR. FELICIANO: I'm going to object to speculation,
23 as to her state of mind.

24 THE COURT: Okay.

25 MR. SWEETIN: And she's not testifying to her state

1 of mind. She's testifying to her observation.

2 MR. FELICIANO: She said tense.

3 THE COURT: She can testify regarding her
4 observations.

5 BY MR. SWEETIN:

6 Q You mentioned the word tense. What was it about
7 her made you believe she was tense?

8 A Her body language, you know, she -- when she made
9 eye contact with me, it was as if she was tearing up, and she
10 just seemed bothered.

11 Q Okay. What happens next?

12 A So we met with Guadalupe.

13 Q Okay. And when you say we, who are you referring
14 to?

15 A Myself and the prosecutor.

16 Q And where does that normally happen?

17 A In the prosecutor's office.

18 Q Okay. Is there anybody else present when you meet
19 with a victim, such as Guadalupe?

20 A Not on that day. Sometimes there is an advocate,
21 but not on that day.

22 Q So it was just the three of you in the office?

23 A Yes.

24 Q And where was Rosalba and Stephanie at the time
25 that you were meeting with Guadalupe?

1 A In our waiting room.

2 Q Okay. Did you have a conversation with Guadalupe

3 at that time?

4 A Yes.

5 Q What happens next?

6 A When we concluded with -- the conversation with

7 Guadalupe, I went back and I got Rosalba, and then we brought

8 her in and talked to her.

9 Q Is that something in pretrial conferences of

10 children that that's normally done?

11 A Yes.

12 Q So you normally meet with the parent as well?

13 A Yes.

14 Q Okay. And when you had the conversation with

15 Rosalba, who was there?

16 A Just myself and the prosecutor.

17 Q Okay. So you were separate?

18 A Yes.

19 Q And where was Stephanie and Guadalupe at that time?

20 A In our waiting room.

21 Q Okay. And what happens next?

22 A So then I return Rosalba back to our waiting room,

23 and I see Stephanie there, and again, you know, still the

24 demeanor of tense and kind of teary eyed. So I asked her,

25 you know, are you -- you know, are you okay? Would you like

1 to speak to us? And she said yes.

2 Q And let me ask you, you indicated you weren't
3 expecting Stephanie to arrive; is that correct?

4 A That's correct.

5 Q Would you normally have performed in the ordinary
6 course of a pretrial conference or interview with Stephanie
7 if she came along with the others?

8 A No, not -- not really. I mean, it's not uncommon
9 for family members to, you know, sometimes want to be there
10 for support or things like that, but they don't -- we don't
11 normally meet with them.

12 I asked her because -- because of her demeanor how
13 she was kind of tearing up and I just wanted to make sure she
14 was okay.

15 Q Now, you indicated that you had been at the
16 District Attorney's Office for 12 years; is that right?

17 A That's correct.

18 Q And over that period of time, any idea how many
19 pretrial conferences that you've set up and have participated
20 in?

21 A Hundreds.

22 Q Now, you seemed to have a pretty good memory of
23 this particular incident; is that right?

24 A Yes.

25 Q Why is that?

1 A Because it just -- you know, again, her demeanor
2 and how she was exhibiting her emotions, it just was
3 different than -- than most interactions with family members.
4 So it really stood out to me.

5 Q Now, you indicated that when you asked her if she
6 wanted to speak with you, that she indicated that she did --

7 A Yes.

8 Q -- is that correct?

9 A That's correct.

10 Q Was there any hesitation or --

11 A Oh, no.

12 Q What happens next?

13 A She followed me into the office.

14 Q And when you say the office, that's the attorney's
15 office?

16 A Yes.

17 Q Okay. And who was this that office at that time?

18 A Myself and the prosecutor.

19 Q Okay. So just the three of you?

20 A Yes.

21 Q What happens after you enter that office?

22 A Well, the prosecutor wasn't expecting me to bring
23 her back, so I -- I kind of explained, you know, who she was
24 and she obviously she knew her sister was here to kind of be
25 there. But I said, you know, is everything okay? I said, is

1 there something, you know, do you have any questions? Is
2 there some concerns? Or, you know, is there something you
3 want to tell us.

4 Q Now, as a result of you asking her that, did she
5 have a reaction that you observed?

6 A She broke down immediately.

7 Q So when you say break down, can you be more
8 specific?

9 A She started to cry.

10 Q Okay.

11 A And she was --

12 Q Now, there's a range of crying; is that correct?

13 A She was very upset and crying like full blown like
14 crying.

15 Q Okay. After that, were you able to have a
16 conversation with her in that room?

17 A I -- I asked her, you know, are you going to be
18 okay? Is there something you want to talk to us about? And
19 we were able to have a quick conversation.

20 Q Okay. As a result of that conversation, what do
21 you do?

22 A In that conversation, she was --

23 Q And let me -- let me talk to you just in regards to
24 as a result of that conversation that you had with her at
25 that time, what was the next step? What did you do?

1 A We ended the conversation and advised her that we
2 would be reaching out to --
3 MS. HOJJAT: Objection. Hearsay.
4 THE COURT: All right.
5 MR. SWEETIN: She's talking about she advised her.
6 THE COURT: Right. It's her statement, so I'll
7 allow her statement.
8 THE WITNESS: That -- we advised her that -- I
9 advised her that we would be contacting Metro.
10 BY MR. SWEETIN:
11 Q Okay. And can why -- why did you tell her that you
12 would be contacting Metro?
13 A Because there were things that were discussed that
14 needed --
15 MS. HOJJAT: I'm going to object. Calls for
16 hearsay.
17 MR. SWEETIN: And it goes to explain why she did
18 what she did, not for the truth of the matter asserted.
19 THE COURT: As the result of that conversation, you
20 did what?
21 THE WITNESS: I contacted the detective.
22 THE COURT: Okay.
23 BY MR. SWEETIN:
24 Q And why did you contact the detective?
25 A So that further investigation could take place.

1 Q Okay. And that would -- would that be in regards
2 to issues that might have happened to Stephanie?

3 A Correct.

4 Q Now, did you have a detailed conversation with
5 Stephanie at that time in regards to things that might have
6 happened to her?

7 A No.

8 Q And why is that?

9 A That's not the avenue that -- that's just not what
10 -- I mean, that's just not what we were there to do, and
11 that's not -- that's just not an avenue we want to go down.

12 Q Does the DA's office do the additional
13 investigation of crimes?

14 A No.

15 Q Is that a job for the police department?

16 A Correct.

17 Q And you indicated that's who you referred her to?

18 A Yes, I did.

19 Q Thanks.

20 MR. SWEETIN: Nothing further.

21 THE COURT: Cross-examination?

22 MS. HOJJAT: Yes, Your Honor.

23 CROSS-EXAMINATION

24 BY MS. HOJJAT:

25 Q Good morning, Ms. Leon.

1 A Hi.

2 Q How are you today?

3 A Good. How are you?

4 Q Doing good. Thank you.

5 You set up the pretrial with Guadalupe and her

6 mother?

7 A Um-h'm, that's correct.

8 Q You contacted her mother?

9 A Um-h'm.

10 Q Is that a yes?

11 THE COURT: Is that a yes?

12 THE WITNESS: Yes, sorry.

13 BY MS. HOJJAT:

14 Q No problem. And the answer to your last question

15 was yes as well, right?

16 A That's correct.

17 Q You set up the pretrial. You contacted Rosalba?

18 A Yes, I did.

19 Q You asked her to bring Guadalupe?

20 A Yes, I did.

21 Q You did not ask her to bring Stephanie in?

22 A No, I did not.

23 Q You were surprised to see Stephanie that day?

24 A Yes.

25 Q Stephanie chose to come in on her own?

1 A I'm assuming so.

2 Q There was no request by the DA's Office that

3 Stephanie come in?

4 A That's correct.

5 Q As far as the DA's Office was aware, Stephanie was

6 not a witness at that time?

7 A That's correct.

8 Q So Stephanie shows up to this pretrial conference

9 unexpected?

10 A Yes.

11 Q And then eventually is in a room with you guys

12 telling you guys some stuff?

13 A That's correct.

14 Q That you were not expecting to hear?

15 A That's correct.

16 Q Now I want to talk to you a little bit about

17 additional investigation that you talked about with

18 Mr. Sweetin.

19 You are the primary DA investigator on this case?

20 A That's correct.

21 Q Okay. So the DA's Office has an investigator that

22 they assign to each case?

23 A That's correct.

24 Q Okay. And that individual's job is to do some

25 follow-up?

1 A Some.

2 Q Okay. And then follow up that is not appropriate
3 for the investigator to do is sent back to Metro and Metro
4 does some additional investigation as well?

5 A That's correct.

6 Q All right. So you were the -- you are the primary
7 investigator on this case?

8 A That's -- I was at the time, yes.

9 Q Okay. You were the primary investigator in July of
10 2016 when the case went to preliminary hearing?

11 A Yes.

12 Q And as a primary investigator for the DA's Office,
13 your job is to be aware of the evidence?

14 A Correct.

15 Q Aware of additional investigations that need to be
16 done?

17 A Correct.

18 Q Aware of new facts or evidence that come up in a
19 case?

20 A As they come up, yes.

21 Q After preliminary hearing happens, you need to do
22 things like look through the preliminary hearing transcript
23 to see if there's new information or new evidence you need to
24 look into?

25 A Yes.

1 Q Okay. Did you do that in this case? Did you read
2 through your preliminary hearing transcript?

3 A I don't recall.

4 Q Okay. At any point in this case, did you take
5 steps to investigate a statement by Guadalupe that she was
6 seen by a doctor when she was nine or ten years old?

7 A No, I did not.

8 Q At any point in this case, did you reach out to
9 Guadalupe's mother to see which physician she was being
10 treated by when she was nine or ten years old?

11 A I don't believe so.

12 Q Okay. Do you recall the preliminary hearing
13 transcript where Guadalupe stated that her anus was examined
14 by a doctor when she was nine or ten years old?

15 A I don't recall looking over the preliminary hearing
16 transcripts.

17 Q Okay. So it's possible that you never even
18 reviewed the preliminary hearing transcript?

19 A I couldn't tell you if I did or didn't.

20 Q Okay. But definitely no follow-up was done on this
21 new information that came out during the preliminary hearing?

22 A Not by me, perhaps. I don't know.

23 Q Okay.

24 A I mean, I wasn't the only investigator assigned to
25 this case eventually.

1 Q Who else was assigned to this case?

2 A There's been at least one or two, I believe, after

3 me.

4 Q Okay. But you were the investigator in July of

5 2016?

6 A That's correct.

7 Q When the preliminary hearing happened?

8 A Right. And I believe -- okay. Sorry, yes.

9 Q Okay. And as the investigator, as you mentioned,

10 it's your job to be aware of facts?

11 A Yes.

12 Q So you're aware that Guadalupe was claiming that

13 she was being anally raped bid Armando since she was five or

14 six years old?

15 A I don't -- sure. Yes.

16 Q Okay. But you were either unaware or just didn't

17 follow up on the fact that she had an anal exam done by a

18 doctor when she was nine or ten years old?

19 A I don't recall that fact.

20 Q Okay.

21 A I don't recall the transcripts that you're

22 referring to.

23 Q Okay. And you never referred to Metro either to

24 ask of that and to follow up on this act?

25 A I don't know that I would have, no.

1 MS. HOJJAT: Okay. Court's indulgence.

2 BY MS. HOJJAT:

3 Q Are your pretrial conferences recorded?

4 A No.

5 Q So there would be no recording of the conversations
6 that you had with Stephanie or Guadalupe?

7 A That's correct.

8 Q Okay. And do you recall the date that you had this
9 pretrial conversation?

10 A Not the exact date. But I -- I -- it with have
11 been in preparation for the preliminary hearing.

12 Q Okay.

13 MS. HOJJAT: Court's indulgence. We'll pass the
14 witness, Your Honor.

15 THE COURT: Any redirect?

16 MR. SWEETIN: Just very briefly, Judge.

17 REDIRECT EXAMINATION

18 BY MR. SWEETIN:

19 Q Ms. Leon, I just wanted to verify, you described
20 the duties of an investigator in the DA's Office; is that
21 right?

22 A That's correct.

23 Q And those duties are fairly specific in regards to
24 assisting the attorney directly in preparation for a
25 particular hearing?

1 MS. HOJJAT: Objection. Leading.
2 THE COURT: You are leading.
3 MR. SWEETIN: Okay.
4 BY MR. SWEETIN:
5 Q If you could, just lay out for us, essentially,
6 what your normal duties are as an investigator with the DA's
7 Office.
8 A Our primary role is to coordinate witness and
9 victims for the court process.
10 Q All right. And in regards to your role in the
11 initial investigation of the case or even investigations that
12 are done outside of essentially bringing a witness to the
13 court proceeding, are those things that normally are done by
14 other investigative agencies?
15 A Yes.
16 Q And those would be investigative agencies who are
17 better suited to do those things; is that correct?
18 MS. HOJJAT: Objection. Leading.
19 THE WITNESS: Those would be --
20 THE COURT: Overruled. I'll allow you to answer.
21 THE WITNESS: Normally that's done because --
22 normally, the outside agency that referred the case is the
23 agency that continues the investigation with additional
24 information because they're the ones that originated the
25 case.

1 BY MR. SWEETIN:

2 Q Thank you.

3 MR. SWEETIN: Nothing further.

4 THE COURT: Any recross?

5 MS. HOJJAT: Briefly, Your Honor.

6 CROSS-EXAMINATION

7 BY MS. HOJJAT:

8 Q So talking about these outside agencies doing
9 additional investigation. You found out the information
10 about Stephanie, correct?

11 A I was told things by Stephanie, yes.

12 Q Okay. And then you referred it to the outside
13 agency of Metro to continue the investigation, correct?

14 A To start.

15 Q Okay. Because Detective Pretti is not expected to
16 be psychic? He needs somebody to give him the information,
17 correct?

18 A That's correct.

19 Q He wouldn't have known about Stephanie but for you
20 telling him about Stephanie?

21 A That's correct.

22 Q You did not refer to Detective Pretti or any other
23 outside agency the investigation into any doctors that
24 Guadalupe may or may not have seen when she was nine or ten
25 years old?

1 A Because I don't know that I would have known that
2 first -- I -- I don't know that I read that in the -- in the
3 transcripts that you're referring to. So I -- I'm pretty
4 sure, as I sit here today, that if I had known that, I would
5 have brought it up, but I don't know that I did.

6 Q Okay. So you just maybe just didn't read the
7 preliminary hearing transcript in this case?

8 A I would say that I probably didn't.

9 Q Okay. But we established earlier that reading a
10 preliminary hearing transcript is one of the jobs that you
11 do?

12 A At times.

13 Q Okay.

14 MS. HOJJAT: Pass the witness, Your Honor.

15 THE COURT: Anything else?

16 MR. SWEETIN: No questions, Judge.

17 THE COURT: Thank you very much --

18 THE WITNESS: Thank you.

19 THE COURT: -- for your testimony here today. You
20 may step down, and you are excused from your subpoena.

21 THE WITNESS: Thank you.

22 THE COURT: You may call your next witness.

23 MR. ROWLES: State's next witness is Darey
24 Stephanie Alvarez.

25 //

1 DAREY ALVAREZ, STATE'S WITNESS, SWORN
2 THE CLERK: Thank you. Can you please be seated?
3 THE WITNESS: Right here?
4 THE COURT: Yes.
5 THE CLERK: Uh-huh. Can you please state and spell
6 your first and last name for the record.
7 THE WITNESS: My first name is Darey, D-a-r-e-y.
8 My last name is Alvarez, A-l-v-a-r-e-z.
9 THE COURT: Thank you. Okay. So everyone in the
10 courtroom has to be able to hear you. So if you don't mind,
11 just --
12 THE WITNESS: Okay.
13 THE COURT: -- they put the microphone closer.
14 THE WITNESS: Okay.
15 THE COURT: Hopefully that will help, but everyone
16 needs to hear. So if you don't mind just speaking up, I
17 would appreciate it.
18 THE WITNESS: Okay.
19 THE COURT: And thank you for being here.
20 MR. ROWLES: Thank you, Your Honor.
21 DIRECT EXAMINATION
22 BY MR. ROWLES:
23 Q Darey, do you go by a different name?
24 A When I was in school I used to go by Stephanie.
25 Q Okay. Do you mind if I call you Stephanie today?

1 A I don't mind.

2 Q Okay. Stephanie, when were you born?

3 A May 17, '97.

4 Q How old are you today?

5 A 22.

6 Q Have you lived in Las Vegas your entire life?

7 A No.

8 Q When did you move to Las Vegas?

9 A 2007.

10 Q 2007? Is that a yes?

11 A Yes.

12 Q Why did you move to Las Vegas?

13 A Because my mom was already here, so she wanted us

14 with her.

15 Q Okay. What is your mother's name?

16 A Rosalba Cardenas-Morena.

17 Q Who did you move to Las Vegas with?

18 A With her and Armando.

19 Q Armando? Okay. Who's Armando?

20 A By then he was my step dad.

21 Q Do you see him in the court today?

22 A Yes.

23 Q Can you please point to him and describe an article

24 of clothing that he's wearing today?

25 A He's wearing a orange-ish type flannel shirt and a

1 blue tie.

2 Q Okay. So the orange-ish shirt, flannel shirt, and
3 a blue tie?

4 A Yes.

5 Q Is he seated at the table to the left of me?

6 A He's sitting at the table, yeah.

7 MR. ROWLES: Your Honor, may the record reflect the
8 identification of defendant?

9 THE COURT: So reflected.

10 MR. ROWLES: Okay.

11 BY MR. ROWLES:

12 Q You indicated that in 2007, you moved to Las Vegas
13 to be with your mother, Rosalba. Was the defendant already
14 living there when you guys moved in?

15 A Yes.

16 Q Okay. Did you come to Las Vegas with anybody else?

17 A With my sister and my brother.

18 Q And who's your sister?

19 A Guadalupe.

20 Q How old is Guadalupe? Well, how much younger is
21 she than you?

22 A Five years --

23 Q Five years younger?

24 A -- younger than me.

25 Q Okay. And you indicated that you came to Las Vegas

1 with your brother. What is your brother's name?
2 A Mael.
3 Q Mael? Okay.
4 How much older is Mael than you?
5 A Three years.
6 Q Now, so when you moved to Las Vegas, have you been
7 living in Las Vegas ever since you moved here?
8 A Yes.
9 Q Have you lived in a lot of different residences?
10 A Yes.
11 Q Okay.
12 A A lot.
13 Q Okay. During the time period between -- before
14 August -- or April of 2016, did you -- or did you live with
15 the defendant a lot?
16 A Yes.
17 Q Is that a yes?
18 A Yes.
19 Q So between 2007 and 2016, it's fair to say that you
20 lived with the defendant and your family?
21 A 2016 was probably the last time.
22 Q Okay. Do you remember what the working situation
23 was like at the house? Let me ask it this way. Did your
24 mother work while you were living with her?
25 A Yes.

1 Q Okay.

2 A All the time.

3 Q Did Armando work while you were living there?

4 A All the time.

5 Q Okay. What shifts would your mother work?

6 A Sometimes in the afternoons and for like --

7 probably like five, six years she was working night shift.

8 Q So for a good majority of time, she was working

9 nights?

10 A Yes.

11 Q What shift would Armando work?

12 A Mornings only. Only in the mornings.

13 Q Okay. So for the entire time you were living

14 there, Mr. Vasquez-Reyes worked in the mornings?

15 A Yeah.

16 Q And your mother worked predominantly at night?

17 A Yeah.

18 Q I want to talk a little bit about your relationship

19 with the defendant.

20 A Okay.

21 Q Can you describe your relationship to the members

22 of the jury when you first met Mr. Vasquez-Reyes?

23 A Yeah. He was -- he was nice. He -- probably like

24 not the first day that we got there, probably like the

25 second, third day we -- him and my mom took us shopping to

1 buy new clothes and stuff, and we were little so toys and all
2 that.

3 Q Okay. Did you think of Mr. Vasquez-Reyes as a
4 father figure?

5 A No, because --

6 Q But you liked Mr. Vasquez-Reyes at the beginning?

7 A At the beginning, yeah. I mean, I didn't mind him,
8 so yes.

9 Q Okay. What was your sister's relationship like
10 with Mr. Vasquez-Reyes in the beginning?

11 A Same.

12 Q So fair to say when you guys first moved to Las
13 Vegas, everybody sort of got along?

14 A Yeah.

15 Q With you specifically, did there come a point in
16 time when something happened between you and
17 Mr. Vasquez-Reyes that changed that relationship?

18 A Yeah.

19 Q Do you remember what house you were living in?

20 A Yes.

21 Q What house was that?

22 A Stanford Street. I don't --

23 Q Do you remember how old were you at that time?

24 A Like 12 years old.

25 Q So you're living with the defendant at the Stanford

1 Street address, and you're around 12 years old at that time;
2 is that correct?

3 A Yes.

4 Q What happened -- do you remember what time of year
5 it was or what month, day it was?

6 A I don't actually remember like the year or the
7 time, but I do remember it was like summertime, probably like
8 summertime.

9 Q Okay. So one summer while you were living that
10 address?

11 A Um-h'm.

12 Q Is that a yes?

13 A Yes.

14 Q Who was all living with you at that time?

15 A My mom, my brother, my sister, and him.

16 Q And when you say him, do you mean
17 Mr. Vasquez-Reyes?

18 A Yes.

19 Q Do you remember how many bedrooms were at that
20 house?

21 A Two.

22 Q Do you remember the sleeping situation, who shared
23 a room with everybody?

24 A Just me, my brother, and my sister shared one room,
25 and Vasquez and my mom will share another room.

1 Q So you indicated previously that something happened
2 while you were living there that changed your relationship
3 with Mr. Vasquez-Reyes. What happened?
4 A We were playing outside, and I -- I went inside to
5 the bathroom and drink some water, and the bathroom was next
6 to the room. So he came outside and called me inside the
7 room.
8 Q Whose room?
9 A Their room.
10 Q Their room?
11 A Um-h'm.
12 Q Is that a yes?
13 A Yes.
14 Q Sorry, there's a nice person typing everything
15 down.
16 A I'm sorry.
17 Q And you said you went inside. You were outside,
18 and you went inside to get a cup of water?
19 A Yes. We were playing soccer.
20 Q When you went inside, do you know who was inside
21 the house?
22 A Just him.
23 Q Just Mr. Vasquez-Reyes?
24 A Yes.
25 Q Where was your mother?

1 A She was working.

2 Q Do you know where your brother was?

3 A Outside playing. We were all playing.

4 Q Your sister, too?

5 A I think so, yes.

6 Q Okay. So you remember only being -- he was the

7 only one inside the house when you went in?

8 A Yes.

9 Q Okay. So you indicated that you went inside to get

10 a cup of water, he came out and asked you to go inside his

11 room; is that correct? Is that a yes?

12 A Yes.

13 Q What happens next?

14 A And -- I'm sorry.

15 Q I understand. Feel free to take your time.

16 A He called me inside, and then he just threw me in

17 the bed.

18 Q So you go inside of his room and he throws you on

19 the bed?

20 A Yes.

21 Q Is he saying anything to you at this time?

22 A No. I don't remember.

23 Q Are you saying anything to him?

24 A Why? That's it.

25 Q Why? Is that a yes?

1 A Yes.

2 Q So you're inside his room asking him why after he
3 threw you onto the bed. What happens?

4 A And then he started touching me.

5 Q Where is he touching you?

6 A My parts.

7 Q I'm sorry, what was that?

8 A He just started touching me, like, in general, like
9 my -- my parts.

10 Q What was he using to touch you?

11 A His hand.

12 Q At this point in time, are you the only two people
13 in the room?

14 A Yes.

15 Q Is the door open or closed?

16 A Closed.

17 Q When he's touching your body, is he saying anything
18 to you at that time?

19 A He just said that he wanted me.

20 Q So as you're laying on the bed, that he threw you
21 on, he starts touching your body and says, I want you?

22 A Yeah, and then he got on top of me. I had -- I had
23 some -- some soccer shorts, and from there -- from there he
24 just took off his work pants because he has on work pants.

25 Q So let me ask you this, what were you wearing at

1 that time?

2 A I don't remember what type of shirt, but I was
3 wearing soccer shorts.

4 Q And what was he wearing?

5 A His work pants. He will always keep his work pants
6 after work.

7 Q And you indicated at some point in time, he gets on
8 top of you --

9 MS. HOJJAT: And objection. Counsel is narrating
10 the testimony.

11 THE COURT: Yeah, I would --

12 MR. ROWLES: Okay.

13 THE COURT: Just ask the questions.

14 MR. ROWLES: Okay.

15 BY MR. ROWLES:

16 Q Your clothes come off at some point?

17 A Yes. Just my shorts.

18 Q And you -- and does his pants off?

19 A Yes.

20 Q Who takes your shorts off?

21 A Him.

22 Q Mr. Vasquez-Reyes?

23 A Yes.

24 Q How does -- how are his pants removed?

25 A I don't --

1 Q Or does he take his pants off?
2 A Yes.
3 Q What happens at that time?
4 A Everything was just really fast, and everything
5 happened really fast.
6 Q Were you on the bed at this time?
7 A Yeah.
8 Q How were you positioned?
9 A I was face up.
10 Q So your back would be on the bed?
11 A Yes.
12 Q And you indicated that everything happened really
13 fast. What happened?
14 A When pulled my -- my shorts down, his -- he put his
15 penis inside my vagina.
16 Q How long did that last?
17 A Not long. Probably like -- I don't remember, but
18 it was not much time.
19 Q Was he wearing a condom?
20 A No.
21 Q Did he ejaculate?
22 A No. I don't think so.
23 Q How did it stop?
24 A He just came off. He just got off.
25 Q He just got off of you?

1 A Yeah. And -- and I went outside to the bathroom.
2 I just went outside and I used the bathroom. And I just
3 remember that it was -- it was burning, and it was hurting a
4 lot.

5 Q What was hurting a lot?

6 A My vagina.

7 Q What was burning?

8 A Down there, too.

9 Q When you say down there, do you mean your vagina?

10 A Yes.

11 Q I want to go back a little bit. While his penis is
12 inside your vagina, is he saying anything to you?

13 A I don't remember.

14 Q Are you saying anything to him?

15 A Just to stop. That I didn't like it. That I
16 didn't want it. It was my first time.

17 Q So you indicated when it stopped, you went back --
18 you went to the bathroom?

19 A I went outside, yeah.

20 Q What happened when you went outside?

21 A I just used the bathroom, and I remember because
22 when I was peeing, it was burning. So I just went outside
23 and sat down after. I didn't play no more. I was just
24 sitting down outside, just watching everybody else play.

