

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

2                                   \_\_\_\_\_

3   DEQUINCY BRASS,                                   )       No. 81142

4   Appellant,                                   )

5   v.   )

6   )

7   THE STATE OF NEVADA,                                   )

8   Respondent.                                   )

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10                                   **APPELLANT'S APPENDIX VOLUME V PAGES 963-1212**

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1 scared.

2 A Yes.

3 Q Did you ever talk about what happened with Venice?

4 A No, just -- no.

5 Q Okay, so after that incident, Arianna, were there any other  
6 times that something happened between you and Quincy?

7 A Yes.

8 Q What was the next time?

9 A When he picked me up from the castle.

10 Q Okay, so what castle is this that you're talking about?

11 A There's a locksmith that was by my old house.

12 Q And when was this incident in relation to the one with  
13 Venice? So if that was November 2016 per the photograph we saw,  
14 when did the incident at the castle happen?

15 A Like December.

16 Q December that same year?

17 A Yes.

18 Q Okay, so you're still around 8th grade, 12 or 13?

19 A Yes.

20 MS. EINHORN: And Your Honor, pursuant to stipulation,  
21 State's 7 and State's 8 have already been admitted. Permission to  
22 publish.

23 THE COURT: Any objection?

24 MR. POSIN: No, Your Honor.

25 THE COURT: Permission granted.

1 BY MS. EINHORN:

2 Q So, Arianna, I'm showing you what's already been  
3 admitted as State's 7. This is kind of an overall map of where you  
4 were living. Cowabunga Bay up here and here we have the red dot  
5 that says Sunset Castle. Does this area look familiar to you?

6 A Yes.

7 Q Okay, and how did you get to the castle on the day that  
8 this incident happened?

9 A I walked.

10 Q Did you walk from your house?

11 A Yes.

12 Q Can you draw on there where you walked, if you  
13 remember?

14 A This is the street that I lived on. My house was like right  
15 here.

16 Q So you're marking Emerald Idol Place.

17 A Yes, wait -- this is like my house here.

18 Q Okay.

19 A I walked from here and I went out the gate and then I came  
20 all the way from here down here.

21 Q So you walked a little -- and I might be off on my directions  
22 here, Your Honor, but just for purposes of the record, walked a little  
23 north out of your community and then down south toward the  
24 castle? And that might be complete opposite.

25 A Yes.



1 Q Okay, and now I'm showing you State's 8. Does this look  
2 familiar?

3 A Yes.

4 Q And is this that castle you were talking about?

5 A Yes.

6 Q Okay, does -- is that how it looked on the day that the  
7 incident happened between you and Quincy?

8 A Yes.

9 Q Okay, and you stated that there was kind of like a locksmith  
10 place?

11 A Yes.

12 Q So let's back up a little bit, Arianna So this is around  
13 December 2016. How did you end up going to the castle?

14 A He texted me on my phone.

15 Q Okay, and what did -- do you remember what he said?

16 A He said, come to the castle.

17 Q And what did you say?

18 A I said, I don't want to go or I don't remember but I just  
19 remember saying something like I don't want to go or something like  
20 that.

21 Q And did he respond to that?

22 A Yes.

23 Q What did Quincy say?

24 A He said come to the castle or I'll come to your house or  
25 something like that, so I went to the castle.

1 Q Okay, so why did you go to the castle?

2 A Because I was scared that he would do something to my  
3 family or to me.

4 Q Okay, how did Quincy have your phone number?

5 A He got it -- I don't know.

6 Q You don't know how? That's okay. So you ended up  
7 going to the castle. You said you walked there, right?

8 A Yes.

9 Q Do you remember what time of day this was?

10 A It was night.

11 Q Night? And when you got to the castle, what happened?

12 A He picked me up.

13 Q Was he my himself?

14 A Yes.

15 Q Was he in a car?

16 A Yes.

17 Q Do you remember what kind of car it was?

18 A No. I just remember that it was charcoal, four door. It was  
19 either a Ford or a Honda.

20 Q Okay, so you remember it was kind of darker color and  
21 four doors?

22 A Charcoal, yes.

23 Q And were you by yourself?

24 A Yes, I was by myself.

25 Q Did you tell your mom where you were going?

1           A     No, I snuck out of the house.

2           Q     Okay, so your mom didn't know that you had left the  
3 house?

4           A     No.

5           Q     And you stated you did that because you were scared?

6           A     Yes.

7           Q     When you go out to the car, did you know where you were  
8 going?

9           A     No.

10          Q     Did he -- were you guys talking at all or was it silent?

11          A     It was silent.

12          Q     Did you eventually go somewhere?

13          A     Yes.

14          Q     Where did you go?

15          A     I don't know, but it was another hotel room, but it wasn't  
16 like the one before. It was -- it was older and it was more beat up.

17          Q     Do you remember if it was near the strip?

18          A     It was sort of, yeah.

19          Q     Describe what you remember of that hotel.

20          A     It -- it was outside, like there was no -- there was no  
21 building. You -- you just go in the parking lot and you just go to your  
22 hotel room.

23          Q     So it's not like at a casino on the strip where you go in and  
24 walk through the casinos, and then go upstairs?

25          A     Yeah.

1 Q And you -- what floor was it on?

2 A Second floor.

3 Q Second floor, and you kind of, like you said, just kind of go  
4 upstairs outside and walk in the door?

5 A Yes.

6 Q And then once you walked in the door, describe the room  
7 if you can remember.

8 A There was an old brown couch. There was a square TV.  
9 When you walked in, there was like a bed, so like you see the couch,  
10 the square TV and the bed.

11 Q Did you only notice the one room or did you notice that  
12 there were multiple rooms?

13 A There was only one room and a bathroom.

14 Q Only one room and a bathroom, okay. And that's different  
15 than the place you described you went with Venice; is that fair to  
16 say?

17 A Yes.

18 Q Okay, so you go there and what happens? What's the first  
19 thing you remember?

20 A I remember him telling me to take my clothes off and I said  
21 I didn't want to and he got angry. He pushed me on the -- he  
22 punched me.

23 Q Where did he punch you?

24 A In my face.

25 Q Okay, was it an open fist or a closed fist?

1 A A closed fist.

2 Q Do you remember what hand he punched you with?

3 A The right hand I think.

4 Q And after he punched you -- what -- let me back up. When

5 he punched you, did you still have your clothes on?

6 A No -- or yes.

7 Q Did he still have his clothes on?

8 A Yes.

9 Q Okay, what happened after he punched you?

10 A He - he took my clothes off and he pulled his pants down.

11 Q And what happened after that, Arianna?

12 A He made me have sex with him.

13 Q And I know this is difficult. Can you describe what you

14 mean by, he made you have sex with him? What part of his body

15 went inside what part of your body?

16 A His -- his genitals went inside of my private parts.

17 Q His genitals went inside your private parts?

18 A Yes.

19 Q So did his penis go inside your vagina?

20 A Yes.

21 Q Yes? Okay, and after that happened, what do you

22 remember?

23 A I remember him being done and I put my clothes on. We

24 went to the castle and I ran home.

25 Q Did anything else happen in the house?

1 A No.

2 Q Just the incident that you -- or not the house, excuse me.  
3 The hotel room?

4 A Yes.

5 Q Okay, so he punched you and then had sex with you?

6 A Yes.

7 Q And did he touch you at all on your body?

8 A Yes, he was touching my private and my chest.

9 Q He was touching your private and your chest?

10 A Yes.

11 Q By private, do you mean your vagina?

12 A Yes.

13 Q Okay, how did that feel when that was happening?

14 A Painful.

15 Q Now, I know this is difficult, Arianna, but did you notice  
16 anything about his private part while that was happening?

17 A Yes.

18 Q What did you notice?

19 A That it was bent.

20 Q It was bent?

21 A Yes.

22 Q Okay, do you remember what color it was?

23 A It was like -- like brownish.

24 Q And you stated that after that happened, he took you back  
25 to the castle?

1 A Yes.

2 Q Did he tell you what would happen if you told anybody?

3 A That I would -- that -- no, he didn't say anything, but he  
4 said it before.

5 Q So that incident, he didn't say anything, but the prior  
6 incident?

7 A He did.

8 Q He did? So were you still scared to tell after that incident  
9 because of what he had already said?

10 A Yes.

11 Q And he -- I know we're using a lot of pronouns. He is  
12 Quincy, right?

13 A Yes.

14 Q Okay, so when he dropped you back off at the castle,  
15 where did you go?

16 A I went home.

17 Q Okay, do you remember, was it still nighttime?

18 A Yes.

19 Q Do you remember how long you were at that hotel?

20 A No.

21 Q And did you -- who was home when you got home?

22 A My mom and my brothers.

23 Q Did they see you when you got home?

24 A No, just my older brother.

25 Q Okay, did you say anything to your older brother?

1 A No.

2 Q So what did you do when you got home?

3 A I went to the shower and my brother asked me if I was  
4 okay and I told him that I was okay and then I went to my room.

5 Q And why did you tell him that you were okay?

6 A Because I didn't want to tell him anything.

7 Q And I may have already asked you this, Arianna, I  
8 apologize. Your mom did not know where you were, is that fair to  
9 say?

10 A Yes, she didn't even know I left.

11 Q Were there any other incidents that happened between  
12 you and Quincy that you remember?

13 A No.

14 Q Do you remember eventually telling your mom what  
15 happened?

16 A Yes.

17 Q Describe that for the ladies and gentlemen of the jury.  
18 How did your mom come to find out what had happened to you?

19 A I didn't tell her. Kim came to my house and she told my  
20 mom what was going on because -- I'm not sure what happened, but  
21 I think that she checked Venice's phone and she seen messages like  
22 between her and Quincy and she came to my house and she told my  
23 mom, and my mom asked me what happened and I said nothing  
24 happened.

25 Q Why did you say nothing happened?



1           A     Because I was -- I didn't want to get anyone in trouble and I  
2 was scared.

3           Q     Okay, did your mom keep asking you if something  
4 happened?

5           A     Yeah, she told me that I needed to tell the truth. She told  
6 me that I needed to tell the truth and that -- and that I shouldn't let  
7 someone get away with what they did.

8           Q     And after that, did you tell your mom what had happened  
9 to you?

10          A     No.

11          Q     What happened?

12          A     I told the police. I never told my mom what happened.

13          Q     Okay, do you know if your mom called the police?

14          A     Yes, she did.

15          Q     And did she call the police because Kim came to your  
16 house and told your mom what had happened?

17          A     Yes.

18          Q     But you had never had a conversation with your mom  
19 about specifics or anything like that?

20          A     No.

21          Q     So when -- do you remember kind of when this was? So if  
22 we just talked about December 2016, that was the castle. How long  
23 after did the police come to your house and you talked with the  
24 police?

25          A     Not that long ago. Probably like -- I would say a few -- like

1 maybe a week or two later.

2 Q A week or two later they came?

3 A Yes.

4 Q Okay, but do you -- do you remember the exact date? It's  
5 okay if you don't.

6 A No.

7 Q Okay, so the police come to your house?

8 A Yes.

9 Q And do you tell an officer what happened to you?

10 A Yes.

11 Q Do you tell him in great detail what happened?

12 A No.

13 Q Why not?

14 A Because I didn't want to talk about it.

15 Q Okay, and were you still scared at that point?

16 A Yes, I was sleep -- I was sleeping and he came to my house  
17 and asked me what happened.

18 Q Is he the officer?

19 A Yes.

20 Q Okay, and after you told him what happened, Arianna,  
21 sometime after that, do you remember going to a place called the  
22 Children's Assessment Center?

23 A I think -- I think I got sent away before that.

24 Q Sent away? Where did you get sent away?

25 A To a treatment facility.

1 Q Okay, and why did you get sent away?

2 A Because I was trying to kill myself.

3 Q And then you came back from that?

4 A Yeah.

5 Q And then do you remember having a conversation about  
6 what happened -- a more in detail conversation with a woman  
7 named Elizabeth?

8 A Yes.

9 Q Okay, and during that conversation, you told her what had  
10 just happened to you?

11 A Yeah.

12 Q And she asked you some follow up questions?

13 A Yes.

14 Q And you remember that there were cameras in that room?

15 A Yes.

16 Q Do you remember drawing her any pictures?

17 A Yes.

18 MS. EINHORN: Your Honor, I'm showing defense counsel  
19 what's been pre-marked as State's proposed exhibit 1A.

20 Permission to approach the witness.

21 THE COURT: Sure.

22 BY MS. EINHORN:

23 Q So, Arianna, I'm showing you what's been pre-marked as  
24 State's proposed exhibit 1A. Do you recognize what I'm showing  
25 you?

1 A Yes.

2 Q And what are we looking at here?

3 A The picture I drew of his private parts.

4 Q Okay, so you drew this picture in your interview with  
5 Elizabeth?

6 A Yes.

7 Q Okay, and this is a picture of Quincy's private parts that  
8 you remembered to the best of your ability?

9 A Yes.

10 Q And does this fairly and accurately depict how it looked to  
11 the best of your knowledge when you drew it during your interview  
12 with Elizabeth?

13 A Yes.

14 MS. EINHORN: Your Honor, at this time, permission to  
15 admit -- I move to admit State's proposed exhibit 1 into evidence.

16 THE COURT: Any objection?

17 MR. POSIN: No, Your Honor.

18 MS. EINHORN: And permission to publish for the jury.

19 THE COURT: So it's 1A?

20 MS. EINHORN: I'm sorry, 1A, Your Honor. Yes.

21 THE COURT: State's proposed exhibit 1A is admitted and  
22 you may publish.

23 MS. EINHORN: Thank you.

24 [State's Exhibit 1A admitted into evidence]

25 ///

1 BY MS. EINHORN:

2 Q So, Arianna, is this the picture you drew of the Defendant's  
3 private part?

4 A Yes.

5 Q After you were interviewed with Elizabeth, do you  
6 remember having an examination performed on your body?

7 A Yes.

8 Q What kind of things did they do during the examination, if  
9 you remember?

10 A They took my blood and they took pictures of my private  
11 parts.

12 Q Do you remember if that was the same day as your  
13 interview, after?

14 A I don't remember, but I think it was the same day.

15 Q Okay, now kind of a little bit off topic. You mentioned  
16 earlier that Venice has a brother, right?

17 A Yes.

18 Q And his name is RaRa?

19 A Yes.

20 Q Now, did you ever learn if something happened between  
21 Quincy and RaRa?

22 A Yes.

23 Q Now, without telling me anything RaRa told you, did -- you  
24 did learn if something happened to RaRa?

25 A Yes.

1 Q Did he tell you something?

2 A Yes.

3 Q What was RaRa's demeanor when he told you what had  
4 happened?

5 A He seemed like he was scared, but he was like angry.

6 Q He was angry? Was he emotional at all?

7 A No, he -- he was like more like -- I don't know how to  
8 explain it, but he was upset.

9 Q When you say "he was upset," was he crying?

10 A Yes.

11 Q Okay. And besides him crying, you said he was upset,  
12 angry?

13 A Angry, yes.

14 Q What did RaRa tell you that happened to him?

15 A He told me that he hates --

16 MR. POSIN: Objection, Your Honor. Hearsay.

17 MS. EINHORN: And, Your Honor, I think at this point, not  
18 for an excited utterance, but I can attempt to lay more if you prefer.

19 THE COURT: Yeah, so objection sustained for now, but  
20 you can --

21 MS. EINHORN: I can ask more --

22 THE COURT: Lay foundation.

23 MS. EINHORN: Okay.

24 BY MS. EINHORN:

25 Q So, Arianna, you said that -- without telling me what RaRa

1 said, that he was crying. Okay, can you describe a little more in  
2 detail what his demeanor was like when he was telling you  
3 something?

4 A He was angry, like upset, like something did -- like -- I don't  
5 know, but he was -- he was angry and upset.

6 Q What were his facial expressions like?

7 A They were like -- I don't know how to explain it.

8 Q Just try -- just try your best to explain it.

9 A It was like -- he had a like angry face.

10 Q Okay, and you said he was crying?

11 A Yes.

12 Q So would you describe him as more angry or more sad?

13 A I would say he was angry.

14 Q Okay, anything else about his demeanor that you  
15 remember?

16 A No.

17 MS. EINHORN: Court's indulgence?

18 THE COURT: Sure.

19 BY MS. EINHORN:

20 Q And how do you know he was angry?

21 A Because the -- the way he was talking to me, what he told  
22 me.

23 Q So besides what he told you, how was he telling you?

24 A Like he was angry, like he was upset.

25 MS. EINHORN: And, Your Honor, at this time, I'd ask that

1 -- well, Your Honor, permission to approach?

2 THE COURT: Sure.

3 [Sidebar begins at 2:29 p.m.]

4 MS. RHOADES: Your Honor, I do believe --

5 THE COURT: This is when I wish my law clerk was here.

6 MS. EINHORN: Your Honor, I do believe that the State has  
7 laid sufficient foundation for an excited utterance. She has stated  
8 that he was upset. He was angry. He was crying and then he told  
9 her what happened, so I do believe that, yes, while it is hearsay that  
10 there is an exception to it. So I do believe we laid that foundation  
11 and I ask that she be allowed to answer the question.

12 MR. POSIN: And, of course, I'm going to object, Your  
13 Honor. Simply because somebody is angry doesn't mean it's an  
14 excited utterance. I don't think it's only the fact that you're angry, but  
15 typically an excited utterance I think is going to be somehow  
16 immediately following some event. And we had -- there's been no  
17 foundation laid to show that anything had happened immediately  
18 before any statements that RaRa may have made to Arianna.

19 I mean, one might be angry. Like, for instance, today.  
20 Let's say somebody comes in today and says I'm angry about this  
21 incident that happened in 2016. I mean, we've certainly seen plenty  
22 of emotion from this witness on the bench -- on the witness stand,  
23 but it doesn't necessarily mean that we think she's saying right now  
24 is automatically an excited utterance because --

25 THE COURT: How many of you happened to notice that



1 she [indiscernible]?