25 Q Did you --

1 A After -- after everybody stopped playing soccer, I
2 just went inside and took a shower after a while.

3 Q Did you ever tell anyone or -- did you tell anyone
4 what happened on that day?

5 A No.

6 Q Why not?

7 A I was scared for nobody to believe me.

8 Q So after this happened, what was your relationship
9 like with Mr. Vasquez-Reyes then?

10 A Not good anymore.

11 Q Did you ever talk with him about what happened?

12 A No.

13 Q Did it ever happen again?

14 A No.

15 Q Did you take -- what, if any, steps did you take --
16 or let me rephrase that. I apologize.

17 After this incident happened, did you try to take
18 steps to avoid Mr. Vasquez-Reyes?

19 A Yes.

20 Q What were those steps?

21 A I would just not talk to him or just try to stay
22 away from him.

23 Q Were you ever rude to him after this?

24 A Yes.

25 Q What do you mean by that?

1 A I wouldn't -- when he would talk to me, I would not
2 talk to him back or something like that.

3 Q And why was that?

4 A Because of what happened.

5 Q Now, this happened when you indicated that you were
6 12 years old; is that correct?

7 A Yes.

8 Q And you didn't tell anyone what happened the day
9 of, right?

10 A No.

11 Q Did you tell anyone what happened within that year
12 or two?

13 A No.

14 Q Why not?

15 A I guess that I was just scared for nobody to
16 believe me, and I just tried to left everything behind.

17 Q Tried to move beyond this?

18 A Yes.

19 Q When this happened to you -- to you, excuse me,
20 were you aware of anything happening to your sister?

21 A No.

22 Q Now I want to turn your attention to April of 2016,
23 specifically April 16th of 2016.

24 Were you living at the Berkley address that's been
25 discussed?

1 A Yes.

2 Q Who were you living with at that time?

3 A I was living with my mom, Vasquez, my brother, my
4 sister-in-law, my husband, and my sister.

5 Q Okay. So between what we talked about and April
6 16th you got married?

7 A Yes. 2015.

8 Q Did you ever tell your husband about what happened
9 to you?

10 A No.

11 Q Prior to April 16, 2016, had you told anyone about
12 what happened to you?

13 A No.

14 Q Why not?

15 A I left everything behind.

16 Q You were married, right?

17 A Yes.

18 Q Trying to start a new life?

19 A Yes.

20 Q Now, on April 16, 2016, on that date, police
21 eventually come to your residence?

22 A Yes.

23 Q Why were they called to the residence?

24 A Because me and my husband were cleaning our truck,
25 and we used one of Vasquez -- I think it was the vacuum, and

1 he came outside, and he got mad, and he started getting kind
2 of like aggressive. And my mom -- he started yelling at us,
3 and he took it away from us and put it inside the little --
4 the little room where he had all his tools.

5 And then he started fighting with my mom telling
6 her that nobody should be grabbing his stuff.

7 Q Okay. So there was an argument over his tools?

8 A Yeah.

9 Q And police were eventually called; is that correct?

10 A Yes, because he was -- when he was getting
11 aggressive, he grabbed the rent money.

12 Q When the police were there, did you speak with
13 them?

14 A No.

15 Q Did they ask you any questions?

16 A No.

17 Q When the police were there on that day, did you
18 tell anybody about what had happened to you previously?

19 A No.

20 Q Why not?

21 A I just didn't wanted to be in this situations.

22 Q What do you mean by with this situation?

23 A Like I said, I left everything behind, so I didn't
24 want, like, to talk about it or remember things and stuff.

25 Q Did you want your husband to find out about what

1 happened?

2 A No.

3 Q Why not?

4 A I don't know, I just -- no, I just didn't want him
5 to find out.

6 Q Has he found out since?

7 MS. HOJJAT: Objection. Relevance.

8 THE WITNESS: He --

9 MR. ROWLES: I'll --

10 THE COURT: I'm sorry?

11 MS. HOJJAT: Relevance.

12 THE COURT: Okay.

13 MR. ROWLES: I'll move on, Your Honor.

14 THE COURT: Thank you. Sustained.

15 BY MR. ROWLES:

16 Q Talking about what happened, how does that make you
17 feel?

18 A Not good at all.

19 Q Do you want to be here?

20 A No.

21 MS. HOJJAT: Objection. Relevance.

22 THE COURT: Overruled.

23 MR. ROWLES: I think it goes to her credibility,
24 Your Honor.

25 THE COURT: You can answer.

1 BY MR. ROWLES:

2 Q What was that answer?

3 A No.

4 Q At some point in time during this incident or
5 during this time period, were you made aware of what
6 Guadalupe had said?

7 A No.

8 Q Generally?

9 A About -- I didn't understand the question.

10 Q Okay. Was it brought to your attention that
11 Guadalupe spoke to the police?

12 A Yes.

13 Q Did you go with them on April 16, 2016 to the
14 police station?

15 A Yes.

16 Q At the police station, the headquarters, did you
17 speak with police that day?

18 A Not the police.

19 Q At the headquarters did you ever tell police what
20 was going on?

21 A No.

22 Q Or what happened to you?

23 A No.

24 Q But you were aware that Guadalupe was brought to
25 the police station, right?

1 A Yes.

2 Q Were you aware of what Guadalupe -- not the
3 specifics, but were you aware of what Guadalupe had discussed
4 with the police?

5 A Yes.

6 Q Okay. As Guadalupe's sister, how did that make you
7 feel?

8 A It made me feel [inaudible].

9 MS. HOJJAT: Objection. Relevance.

10 MR. ROWLES: I think it goes to her credibility,
11 Your Honor.

12 THE COURT: Overruled.

13 THE WITNESS: It made -- it made me feel sad and
14 disappointed in myself because maybe if when that only time
15 it happened to me, maybe I could have stopped a lot of times
16 that may happen to her. Maybe if I would have stick up by
17 the time, I think my sister wouldn't go through so much.

18 BY MR. SWEETIN:

19 Q After the police station, do you remember coming to
20 the courthouse area and speaking with an attorney?

21 A Yes.

22 Q Was Guadalupe with you?

23 A Yes.

24 Q Did you talk with members of the District
25 Attorney's Office about what happened to you?

1 A Yes.

2 Q Why on that occasion did you decide to come forward
3 with what had happened to you?

4 A Because I -- I think it was the right thing to do
5 for the -- so he could pay for what he did to me, too. So he
6 could -- so they can know that it was not just only her.

7 Q To let people know what really happened?

8 A Yes.

9 MS. HOJJAT: Objection. Misstates the testimony.

10 MR. ROWLES: I'll move on, Your Honor.

11 THE COURT: Thank you.

12 MS. HOJJAT: Motion to strike.

13 THE COURT: The comments are stricken.

14 BY MR. ROWLES:

15 Q I want to talk a little bit about Guadalupe.

16 A Okay.

17 Q When Guadalupe and you first moved to Las Vegas,
18 and I apologize, how old were you at that time? It was 2007,
19 right?

20 A Yeah. Like 10.

21 Q And so Guadalupe was significantly younger?

22 A Five.

23 Q Five?

24 A Yes.

25 Q What was Guadalupe like as a five-year-old?

1 A The nicest little girl you will ever meet. She
2 used to dress like barbies and play barbies with me. She'd
3 play barbies we were probably until like I was like 13.
4 Q You guys would play barbies together?
5 A Yeah, probably like until we were -- I was like 13
6 years old.
7 Q You got a little too old for barbies at 13?
8 A Yeah, at the time.
9 Q Did you notice a change in her personality over the
10 years?
11 A Yes, definitely.
12 Q When did that start happening?
13 A When I noticed like a -- a real, real change about
14 her, it was when we used to live in the two-story house.
15 Q Do you remember how old you were?
16 A Probably like 16. I was 16.
17 Q So how old would Guadalupe have been?
18 A Like 11.
19 Q What change did you notice?
20 A That she started getting aggressive. She just
21 wanted to be alone, and she never wanted to -- mostly, she
22 just wanted to be in her room.
23 Q Did there come a point in time when you guys
24 eventually had different rooms?
25 A Yes.

1 Q Do you remember what residence that was at?
2 A It -- when we had our own room was on the two-story
3 house.
4 Q So that's when she started -- a little change in
5 her personality?
6 A Yeah.
7 Q And you indicated that she just always wanted to be
8 in that room?
9 A Yeah, she just wanted to be in the room.
10 Q What would you be doing at that time?
11 A Well, I was in high school, so I used so get home
12 and sleep and wake up probably like at night and just be on
13 my phone and go back to sleep probably like 4:00 in the
14 morning, wake up again to go to school.
15 Q But you noticed the change in her personality?
16 A Yes.
17 Q What residence did you guys stop living together
18 at? I used the term stopped living together. What residence
19 did you guys stop sharing a room?
20 A When we move into that two -- to the two-story
21 house. That's when we -- we didn't share a room anymore.
22 Q So -- so at some point in time, Guadalupe had her
23 own room?
24 A Yes, that's when she had her own room.
25 Q Did she have a lock on her door?

1 A She had a lock in her room, but it's the type of
2 locks that you could open from the outside.

3 Q Not a very secure lock, then?

4 A No.

5 Q Whose idea was it to get locks?

6 A Me.

7 MS. HOJJAT: Objection. Lack of foundation.

8 THE COURT: Overruled. You can answer.

9 BY MR. ROWLES:

10 Q You?

11 A Me.

12 Q Did you notice anything during those years, that
13 time period that you discussed, around 11 and going on about
14 Guadalupe's body language?

15 A I'm not understanding the question.

16 Q Okay. Did her posture change? Did she stand up
17 tall or --

18 MS. HOJJAT: Objection. Lack of --

19 BY MR. ROWLES:

20 Q -- would she slump over?

21 MS. HOJJAT: -- foundation. Speculation.

22 THE COURT: Overruled. You can answer as to your
23 observations.

24 THE WITNESS: She -- well, she just start covering
25 herself more.

1 BY MR. ROWLES:

2 Q What do you mean by that?

3 A Like, to this point she likes to wear long-sleeved
4 shirts. Not all the time, but she always wear sweats or like
5 just baggy clothes.

6 Q A change from the girl who loved barbies to baggy
7 clothes?

8 A Yes.

9 MR. ROWLES: Court's brief indulgence.

10 THE COURT: You bet.

11 BY MR. ROWLES:

12 Q In April of 2016, when you were married and living
13 at the Berkley address, did you guys have plans to move out of
14 that address?

15 A Yes.

16 Q Why was that?

17 A We wanted our own little house.

18 Q You and your husband?

19 A Yes.

20 MR. ROWLES: Nothing further, Your Honor.

21 THE COURT: Any cross?

22 MS. HOJJAT: Yes, Your Honor. Thank you.

23 CROSS-EXAMINATION

24 BY MS. HOJJAT:

25 Q Good afternoon, ma'am.

1 A Good afternoon.

2 Q You prefer to go by Stephanie?

3 A Yes.

4 Q Guadalupe is your little sister?

5 A Yes.

6 Q You love her?

7 A A lot.

8 Q A lot. You grew up together?

9 A Yes.

10 Q You shared a room for years?

11 A Yes.

12 Q At the first apartment when you first came to Las

13 Vegas, you shared a room?

14 A Not when we moved in here. It was just a

15 two-bedroom.

16 Q Okay. So you were all in a room together?

17 A No, we never slept together. Well, not with them.

18 Not with my mom and him.

19 Q I'm sorry, I should clarify. I meant a bedroom,

20 not a bed, with Guadalupe.

21 A Yes.

22 Q You shared a room?

23 A Yes.

24 Q Okay. At the second apartment, you and Guadalupe

25 shared a room?

1 A Yes.

2 Q At the house on Stanford Street, you and Guadalupe
3 shared a room?

4 A And my brother, too.

5 Q And your brother. But you and Guadalupe were --

6 A Yes.

7 Q At the house near Jim Bridger, you and Guadalupe
8 shared a room?

9 A Yes.

10 Q So you guys have grown up together?

11 A Um-h'm.

12 Q You're very close?

13 A Yes.

14 Q I want to talk to you about why the police came to
15 the house on Berkley Street in April of 2016.

16 So there was an argument with Armando?

17 A Yes.

18 Q And that argument started with you and your husband
19 and Armando?

20 A Yes.

21 Q Okay. And Armando was a bit difficult to live
22 with, wasn't he?

23 A Yes.

24 Q There were a lot of arguments with Armando?

25 A Yes.

1 Q And the DA talked about the fact that you and your
2 husband say you were planning on moving out because you
3 wanted your own place?
4 A Yes.
5 Q And that it had nothing to do with Armando?
6 A No.
7 Q Okay. You testified in this case at a preliminary
8 hearing in July of 2016?
9 A Um-h'm.
10 Q Correct?
11 A Yes.
12 Q Now, Armando left the house that day, April of
13 2016 --
14 A Um-h'm.
15 Q -- correct? He was --
16 THE COURT: Is that a yes?
17 BY MS. HOJJAT:
18 Q -- no longer there?
19 A Yes.
20 THE COURT: Thank you.
21 BY MS. HOJJAT:
22 Q So he was no longer there?
23 A No.
24 Q Okay. As of July of 2016, you and your husband
25 were still living with your mother and Guadalupe, correct?

1 A Yes.

2 Q Okay. So you actually ended up not leaving,
3 correct?

4 A We -- we left probably like two months later.

5 Q Okay. So the original plan was May of 2016,
6 according to you guys?

7 A I didn't understood your question.

8 Q Did you tell the district attorney that you were
9 planning on leaving in May of 2016?

10 A Yes.

11 Q Okay. But as of July of 2016, you were still
12 living with your mother and Guadalupe?

13 A Yes.

14 Q After Armando got arrested?

15 A Yes.

16 Q I want to talk to you about what you say happened.
17 You said today that he was touching you?

18 A Um-h'm, yes.

19 Q That day? That summer at the Stanford house?

20 A Yes.

21 Q Okay. Where was he touching you?

22 A My vagina and he was just touching me.

23 Q So was it everywhere or was it just your vagina?

24 A Everywhere, like --

25 Q Everywhere. Okay.

1 And that's what you said in your initial statement
2 to detectives was everywhere, correct?

3 A I don't remember.

4 Q You don't remember?

5 A No.

6 MS. HOJJAT: Page 7.

7 BY MS. HOJJAT:

8 Q Would it refresh your recollection to take a look
9 at your statement to see what you said to the detective?

10 A Um-h'm.

11 Q Okay. You can read that silently to yourself.
12 Okay?

13 Okay. So you originally told detectives that he was
14 touching me everywhere, right?

15 A Yes.

16 Q And you then you testified at a preliminary hearing
17 in this case?

18 A Um-h'm.

19 Q And it was just a couple months later, right?

20 A Yes.

21 Q Your statement to the detective was in May of 2016?

22 A I don't remember the dates.

23 Q If I told you it was May of 2016 --

24 A Okay.

25 Q -- does that sound about right?

1 A Yes.

2 Q Yeah. And then you testified in July of 2016 at a
3 preliminary hearing?

4 A Yes.

5 Q And in July of 2016, did you testify that he didn't
6 touch you anywhere besides your vagina?

7 A I don't remember.

8 Q Would it --

9 A What I just read?

10 Q -- refresh your recollection to see your testimony?

11 A Sure.

12 MS. HOJJAT: Page 78.

13 BY MS. HOJJAT:

14 Q So in July of 2016, you were asked, So did he touch
15 you anywhere besides your vagina over your clothes? And you
16 said no, correct?

17 A Yes.

18 Q And then today you were asked if you were saying
19 anything to him while he was doing this to you.

20 A Yes.

21 Q And you said that you were saying "why".

22 A Yes.

23 Q Correct? You didn't say that to the detective in
24 May of 2016.

25 A Okay.

1 Q And you didn't say that at preliminary hearing in
2 July of 2016.

3 A Okay.

4 Q Is that correct?

5 A Yes.

6 Q In May of 2016, you told the detective that you
7 telling him to stop and that he was hurting you?

8 A Um-h'm.

9 Q Does that sound right?

10 A Yes.

11 Q And then in July of 2016, you said that you didn't
12 say anything at all while it was happening.

13 A Okay.

14 Q Does that sound right?

15 A Yes. Only he know why he did. Only he know what I
16 said.

17 Q Did you bleed after this encounter?

18 A Yes.

19 Q You did bleed?

20 A Yes.

21 Q So you said that Armando asked you to go to this
22 bedroom?

23 A Yes.

24 Q And that you went?

25 A Yes.

1 Q And that's where he raped you?
2 A Yes.
3 Q And then you lived with him after this?
4 A Yes.
5 Q You lived with him for years?
6 A Yes.
7 Q In the same house?
8 A Yes.
9 Q And in other houses?
10 A Yes.
11 Q But all of you living together?
12 A Yes.
13 Q And your little sister was there?
14 A Yes.
15 Q And for a lot of that, you and your little sister
16 were sharing a room?
17 A Yes.
18 Q And he would ask your little sister to go to his
19 bedroom?
20 A Yes.
21 Q At night?
22 A I don't know.
23 Q And the door to the bedroom would be closed?
24 A Yes. His door was always closed.
25 Q And your little sister was in there with him,

1 correct?

2 A I didn't understood.

3 Q Well, you never suspected anything was going on?

4 A No, definitely not.

5 Q In fact, you were never worried that Guadalupe may

6 be raped by Armando?

7 A No.

8 Q Despite the fact that you claim you were raped by

9 Armando?

10 A Yes.

11 Q Guadalupe told us about a time that you left her

12 alone in the bedroom --

13 MR. SWEETIN: Objection. Hearsay.

14 THE COURT: Yeah, sustained.

15 BY MS. HOJJAT:

16 Q Was there a time that you left Guadalupe alone in

17 the bedroom with Armando?

18 A I don't remember.

19 Q Was there a time that you all were watching a movie

20 on Armando's bed --

21 A Yes.

22 Q -- in your parents' bedroom?

23 A Yes.

24 Q And then you got tired, yes?

25 A I don't remember, but I do remember that we used to

1 all watch movies sometimes, too.

2 Q Okay. Do you remember a time where you got up and
3 left the bedroom?

4 A I don't remember.

5 Q And left Guadalupe alone --

6 A I don't remember.

7 Q -- in that bedroom with Armando?

8 A I don't remember.

9 Q You don't remember that?

10 You said this happened when you were about 13 years old.

11 MR. ROWLES: Objection. Misstates the testimony.

12 BY MS. HOJJAT:

13 Q How old did you say you were --

14 THE COURT: Go ahead.

15 BY MS. HOJJAT:

16 Q -- today?

17 A 12. Right -- 12.

18 Q Okay. Have you previously said around 12 or 13?

19 A Maybe when I didn't remember exactly how old I was.

20 Q Okay. Do you remember today exactly how old you
21 were?

22 A I was 12 years old.

23 Q Okay. So the previous statement of 13 is
24 incorrect?

25 A Yes.

1 Q All right. So this happened when you were about 12
2 years old. You knew it was wrong?

3 A Yes.

4 Q You knew it shouldn't be happening?

5 A Yes.

6 Q You weren't confused about whether what was
7 happening was wrong?

8 A I knew it was wrong.

9 Q Okay. You never told anyone?

10 A No.

11 Q You never told your mother?

12 A No.

13 Q You never told a teacher?

14 A Nobody.

15 Q You never told a counselor?

16 A Nobody.

17 Q You never told a single friend?

18 A Nobody.

19 Q You never wrote it down in a diary?

20 A Nobody.

21 Q Diary?

22 A No.

23 Q And then you talked today about how you felt an
24 April 16, 2016, when you heard the accusation that Guadalupe
25 was making.

1 A Yes.

2 Q Your little sister.

3 A Yes.

4 Q You said you felt sad and disappointed in yourself?

5 A Yes.

6 Q Basically, that you didn't do something for her?

7 A Right.

8 Q At that point, you were 18 years old?

9 A Yes.

10 Q She was 14?

11 A Yes.

12 Q She was saying that Armando had raped her? You

13 heard that that's what she was saying?

14 A Something like that, yes.

15 Q Okay. And you believed her?

16 A Definitely, yes.

17 Q And you knew she was being taken to a police

18 station to make a statement?

19 A Yes.

20 Q And that she was going to be subjected to

21 questioning?

22 A Yes.

23 Q But you didn't say anything?

24 A Right.

25 Q Somebody asked to talk to you that day?

1 A One of the detective asked me.

2 Q Right. One of the detectives asked to speak with
3 you that day, and he did speak with you that day?

4 A Yes.

5 Q He specifically asked you if Armando had ever done
6 anything to you?

7 A Yes.

8 Q And you said no?

9 A Yes.

10 Q Now, I want to talk to you about when you made this
11 accusation about Armando. It was about a month and a half
12 later, correct?

13 A Yes.

14 Q Okay. And you said today that you wanted them to
15 know it wasn't just her.

16 A Yes.

17 Q You wanted him to pay for you, too?

18 A Also, yes.

19 Q You actually told the detective you wanted him to
20 get more time?

21 A Not exactly like that, but I just wanted them to
22 know what happened to me, too.

23 MS. HOJJAT: Court's indulgence.

24 BY MS. HOJJAT:

25 Q And so on the day that -- I'll back up.

1 The DA's Office called your mother and asked them
2 to bring Guadalupe in to speak with her, correct?
3 A Correct.
4 Q Okay. So they said they needed to talk to
5 Guadalupe, yes?
6 A Yes.
7 Q And there was a court date coming up soon?
8 A I don't remember.
9 Q Okay. But you knew that they wanted to speak with
10 Guadalupe?
11 A Yes.
12 Q About this?
13 A Yes.
14 Q And they didn't ask you to go along?
15 A No.
16 Q The DA's Office did not ask for your presence?
17 A No.
18 Q They didn't want to talk to you?
19 A Right.
20 Q You decided to go along?
21 A Yes.
22 Q On your own?
23 A Yes.
24 Q Mael had lived with you all for most of this time
25 in most of these houses as well --

1 A Yes.

2 Q -- correct? Mael didn't go along to the DA's
3 Office?

4 A No.

5 Q But you did?

6 A Yes.

7 Q And then at the DA's Office you made this
8 accusation?

9 A Yes.

10 Q And I just want to go back to the conversation you
11 had with the detective. Not only did you say that Armando
12 never did anything to you, you also didn't report having seen
13 anything suspicious that day?

14 A Right.

15 Q Correct? Your conversation was very short?

16 A Yes.

17 Q It wasn't even recorded?

18 A I know.

19 Q And that's because you told him you'd never seen
20 anything, correct?

21 A Yes.

22 Q You told him you'd never suspected anything?

23 A Right.

24 Q You didn't report seeing any sort of strange
25 behaviors?

1 A I wouldn't know about nothing like that.

2 Q Okay. You have no information at all the day of

3 April 16, 2016?

4 A No.

5 Q Correct?

6 MS. HOJJAT: Court's indulgence.

7 THE COURT: Mr. Bracks, are you okay? Do you need

8 a break?

9 JUROR NO. 4: I'm okay.

10 THE COURT: Are you okay?

11 JUROR NO. 4: Yeah.

12 THE COURT: Are you sure? Okay. When this witness

13 is done, we'll take a break.

14 MS. HOJJAT: I'll pass the witness, Your Honor.

15 THE COURT: Thank you. Any redirect?

16 MR. ROWLES: Yes, Your Honor.

17 REDIRECT EXAMINATION

18 BY MR. ROWLES:

19 Q Ms. Alvarez, when you were sexually assaulted, was

20 anyone inside the house?

21 A No.

22 Q Was anyone inside that room?

23 A No.

24 Q Did you tell anyone?

25 A No.

1 Q Did anyone ask you if anything was wrong or suspect
2 anything?
3 A No.
4 Q So no one had any information about your sexual
5 assault?
6 A Nobody.
7 Q Just like Guadalupe's? You love your sister,
8 right?
9 A A lot.
10 Q Would you make this up to protect her? Would you
11 make up your sexual assault to protect your sister?
12 A Yes.
13 Q You would?
14 A No.
15 Q No?
16 A Sorry.
17 Q Let rephrase that here.
18 You love your sister, right?
19 A Yes.
20 Q Would you come to court and lie about what happened
21 to protect her?
22 A No.
23 Q You indicated that the original plan was to move to
24 May -- or move in May of 2016 with your husband --
25 A Yes.

1 Q -- right? But you ultimately didn't move for a
2 couple months; is that correct?

3 A Right.

4 Q Did something happen between May and April of 2016?
5 The police came, right?

6 A Yes.

7 Q And your sister disclosed allegations of sexual
8 assault, right?

9 A Yes.

10 Q Did that affect --

11 MS. HOJJAT: Objection. Counsel is --

12 BY MR. SWEETIN:

13 Q -- your move?

14 MS. HOJJAT: -- leading, Your Honor.

15 THE COURT: Yeah, you are.

16 MR. ROWLES: It's foundational, Your Honor.

17 THE COURT: You're leading. Pardon?

18 MR. ROWLES: I think it's foundational.

19 MS. HOJJAT: It is not foundational.

20 THE COURT: You're leading a lot.

21 BY MR. ROWLES:

22 Q Do you remember April 16, 2016?

23 A Yes.

24 Q You had plans to -- did you have plans to move on
25 that day?

1 A I had plans to move, yes.

2 Q What affected your change in plans?

3 A Well, I wasn't working, so money would be the
4 problem for me when I move out.

5 Q But you guys ultimately did move out a couple
6 months later?

7 A Yes.

8 Q There was testimony regarding your transcript at
9 the preliminary hearing specifically whether, I believe, you
10 indicated whether you said anything about what the defendant
11 was telling you during the attack. Do you remember that?

12 MS. HOJJAT: Objection. That misstates the
13 question. I didn't ask that.

14 THE COURT: Yeah, I'm not -- that was a little
15 confusing. Maybe you can restate the question.

16 BY MR. ROWLES:

17 Q So do you remember conversations with defense
18 counsel regarding if you had previously said what the
19 defendant was telling you during your sexual assault?

20 MS. HOJJAT: Objection. Misstates the testimony.

21 THE COURT: I don't --

22 MS. HOJJAT: I never asked that.

23 THE COURT: I don't believe that she asked anything
24 like that.

25 MR. ROWLES: My mistake, then.

1 BY MR. ROWLES:

2 Q There was conversations regarding how you and
3 Mr. Vasquez-Reyes and your sister would watch movies; is that
4 correct?

5 A Yes.

6 Q How often would you guys watch movies?

7 A Not often.

8 Q Okay. With you in there?

9 A Yes.

10 Q Okay. Do you remember every time that you watched
11 a movie with Mr. Vasquez-Reyes?

12 A No.

13 Q Do you know every time that your sister watched a
14 movie with --

15 A No.

16 Q -- Mr. Vasquez-Reyes?

17 Were you present every time your sister watched a movie
18 with Mr. Vasquez-Reyes?

19 A No.

20 Q There were conversations regarding your discussions
21 of why you did not tell the detectives what happened to you
22 on the day the police came; do you remember that?