2 MS. RHOADES: 51-385, I think.

3 MS. EINHORN: And it's 51 [indiscernible].

4 MS. RHOADES: But I have -- I have it in my folder too.

5 MS. EINHORN: And, Your Honor, I can also ask her a  
6 follow up question of, you know, was it your impression that  
7 something just had happened? That it happened recently? What  
8 gave you that impression.

9 MR. POSIN: And I think that that's almost -- the only way  
10 she could have an impression of what it was that might have  
11 previously happened outside her presence known only to the person  
12 she was talking to is the -- that it's based on what exactly what might  
13 have been told to her, so that is just more hearsay.

14 MS. RHOADES: I don't think it's 385, Your Honor, actually.  
15 I think that's a totally different one, but it's in there. It's in between  
16 035 and 385.

17 MS. EINHORN: I think it's 035. That sounds right.

18 MS. RHOADES: I think 035 is the main hearsay one, right?

19 MS. EINHORN: You're right.

20 THE COURT: 095 is excited utterances.

21 MS. RHOADES: 09, okay.

22 MS. EINHORN: Your Honor, the witness just asked if she  
23 could go to the restroom.

24 THE COURT: I'm sorry?

25 MS. EINHORN: She just asked if she could go to the

1 restroom.

2 THE COURT: Sure, we can take a break.

3 MS. RHOADES: Okay. Is that okay?

4 THE COURT: And that will give me a little time.

5 MS. EINHORN: Okay.

6 MS. RHOADES: Thank you, Judge.

7 [Sidebar ends at 2:32 p.m.]

8 MS. RHOADES: So, ladies and gentlemen, we'll take our  
9 afternoon break and come back in 15 minutes.

10 So during this recess, you're admonished not to talk or  
11 converse amongst yourselves or with anyone else on any subject  
12 connected to this trial, read, watch, or listen to any report of or  
13 commentary of the trial or any person connected with this trial by  
14 any medium of information. Including without limitation to social  
15 media, texting, television, internet, and radio. Do not visit the scene  
16 of any events mentioned during the trial. Do not undertake any  
17 investigation. Do not divulge anything about the trial or anyone  
18 associated with the trial. Do not do any posts or communications on  
19 your social networking sites. Do not do any independent research,  
20 including internet searches. Do not form or express any opinion on  
21 any subject connected with the trial until the case is finally submitted  
22 to you. We'll see you back in 15.

23 THE MARSHAL: All rise for the jury.

24 [Jury out at 2:33 p.m.]

25 THE COURT: Please be seated. So looking quickly, 51.095

1 is excited utterances and I can review more and make a ruling before  
2 they come back. So we'll be on our break.

3 [Recess taken from 2:34 p.m. to 3:02 p.m.]

4 THE CLERK: Okay, we're on the record.

5 THE COURT: So the objection being hearsay, the  
6 response, it's an excited utterance. Anything further from either  
7 side?

8 MR. POSIN: Yes, Your Honor. I would cite the Court the  
9 Court to the case of *Medina v. State*, 143 P.3d 471 122 Nev. 346. In  
10 that case, there were actually two excited utterances the Nevada  
11 Supreme Court took that occasion to rule that unfortunately for my  
12 side that time alone was not the only factor to be looked at. That you  
13 could have an excited utterance that was not immediately after the  
14 incident. But they said the time was one of the factors that the Court  
15 had to take consideration on. In that case, apparently there was a  
16 woman that was raped and somebody showed up at her front door  
17 and it was actually the following day. She was still however covered  
18 in blood and said something to the affect of look at me I've been  
19 raped and was under the stress of the event at that moment.

20 The Court said that that -- and the Defendant said a day  
21 going by was too much. The Court disagreed and said well, one day  
22 maybe that might be okay. But then there was another witness and  
23 that witness was somebody named Golden [phonetic]. There was  
24 another witness named Adams.

25 MS. RHOADES: Your Honor, I'm so sorry to interrupt. I'm

1 just -- the witness is here for this argument. I would like that she not  
2 be here for this argument.

3 THE COURT: Okay.

4 MS. RHOADES: If that's okay, so the victim advocate is  
5 just going to take her right back here. Is that okay?

6 THE COURT: Yeah.

7 MS. RHOADES: Okay. Thank you.

8 MR. POSIN: There was another witness in that case, Your  
9 Honor, a witness named Adams who was a nurse for the Department  
10 of Social Services who later interviewed the alleged victim in that  
11 case. And the Supreme Court -- oh, they said it was harmless error.  
12 They didn't say that it was error to allow anything that this alleged  
13 victim said to that social services nurse as an excited utterance. It's  
14 not entirely clear from the case. I can't quite tell just how much time  
15 passed between the utterance being made to the first witness Golden  
16 and the second one Adams. But in reading the case and context, it  
17 appears that the victim was taken straight from her home to  
18 wherever she made the statement to the second witness.

19 And by that point, again the time not necessarily being the  
20 only factor, but the Supreme Court said that it was error to allow that  
21 evidence.

22 THE COURT: Any response?

23 MS. EINHORN: Just briefly, Your Honor. So while I do  
24 agree with Mr. Posin that time is a factor to consider, the definition of  
25 an excited utterance is a statement made by a declarant while that

1 person is still under the stress or excitement of an event. I've read  
2 *Medina*. I don't remember it off the top of my head, but there are  
3 other cases where it says two hours is fine, ten hours was fine. It's  
4 definitely a variable factor, it just depends.

5 I can follow up with the witness to ask her was it her  
6 impression that something had just happened, the day before? I  
7 don't know if she will know the answer. Iregardless of the time, I do  
8 think enough has been stated that she said he was angry, upset. He  
9 was crying. I'm going to ask some more follow up questions about  
10 who else was there? Where were they? What time was it, et cetera?  
11 I'm also going to ask her what his demeanor was like generally just  
12 to kind of show that this was a different state. That he was more in  
13 an excited state here than there.

14 And as, Your Honor, kind of also kind of went to while I  
15 don't think this is a significant factor, RaRa is also going to testify, so  
16 there is also that to consider as well. So I do believe the State has  
17 made enough, Your Honor. I can ask some additional follow ups.  
18 With that, I'll submit to the Court's discretion.

19 MS. EINHORN: And, Your Honor, if I can just respond  
20 briefly. I don't want to repeat what I said at the bench previously, but  
21 the same thought really still applies that the only way that I can tell  
22 that the State has established any kind of time gap at all between  
23 whatever event they say is causing the excitement and the excited  
24 utterance or the period of excited utterance, is the impression that  
25 the listener had.

1           Saying -- calling it an impression as opposed to their  
2 understanding of what had just been said doesn't make any  
3 difference. They're still essentially saying, well, I heard from the  
4 declarant that something happened a certain period of time ago and  
5 it's a bootstrap argument as I see it. And absent any kind of  
6 indication of whether it was a minute, an hour, a day, a month, or  
7 just how long between, whatever the event was an this angry that  
8 RaRa apparently felt at that moment, I don't think that they have laid  
9 that foundation.

10           But I think in the *Medina* case, there was -- there had  
11 previously been specific evidence, I guess, it doesn't say so, but my  
12 impression is there's been significant evidence of a timeline. And at  
13 least at this stage in this trial, I don't think there's been any  
14 evidence --

15           THE COURT: So part of that is what she seen. Maybe lay  
16 some more foundation. One of the things I saw in my brief time  
17 researching 51.385 that neither party has raised, but that's statutes  
18 titled admissibility notice of unavailability or inability of child to  
19 testify.

20           In addition, any other provision for admissibility made by  
21 statute or rule of Court, a statement by a child under the age of 10  
22 years describing any act of sexual conduct performed with or on the  
23 child or any act of physical abuse of the child is admissible in a  
24 criminal proceeding regarding that act of sexual conduct or physical  
25 abuse if, subsection a, the Court finds that a hearing outside the

1 presence of the jury, that the time, content, and circumstances of the  
2 statement provides sufficient circumstantial guarantees of  
3 trustworthiness and the child testifies at the proceeding or is  
4 unavailable -- unable to testify.

5 Two, determining the trustworthiness, the Court shall  
6 consider factors a through e. The three says if the child is  
7 unavailable or unable to testify, written notice must be given to the  
8 Defendant ten days before the trial of the prosecution's intention.  
9 Presumably, no notice has been given pursuant to subsection 3.

10 MS. RHOADES: Exactly, Your Honor, so notice was given.  
11 So while we're familiar with the statute, that wouldn't apply here to  
12 the State's burden.

13 THE COURT: And RaRa is expected to testify?

14 MS. RHOADES: Yes, Your Honor.

15 THE COURT: So maybe what we need to do -- because  
16 there are various exceptions to hearsay. This might be one of those.  
17 We may need to have some additional testimony outside the  
18 presence of the jury. Unless the State says, Judge, you lost track.  
19 That statute doesn't even apply, then that's fine.

20 MS. EINHORN: Your Honor, I can attempt to lay some  
21 more foundation about time about -- again, I don't know if she will  
22 know the answer. I can ask her.

23 THE COURT: Let me back up a little, because the statute  
24 that I found that nobody's talked about apply or not?

25 MS. EINHORN: No, Your Honor, because we did not give

1 notice of that. So while Ms. Rhoades and I are both familiar with that  
2 statute, we did not give notice to either the Court or Defense that we  
3 would be trying to seek.

4 THE COURT: Right, but subsection 3 says if the child is  
5 unavailable or unable to testify, a written notice must be given. And  
6 you're saying RaRa's --

7 MS. EINHORN: RaRa's expected to testify.

8 THE COURT: -- available to testify?

9 MS. EINHORN: Yes, Your Honor. And he, you know,  
10 he's --

11 THE COURT: So 3 wouldn't apply, I think.

12 MS. EINHORN: I guess I'm a little confused, Judge. Is it  
13 your position that because he's expected to testify that it's not  
14 hearsay or?

15 THE COURT: So my read of subsection 3, if the child is  
16 unavailable or unable to testify, then the written notice must be  
17 given. But that wouldn't apply because he is available.

18 MS. EINHORN: Correct, Your Honor.

19 THE COURT: So I don't think you needed to give her  
20 notice because he's available or am I missing something?

21 MS. EINHORN: No. That's all completely accurate, Judge.

22 THE COURT: And I've looked at *Pantano v. State*, 122 Nev.  
23 -- coincidentally the same year as the case Mr. Posin cited, but I -- oh,  
24 I'm sorry. Yeah, 122 Nev. 782 is *Pantano v. State*. It goes over a  
25 statement that the alleged victim made to her father. Well, let's start



1 the trial back up, I guess. See if any foundation -- anymore  
2 foundation can be laid and then I'll have to rule.

3 MS. EINHORN: Okay. Is there anything specific, Judge,  
4 that you would like me to attempt to lay with her that I have not  
5 already?

6 THE COURT: That'd be me probably telling you something  
7 that's probably not for me to tell you, so I can't answer that question.

8 MS. EINHORN: Yes, Your Honor.

9 THE COURT: So we can bring her back in.

10 MS. RHOADES: Okay.

11 THE MARSHAL: We have one in the restroom, Judge.

12 THE COURT: Okay.

13 [Pause]

14 THE COURT: Before we bring them in, reading *Medina*,  
15 district courts must examine all the facts and circumstances for any  
16 statement in addition to the time elapse. It might be best to get  
17 some testimony outside the presence.

18 MS. EINHORN: I don't know that we need to do that, Your  
19 Honor. We're just going to try to lay a little bit more foundation for  
20 the statement and then if we can't lay it then we'll move on.

21 THE COURT: Okay, okay. That's fine.

22 THE MARSHAL: All rise for the jury.

23 [Jury in at 3:19 p.m.]

24 THE COURT: Please be seated.

25 Welcome back, ladies and gentlemen. Thank you for your

1 service and patience.

2 Please.

3 MS. EINHORN: Thank you, Your Honor.

4 DIRECT EXAMINATION CONTINUED

5 BY MS. EINHORN:

6 Q Hello again, Arianna. So before we left for break we were  
7 talking about RaRa. I kind of just want to ask you generally, how  
8 would you describe RaRa generally?

9 A He's happy. He's playful. I, at the time, I personally  
10 thought he had mental issues only because of some of the stuff he  
11 would do. Like he would have tantrums like any person like any kind  
12 has tantrums, but his were like bad. Like bad type of thing.

13 Q Okay. And on the day that you learned something  
14 happened between Quincy and RaRa, where were you?

15 A When I found out?

16 Q Yeah.

17 A I was at Kim's house.

18 Q And who all was there?

19 A Kim, Venice [phonetic], me and RaRa.

20 Q And without telling me what anyone had said, what was  
21 everyone's kind of demeanor? Was it kind of chaotic? Was everyone  
22 calm? What was going on?

23 A It was kind of like chaotic.

24 Q Okay. And then you described that RaRa was angry,  
25 crying, upset?

1           A     Yes.

2           Q     And was it your impression that something had just  
3 happened between RaRa and Quincy or that it happened previously?  
4 What impression did you get?

5                   MR. POSIN: Again, Your Honor, I'm going to object  
6 because the only way she could have had an impression is based on  
7 something that somebody had told her, which would simply again be  
8 hearsay.

9                   THE WITNESS: Ugh --

10                  THE COURT: Hold on one second.

11                  THE WITNESS: Sorry.

12                  THE COURT: That's okay. That particular objection is  
13 overruled, so you can answer if you can.

14 BY MS. EINHORN:

15           Q     Do you want me to repeat the question, Arianna?

16           A     Yeah.

17           Q     Okay, so was it your impression that something had just  
18 happened between RaRa and Quincy?

19           A     Yes.

20           Q     Okay, why did you have that impression?

21           A     Because if something happened before -- because I know --  
22 well, I knew if RaRa was lying and I didn't think that he was lying or  
23 making it up.

24           Q     Why didn't you think he was lying?

25           A     Because something happened to me.

1 MR. POSIN: I'm going to object to her --

2 THE WITNESS: And --

3 MR. POSIN: -- opinion as to whether anyone else was  
4 lying or telling the truth.

5 THE COURT: So is that a motion to strike?

6 MR. POSIN: Motion to strike her answer. Yes, Your Honor.

7 THE COURT: Any response?

8 MS. EINHORN: Your Honor, may we approach?

9 THE COURT: Sure.

10 [Sidebar begins at 3:22 p.m.]

11 MS. EINHORN: Sorry, Your Honor. I personally just don't  
12 like to argue in front of the jury.

13 THE COURT: No, that's fine.

14 MS. EINHORN: Your Honor, I'm not asking her to make a  
15 conclusion and even her impression, but obviously that's left for the  
16 jury whether or not someone is lying, so she can say I don't think he  
17 was but she's not making a statement that no he wasn't. It's her  
18 opinion.

19 MR. POSIN: Well, I don't think that's an appropriate  
20 opinion.

21 MS. EINHORN: But --

22 MS. RHOADES: I think lay witnesses can actually give  
23 opinions as to the truthfulness or untruthfulness. I think that's the  
24 one thing that they can give opinions to if my recollection --

25 THE COURT: I think that's probably the exact opposite of

1 the truth. So I'll strike --

2 MR. POSIN: You're a lefty like my son.

3 THE COURT: So I'll strike the statement on the opinion  
4 whether lying or not.

5 MS. EINHORN: And then while we're up here, Judge,  
6 because the last objection was overruled, has Your Honor made a  
7 decision on whether or not I can ask her what he said?

8 THE COURT: I believe that's -- even with that striking, I  
9 think the foundations been laid for excited utterances.

10 MS. EINHORN: Thank you, Your Honor.

11 MS. RHOADES: Thank you.

12 [Sidebar ends at 3:23 p.m.]

13 THE COURT: So, ladies and gentlemen, a motion to strike  
14 has been made and I've granted the motion to strike, so the motion  
15 to strike meaning as to any opinion of the witness's to whether RaRa  
16 was lying or not, you're instructed to disregard that opinion. That's  
17 the particular ruling on that. You may proceed.

18 BY MS. EINHORN:

19 Q Thank you, Your Honor. Arianna, this conversation that  
20 we're talking about where you had learned something happened to  
21 RaRa, do you remember when that was?

22 A No.

23 Q Do you remember was it soon after the last incident  
24 between you and Quincy in December of 2016? Was it after you  
25 talked to the police, if you remember?

1           A     It was before.

2           Q     Before what?

3           A     I talked to the police.

4           Q     You had found out something had happened before you  
5 talked to the police and told them what happened to you?

6           A     Yes.

7           Q     Okay. And what did RaRa tell you happened between him  
8 and Quincy?

9           A     He never said what happened. He said that he hated  
10 Quincy. He said that he hated him and I asked him why. He said he  
11 hurt me. He said he hurt my butt.

12          Q     And that was all he said?

13          A     That's what he said.

14          Q     Okay.

15               MR. POSIN: Your Honor, may we approach?

16               THE COURT: Sure.

17                       [Sidebar begins at 3:25 p.m.]

18               MR. POSIN: Your Honor, we understand that you've ruled,  
19 but I think for the record I'm going to move for a mistrial based on  
20 that statement because I think it's prejudicial to -- it's extremely  
21 prejudicial. I would reiterate that I think that it's hearsay that does not  
22 fall under that exception especially under the *Medina* case. And I  
23 understand that the Court has already ruled on that. However, for  
24 the record I would move for a mistrial.

25               THE COURT: Any response?

1 MS. EINHORN: Yes, Your Honor. The Court made its  
2 ruling. It's the Court's discretion. There is absolutely no manifest  
3 necessity for a mistrial at this point in time.

4 THE COURT: So I'm going to deny the motion for mistrial  
5 under NRS 51.095. I think sufficient foundation is laid for -- to qualify  
6 as an exception as an excited utterance.

7 Additionally, or alternatively, I think it falls under 51.385.

8 MS. EINHORN: Well, we would just -- we're not seeking to  
9 admit it under that 385 because the notice wasn't given, Your Honor.  
10 So that would be a --

11 THE COURT: So I will strike that reason then and you will  
12 rely on 51.095.

13 MS. EINHORN: Thank you.

14 MS. RHOADES: Thank you, Your Honor.

15 MS. EINHORN: Thank you.

16 [Sidebar ends at 3:27 p.m.]