23 A I didn't understood the question.

24 Q When the police came on that day --

25 A Okay.

1 Q -- they asked you what happened; is that right?
2 A Yes.
3 Q Ms. Hojjat asked you regarding that you did not
4 tell them what happened, correct?
5 A Yes.
6 Q Okay. On that day in question did your husband
7 know?
8 A No.
9 Q Did you want your husband to find out?
10 A By then, no.
11 Q Why didn't want -- why didn't you not want your
12 husband to find out?
13 A I don't know, it's an uncomfortable situation.
14 MR. ROWLES: Nothing further, Your Honor.
15 THE COURT: Any recross?
16 MS. HOJJAT: No, Your Honor.
17 THE COURT: Thank you. Ms. Alvarez, thank you very
18 much for your testimony here today. You may step down, and
19 you are excused from your subpoena.
20 THE WITNESS: Thank you.
21 THE COURT: Thank you.
22 At this time, we're going to take a recess.
23 During this recess, you're admonished not to talk
24 or converse amongst yourselves or with anyone else on any
25 subject connected with this trial, or read, watch, or listen

1 to any report of or commentary on the trial or any person
2 connected with this trial by any medium of information,
3 including without limitation, newspapers, television, the
4 Internet, and radio, or form or express any opinion on any
5 subject connected with this trial until the case is finally
6 submitted to you.

7 We'll be in recess for the next 15 minutes.

8 THE MARSHAL: Thank you. All rise for the exiting
9 jurors, please.

10 (Court recessed at 10:52 a.m. until 11:07 a.m.)

11 (Outside the presence of the jury.)

12 MR. FELICIANO: Just while we have a second or so.

13 THE COURT: Okay. Sure. Outside the presence of
14 the jury.

15 MR. FELICIANO: So Mr. Vasquez-Reyes, they changed
16 his shirt today, but they gave him a very distinct rust
17 colored shirt, which is fine.

18 THE COURT: Okay.

19 MR. FELICIANO: We're not objecting to it, but
20 we're asking when he comes back next week that they put him
21 in something else. We're just asking that be made part of
22 the record because I know they -- if we ask them, they don't
23 really --

24 THE COURT: Okay.

25 MR. FELICIANO: -- care what we say.

1 THE COURT: What, you want him in a white shirt?
2 MR. FELICIANO: Something that's just not rust
3 colored.
4 THE COURT: So anything other than this shirt?
5 MR. FELICIANO: Yeah.
6 THE COURT: What's wrong with that shirt?
7 MR. FELICIANO: Well, that same shirt every day
8 doesn't --
9 MS. HOJJAT: So what happened was she brought him
10 today in the same shirt they've had him -- they've had him in
11 the same shirt all week. And finally, today here like, this
12 is -- the jury can tell, you know what I mean?
13 THE COURT: Oh, the blue shirt?
14 MR. FELICIANO: Yeah.
15 MS. HOJJAT: They're bringing him in the same shirt
16 every day. We sent him back for a different shirt. If they
17 bring him back in the same shirt on Monday, the jury's going
18 to know. I mean, at a certainly point.
19 MR. FELICIANO: They're going to know he's in
20 custody.
21 MS. HOJJAT: He's wearing the same shirt every
22 single day.
23 THE COURT: Okay. So what are you asking?
24 MR. FELICIANO: So not this shirt or not the blue
25 shirt.

1 MS. HOJJAT: Yeah, just a different shirt on
2 Monday.
3 THE COURT: Okay. Just maybe a white shirt?
4 MR. FELICIANO: Yeah, that would be great.
5 MS. HOJJAT: That will be perfect.
6 THE COURT: Okay.
7 MS. HOJJAT: Thank you.
8 THE COURT: So who do I tell you that to?
9 MR. FELICIANO: The transporter.
10 THE COURT: Do you want me to have Cam -- well --
11 MR. FELICIANO: Transport maybe.
12 THE COURT: I mean --
13 CORRECTIONS OFFICER: We talked about this earlier.
14 It's not that we don't care.
15 MR. FELICIANO: No, no. I mean, I'm not --
16 THE COURT: No, I know.
17 CORRECTIONS OFFICER: [Inaudible].
18 MR. FELICIANO: I'm sorry.
19 CORRECTIONS OFFICER: It was explained earlier that
20 sometimes they get dressed out, and then we bring them up.
21 Had I been the one that dressed him out this morning, I would
22 have known that was the third day he had worn the shirt,
23 so --
24 MR. FELICIANO: And I --
25 THE MARSHAL: I'll relay the message to our

1 property people, make sure he doesn't get this shirt --
2 THE COURT: Okay.
3 THE MARSHAL: -- same shirt on Monday.
4 THE COURT: Because if it's white shirts, you know,
5 the white shirt wouldn't be as obvious as --
6 CORRECTIONS OFFICER: Right.
7 THE COURT: -- you know, blue and rust.
8 MR. FELICIANO: And I --
9 CORRECTIONS OFFICER: And we're also very limited
10 on -- because we've got five trials right now, and everybody
11 needs a shirt, and we're kind ever short on shirts, so --
12 THE COURT: Okay.
13 CORRECTIONS OFFICER: -- we do it the best we can.
14 THE COURT: Okay.
15 MR. FELICIANO: And I apologize.
16 CORRECTIONS OFFICER: [Inaudible].
17 MR. FELICIANO: I didn't mean to suggest that these
18 officers were -- didn't care. I --
19 THE COURT: Because it's different. It's
20 different officers all the time.
21 MR. FELICIANO: No. Yeah, they actually helped
22 us --
23 MS. HOJJAT: No, no, they --
24 MR. FELICIANO: -- out this morning.
25 MS. HOJJAT: -- they did. Yeah, they were

1 fantastic.

2 MR. FELICIANO: And got him changed for us.

3 MS. HOJJAT: And they were the ones who told us

4 [inaudible].

5 MR. FELICIANO: I just mean --

6 (Mr. Feliciano/Ms. Hojjat talking simultaneously)

7 MR. FELICIANO: I just mean -- I just mean kind of

8 back there, they --

9 THE COURT: Okay.

10 MR. FELICIANO: -- kind of get what they get, so --

11 THE COURT: Okay.

12 MR. FELICIANO: Thank you.

13 THE COURT: You can't take clothes over there

14 anymore? Because we used to do that.

15 MS. HOJJAT: They told us to stop.

16 MR. FELICIANO: Things change --

17 THE COURT: Yeah, we used to do that.

18 MR. FELICIANO: It seems to change, and if they --

19 if they have it there, it's preferable.

20 MS. HOJJAT: It's my understanding the new rule,

21 and don't quote me on it, because everything --

22 THE COURT: Okay.

23 MS. HOJJAT: -- is hearsay. My understanding is

24 now if the defendant actually has clothes, they can take

25 those, but then they put it directly in the defendant's

1 property when it's done. So we -- our office did have shirts
2 that we would just kind of trade out and use --

3 THE COURT: Oh.

4 MS. HOJJAT: -- for all our clients, but they won't
5 do that anymore.

6 THE COURT: Okay.

7 MS. HOJJAT: If we book something in, it becomes
8 his.

9 THE COURT: Okay. I see.

10 MS. HOJJAT: That's what I've been told. I don't
11 know how --

12 MR. FELICIANO: And it takes time to get -- it
13 would take time to get from there to him, they have to search
14 everything, and it's like a whole thing.

15 THE COURT: Okay. So that's not like you can bring
16 a white shirt in here?

17 MR. FELICIANO: No, no.

18 THE COURT: Okay. That's what I figured. See,
19 Hawkes is over there with his big ears.

20 THE MARSHAL: I hear everything.

21 THE COURT: I know. Geez, that was good. Okay.
22 Are you guys both -- are both sides ready now?

23 MR. SWEETIN: Yes, Your Honor.

24 THE COURT: Okay. You can bring them in.
25 (Off-record colloquy)

1 THE MARSHAL: All rise for the entering jury,
2 please.

3 (In the presence of the jury.)

4 THE MARSHAL: Thank you, everyone. Please be
5 seated.

6 THE COURT: Does the State of Nevada stipulate to
7 the presence of the jury panel?

8 MR. SWEETIN: Yes, Your Honor.

9 THE COURT: And the defense?

10 MR. FELICIANO: Yes or no.

11 THE COURT: Thank you. You may call your next
12 witness.

13 MR. SWEETIN: State would call Maria Corral.

14 MARIA CORRAL, STATE'S WITNESS, SWORN

15 THE CLERK: You may be seated.

16 THE COURT: Good morning.

17 THE WITNESS: Good morning.

18 THE CLERK: Please state and spell your first and
19 last name for the record.

20 THE WITNESS: My name is Maria Corral. Maria is
21 spelled M-a-r-i-a. Corral is C-o, double r-a-l.

22 MR. SWEETIN: May I proceed, Judge?

23 THE COURT: You may.

24 DIRECT EXAMINATION

25 BY MR. SWEETIN:

1 Q Ms. Corral, how are you currently employed?

2 A I am employed by Las Vegas Metropolitan Police

3 Department as a Spanish interpreter part-time.

4 Q And how long have you been employed in that

5 capacity?

6 A For 15 years.

7 Q And what essentially are your duties as a part-time

8 translator for the Las Vegas Metropolitan Police Department?

9 A I interpret for the detectives, the officers, I go

10 out to the scene and interpret for the Spanish speakers and

11 the officers like I said.

12 Q So to be fair to say you translate Spanish to

13 English, English to Spanish?

14 A I do.

15 Q Do you have any specific training that qualifies

16 you to do that job?

17 A I passed all the testing requirements through --

18 through LVMPD. I've taken some workshop classes through the

19 courts. And I took a course through UNLV.

20 Q How long have you been speaking Spanish?

21 A That's my native language. I've always spoken

22 Spanish.

23 Q And how long have you been speaking English?

24 A Since I was -- I had all my schooling here, and

25 I've been here since I was seven years old.

1 Q So it would be fair to say you've been bilingual
2 for most your life?

3 A Yes.

4 Q Now, you made reference to certifications through
5 the Las Vegas Metropolitan Police Department; is that right?

6 A Yes.

7 Q What specific certifications do they give to
8 translators?

9 A You have to take a written test, an oral, and an
10 audio.

11 Q And ultimately, are the certifications in regards
12 to speaking and writing and otherwise interpreting source to
13 source?

14 A Yes.

15 Q So they're separate certifications; is that
16 correct?

17 A It's one certification that all those three follow
18 under.

19 Q And you have all of those certifications; is that
20 correct?

21 A Yes.

22 Q Have you previously testified as an expert in
23 regards to translation between Spanish and English in the
24 courts here in Clark County?

25 A Yes, once before, um-h'm.

1 Q Now I want to turn your attention to April 16, 2016
2 in the afternoon hours. Do you remember whether or not you
3 were employed on duty on that particular day?

4 A Yes, I was.

5 Q Did you have occasion to respond to a residence
6 over at 2213 Berkley Avenue here in Clark County, Nevada on
7 that day?

8 A Yes, I did.

9 Q Do you remember when you arrived?

10 A Around 4:30 in the afternoon.

11 Q And what was the purpose of you going to that
12 residence?

13 A Because of some -- it was a domestic violence, but
14 I went through due to some other allegations that were being
15 made against the defendant.

16 Q Okay. You indicated you were a translator on that
17 day; is that right?

18 A Yes.

19 Q So was that your involvement and your role as you
20 went to that location?

21 A Yes, I went there to translate for the officer.

22 Q Now, upon arrival at that location, do you remember
23 any particular police officer or detective that you came in
24 contact with?

25 A Yes, Detective Pretti.

1 Q Okay. And upon making contact with Detective
2 Pretti, did you make contact with anyone else?

3 A Yes. When I first arrived there, I made contact
4 with the two officers that were there, and then made contact
5 with the defendant later.

6 Q And you made reference to the defendant. Do you
7 see that person in the courtroom today?

8 A Yes.

9 Q And what I need you to do is point that person out,
10 identify something that person is wearing today?

11 A Oh, he's right in front of me. He's right there,
12 and he's wearing like a -- I think a blue tie.

13 MR. SWEETIN: May the record reflect the witness
14 identified the defendant?

15 THE COURT: So reflected.

16 MR. SWEETIN: Okay.

17 BY MR. SWEETIN:

18 Q Now, you mentioned that you were assisting
19 Detective Pretti. Could you describe exactly what happened
20 at that point as you made contact with Detective Pretti?

21 A When we first got to the residence and Detective
22 Pretti was there, he -- he made reference that we all needed
23 to go back to headquarters.

24 Q Okay. Let me stop you there for a minute. At some
25 point in time, you indicated that you and Detective Pretti

1 made contact with the defendant; is that correct?

2 A Yes.

3 Q Okay. And was that there at that residence?

4 A It was at the residence.

5 Q Do you remember where you were specifically?

6 A I was out on -- I was on the street, and yeah, I

7 was standing on the street by the patrol officers.

8 Q Okay. And at that time, did you assist Detective

9 Pretti in translating English to Spanish with the defendant?

10 A Not at that time.

11 Q Okay. At some point in time you did?

12 A Yes.

13 Q Where were you at that time?

14 A Headquarters.

15 Q Okay?

16 A In the interview room.

17 Q So did you assist Detective Pretti in translating

18 for him as you were at that particular residence?

19 A Not at the residence.

20 Q Okay?

21 A That I remember.

22 Q Did Detective Pretti talk to the defendant at the

23 residence?

24 A As to -- yes, he told them that we would be going

25 to headquarters.

1 Q Okay. Well, let me stop you there.

2 A Okay.

3 Q Did you assist him in talking to the --

4 A Yes.

5 Q Okay. So you did translate for him there?

6 A Yes.

7 Q Okay. Now, do you remember exactly what was said

8 as you were there?

9 A I don't remember exactly what was said.

10 Q Okay. Do you remember the gist of the

11 conversation, the subject matter?

12 A Somewhat, yes.

13 Q What was the general subject to the conversation?

14 A That we needed to meet -- we all needed to meet at

15 the headquarters.

16 Q Okay. As a result of that, did you become aware of

17 -- well, let me ask you in regards to that, did you translate

18 everything verbatim, word for English to Spanish, Spanish to

19 English during that conversation?

20 A Yes.

21 Q Okay. Now, at some point in time, did you end up

22 going to police headquarters?

23 A Yes, we did.

24 Q Okay. And upon arriving at police headquarters,

25 did you make contact with the Detective Pretti?

1 A Yes.

2 Q Okay. Did you make contact with the defendant?

3 A Yes.

4 Q Now, prior to that time, do you recall what the
5 defendant's demeanor was?

6 A He was calm. He was cooperative.

7 Q Okay. Prior to arriving at headquarters, did he
8 answer all the questions that were given to him
9 appropriately?

10 A Yes.

11 Q Okay. And did -- was there anything about him that
12 made you believe that he didn't understand what you were
13 saying to him?

14 A No.

15 MS. HOJJAT: Objection. Speculation as to what he
16 understood.

17 THE COURT: Overruled. You can answer.

18 BY MR. SWEETIN:

19 Q Once you got to the police station, did you again
20 assist Detective Pretti in talking to the defendant?

21 A Yes.

22 Q Okay. And do you remember where that occurred?

23 A That was in the interview room.

24 Q Okay. Now, was it just one conversation that
25 Detective Pretti had with the defendant or a few

1 conversations?

2 A A few conversations.

3 Q Okay. For each of those conversations, did you
4 accurately translate everything that was being said in
5 English, everything that was being said in Spanish back and
6 forth between Detective Pretti and the defendant?

7 A Yes, I did.

8 Q Okay. Now, do you recall there being at one of
9 those occasions when you translated being a little bit longer
10 period of time with a sort of an interview in that room?

11 A Yes.

12 Q Now, I'm going to show you --

13 MR. SWEETIN: May I approach, Judge?

14 THE COURT: You may.

15 BY MR. SWEETIN:

16 Q -- what's marked as State's Exhibit 3, which is a
17 video. Do you recognize this as being that interview room?

18 A Yes.

19 Q Okay. And do you recognize this as including both
20 video and audio of portions of the time in that interview
21 room when you were translating for Detective Pretti and the
22 defendant?

23 A Yes.

24 Q Okay. You've had an opportunity to review this on
25 prior occasion; is that correct?

1 A That's correct.

2 Q And is this a clear and accurate depiction of what
3 you observed inside the interview room for the times that you
4 were in the interview room?

5 A Yes.

6 Q Okay. Now, we made reference to a somewhat longer
7 conversation that was had with the defendant in that
8 interview room. Are you familiar with a transcription being
9 made of that conversation?

10 A Yes.

11 Q And I'm going to show you what's marked as State's
12 Proposed Exhibit No. 4 and ask if you recognize that?

13 A Yes.

14 Q Okay. And what had is that?

15 A That's a transcription of the interview.

16 Q Okay.

17 A That took place.

18 Q Now, let me ask you about the transcription; is
19 there any Spanish written in that transcription at all?

20 A No.

21 Q Okay. Now, in the course of the interview that you
22 were there, there was Spanish being spoken; is that correct?

23 A That's correct.

24 Q Now, was the times when there's Spanish spoken in
25 that video, is that transcribed or translated into English in

1 this particular transcript?

2 A Yes, it is.

3 Q Now, did you personally translate all of those
4 particular Spanish -- Spanish excerpts into English?

5 A I did not.

6 Q That was done by another translator?

7 A That was done by someone else, um-h'm.

8 Q Have you had an opportunity to review this
9 transcription in its entirety?

10 A I have.

11 Q Okay. And in conjunction with reviewing it, have
12 you been able to watch the actual interview?

13 A Yes.

14 Q Have you determined that this transcription is
15 complete and accurate?

16 A It's complete and accurate.

17 Q Okay. Is every part of it completely accurate?

18 A I found two parts in there that were not.

19 Q Okay. Let's talk about the first part that you
20 said was not. Which part would that be?

21 A That would be on page 4.

22 Q All right. On page 4 of this transcript, and there
23 are various lines on the page. Can you make reference to the
24 line on page 4?

25 A On page 4, let me see. On line 4 -- let me see if

1 that -- no, line 5. He made reference to the wife being mad.
2 So I said "mad" and the transcriber wrote "upset".
3 Q All right. So let's take a look here.
4 A Right there.
5 Q It's actually six -- one, two, three, four, five,
6 six. So is that line six?
7 A That's line six.
8 Q Okay. So on line six there's reference to the word
9 upset --
10 A Upset.
11 Q -- is that correct?
12 A Correct.
13 Q Okay. And that is actually a translation that was
14 done by the other translator; is that right?
15 A That's correct.
16 Q Now, you actually translated that in realtime
17 during the interview; is that correct?
18 A That's correct.
19 Q And how did you translate that?
20 A I said mad.
21 Q Okay. And that had would be on line what?
22 A On the -- seven, right here. Yeah, right there.
23 Q Okay. Would that be on line eight?
24 A Eight.
25 Q Okay. And so you translated that as what?

1 A As mad.

2 Q Okay. So the other translator said upset, you
3 translated it as mad; is that correct?

4 A Right, that's correct.

5 Q And you had an opportunity to listen to that; is
6 that correct?

7 A That's correct.

8 Q And you determined which translation was correct?

9 A I -- yes.

10 Q Which translation was --

11 A I say, mad.

12 Q Okay. So your translation is correct in that
13 regard?

14 A Um-h'm, right.

15 Q Okay. Now, you indicated that there was another
16 translation issue; is that right?

17 A Yes. That's on page 17.

18 Q Okay. And what line are we talking about?

19 A And that would be the third line where it's the
20 word rape". I used "abuse" instead of "rape" on line four.

21 Q Okay. So -- let's make sure, I'm not sure that I
22 asked you there. Is designation for different people who are
23 asking questions or answering in a particular transcript; is
24 that correct?

25 A Correct.

1 Q What are the designations?
2 A The Q is Detective Pretti. A is the defendant.
3 HIS is myself.
4 Q Okay. So now you indicated that on page 3 as
5 reference be to the word rape; is that correct?
6 A That's correct.
7 MS. HOJJAT: I'm sorry, I think misstates. I think
8 page 17.
9 MR. SWEETIN: Okay.
10 BY MR. SWEETIN:
11 Q I'm sorry, I'm sorry. Line three. I misspoke.
12 A Um-h'm.
13 Q On line three you made reference to rape; is that
14 correct?
15 A That's correct.
16 Q All right. Now, who translated it to rape?
17 A The transcriber.
18 Q Okay. So that's not yours; is that correct?
19 A Be that's not mine, correct.
20 Q Okay. And what did you say in the course of the
21 interview when you were translating for Detective --
22 A I said abuse.
23 Q And that is on line what?
24 A Line four.
25 Q Okay. Now, who is accurate?

1 A She was accurate on that one.

2 Q Okay. So that was an error on your part?

3 A That was an error on my part.

4 Q Other than that, is this a true and accurate copy

5 of the --

6 A Yes.

7 Q I'm sorry, other than that, is this a true and

8 accurate copy of the transcript of that interview?

9 A Yes.

10 Q And translation of the interview?

11 A Yes.

12 Q Okay. Now, I want to show you what's marked as

13 State's Proposed Exhibit 5 and ask you if you recognize what

14 this is?

15 A Yes.

16 Q And what's that?

17 A That's the advisement of rights.

18 Q Okay. Did you see this in the course of the

19 interview?

20 A I did not see this, but we --

21 Q So there was an original; is that correct?

22 A There was an original.

23 Q Is this a clear and accurate --

24 A Yes.

25 Q -- depiction of the copy of that original?

1 A Yes.

2 Q Okay.

3 A Yes.

4 Q And is this something that's a standard form that
5 the police department has?

6 A Yes.

7 Q Okay. And what is it exactly?

8 A It's advisement of rights.

9 Q Okay. Now, in the course -- as the interview of
10 the defendant begins, does Detective Pretti advise the
11 defendant of his rights?

12 A Yes, he does.

13 Q And did you translate that advisement to the
14 defendant?

15 A Yes, I did.

16 Q And is this essentially a writing in Spanish of
17 that same advisement?

18 A Yes, it is.

19 Q And is it a clear and accurate translation from
20 English to Spanish of the -- of the advisement that Detective
21 Pretti gave?

22 A Yes.

23 Q Okay. And there's actually some signatures at the
24 bottom; is that correct?

25 A That's correct.

1 Q Did you see that signed in the course of the
2 interview?
3 A Yes.
4 Q And who signed it?
5 A The defendant.
6 Q Okay.
7 MR. SWEETIN: The State would move for the
8 admission of what's been marked as State's Proposed Exhibits
9 3, 4, and 5.
10 MS. HOJJAT: Object to previous --
11 THE COURT: Can I just have the parties approach --
12 MS. HOJJAT: Yeah.
13 THE COURT: -- just one moment?
14 (Bench conference begins.)
15 THE COURT: Number 4 was the actual written
16 transcript?
17 MR. SWEETIN: Yeah, I guess I don't want to admit
18 that.
19 THE COURT: Yeah.
20 MR. SWEETIN: So just 3 and 4.
21 THE COURT: I wrote number 4 was the actual
22 transcript. Because the actual transcript --
23 MR. SWEETIN: Oh, right. 4 is the actual
24 transcript. 3 is the [inaudible] -- and 5 is the advisement.
25 Okay. So not 4.

1 THE COURT: So 3 and 5, and 4 we can mark and make
2 part of a Court's exhibit.

3 MR. SWEETIN: That's fine, Judge.

4 THE COURT: Any objection?

5 MS. HOJJAT: I mean, subject to the prior
6 objections that we've obviously raise the about the
7 voluntariness of this statement and even the admissibility of
8 the statement, but subject to those things, no additional
9 objections.

10 THE COURT: Okay.

11 MR. FELICIANO: And just so we're clear, No. 4 is
12 the redacted statement?

13 MR. SWEETIN: Yes.

14 MR. FELICIANO: Okay.

15 THE COURT: That's my understanding, yes.

16 MR. FELICIANO: Yeah, because attached -- I want to
17 make sure they're (indecipherable) numbered.

18 THE COURT: It's a written transcript. Normally I
19 don't admit --

20 MS. HOJJAT: Yeah, we don't admit those.

21 THE COURT: -- them.

22 MR. SWEETIN: Yeah, and to let you know, I did the
23 redactions this morning, and my -- and my support staff did
24 it, and assured me they'd been made, but maybe we can both
25 look at it over the lunch hour just to make sure.

1 THE COURT: Okay.

2 MR. SWEETIN: But I think it's okay.

3 THE COURT: All right.

4 MS. HOJJAT: Absolutely.

5 THE COURT: Thank you.

6 MS. HOJJAT: Thank you.

7 THE COURT: Okay.

8 (End of bench conference.)

9 THE COURT: Okay. At this time, 3 and 5 are
10 admitted.

11 (State's Exhibits 3 and 5 admitted)

12 MR. SWEETIN: Thank you. Nothing further.

13 MS. HOJJAT: And if I may begin cross-examination,
14 Your Honor.

15 THE COURT: Go ahead. Sorry.

16 MS. HOJJAT: Thank you. No problem.

17 THE COURT: I didn't realize the State passed the
18 witness.

19 CROSS-EXAMINATION

20 BY MS. HOJJAT:

21 Q Good morning, Ms. Corral.

22 A Good morning.

23 Q How are you today?

24 A Good.

25 Q The State just showed you a video and then also a

1 transcript. I believe 3 was the video. State's 3 was video.
2 State's 4 was the transcript.

3 A Okay.

4 Q Correct?

5 A Correct.

6 Q Okay. I want to talk to you about the transcript
7 further.

8 A Okay.

9 Q The transcript does not encompass everything that
10 happened in the video, does it?

11 A No.

12 Q Right? There are interactions with
13 Mr. Vasquez-Reyes that are not in the transcript?

14 A That's correct.

15 Q Okay. There's -- there's back and forth between
16 the detective and Mr. Vasquez-Reyes that you were
17 interpreting --

18 A Right.

19 Q -- and that's not in the transcript, correct?

20 A What I was interpret is in the transcript, yes.

21 Q But there's a portion --

22 A Oh, the --

23 Q -- in the video --

24 A Yes.

25 Q -- that you were interpreting between

1 Mr. Vasquez-Reyes and the detective --

2 A Correct.

3 Q -- and it was transcribed?

4 A Correct.

5 Q It's not in this transcript?

6 A Correct.

7 MS. HOJJAT: Thank you very much. Court's

8 indulgence. We'll pass the witness, Your Honor.

9 THE COURT: Thank you. Any redirect?

10 REDIRECT EXAMINATION

11 BY MR. SWEETIN:

12 Q Just to be clear, in the course of your contact on

13 the video with Detective Pretti and the defendant, did you

14 clearly and accurately translate everything that was said in

15 Spanish to English and English to Spanish?

16 A I did.

17 MR. SWEETIN: Thank you. Nothing further.

18 THE COURT: Anything else?

19 MS. HOJJAT: No, Your Honor.

20 THE COURT: Okay. Thank you very much for your

21 testimony here today.

22 THE WITNESS: Okay.

23 THE COURT: You may step down. You are excused

24 from your subpoena. And you may call your next witness.

25 MR. ROWLES: State's next witness is Sergeant Mark

1 Pretti.

2 MR. FELICIANO: Can we approach, Your Honor?

3 THE COURT: Sure.

4 (Bench conference begins).

5 MR. ROWLES: So Pretti's going to be relatively

6 long.

7 THE COURT: Okay.

8 MR. ROWLES: But the issue we have is that we have

9 no one on deck until 3:00 o'clock with Cetl because we're

10 trying to --

11 THE COURT: What?

12 MR. ROWLES: She's our last witness, and we tried

13 to get her on at 10:00 o'clock today, but she wasn't able to

14 do that. Apparently, today was the first thunderstorm in

15 Austin, and so her clinic's been slammed of the season. It's

16 the first big storm of the season.