17 MS. EINHORN: Judge, may I proceed?

18 THE COURT: Sure.

19 BY MS. EINHORN:

20 Q So, Arianna, just a couple more questions, okay.

21 So I want to go back to the time that you mentioned the  
22 castle where you went to the hotel with Quincy by yourself, okay. Do  
23 you remember that time?

24 A Yes.

25 Q So you had mentioned that he was texting you, right?

1 A [No audible response].

2 Q And you're nodding your head. Is that a yes?

3 A Yes.

4 Q Okay. Was he texting you just the normal way you text?

5 Was it some type of app if you remember?

6 A It was a texting app.

7 Q Do you remember what the texting app was called?

8 A I think it was Textfree or TextNow.

9 Q Okay. And that's how he communicated with you?

10 A Yes.

11 Q Did he ever call you on the phone?

12 A Yes, sometimes. Yes.

13 Q How often would he call?

14 A Often, because after the situations happened, Venice didn't

15 have a phone and he would be asking me about her.

16 Q That time that you went to the hotel with the Defendant

17 alone, the same time we're talking about, you said that where you

18 guys went was on the second floor, right?

19 A Yes.

20 Q How many floors were there; do you remember?

21 A There was two.

22 Q So just the bottom and the top?

23 A Yes.

24 Q Now, let's go back to the time that you mentioned that you

25 went to the hotel with Venice. The time that you were alone you



1 mentioned how it was outside and you didn't have to go through a  
2 casino or anything like that, right?

3 A Yes.

4 Q The time with Venice at the hotel, did you have to go  
5 through a Casino or was it similar to the one that you went by  
6 yourself?

7 A You have to go through a casino.

8 Q And did you guys go through a casino?

9 A Yes.

10 Q Do you remember how many floors were in the that hotel?

11 A No.

12 Q More than two?

13 A Yes.

14 Q Do you remember what floor you were on?

15 A No.

16 Q While you were watching Quincy have sex with Venice, do  
17 you remember the Defendant saying anything?

18 A No --

19 Q Do you remember -- oh, sorry.

20 A Other than him moaning.

21 Q Can you describe what you mean by that?

22 A Like him saying like ah, like, I don't know.

23 Q So was he making sounds?

24 A Yes.

25 Q Was Venice making any sounds?

1           A     Yes.

2           Q     Were they the same type of moaning sounds that Quincy  
3 was making?

4           A     Yeah, sort of.

5           Q     Okay. How was it different?

6           A     Um, I don't know.

7           Q     But you heard Venice and Quincy both moaning as you've  
8 stated?

9           A     Yes.

10          Q     Okay. And then just my last -- Court's brief indulgence?

11               THE COURT: Sure.

12          BY MS. EINHORN:

13          Q     And, Arianna, just one last question for you. You've been  
14 talking a lot about Quincy today. Do you see Quincy here in the  
15 courtroom today?

16          A     Yes.

17          Q     Can you please point to him and identify something that  
18 he's wearing.

19          A     He's over there and he's wearing a white shirt.

20               MS. EINHORN: Your Honor, may the record reflect the  
21 identification of the Defendant?

22               THE COURT: The record will so reflect.

23               MS. EINHORN: And, Your Honor, at this time I'll pass the  
24 witness.

25               THE COURT: Thank you.

1 MR. POSIN: Thank you, Your Honor.

2 CROSS-EXAMINATION

3 BY MR. POSIN:

4 Q Arianna, today the State asked you about a hotel and you  
5 never gave a name, did you?

6 A No.

7 Q But when you were asked previously about what hotel this  
8 was, you were pretty definitive about it being the Palms, correct?

9 A Yes.

10 Q And that's the name you used for both hotels, correct?

11 A No, just for one of them. I said that I don't remember  
12 because it was nighttime.

13 MR. POSIN: If I may approach the witness, Your Honor?

14 THE COURT: So with what?

15 MR. POSIN: With a transcript of her statement and her  
16 recorded interview.

17 THE COURT: And is this one we admitted?

18 MR. POSIN: This will be -- no. This is something that I'm  
19 going to use to refresh her recollection at this point.

20 THE COURT: Okay. Show it to the State.

21 MS. EINHORN: Your Honor, because they have been  
22 admitted, I'll give him the copies that have been admitted.

23 THE COURT: Okay. Yeah, I thought maybe --

24 MS. EINHORN: They've been admitted, Your Honor, so no  
25 objection.

1 THE COURT: Okay. Yeah, you can approach.

2 BY MR. POSIN:

3 Q All right. I'm showing you -- I guess I'll show you from the  
4 beginning of this. Does that show -- does that say it's a recorded  
5 interview of you?

6 A Yes.

7 THE COURT: And what exhibit is it?

8 MR. POSIN: That would be Exhibit Number 33, Your  
9 Honor.

10 THE COURT: Okay.

11 BY MR. POSIN:

12 Q And if I could have you look at the bottom of Page 28 of  
13 Exhibit 33. Do you see where it says -- the bottom of Page 28 going  
14 into Page 29. It says, "What makes you think it was called the Palm  
15 or the Palms?" And did you say, "Because that's what he told me it  
16 was called?"

17 A Uh-huh.

18 Q So did you say at that point it was called the Palm or the  
19 Palms?

20 A Yes.

21 Q Then above on the top of Page 28, did you say, "He took  
22 me to this hotel. I don't know what it's called. It's either the Palm or  
23 the Palms."

24 A Yes.

25 Q "It's one of those two."

1       A     Yes.

2       Q     So when you said that back in April of 2017, did you then  
3 remember that it was actually -- you were saying that it was the Palm  
4 or the Palms?

5       A     Yes. I still don't remember.

6       Q     You don't remember today?

7       A     No. The time that I -- the time that that was recorded --  
8 wait, I'm sorry. I did say that it was the Palms.

9       Q     Okay. Now, who do you live with?

10      A     My mom and my two brothers.

11      Q     And what are your brother's names again?

12      A     Donald and Esan.

13      Q     And was Donald at the house at the time that any of this  
14 was going on?

15      A     Yes, or he would be with his friends and my little brother  
16 would be home, yes.

17      Q     Was there somewhere else that Donald sometimes went?

18      A     Yes.

19      Q     Where did Donald go?

20      A     He went to his friend Zack's house.

21      Q     And was there a time when he was not living at the house?

22      A     No.

23      Q     You stated that in January of 2006 -- I'm sorry, 2016, yes,  
24 that you went -- that you went to a mental hospital; is that correct?

25      A     Yes.

1 Q And you were there approximately ten days?

2 A No.

3 Q How long were you there?

4 A I went to a few. I went to one in Utah. I've been to Spring  
5 Mountain four times and then I was in long-term facility for like five  
6 months. And the one in Utah, I was there for two months.

7 Q Now, that was after this interview in 2017?

8 A No. It was before. I was in the hospital before. When they  
9 interviewed me, I -- before I got interviewed I was in the mental  
10 hospital and they had to take me out so that I could get interviewed.

11 MR. POSIN: If I may approach the witness again, Your  
12 Honor, please?

13 THE COURT: Sure. Oh, yeah, yeah. Let them know what  
14 you're taking up there.

15 MR. POSIN: I'm taking the same exhibit.

16 THE COURT: Okay.

17 BY MR. POSIN:

18 Q And if I could have you take a look at Page 12 of the same  
19 exhibit.

20 THE COURT: Exhibit 33?

21 MR. POSIN: It is Exhibit 33.

22 THE COURT: Okay.

23 BY MR. POSIN:

24 Q If you could take a look at the tope of Page 12. Did you  
25 say, "I went to the mental hospital in the end of January. I went on

1 January 24th and left in February."

2 A Yes.

3 Q Okay, so at that point the only mental hospital that you  
4 mentioned was that visit?

5 A Yes. And the hearing I only mentioned that one, but  
6 before that they knew that I was in a long-term facility in Utah and  
7 they never asked me that's why I never mentioned.

8 Q So you only mentioned that one on that occasion?

9 A Yes, because that's the time that -- I was in the hospital  
10 and I would leave to come here to talk to you guys.

11 Q And then you've already just been talking about the fact  
12 that you felt that RaRa had a mental illness?

13 A Yes.

14 Q And you told them that during that interview as well, right?

15 A Yes.

16 Q That you thought that he had a mental illness or condition?

17 A Yes.

18 MR. POSIN: Thank you. No further questions, Your Honor.

19 MS. EINHORN: Court's brief indulgence?

20 THE COURT: Sure.

21 REDIRECT EXAMINATION

22 BY MS. EINHORN:

23 Q So, Arianna, Mr. Posin just asked you about the statement  
24 you gave with Elizabeth, right?

25 A Yes.

1 Q And that was back in April of 2017?

2 A Yes.

3 Q So it's been about three, almost three years, right?

4 A Yes.

5 MS. EINHORN: Your Honor, permission to approach the  
6 witness?

7 THE COURT: With?

8 MS. EINHORN: With Exhibit 33, State's Exhibit 33.

9 THE COURT: Sure.

10 MS. EINHORN: Yes, sir. Thank you.

11 BY MS. EINHORN:

12 Q So, Arianna, showing you Page 28 of Exhibit 33, can you  
13 please read lines 2 to 3?

14 A 2 to 3. "And he took me to this hotel. I think I don't know  
15 what it's called. It's either the Palm or the Palms. I don't know which  
16 one. It is out of those two."

17 Q So you weren't sure at that time if it even was the Palms  
18 Hotel; is that fair to say?

19 A Yes.

20 Q Okay. And could you also please read of the same Page  
21 28, lines 8 through 11?

22 A "I -- it's -- I think it's -- I don't know. It's like kind of by the  
23 ship, kind of not. Like I don't know if you know those hotels. This  
24 one was nasty. This hotel he bring me to, this one was nasty. It had  
25 a square TV, a dresser, and it has like a small bed. And then it was a



1 small kitchen and a small bathroom."

2 Q Okay. And that was the same description you gave earlier  
3 about the place that he took you, correct?

4 A Yes.

5 MR. POSIN: Objection, leading.

6 THE COURT: Objection what?

7 MR. POSIN: Leading.

8 THE COURT: Sustained, so the jury will disregard that last  
9 answer.

10 MS. EINHORN: Court's indulgence?

11 THE COURT: Sure.

12 BY MS. EINHORN:

13 Q And, Arianna, the one that you just read in your statement,  
14 were you describing the hotel that he took you to by yourself?

15 A Yes.

16 MS. EINHORN: No further questions, Your Honor.

17 THE COURT: Any recross?

18 MR. POSIN: If I could have the Court's indulgence for a  
19 moment?

20 THE COURT: Sure.

21 MR. POSIN: None, Your Honor.

22 THE COURT: Okay. May the witness be excused?

23 MS. EINHORN: She's free to go, Your Honor.

24 THE COURT: Thank you.

25 [Witness excused]

1 MS. EINHORN: And, Your Honor, the State's -- may the  
2 State call its next witness?

3 THE COURT: Yes.

4 MS. EINHORN: The State's next witness is Shontai  
5 Whatley. She's just a little down the hallway.

6 THE COURT: Sure.

7 [Witness summoned.]

8 SHONTAI WHATLEY, STATE'S WITNESS, SWORN

9 THE CLERK: For the record, please state and spell your  
10 first and last name.

11 THE WITNESS: My name is Shontai Whatley. I do have a  
12 speech impediment. I'm letting everybody know I had a stroke and I  
13 stutter. My name is Shontai Whatley. You spell it S-h-o-n-t-a-i,  
14 Whatley, W-h-a-t-l-e-y.

15 THE CLERK: Thank you.

16 MR. EINHORN: Thank you, Your Honor.

17 DIRECT EXAMINATION

18 BY MS. EINHORN:

19 Q Good afternoon, Ms. Whatley.

20 A Hi. How are you?

21 Q Good. Thank you. Ms. Whatley, do you have a daughter?

22 A Yes, I do.

23 Q What's your daughter's name?

24 A Arianna.

25 Q Same last name?

1 A Yes.

2 Q And when's her birthday?

3 A Her birthday is August 20th, '03.

4 Q And how old is she today?

5 A She's 16 years old.

6 Q 16. And what grade is she in?

7 A The 11th grade.

8 Q Okay. Where does she go to school?

9 A She goes to a special school called Beacon Now.

10 Q And you said a special school. What makes it a special

11 school?

12 A It's a special school because she has a lot of emotional

13 problems after this happened to her and she had a hard time going

14 to school, so we got her in to school where she goes two days a

15 week and she does the rest of her work online.

16 Q Okay, and does she work?

17 A Yeah, she does now.

18 Q She does now. Where does she work?

19 A She has a job at McDonald's.

20 Q And she does that part-time too?

21 A Yes.

22 Q Okay. And do you have any other children?

23 A Yes.

24 Q And how old are your other kids?

25 A I have a 21-year-old daughter. I have an 18-year-old son.

1 And I have a 11-year-old son also. I'd rather have a pad so I can write  
2 this out, can I?

3 Q Unfortunatley we can't do that, but we'll take it as slow as  
4 you need, Ms. Whatley.

5 A Okay.

6 Q No problem. Do your other three children reside -- does  
7 Arianna live with you?

8 A Yes.

9 Q Do your other three children live with you?

10 A No. My daughter does not live with me.

11 Q That's your other daughter?

12 A My other daughter, yes.

13 Q Your two sons, do they also live with you?

14 A Yes.

15 Q Okay. And where do you guys currently live?

16 A Do I have to give out my address?

17 Q Just generally speaking where do you live, like what are  
18 your cross streets?

19 A Durango.

20 Q Durango and what, I'm sorry?

21 A And Sahara.

22 Q Okay. And that's like in the Summerland area?

23 A Yeah.

24 Q Okay. And back during the end of 2016 beginning in 2017,  
25 were you living on Emerald Idol place?

1 A Yes, I was.

2 Q Okay. And how long did you live at the Emerald Idol place  
3 house?

4 A I lived there a total of five years.

5 Q Okay. And Ms. Whatley, do you know a girl by the name  
6 of Venice Madden?

7 A Yes, I do.

8 Q And how do you know Venice?

9 A I know her because she lives in the old area and all the kids  
10 played.

11 Q When you say old area, do you mean back when you lived  
12 at Emerald Idol?

13 A Yeah.

14 Q Okay. And did she use to play with Arianna?

15 A Yes, she did.

16 MS. EINHORN: And, Your Honor, showing Defense  
17 counsel what's been marked as State's proposed Exhibit 3.  
18 Permission to approach the witness?

19 THE COURT: Sure.

20 BY MS. EINHORN:

21 Q Ms. Whatley, showing you what's been pre-marked as  
22 State's proposed Exhibit 3, do you recognize this photograph?

23 A Uh-huh.

24 Q And who are you looking at in this photograph?

25 A Arianna.

1 Q And that's your daughter?

2 A Yeah.

3 Q How old was she in this photograph, if you know?

4 A 13.

5 Q And does this fairly and accurately depict how she looked  
6 when she was 13 years old?

7 A Uh-huh.

8 Q Is that a yes?

9 A Yes.

10 MS. EINHORN: And, Your Honor, at this time I move to  
11 admit State's proposed Exhibit 3 into evidence. Or sorry, yes, into  
12 evidence.

13 MR. POSIN: No objection.

14 THE COURT: State's Exhibit 3 is admitted.

15 [State's Exhibit 3 admitted into evidence]

16 MS. EINHORN: And permission to publish?

17 THE COURT: Sure.

18 BY MS. EINHORN:

19 Q So, Ms. Whatley, going back to Venice and Arianna, how  
20 often would Venice and Arianna play together?

21 A They'd play together everyday almost.

22 Q Would they play at your house, her house?

23 A The Boys & Girls Club and then outside in the park.

24 Q Where was the Boys & Girls Club?

25 A Boys & Girls Club, it's in Henderson.

1 Q Okay. And how often would your daughter go to the Boys  
2 & Girls Club?

3 A She would go after school.

4 Q Every day?

5 A Not every -- basically, yeah.

6 Q Okay. And do you remember around when she started to  
7 go to the Boys & Girls Club?

8 A They started going to the Boys & Girls Club after I moved  
9 here.

10 Q Where -- is here Vegas generally?

11 A Yeah.

12 Q Okay. When did you move to Las Vegas?

13 A She started going to the Boys & Girls Club in about 2014.

14 Q Okay. And when did she stop going -- Arianna stop going  
15 to the Boys & Girls Club?

16 A She stopped going after this incident.

17 Q Okay, so --

18 THE COURT: Are we done with Exhibit 3?

19 BY MS. EINHORN:

20 Q Yes, Your Honor. So would that be kind of the end 2016,  
21 beginning of 2017?

22 A Yeah.

23 Q And who would -- how would she get to the Boys & Girls  
24 Club?

25 A I would take them back and forth.

1 Q Who is them?

2 A My kids.

3 Q So did your sons also go there?

4 A Yes.

5 Q Okay. And how would they -- who would pick them up?

6 A Well, I would pick my kids up, but Kim brought her kids  
7 there. So I was transporting the kids, so I told Kim, I said look, me  
8 and you need to start helping each other switching off. So she would  
9 pick up my kids sometimes and I would too. We basically switched  
10 off every other day.

11 Q So you mentioned Kim, who is Kim?

12 A Kim.

13 Q Who is Kim?

14 A Kim is Anissa's mom.

15 Q Okay. And are you friends with Kim?

16 A I'm not friends with her, but the thing was is our kids  
17 played together so everybody in our neighborhood, all the parents  
18 knew each other because all the kids played.

19 Q Okay, so either yourself would pick up your children from  
20 the Boys & Girls Club, sometimes Kim would pick up ---

21 A Yes.

22 Q -- Arianna and your two sons.

23 A Uh-huh.

24 Q Was anyone else allowed to pick up your children?

25 A No. That's why I'm angry because I've never had anyone



1 on that list to pick up my kids ever.

2 Q And when you say list, does the Boys & Girls -- if you know  
3 --

4 A There's supposed to be a protocol that they're supposed to  
5 show ID and they're supposed to go in there and pull her records and  
6 look and see who is authorized to pick up the kids.

7 Q And who, besides yourself, Kim, no one else was  
8 authorized to pick up your children?

9 A No one else was.

10 Q Okay. Now, you stated that sometimes Venice would  
11 come over to your house after the Boys & Girls Club, right?

12 A Yeah. She would come over on the weekends too.

13 Q And sometimes Arianna would go over to Kim's house?

14 A Yeah. Like she may call her and like have her come home  
15 and stuff like that, you know, stuff like that. They played. They were  
16 playing like back and forth, you know.

17 Q Like at each other's houses?

18 A Yeah, back and forth.

19 Q Okay. And, Ms. Whatley, do you know a man by the name  
20 of Dequincy Brass?

21 A I know who he is, but I don't know him like as a friend or  
22 ever had a real-life conversation with him.

23 Q Do you know who he is because of what happened to your  
24 daughter?

25 A Yes. I know who he is because there's been times that I

1 picked up my kids at the Boys & Girls Club and I seen him picking up  
2 Kim's kids and I knew that that was her boyfriend or...

3 Q But you never had any interactions with her?

4 A No.

5 Q Okay. And, Ms. Whatley, directing your attention to March  
6 of 2017, in March of 2017, did you find out that something had  
7 happened to your daughter involving Mr. Brass?

8 A Yes. Kim came to the house and she had told me that, but  
9 prior to that, my daughter had become suicidal and I put her in a  
10 mental hospital, and I didn't know what was wrong with her. And  
11 she came back home like -- it was a couple days. And then Kim came  
12 and told me, so then I knew how come she was going through what  
13 she was going through.

14 Q So Kim came to your house and told you something  
15 happened?

16 A Kim came and told me that the police told --

17 MR. POSIN: Your Honor, objection.

18 THE COURT: Hold on one second.

19 MR. POSIN: The question was whether Kim had told her  
20 something and I think that was appropriately not a requesting --  
21 hearsay information, but the answer is. So I would ask that another  
22 question be asked.

23 MS. EINHORN: Your Honor, may we approach?

24 THE COURT: Sure.

25 [Sidebar begins at 3:51 p.m.]

1 MS. EINHORN: Your Honor, this is not hearsay. I am  
2 asking what Kim told her. This is solely going to the effect on the  
3 listener and what Shontai did in response to that. This is not for the  
4 truth of the matter at all.

5 THE COURT: State of mind?

6 MS. EINHORN: Sure, but also just to show her affect why  
7 she reacted the way she did, we're going to play a 911 call as well,  
8 what she did in response, having to take her daughter to the hospital,  
9 so that was the purpose of admitting what Kim told her.

10 MR. POSIN: And I would say that we have Kim coming to  
11 testify I understand herself. To me it is certainly hearsay. The fact  
12 that it's admitted for some other purpose and some other  
13 circumstances might have more persuasive value. But here, because  
14 it's particularly prejudicial saying -- repeating the allegations that are  
15 made against Mr. Brass, I would ask that it not be allowed.

16 MS. EINHORN: And, Judge, it's not hearsay. That's they  
17 whole -- it's going to a different -- hearsay is being offered for the  
18 truth of the matter. This not.

19 THE COURT: I agree, so the objection is overruled for the  
20 reasons the State stated.

21 MS. EINHORN: Thank you, Your Honor.

22 [Sidebar ends at 3:52 p.m.]

23 MS. EINHORN: May I proceed, Your Honor?

24 THE COURT: Yes. Thank you.

25 ///

1 BY MS. EINHORN:

2 Q So, Ms. Whatley, when Kim came over to your house, what  
3 did she tell you?

4 A Kim said that she had taken her daughter to someplace or  
5 something, and she said that, you know, an incident involving my  
6 daughter had occurred. And she said that the police told her that she  
7 needed to come and tell me.

8 Q Okay. Which she did?

9 A Which she did. And I immediately called 911.

10 Q Okay. Before you called 911, did you confront Arianna  
11 about what had happened?

12 A Yeah. She was hysterical, crying, and didn't want to talk  
13 about it, and everything else. And -- and -- and I decided to call the  
14 hospital, because -- so the -- because now I knew, you know, what  
15 happened, and I wanted her to go talk to a professional.

16 Q Did Arianna ultimately tell you what had happened to her?

17 A Yes, she did.

18 Q And that was the same day that Kim came to your house  
19 and told you what happened?

20 A Yeah.

21 Q Okay. And you stated that you called 911?

22 A Yes.

23 Q And do you recall last week meeting with Ms. Rhoades and  
24 myself?

25 A Yes.

1 Q And do you recall during that meeting that we played for  
2 you a 911 call?

3 A Uh-huh.

4 Q And was that call the same call that you placed to police on  
5 March 18th, 2017?

6 A Yes.

7 Q Or excuse me. March 17th --

8 A Uh-huh.

9 Q -- 2019? And the call that you heard fairly and accurately  
10 depicted how you sounded, what was going on on that date?

11 A Yes.

12 MS. EINHORN: Your Honor, at this time, I move to admit  
13 what's been marked as State's proposed Exhibit 10 into evidence.

14 MR. POSIN: No objection, Your Honor.

15 MS. EINHORN: And permission to publish.

16 THE COURT: Yes and yes. State's Exhibit 10 is admitted,  
17 and you may publish.

18 [State's Exhibit 10 admitted into evidence]

19 [Whereupon, a recording, State Exhibit 10 was played in open court  
20 at 3:54 p.m. and transcribed as follows:]

21 RECORDING: Friday, March 17, 2017, 22:24:56.

22 [Indiscernible conversation]

23 MS. WHATLEY: I'm calling because -- my name's  
24 Shontai Whatley. I am here with Arianna Whatley.

25 DISPATCHER: Ma'am, I'm sorry. I'm having a hard time

1 understanding you. Can you speak a little bit more slowly.

2 MS. WHATLEY: I said my name's Shontai Whatley.

3 [Indiscernible]. I was told that my neighbor's boyfriend had touched

4 my daughter, molested her.

5 DISPATCHER: Do you know what the address or the

6 location that this happened?

7 MS. WHATLEY: Yes, we do. And we have the

8 [indiscernible].

9 DISPATCHER: Okay, I just need to --

10 [Audio paused at 3:55 p.m.]

11 MS. EINHORN: And just for the record, I'm stopping that

12 at 46 seconds.

13 BY MS. EINHORN:

14 Q Ms. Whatley, do you recognize the person's voice on that

15 phone call?

16 A Mine.

17 Q It's your voice?

18 A Yeah.

19 Q Okay.

20 [Audio resumed at 3:55 p.m.]

21 DISPATCHER: Ma'am, I just need to have the address of

22 where it happened, because if you're in Henderson and it happened

23 in Henderson, I'm going to have to get you over to Henderson.

24 MS. WHATLEY: No, it happened in Las Vegas.

25 DISPATCHER: What's the address where it happened?

1 MS. WHATLEY: Hold on a second.  
2 DISPATCHER: Okay.  
3 MS. WHATLEY: The police [indiscernible] the address.  
4 Because I'm [indiscernible] and I'm bringing my phone  
5 [indiscernible].  
6 MS. MADDEN: I want to call the police. Hold on a  
7 second.  
8 MS. WHATLEY: [Indiscernible].  
9 DISPATCHER: Hello. Hello.  
10 MS. WHATLEY: [Indiscernible].  
11 DISPATCHER: I'm sorry. Is it -- I'm so sorry. Is the  
12 phone on speaker phone? I'm having a really hard hearing you.  
13 MS. WHATLEY: [Indiscernible] take it off.  
14 DISPATCHER: Okay.  
15 MS. WHATLEY: [Indiscernible], shush.  
16 Okay, I'm here now. Can you me --  
17 [Audio paused at 3:56 p.m.]  
18 MS. EINHORN: And stopping at 1:33.  
19 BY MS. EINHORN:  
20 Q Ms. Whatley, do you recognize that other voice in that  
21 phone call?  
22 A That was Kim.  
23 Q Kim.  
24 [Audio resumed at 3:56 p.m.]  
25 DISPATCHER: Oh, yeah, thank you.

1 MS. WHATLEY: You're welcome. So basically, I  
2 [indiscernible] my daughter, because she actually reported to me that  
3 -- oh, I actually seen -- it was a big story that I seen her doing things  
4 that wasn't normal. And she finally told me that my ex-roommate,  
5 slash [indiscernible] relationship, [indiscernible] him for like five  
6 years before, basically, was touching her. And -- and basically, I  
7 already reported that. They got her checked [indiscernible]. And  
8 then I found some stuff in her phone from Mr. Vargason because  
9 [indiscernible] I did try to contact him because her friend also was  
10 being involved. And she said that -- she told that she would go tell  
11 her mom. And basically, I've been monitoring because I know how  
12 to locate things.

13 DISPATCHER: Okay.

14 MS. MADDEN: One second. I'm on the phone with the  
15 police.

16 Basically, I -- basically what happened was, I was -- I had  
17 my daughter's phone, and I had -- Arianna had sent her email to my  
18 daughter's when she was over there. Like a [indiscernible] a month  
19 ago, and I never paid attention to her, overly looking in the phone. I  
20 didn't --

21 DISPATCHER: So, I'm sorry. Who is Arianna?

22 MS. MADDEN: It's my daughter's friend. She's  
23 [indiscernible].

24 DISPATCHER: Gotcha.

25 MS. MADDEN: Yeah. And then [indiscernible] identify



1 that Arianna been in the same location and without my daughter.  
2 And I don't care about that. But the point is -- and what's still  
3 [indiscernible] in that same location [indiscernible] this guy, and this  
4 was like --

5 DISPATCHER: So --

6 MS. MADDEN: -- I called the police, but [indiscernible]  
7 told him, and they came out and said [indiscernible] he didn't even  
8 look at it. So I called again today to try to talk someone --

9 DISPATCHER: Did they give you an event number at all?

10 MS. MADDEN: He didn't give me anything. He just came  
11 and left. He [indiscernible].

12 DISPATCHER: What is the --

13 MS. MADDEN: [Indiscernible].

14 DISPATCHER: What's that phone number that you called  
15 from yesterday, do you know?

16 MS. MADDEN: It was a Wi-Fi number, but I can give you  
17 my address because [indiscernible].

18 DISPATCHER: Okay. What's that address?

19 MS. MADDEN: 736 Arden Valley, A-r-d-e-n, Valley  
20 Avenue, 98011, Henderson, Nevada.

21 DISPATCHER: Okay. So then it looks like that would be  
22 handled over with Henderson. Now, did it occur in Henderson, or did  
23 it occur in Las Vegas?

24 MS. MADDEN: Well, see, he picks her up and then he  
25 takes her [indiscernible] Las Vegas.

1 DISPATCHER: Do you know the address in Las Vegas he  
2 takes her to?

3 MS. MADDEN: He takes her to [indiscernible] at  
4 Woodhaven [indiscernible]. I don't know the exact address, but I can  
5 get it --

6 DISPATCHER: Is this an apartment?

7 MS. MADDEN: Yeah [indiscernible] an apartment. Let  
8 me see --

9 DISPATCHER: Yeah, hold on. And you called yesterday,  
10 right?

11 MS. MADDEN: Yeah [indiscernible].

12 DISPATCHER: The 16th?

13 MS. MADDEN: Yes, the 16th.

14 DISPATCHER: Okay. Let me verify that. Hold on one  
15 second for me.

16 [Pause]

17 DISPATCHER: What's your name?

18 MS. MADDEN: Kimberly Madden.

19 DISPATCHER: Okay. Hold on one moment for me.

20 MS. MADDEN: Uh-huh.

21 [Pause]

22 DISPATCHER: Do you know if you talked to Las Vegas  
23 Metro Police, or did you talk to Henderson Police?

24 MS. MADDEN: Henderson Police.

25 DISPATCHER: Okay.

1 MS. MADDEN: [Indiscernible] and then I called back  
2 because -- I mean, I called back because I was like not really sure. I  
3 did feel uncomfortable. Like, I wanted to make sure, they said I can  
4 call -- I called the next morning and they said we have to the Las  
5 Vegas Police.

6 DISPATCHER: Did they tell you why?

7 MS. MADDEN: They said the reason why is because he --  
8 I said, you know -- they said, I don't see the arrows, and the arrows  
9 are going towards -- she's being picked up here, but she's going to  
10 Silver, so they did --

11 DISPATCHER: That's why.

12 MS. MADDEN: -- so they did the rewind because it's  
13 happening on Silver in Las Vegas.

14 DISPATCHER: Do you know what his apartment number  
15 is?

16 MS. MADDEN: If I -- if I pull up Google Maps on the  
17 street view, I can -- I can tell you what apartment number it is, but I  
18 can't --

19 DISPATCHER: Okay.

20 MS. MADDEN: -- [indiscernible] apartment number it is.  
21 It's on top, the first one [indiscernible].

22 DISPATCHER: Okay, that's fine. What is your -- let me  
23 see, it was the Arden Valley, right?

24 MS. MADDEN: Yes, I'm in Arden Valley

25 DISPATCHER: And you [indiscernible] on your way to the

1 hospital?

2 MS. MADDEN: I'm not -- I'm not there yet, but she's  
3 going to be on her way to the hospital.

4 DISPATCHER: Okay. And when did this happen last?

5 MS. MADDEN: I don't know when it happened last, but I  
6 seen her arrows going recently, you know --

7 DISPATCHER: What do you mean by arrows?

8 MS. MADDEN: What is that? Basically, you know, if you  
9 don't -- you don't have a phone -- like, if you have a phone, they'd  
10 have Google on it. What happens is, it still [indiscernible] that it goes  
11 to. So even if it's offline, I know how to make it go back online for  
12 the areas when you are offline.

13 DISPATCHER: So if you --

14 MS. MADDEN: [Indiscernible].

15 DISPATCHER: Okay. So you just think that this  
16 happening from what you've been reading and seeing, basically?

17 MS. MADDEN: Yeah. She -- my daughter -- my daughter  
18 also confirmed it.

19 DISPATCHER: And she didn't tell you when it happened?

20 MS. MADDEN: She didn't exactly when it happened, but  
21 I don't know the day. [Indiscernible] she don't know the day. Like,  
22 she don't know the day, she says. She just like -- she's kind of been  
23 in the [indiscernible] and doing things like -- you know, with that -- I  
24 just met with her and --

25 DISPATCHER: How old is she?

1 MS. MADDEN: My daughter's 9, and the other little,  
2 Arianna, is 12 or 13.

3 DISPATCHER: Is that girl with you?

4 MS. MADDEN: Yes. I'm with her mother right now.

5 DISPATCHER: Okay. And do you know --

6 MS. MADDEN: Yeah, I just told her --

7 DISPATCHER: -- what's the address --

8 MS. MADDEN: -- I just told her right now, just -- just told  
9 her right now, like -- like [indiscernible].

10 DISPATCHER: What is the relationship to the suspect?

11 MS. MADDEN: He -- to me?

12 DISPATCHER: To you, to the daughter [indiscernible].

13 MS. MADDEN: Oh, I'm sorry. My daughter -- one's my  
14 daughter and the relationship -- my daughter's friend. It's my  
15 daughter's friend.

16 DISPATCHER: Right. But that's -- how do you guys know  
17 him?

18 MS. MADDEN: Oh, I used to work with him for two years  
19 at Sprint. And then we went to college together, and I started  
20 [indiscernible] with him after a little while, and then he lived with me  
21 for --

22 DISPATCHER: So like basically your ex, kind of?

23 MS. MADDEN: He's kind of like my ex, yes.

24 DISPATCHER: What's his name?

25 MS. MADDEN: Dequincy Brass.

1 DISPATCHER: How do you spell that?  
2 MS. MADDEN: D-e-q-u-i-n-c-y, B-r-a-s-s.  
3 DISPATCHER: Do you know his date of birth?  
4 MS. MADDEN: 8 -- 8/13/83.  
5 DISPATCHER: Is he White, Black, Hispanic?  
6 MS. MADDEN: He's Black. He's 165, and he's 5'7.  
7 DISPATCHER: Okay.  
8 MS. MADDEN: He wears glasses and he --  
9 DISPATCHER: Do you know his Social right now?  
10 MS. MADDEN: No, no Social.  
11 DISPATCHER: Okay, that's fine.  
12 MS. MADDEN: Kimberly Madden.  
13 DISPATCHER: M-a-d-d-e-n?  
14 MS. MADDEN: Uh-huh.  
15 DISPATCHER: What's your phone number?  
16 MS. MADDEN: I have a Wi-Fi phone, and I don't know  
17 the number off the top of my head.  
18 DISPATCHER: Can we get ahold of you at the number  
19 that you're friend was calling from [indiscernible]?  
20 MS. MADDEN: She didn't take her out of the hospital,  
21 but you can -- what I'll do -- I just need to know, like, the  
22 [indiscernible] phone number to call them back on.  
23 MS. WHATLEY: [Indiscernible].  
24 MS. MADDEN: Okay. Can you call -- do you still have a  
25 new phone? What's the number?

1 MS. WHATLEY: I'm going to take them to the hospital.  
2 MS. MADDEN: What's your number?  
3 MS. WHATLEY: 702.  
4 MS. MADDEN: 702.  
5 MS. WHATLEY: 236.  
6 MS. MADDEN: 236.  
7 MS. WHATLEY: 7950.  
8 MS. MADDEN: 7950. And I have a Wi-Fi phone, but I just  
9 made [indiscernible] don't know the number off the top of my head  
10 because it just works by normal Wi-Fi because I broke my iPhone  
11 [indiscernible].  
12 DISPATCHER: What is the hospital you're going to?  
13 MS. MADDEN: What hospital are you going to?  
14 MS. WHATLEY: Green Mountain.  
15 MS. MADDEN: Green Mountain.  
16 DISPATCHER: And you're going to be with her?  
17 MS. MADDEN: No, I'm not going to be with her. I went  
18 home. But, I mean, what I'll do is I'll call my WiFi phone when  
19 [indiscernible] and I can have her relay the number so if you need to  
20 get ahold of me.  
21 DISPATCHER: Okay. Is your daughter to the hospital, or  
22 is she --  
23 MS. MADDEN: No. My daughter's staying with me, but  
24 her daughter is.  
25 DISPATCHER: Let me see. Okay.