17 So she's available at 3:00. I think Pretti takes

18 an hour, an hour and a half, maybe two hours.

19 MS. HOJJAT: Way longer. Pretti is going to be a

20 very long -- probably the longest witness of this trial. And

21 so we were going to suggest if the Court wants to take an

22 earlier lunch so we don't cut that.

23 THE COURT: Get going, get him on the stand.

24 MR. ROWLES: And that's the thing -- the thing is

25 that after him we can take the lunch break.

1 THE COURT: What?

2 MR. ROWLES: After him, we can take the lunch break
3 and get to 3:00 o'clock, right?

4 MS. HOJJAT: Oh.

5 MR. ROWLES: Because he's a graveyard officer, so
6 he's been up, I think, all night.

7 MS. HOJJAT: After -- he's going to be like two and
8 a half hours.

9 THE COURT: Okay. So let's get him in and out of
10 here, right?

11 MR. ROWLES: I'm on board with that, but I don't
12 think -- I think the Defense --

13 MS. HOJJAT: I'm sorry, we need to clarify.

14 THE COURT: Well, what's the problem?

15 MS. HOJJAT: He's going to be like two and a half
16 hours. We've got a lot of cross for him. And so what I was
17 going to suggest is we just shift the lunch earlier. The
18 same amount of time, but shift it earlier.

19 THE COURT: You guys are making me crazy. Get this
20 witness on the stand, let's get it going. You know, 12:00 or
21 12:30 we'll take a break. Let's let him go for at least an
22 hour. We'll break at 12:30.

23 MR. ROWLES: Okay.

24 THE COURT: And then, I mean, I guess I would like
25 to just power through it, but everybody will probably get

1 hungry.

2 MS. HOJJAT: Right. I guess what I was saying is
3 if we do like an 11:30 to like a 12:45 and 12:45 to 3:00
4 would probably be him. And that would just be uninterrupted
5 testimony, and then they'll have Dr. Cetl at 3:00. It might
6 just be a little bit smoother.

7 THE COURT: You need to put the witness on the
8 stand.

9 MS. HOJJAT: Oak.

10 THE COURT: And we can go for at least an hour.
11 Thanks.

12 (End of bench conference.)

13 SERGEANT MARK PRETTI, STATE'S WITNESS, SWORN

14 THE CLERK: Thank you. Please be seated. If you
15 could state and spell your name for the record, please.

16 THE WITNESS: It's Mark Pretti, M-a-r-k,
17 P-r-e-t-t-i.

18 MR. ROWLES: May I proceed, Your Honor?

19 THE COURT: You may.

20 DIRECT EXAMINATION

21 BY MR. ROWLES:

22 Q Sir, how are you currently employed?

23 A I am a patrol sergeant with the Las Vegas Metro
24 Police Department.

25 Q How long have you been a sergeant with the police

1 department?

2 A Approximately two months.

3 Q Prior to being a sergeant with the police
4 department, how were you employed through Metro?

5 A I was a detective.

6 Q How long were you a detective?

7 A About six and a half years.

8 Q And I guess the overall would be how long have you
9 worked at the police department?

10 A Almost 13 years.

11 Q As a detective with the Las Vegas Metropolitan
12 Police Department, were you assigned to a specific bureau
13 within the department?

14 A I was.

15 Q What department or what bureau was that?

16 A The homicide and sex crimes bureau.

17 Q Within that bureau, did you primarily handle sex
18 crimes?

19 A Yes.

20 Q I want to turn your attention to April 16, 2016.
21 On that day in question, did you respond to 2213 Berkley
22 Avenue?

23 A I did.

24 Q Do you remember around what time you arrived?

25 A Approximately 4:30 p.m.

1 Q Do you know why you responded or what was the
2 nature of the call?

3 A I was requested by patrol to come assist with a
4 sexual assault investigation.

5 Q When you arrived on scene, was parole already
6 there?

7 A Yes.

8 Q When you arrived on scene, can you walk the members
9 of the jury through what you saw?

10 A Yes. Patrol officers were outside, along with a
11 Spanish interpreter, and several other people were outside
12 with patrol officers as well.

13 Q What is one of the first things as a detective that
14 you do when you arrive on scene?

15 A Speak with the patrol officers.

16 Q Why is that?

17 A To get kind of just an understanding of why we're
18 here, what's gone on since the initial phone call to me, and
19 my arrival, who all the particular people we're talking to
20 are.

21 Q And you did that in this particular situation?

22 A I did.

23 Q So when you arrived on scene, you got a rundown
24 from patrol; is that correct?

25 A Yes.

1 Q What was one of the next steps you took?

2 A Next steps I took was to decide that my
3 investigation would better suited to be done at headquarters,
4 so I started talking to all of the -- the particular people
5 involved, our victim, victim's mother, and our suspect at the
6 time, and began talking to them and move everybody towards
7 headquarters.

8 Q So when you arrived, you got a rundown from parole,
9 and they informed you of a general allegation made by an
10 individual against another individual; is that correct?

11 A Yes.

12 Q Do you remember the names of the interested
13 parties?

14 A The -- the victim?

15 Q Yes.

16 A The victim was Guadalupe. Mother, I believe,
17 Rosalba, and the suspect was Armando.

18 Q Did you ultimately -- well, let me back up a
19 little bit here. You indicated that you believed, based on
20 what was going on, that it was best to move this to
21 headquarters. Why is that?

22 A Because at headquarters it's a more sterile
23 environment, we have audio and video recording capabilities.
24 Obviously, a sexual assault allegation is a sensitive
25 allegation that I don't necessarily want to be conducting the

1 investigation and talking to people about it out in public,
2 out in the open where, you know, obviously, anybody can come
3 by.

4 Q Right. It is almost important to make sure that
5 when you talk to an individual who's made these types of
6 claims that they're alone and free from outside influence?

7 A Yes.

8 Q At headquarters do you have those capabilities
9 there more so than at a random scene?

10 A Yes.

11 Q Did you ultimately -- well, let me ask you this.
12 Did you make contact with Guadalupe that day?

13 A I did.

14 Q At the scene?

15 A Yes.

16 Q What was your interaction with her like at that
17 scene?

18 A At the scene just to say -- introduce myself,
19 explain that, hey, we're going to be doing an interview with
20 you, we're going to go do at headquarters; is that okay with
21 you?

22 Q Did she agree to come with you to headquarters?

23 A She agreed to go to headquarters, yes.

24 Q Did you ultimately also make contact with
25 Mr. Vasquez-Reyes?

1 A I did.

2 Q Do you see him in the court today?

3 A I do.

4 Q Can us please point to him and describe an article
5 of clothing that he's wearing today?

6 A Sitting to my right, he's wearing orange shirt and
7 blue tie.

8 MR. ROWLES: Your Honor, may the record reflect the
9 identification of the defendant?

10 THE COURT: Is reflected.

11 BY MR. ROWLES:

12 Q Now, it's fair to say when you arrived on scene
13 multiple people spoke Spanish; is that correct?

14 A That's correct.

15 Q Was there a Spanish interpreter there?

16 A Yes, there was.

17 Q Do you remember her name?

18 A Maria Corral.

19 Q Was she the individual that just walked outside the
20 courtroom?

21 A Yes.

22 Q Did you use her assistance?

23 A I did.

24 Q Did you make contact with Mr. Vasquez-Reyes that
25 day?

1 A I did.

2 Q Did you use the assistant of a Spanish interpreter?

3 A I did.

4 Q What was the general conversation you had at the
5 Berkley address with Mr. Vasquez-Reyes?

6 A I explained to him that there had been some
7 allegations made against him. Asked if he wanted to
8 participate in an interview and tell me his side of the
9 story, and he said he did. And so I explained to him that we
10 would be doing the interview at headquarters. Asked if that
11 was all right with him. He said it was. Explained to him
12 that he would be transported in a police parole vehicle and
13 that due to our policy, he would have to be handcuffed to be
14 transported in that patrol vehicle. He agreed to all of
15 that, and agreed to be transported.

16 Q Okay. And this was through the assistance of a
17 Spanish interpreter?

18 A Yes.

19 Q You indicated that had you informed
20 Mr. Vasquez-Reyes that there were allegations made against
21 him; is that correct?

22 A Yes.

23 Q Did you get specific with him?

24 A No.

25 Q Did you inform him that the allegations were sexual

1 in nature on that occasion?

2 A No.

3 Q Did you inform him of anything other than the word
4 allegation?

5 A No.

6 Q You indicated that he agreed to come with you?

7 A Yes.

8 Q During your conversation with Mr. Vasquez-Reyes,
9 from your observation, did he appear to understand what was
10 going on?

11 A From my observation, yes.

12 MS. HOJJAT: Objection. Speculation.

13 THE COURT: Based on his observation. You may
14 proceed.

15 BY MR. ROWLES:

16 Q Did he answer questions that you asked?

17 A Yes.

18 Q Did he respond to questions that you asked?

19 A Yes.

20 Q And it's fair to say that he was also cooperative
21 at this time, right?

22 A Yes.

23 Q So I want to talk a little bit about you arrived
24 around 4:30. Do you remember when he arrived at
25 headquarters?

1 A Approximately 5:00 o'clock.

2 Q Police headquarters, where are those located?

3 A It's 400 South Martin Luther King.

4 Q Just right down the street?

5 A Yes.

6 Q The Berkley address, how far away from police

7 headquarters was that address?

8 A It's about a ten-minute drive.

9 Q And you indicated that Mr. Vasquez-Reyes agreed to

10 be transported in the patrol car; is that correct?

11 A Yes.

12 Q And you talk a little bit a policy at that time.

13 Why -- what is that policy?

14 A Policy is any time we transport somebody in a

15 patrol vehicle, they need to be in handcuffs just for officer

16 safety issues.

17 Q At some point this time, you arrive at the

18 headquarters?

19 A Yes.

20 Q What steps did you take at that time?

21 A At that time, I took Mr. Vasquez-Reyes into the

22 interview room, removed his handcuffs, asked him to be seated

23 at the interview table and then went and started my interview

24 with Guadalupe.

25 Q During your interaction when you first placed

1 Mr. Vasquez-Reyes in the interview room, did he appear from
2 your observations to understand what was going on or why he
3 was there?

4 A From observation, yes.

5 Q At that point in time, when he was first placed in
6 the interview room, did you inform him of any specific
7 allegations made against him?

8 A No.

9 Q Had you told him that the allegations were even
10 sexual in nature at that time?

11 A No.

12 Q You indicated that you speak with Guadalupe?

13 A Yes.

14 Q Where did that take place?

15 A In a separate interview room.

16 Q Who was present during the interview during that
17 time?

18 A Just myself and Guadalupe.

19 Q Do you remember how long that interview lasted?

20 A Approximately 30 minutes.

21 Q Can you describe her demeanor to the members of the
22 jury during that interview with Guadalupe?

23 A I don't specifically recall her demeanor, but she
24 was at least able to answer questions.

25 Q She was able to answer your questions?

1 A Yes.

2 Q She was able to articulate what happened to her?

3 A Yes.

4 Q I want to talk a little bit about what she said in
5 your conversations with her. Did you have a conversation
6 with her regarding why the police came to the house that day?

7 A Yes.

8 Q Did she inform you that she was not involved in
9 that incident?

10 MS. HOJJAT: Objection. Hearsay.

11 MR. ROWLES: May we approach, Your Honor?

12 THE COURT: You may.

13 (Bench conference begins.)

14 THE COURT: State the question again.

15 MR. ROWLES: I asked, did she inform you that she
16 was not involved in why the police were called that day in
17 the original incident. My overall response to any potential
18 objections that would come up throughout my brief line of
19 questioning regarding her conversations would be is I -- I
20 think based on the defense so far and the way that the patrol
21 officer's conversation or examination went is that these
22 would be prior consistent statements. Because what happened
23 yesterday was essentially that they impeached Guadalupe's
24 statements through the report.

25 Now, that report isn't specific statements that

1 Guadalupe made. That report is a specific rundown of the
2 officer's recall of the conversation, and so when defense
3 was --

4 THE COURT: That's fair.

5 MR. ROWLES: -- going she specifically said this?
6 Yes. She specifically said that? She specifically said
7 this. And their use of the prior inconsistent statements I
8 don't think is actually correct.

9 And so what I'm doing here is I'm trying to suggest
10 that when she speaks with the detective, after she speaks
11 with patrol, that these statements are consistent because
12 she's going to say that she had nothing to do with the
13 incident, that she had been sexually assaulted for a number
14 of years, and that the last time something happened was a
15 week prior to this. But not the suggestion that was made
16 that she told the officers that is, penis to vaginal
17 intercourse, that it was just a brief touching, which would
18 be consistent with what the officer's report was and the
19 statements made to him at that particular time given his
20 discussion as a general thing.

21 I'd also note that at this particular time, she's
22 present or she was here to testify, she's been subject to
23 cross-examination regarding her statements made to the
24 police. There's been attacks as to her consistency and her
25 inconsistency and her credibility and reasons for why she

1 said what she said she would say. And so I think it's
2 appropriate to get into some specific statements to help
3 clear up the report issue as well as the cross-examination.
4 So I think for that reason and as well as because she's
5 already testified that she's been subject to
6 cross-examination on these statements, that the general
7 exception to the hearsay rule would apply.

8 MS. HOJJAT: And if I may respond.

9 THE COURT: So consistent statements, prior
10 consistent statements?

11 MR. ROWLES: To clear up the issue with regards to
12 the --

13 THE COURT: That between the patrol officer's --

14 MR. ROWLES: Yes.

15 THE COURT: -- report? Okay.

16 MR. ROWLES: Which is what happened within like an
17 hour.

18 MS. HOJJAT: And if I may. These are not prior
19 consistent statements because they are subsequent to the
20 conversation with the patrol officer. The first requirement
21 of a prior consistent statement would be -- need to be that
22 it's prior. The statement was not prior to the conversation
23 with the patrol officer.

24 Second, prior consistent statement actually
25 requires the State has a burden of showing that the statement

1 was made prior tot time that the witness formed the motive to
2 fabricate when -- when impeachment happens on a allegation --
3 or when the defense is claiming that there was some sort of
4 motive to fabricate and is impeaching with fabrication.

5 THE COURT: And you had -- he said -- the Defense
6 did -- she's fabricating the whole thing.

7 MS. HOJJAT: Right, yes. No, we've done that part.
8 But the State then has the burden of showing that statement
9 was made prior to the motive to fabricate being formed, and
10 the defense's basically theory of whether or not motive to
11 fabricate formed.

12 So our theory was that the motive to fabricate was
13 formed when the officers were out of the house. This
14 statement is not prior to that. The statement is
15 subsequent --

16 THE COURT: I'm sorry, the officers what?

17 MS. HOJJAT: Yes, so there is --

18 THE COURT: Say that again.

19 MS. HOJJAT: -- there is case law that says that
20 for a prior consistent statement to fall under that --

21 THE COURT: I understand the motive to --

22 MS. HOJJAT: -- statement --

23 THE COURT: -- fabricate.

24 MS. HOJJAT: Right. They have to show --

25 THE COURT: But you have -- your whole defense is

1 she fabricated the --

2 MS. HOJJAT: Yes, yes. But this is not --

3 THE COURT: She didn't fabricate it until --

4 MS. HOJJAT: No, so our -- our theory is that she
5 fabricated it at the time the officers came out to the house.

6 THE COURT: Okay.

7 MS. HOJJAT: This is not prior to that. For it to
8 be a prior consistent statement, it would have to be prior to
9 the motive to fabrication -- to fabricate existing. This is
10 subsequent to that. And also subsequent to the statement
11 that they are trying to essentially rehabilitation.

12 THE COURT: I don't understand why everybody didn't
13 just clear this up with Guadalupe.

14 MR. ROWLES: And she has testified regarding those
15 things right there.

16 THE COURT: I mean, she's the one -- yeah.

17 MR. ROWLES: But I think the state of the record
18 would be with regards to what the report was, this -- this
19 clears that up as well as their argument is that the motive
20 to fabricate occurred as soon as she realized that police
21 were not arresting him for the domestic violence charge. I
22 think that's what they said in the opening statements is that
23 when they realized he wasn't going to be arrested, if you
24 look at the officer's testimony, as well as Rosalba's
25 testimony here, the officer said that they had not made that

1 determination at that particular time.

2 That she approached him relatively quickly. Even
3 the mom said that within a quick rundown of when the police
4 arrived, Guadalupe approached them. So my understanding of
5 it is that when they made the determination that he's not to
6 be arrested for the domestic violence is after the
7 conversation with the patrol officer because the patrol
8 officer himself testified that he had not made what
9 determination, had not informed any of that determination
10 prior to speaking with Guadalupe. So the this would be
11 consistent with her statements to that police officer in the
12 interim as to when the motive to fabricate as the state of
13 the record suggest at this time started.

14 Because if their state of the record is is that she
15 made this up when they realized he was not going to get out
16 of the house, that didn't occur until after everything
17 because the police officer himself said that they had not
18 made that determination. Rosalba herself said on the stand
19 that she -- Guadalupe speaks to the police within minutes of
20 arriving.

21 So no determination as to whether he's going to be
22 arrested for domestic violence is made. So we have that
23 statement. We have their motive to fabricate. Then we have
24 this statement with the detective, which would be consistent
25 with what she told the patrol officers and what she's

1 testified on the stand.

2 MS. HOJJAT: And actually, so --

3 THE COURT: Man, can you say that again?

4 MR. ROWLES: Sorry.

5 THE COURT: I'm just kidding.

6 MS. HOJJAT: So it's not about when the actual we
7 decided not to arrest him occurs. And Mr. Feliciano got into
8 this very clearly with Guadalupe. What is relevant is what
9 was in Guadalupe's mind, whether she thought he was going to
10 be arrested. And Mr. Feliciano cross-examined on her and
11 very clearly and said you went forward and you made your
12 statements after it was determined he -- it was all over.
13 The money situation was resolved, he wasn't going to be
14 arrested? And she said, yes, yes, yes to that.

15 So it's not about when the --

16 THE COURT: I don't recall that. If you're telling
17 me that she -- I mean, I don't recall.

18 MS. HOJJAT: It is -- because it's not about when
19 the police determined they weren't going to arrest him. It's
20 about what was going on in Guadalupe's mind because it's
21 Guadalupe's --

22 THE COURT: Right. Because she's the one that has
23 to have the motive to fabricate.

24 MS. HOJJAT: -- motive to fabricate, and what she
25 testified to was that she believed that he wasn't being

1 arrested. She believed it was over, that the money situation
2 had been resolved when she went and she made her allegation.

3 So the motive to fabricate was in her mind at that
4 time.

5 MR. ROWLES: I think she testified when she's
6 talking to the police that he was in handcuffs already, which
7 is how would a 13-year-old think that he's not being arrested
8 when she's in handcuffs.

9 THE COURT: And I can't remember specifically.

10 MR. ROWLES: I don't remember that conversation
11 anyways.

12 THE COURT: If you want me to remember
13 specifically, I'm going to have to pull it up and review it.
14 I cannot remember specifically that Guadalupe -- I mean, I'm
15 accepting your representations as officers of the court.

16 MR. ROWLES: But my response to that would be then
17 she's already been here and she's been subject to
18 cross-examination on these particular statements here. And
19 so the right to confront has already been present. She's
20 been subject to this cross-examination.

21 I'm clearing up an issue with what they've attacked
22 as the officer saying specific things. And so I think the
23 State is entitled to be able to clear that issue up is when
24 they've attributed those specific statements in the report to
25 her when that's not correct, and it shows that it's not

1 correct.

2 I think the general exception comes in, and there's
3 no unreliability of these statements.

4 MS. HOJJAT: I think it's hearsay, and it's
5 vouching, and they're trying to get one witness to reiterate
6 basically the testimony much their alleged victim.

7 THE COURT: Okay. I'm going to overrule the
8 objection and you can get into that.

9 (End of bench conference.)

10 BY MR. ROWLES:

11 Q Okay. Officer, I mean -- excuse me, Sergeant.

12 A All right.

13 Q You indicated that when you spoke with Guadalupe
14 you had conversations regarding why the police were there
15 that day, right?

16 A Yes.

17 Q Did you discuss with her what her involvement was
18 as to why the police originally came?

19 A I did.

20 Q Okay. What was her response to that?

21 A Her response was that she had no involvement
22 initially, the call was in reference to an argument over
23 tools, and between her mother and Armando. It had nothing to
24 do with her.

25 Q Did you then discuss why she was there to speak

1 that day?

2 A With me at headquarters?

3 Q Yes.

4 A Yes.

5 Q Okay. And it's fair to say that she disclosed
6 incidents of sexual abuse that started when she was around
7 five?

8 A Yes.

9 Q Now, I want to have a little discussion regarding
10 your conversation with Guadalupe about the last time anything
11 happened. Do you remember that conversation?

12 A Yes.

13 Q Okay. Did she tell you when the last time
14 something happened?

15 A Yes.

16 Q When was that?

17 A Approximately a week prior to me speaking with her.

18 MS. HOJJAT: Your Honor, I'd just like to have a
19 standing objection to the hearsay within Guadalupe's
20 statement being reiterated.

21 THE COURT: Sure.

22 MS. HOJJAT: Thank you.

23 THE COURT: Go ahead.

24 MR. ROWLES: Thank you.

25 BY MR. ROWLES:

1 Q I'm sorry, what was that Officer -- Sergeant?

2 A All right. The -- the last incident of anything

3 sexual happening was approximately a week prior.

4 Q Okay. Did she discuss with you what that type of

5 conduct was?

6 A Yes.

7 Q What was it?

8 A It was over the clothes, grabbing of her buttocks.

9 Q Did you have a discussion with her as to when the

10 last time of an act of sexual penetration occurred?

11 A Yes.

12 Q Did she inform you as to what time period that

13 occurred?

14 A Yes.

15 Q When was that?

16 A It was approximately November of 2015.

17 Q And Officer, it's fair to say -- Sergeant, excuse

18 me -- that at the conclusion of the interview, Guadalupe

19 disclosed sexual abuse at the hands of Vasquez-Reyes; is that

20 correct?

21 A Yes.

22 Q Was there a discussion that took place -- let me

23 phrase this a different way. As a police detective at that

24 time with the sexual assault unit are people who disclose

25 sexual abuse, are they usually set up for an examination?

1 A It -- it would depend on the type of sexual abuse
2 and the timeframe of when the abuse had occurred.

3 Q Can you explain that to the members of the jury?

4 A Yes. So generally when we set somebody up for a
5 sexual abuse exam, we want it within three to five days of
6 any sexual abuse occurring. That gives us the best chance to
7 get any forensics, DNA, semen, hair fibers, anything like
8 that. Also to document any injuries or any healing of
9 injuries. And the three to five day time period is the --
10 our optimal window for getting the exam done.

11 Q Is that's what's referred to as an acute time
12 period?

13 A Yes.

14 Q Are you familiar with a concept of non-acute time
15 period?

16 A Yes.

17 Q Can you explain that to the members of the jury?

18 A So non-acute would be really anything over five
19 days where we would not expect to get any type of forensic
20 evidence from an exam.

21 Q You also indicated that it depends on the type of
22 abuse; is that correct?

23 A Correct.

24 Q What do you mean by that?

25 A For instance, if it's just over the clothes

1 touching, we generally wouldn't order an exam because we
2 wouldn't expect to get any type of forensic -- forensic
3 material from the exam. There wouldn't -- would not
4 necessarily be any evidence of type of abuse.

5 So for when we actually order an exam, we're
6 looking for like a penetrative abuse, any type of penetrative
7 sexual assault, or anything where we would expect a DNA
8 transfer to have happened.

9 Q During your conversations with Guadalupe, you had
10 an over the clothes touching about a week prior; is that
11 correct?

12 A Correct.

13 Q And penetration occurring almost five months prior;
14 is that correct?

15 A Correct.

16 Q In your capacity as the detective, did you feel it
17 was necessary at that particular time to do an exam?

18 A I did not.

19 Q Are you familiar with what a sexual assault exam
20 entails?

21 A Generally, yes.

22 Q Okay. What generally, are you under the
23 understanding of what happens?

24 A They see the nurse or a sexual assault nurse.
25 She's going to document their whole body, a condition the

1 whole body through photographs. She's going to do swabs of
2 anywhere where an abuse had happened to try and collect DNA.
3 Again, looking for more injuries, photographing injuries,
4 documenting everything, and putting it all together in a kit
5 for evidence testing later.

6 Q Are children required to undress during the exams?

7 A They -- I believe they would be, yes.

8 Q And you indicated that they swab for DNA in the
9 parts, right?

10 A Yes.

11 Q Okay. Sort of an intrusive exam for a kid, right?

12 A Yes. For anybody.

13 Q Did you have discussions regarding an exam with
14 Guadalupe and her family on that day?

15 A I believe I just discussed a medical exam, overall
16 general medical exam with them.

17 Q And from your understanding did they eventually go
18 and complete a medical exam in the hospital?

19 A I believe so, yes.

20 Q Did they do any other exams from your understanding
21 at the CAC?

22 A Excuse me. Not to my knowledge, no.

23 Q Did you have any further contact with Guadalupe on
24 that occasion?

25 A I did not. Excuse me.

1 Q Sergeant, did you work a graveyard last night?

2 A I did not. I was actually off, but still didn't

3 get any sleep.

4 Q Has it been tough to make the transition from

5 graveyards -- or back to graveyard?

6 A Absolutely.

7 Q Now, I want to talk a little bit about your

8 investigation in this particular matter.

9 A Okay.

10 Q You met with Guadalupe; is that correct?

11 A Yes.

12 Q You got a statement from Rosalba; is that correct?

13 A Yes.

14 Q During your conversation with Guadalupe, did she

15 inform you that there was a time when a friend slept over?

16 A Yes.

17 Q Were you ever informed that the friend saw

18 something sexual?

19 A No.

20 Q Were you given a name?

21 A No.

22 Q Now, it's fair to say that police have a lot of

23 capabilities to locate someone, right?

24 A Yes.

25 Q Is that difficult when you're not provided a name?

1 A Yes.

2 Q And when time has passed?

3 A Yes.

4 Q You were also informed or were you informed at the
5 time when she disclosed to you that she had conversations
6 regarding what a friend had gone through online?

7 A Yes.

8 Q Did she ever tell you that she disclosed sexual
9 abuse to that friend?

10 A She did not.

11 Q Did she ever give you a name?

12 A No.

13 Q Now, there were also conversations -- well, let me
14 ask this. At any point in time during your investigation,
15 were you ever -- was it is ever brought to your attention that
16 she had went to a doctor when she was eight or nine regarding
17 constipation?

18 A I don't believe so.

19 Q If you had been given names, descriptions, or
20 information regarding a potential medical exam, is that stuff
21 that you would have been able to follow up and investigate?

22 A Yes.

23 Q Now, I want to turn your attention to May 27, 2016.
24 On that day in question was it brought to your attention that
25 another individual had disclosed sexual abuse at the hands of

1 Mr. Vasquez-Reyes?

2 A Yes.

3 Q Who was that?

4 A It was Stephanie Alvarez.

5 Q Do you know who she is?

6 A It is Guadalupe's sister, older sister.

7 Q Did you speak with her?

8 A Yes.

9 Q Similar to what you did with Guadalupe?

10 A Yes.

11 Q Do you remember Stephanie's demeanor?

12 A Yes. It was --

13 Q What was --

14 A Oh, go ahead.

15 Q I'm sorry, what was her demeanor like? If you can

16 explain that to the jury.