1 [Child crying in the background]  
2 MS. MADDEN: Baby, come here. Okay [indiscernible].  
3 DISPATCHER: Hold on one more moment for me. I'm  
4 sorry.  
5 MS. MADDEN: It's okay. It's okay.  
6 [Pause]  
7 DISPATCHER: Okay. So I'm going to have the officers  
8 make contact with you at your address. And I'm also going to look  
9 under the -- your friend and her daughter are going to be at the  
10 hospital.  
11 MS. MADDEN: Okay. I appreciate it.  
12 DISPATCHER: No problem. What's your friend's name?  
13 MS. MADDEN: My friend's name is -- are you talking  
14 about -- Shontai.  
15 DISPATCHER: How do you spell that?  
16 MS. MADDEN: [Indiscernible] on the phone  
17 [indiscernible].  
18 MS. WHATLEY: Hello.  
19 DISPATCHER: Hello. How do you spell your name,  
20 ma'am?  
21 MS. WHATLEY: It's Shontai, S-h-o-n-t-a-l, Whatley,  
22 W-h-a-t-l-e-y. I'm going to take her for three miles [indiscernible]  
23 going to call the police when I get there because my daughter is  
24 bipolar.  
25 DISPATCHER: Okay. Well, that's fine. I'm going to -- I'm



1 setting it up so, you know, the officers are aware of both situations.  
2 Can you spell your last name for me one more time a little bit slower.

3 MS. WHATLEY: It's W-h -- Shontai, S-h-o-n-t-a-l,  
4 Whatley, W-h-a-t-l-e-y. She said she had called the police, but she  
5 came over here to tell me, you know. And I'm taking it very hard  
6 right now, so -- so the only thing I can do is [indiscernible] because  
7 she will lie. [Indiscernible] maybe she was drugged and um, um, um,  
8 um, um, all this stuff. And I think the best thing to do was to take her  
9 and have a professional talk to her and treat her.

10 DISPATCHER: Okay. All right. And your daughter  
11 [indiscernible] bipolar?

12 MS. WHATLEY: Yes, she is.

13 DISPATCHER: Okay. Is she on her medicine?

14 MS. WHATLEY: Yes, she is.

15 DISPATCHER: Okay.

16 MS. WHATLEY: She [indiscernible] December. But she  
17 has ran off before. And I called and -- I called the police, and they  
18 were looking for her, but I found her, and I took her to Spring  
19 Mountain. And they kept her for about ten days. And I said  
20 [indiscernible] the cops that came here and you're going to say --  
21 they [indiscernible] she was all right. But I didn't have the  
22 information. I just got it. And then she pulled it up on the phone,  
23 and she showed me everything.

24 DISPATCHER: Right, okay. Well, I'm going to send an  
25 officer so we can get all that information. So I'd recommend, you

1 know, letting them know everything that you're telling me.

2 MS. WHATLEY: Uh-huh.

3 DISPATCHER: The (702) 326 phone number, that's your  
4 phone number?

5 MS. WHATLEY: 7590. I'm going to be [indiscernible]  
6 number, call them right now --

7 DISPATCHER: Okay.

8 MS. WHATLEY: -- and we're going to be on our way.

9 DISPATCHER: Okay. Well, I'm going to [indiscernible] so  
10 that the officers know where you guys are going to be as well, and  
11 they're going to have your phone number. Would you mind giving  
12 the phone back to Kimberly really quick so that I can get some more  
13 information from her?

14 MS. WHATLEY: [Indiscernible].

15 DISPATCHER: Thank you.

16 MS. WHATLEY: The police want to talk to you.

17 MS. MADDEN: Okay.

18 Hello.

19 DISPATCHER: Hi, there. Kimberly, right?

20 MS. MADDEN: Yes, Kimberly.

21 DISPATCHER: Okay. So when you go home, are you  
22 going to have Wi-Fi so an officer can get in contact with you  
23 [indiscernible]?

24 MS. MADDEN: Yes, I'll have -- I'll have WiFi as soon as I  
25 get home.

1 DISPATCHER: Okay. What's that phone number?

2 MS. MADDEN: You know, I have the phone with me, but  
3 I [indiscernible] if you want to wait a few minutes. Actually, I can call  
4 you [indiscernible].

5 DISPATCHER: Okay. Just because Shontai is going to be  
6 at the hospital, we'll need a phone number for you as well.

7 MS. MADDEN: Okay. Give me a few minutes. I'm going  
8 to turn this phone off because it's dead. All [indiscernible].

9 [Audio concluded at 4:08 p.m.]

10 MS. EINHORN: All right. I'm stopping the call at 13:26.

11 BY MS. EINHORN:

12 Q Ms. Whatley, just a couple more questions. So when that  
13 call was made, where were you when you called the police?

14 A I was in my bedroom. I was in my bed.

15 Q So you were at your house?

16 A I was at my house in my bed, and she came and she had  
17 came up the stairs, because I was sick, and she came up the stairs  
18 and she said, "I need to talk to you in private."

19 Q Did --

20 A And I said, "Okay, well, you know, go" -- I told the kids --  
21 well, RaRa when I was in the room. The kids was downstairs, and  
22 she came in there and talked to me like privately at first. And then  
23 when she gave me the news, I hopped up and then that's what I went  
24 and we was all in the room together.

25 Q And that's when you called the police?

1       A     Yeah. I -- yeah. As soon as she told me, I called the police.  
2       Q     Did the police eventually respond?  
3       A     Yeah. It took them hours. Yeah.  
4       Q     Okay. Where did they respond to?  
5       A     They wind up going to Kim [sic] house.  
6       Q     Okay. Do you know why they went to Kim's house?  
7       A     Because Kim had to take her kids back to her house, and I  
8 was in the interim of taking my daughter to Spring Mountain. But I  
9 called Spring Mountain. They told me that they didn't have an open  
10 bed until the next morning. I explained to them what happened.  
11 They told me like basically to bring her in the morning. So I went  
12 over to Kim [sic] house and I waited on the police to come to talk  
13 our -- you know, our statements and everything.  
14       Q     So when the police arrived, they arrived to Kim's house?  
15       A     Yes.  
16       Q     And you and Arianna were there?  
17       A     Yes.  
18       Q     And the police spoke to Arianna at Kim's house?  
19       A     Yes.  
20       Q     And then you took Arianna to Spring Mountain Hospital?  
21       A     Yes.  
22       Q     What kind of hospital is Spring Mountain hospital?  
23       A     Spring Mountain, it is a mental health hospital.  
24       Q     Okay. And you mentioned in the 911 call that Arianna had  
25 run away at some point?

1       A     Yeah. See, what happened was she had became -- she had  
2 like popped up and had been like missing. Then when she came  
3 home, because like I said, I had to call the police because I reported  
4 her missing, went looking for her and stuff. But you know, like the  
5 kids and stuff be online, they were like looking for her and her friend.  
6 And some of them are like, "Hmm, your mama looking for you. You  
7 better get home." Things of that nature.

8               So when she came home, she was acting real odd, but she  
9 was -- she started saying, "Oh, I want to die. I want to kill myself."  
10 And I kept asking her, "Why"? It was obviously because she had  
11 been molested, but she would not tell me.

12       Q     When did she run away? Do you remember the month or  
13 the year?

14       A     When she had ran away, it was right after -- around the  
15 time of that -- it -- it was in December. I'm going to put it like that.

16       Q     Of what year? Do you know?

17       A     The -- the -- I found in March it was December previous.

18       Q     So March --

19       A     So 2016.

20       Q     -- 2000- -- so -- okay. So 2016?

21       A     Uh-huh.

22       Q     And then you stated that you would sometimes see  
23 Mr. Brass picking up Kim's kids, right?

24       A     Yeah. Like -- like in passing, because all the kids played  
25 together in the neighborhood. We have a park, so he would come

1 over there and pick them up sometimes --

2 Q Do you --

3 A -- you know, like everywhere, you know.

4 Q Do you know if he ever picked up Arianna from the Boys &  
5 Girls Clubs?

6 A He -- yes. I was told that he did. But he did not have any  
7 permission. And -- and I had an issue with that because they didn't  
8 even call me and ask me. They just assumed that because I was cool  
9 with Kim that I was cool with him picking up my child.

10 Q But he did not have permission to do that?

11 A He did not have permission. I don't even know him.

12 MS. EINHORN: Your Honor, at this time, I will pass the  
13 witness.

14 THE COURT: Thank you.

15 MR. POSIN: No, questions, Your Honor.

16 THE COURT: Okay. Can the witness be excused?

17 MS. EINHORN: She's excused.

18 THE COURT: Thank you.

19 [Witness excused]

20 MS. EINHORN: And, Your Honor, may we approach?

21 MR. POSIN: Sure.

22 [Sidebar begins at 4:12 p.m.]

23 MS. EINHORN: We don't have any more witnesses.

24 THE COURT: Okay. And you may have heard, they

25 wanted to break no later than 5:00 because of --

1 MS. EINHORN: And we figured out tomorrow -- oh, I  
2 guess we can do that --

3 MS. RHOADES: Oh. Yeah, we can do that after they  
4 leave --

5 MS. EINHORN: Okay.

6 MS. RHOADES: -- about tomorrow's schedule.

7 THE COURT: Okay.

8 MS. EINHORN: Okay.

9 THE COURT: Thank you.

10 [Sidebar ends at 4:12 p.m.]

11 THE COURT: All right. Ladies and gentlemen, as they  
12 often say, real life, it's not like it is on TV and trials. So we often are  
13 coordinating and trying to anticipate schedules and everything. So  
14 we'll break early for today. Come back tomorrow at 10:30. My  
15 hearing calendar tomorrow morning should be shorter than it was  
16 today, so we should start on time tomorrow at 10:30.

17 During this recess, you are admonished not to talk or  
18 converse amongst yourselves or with anyone else on any subject  
19 connected with this trial; read, watch, or listen to any report of or  
20 commentary on the trial or any person connected with this trial by  
21 any medium of information, including, without limitation, to social  
22 media, texts, newspapers, television, the Internet, and radio; do you  
23 not visit the scene of any events mentioned during the trial, do not  
24 undertake any investigation, do not Google anything about the trial  
25 or anyone associated the trial, do not any posting or communications

1 on any social networking sites, do not do any independent research,  
2 including Internet searches; do not form or express any opinion on  
3 any subject connected with the trial until the case is finally submitted  
4 to you.

5 We'll see you tomorrow at 10:30.

6 THE MARSHAL: All rise for the jury.

7 Please leave your notebooks on the chairs.

8 [Jury out 4:14 p.m.]

9 [Outside the presence of the Jury]

10 MS. RHOADES: Judge, we're still done at 3:00 tomorrow,  
11 correct?

12 THE COURT: Yes.

13 MS. RHOADES: Okay. I just wanted to ask.

14 THE COURT: And remind me what -- yes. About lunch,  
15 right?

16 MS. RHOADES: Right. We just don't know what you want  
17 to do about a break.

18 THE COURT: Yeah. So let me -- pretend I'm a law  
19 professor, answer a question with a question or -- I assume we're on  
20 track to finish no later than next Wednesday still?

21 MS. EINHORN: If not, probably Monday.

22 THE COURT: Oh, sure. So I think we'll still take our break  
23 in between -- because I need to eat, if no other reason.

24 MS. RHOADES: Of course. Maybe we could take a little bit  
25 of a shorter --



1 THE COURT: It could be shorter --  
2 MS. RHOADES: -- because --  
3 THE COURT: -- yeah.  
4 MS. RHOADES: -- we have three witnesses that we can  
5 call from the 10:30 up until when we take a break. And then we -- so  
6 may have if we have 10:30 --  
7 THE COURT: We can break --  
8 MS. RHOADES: -- to noon.  
9 THE COURT: -- like at 12:30 maybe and do a half hour or  
10 something.  
11 MS. RHOADES: Sure. Yeah. That would work. Or even  
12 earlier if we run out of the witnesses --  
13 THE COURT: Okay.  
14 MS. RHOADES: -- before, if that's okay.  
15 THE COURT: Yeah.  
16 MS. EINHORN: And because we're ending early, so  
17 hopefully the jurors will be okay with that.  
18 THE COURT: Yeah.  
19 MS. RHOADES: Okay. Thank you.  
20 THE COURT: Thank you. Anything on your ends,  
21 Mr. Posin?  
22 MR. POSIN: Nothing on my --  
23 MS. RHOADES: And, Your Honor, Friday --  
24 MR. POSIN: -- Your Honor.  
25 MS. RHOADES: -- 10:30 to 5:00?

1 THE COURT: Yeah.

2 MS. RHOADES: Okay.

3 THE COURT: Yeah.

4 MS. RHOADES: And Monday, I thought I heard

5 Your Honor say you have a pretty long calendar. Would it still be --

6 THE COURT: Oh, man --

7 MS. RHOADES: -- 10:30?

8 THE COURT: Yeah, that's a good point. We might start --

9 yeah, I -- we might start at 11:00 --

10 MS. RHOADES: 11:00? Okay.

11 THE COURT: -- on Monday. Yeah. I have like 40 civil

12 hearings on Monday.

13 MS. RHOADES: And, Judge, when -- we'll probably be

14 working on aware jury instructions probably by end of day Friday

15 over the weekend. So if we got them to you Monday morning,

16 would that be sufficient?

17 THE COURT: Did you already send over the draft or --

18 MS. RHOADES: I don't think so. Maybe the last time.

19 THE COURT: I thought --

20 MS. RHOADES: I know we haven't this. There could have

21 been a possible draft last time, but I don't think so.

22 THE COURT: Yeah. So -- yeah, that's fine.

23 So just -- with the jury instructions, you know, go over

24 them with each other before you bring them to me.

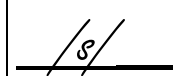
25 MS. RHOADES: Okay. I'll email them to Mr. Posin --

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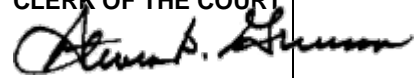
THE COURT: Okay.  
MS. RHOADES: -- as soon as they're done.  
THE COURT: Okay. All right. See you tomorrow.  
MS. RHOADES: Thank you.  
MR. POSIN: Thank you.  
MS. EINHORN: Thank you, Judge.

[Proceedings adjourned at 4:17 p.m.]  
\* \* \* \* \*

ATTEST: I do hereby certify that I have truly and correctly transcribed the  
audio/video proceedings in the above-entitled case to the best of my ability.

  
Valori Weber  
Transcriber

Date: May 29, 2020



1 RTRAN

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5 THE STATE OF NEVADA, ) CASE#: C-18-329765-1  
6 Plaintiff, ) DEPT. XV  
7 v. )  
8 DEQUINCY BRASS, )  
9 #2707679, )  
10 Defendant. )

11  
12 BEFORE THE HONORABLE JOSEPH P. HARDY,  
13 DISTRICT COURT JUDGE

14 THURSDAY, FEBRUARY 27, 2020

15 ***RECORDER'S TRANSCRIPT OF JURY TRIAL [DAY 3]***

16 APPEARANCES:

17  
18 For the Plaintiff: KRISTINA A. RHOADES, ESQ.  
KELSEY EINHORN, ESQ.

19  
20 For the Defendant: MITCHELL L. POSIN, ESQ.

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25 RECORDED BY: MATTHEW YARBROUGH, COURT RECORDER

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<u>WITNESSES:</u>				

JACQUELYN ATHA	6	19		
JACOB BARR	21	34	36	39
JORDAN VARGASON	42	64		
SANDRA CETL	69	91		

DEFENDANT'S
<u>WITNESSES:</u>

None

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FOR THE DEFENDANT:

None

1 Las Vegas, Nevada, Thursday, February 27, 2020

2  
3 [Hearing began at 10:44 a.m.]

4 [Outside the presence of the Jury]

5 MS. RHOADES: I don't think so, Your Honor. We have  
6 three witnesses before our 1:00 audio/visual witness. So after the  
7 three witnesses go, then we should take a break and start back up at  
8 1:00 --

9 THE COURT: Okay.

10 MS. RHOADES: -- if that's okay.

11 THE COURT: Okay. Yeah.

12 MS. RHOADES: And then also, Ms. Einhorn wanted to also  
13 let you know about the jury questions.

14 MS. EINHORN: That yesterday, Your Honor, I just think we  
15 kind of forgot to do that. So that when -- before our witness is  
16 excused, to make sure that -- if the jury does have any questions --

17 THE COURT: Oh.

18 MS. EINHORN: -- as well.

19 THE MARSHAL: I did advise them initially when I talked to  
20 them --

21 MS. EINHORN: Oh, okay. Great.

22 THE MARSHAL: -- as well.

23 MS. EINHORN: Great. Thank you.

24 MS. RHOADES: And that's it from the State.

25 MR. POSIN: Nothing from the Defense, Your Honor.

1 THE COURT: All right. Thanks.

2 UNIDENTIFIED SPEAKER: Are they all here?

3 THE MARSHAL: Yes, they are. They're all ready to go.

4 [Pause]

5 [Jury in at 10:46 a.m.]

6 [Within the presence of the Jury]

7 THE COURT: Please be seated.

8 Welcome back, Ladies and Gentlemen. And thank you, as

9 always, for your service.

10 Is the State ready to continue?

11 MS. EINHORN: Yes, Your Honor. The State's next witness

12 is Jacquelyn Atha.

13 THE MARSHAL: Atha?

14 MS. EINHORN: Atha.

15 [Pause]

16 THE MARSHAL: Just please watch your step.

17 Remain standing and face the --

18 THE CLERK: Please raise your right hand.

19 JACQUELYN ATHA, STATE'S WITNESS, SWORN

20 THE CLERK: For the record, please state and spell your

21 first and last name.