17 A Again, just able to answer questions, able to

18 describe what happened and what was going on.

19 Q On April 16, 2016, did Ms. Alvarez, Stephanie

20 specifically, ever disclose sexual abuse to police on that

21 day in question?

22 A She did.

23 MS. HOJJAT: Objection. Hearsay.

24 THE COURT: I'm sorry? Do you want to respond?

25 MR. ROWLES: No, I'll -- I'll rephrase.

1 THE COURT: Okay.

2 MR. ROWLES: I think the answer was no, but --

3 THE COURT: The objection's sustained.

4 MR. ROWLES: -- I'll withdraw and strike.

5 THE COURT: Thank you.

6 MS. HOJJAT: I'm sorry, was the question August?

7 MR. ROWLES: April.

8 MS. HOJJAT: April.

9 MR. ROWLES: Did I say August?

10 MS. HOJJAT: No, no, no, I -- I misunderstood.

11 MR. ROWLES: Would you still object if it was

12 April?

13 MS. HOJJAT: No, I'm --

14 MR. ROWLES: Okay.

15 MS. HOJJAT: -- withdrawing the objection.

16 THE COURT: Okay.

17 BY MR. ROWLES:

18 Q In April -- my apologies if I said August.

19 MS. HOJJAT: No, my apologies.

20 BY MR. ROWLES:

21 Q April 16, 2016, on April -- in April of 2016, when

22 the police responded to the Berkley address, did Ms. Alvarez

23 disclose sexual abuse at the hands of Mr. Vasquez-Reyes to

24 police?

25 A She did not.

1 Q Now I want to go back to April 16th, the date of
2 the investigation. At some point in time after speaking to
3 Guadalupe, did you then make contact with the defendant
4 again?

5 A I did.

6 Q Do you remember what time that occurred?

7 A It was approximately 6:10 p.m., I believe.

8 Q What was the purpose of that contact at that time?

9 A The purpose was Rosalba, Guadalupe's mother, had
10 said that Armando had the rent money. I went in to ask
11 Armando if he would be willing to turn over the rent money to
12 Rosalba.

13 Q Basically, the whole reason as to why police were
14 out there in the first place?

15 A Part of it, yes.

16 Q Did you have that conversation with
17 Mr. Vasquez-Reyes?

18 A Yes.

19 Q Did he, from your observations, appear to
20 understand what was going on?

21 A I believe so, yes.

22 MS. HOJJAT: Objection. Speculation.

23 THE COURT: All right. Overruled. You can answer.

24 THE WITNESS: I believe so, yes.

25 BY MR. ROWLES:

1 Q Did he respond and answer your questions?

2 A Yes.

3 Q So you had this conversation regarding rent money,
4 and you asked if he could turn that back over. What
5 happened?

6 A He said that was okay. I left the room to get his
7 wallet, came back with his wallet, counted out the rent money
8 in front of him, and then I went and turned over the rent
9 money to Rosalba.

10 Q And just to -- I don't know if I asked you this,
11 but during your entire interaction with Mr. Vasquez-Reyes,
12 were you using the assistant of a Spanish interpreter?

13 A I was.

14 Q Okay. I want to talk a little bit about when you
15 went back in the room with the rent money. Did Armando count
16 the rent money first?

17 A I don't believe so.

18 Q You counted the rent money?

19 A Yes.

20 Q And he acknowledged that that was the money was
21 for?

22 A Yes.

23 Q Was there any conversation regarding the defendant
24 feeling lightheaded?

25 A Yes.

1 Q Can you explain to the members of the jury.

2 A I was informed by Ms. Corral the interpreter, that

3 due to his diabetes, he was feeling lightheaded. He

4 requested his medication, which was back at his house in his

5 lunchbox. I informed that I'm not medical personnel, I can't

6 give him any medication. However, if he needed to see

7 medical personnel, to let me know, and I would call free EMTs

8 for him.

9 Q Did the defendant agree to those terms?

10 A Yes.

11 Q At any point in time during your conversation with

12 Mr. Vasquez-Reyes, did he request medical attention?

13 A After that point, no.

14 Q At some point in time do you start a formal

15 interview of Mr. Vasquez-Reyes?

16 A Yes.

17 Q Do you remember when that occurred?

18 A Just before 6:30 p.m., I believe.

19 Q During the interview, did you use the assistance of

20 a Spanish interpreter?

21 A I did.

22 MR. ROWLES: Court's brief indulgence.

23 May I approach your Clerk, Your Honor?

24 THE COURT: You may.

25 MR. ROWLES: Showing defense counsel what's been

1 previously admitted as State's Proposed Exhibit 3.

2 May I approach the witness, Your Honor?

3 THE COURT: You may.

4 BY MR. ROWLES:

5 Q Now, Sergeant, I want to back up a little bit here.
6 When you -- when you and Armando or Mr. Vasquez-Reyes walked
7 into the interview room, was he -- were his handcuffs
8 removed?

9 A Yes.

10 Q Did his handcuffs remain off during the entire time
11 with your interaction with him up until the conclusion?

12 A Yes.

13 MR. ROWLES: And may I approach, Your Honor?

14 THE COURT: You may.

15 BY MR. ROWLES:

16 Q Showing you a brief clip of what's been marked as
17 State's Proposed -- or State's admitted 3, it's been admitted
18 as State's 3.

19 (State's Exhibit 3, video, playing)

20 BY MR. ROWLES:

21 Q Sergeant, taking a look at this, was this the
22 interview room you and Mr. Vasquez-Reyes had your discussion
23 with?

24 A Yes.

25 Q Okay. And pausing State's 3 at 12 seconds. Is

1 that you and Mr. Vasquez-Reyes entering the interview room?

2 A Yes.

3 Q Have you had the opportunity to review the video of
4 your interaction with Mr. Vasquez-Reyes on that day in
5 question prior to testifying today?

6 A Yes.

7 Q Did it fairly and accurately depict your memory of
8 the interaction between Mr. Vasquez-Reyes and yourself?

9 A Yes.

10 MR. ROWLES: Madam recorder, can we switch over or
11 do I just have to push the button?

12 THE COURT RECORDER: You need to -- no, just when
13 you pop up your computer it will come up.

14 MR. ROWLES: Court's brief indulgence.

15 (Colloquy Mr. Rowles/Court Recorder)

16 MR. ROWLES: For the record, going back to 0000 on
17 State's 3.

18 (State's Exhibit 3, video, continues playing)

19 BY MR. SWEETIN:

20 Q Pausing at 0012, Sergeant, what are we looking at
21 here?

22 A That's the interview room that we did the interview
23 in.

24 Q Okay. Do you recognize yourself?

25 A I do.

1 Q Okay. What are you wearing?

2 A The orange and blue checkered shirt and khaki
3 pants.

4 Q The individual that you're walking with, is that
5 Mr. Vasquez-Reyes?

6 A Yes.

7 (State's Exhibit 3, video, continues playing)

8 BY MR. ROWLES:

9 Q And is this the time period you described in which
10 his handcuffs were removed?

11 A Yes.

12 (State's Exhibit 3, video, continues playing)

13 BY MR. ROWLES:

14 Q Now, Officer, you're -- what did we just observe at
15 that time?

16 A Took his handcuffs off, made sure he didn't have
17 his wallet or his phone or any other weapons or anything else
18 in his pockets and then asked him to sit down.

19 Q Why is that for?

20 A For safety reasons. I mean, he's observed in
21 there, but he's still, I don't know, basically alone in a
22 room. We just don't want to -- we want to make sure he
23 doesn't have access to any weapons or can't make any phone
24 calls or anything like that.

25 (State's Exhibit 3, video, continues playing)

1 BY MR. ROWLES:

2 Q Now, at this particular time, pausing it, one
3 minute and 18 seconds, is this when you leave to go conduct
4 your interviews with Guadalupe and the rest of the family
5 that's there?

6 A Yes.

7 Q Okay. For the record, backing up to one minute, 07
8 -- or one hour, seven minutes and one second.

9 Have you had the opportunity to observe the time
10 period in which Mr. Vasquez-Reyes was just left alone in the
11 room?

12 A Yes.

13 Q Does he sit there?

14 A Yes.

15 Q Does -- in your observations, did he appear in any
16 distress in any way?

17 MS. HOJJAT: Objection. Speculation.

18 THE COURT: Overruled. You can answer.

19 THE WITNESS: Based on my observations, no.

20 (State's Exhibit 3, video, continues playing)

21 BY MR. ROWLES:

22 Q Pausing State's 3 at one hour, eight minutes, and
23 13 seconds. What are we looking at here?

24 A This is when I come back in the room with Ms.
25 Corral and talk to him about the rent money.

1 (State's Exhibit 3, video, continues playing)

2 BY MR. ROWLES:

3 Q Pausing at one hour and ten minutes, 15 seconds.

4 Is that the defendant counting out the money?

5 A Yes.

6 Q During your conversations with him at this time,

7 from your observations and from what the video showed us,

8 does he understand what's going on?

9 A I believe so, yes.

10 Q He's able to count, correct?

11 A I believe so, yes.

12 Q Okay. Well, we observed him count, right?

13 A Yes.

14 (State's Exhibit 3, video, continues playing)

15 BY MR. ROWLES:

16 Q Pausing at one hour, 11 minutes and 13 seconds.

17 Did we just observe what you discussed previously regarding

18 your conversation regarding rent money?

19 A Yes.

20 Q Mr. Vasquez-Reyes agreed to the terms that you

21 proposed about turning it over to Rosalba?

22 A Yes.

23 Q Okay. Fast forward to when the interview starts.

24 (State's Exhibit 3, video, continues playing)

25 BY MR. ROWLES:

1 Q Pausing at one hour, 23 minutes, and 26 seconds
2 here. Sir, is this when the formal interview of
3 Mr. Vasquez-Reyes starts?

4 A Yes.

5 Q Okay. Up until this point in time, had you
6 informed Mr. Vasquez-Reyes as to why you were there other
7 than the mention of allegations?

8 A No.

9 Q The interactions that we saw on the camera so far,
10 were those the interactions you had with him at the
11 headquarters?

12 A Yes.

13 Q And at no point in time during those interactions
14 did you inform him of what the allegations were?

15 A No.

16 MR. SWEETIN: May we approach, Judge?

17 THE COURT: Sure.

18 (Bench conference begins.)

19 THE COURT: Are you just getting ready to play it?

20 MR. ROWLES: Yes.

21 MR. SWEETIN: Yeah, which mentioned earlier that
22 because we made reference to the page, that we're going to
23 distribute to --

24 MS. HOJJAT: I think we weren't here. What
25 happened?

1 THE COURT: I think they wanted to pass those out,
2 but it's like 12:20, so we'll break, and we'll just -- I'll
3 just take like an hour break.

4 MR. ROWLES: Okay.

5 THE COURT: I hate to do that to this Detective.

6 MR. ROWLES: Thank you.

7 (Bench conference concluded).

8 THE COURT: All right. At this time, we're going
9 to recess for lunch.

10 During this recess, you're admonished not to talk
11 or converse amongst yourselves or with anyone else on any
12 subject connected with this trial, or to read, watch, or
13 listen to any report of or commentary on the trial, or any
14 person connected with this trial by any medium of
15 information, including without limitation, newspapers,
16 television, the Internet, or radio, or form or express any
17 opinion on any subject connected with this trial until the
18 case is finally submitted to you.

19 We'll be in recess until 1:20. Thank you.

20 THE MARSHAL: Thank you. All rise for the exiting
21 jury, please.

22 (Outside the presence of the jury.)

23 THE COURT: When we come back to show it, Officer
24 Hawkes will hand the transcripts out to the jury panel.

25 MR. SWEETIN: Thank you.

1 THE COURT: Thank you.

2 (Court recessed at 12:18 p.m. until 1:20 p.m.)

3 (Outside the presence of the jury.)

4 THE COURT: Can we bring the panel in?

5 MR. FELICIANO: Couple things outside the presence.

6 THE COURT: Okay. Of course.

7 MR. FELICIANO: So as Ms. Hojjat and I were walking

8 to the elevator, as we turned the corner to the elevator

9 bank, we saw Detective Pretti speaking to a juror. I believe

10 it was Juror No. 7. So we're asking that she -- we come in

11 -- we don't know how long. As soon as we saw it, we turned

12 the other way.

13 So we just want to make sure and see --

14 THE COURT: You saw his lips moving and talking?

15 MR. FELICIANO: We saw them both looking at each

16 other -- talking.

17 MS. HOJJAT: We heard both of them. They were --

18 we heard them. We didn't hear what they were saying, but

19 like, we heard voices, lips moving, interacting with each

20 other.

21 THE COURT: Did you tell the DA?

22 MR. FELICIANO: Yes.

23 THE COURT: Did you talk to the DA?

24 MR. FELICIANO: No, we just --

25 MR. SWEETIN: They just told us now.

1 MR. FELICIANO: -- told them, yeah.
2 THE COURT: Oh. Is -- is Sergeant Pretti out
3 there?
4 MR. SWEETIN: He should be.
5 MR. ROWLES: Yeah.
6 THE COURT: Okay. Let bring him in first. And
7 this was at our lunch break?
8 MR. FELICIANO: Yes.
9 THE COURT: Okay. So right after we recessed?
10 MR. FELICIANO: Correct.
11 THE COURT: Okay.
12 MR. ROWLES: So on the way up or on the way down?
13 MR. FELICIANO: On the way down.
14 (Detective Pretti is present)
15 THE MARSHAL: Just go to the podium.
16 THE COURT: The record will reflect that the
17 hearing's taking -- you can stand right there --
18 THE MARSHAL: Right there, sir.
19 THE COURT: -- Sergeant.
20 THE MARSHAL: Right there. Right there.
21 THE COURT: Right. I just have a couple questions.
22 The record will reflect the hearing's taking place
23 outside the presence of the jury panel.
24 Sergeant Pretti, it's my understanding that after
25 we recessed at lunchtime, that you may have had a

1 conversation with one of my jurors.

2 THE WITNESS: That's incorrect, Your Honor.

3 THE COURT: It is?

4 THE WITNESS: I did not have a conversation with
5 any juror.

6 THE COURT: Okay. Are you sure they weren't a
7 juror?

8 THE WITNESS: Positive.

9 THE COURT: Okay. Do you remember having a
10 conversation with someone over by the elevators?

11 THE WITNESS: I didn't speak with anybody. There
12 were jurors in conversation, I was standing at the elevators.
13 I didn't speak with anybody.

14 THE COURT: Okay. You didn't speak with any of the
15 persons that are on this jury panel?

16 THE WITNESS: No, ma'am.

17 THE COURT: Okay. Thank you very much. And you
18 can just wait outside for a moment. Thanks, Officer Hawkes.

19 (Detective Pretti is not present)

20 THE COURT: Are you sure? I mean, because it
21 sounds like he says jurors were talking, but he was -- and
22 that's why I said did you see his lips moving, and hear words
23 coming out?

24 MS. HOJJAT: It was just them two. The elevators
25 doors were closing, and they were the only two left in the

1 bank area that we observed.

2 MR. FELICIANO: That's what I saw. And as soon as

3 we -- as soon as we saw it, we turned around.

4 MS. HOJJAT: Yeah, we just turned and walked away.

5 Could we bring be in Juror No. 7 --

6 THE COURT: Sure.

7 MS. HOJJAT: -- and just verify? Thank you.

8 THE COURT: Sure. And you know it's Juror No. 7?

9 MS. HOJJAT: The --

10 THE COURT: Danyel Garrett.

11 MR. ROWLES: Was he confused because maybe --

12 because was he in the elevator or --

13 MS. HOJJAT: No.

14 MR. FELICIANO: No.

15 MS. HOJJAT: No, they were both in the elevator

16 bank and the elevator doors were closing.

17 MR. ROWLES: What do you mean the elevator bank?

18 Like in --

19 MS. HOJJAT: So you know the area that you wait

20 for --

21 MR. ROWLES: Yeah.

22 MS. HOJJAT: -- the elevators, you push the button

23 and you wait for the elevator?

24 THE COURT: Right.

25 MS. HOJJAT: They were both standing in that area.

1 THE COURT: Okay.

2 MS. HOJJAT: And then elevator door -- like, what
3 it looked like to me -- and this is speculation -- is that
4 the elevator had gotten full with a bunch of jurors that were
5 going down, and these two were waiting for the next
6 elevator --

7 THE COURT: Okay.

8 MS. HOJJAT: -- and there was some sort of
9 conversation happening.

10 MR. ROWLES: Oh.

11 THE COURT: Okay. But it was only those two?

12 MS. HOJJAT: Yes.

13 MR. FELICIANO: That's what I saw as well.

14 THE COURT: Okay. Because it could have been maybe
15 he didn't know. I mean, maybe he didn't know the person was
16 a juror. Okay. But you -- you think it's Danyel Garrett?

17 MS. HOJJAT: The very last lady in the first row on
18 the left.

19 THE MARSHAL: Top or bottom row?

20 MS. HOJJAT: So we -- top row.

21 THE COURT: Is that Garrett? Okay.

22 THE MARSHAL: That would be Juror No. 7, ma'am.

23 THE COURT: All right. Danyel Garrett. Ms.
24 Garrett is in the courtroom. You can just stand right there
25 at the podium. And the record will reflect this hearing is

1 taking place outside the presence of the other jurors.

2 When we recessed for lunch, did you have a
3 conversation with the witness that was on the stand over by
4 the elevators?

5 JUROR NO. 7: No, we didn't have a conversation.

6 THE COURT: Okay.

7 JUROR NO. 7: He was standing in line waiting to
8 get on the elevator.

9 THE COURT: Okay.

10 JUROR NO. 7: I was standing waiting to get on the
11 elevator, and I'm like I don't like crowded elevators, I'll
12 wait.

13 THE COURT: Okay. That was it?

14 JUROR NO. 7: That was it.

15 THE COURT: You didn't have any communication about
16 the case?

17 JUROR NO. 7: No, ma'am.

18 THE COURT: Okay. Thank you very much for
19 answering my questions. When you go back outside, don't
20 discuss with any of your fellow jurors what we've discussed
21 in here. And if anyone insists on speaking to you about what
22 we've discussed in here, you can let Officer Hawkes know.

23 JUROR NO. 7: Okay.

24 THE COURT: Okay? Thank you very much.

25 JUROR NO. 7: Not a problem.

1 THE COURT: And thank you for coming in.
2 Okay. The record will reflect Juror No. 7 has left
3 the courtroom.
4 MS. HOJJAT: So it looks like she indicated there
5 was some communication that happened between them, which is
6 what we saw. I'm a little confused why Sergeant Pretti said
7 there wasn't.
8 MR. ROWLES: I think he might be thinking a full
9 blown conversation, other than just her saying something in
10 passing.
11 MR. SWEETIN: Well, I don't think she said that he
12 reciprocated in any way. She just said --
13 THE COURT: She didn't. She basically said what
14 she said.
15 MR. SWEETIN: Yes.
16 THE COURT: So is the defense satisfied?
17 MS. HOJJAT: Sure.
18 MR. FELICIANO: It's fine.
19 THE COURT: Okay. Let's bring them in.
20 MS. HOJJAT: Oh, wait, there was one more issue.
21 Sorry. We can deal with it later.
22 MR. FELICIANO: We can do it later.
23 THE COURT: Okay.
24 THE MARSHAL: All rise for the entering jury,
25 please.

1 (In the presence of the jury.)
2 THE MARSHAL: Thank you, everyone. Please be
3 seated.
4 THE COURT: Does the State stipulate to the
5 presence of the jury panel?
6 MR. ROWLES: Yes, Your Honor.
7 THE COURT: The defense?
8 MR. FELICIANO: Yes, Your Honor.
9 THE COURT: Okay.
10 MR. ROWLES: May I approach your Clerk to retrieve
11 the exhibit?
12 THE COURT: Yeah. I believe, Officer Hawkes,
13 they're going to want you to -- transcript.
14 THE MARSHAL: Oh, okay.
15 THE COURT: Do you have the transcripts? Okay.
16 All right. Ladies and gentlemen, at this time,
17 Officer Hawkes is going to pass out transcripts, and you can
18 follow along while it's being paid, and at the end, Officer
19 Hawkes will collect all of those transcripts.
20 (Pause in the proceedings)
21 MR. ROWLES: May I proceed, Your Honor?
22 THE COURT: You may.
23 BY MR. ROWLES:
24 Q Sir, we picked up right around the time when you
25 walked in to begin the formal interview process; do you

1 remember that?

2 A Yes.

3 MR. ROWLES: State's Exhibit 3, for the record, one
4 hour, 23 minutes and seven seconds.

5 (State's Exhibit 3, video, continues playing)

6 BY MR. ROWLES:

7 Q Pausing State's Exhibit 3 at one and 26 minutes and
8 28 seconds.

9 MS. HOJJAT: Your Honor, we object.

10 THE COURT: What's the objection?

11 MS. HOJJAT: If we're going to play the statement
12 for the jury, the statement should be played for the jury.
13 Narration in the middle of the statement, we believe is
14 inappropriate.

15 THE COURT: Overruled. You may proceed.

16 BY MR. ROWLES:

17 Q Sir, at this point in time, had you, just to
18 clarify again, given any specific information as to what the
19 allegations were against Mr. Vasquez-Reyes?

20 A I had not.

21 Q Okay. And did we just observe you asking him if he
22 understood why you were there -- or why he was there?

23 MS. HOJJAT: Objection. Leading and compound at
24 this point.

25 THE COURT: You are.

1 MR. ROWLES: I'll play the video.

2 THE COURT: Leading objection sustained.

3 (State's Exhibit 3, video, continues playing)

4 BY MR. ROWLES:

5 Q Pausing State's 3 at one hour, 42 minutes, and 51

6 seconds. Detective, I have a few questions to ask.

7 MS. HOJJAT: Can we approach, Your Honor, before I

8 start my cross?

9 THE COURT: Sure. Officer Hawkes, if you don't

10 mind collecting the transcripts.

11 (Bench conference begins).

12 MS. HOJJAT: Your Honor, at this point, we're going

13 to be moving for a mistrial. This video was turned over to

14 us this morning, and I know the State had asked us to take a

15 look at it over lunch. We simply didn't have time. It was

16 only a one-hour lunch break. We were going to go grab some

17 food, and eat our food. We didn't have a chance to view the

18 video.

19 That video had clear redactions in it. Like, it

20 was very obvious in viewing that video that were parts of

21 that statement that have been redacted. There were bright

22 black lines that were across the video. We didn't want to

23 object as the lines were on the screen because we didn't want

24 to draw attention to it, but I think it would be impossible

25 for the jury not to know that that transcript has been

1 redacted with the way that video played.

2 THE COURT: I didn't really -- I didn't see it
3 obviously, because I don't remember seeing any redactions.

4 MR. ROWLES: Well, I remember seeing redactions but
5 I disagree that it was clear. I mean, the video, the
6 transition was smooth. There's no clear gaps in time between
7 the conversations. It just looks like a technical error.

8 THE COURT: What do you mean -- I mean, so --

9 MS. HOJJAT: It -- so the lines are going across
10 the screen, and then there's giant black stripes going across
11 the screen in the areas that are redacted.

12 MR. ROWLES: It looks like a technical error.

13 THE COURT: I mean, when we do redactions I don't
14 know what else you want to do. I don't even know why they
15 had to have that on the screen. We handed them out, the
16 transcript.

17 MS. HOJJAT: Precisely. We received this just this
18 morning. We didn't have a chance to review it before it was
19 played for the jury.

20 MR. ROWLES: We gave them an ample opportunity to
21 look at it. I don't think the redactions were that clear and
22 obvious. I think it just looks like a technical error. And
23 the video itself has a smooth transition. There's no clear
24 gap in between body positions, body language, body movements.
25 One person doesn't just all of a sudden disappear.

1 I don't think it can be that obvious at this time.
2 I'd object.

3 THE COURT: Anything else?

4 MS. HOJJAT: We're moving for a mistrial, and we'll
5 submit it on that.

6 THE COURT: The motion for mistrial is denied but
7 the record -- I mean, all of this is in the record. The
8 video is Exhibit 3, correct?

9 MR. ROWLES: Yes.

10 THE COURT: Okay. Thank you.

11 MR. ROWLES: Thank you.

12 MS. HOJJAT: Yes, Your Honor.

13 THE COURT: And I also marked the written
14 transcript.

15 MR. ROWLES: Court's exhibit?

16 THE COURT: Uh-huh.

17 (End of bench conference.)

18 BY MR. ROWLES:

19 Q So Detective, during your interaction with
20 Mr. Vasquez-Reyes, the video doesn't really capture his head;
21 is that correct?

22 A Correct.

23 Q Did he show any sort of emotion in that area when
24 you were talking to him?

25 A Yes. He did tear up a little bit at one point in

1 the interview.

2 Q During your interview with Mr. Vasquez-Reyes, who
3 was the first person to introduce the word "touch"?

4 A Mr. Vasquez-Reyes.

5 Q Who was the first person to introduce the record
6 "breasts"?

7 MS. HOJJAT: I'm going to object to all this as
8 cumulative. The jury just had a chance to view the video for
9 themselves.

10 THE COURT: Okay. Overruled. You may proceed.

11 BY MR. ROWLES:

12 Q Who was the first person to introduce the word
13 "breasts"?

14 A Mr. Vasquez-Reyes.

15 Q Who was the first person to turn the allegations
16 from abuse into sexual abuse?

17 A Mr. Vasquez-Reyes.

18 MS. HOJJAT: I'm going to object. That's
19 argumentative, Your Honor.

20 THE COURT: You probably need to rephrase the
21 question.

22 MR. ROWLES: Okay.

23 BY MR. ROWLES:

24 Q Who was the first person that brought up sexual
25 conduct?

1 A Mr. Vasquez-Reyes.

2 MS. HOJJAT: And again, I object. That's

3 argumentative.

4 THE COURT: Overruled. You may proceed.

5 BY MR. ROWLES:

6 Q What was the answer?

7 A Mr. Vasquez-Reyes.

8 Q Who was the first person to bring up the word

9 "penetration"?

10 A Mr. Vasquez-Reyes.

11 Q Who was the first person to bring up

12 "masturbation"?

13 A Mr. Vasquez-Reyes.

14 Q Who introduced the word "embarrassed"?

15 A Mr. Vasquez-Reyes.

16 Q Who introduced the word "rape"?

17 A Mr. Vasquez-Reyes.

18 MR. ROWLES: Nothing further.

19 THE COURT: Cross-examination?

20 MS. HOJJAT: Yes, Your Honor. Thank you.

21 MR. ROWLES: Your Honor, may I approach the Clerk

22 with --

23 THE COURT: You may.

24 MR. ROWLES: -- just to [inaudible].

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CROSS-EXAMINATION

BY MS. HOJJAT:

Q Good afternoon, Detective.

A Good afternoon.

Q Okay. We're going to start by talking about your investigation, and then we will get to the interrogation.

A Okay.

Q Okay? So I want to start with your arrival on the scene.

A Okay.

Q Okay? You were called out because there was an allegation of sexual abuse?

A Correct.

Q And then you were at that time, a detective on SVU?

A Yes.

Q And so you went out to the scene?

A Correct.

Q So you were not at the scene when the first responding officers arrived?

A Correct.

Q You were not at the scene when Guadalupe made the accusation?

A Correct.

Q You were not at the scene when officers were talking to Guadalupe?

1 A Correct.

2 Q You were not at the scene to see how officers
3 handled that situation or who they talked to at that time?

4 A Correct.

5 Q So you arrived later?

6 A Yes.

7 Q And then when you arrive at the scene, an officer
8 comes and speaks with you?

9 A Yes.

10 Q And that officer provided you with information?

11 A Yes.

12 Q Information he had learned from Guadalupe?

13 A I -- from his preliminary investigation, yes.

14 Q Okay. You wrote an arrest report in this case?

15 A Yes.

16 Q And you wrote that arrest report short in time
17 after your conversation with that officer?

18 A Yes.

19 Q Same day?

20 A Yes.

21 Q Okay. And you try your best to be accurate in your
22 arrest report?

23 A Yes.

24 Q You try your best to be thorough in your arrest
25 report?

1 A Yes.

2 Q To put correct information in your arrest report?

3 A Yes.

4 Q And to be fair -- fair to say your memory of the
5 conversation you had with that officer at that time was
6 better the day that it happened than it is today?

7 A Yes.

8 Q Because it's been three and a half years?

9 A Correct.

10 Q And like we said, you wrote the arrest report
11 literally the day you had the conversation with the officer?

12 A Yes.

13 Q So if you wrote something in the report, it's what
14 occurred that day at the Berkley Avenue address?

15 A Yes.

16 Q And the officers who came and told you about what
17 they had heard, told you --

18 MR. ROWLES: Objection. Hearsay.

19 THE COURT: Let me hear the question.

20 BY MS. HOJJAT:

21 Q The officers told you that Ms. Alvarez --

22 THE COURT: Okay. You're not -- are you going to
23 put the hearsay in the question?

24 MS. HOJJAT: Yes, the hearsay is in the question,
25 Your Honor.

1 THE COURT: Okay.

2 MS. HOJJAT: If we could --

3 THE COURT: So --

4 MS. HOJJAT: I mean --

5 THE COURT: -- if you want -- I mean --

6 MS. HOJJAT: It's not hearsay --

7 THE COURT: Sounds like you were --

8 MS. HOJJAT: -- for the exact reasons that the

9 State was allowed to go into all the --

10 MR. ROWLES: If we could approach?

11 THE COURT: Sure.

12 (Bench conference begins).

13 MS. HOJJAT: So --

14 THE COURT: Tell me what the question's going to

15 be.

16 MS. HOJJAT: So basically that the officer told him

17 that Guadalupe told her -- told him that there was penis to

18 vagina penetration one week prior. And this is -- I mean,

19 this is goes to a variety of things. Number one, it's prior

20 inconsistent statement and impeachment because now there's

21 been some suggestion that maybe the officer wasn't saying

22 that, maybe that wasn't what the officer meant, maybe

23 Guadalupe didn't say that.

24 We've now got the officer put it in his over report

25 and he told the detective about it when the detective arrived

1 at the scene.

2 Secondly, it goes to, again, the two witness
3 impeachment because Guadalupe was confronted with these
4 statements, Guadalupe said it didn't happen, and then the
5 officer on the stand when we tried to do the two witness
6 impeachment started backing off of it.

7 Secondly --

8 THE COURT: Well, you guys have both done it.

9 MS. HOJJAT: Yes.

10 THE COURT: I mean, at this point --

11 MS. HOJJAT: Precisely. The State was allowed --

12 MR. ROWLES: It's double hearsay, Your Honor.

13 MS. HOJJAT: The State was allowed to go --

14 THE COURT: Well, yeah, it is --

15 MS. HOJJAT: -- into all these statements.

16 THE COURT: -- it's from Guadalupe to the cop, so,
17 I mean --

18 MS. HOJJAT: The State was allowed to --

19 THE COURT: -- that's true.

20 MS. HOJJAT: The State was allowed to go into all
21 of these statements, all of the things --

22 THE COURT: But that was double hearsay, and they
23 had an exception when they came up here. When you did it
24 with the -- with the patrol officer, you had -- you had a --
25 an exception to the hearsay rule --

1 MS. HOJJAT: This isn't --
2 THE COURT: -- that was well laid out and analyzed.
3 MS. HOJJAT: This is --
4 THE COURT: What -- what is it? Because it's now
5 Guadalupe through the patrol officer through the detective.
6 MS. HOJJAT: This is precisely --
7 THE COURT: That's two.
8 MS. HOJJAT: This is -- what this is is what the
9 patrol officer told the detective. The State has raised
10 issue with whether the patrol officer's own written report --
11 THE COURT: But that was still hearsay.
12 MS. HOJJAT: -- was accurate. But it's -- it's not
13 hearsay. I'm not offering it for the truth of the matter.
14 I'm not trying to say that my client vaginally penetrated
15 Guadalupe and that happened a week ago. I'm not offering any
16 of --
17 THE COURT: No, you're offerring it --
18 MS. HOJJAT: -- this --
19 THE COURT: -- to be the truth of the matter of
20 Guadalupe.
21 MS. HOJJAT: I'm offering it -- precisely. It's
22 the truth of the matter of why --
23 THE COURT: Well, it's hearsay.
24 MS. HOJJAT: -- of what the officer heard from
25 Guadalupe. That is a two-witness impeachment because we

1 confronted him, the State tried to suggest that's not what
2 happened there. He started back pedalling on what -- that's
3 what happened here. So now we've got his statement to
4 another person that that's what happened.

5 THE COURT: Well, who are you trying to impeach?

6 MS. HOJJAT: Now, at this point, the officer.

7 THE COURT: Which officer?

8 MS. HOJJAT: The officer who said that, well,
9 that's not what I meant.

10 MR. ROWLES: They never confronted the officer with
11 that specific statement.

12 MS. HOJJAT: We did.

13 MR. ROWLES: No.

14 THE COURT: The patrol officer?

15 MS. HOJJAT: The patrol officer with whether that
16 was what Guadalupe told him or not, and he said no. Well, he
17 -- he started backing off there.

18 THE COURT: Well, he just [inaudible] said that
19 with his report and he --

20 MS. HOJJAT: I mean --

21 MR. ROWLES: But then he admitted to what was in
22 the report at that particular time --

23 MS. HOJJAT: Your Honor, it would be highly
24 prejudicial for the defense --

25 MR. ROWLES: -- to explain the way --

1 MS. HOJJAT: -- if there's -- there's an officer's
2 report in which they say that Guadalupe told them X. And
3 then there's a detective's report in which he says the
4 officer told me Guadalupe told him X.

5 The State has been allowed to cast doubt --

6 THE COURT: Okay. Listen, go right ahead.

7 MS. HOJJAT: Thank you very much.

8 THE COURT: Both sides can go into it.

9 MS. HOJJAT: Thank you.

10 (Bench conference concluded).

11 BY MS. HOJJAT:

12 Q So you spoke with the officer that day?

13 A Yes.

14 Q And the officer told you that Guadalupe had said to
15 him that Armando had been repeatedly sexually assaulting her
16 by putting his penis inside her vagina and that the most
17 recent incident was approximately one week ago?

18 A I believe that's what I was told, yes.

19 Q And then you decided to move everybody to the
20 police station?

21 A To headquarters, yes.

22 Q For further investigation?

23 A Yes.

24 Q Okay. And you interviewed Guadalupe at the police
25 station?

1 A Yes.

2 Q And by then when you interviewed her, she told you
3 that it was almost always anal rape, not vaginal rape,
4 correct?

5 A Yes, I believe so.

6 Q And she was telling you that the most recent
7 incident was November of 2015?

8 A Correct.

9 Q So that's about five or six months ago?

10 A Roughly, five months, yes.

11 Q Not a week ago?

12 A Correct.

13 Q She told you that she thought the sex started when
14 she was five or six years old?

15 MR. ROWLES: Objection. Hearsay.

16 THE COURT: Yeah, sustained.

17 MS. HOJJAT: And Your Honor, this all now goes to
18 the -- if we can approach?

19 THE COURT: Yeah. I mean --

20 (Bench conference begins).

21 MS. HOJJAT: So first and foremost, I'm not
22 entering anything Guadalupe said for the truth of the matter
23 asserted. My position is Ms. Alvarez was dishonest about
24 everything. That's fabrication. That's our entire theory of
25 the case, none of this is offered for the truth of the matter

1 asserted.

2 What we're offering it for is to challenge the
3 scope of his investigation based on the information that he
4 had and also impeachment of Ms. Alvarez in some of the things
5 that she denied or admitted to when Mr. Feliciano was
6 cross-examining her.

7 THE COURT: Okay. This is all hearsay. The
8 objection's sustained.

9 MS. HOJJAT: Your Honor --

10 THE COURT: You can move on.

11 MS. HOJJAT: -- the State was allowed to go into
12 the statements that she made into him, but we're not allowed
13 to?

14 THE COURT: The objection's sustained.

15 (Bench conference concluded).

16 BY MS. HOJJAT:

17 Q So you received information that Guadalupe had been
18 getting -- had been anally raped since the age of about five
19 or six years old?

20 A Yes.

21 Q You did not ask her if she had any injuries after
22 those anal penetrations?

23 A I believe I did.

24 Q You asked her if she had pain, but you did not ask
25 her if there were injuries?

1 A Okay.

2 Q Correct?

3 A Yes.

4 Q And you did not ask her if she bled after those
5 anal penetrations?

6 A I believe so, correct.

7 Q Guadalupe first told you that she didn't know what
8 was going on --

9 MR. ROWLES: Objection. Hearsay.

10 MS. HOJJAT: Your Honor, this is not offered for
11 the truth of the matter asserted.

12 THE COURT: What's its relevance, then?

13 MS. HOJJAT: Its goes to what this detective did
14 next based on the information he had. We're challenging the
15 scope of his investigation. The information he had and how
16 he acted next is effect on the listener.

17 THE COURT: So I'm going to give you a little
18 leeway, but it doesn't mean that all the hearsay comes in.

19 BY MS. HOJJAT:

20 Q She told you that at first she didn't know what was
21 going on?

22 A As far as?

23 Q She said that she didn't understand the nature of
24 what was being done to her?

25 A Oh, as far as the nature of the abuse?

1 Q Yes.

2 A Yes.

3 Q Okay. And, in fact, she said -- you were talking
4 to her about up until November of 2015?

5 A Yes.

6 Q And she was saying she didn't understand what was
7 going on?

8 A Correct.

9 Q And then she said that she talked to a friend
10 online?

11 A Yes.

12 Q And that the online friend explained to her, I
13 guess, about sexually abuse?

14 A I believe the online friend gave an example in
15 their life of a person who had been sexually abused.

16 Q Okay. And then she said that right after --

17 THE COURT: I mean, this -- this is a lot of
18 hearsay coming in.

19 MS. HOJJAT: Your Honor, I'm not offering any of
20 this for the truth of the matter asserted.

21 THE COURT: Then it's probably not relevant. You
22 can ask him what he did as a result of what she said.

23 MS. HOJJAT: And Your Honor, the State was allowed
24 to go into all of this on their direct examination on this
25 detective. This exact stuff that I'm asking about right now.

1 So we would be asked to be allowed to cross-examine on it.

2 THE COURT: Okay. Go ahead. I mean, no, I'm not
3 -- the objection was sustained. I mean, I don't know what
4 else to say. The objection was sustained.

5 BY MS. HOJJAT:

6 Q You did not -- the State asked you on direct
7 examination that you didn't go try to find this person?

8 A The online friend?

9 Q Yes.

10 A Correct.

11 Q And you said it was because you didn't know who
12 this person was?

13 A Correct.

14 Q You didn't actually her for this person's name?

15 A Correct.

16 Q At no point during the interview did you ask her
17 what was the name of that person?

18 A Correct.

19 Q At no point after the interview did you ask her
20 what was the name of that person?

21 A Correct.

22 Q At no point after the interview had ended and she
23 left the station did you get in contact with her and say, you
24 know what, I forgot to get the name of that person from you,
25 can you give me the name of that person?

1 A Correct.

2 Q So you didn't have the name of the person because
3 you didn't ask for the name of the person?

4 A That's correct.

5 Q She also told you about somebody that she had who
6 was a best friend of hers?

7 A Yes, a friend, yes.

8 Q And she said the best friend always used to sleep
9 over?

10 A Yes.

11 Q She told you about a time that they were sleeping
12 outside watching TV?

13 A Yes.

14 Q And she told you that they fell asleep out there?

15 A Yes.

16 Q She told you Armando went out to touch her --

17 MR. ROWLES: Objection. Hearsay.

18 MS. HOJJAT: Your Honor, this goes to the scope of
19 what he did based on the information. I have to establish
20 the information to go with what he did next.

21 THE COURT: I mean, is there an exception to the
22 hearsay rule?

23 MS. HOJJAT: Yes, I'm not entering any of it for
24 the truth of the matter asserted.

25 THE COURT: Okay.

1 MS. HOJJAT: This is not our position that any of
2 this happened. Our position is simply that we get to
3 cross-examine him on how he reacted to receiving information.
4 THE COURT: Okay. Well, you can ask him how he
5 reacted to certain statements.
6 MS. HOJJAT: But I need to establish --
7 THE COURT: But you have to do it --
8 MS. HOJJAT: -- the information --
9 THE COURT: -- without going into hearsay.
10 MS. HOJJAT: I'm -- it's not hearsay. We are not
11 trying to offer it for the truth of the matter.
12 MR. ROWLES: Your Honor, State's position would be
13 is that with the prior online friend, they were able to
14 discuss the investigation without getting into specific
15 statements --
16 THE COURT: I agree.
17 MR. ROWLES: -- that Guadalupe made.
18 MS. HOJJAT: Your Honor, the State was allowed to
19 direct on --
20 THE COURT: I mean --
21 MS. HOJJAT: -- all of this.
22 THE COURT: -- I agree. You've done a good job
23 when I sustained the objection of getting it in other ways.
24 MS. HOJJAT: The State was allowed --
25 THE COURT: So --

1 MS. HOJJAT: -- to go into all of this on direct
2 examination. We should be allowed to --

3 MR. ROWLES: With a proper -- with a proper
4 exception to the hearsay rule.

5 MS. HOJJAT: There was no exception.

6 THE COURT: The objection is sustained.

7 BY MS. HOJJAT:

8 Q You had information that the friend saw something?

9 A I believe she said it was a hug or something, yes.

10 Q You had information that the friend found it
11 relevant enough that the friend commented on it the next
12 morning?

13 A Yes.

14 Q The friend actually made a comment about observing
15 Armando with Guadalupe?

16 A Yes.

17 Q And observing his behavior with Guadalupe?

18 A Yes.

19 Q She found it significant enough to say something?

20 A She told her about it, yes.

21 Q Okay. And again, the State asked you about the
22 fact that you didn't know the name of this friend?

23 A Yes.

24 Q And that's why you couldn't go and track down this
25 friend?

1 A Yes.

2 Q But again, you didn't ask Guadalupe for the name of
3 this friend?

4 A Correct.

5 Q You didn't ask her during the interview?

6 A Correct.

7 Q You didn't ask her after the interview was over?

8 A Correct.

9 Q You didn't follow up with her and reach out with
10 her and say, you know, what I forgot to get the name of that
11 friend who you say saw something?

12 A Correct.

13 Q You didn't have the name because you never asked
14 for it?

15 A Correct.

16 Q And we discussed the fact that Guadalupe was
17 representing to you that until November of 2015, she didn't
18 understand the nature of what was occurring to her?

19 A Yes.

20 Q Okay. But then during your conversation with her,
21 she was using language such as --

22 MR. ROWLES: Objection. Hearsay.

23 MS. HOJJAT: Not being offered for the truth of the
24 matter.

25 THE COURT: Okay.

1 MS. HOJJAT: I'm literally talking about words at
2 this point. It's not even statements.

3 THE COURT: Can the parties approach?

4 MS. HOJJAT: Thank you.

5 (Bench conference begins).

6 THE COURT: I mean, I literally feel like, I mean,
7 you cannot get everything in and just say well, the State
8 talked about it. Every time I've sustained the objection,
9 you have rephrased your question appropriately.

10 MS. HOJJAT: Judge --

11 THE COURT: And then you go for a while and then
12 now we're back to did she, you know --

13 MS. HOJJAT: Your Honor --

14 THE COURT: -- she said this, right? I mean,
15 that's just full on hearsay.

16 MS. HOJJAT: Your Honor, none of it's hearsay if
17 I'm not offering it for the truth of the matter asserted.
18 The first step of hearsay is that I have to be trying to
19 prove the thing that I'm saying. I am not trying to prove
20 that my client sexually assaulted Guadalupe. That is not
21 what the --

22 THE COURT: Okay.

23 MS. HOJJAT: -- defense is trying to prove.

24 THE COURT: That makes no sense. What you're
25 trying to prove to this jury that she used words like

1 f-u-c-k, the other words.

2 MS. HOJJAT: Yes.

3 THE COURT: Right. And you're going to ask him
4 didn't she tell you f, didn't she tell you this? That's
5 being offered for the truth of the matter asserted.

6 MS. HOJJAT: No, the --

7 THE COURT: You just have to phrase --

8 MS. HOJJAT: -- truth of the matter asserted would
9 be --

10 THE COURT: -- your question --

11 MS. HOJJAT: -- if I was trying to prove what
12 Guadalupe said, Your Honor. It's not hearsay unless I'm
13 trying to prove what Guadalupe -- not -- not the fact -- not
14 the fact that she said it, but the truth of the statement.
15 If Guadalupe says, I'm on the moon, and I'm not
16 actually trying to prove that she was on the moon, it's not
17 hearsay.

18 THE COURT: The objection to hearsay has been
19 sustained. Just rephrase your questions.

20 MS. HOJJAT: Okay.

21 (Bench conference concluded).

22 BY MS. HOJJAT:

23 Q Was the word -- excuse me language, was the word
24 "fuck" used during your interview with Guadalupe?

25 A I believe so, yes.

1 Q Were you --
2 MR. ROWLES: Objection, Your Honor. Hearsay.
3 BY MS. HOJJAT:
4 Q Were you the one using it?
5 THE COURT: No.
6 MR. ROWLES: Move to strike.
7 THE COURT: Go ahead.
8 MS. HOJJAT: Thank you.
9 THE COURT: I mean, just don't -- I mean, you've
10 got to stay away from the hearsay. I don't know what else to
11 say.
12 BY MS. HOJJAT:
13 Q Were you the one using that word?
14 A No.
15 Q Was the word "cum" used during your interrogation
16 of Guadalupe?
17 A Yes.
18 Q Were you the one using that word?
19 A No.
20 Q Was the word "pussy" used during your -- or your
21 interview of Guadalupe?
22 A Yes.
23 Q Were you the one using that word?
24 A No.
25 Q These were all the words being used by the

1 14-year-old Guadalupe?

2 A Yes.

3 Q Who claims that two months before her 14th birthday

4 she didn't know the nature of what was occurring to her?

5 A Yes.

6 Q Okay. And you didn't ask any follow-up questions

7 about that either?

8 A About the language she was using?

9 Q Yeah.

10 A No.

11 Q Your interview with Guadalupe was approximately 43

12 pages long; does that sound right?

13 A The transcript?

14 Q Yeah.

15 A Yes.

16 Q 44, actually.

17 A Yes.

18 Q Yes. She described a lot of incidents to you?

19 A Yes.

20 Q You asked her at one point if there was anything

21 else that happened?

22 A Yes.

23 Q You asked her if there were any other details you

24 guys hadn't gone over?

25 A Yes.

1 Q You asked if there was anything else that was
2 important for you to know?

3 A Yes.

4 Q Anything you hadn't asked about?

5 A Yes.

6 Q You asked her if there was anything else she
7 remembered?

8 A Yes.

9 Q She never ever mentioned Armando putting his mouth
10 on her vagina?

11 A I don't believe so.

12 Q You interviewed Rosalba in this case?

13 A Yes.

14 Q You never asked Rosalba if she ever noticed blood
15 on her bedspread?

16 A Correct.

17 Q You never asked Rosalba if she ever noticed blood
18 anywhere else it shouldn't be?

19 A Correct.

20 Q Like the bedsheets?

21 A Correct.

22 Q Like her daughter's underwear before they hit
23 puberty?

24 A Correct.

25 Q Guadalupe told you about multiple residences during

1 her interview with you?

2 A Yes.

3 Q You never asked Rosalba about the different
4 residences?

5 A Correct.

6 Q You never asked her for the specific addresses?

7 A Correct.

8 Q You never asked her to break down for you the
9 places that they lived?

10 A Correct.

11 Q You never investigated to find out where those
12 residences were?

13 A Correct.

14 Q You never investigated the prior residences to find
15 out how big they were?

16 A Correct.

17 Q The Berkley Avenue address house is only about 1100
18 square feet, correct?

19 A I don't know.

20 Q Did you not go inside of it?

21 A No.

22 Q You never went inside of the Berkley Avenue house?

23 A Correct.

24 Q You didn't ask the size of any of the residences
25 that they had lived at?

1 A Correct.

2 Q You never went out to any of the prior residences?

3 A Correct.

4 Q You never took pictures of any of the locations

5 where you were told these incidents occurred?

6 A Correct.

7 Q You never tried?

8 A No.

9 Q You spoke with Darey that same day?

10 A Initially, yes. Stephanie, right?

11 Q Yes.

12 A Yes.

13 Q You spoke with her alone?

14 A Yes.

15 Q You asked her if Armando had ever done anything to

16 her?

17 A Yes.

18 Q She said no?

19 A Correct.

20 Q Now, I want to talk to you about your interrogation

21 of my client.

22 A Okay.

23 Q You didn't have a warrant to arrest my client at

24 his house, correct?

25 A Correct.

1 Q You drove out to his house?

2 A Yes.

3 Q And after a short conversation with him, he ended
4 up in the back of a patrol vehicle?

5 A Yes.

6 Q In handcuffs?

7 A Yes.

8 Q And he's being taken to a police station?

9 A Yes.

10 Q During your short conversation with him at the
11 Berkley Avenue address, he didn't confess to any crimes?

12 A Correct.

13 Q You hadn't interviewed any witnesses, yet?

14 A Correct.

15 Q You hadn't done a formal interview of the person
16 making an accusation?

17 A Correct.

18 Q You hadn't even actually spoken to the person
19 making an accusation about the accusation?

20 A About the accusation, correct.

21 Q But within minutes of your arrival, my client's in
22 handcuffs?

23 A Yes.

24 Q No one other than Armando was transported to the
25 police headquarters in a police vehicle?

1 A Correct.

2 Q No one other than Armando was transported to police
3 headquarters in handcuffs?

4 A Correct.

5 Q But your position is that this was all voluntary by
6 Armando?

7 A Yes.

8 Q And that he was not under arrest?

9 A Correct.

10 Q After being transported to headquarters, you placed
11 him in a ten by ten interrogation room?

12 A Yes.

13 Q You took his wallet from him?

14 A Yes.

15 Q You took his cell phone from him?

16 A Yes.

17 Q According to you, he was still not under arrest?

18 A Correct.

19 Q And you're sure that he wasn't under arrest as you
20 are that you didn't discussion any details of the accusation
21 with him on the car ride over?

22 A Yes.

23 Q Then you went and you spoke with Guadalupe Alvarez
24 and Darey?

25 A Yes.

1 Q And Armando is just sitting in that interrogation
2 room?
3 A Yes.
4 Q While our interviewing the other witnesses?
5 A Yes.
6 Q At one point he indicated to you that he was
7 feeling lightheaded?
8 A Correct.
9 Q He indicated he needed his medicine?
10 A Yes.
11 Q And you asked him where's your medicine?
12 A Yes.
13 Q And he told you the exact location?
14 A Yes.
15 Q At my house in a lunchbox?
16 A Yes.
17 Q You already told us on direct examination his house
18 was only a ten-minute drive from the station?
19 A Yes.
20 Q But you told him you weren't going to get the
21 pills?
22 A Correct.
23 Q And I want to be clear about what you told him.
24 You didn't tell him wasn't going to get his pills. You told
25 him you weren't going to give him his pills right now?

1 A Yes.

2 Q Those were your words, right now?

3 A Yes.

4 Q And then you told him that you didn't want to do
5 that because you didn't want the pills to have an effect on
6 him while you guys were speaking?

7 A Yes.

8 Q So it was during your conversation you didn't want
9 the pills to potentially affect him?

10 A Yes.

11 Q And you indicated that to him?

12 A Yes.

13 Q And then you tried to let him know -- you tried to
14 tell him to let you know if he needed -- well, let me back
15 up. Sorry.

16 You told him he needed to let you know if he needed
17 medical attention?

18 A Yes.

19 Q You didn't define medical attention?

20 A Correct.

21 Q You didn't tell him what constituted medical
22 attention?

23 A Correct.

24 Q At that point, he had already told you he needed
25 his pills?

1 A Yes.

2 Q And you told him he wasn't getting those?

3 A Yes.

4 Q You told him with a you'd call an EMT?

5 A Yes.

6 Q That wasn't what was translated to him, was it?

7 A I don't remember what the translation was.

8 Q Do you speak any Spanish?

9 A I do not.

10 Q Were you speaking a little bit Spanish --

11 A Oh --

12 Q -- in the beginning of the video?

13 A -- I -- I can speak enough to say put your hands on

14 your head and things like that.

15 Q And that's what you were telling him at the

16 beginning of the video?

17 A Yes.

18 Q Put your hands on your head?

19 A Yes.

20 Q Even though he wasn't under arrest?

21 A Well, taking him out of handcuffs, so --

22 Q Okay. If I told you that he was actually told, let

23 me know if you need --

24 MR. ROWLES: Objection, Your Honor.

25 BY MS. HOJJAT:

1 Q -- an ambulance.

2 MR. ROWLES: Facts not in evidence.

3 THE COURT: What -- I mean, I don't even understand
4 where this is coming from. Can you approach?

5 MS. HOJJAT: Sure.

6 (Bench conference begins).

7 THE COURT: Are you trying to get in the statement
8 your client made?

9 MS. HOJJAT: No, so what we just found out during
10 the playing of the video is that there was a mistranslation.
11 He was not told if you need an EMT -- or let me know and I'll
12 call an EMT. He was told let me know, and I'll call an
13 ambulance.

14 And so I'm just trying to see if this detective
15 knew that. If he didn't, we'll be recalling the translator
16 to clarify that or some other interpreter.

17 THE COURT: I was going to say, why don't you just
18 -- yeah --

19 MS. HOJJAT: Yeah.

20 THE COURT: -- bring it up with the translator.

21 MS. HOJJAT: We'll do that. I just wanted to
22 see --

23 THE COURT: Yeah.

24 MS. HOJJAT: -- if he was aware of that. He either
25 was or he wasn't.

1 THE COURT: Well, he indicates that he hasn't --
2 well, I think it's hearsay. So bring it up with the
3 interpreter who can actually sit here and listen to it. I
4 mean, or I don't know, if you want to play that part of it
5 and ask him if he understands the translation.