22 THE WITNESS: Jacquelyn Atha, J-a-c-q-u-e-l-y-n,

23 A-t-h-a.

24 THE CLERK: Thank you.

25 THE MARSHAL: You may be seated.



1 MS. EINHORN: Thank you, Your Honor.

2 DIRECT EXAMINATION

3 BY MS. EINHORN:

4 Q Good morning, ma'am.

5 Ms. Atha, how are you currently employed?

6 A I'm employed through Polar Shades.

7 Q What's Polar Shades?

8 A It's a manufacturer that makes motorized and manual  
9 rolling window shades.

10 Q And how long have you been doing that?

11 A About a year and a half.

12 Q And prior to working at Polar Shades, where did you work?

13 A I worked at the Boys & Girls Club.

14 Q Are there multiple Boys & Girls Clubs, just one?

15 A There's thousands across the world. And in the Southern  
16 Nevada section of the Boys & Girls Clubs, at the time there were 14  
17 clubhouses.

18 Q And which one were you working at?

19 A I was working -- when I left the Boys & Girls Clubs, at the  
20 "Jackie" Gaughan clubhouse on the UNLV campus.

21 Q Okay. And prior to that, were you working at a different  
22 Boys & Girls Club?

23 A Yes. I was working at the Mary & Sam Boyd clubhouse in  
24 Pittman, the Pittman area of Henderson.

25 Q Do you remember the address of that Boys & Girls Club?

1           A     1608 Moser Drive.

2           Q     And was that in Henderson, Clark County, Nevada?

3           A     Yes.

4           Q     And how long did you work at that specific Boys & Girls  
5 Club location?

6           A     About three, four years, somewhere --

7           Q     And what time --

8           A     -- in that range.

9           Q     -- frames were you working there?

10          A     From November -- or January of 2014 to -- to June of 2017.

11          Q     Okay. And, Ms. Atha, what is the purpose of a Boys &  
12 Girls Club?

13          A     It is an avenue for at risk youth and low income families to  
14 provide kids with activities to do after school and on nonschool days.  
15 It provides healthy meals, it provides youth enrichment programs.  
16 So healthy mind, body, soul, that sort of thing. So it's just an all-  
17 around program for kids to get things they might be lacking at home,  
18 and it's also primarily used for care for parents while they work, and  
19 that sort of thing.

20          Q     And the Boys & Girls Club in Henderson, how would you  
21 describe that area of town?

22          A     It was a rougher neighborhood. It definitely wasn't the  
23 safest neighborhood. It was -- that Boys & Girls Club was located in  
24 a public park. So we definitely saw a lot of coming and going. It was  
25 also right next to an elementary school. So, like I said, it was -- it

1 wasn't the roughest of neighborhoods, but it definitely wasn't a nice  
2 neighborhood.

3 Q And what was your job at the Boys & Girls Club?

4 A I was the clubhouse director.

5 Q And what did you do as clubhouse director?

6 A I oversaw all operations of the clubhouse, including staff,  
7 and the kids. So I implemented and approved certain programs, I  
8 kept the clubhouse running, I made sure we had food delivered and  
9 supplies delivered, and I handled all of the discipline and the daily  
10 operations.

11 Q Now, that clubhouse, the one in Henderson that we're  
12 talking about, does that clubhouse keep track of attendance?

13 A Yes.

14 Q How does it keep track of attendance?

15 A Through a system called KidTrax. It's a system that the  
16 kids can sign in via a barcode on a membership card or a manual  
17 sign in via the computer system.

18 Q Okay. And how would your club keep track of that?

19 A When the kids arrived after school or for the day,  
20 whenever they showed up, the -- if they had their membership card,  
21 they could scan in using a scanner, kind of like -- it's just a little  
22 barcode scanner. And if they didn't have their card, they could sign  
23 in with the front desk staff, and they would manually sign them into  
24 the system.

25 Q Was there always an accurate log kept of when children

1 would sign in and sign out?

2 A Not necessarily. The system was not perfect. So if there  
3 was -- if a kid happened to show up at the clubhouse when the staff  
4 was not at the front desk or they, you know, tried to sign their card  
5 and the barcode scanner didn't read their barcode, it could  
6 potentially say that they weren't there. So it was not a perfect  
7 system.

8 Q And how -- what were the hours that the club was open?

9 A So during school days, the club was open from 2 p.m. to  
10 7 p.m.; and on nonschool days, the club was open from 9 a.m. to  
11 6 p.m.

12 Q What would happen if a child did not sign out and the clubhouse  
13 closed at 7 p.m.?

14 A There was a -- like an auto sign out where you could just  
15 sign out all of the kids that hadn't signed out at the end of the day.  
16 So within the last 15 minutes before closing, we would just go in and  
17 just sign all of the kids out that hadn't signed out yet.

18 Q Was it often that kids would kind of come and go and  
19 either forget to sign out or not scan their ID --

20 A Yes.

21 Q -- cards?

22 A Yes.

23 Q And are the kids free to kind of come and go as they please  
24 at the Boys & Girls Club?

25 A Yes. There is an open-door policy in place, which provides

1 the kids an opportunity to come and go from the clubhouse without  
2 needing to ask or wait for a parent to pick them up. It is not unlock  
3 and key. So kids may come and go as they please.

4 Q And, Ms. Atha, do you know a child by the name of Venice  
5 Madden?

6 A Yes.

7 Q And how did you know Venice?

8 A Through the Boys & Girls Clubs. She attended.

9 Q And did she have any sibling who attended with her too?

10 A Yes. She had a little brother named Rodriguez [phonetic].

11 Q Okay. And do you remember when they were members of  
12 the Boys & Girls Clubs, the one in Henderson?

13 A It had to be late 2016.

14 Q Okay. And you had interactions with both Venice and  
15 Rodriguez?

16 A Yes.

17 Q How would you describe Venice?

18 A Venice, she was a very nice, sweet girl. She was very  
19 helpful. She didn't get into trouble very often, if ever. She was just  
20 an all-around good kid.

21 Q And how would you describe her brother Rodriguez?

22 A Rodriguez was the opposite. There is always one. He was  
23 only able to attend the club for a couple of days because of his  
24 behavioral issues. And he was I believe expelled from the  
25 clubhouse.

1 Q Do you remember how old Venice was when you met her?

2 A Not exactly. I would say around 9.

3 Q And what about Rodriguez?

4 A He was I believe 4, which is one of the reasons he was no  
5 longer allowed to come to the club, because I believe when he was  
6 signed up, he was not old enough to come to the club. So --

7 Q And did you ever meet their mother Kim?

8 A Yes.

9 Q How would you describe Kim?

10 A Kim was not -- she wasn't a very attentive parent, but she  
11 still came in and signed the kids up, and they would pick them up on  
12 a regular basis. But she was not there as often as some of the other  
13 parents were.

14 Q Would parents usually come inside the club to pick them  
15 up or would the kids meet them outside?

16 A It really depended on the family. Sometimes the parents  
17 would come inside. For the most part, the majority of the families,  
18 the parents would come inside to pick the kids up. But we still had  
19 some families who would request the kids meet them outside.

20 Q Was Kim one of those -- was the Madden family one of  
21 those families?

22 A Yes. It was -- it was come and go. Sometimes it was one  
23 way, sometimes it was the other.

24 Q So not strict that the parent had to come inside? The kids  
25 couldn't leave --

1 A No.

2 Q -- and go outside?

3 A No.

4 Q What about a child named Arianna Whatley, do you ever  
5 recall meeting her?

6 A Yes.

7 Q And how would you describe Arianna?

8 A Arianna is very free spirited. She did get into trouble from  
9 time to time, but she's a -- she was a good kid. She -- she was very  
10 interactive. She liked to help out. She kind of liked to be a center of  
11 attention from time to time. So she was -- she was a good kid  
12 though. She was fun.

13 Q And was she also a member of that Boys & -- the same  
14 Boys & Girls Club?

15 A Yes.

16 Q And did she have any sibling who also attended with her?

17 A Yes.

18 Q And do you remember her siblings' names?

19 A Yes. Esan [phonetic] and Donald.

20 Q And do you recall when they became members -- when the  
21 Whatley family became members of the Boys & Girls Club?

22 A They were members before I started working at that  
23 clubhouse. So the entirety of the time that I was there they were  
24 members.

25 Q Do you recall when they stopped going there?

1           A     Around the end of 2017.

2           Q     And going back to the Madden family, do you recall when  
3 the Madden kids stopped going to that Boys & Girls Clubs?

4           A     I believe at the same time; the end of 2017.

5           Q     Did you ever --

6           A     -- or '16?

7           Q     Oh, sorry.

8           A     2016. I'm sorry. Yeah, the end of 2016.

9           Q     For the Madden family?

10          A     For both of them.

11          Q     Both of them?

12          A     Yes.

13          Q     And do you recall ever meeting Arianna's mother,  
14 Shontai?

15          A     Yes.

16          Q     How would you describe Shontai?

17          A     Similar to Kim. She was very -- it was very rare that we  
18 ever saw her. She would call the clubhouse at the end of the day and  
19 have the kids meet her outside. So we would have to find them and  
20 send them outside to meet her. She -- she was kind of, like I said, not  
21 very attentive. The kids definitely spent a lot of their time at the club  
22 rather than being at home with her. But for the most part, I mean,  
23 she still did pick them up on a regular basis. And if we needed her,  
24 we could call her and she would come into the clubhouse and talk  
25 about whatever we had to talk about. But --



1 Q And while you were working at the Boys & Girls Club while  
2 both the Whatley family and the Madden family were attending, do  
3 you recall if Arianna and Venice were friendly?

4 A Yes.

5 Q Would you see them interacting at the Boys & Girls Club?

6 A Yes.

7 Q What kinds of things would they be doing, to your  
8 memory?

9 A So hanging out. If we did an activity, they would often be  
10 together doing that activity. If it was more of a free time sort of  
11 thing, they would hang out together, and with other friends that they  
12 had as well, so.

13 Q Do you recall if Shontai would ever pick up Venice or Kim  
14 would ever pick up Arianna, that they'd kind of help each other out?

15 A Yes. They lived on the same street. So Shontai more so  
16 would take Venice home at the end of the day, and Venice I would  
17 assume just walked to her house from their house or she'd drop her  
18 off. But since they lived on the same street, that did happen from  
19 time to time.

20 Q And, Ms. Atha, are you familiar with an individual by the  
21 name of Dequincy Brass?

22 A Yes.

23 Q And how do you -- how are you familiar with Mr. Brass?

24 A I know that Mr. Brass was the boyfriend of Kim, which is  
25 the mother of Venice and Rodriguez.

1 Q Do you ever recall seeing him at the Boys & Girls Clubs  
2 picking up Venice and Rodriguez?

3 A As far as I can remember, I only met him once or twice  
4 when they were originally signing up for the Boys & Girls Club  
5 services. He was with her. But I don't believe I had any direct  
6 interaction with him.

7 Q Do you know if he was authorized to pick up Kim's  
8 children?

9 A Yes.

10 MS. EINHORN: Brief indulgence?

11 THE COURT: Sure.

12 BY MS. EINHORN:

13 Q And just briefly, Ms. Atha, did you ever interact with  
14 Venice Madden after she left that Henderson Boys & Girls Club?

15 A Yes.

16 Q Where did you interact with her?

17 A At the Boys & Girls Clubs on the UNLV campus. She  
18 started attending that clubhouse sometime in the summer of -- or  
19 shortly after the summer of 2017.

20 Q And during that time that she was at the other Boys & Girls  
21 Clubs, did she ever tell you about something that had happened to  
22 her?

23 A No.

24 Q Was she a quiet person? Would you describe her that  
25 way?

1           A     Yes. She wouldn't really speak unless she was spoken to  
2 or if she had something she wanted to say. So -- she was just -- she  
3 is a very sweet kid. So I mean, she never really spoke out of turn, but  
4 she was still really fun to talk to, so.

5                   MS. EINHORN: And, Your Honor, I'm showing Defense  
6 counsel what's been previously marked as State's proposed  
7 Exhibit 22. May I approach the witness?

8                   THE COURT: Sure.

9 BY MS. EINHORN:

10          Q     Ms. Atha, I'm showing you what's been pre-marked as  
11 State's proposed Exhibit 22. Can you just please take a look through  
12 these documents and tell me if you recognize it?

13          A     Yes.

14          Q     And what are we looking at kind of just generally  
15 speaking?

16          A     This is the account information for the -- for Venice's  
17 family and Arianna's family for -- through the KidTrax system that  
18 the Boys & Girls Club uses to track kids' attendance.

19          Q     And you say, "account information." What kind  
20 information does that entail?

21          A     This would be their -- just their general information. So  
22 their name, age, address, birthday, phone numbers, contact  
23 information, authorized pickup information, and so on and so forth.

24          Q     And anything else we're looking at --

25          A     Yes.

1 Q -- in these documents?

2 A I see the attendance records for around the time when this  
3 incident occurred.

4 Q So those would be attendance records for who?

5 A For -- I see Donald, Rodriguez, and Venice, and Arianna.

6 Q Okay. And Donald, was he Arianna's brother?

7 A Yes.

8 Q And you said that those are attendance records for around  
9 the end of 2016?

10 A Yes.

11 Q And do these records fairly and accurately depict records  
12 that you're familiar with that would keep track at your Boys & Girls  
13 Club?

14 A Yes.

15 MS. EINHORN: Your Honor, at this time, I move to admit  
16 State's proposed Exhibit 22 into evidence.

17 MR. POSIN: No objection, Your Honor.

18 THE COURT: State's Exhibit 22 will be admitted.

19 [State's Exhibit 22 admitted into evidence]

20 MS. EINHORN: Permission to publish for the jury?

21 THE COURT: Yes.

22 BY MS. EINHORN:

23 Q So, Ms. Atha, I'm showing you what's now State's 22,  
24 page 1. So kind of what are we looking at here?

25 A This is the account information for Venice Madden.

1 Q Okay. And like you said, it kind of would have their home  
2 address, telephone number, things like that?

3 A Yes.

4 Q And then looking down below, we can see that Dequincy  
5 Brass is listed as a relative. What does that mean?

6 A That means that he is an authorized pickup and an  
7 emergency contact for anyone under that account.

8 Q So he was allowed to pick up Venice Madden and anyone  
9 else under that account?

10 A Yes.

11 Q And this is page 2, also showing Rodriguez. So was he  
12 also authorized to pick up Rodriguez?

13 A Yes.

14 Q Okay. I'm showing you page 3 of that same Exhibit 22.  
15 What are we looking at here?

16 A This would be the account information for Donald Kelley.

17 Q And then the same down below, it kind of authorizes  
18 Arianna, Esan, who's allowed to pick them up?

19 A Yes.

20 Q Was Dequincy Brass listed as someone authorized to pick  
21 up the Whatley children?

22 A No.

23 Q Okay. Ms. Atha, I'm showing page 5 of State's 22. I kind of  
24 just want to focus on Venice Madden down at the bottom. So these  
25 are multiple dates that she was signed in and out of club; is that fair

1 to say?

2 A Yes.

3 Q So 11/4, 11/7, all 2016?

4 A Yes.

5 Q So looking at the 11/8/2016 entry, the time in, the time out,  
6 the time out is 5:56. Is that close to closing time?

7 A If it was a nonschool day, yes. If it was a school day, it  
8 would be about an hour before closing time.

9 Q Is there anything significant about that time to you that  
10 you would believe would be an auto logout or anything like that?

11 A Yes. Anything that was relatively close to the closing time  
12 would most likely be an auto logout, especially if it matched the time  
13 that other kids were signed out, kids that would forget to sign out.  
14 However, we did have a lot of kids leave at the end of the day, so if  
15 they were to scan out with their membership card, it could look like  
16 an auto scan out.

17 Q Thank you, Ms. Atha. And then just looking at page 6 of  
18 State's 22, this is still the top for Venice, and then down below, we  
19 have Arianna. Just in kind of looking at the dates, were there various  
20 dates that both Arianna and Venice were at the club at the same  
21 time?

22 A Yes.

23 Q What were some of those dates, if you can tell?

24 A I do see 11/18, and I also -- I think I see 11/22 that the both  
25 of them were at the clubhouse.

1 Q And if we're talking about 11/9 specifically up here, we can  
2 see -- sorry; that would like it a little hard to see --

3 A Yeah.

4 Q -- 11/9 Venice was signed out at 6:47; and on 11/9, Arianna  
5 was signed out at the same time?

6 A Yes.

7 Q So does that mean that they could have left together?

8 A Yes.

9 Q And then there's also multiple dates where they'd show  
10 the same time leaving as well; is that fair to say?

11 A Yes.

12 [Counsel confer]

13 BY MS. EINHORN:

14 Q And then looking back at State's 22, still for Venice and  
15 Arianna, what were some of the last dates that Venice and Arianna  
16 were at the Boys & Girls Club?

17 A So I'm look -- I see, it looks like, the 14th and the 15th of  
18 December of 2016.

19 Q And then it looks like for Arianna one of her last days was  
20 the 23rd of 2016?

21 A Yes.

22 Q So both Arianna and Venice stopped going to the Boys &  
23 Girls Club December of 2016?

24 A Yes.

25 Q At least that Boys & Girls Club?

1           A     Yes.

2                   MS. EINHORN: Your Honor, at this time I will pass the  
3 witness.

4                   THE COURT: Okay. Thank you.

5                   MR. POSIN: Thank you, Your Honor.

6                                   CROSS-EXAMINATION

7 BY MR. POSIN:

8           Q     Good morning.

9           A     Good morning.

10          Q     You mentioned on direct examination that Rodriguez was  
11 expelled from the club for behavioral problems?

12          A     Yes.

13          Q     What were those behavioral problems?

14          A     He was very aggressive with other kids; he was using  
15 vulgar hand language, flipping other kids off, that sort of thing; and  
16 he wasn't what we would call a very manageable child at the time. I  
17 also do believe that he was not of age to attend the club, and his  
18 birthday was not accurately reflected on his membership information  
19 when he was signed up.