6 MS. HOJJAT: Okay. We'll bring it up with.

7 THE INTERPRETER. That's fine.

8 THE COURT: Okay.

9 (Bench conference concluded).

10 BY MS. HOJJAT:

11 Q And then Armando was sitting in the interrogation
12 room for more than an hour waiting to be interrogated by you?

13 A Yes.

14 Q During the interrogation, he initially said he
15 didn't do these things?

16 A Yes.

17 Q And then after he told you nothing happened, you
18 told him well, she's saying these things?

19 A Yes.

20 Q You told him, she has to reason to do that?

21 A Yes.

22 Q You told him everything that was going on today
23 didn't have anything to do with Guadalupe?

24 A Yes.

25 Q And she's saying what she's saying?

1 A Yes.

2 Q He originally denied touching Guadalupe?

3 A Yes.

4 Q You persisted in asking questions?

5 A Yes.

6 Q Asking questions that were based on her version of

7 the story?

8 A Yes.

9 Q Asking questions based on her allegations?

10 A Yes.

11 Q And you were telling him things like, she has no

12 reason to lie?

13 A Yes.

14 Q Indicating to him you already believed her?

15 A Yes.

16 Q In fact, that's an interrogation technique, isn't

17 it?

18 A It is.

19 Q Okay. And after you asked several questions like

20 that, that's when he said okay?

21 A Yes.

22 Q First he said he just touched her legs and breasts?

23 A Yes.

24 Q And then you insisted you knew there was more than

25 that?

1 A Yes.

2 Q And then he agreed to penetration?

3 A Yes.

4 Q And I want to talk to you about the district

5 attorney's questions to you that he was the first one to say

6 anything about sexual abuse.

7 You were repeatedly talking about Guadalupe being

8 abused?

9 A Abuse, yes.

10 Q His young daughter?

11 A Yes.

12 Q You told him she had been saying she's been abused

13 for years?

14 A Yes.

15 Q This is not good?

16 A Yes.

17 Q It's a really big deal?

18 A Yes.

19 Q This is serious allegations?

20 A Yes.

21 Q It's been ongoing for years?

22 A Yes.

23 Q And she's finally disclosed?

24 A Yes.

25 Q But your contention is that he is the first one to

1 introduce any sort of suggestion that this abuse could be
2 sexual?

3 A Yes.

4 Q Okay. And the DA asked you who was the first
5 person to mention the word anal during the interrogation?

6 MR. ROWLES: Misstates the testimony, Your Honor.

7 THE COURT: Yeah, sustained.

8 MS. HOJJAT: I'll clarify.

9 THE COURT: Okay.

10 BY MS. HOJJAT:

11 Q You were the first person to mention anal in the
12 interrogation?

13 A I said anus, yes.

14 Q I want to talk to you about his demeanor during the
15 interrogation.

16 He was very calm?

17 A Yes.

18 Q He was just sitting there?

19 A Yes.

20 Q He wasn't emoting?

21 A He was tearing up in the middle of it, yes.

22 Q Did you testify previously at a hearing in this
23 matter?

24 A I did.

25 MS. HOJJAT: Court's indulgence.

1 BY MS. HOJJAT:
2 Q So your testimony today was that he was crying
3 during the interrogation?
4 A I said he teared up a little bit.
5 Q That he teared up during the interrogation?
6 A Yes.
7 Q You testified previously in a hearing in this
8 matter?
9 A Yes.
10 Q Okay. And the date of that hearing was Thursday,
11 April 26, 2018?
12 A Yes.
13 Q So about a year and a half ago?
14 A Yes.
15 Q Closer in time to the incident?
16 A Correct.
17 Q And you were truthful during that testimony?
18 A Yes.
19 Q You testified to the best of your recollection?
20 A Yes.
21 Q You were specifically asked at that testimony he
22 wasn't emoting? Your response was, correct?
23 A Yes.
24 Q In fact, at that hearing you said that he was
25 reserved?

1 A Yes.

2 Q That he wasn't animated?

3 A Yes.

4 Q So at that hearing you never said anything about
5 him crying?

6 A Correct.

7 Q And as we already discussed, his face isn't in the
8 video, so we have no way of seeing it?

9 A Correct.

10 Q And now today for the first time you're saying he
11 was crying?

12 A Correct.

13 Q Okay.

14 A Just to clarify, I said tearing up, not crying.

15 Q Okay. He was responding to direct questioning?

16 A Yes.

17 Q But he was reserved?

18 A Yes.

19 Q He wasn't engaging in long narratives?

20 A I wouldn't say it was overly long, no.

21 Q Okay. And he wasn't animated?

22 A Correct.

23 Q You're not aware of what my client's IQ is?

24 A No.

25 Q In your interview with Guadalupe, she was able to

1 answer your questions?

2 A Yes.

3 Q You asked questions, she answered them?

4 A Yes.

5 Q She didn't say I don't understand?

6 A I don't recall specifically if she said I don't

7 understand.

8 Q There wasn't multiple responses of I don't

9 understand over and over again to questions?

10 A I don't believe so.

11 Q She didn't keep asking you to repeat questions?

12 A I don't believe so.

13 Q She was able to communicate with you just fine

14 during that interview?

15 A Yes.

16 Q Guadalupe at one point you asked her what bothered

17 her the most about the accusations.

18 A I said what bothered you most about all of this, I

19 believe.

20 Q That's right.

21 A The whole situation.

22 Q You're right. You're right. About all of this?

23 A Yes.

24 Q You did ask her that question?

25 A Yes.

1 Q And she said that she --

2 MR. ROWLES: Objection. Hearsay.

3 THE COURT: Sustained.

4 MS. HOJJAT: Your Honor, it goes to what he did

5 next.

6 THE COURT: Ask him what he did next after hearing

7 what she said.

8 MS. HOJJAT: Well --

9 THE COURT: The objection is sustained.

10 MS. HOJJAT: -- I have to establish the facts.

11 Your Honor, if we can approach.

12 THE COURT: Sure.

13 (Bench conference begins).

14 MS. HOJJAT: So I'm going to back it up.

15 THE COURT: Okay.

16 MS. HOJJAT: State was allowed to go into a lot of

17 Guadalupe's statement during direct examination. The defense

18 is not being allowed to cross on those things. At this

19 point, we believe Mr. Armando Vasquez-Reyes is being denied

20 his right to cross-examination and to confrontation of the

21 witnesses against him. This is the lead detective. We have

22 the right to go into what his responses were to statements

23 that he received. We are not offering any of Guadalupe's

24 statements for the truth of the matter asserted.

25 We are being limited in our cross-examination. We

1 are being limited in our ability to confront him. At this
2 particular moment, what I want to go into is the fact that he
3 specifically received information that the family might feel
4 guilty and might react accordingly, and then he later gets an
5 accusation Darey, and he never asked any follow-up questions
6 about that.

7 I can't just ask it.

8 THE COURT: Okay. Well, you've lost me.

9 MS. HOJJAT: I have to lay out those facts.

10 THE COURT: What is the question you wanted to ask?

11 MS. HOJJAT: Right now I want to ask him about the
12 fact that he specifically received information that the
13 family might feel guilty.

14 THE COURT: The family might feel guilty --

15 MS. HOJJAT: That they might be blaming themselves
16 and they might try to act out accordingly, and then a month
17 and a half later Darey is making an accusation and he doesn't
18 ask her about that. He doesn't question her at all about
19 that. This goes to the scope of his investigation, Your
20 Honor, which we're allowed to cross-examine him on.

21 THE COURT: You certainly can ask him about the
22 scope of his investigation, but you have to do it inside the
23 rules of evidence.

24 MS. HOJJAT: But, Your Honor, I'm not --

25 THE COURT: Not with hearsay.

1 MS. HOJJAT: -- outside the rules of evidence.
2 None of these things are hearsay if I'm not offering them for
3 the truth.
4 THE COURT: Okay. You're offering -- you want to
5 ask him if somebody said the family feels guilty?
6 MS. HOJJAT: Yes.
7 THE COURT: Correct?
8 MS. HOJJAT: Yes.
9 THE COURT: Okay.
10 MS. HOJJAT: Right at this moment, yes. But the
11 whole -- the broad cross-examination, all the accusations
12 that Guadalupe made, what of those is the defense offering
13 for truth of the matter asserted? We're not saying that
14 Armando did any of these things.
15 MR. ROWLES: That's not the truth of the matter
16 asserted.
17 THE COURT: Well, it's not --
18 MR. ROWLES: That's not how it works.
19 MS. HOJJAT: That is the way it works. That's
20 precisely --
21 THE COURT: I know. We're --
22 MS. HOJJAT: -- what the truth of the matter
23 asserted.
24 THE COURT: I mean, we can sit up here all day or
25 we can move on.

1 MS. HOJJAT: Well, if nothing else --
2 THE COURT: The objection's sustained.
3 MS. HOJJAT: -- the State was allowed to go into it
4 under the general hearsay exception. The defense should
5 certainly be allowed to go into all these things for the same
6 exact general hearsay exception.
7 THE COURT: I mean, I don't know if you and I -- I
8 don't know where you were during direct examination, but it
9 wasn't a bunch of hearsay during direct --
10 MS. HOJJAT: There was quite a --
11 THE COURT: -- examination.
12 MS. HOJJAT: -- bit of Guadalupe's statement.
13 MR. ROWLES: I disagree with that characterization
14 of mine.
15 THE COURT: So do I.
16 MR. ROWLES: I had like three -- three lines of
17 that. It was maybe five minutes worth of testimony.
18 THE COURT: Okay. So the objection's sustained.
19 (Bench conference concluded).
20 BY MS. HOJJAT:
21 Q During your interview with Guadalupe, you received
22 information -- well, it was apparent her family loved her
23 very much?
24 A I -- I don't know how to answer that.
25 Q You received information that her might blame

1 themselves?

2 A Yes.

3 Q That they might feel guilty?

4 A Yes.

5 Q Because they loved her?

6 A Yes.

7 Q That they might be blaming themselves for what

8 happened here?

9 A Yes.

10 Q And then one month later this case was moving

11 forward?

12 A Yes.

13 Q And Guadalupe was going to have to testify in

14 court?

15 A Okay.

16 Q And then suddenly Stephanie was referred to you for

17 an interview?

18 A Yes.

19 Q And Stephanie came forward and said she was

20 sexually assaulted as well?

21 A Yes.

22 Q And you had that previous information about the

23 fact that the family might feel guilty?

24 A Yes.

25 Q And you also had the previous information of you

1 had specifically spoken with Stephanie?

2 A Yes.

3 Q And asked her if anything had happened to her?

4 A Yes.

5 Q And she had said no?

6 A Yes.

7 Q Directly to your face?

8 A Correct.

9 Q She had denied anything at all?

10 A Correct.

11 Q So much so that you didn't even find the

12 conversation with her warranted being recorded?

13 A Correct.

14 Q Because she didn't say that she suspected anything?

15 A Correct.

16 Q She didn't say that she noticed anything?

17 A Correct.

18 Q She didn't mention any odd behavior?

19 A Correct.

20 Q And she specifically denied any sort of touching or

21 sexual assault?

22 A Against her, yes.

23 Q And then a month and a half later when she comes to

24 you and now makes these accusations for the first time, you

25 didn't question her about that?

1 A Correct.

2 MS. HOJJAT: Court's indulgence.

3 BY MS. HOJJAT:

4 Q And then I want to talk to you about follow-ups.

5 We just discussed the fact that the DA's Office referred

6 Stephanie to you for a follow-up.

7 A Yes.

8 Q Because you were the lead detective in the case?

9 A Yes.

10 Q And so you were the one in charge of investigating?

11 A Yes.

12 Q You were the one in charge of gathering evidence?

13 A Yes.

14 Q You were the one in charge of looking into

15 everything that needs to be looked into?

16 A Yes.

17 Q And so when a new accusation came forward, they

18 sent Stephanie to you?

19 A Yes.

20 Q For an interview?

21 A Yes.

22 Q At any point -- and they have the ability to

23 contact you and do?

24 A Yes.

25 Q The DAs have the ability to follow-up with you?

1 A Yes.

2 Q They have the able to ask you to gather more
3 evidence?

4 A Yes.

5 Q No one ever reached out to you and told you that
6 Guadalupe had revealed that she had gone to a doctor and had
7 her anus --

8 MR. ROWLES: Objection. Hearsay.

9 BY MS. HOJJAT:

10 Q -- examined?

11 THE COURT: Sustained.

12 MS. HOJJAT: Your Honor, this goes to the scope of
13 his investigation. Whether he --

14 THE COURT: The objection is sustained.

15 MS. HOJJAT: -- was told this information or not.

16 THE COURT: And you can ask it without going into
17 hearsay --

18 BY MS. HOJJAT:

19 Q Did anybody --

20 THE COURT: -- and getting into people's
21 statements.

22 BY MS. HOJJAT:

23 Q Did anybody ever reach out to you and ask you to go
24 find a doctor who had examined Guadalupe when she was nine or
25 ten years old?

1 A I don't believe so.

2 Q Did anybody ever indicate to you that there might
3 be a doctor out there who had examined Guadalupe's anus when
4 she was nine or ten years old?

5 A I don't believe so.

6 Q You were specifically aware that the allegations in
7 this case were that the anal rape started when she was five
8 or six years old?

9 A Yes.

10 Q If you were aware that there was a medical
11 professional out there who had examined her anus when she was
12 nine or ten years old, would you have followed up on that?

13 A If I needed to, yes.

14 Q If you needed to?

15 A Yes.

16 Q So that's not even a guaranteed yes?

17 A Correct.

18 Q But no one ever told you to go find the doctor?

19 A I don't believe so.

20 Q No one ever told you to go get those records?

21 A I don't believe so.

22 MS. HOJJAT: Court's indulgence.

23 BY MS. HOJJAT:

24 Q And I just wanted to clarify when you arrived at
25 the scene because we only heard from Officer Murray. Officer

1 Murray was not the only officer on the scene when you
2 arrived?

3 A Correct.

4 Q There were other officers?

5 A At least one other one, yes.

6 Q Okay. So there was multiple people on the scene?

7 A Yes.

8 MS. HOJJAT: Pass the witness.

9 THE COURT: Thank you. Redirect?

10 MR. ROWLES: Yes, Your Honor. Thank you.

11 REDIRECT EXAMINATION

12 BY MR. ROWLES:

13 Q Officer, I want to talk a little bit when you first
14 arrived and made contact with Mr. Vasquez-Reyes. Do you
15 remember the line of questioning regarding you placing him
16 into handcuffs for policy purposes?

17 A I just explained a -- I want you to come to
18 headquarters with us for interview. You're going to have to
19 ride in a patrol car if you're going to come down for the
20 interview, and I we have to put you in handcuffs. Is that
21 okay with you?

22 Q And from your understanding, he agreed with that,
23 right?

24 A Yes.

25 Q Defense had asked you questions whether or not you

1 had a warrant to arrest him when you arrived on scene; is
2 that correct?

3 A Yes.

4 Q Prior to making contact with Mr. Vasquez-Reyes, did
5 you have probable cause to place him under arrest if you so
6 chose to?

7 A Yes.

8 Q Okay. But the way -- how did you want to proceed
9 with the situation despite that probable cause?

10 A I wanted to --

11 MS. HOJJAT: Your Honor, I'm going to object to
12 these legal conclusions. It's for a court to decide whether
13 probable cause exists.

14 MR. ROWLES: She asked the question.

15 THE COURT: Generally, it is, but based on the
16 cross, go ahead.

17 THE WITNESS: I'm sorry, can you repeat the
18 question?

19 BY MR. ROWLES:

20 Q Despite being informed that he had committed
21 certain acts, how did you want to proceed with the
22 investigation?

23 A I wanted to be able to interview him. I wanted him
24 cooperative with us.

25 Q Is it important in your line of work with sexual

1 assault investigations to try to get both sides of the story?

2 A Yes.

3 MS. HOJJAT: Objection. Leading.

4 THE COURT: Yeah, you are leading. Sustained.

5 BY MR. ROWLES:

6 Q In your line of work as a sexual assault detective
7 at that time, what's important to you?

8 A Getting a statement from everybody involved,
9 collecting any evidence that we can when available.

10 Q There was also some line of questioning on
11 cross-examination when Ms. Hojjat asked you about the word
12 penetration; do you remember that?

13 A Yes.

14 Q And the phrase that she said was that Armando
15 agreed with you about penetration. Do you remember that line
16 of questioning?

17 A I remember the line of questioning. I don't
18 remember the specific question.

19 Q Okay. Did Mr. Vasquez-Reyes agree with you about
20 penetration or did he introduce penetration?

21 A He was the first one to say penetration.

22 Q Okay. You also had some questions regarding the
23 term abuse?

24 A Yes.

25 Q Does abuse in your line of work mean -- or in the

1 police's line of work mean more than just sexual abuse?

2 A Yes.

3 Q Is there any other type of abuse out there?

4 MS. HOJJAT: Objection. Relevance as to the police

5 line of work and definition.

6 THE COURT: Yeah, sustained.

7 MR. ROWLES: Okay.

8 BY MR. ROWLES:

9 Q Well, let me rephrase. Are there different types

10 of abuse that children can undergo?

11 A Yes.

12 Q What are those types?

13 A Physical, sexually, emotional.

14 Q There was also some discussion on cross-examination

15 when Ms. Hojjat asked you about you introducing the term

16 anal; do you remember that?

17 A Yes.

18 Q Do you remember the question you asked

19 Mr. Vasquez-Reyes when he first brought up the word anal?

20 A That was where on -- something to the effect of

21 where on Guadalupe's body did you make penetration, her

22 vagina or her anus.

23 Q Did you give him options?

24 A Yes.

25 Q This wasn't saying -- I'll move on.

1 Now, you testified today that based on your memory,
2 that Mr. Vasquez-Reyes began to tear up during the interview;
3 is that correct?

4 A Yes.

5 Q Okay. We watched the video. Do you see times when
6 his hands move to his eyes?

7 MS. HOJJAT: Objection. Leading.

8 MR. ROWLES: I don't --

9 THE COURT: No. Overruled. You can answer.

10 THE WITNESS: There are times when his move up out
11 of frame presumably towards his face.

12 BY MR. ROWLES:

13 Q At any point of time during the interview does his
14 voice crack?

15 MS. HOJJAT: Objection. Leading.

16 MR. ROWLES: Yes or no or question. It doesn't --

17 THE COURT: You are --

18 MR. ROWLES: -- necessarily mean it's leading, Your
19 Honor.

20 THE COURT: You're leading the witness.

21 BY MR. ROWLES:

22 Q What, if anything, happened regarding his voice, if
23 you remember?

24 A I -- I don't remember.

25 Q There were questions regarding whether

1 Mr. Vasquez-Reyes was able to give a narrative or a long
2 narrative. Do you remember that line of questioning from
3 Mr. Hojjat -- or Ms. Hojjat?

4 A Yes.

5 MS. HOJJAT: And I don't believe it, was able to.
6 I believe it was, did he give a long narrative.

7 BY MR. ROWLES:

8 Q Did he give a long narrative?

9 A Correct.

10 Q Do you remember that line of questioning?

11 A Yes.

12 Q During your conversation with Mr. Vasquez-Reyes,
13 was he able to explain what happened that day?

14 A Yes.

15 Q Did he describe to you what happened that day?

16 A Yes.

17 Q Okay. Was he also able to explain a specific
18 incident with Guadalupe?

19 A Yes.

20 Q Did he answer in more than just yes or no or one
21 word responses when he gave that explanation?

22 A Yes.

23 Q I want to talk a little bit about the one week
24 thing that was brought up on cross-examination, the last time
25 an incident occurred. Do you remember that line of

1 questioning?

2 A Yes.

3 Q As a patrol officer, I think it's fair to say that
4 you've spent time as a patrol officer; is that correct?

5 A That's correct.

6 Q What are the primary responsibilities as a patrol
7 officer when the allegation is of this nature at that time?

8 MS. HOJJAT: Objection. Relevance to this witness.

9 MR. ROWLES: May we approach?

10 THE COURT: Sure.

11 (Bench conference begins).

12 MR. ROWLES: I think it's relevant to go to show
13 that a patrol officer's responsibility is not at all of --

14 THE COURT: I'm sorry.

15 MR. ROWLES: I think it's relevant to show that a
16 patrol officer's responsibility when it becomes to this type
17 of crime is not to get all the specific information. That
18 they are designed to get general information that they can
19 report up to the police detective and so he can do additional
20 follow-up. So that's my question and response.

21 THE COURT: And the relevance is -- you know what
22 the relevance is.

23 MR. ROWLES: Yeah.

24 THE COURT: It's between the patrol officer and
25 what the detectives do.

1 MS. HOJJAT: Okay. All right. Well, I mean, we'll
2 see. We might have another relevance objection, but sure,
3 for that -- for now.

4 THE COURT: Okay. Thanks.

5 (Bench conference concluded)

6 THE COURT: It's overruled, and you can answer the
7 question. Do you remember what it was?

8 THE WITNESS: Just the --

9 BY MR. ROWLES:

10 Q The primary responsibilities of a patrol officer
11 when it comes to these types of allegations.

12 A Okay. So specifically a child sexual abuse
13 allegation?

14 Q Yeah, something to that effect.

15 A The patrol officer would arrive, get everybody
16 identified, get the basic story, call a detective.

17 Q Basic story?

18 A Yes.

19 Q There were questions regarding -- well, let me ask
20 this. Is a patrol officer responsible for the full
21 investigation?

22 A No.

23 Q There were questions regarding what the patrol
24 officer informed you at the crime -- or at the scene of the
25 crime. Do you remember that line of questioning?

1 A Yes.

2 Q Did you have discussions with Guadalupe regarding
3 an incident that occurred a week prior when you interviewed
4 her at that headquarters?

5 A Yes.

6 Q Okay. Did she disclose to you something that had
7 occurred a week prior?

8 A Yes.

9 Q There was discussion regarding online -- the online
10 friend. Do you remember that line of questioning?

11 A Yes.

12 Q From your understanding, did that online friend --
13 or did Guadalupe disclose sexual abuse to the online friend?

14 A I don't believe so.

15 Q Did she tell you she did?

16 A She did not.

17 Q As a sexual assault detective, is it your
18 responsibility or would you track down every single person
19 that a witness has talked to during the course of their
20 abuse?

21 MS. HOJJAT: Objection. Vague and speculative.

22 THE COURT: Overruled. You can answer.

23 THE WITNESS: If that witness would have
24 information regarding the specific crime I'm investigating,
25 yes.

1 BY MR. ROWLES:

2 Q Information regarding the specific crime?

3 A Yes.

4 Q So are you familiar with the term disclosure

5 witness?

6 A Vaguely. I believe I know what it means, but --

7 Q A witness who a person has disclosed it --

8 MS. HOJJAT: Objection. Leading, testimony.

9 THE COURT: Okay.

10 MR. ROWLES: Okay. I understand.

11 THE COURT: Objection sustained.

12 BY MR. ROWLES:

13 Q If you were under the understanding that that

14 online friend had received specific disclosures regarding

15 sexual abuse, would you have looked into that matter further?

16 A Yes.

17 Q There was also the friend who Guadalupe brought to

18 your attention regarding the hug. Do you remember that line

19 of questioning?

20 A Yes.

21 Q Do you track down and seek and interview every

22 single person who has seen a step dad hug their stepdaughter?

23 MS. HOJJAT: Objection. Argumentative.

24 THE COURT: Sustained.

25 MR. ROWLES: I'll move on.

1 BY MR. ROWLES:

2 Q As a sexual assault detective at that time, is it
3 unusual for people to come forward years later?

4 A No.

5 MS. HOJJAT: Objection. Relevance.

6 THE COURT: Overruled. You can answer.

7 BY MR. ROWLES:

8 Q Do you remember the lining of questioning from Ms.
9 Hojjat regarding all the different residences that Guadalupe
10 and the family lived in, right?

11 A Yes.

12 Q Do you remember how much time had passed between
13 when she said she first started -- when if thirst started
14 happening and when you spoke with her?

15 A Guadalupe?

16 Q Yeah.

17 A When she started -- she said it started when she
18 was five or six, and she was, I believe, 14 when we spoke.

19 Q Do you believe there would have been anything of
20 evidentiary value at those apartments?

21 MS. HOJJAT: Objection. Speculation.

22 MR. ROWLES: I think he's allowed to testify as to
23 this --

24 THE COURT: No. Overruled you can answer based on
25 your investigation.

1 THE WITNESS: I would not expect to find anything
2 -- any physical evidence at any of those addresses.
3 BY MR. ROWLES:
4 Q Maybe at the best a photograph ever the front door?
5 A Yes.
6 MS. HOJJAT: Objection. Argumentative and
7 speculation.
8 MR. ROWLES: Okay. I'll move on.
9 THE COURT: That's sustained.
10 BY MR. ROWLES:
11 Q Do you remember the line of questioning from Ms.
12 Hojjat regarding -- excuse me, from defense regarding the
13 blame, how the family felt guilty?
14 A Yes.
15 Q While you were a sexual assault detective, how many
16 -- could you estimate how many investigations you --
17 MS. HOJJAT: Objection. Relevance.
18 THE COURT: Well --
19 MS. HOJJAT: Speculation. This is -- can we
20 approach?
21 THE COURT: I don't know, I think right now we're
22 just at the point he wants to know how many --
23 MR. ROWLES: I'm asking --
24 THE COURT: -- investigations he's done. You can
25 answer that.

1 THE WITNESS: In sexual assault?

2 BY MR. ROWLES:

3 Q Yes.

4 A I'd say I refer four -- over four years, hundreds
5 easily.

6 Q Is it unusual for families to feel guilty?

7 MS. HOJJAT: Objection. Your Honor, can we
8 approach?

9 THE COURT: Yeah.

10 (Bench conference begins).

11 MS. HOJJAT: Your Honor, this whole line of, is
12 this unusual, what's happening in other cases, what's
13 happening in other sexual assault cases, it's all irrelevant
14 and it's all inappropriate. They're trying to basically --

15 THE COURT: Well, I don't understand the guilt
16 thing.

17 MS. HOJJAT: -- argue almost propensity.

18 THE COURT: I didn't follow that --

19 MR. ROWLES: Well, they are making the argument
20 here --

21 THE COURT: And I didn't follow that argument.

22 MR. ROWLES: And all I'm trying to say is that
23 they're saying that because the family felt guilty, that this
24 was happening under their nose, that all of a sudden this new
25 allegation comes forward.

1 All I'm asking for is that it's not unusual for
2 families to feel guilty.

3 THE COURT: Okay.

4 MS. HOJJAT: And I think that's argument for
5 closing. They can absolutely argue that in closing, but they
6 can't argue --

7 MR. ROWLES: I can't argue --

8 THE COURT: Well, why would they argue that?

9 MR. ROWLES: -- something that's not in evidence.
10 Yeah.

11 MS. HOJJAT: That it's not unusual for a family to
12 feel guilty?

13 THE COURT: No, why -- why -- they just stated your
14 position. Is that your position? That Stephanie came
15 forward and made a disclosure of sexual assault because the
16 family felt guilty?