20          Q     So whoever signed him up put something inaccurate  
21 there?

22          A     Yes. That's from -- that's what I was under the impression  
23 had happened.

24          Q     And that's because it showed some different date as his  
25 birth date than his birth date?



1           A     Yes.

2           Q     When you say that he was using vulgar hand gestures,  
3 was he saying anything vulgar as well?

4           A     I believe so. I know that he had used the F word from time  
5 to time. And throughout the day that -- it was his first day there at  
6 the club -- we got several different complaints from several kids  
7 saying that he had been using foul language, flipping them off, that  
8 sort of thing, so.

9           Q     Was there any other sort of foul language he was using  
10 besides the F word?

11          A     I cannot recall.

12          Q     And he just lasted a couple of days?

13          A     Yes.

14          Q     Thank you.

15               MR. POSIN: No further questions, Your Honor.

16               MS. EINHORN: No redirect, Your Honor.

17               THE COURT: Okay. Can the witness be excused?

18               MR. POSIN: Yes, Your Honor.

19               MS. EINHORN: Yes.

20               THE COURT: Thank you.

21               THE WITNESS: Thank you.

22               MS. RHOADES: And the State calls Jacob Barr.

23                               [Pause]

24               THE MARSHAL: And please watch your step.

25               If you'll stand and face the.

1 THE CLERK: Clerk please raise your right hand.

2 JACOB BARR, STATE'S WITNESS, SWORN

3 THE CLERK: For the record, please state and spell your  
4 first and last name.

5 THE WITNESS: First name is Jacob, J-a-c-o-b; last name is  
6 Barr, B -- as in boy -- a-r-r.

7 THE CLERK: Thank you.

8 THE MARSHAL: You may be seated.

9 THE WITNESS: Thank you.

10 DIRECT EXAMINATION

11 BY MS. RHOADES:

12 Q Sir, how are you employed?

13 A I work with Las Vegas Metropolitan Police Department.

14 Q And what do you do for Metro?

15 A I'm a police officer.

16 Q How long have you been there?

17 A Five years.

18 Q Okay. What is your schedule now, and what unit do you  
19 work with now?

20 A Currently I'm assigned to the Southeast Area Command  
21 flex team, which is a covert squad who operates in gangs, guns, and  
22 narcotics.

23 Q Okay. And what are the hours that you work?

24 A I work from 2:00 p.m. to midnight.

25 Q Going back to March 17th of 2017, what area command

1 were you working and what shift were you working back then?

2 A I worked on graveyard at Southeast Area Command in  
3 patrol.

4 Q And what hours does graveyard include?

5 A Graveyard goes from 10 p.m. to 8 a.m.

6 Q What is a computer-aided dispatch or CAD log?

7 A CAD is a system that we use in our department to update  
8 details of the calls. Dispatchers have the ability to update  
9 information into CAD as well as officers as well can update  
10 information into CAD. And it's how we obtain the information as far  
11 as where we're going and what call we're responding to when we're  
12 dispatched.

13 Q And the nature of the call is on that CAD as well; is that  
14 right?

15 A Yes, ma'am.

16 Q And what is an event number?

17 A The event number is a specific number that's documented  
18 for particular event. Any call that comes in through 911 or 311 or  
19 even a self-initiated stop from an officer generates its own event  
20 number to differentiate each event.

21 Q And in preparation for your testimony today, did you  
22 review a CAD log associated with event number 1703174419?

23 A Yes, ma'am, I did.

24 Q And the first six numbers of the event number are the year  
25 of the call, the month of the call, and then the date of the call; is that

1 correct?

2 A Correct.

3 Q And do you also independently recall being called out to  
4 736 Arden Valley in Henderson on March 17, 2017?

5 A Yes, I do.

6 Q And that's in Las Vegas, Clark County, Nevada, right?

7 A Correct.

8 Q Is it part of your area command?

9 A It is not. That address is actually in Henderson's  
10 jurisdiction.

11 Q Which is a whole different police department?

12 A Correct.

13 Q Why is it that you responded to that address on that date?

14 A When a crime occurs in the Metro jurisdiction, regardless  
15 of where the victim or suspect may be, if the crime occurred and the  
16 details that we have at the time, if we believe that the crime occurred  
17 in Metro's jurisdiction, a Metro officer will respond to that.

18 Q And in this particular call, when you responded to  
19 Arden Valley, do you recall what time the call was generated?

20 A I don't recall the exact time. I believe it was around 10:30  
21 p.m.

22 Q And do you recall what time you arrived at the Arden Valley  
23 address?

24 A Approximately 3:20 a.m.

25 Q So tell me about what kind of call it was, what information you

1 had, and a little bit about why it might have taken you so long to get  
2 there.

3 A Sure. So the call originally came out as a sexual assault  
4 call. It was broadcasted that the victim along with the victim's  
5 mother was at a hospital within Metro's jurisdiction. I believe it was  
6 Spring Mountain hospital. The details of the call stated that the  
7 suspect lived at -- I don't -- off the top of my head, I don't recall the  
8 address. But that was in our Spring Valley Area Command.

9 So the call originally came out to Spring Valley Area  
10 Command, which is a different area command within Metro's  
11 jurisdiction. The call was then updated that the victim and the  
12 victim's mother was now at 736 Arden Valley, which is in Henderson.  
13 The Southeast Area Command is the closest area command that we  
14 have to that Arden Valley address. So our normal, typical protocol is  
15 due to the fact that we're the closest area command to that out-of-  
16 jurisdiction address, they sent the nearest officer, or the nearest  
17 officer from the nearest area command.

18 Q And that was you?

19 A Correct.

20 Q Does 3650 South Stober Boulevard, does not sound  
21 familiar to you as the suspect address?

22 A Correct. That was what was generated as suspect address.  
23 And that's why I got broadcasted to Spring Valley.

24 Q Okay.

25 MS. RHOADES: Permission to publish, Your Honor? This

1 is already admitted as State's 26.

2 THE COURT: Sure.

3 BY MS. RHOADES:

4 Q I'm showing you State's 26. What does this appear to be a  
5 map of?

6 A It's a satellite map of the area of Twain and Arville. 3650  
7 Stober Boulevard is -- has a pin drop.

8 Q Okay. And that's near -- so we're looking at -- Arville is  
9 right here --

10 A Correct.

11 Q -- right? And then this is Twain?

12 A Correct.

13 Q And then going down a little bit on Arville, that's Flamingo;  
14 is that right?

15 A Correct.

16 Q And then there's the Palms Casino Resort right there?

17 A Correct.

18 Q Okay. Did you ever go out to that South Stober Boulevard  
19 address that night?

20 A I did not respond to that address, no.

21 Q Was this a call that was out on CAD? Was it a report-only  
22 call?

23 A Yeah. So based on the details that we had at the time was  
24 that the victim and the victim's mother were not in any immediate  
25 danger. The suspect was not on scene with the victim or the victim's

1 mother. So typically this call, although it's a high priority, it's --  
2 there's no propensity for violence. So these calls tend to hold for a  
3 little bit longer due to the fact that it's going to be a report-only call,  
4 and that there's not going to be any immediate follow up with the  
5 suspect.

6 Q Do you remember anything about that night, like what else  
7 was going on?

8 A In particular, I don't remember any particular events --  
9 other events that took place. I know that it was a busy night.  
10 Southeast Area Command typically is the largest and most violent as  
11 very well as generates the most calls for service. So any given night,  
12 it's the most busy area command that we have.

13 Q When you arrived at Arden Valley, were you with another  
14 officer or were you by yourself?

15 A I was by myself.

16 Q Can you describe kind of the scene and what was going on  
17 when you got there?

18 A Yes. Absolutely. Upon arrival, again, I believe it was  
19 approximately 3:20 in the morning, I that you said up to the front of  
20 the house. I was then met with a -- I believe a Hispanic female who --  
21 I believe her name was Kimberly Madden. She came out. See gave  
22 me preliminary details of what she learned. And she also advised  
23 me that she had a current sexual assault case pending regarding the  
24 same suspect.

25 Q And then what happened after you learned that

1 information?

2 A After I learned that information, I asked if the victim -- and I  
3 don't recall her name off the top of my head -- I believe it's Arianna  
4 or [AIR|AE|ANA]. I asked if she was at home. She stated that she  
5 was. Arianna then came out and I had a brief interview with her.

6 Q Was it your understanding that Kim Madden was not  
7 Arianna's mother?

8 A Correct. Kimberly Madden advised me that Arianna was a  
9 friend of her daughter.

10 Q At some point, did you attempt to contact Arianna's  
11 mother?

12 A Yes, I did.

13 Q Was Arianna's mother at the scene when you arrived?

14 A Upon arrival, she was not on the scene. I contacted her on  
15 the phone, and she then arrived a short time later.

16 Q Okay. I'm showing you exhibits that have already been  
17 admitted. So State's 12, what does that appear to be?

18 A That's the house on Arden Valley. 736 Arden Valley.

19 Q And did you make contact with Arianna?

20 A Yes, I did.

21 Q Do you remember any other people being there?

22 A There was another female juvenile. I don't recall her  
23 name. I don't remember anybody else being there until I contacted  
24 the mother of Arianna, and then she showed up.

25 Q Okay. I'm showing you --



1 MS. RHOADES: Well, may I approach the witness,  
2 Your Honor?

3 THE COURT: Sure.

4 BY MS. RHOADES:

5 Q I'm showing you State's proposed 4. Do you recognize  
6 who's in that photograph?

7 A Yes, I do. She was at the house upon my arrival.

8 Q You remember her being there?

9 A Yes, I do.

10 Q Okay.

11 MS. RHOADES: And I'm publishing State's -- what's  
12 already admitted as State's 3.

13 BY MS. RHOADES:

14 Q Do you remember her being there?

15 A I don't recall her being there.

16 Q Okay. Do you remember what or how the girl that you  
17 talked to looked like?

18 A I know that she was a black female juvenile. Other than  
19 that, I don't recall necessarily any details of what she looked like.

20 Q Okay. And when you spoke to her, do you remember her  
21 demeanor?

22 A She appeared to be very nervous, uncomfortable as far as  
23 speaking to me and also uncomfortable speaking about the  
24 allegations of a sexual assault as well.

25 Q Did she appear to have been just sleeping?

1           A     That I don't recall as far as if she was already awake or if  
2 she was just getting out of bed. I don't recall.

3           Q     Okay. Did she come out right away, do you know, or did it  
4 take a little bit of time? Like did you go in the house?

5           A     No, I did not. I stayed outside the entire time. Like, again,  
6 upon my arrival, I met with Kimberly Madden. She came out. She  
7 gave me brief details of what she learned and the current  
8 investigation she had. I asked if Arianna was inside. She advised me  
9 she was. She went inside and got her. And I don't recall as far as  
10 how long it took her to come out.

11          Q     Okay. What is the purpose of patrol being at a scene, and  
12 what kind of information are you trying to gather while at the scene?

13          A     So generally on a sexual assault call for a patrol officer, we  
14 would arrive, get preliminary information to obtain and make sure  
15 that the allegation of a sexual assault exists, and that's it's not  
16 suspicious in any way. We would then take those preliminary  
17 details, we would -- as long as it's within our jurisdiction, we would  
18 document it in a P1 report, and then we would forward it to a sexual  
19 assault detective within our department.

20          Q     And are you trained to forensically interview juveniles?

21          A     We are not.

22          Q     But you did an interview Arianna in this case; is that right?

23          A     I did do a brief interview with her to get preliminary  
24 information about the sexual assault allegations --

25          Q     And --

1       A     -- yes.

2       Q     -- an interview might be a bad word. But how long did you  
3 talk to her for?

4       A     I don't recall. It -- I don't recall it being long. But I -- I don't  
5 know an exact amount of time.

6       Q     Okay. And you asked her some questions, right?

7       A     Yes, I did.

8       Q     And she answered them?

9       A     Correct.

10      Q     After you obtained that information, what did you do?

11      A     I determined that the allegations of the sexual assault did  
12 not occur within our jurisdiction, that -- we couldn't determine that it  
13 occurred within Metro's jurisdiction. Arianna did advise me that two  
14 of the incidents -- two of the instances took place at the Arden Valley  
15 address, which is in Henderson. And then she advised me another  
16 time at an unknown address, a hotel, that she does not know where  
17 exactly it was within the Las Vegas Valley.

18           So due to the fact that the alleged allegation -- or the allegations  
19 of the sexual assault took place at Arden Valley, I contacted  
20 Henderson -- well, I contacted my supervisor. At which time he  
21 contacted Henderson dispatch, and they generated the call for  
22 Henderson to respond.

23      Q     So Arianna told you that she was sexually abused three times,  
24 right?

25      A     Correct.

1 MR. POSIN: Objection. Leading.

2 MS. RHOADES: I can rephrase the question, Your Honor.

3 THE COURT: Sure.

4 BY MS. RHOADES:

5 Q How many times did Arianna tell you that she was sexually  
6 abused?

7 A Arianna told me she was sexually abused three times.

8 Q And after you determine that information, what did you  
9 do?

10 A I asked her what locations that it occurred at, if she  
11 remembered. She advised me the Arden Valley address as well as  
12 an unknown hotel.

13 Q And then what did you do with that information?

14 A With that information, again I determined that the  
15 allegations took place out of our jurisdiction. I contacted my  
16 supervisor to update him of the details.

17 Q Did you also learn during this preliminary investigation  
18 that the alleged perpetrator had an open case in Henderson and was  
19 being investigated in Henderson?

20 A Yes. I learned that through Kimberly Madden when I  
21 originally arrived on scene.

22 Q And did you confirm that with Henderson dispatch?

23 A I personally did not. And I don't know if it was confirmed  
24 with my supervisor and dispatch. But upon -- when Henderson  
25 patrol officers arrived, they did confirm that there was an open case

1 regarding this suspect, the same suspect.

2 Q All right. And then what did you do after Henderson patrol  
3 officers arrived?

4 A Henderson patrol officer -- it was one -- one officer and one  
5 sergeant arrived on scene. I gave him a very preliminary brief of the  
6 details that I learned. And after that, I left. And then updated the  
7 information that I learned through -- through my brief investigation, I  
8 updated that into our CAD report.

9 Q Okay.

10 MS. RHOADES: All right. The State will pass the witness,  
11 Your Honor.

12 MR. POSIN: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. POSIN:

15 Q Officer, this is not the only case that you have investigated  
16 in the last several years, correct?

17 A No.

18 Q In fact, you investigate lots of cases, right?

19 A Yes.

20 Q And you can't remember all the details of every case from  
21 your own memory years later, correct?

22 A Correct.

23 Q And that's why it's important to fully and accurately detail  
24 and document all the facts, all the pertinent facts in any case just in  
25 case you should be called back into a courtroom, just as you are

1 being called today, to talk about something that happened some time  
2 ago?

3 A Correct.

4 Q And did you talk to a Detective Vargason from Henderson  
5 when you were doing this investigation?

6 A I did not.

7 Q Who did you talk to from Henderson?

8 A I don't recall the officer's name. I believe it was in a report,  
9 that I would be able to recall it if I saw it.

10 Q And did you review -- you've already said that you've  
11 reviewed documents in preparation for your testimony today,  
12 correct?

13 A I reviewed our CAD details, yes.

14 Q Okay. And amongst those details that you testified to this  
15 morning are that there were allegedly three assaults, correct?

16 A Correct.

17 Q And --

18 THE COURT: Hold on, please.

19 MS. RHOADES: Hold on one second, Counsel.

20 [Pause]

21 MR. POSIN: Thank you.

22 BY MR. POSIN:

23 Q Okay. Amongst the details that refreshed your recollection  
24 this morning were that there were three assaults, correct?

25 A Correct.

1 Q And that two of those assaults occurred at the  
2 Arden Valley house, correct?

3 A Correct.

4 Q And the third occurred at some hotel, correct?

5 A Correct.

6 Q Thank you. No further questions?

7 REDIRECT EXAMINATION

8 BY MS. RHOADES:

9 Q Regarding the two that occurred at the Arden Valley house,  
10 did you go into detail with Arianna about whether something started  
11 at the Arden Valley house and then moved somewhere else, or, you  
12 know, what she giving specific details about exactly where  
13 everything happened at the Arden Valley house?

14 A I did not dig into details. As a patrol officer, it's not our  
15 job, again, because we're not trained to do forensic interviews. Our  
16 job is simply to get very preliminary information to determine that a  
17 crime actually has committed, and then forward that up to a  
18 detective to let them do their investigation.

19 Q Thank you.

20 MS. RHOADES: Nothing further.

21 MR. POSIN: No recross, Your Honor.

22 THE MARSHAL: Judge, we have some questions from the  
23 jury.

24 THE COURT: Come on up.

25 [Sidebar begins at 11:22 a.m.]

1 MR. POSIN: Okay. I think that's -- that is --  
2 MS. RHOADES: If he knows, sure.  
3 MR. POSIN: I --  
4 MS. RHOADES: If he knows. [Indiscernible]. Sure. I think  
5 those are both fair.  
6 THE COURT: Okay. Did you see that?  
7 MR. POSIN: Okay.  
8 THE COURT: Okay. After I -- well, we'll ask one, and then  
9 two. And if you have any follow up, and then if you have any follow  
10 up.  
11 MS. RHOADES: Okay.  
12 THE COURT: Okay?  
13 MS. RHOADES: Thanks.  
14 [Sidebar ends at 11:23 a.m.]  
15 THE COURT: Okay. Officer, we have a couple of questions  
16 from our jurors.  
17 THE WITNESS: Yes, Your Honor.  
18 THE COURT: "What was the current investigation that  
19 Kimberly Madden had with the Defendant?"  
20 THE WITNESS: She explained to me that the current  
21 investigation that was pending with her involving her juvenile child  
22 was another sexual assault case.  
23 THE COURT: "Since the police officer did not recognize  
24 Arianna, who did he speak to?"  
25 THE WITNESS: Based on the CAD details -- I don't



1 recognize her face based on the photo. But based on the CAD details  
2 that I updated within our system, I did state that I spoke with Arianna.