17 MS. HOJJAT: Right. And what they're trying to ask
18 of this detective is -- you've seen families feel guilty
19 before, and in other cases --

20 THE COURT: Quite frankly --

21 MS. HOJJAT: -- this hasn't occurred.

22 THE COURT: -- I think it's --

23 MS. HOJJAT: It's not relevant.

24 THE COURT: -- I think it's common sense that a
25 family would feel guilty if something like that happened. So

1 I'm going to sustain the objection.

2 MR. ROWLES: So I'm allowed to argue that in
3 closing, then?

4 THE COURT: Yeah, both sides --

5 MR. ROWLES: Okay.

6 THE COURT: -- can. Yeah.

7 (Bench conference concluded).

8 BY MR. ROWLES:

9 Q Lastly, Sergeant, there was questions regarding a
10 potential exam that Guadalupe had undergone when she was
11 eight or nine; is that correct?

12 A Yes.

13 Q Had that been brought to your attention, what
14 steps, if any, would you have potentially taken at that time?

15 A Find out exactly what the exam was for, figure out
16 do we -- is it something where we need to get a search
17 warrant to get those records, and that's kind of a
18 collaborative process with the District Attorney as far as
19 the case and what they need.

20 Q Would you have consulted with other people
21 regarding whether that would even be relevant?

22 A Yes.

23 MR. ROWLES: Nothing further, Your Honor.

24 THE COURT: Any recross?

25 MS. HOJJAT: Yes, briefly.

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RECROSS-EXAMINATION

BY MS. HOJJAT:

Q Okay. So the State asked you if there's forms of abuse other than sexual, and you said physical and emotional, right?

A Physical, emotional, sexual, yes.

Q Okay. So we can agree that he wouldn't be getting interrogated by an SVU detective for emotional abuse?

A Not -- I guess not, no.

Q Okay. So that leaves physical and sexual?

A Yes.

Q And you said that it had been going on a long time?

A Yes.

Q That it was very serious?

A Yes.

Q That this was a big deal?

A Yes.

Q Okay. So if it's physical abuse, we're talking about something really seriously physically abusive?

A Yeah.

Q Okay. And that nobody in the family was reported any sort of signs of physical abuse of Guadalupe ever?

A Correct.

Q And Armando would know that she wasn't walking around with broken arms and broken legs in his house?

1 A Yes.

2 Q And black eyes?

3 A Yes.

4 Q And bruises?

5 A Yes.

6 Q Okay. So we've crossed out emotional, we've

7 crossed out physical. Let's move on.

8 You talked about -- or the State asked you about

9 the fact that he used the word penetration. When he said

10 touching, you kept saying something more, something more,

11 right?

12 A Yes.

13 Q Okay. So you indicated it was more than touching?

14 A Yes.

15 Q Okay. And in terms of the prior residences, the

16 State tried to get you to say that there would be no

17 evidence. Your position is there would be no physical

18 evidence maybe years later, correct?

19 A Correct.

20 Q But --

21 A I would not expect any physical evidence.

22 Q You wouldn't expect physical evidence, but there's

23 other types of evidence beyond physical evidence, right?

24 A I mean, sure, there could be, yes.

25 Q For example, if Guadalupe says that a house was a

1 three-bedroom house and you go and you find out it's only a
2 one-bedroom house, that could be relevant?

3 A Yes.

4 Q Okay. The layout of these houses could be
5 relevant?

6 A Could be, yes.

7 Q The size of these houses could be relevant?

8 A Could be, yes.

9 Q You had information that there were five or six
10 people living in a lot of these houses, right?

11 A Yes.

12 Q Okay. So if we're talking about a four or 500
13 square foot residence, that's got five or six people on top
14 of each other, that could be relevant for opportunity,
15 couldn't it?

16 A It could be.

17 Q Okay. But you didn't go out to any of those
18 residences?

19 A Correct.

20 Q You didn't make any effort to document any of those
21 residences?

22 A Correct.

23 Q You didn't make any effort to get the layouts, to
24 get the photographs, to get all this information about these
25 residences that we could present to the ladies and gentlemen

1 of this jury?

2 A Correct.

3 MS. HOJJAT: Thank you.

4 THE COURT: Anything else for this witness?

5 MR. ROWLES: No, Your Honor.

6 THE COURT: Okay. Thank you very much for being
7 here today.

8 THE WITNESS: Thank you, Your Honor.

9 THE COURT: Thank you for your testimony. You may
10 step down.

11 MR. ROWLES: Can we approach, Your Honor?

12 THE COURT: And you are -- do I excuse him?

13 MR. ROWLES: Yes.

14 THE COURT: Okay. And you are excused from your
15 subpoena.

16 THE WITNESS: Thank you, Your Honor.

17 THE COURT: I'm going to give the jury a break.

18 MR. ROWLES: Perfect.

19 THE COURT: Okay. All right.

20 During this recess, you're admonished not to talk
21 or converse amongst yourselves or with anyone else on any
22 subject connected with this trial, or read, watch, or listen
23 to any report of or commentary on the trial or any person
24 connected with this trial by any medium of information,
25 including without limitation, newspapers, television, the

1 Internet, or radio, or form, or express an opinion on any
2 subject connected with this trial until the case is finally
3 submitted to you.

4 We'll be in recess for 15 minutes. Thank you.

5 THE MARSHAL: Thank you. All rise for the existing
6 jury, please.

7 (Outside the presence of the jury.)

8 THE COURT: Okay. The record will reflect that the
9 hearing is taking place outside the presence of the jury
10 panel. Did you need something?

11 MR. ROWLES: I was just going to say -- ask to take
12 a break because we're waiting for Dr. Cetl --

13 THE COURT: Dr. Cetl?

14 MR. ROWLES: -- to be ready, and she should be
15 ready relatively soon.

16 THE COURT: Okay.

17 MR. ROWLES: So I'll just wait for her text to see
18 then maybe we can try to connect.

19 MS. HOJJAT: We have no problem with that. We did
20 have a motion to make.

21 THE COURT: Oh, go ahead.

22 MS. HOJJAT: Thank you. The defense is moving for
23 a mistrial at this point due to the limitation of our ability
24 to cross-examination -- cross-examine the lead detective in
25 the case.

1 Numerous times when the defense was trying to
2 cross-examine him about statements that he received and how
3 he responded to them and how he reacted to them, we were kept
4 from being able to go into the statements. The objection was
5 hearsay. I believe repeatedly explained we were not trying
6 to get in any statements of Guadalupe Alvarez for the truth
7 of the matter asserted.

8 The only reasons we were trying to get into her
9 statements were one, to show inconsistencies, prior
10 inconsistent statements, impeachment, which we're allowed to
11 get into.

12 THE COURT: At not any time did you ever say we
13 have a prior inconsistent statement and here's why.

14 MS. HOJJAT: We did. We said that Mr. --

15 THE COURT: No, you didn't.

16 MS. HOJJAT: -- Mr. Feliciano --

17 THE COURT: I'm sorry, because I asked --

18 MS. HOJJAT: -- had got into.

19 THE COURT: -- you repeatedly do you have an
20 exception?

21 MS. HOJJAT: We --

22 THE COURT: But go ahead.

23 MS. HOJJAT: In addition, we were not offering any
24 of those statements for the truth of the matter asserted.

25 Our position is not that anything that Ms. Alvarez

1 is said is truthful. We were trying to get into the effect
2 on the listener and we did say effect on the listener
3 multiple times about what Detective Pretti did in response to
4 receiving this information.

5 He was the lead detective in the case. His
6 responses in our estimation in what we wanted to present to
7 the jury were that they were insufficient, that he did not do
8 a thorough investigation, and that he did not thoroughly
9 request the witness in response to statements that he
10 received.

11 For example, I'm just going to make one offer of
12 proof. There were numerous instances that I was shut down.
13 But one offer of proof. Court's indulgence.

14 Yes. For example, when Guadalupe Alvarez told him
15 that she didn't know what was going on until November of 2015
16 and that an online friend told her about sexual abuse, and
17 that's when the light finally dawns on her and she finally
18 figures out that oh, what's happening to me is wrong, and
19 this is inappropriate.

20 She then tells him that immediately after that,
21 Armando called her to go watch a movie in the bedroom, which
22 she said is when all of these abuses would occur. And then
23 she told her online friend, okay, I'm going to go watch a
24 movie with my father now, and she immediately proceeds, after
25 realizing that what's going on is inappropriate, and knowing

1 that it always starts with the movies, to go up to the
2 bedroom to watch a movie with him that he's called her to go
3 watch a movie, despite the fact --

4 THE COURT: We don't have anybody interpreting.

5 THE INTERPRETER: I apologize, Your Honor.

6 THE COURT: That's okay. I just -- I just realized
7 it. Okay. Sorry about that. Geez. Okay.

8 MS. HOJJAT: So despite the fact that she had just
9 realized that what was happening to her was wrong and she
10 knows that watching a movie is kind of the way he gets her up
11 there to do these things to her, she immediately turns off
12 her computer where she's talking to her friend, doesn't tell
13 her friend something's going on, and goes out and watches a
14 movie with him, which, according to her, results in another
15 sexual assault.

16 So we were going to confront him with the fact of
17 and you didn't ask her any follow-up questions on that? You
18 received all of this information in that order, and you
19 didn't say hey, that doesn't make sense? Hey, why would you
20 go up there at that point? Why wouldn't you leave? Why
21 wouldn't you tell your friend all these things that he didn't
22 do?

23 But in order to ask those questions, I have to lay
24 the foundation for my question of you received X, Y, and Z
25 information and you did nothing? That is what I was offering

1 these questions for. It was for effect on the listener. I'm
2 certainly not offering any of it to say that these things
3 actually happened and we were shut down repeatedly every time
4 we tried to go into the statements of Guadalupe in order to
5 test Detective Pretti's reaction to her statements and how he
6 react as the lead detective.

7 So at this point, we believe that Mr. Vasquez-Reyes
8 has been denied his right to confront and cross-examine the
9 witnesses against him, specifically his lead detective. We
10 are moving for a mistrial.

11 MR. ROWLES: Judge, I think the record speaks for
12 itself at the bench conferences. I disagree with the hearsay
13 explanation here. It's not whether or not that these
14 allegations were true, it's whether or not you're offering
15 the statement for the truth of the matter that that statement
16 was made.

17 And for the truth of that -- the effect of it.
18 They were able to on several times to not get into specific
19 statements and still ask all of their questions, so I don't
20 think a mistrial --

21 THE COURT: Okay.

22 MR. ROWLES: -- has been made at this point.

23 THE COURT: And I think that offer of proof she
24 made could have easily been asked to this detective without
25 getting into all the hearsay. So the motion for a mistrial

1 is denied. And just let me know when Cetl is ready.

2 (Court recessed at 2:57 p.m. until 3:20 p.m.)

3 THE MARSHAL: All rise for the entering jury,

4 please.

5 (In the presence of the jury.)

6 THE COURT: Does the State stipulate to the

7 presence of the panel?

8 THE MARSHAL: Thank you. Please be seated.

9 MR. ROWLES: Yes, Judge.

10 THE COURT: The defense?

11 MR. FELICIANO: Yes, Your Honor.

12 THE COURT: Okay. State may call their next

13 witness.

14 MR. ROWLES: The State --

15 THE COURT: This next witness that's going to

16 testify is going to testify remotely. You can see her on the

17 screen. You can go ahead and call your witness.

18 MR. ROWLES: The State's next witness is Dr. Sandra

19 Cetl.

20 DR. SANDRA CETL, STATE'S WITNESS, SWORN

21 THE CLERK: Thank you. If you could state and

22 spell your name for the record, please.

23 THE WITNESS: Sure. Sandra, S-a-n-d-r-a. Cetl,

24 C-e-t-l.

25 MR. ROWLES: May I proceed, Your Honor?

1 THE COURT: You may.

2 DIRECT EXAMINATION

3 BY MR. ROWLES:

4 Q Good earn, Doctor. How are you currently employed?

5 A So currently I work in Austin, Texas as a
6 pediatrician at a nonprofit facility, name is Lone Star
7 Circle of Care.

8 Q And what are some of your primary responsibilities
9 as a pediatrician in Texas?

10 A So it's just general healthcare of all the children
11 that I see. So yearly checkups as well as any sicknesses
12 that they may have. So the overall healthcare of the
13 children.

14 I also see a lot of -- most I my clinic is refugee
15 patients from different countries, and therefore, we deal
16 with some of the healthcare concerns that come with them from
17 their homes.

18 Q Did you used to work in Las Vegas, Nevada, Doctor?

19 A Yes, I did.

20 Q When did you go from Las Vegas to Texas?

21 A I left last year in the summer, so about 2018, June
22 of 2018.

23 Q When you lived in Las Vegas, Nevada, did you also
24 work as a pediatrician out here?

25 A I did. When I worked as a pediatrician, I also

1 evaluated concerns of child abuse and neglect. I
2 additionally worked as a pediatrician in the emergency
3 department at Sunrise Children's Hospital taking shifts and
4 seeing whomever came in the door.

5 Q You indicated that you worked as a pediatrician
6 with regards to abuse and neglect. Where would that
7 primarily take place?

8 A There were two main locations, Sunrise Children's
9 Hospital as well as somewhere we call CAC or the Children's
10 Assessment Center. Both of those were places assessments
11 would take place and additionally I would review cases around
12 the Valley, so any of the hospitals. But my assessment would
13 place in those two locations.

14 Q Doctor, have you testified before the Eighth
15 Judicial District Court in both physical and sexual abuse
16 cases?

17 A Yes, I have.

18 Q How many times have you done so?

19 A 120 or so.

20 Q How long have you been a pediatrician?

21 A So I graduated residency in 2010. So since then,
22 so for nine years.

23 Q I want to talk a little bit about your education.
24 I assume it requires some education to become a doctor?

25 A All of it. No, I -- I so I earned a bachelor's in

1 neuroscience at UCLA, after which I got my medical degree at
2 the University of Vermont. And after that I'm a practicing
3 physician, but entered a residency program specialized in
4 pediatrics at the University of Nevada, which is held in the
5 Las Vegas area -- or was held in the Las Vegas area at the
6 time.

7 Q And how long was your --

8 A And additionally, I -- um-h'm.

9 Q Sorry, please.

10 A I was going to say additionally, there were
11 continuing medical education that I engage in yearly as well
12 as an apprenticeship after graduation with the child abuse
13 pediatrician.

14 Q You referenced the CAC, so I want to talk a little
15 bit about your work at the CAC. How were you employed
16 through the CAC?

17 A So I worked for a private company called MEDNAX
18 Pediatrics. And they then supplied a physician -- or a
19 medical provider both to the CAC and to Sunrise for child
20 abuse concerns.

21 Q At the CAC would you perform examinations on
22 children?

23 A Yes. So twice a week we would have patients come
24 in, and two nurses and myself would do evaluations on both of
25 those days.

1 Q What were the exams primarily regarding?

2 A So if there were any concerns of sexual abuse and
3 sometimes additional physical abuse, but mainly for sexual
4 abuse concerns. Patients would come in, we would do an
5 overall health assessment, and then additionally do an
6 examination of the genital area oftentimes taking photographs
7 and making sure that there were not any infections or any
8 ongoing medical concerns.

9 Q How does a child get referred to the CAC?

10 A So there was three main ways. Most commonly
11 through one of the outside agencies like Child Protective
12 Services or law enforcement. However, another way would be
13 through Sunrise Children's Hospital. If there was a child
14 that came to the emergency department, for instance, did not
15 need an immediate examination, then they would be deferred
16 through a system that we created in order to be able to be
17 seen at the CAC.

18 Q How many exams do you believe you've -- or how many
19 exams have you performed?

20 A It -- it's in the thousands. Probably 3,000 more
21 or less. I can't -- for genital exams for child sexual abuse
22 concerns.

23 Q Can you describe what the exam entails for the
24 members of the jury?

25 A Sure. So initially when -- just like any time you

1 go to the doctor's office, we take your blood pressure, heart
2 rate, we do regular vital signs. And then the patient is
3 asked directly or their parents or a caregiver who's with
4 them questions about their medical history.

5 After that, the entire exam is explained to them
6 prior to them changing into a gown, and then once they are
7 ready for their exam, I usually come in, explain things
8 again. But for the genital exam, a child is on their back on
9 an exam table. Depending on the age, usually feet are apart,
10 and we -- well, I will gently move the skin around the
11 genital area, take any swabs or testing that needs to be
12 done, also take photographs of the examination.

13 After the compassion is done, I usually speak
14 privately with the parent to explain any findings or any
15 concerns, and then additionally to answer any questions they
16 may have.

17 Q Are you familiar with the term acute exams?

18 A Yes.

19 Q What is an acute exam?

20 A So there are acute exams, which means right now and
21 then there are exams which are more remote. Acute exams are
22 done when somebody discloses or has concerns of sexual abuse
23 that has occurs within a timeframe where evidence such as
24 saliva, semen, other -- other types of fluids can be
25 collected on the body.

1 And then a kit is done. So something we -- like a
2 rape kit or something you may be more familiar. Those are
3 acute exams. If contact has happened or the child presents
4 that contact has happened within weeks, months, or years,
5 upon presentation, then the exam is no longer need -- an
6 acute exam is no longer needed and just a physical
7 examination is done in addition to testing for sexually
8 transmitted infections.

9 Q Okay. You referenced earlier, I believe, that a
10 child can be referred to Sunrise Hospital for an examination
11 if one is needed at that time or referred to the CAC. Is
12 that the -- the question I'm asking then is, does that have
13 to deal with whether the exam is acute or a non-acute exam?

14 A Yes, absolutely. So oftentimes if a parent brings
15 a child to the emergency department, then that kind of
16 assessed out. We kind of just like ask, you know, some
17 preliminary questions or call in law enforcement or Child
18 Protective Services. If the acute exam is not needed then
19 they're deferred to the CAC. So that's the major difference.

20 Sometimes people would like to get extra
21 examinations and so they'll be seen in the emergency
22 department but that is for a wellness exam only.

23 Q Okay. Is there a timeframe in your experience as
24 to when it would be acute versus non-acute?

25 A Yeah, so, kids who haven't gone into puberty yet,

1 and usually it's within the first three to five days. Once
2 puberty has occurred, the body changes a bit and so it can be
3 upwards of a week to sometimes even two weeks, depending on
4 the circumstances.

5 Q So depending on the circumstances and depending on
6 how developed the child is, an acute exam could fall within a
7 two-week time period?

8 A Yes, potentially.

9 Q I want to turn your attention to April 16, 2016.
10 Did you have the opportunity to meet an individual by the
11 name of Guadalupe Alvarez?

12 A Yes, I did.

13 Q And how did you come to meet her?

14 A So that was one of the days I was working an ER
15 shift. I was seeing, you know, anybody who came in. She was
16 referred by law enforcement due to concerns of sexual abuse.
17 After finding out some more information, it turns out that
18 the contact or the alleged contact was months --

19 MR. FELICIANO: I'm going to object to hearsay.

20 THE WITNESS: -- out and so -- okay.

21 THE COURT: Sustained.

22 MS. HOJJAT: Move to strike.

23 MR. FELICIANO: Move to strike.

24 THE COURT: Granted.

25 MR. ROWLES: And, Your Honor, may we approach?

1 THE COURT: Sure. How am I going to have a bench
2 conference without --

3 THE COURT RECORDER: We could just take her off,
4 Your Honor.

5 THE COURT: Oh.

6 THE COURT RECORDER: There. No, it should go back
7 -- right back up.

8 THE COURT: Okay.

9 (Bench conference begins)

10 THE COURT: Okay. Go ahead.

11 MR. ROWLES: I think an expert's -- an expert's
12 allowed to rely on hearsay information to determine as to
13 what steps to take and how the exam should be performed. So
14 I think when it's brought to her attention that the exam or
15 the last specific are incident was back in November, that's
16 why it's a wellness exam and a non-acute exam at this
17 particular time, and why she's referred to the CAC at a later
18 date.

19 MR. FELICIANO: That's -- that's still hearsay.

20 THE COURT: I guess, I mean, I'm just not --

21 MR. FELICIANO: I think she can say what she did,
22 and that's it.

23 THE COURT: Yeah, that's why I just don't
24 understand why you just don't ask that question.

25 MR. ROWLES: Okay.

1 (Bench conference concluded).

2 BY MR. ROWLES:

3 Q Doctor, can you hear me?

4 A Yes, I can.

5 Q Okay. When Guadalupe was brought to your
6 attention, you indicated that she was referred to you by law
7 enforcement; is that correct?

8 A Yes.

9 Q And this was on April 16, 2016. Was the purpose of
10 her examination at that particular time a wellness exam?

11 A Yeah, she was offered a wellness exam. She had
12 been concerned about -- she hadn't had her period in a couple
13 of months and then --

14 MR. FELICIANO: Object to hearsay.

15 THE WITNESS: -- she additionally --

16 THE COURT: Sustained.

17 MR. ROWLES: Okay.

18 BY MR. ROWLES:

19 Q Without getting into any of the specifics of what
20 she said, Doctor, she was referred to Sunrise for a wellness;
21 is that correct?

22 A Yes.

23 Q Okay. Is that different than the type of an
24 examination that would have occurred at the CAC?

25 A Yes.

1 Q Is that different than the type of an examination
2 that would occur if it was meant to be an acute examination?

3 A Yes, definitely.

4 Q Okay. Can you walk us through your -- without
5 getting into the specific statements that she made to you,
6 can you walk us through your examination of Guadalupe at that
7 particular time?

8 A Sure. So I would have examined her heart, her
9 lungs. I would have looked at her mouth, her nose, I would
10 have checked her abdomen, so her belly area. And then I also
11 get a genital examination of her.

12 Q Okay. When you're doing the genital examination,
13 what type of things are you checking for or looking for?

14 A I look for any discharge. So any kind of unusual
15 fluids. I look for if there's bleeding, bruising, if there
16 are injuries, if there's any type of odor that's unusual, any
17 signs or symptoms of infection.

18 Q Okay. Did you note anything of worth during your
19 examination of Guadalupe?

20 A I'm not sure what you mean by worth.

21 Q Did you note anything regarding Guadalupe's
22 examination?

23 A I mean, she did have -- she had some -- a little
24 bit of discharge. She -- also the exam had an unusual smell,
25 it smelled badly. Other than that, her development was age

1 appropriate.

2 Q Okay. Is it fair to say that your examination of
3 Guadalupe on August -- excuse me, April 16, 2016, was a
4 normal examination?

5 A Be yes, it was fairly normal.

6 Q Okay. Was she referred from that day to any sort
7 of additional doctors or counseling?

8 A Yes. So she was referred to the CAC for more
9 extensive examination and then additionally for counseling.

10 Q Okay. Why specifically for the counseling? Was
11 there any concern during your conversation with Guadalupe
12 regarding any specific conduct that she may do?

13 A During the nursing triage, the nurses ask her
14 standard questions above a certain age, and she had
15 anticipated positively to having --

16 MR. FELICIANO: Objection. Hearsay.

17 THE COURT: Okay. Don't get into anything that was
18 stated.

19 BY MR. ROWLES:

20 Q Without specifically saying what she referenced to
21 you, based on the conversations during this examination, was
22 she referred to follow up for potential suicide?

23 A Yes.

24 Q So she had exhibited those types of behaviors or
25 indicated that --

1 MR. FELICIANO: I'm going to objection to
2 relevance, and can we approach?

3 THE COURT: Well, it's really leading is what it
4 is.

5 MR. FELICIANO: Leading too. May we approach?

6 THE COURT: Okay.

7 (Bench conference begins).

8 MR. FELICIANO: So all this is -- so I'm objecting
9 to relevance, leading, all this -- the only reason they're
10 going into --

11 THE COURT: I sustained leading.

12 MR. FELICIANO: Oh, the only reason that I'm going
13 to ask that that be stricken, they be -- not be not be
14 allowed to get into that. This is basically just to appeal
15 to -- to inflame the jury. There's --

16 MR. ROWLES: No, no.

17 MR. FELICIANO: -- no reason this is relevant.

18 MR. ROWLES: They brought up on cross-examination
19 of Rosalba that she saw no evidence of suicide, no evidence
20 of cuts. This was an individual when finally checked by the
21 doctor, they were referred to for treatment on those types of
22 issues. I think that's completely relevant. I can just was
23 she then referred to suicide -- or for treatment on potential
24 suicide?

25 THE COURT: I mean, you guys have said [inaudible]

1 areas that she fabricated the whole thing to get him out.

2 So --

3 MR. FELICIANO: Yeah, but what she's testifying is
4 information -- she doesn't have the foundation to talk about
5 this information. This is all speculation --

6 MR. ROWLES: What are you talking about she doesn't
7 have the information? She's the revealing doctor --

8 THE COURT: Well, I don't know if she does or not.
9 I sustained the leading objection, but I'll allow him to go
10 into that issue.

11 MS. HOJJAT: And just to clarify, because right now
12 it's sounding to the jury like maybe there was some sort of
13 cuts or something found on her body. Like, when we're
14 talking about exhibiting symptoms, we're talking about as her
15 own self-reporter. There was no scarring found on her and we
16 want that --

17 MR. ROWLES: Well, you guys won't let me get into
18 the hearsay statements --

19 THE COURT: Okay.

20 MR. ROWLES: -- right there.

21 THE COURT: I mean, it's -- it -- I mean if they --
22 they want to get into that --

23 MR. FELICIANO: Well, they shouldn't have to get
24 into any of it.

25 MR. ROWLES: That's something for cross-examination.

1 THE COURT: Okay. I'm going to allow the State to
2 go into it, but the leading objection was sustained.

3 (Bench conference concluded).

4 THE COURT: Oops.

5 THE COURT RECORDER: You're okay, Your Honor.

6 THE COURT: Oh, okay. I don't know what I --

7 THE COURT RECORDER: It was just because I hit it
8 at the same time, Your Honor.

9 THE COURT: Oh, okay.

10 MR. ROWLES: We can approach, Your Honor.

11 THE COURT: Yeah.

12 (Bench conference begins).

13 MR. ROWLES: Well, then my response to the
14 statements that she's going to rely to with regards to the
15 suicide is that the exception would be it's for purposes of
16 medical diagnosis and treatment.

17 THE COURT: Yeah, but when they were -- she's doing
18 a -- basically a sexual assault examination on.

19 MR. ROWLES: This is a wellness check at this
20 particular time.

21 MR. FELICIANO: Oh, didn't we just handle this?
22 Now, it's a different argue. We were just up here --

23 THE COURT: Okay. But it's a --

24 MR. FELICIANO: -- on this.

25 THE COURT: -- it's a wellness --

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ARMANDO VASQUEZ-REYES,) No. 80293
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Appellant,)
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v.)
)
THE STATE OF NEVADA,)
)
Respondent.)

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I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 27 day of August, 2020. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

AARON FORD
ALEXANDER CHEN

AUDREY CONWAY
WILLIAM M. WATERS

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

BY /s/Rachel Howard
Employee, Clark County Public Defender's Office