3 THE COURT: Thank you.

4 THE WITNESS: Yes, Your Honor.

5 THE COURT: Any follow-up questions?

6 MS. RHOADES: Yes. Just briefly.

7 FURTHER REDIRECT EXAMINATION

8 BY MS. RHOADES:

9 Q So the girl that you did recognize -- because you  
10 recognized the little girl that was in Exhibit Number 4; is that right?

11 A Yes, ma'am.

12 Q And that's proposed Exhibit Number 4. It has not been  
13 admitted yet. Was that Arianna?

14 A No.

15 Q Okay. You just remember her being at the scene?

16 A Correct.

17 Q And then the other question -- I mean, this was on  
18 March 17th, 2017 that you responded to Arden Valley; is that right?

19 A Correct.

20 Q So that would have been after February 27, 2017?

21 A Correct.

22 Q Okay.

23 MS. RHOADES: Nothing further.

24  
25 ///

1 RECROSS-EXAMINATION

2 BY MR. POSIN:

3 Q So if response to the first question which had to do with  
4 their being two separate investigations going on, if I'm correct --  
5 correct me if I'm wrong -- you're saying that one was to do with  
6 Arianna, the second was to do with another girl, correct?

7 MS. RHOADES: I believe -- I would object to that. That  
8 mischaracterizes the testimony.

9 THE COURT: Yeah. So you could rephrase.

10 BY MR. POSIN:

11 Q You were sent in reference to one alleged victim, and that  
12 was Arianna, correct?

13 A Correct.

14 Q And that was the only investigation you did, correct?

15 A Correct.

16 Q And that was based on the location that the call came into,  
17 whether it was under the jurisdiction of Henderson or Metro, correct?

18 A Correct. Southeast Area Command is the closest area  
19 command to the Arden Valley address, which Arianna, who was the  
20 reported victim, was located.

21 Q So you were only looking in that victim; and if there was  
22 another alleged victim already being investigated, that would have  
23 been already in Henderson, correct?

24 A Correct. Kimberly advised me that there was already an  
25 open investigation that was being handled by a Henderson detective.

1 So --

2 Q And then there came a time that --

3 MS. RHOADES: Well, I would ask him to --

4 THE COURT: Yeah.

5 MS. RHOADES: -- allow the witness --

6 THE COURT: So he was about to say something else  
7 maybe. He said, "So" --

8 MR. POSIN: I'm sorry if I cut you off.

9 THE WITNESS: What I was explaining is she advised me  
10 that there's an active investigation that was already being handled by  
11 a Henderson detective. So when I learned that that investigation was  
12 already being taken care of, I did not have any responsibility to  
13 investigate any other allegations or any other current -- it's not my  
14 job to investigate an investigation that's already being handled by  
15 another detective.

16 BY MR. POSIN:

17 Q Right. And then once it was determined the Arianna  
18 investigation was properly under the jurisdiction of Henderson,  
19 Metro did not conduct any further investigation, correct?

20 A That's correct.

21 Q Thank you.

22 MR. POSIN: I'm sorry. What, Your Honor? What was the  
23 second question?

24 UNIDENTIFIED SPEAKER: It was about Arianna not  
25 recognizing --

1 THE COURT: The photo.  
2 UNIDENTIFIED SPEAKER: -- the girl in the picture.  
3 MR. POSIN: Oh, right. Okay.  
4 Nothing further, Your Honor.  
5 MS. RHOADES: And nothing further from the state,  
6 Your Honor. He's free to go.  
7 THE COURT: Any other --  
8 MR. POSIN: I'm sorry, Your Honor. I do have one follow-  
9 up question.  
10 FURTHER RECROSS-EXAMINATION  
11 BY MR. POSIN:  
12 Q You mentioned that you had spoken to Arianna. You also  
13 spoke to her mother Shontai, correct?  
14 A Correct.  
15 Q Thank you.  
16 MR. POSIN: No further questions.  
17 MS. RHOADES: Nothing.  
18 THE COURT: Okay. Any other questions?  
19 MS. RHOADES: [No audible response.]  
20 THE COURT: No? Okay.  
21 Thank you, Officer.  
22 THE WITNESS: Thank you, Your Honor.  
23 MS. EINHORN: Judge, may I approach real quick for an  
24 exhibit?  
25 THE COURT: Sure.

1 MS. EINHORN: And, Your Honor, the State's next witness  
2 is Jordan Vargason.

3 THE MARSHAL: And remain standing and face the clerk.

4 THE CLERK: Clerk please raise your right hand.

5 JORDAN VARGASON, STATE'S WITNESS, SWORN

6 THE CLERK: For the record, please state and spell your  
7 first and last name.

8 THE WITNESS: Jordan Vargason, J-o-r-d-a-n; last is  
9 V-a-r-g-a-s-o-n.

10 THE COURT: Thank you.

11 MS. EINHORN: Thank you, Your Honor.

12 DIRECT EXAMINATION

13 BY MS. EINHORN:

14 Q Sir, how are you currently employed?

15 A I am a detective with the city of Henderson Police  
16 Department.

17 Q How long have you been a detective with the City of  
18 Henderson?

19 A For three years.

20 Q How long have you been with the City of Henderson in  
21 total?

22 A 12 years.

23 Q What were you before you were a detective?

24 A A patrol officer.

25 Q And as a detective, are you assigned to a current unit, or

1 how does that work?

2 A I am. I am assigned to the Special Victims Unit.

3 Q And how long have you been in the Special Victims Unit?

4 A For all three years.

5 Q Thank you, Detective. Directing your attention to February

6 27 of 2017, on that date were you employed in the Special Victims

7 Unit as a detective?

8 A Yes, I was.

9 Q With the City of Henderson?

10 A Yes, ma'am.

11 Q And on that date, were you assigned to investigate a report

12 of sexual assault involving a person by the name of Dequincy Brass?

13 A That is correct.

14 Q Do you see Mr. Brass here in the courtroom today?

15 A I do.

16 Q Can you please point to him and identify an article of

17 clothing that he is wearing?

18 A Right over there wearing a blue shirt.

19 MS. EINHORN: Your Honor, may the record reflect

20 identification of the Defendant.

21 THE COURT: The record will so reflect.

22 BY MS. EINHORN:

23 Q And, Detective, how was it that you became involved in

24 this investigation?

25 A I was assigned by my sergeant to respond to Sunrise

1 Hospital to contact a mother and her children regarding report of a  
2 sexual assault.

3 Q And was that on February 27th, 2017?

4 A Yes, ma'am.

5 Q And when you said, "a mother and her children," who are  
6 we talking about?

7 A The mother was Kimberly Madden, and her children were  
8 Venice and Rodriguez Madden.

9 Q And you stated that you were assigned by your sergeant.  
10 How would a case come about? How would you be assigned to that  
11 case?

12 A Normally a call comes in to our dispatch. They assign it to  
13 a patrol officer. Patrol officers usually get the -- the basic affect of the  
14 case. And if they determine that it rises to the level of needing a  
15 detective response, the Investigations Bureau is contacted.

16 Q And you said that through assigned to dispatch. Would  
17 that be through a CAD?

18 A Yes.

19 Q Okay. And CAD is -- do you know what that is?

20 A Computer-aided dispatch. It's our computer program. It  
21 provides detail of 911 calls to the officers.

22 Q I'm showing you what's already been admitted as State's  
23 9. So just in looking at this first page, is this kind of just a custodian  
24 of records sheet for a CAD system for the city of Henderson?

25 A Yes, ma'am.

1 Q And I'm showing you page 2 of that. It might be a little  
2 hard to see. I'll try to zoom in a little bit.

3 So what are we looking at here?

4 A Whoop.

5 Q There we go.

6 A It appears to be the -- the CAD information provided by  
7 dispatch on that date, November -- or I'm sorry -- February 27, 2017.

8 Q And that was the date that you were assigned to  
9 investigate the case involving the Madden family, correct?

10 A Yes, ma'am.

11 Q Okay. And just in looking at this, can you explain to the  
12 ladies and gentlemen of the jury -- up here you have an incident  
13 number. What does that mean?

14 A The first six digits are the date. So 17 for the year, 02 for  
15 the month, and 27 for the day. And then the following six digits  
16 represent the number of incidents for the day. So that particular call  
17 was the 429th incident in the stay of Henderson for that day.

18 Q And does the city of Henderson assign a different number -  
19 - are they called event numbers?

20 A Yes, ma'am.

21 Q Does the city of Henderson assign different event numbers  
22 to each incident that comes in throughout the date?

23 A That is correct.

24 Q So that number ending in 429, that would be specific to the  
25 event involving the Defendant and Kimberly Madden and her kids?



1           A     Yes, ma'am.

2           Q     Okay. And it looks like the call came out at 1435?

3           A     Yes.

4           Q     And then when were you dispatched to Sunrise Hospital,  
5 looking at this CAD report?

6           A     It would have been 1435 that I was first assigned to that  
7 call.

8           Q     So shortly after the call came out, you were assigned on  
9 the case?

10          A     Yes, ma'am.

11          Q     And that's in looking here on the third line down where it  
12 kind of says" -- where it says -- excuse me -- "arrived," and then  
13 "Vargason, J," below it?

14          A     Correct.

15          Q     So when you got to the hospital, what was the first thing  
16 you did?

17          A     I was directed to the pediatric emergency room where I  
18 made contact with doctors and the family; Kimberly Madden and her  
19 two children.

20          Q     And did you speak with Kimberly that day?

21          A     I did.

22          Q     And what was Kimberly's demeanor like when you spoke  
23 to her?

24          A     I would say somewhat frantic, just short of hysterical. She  
25 was very upset about what had happened to her children. And just

1 very upset in general.

2 Q Did you speak to the children at all that day?

3 A I did not.

4 Q Why not?

5 A Because the nature the crimes against the children that  
6 were being alleged, I determined it would be better to have the  
7 children interviewed at -- what's called the children's -- excuse me --  
8 the Children's Assessment Center.

9 Q Okay. And what is the Children's Assessment Center?

10 A It's a -- basically a location where people that are  
11 forensically trained to interview children are -- where there are --  
12 excuse me -- people forensically trained to interview children. It's a  
13 child-friendly environment. The -- the people involved there are not  
14 law enforcement. So it is designed to be as neutral and  
15 accommodating to children as possible.

16 Q So given the nature of the charges that you were informed  
17 of, that's why you did not speak to the children; you'd rather them be  
18 forensically interviewed?

19 A Yes, ma'am.

20 Q Is that protocol in cases such as this?

21 A Yes. In almost all cases we will do that.

22 Q Okay. And after -- and you scheduled those interviews?

23 A Yes, ma'am.

24 Q And when was Venice and Rodriguez's forensic  
25 interviews?

1 A On March 2nd, 2017.

2 Q Okay. And those were separate interviews?

3 A Yes, ma'am.

4 Q And fair to say -- let me go back. You're not forensically  
5 trained; is that fair to say?

6 A That's fair to say.

7 Q Okay. And that's why you have the Children's Assessment  
8 Center and the people who are trained to do these types of  
9 interviews?

10 A Yes, ma'am.

11 Q So were you present for -- let's start with Venice so were  
12 you present for Venice's interview?

13 A I was.

14 Q Were you in the room while she was being interviewed?

15 A I was not. I was viewing it from a closed-circuit television  
16 system for -- set up at the CAC.

17 Q So the room that that was in, it's live recording; is that --

18 A Yes, ma'am.

19 Q -- fair to say? And you were watching it from another  
20 room as the interview was going on?

21 A Correct.

22 Q How would you describe Venice's demeanor while she was  
23 being interviewed?

24 A At first, very closed off, hesitant to speak. When asked  
25 questions, it might be potentially embarrassing. She kind of

1 mumbled. She would cover her face. Fairly nervous to be there.

2 Q And during the Venice's interview, while you were  
3 watching, was she making any drawings or any writings during the  
4 interview?

5 A Yes. She did write and draw on multiple sheets of paper.

6 Q And what kinds of things was she writing and drawing, just  
7 generally speaking?

8 A She -- when she was asked questions that she didn't want  
9 to actually have to say out loud what had happened, she preferred to  
10 write them down. And so she would write those statements on  
11 paper, and then allow the interviewer to read them. And the  
12 drawings were of situations that she was asked to describe. But  
13 again, she didn't feel comfortable it saying out loud. She wanted to  
14 draw pictures to represent what had happened to her instead.

15 Q And because you were watching the interview from  
16 another room, you actually witness her makes those drawings and  
17 those writings?

18 A Yes, ma'am.

19 Q And what did you do with the -- or once she was done with  
20 the drawings and writings, what happened to them?

21 A The interviewer immediately collected them from the table  
22 upon conclusion of the interview, and she delivered them directly to  
23 me. I took them back with me to our police station where I first  
24 photographed and copied them, and then placed them into an  
25 evidence envelope, sealed it, and placed it in our evidence vault.

1 MS. EINHORN: And, Your Honor, I'm showing Defense  
2 counsel what's been premarked as State's proposed Exhibit 2.

3 May I approach the witness?

4 THE COURT: Yes.

5 BY MS. EINHORN:

6 Q So, Detective, I'm showing you what's been premarked as  
7 State's proposed Exhibit 2. Do you recognize what we're looking at  
8 here?

9 A Yes, ma'am.

10 Q And what is this?

11 A It's a standard evidence envelope. It's the one I submitted  
12 on that date for the five sheets of paper from Venice Madden's  
13 interview. And signed and sealed it.

14 Q And it's dated at the top 3/2/17?

15 A Correct.

16 Q What was the date of her interview?

17 A Yes, ma'am.

18 Q And the suspect's name, Dequincy Brass?

19 A Yes, ma'am.

20 Q The location, 701 North Pecos Road, what is that location?

21 A That's the location of the Children's Assessment Center.

22 Q And then chain of custody, you had it in your custody  
23 before you sealed it?

24 A Yes, ma'am.

25 Q And did you sign and date it with your P number?

1           A     I did.

2           Q     And what's a P number?

3           A     It's the assigned -- number assigned to us by our  
4 department basically denoting the seniority, time of hire. I am the  
5 1,623rd hire of the police department.

6           Q     And this envelope fairly and accurately depicts how it  
7 looked when you submitted these drawings and writings into the  
8 evidence vault?

9           A     Yes, ma'am.

10          Q     And then looking at this side --

11          A     Uh-huh.

12          Q     -- we're looking at here where it says, "warning, sealed  
13 evidence"?

14          A     Uh-huh.

15          Q     And now obviously the envelope has been opened?

16          A     Yes.

17          Q     But that's how it looked when you admitted it into the  
18 evidence vault?

19          A     Yes, ma'am.

20                MS. EINHORN: Your Honor, at this time, I'd move to admit  
21 State's proposed Exhibit 2 into evidence.

22                MR. POSIN: No objection, Your Honor.

23                THE COURT: State's Exhibit 2 is admitted.

24                       [State's Exhibit 2 admitted into evidence]

25                ///

1 BY MS. EINHORN:

2 Q And then I'm showing you now what's then premarked as  
3 State's 2A through --

4 MS. EINHORN: One second.

5 THE COURT: Sure.

6 BY MR. MS. EINHORN:

7 Q -- what's been premarked as State's proposed Exhibits 2A  
8 through 2E. If you can just take a look at these and, generally  
9 speaking, tell me if you recognize them.

10 [Witness reviews documents)

11 THE WITNESS: I do recognize them.

12 BY MS. EINHORN:

13 Q And, just generally speaking, what are we looking at in  
14 State's proposed 2A through E?

15 A These are the drawings and writings produced by Venice  
16 during her forensic interview.

17 Q And you actually watched her draw and write these?

18 A Yeah.

19 Q And do these fairly and accurately depict how they looked  
20 when Venice drew them on March 2nd, 2017?

21 A Yes, ma'am.

22 MS. EINHORN: Your Honor, at this time I move to admit  
23 State's proposed Exhibits 2A through E into evidence.

24 MR. POSIN: No objection, Your Honor.

25 THE COURT: State's proposed Exhibits 2A through 2E are

1 admitted.

2 [State's Exhibit 2A through 2E admitted into evidence]

3 BY MS. EINHORN:

4 Q Detective, on the same day that Venice was forensically  
5 interviewed, did she also have a medical examination?

6 A Yes, she did.

7 Q And do you know what that medical examination entails?

8 A It's up on the doctor, depending on the -- the allegations or  
9 the suspected abuse that occurred. But normally it involves a full  
10 physical examination of the body and of the genitalia, rectum, things  
11 of that sort. It also can include tests for sexually transmitted  
12 diseases.

13 Q Thank you, Detective. And on that same date, on  
14 March 2nd, 2017, did you also know if Rodriguez Madden, Venice's  
15 little brother, was also forensically interviewed?

16 A Yes, he was.

17 Q Did you also watch that interview similar to how you  
18 watched Venice's interview?

19 A I did.

20 Q How would you describe Rodriguez's demeanor during his  
21 interview?

22 A He's -- he was a very active child. He -- he didn't sit still  
23 throughout the whole interview; climbing on furniture, you know,  
24 moving tables, playing with the -- the digital audio recording that the  
25 forensic interviewer had on the table as well. It was very difficult to



1 get him to communicate about anything.

2 Q Do you know if his interview was kind of cut short given  
3 that he was having difficulties?

4 A Yes, it was.

5 Q And do you know if he also had a medical examination  
6 perform on that same day as well?

7 A He did.

8 Q Detective, now turning your attention to March 18th, 2017,  
9 on that date, did you become informed of another report of sexual  
10 assault involving the Defendant?

11 A Yes.

12 Q How did you become involved in that?

13 A I received a phone call informing me that patrol officers  
14 had been dispatched to 736 Arden Valley to take another report of a  
15 sexual assault involving a minor, and where the suspect was  
16 identified as Dequincy Brass.

17 Q And who was the minor?

18 A Arianna Whatley.

19 Q I'm showing you what's already been admitted as State's  
20 11. And what are we looking at here, Detective?

21 A That's the -- the CAD dispatch for March 18th, 2017.

22 Q And that was the date that you came involved in an  
23 incident involving another minor victim with the Defendant?

24 A Yes, ma'am.

25 Q How was it that you became involved on March 18th,

1 2017?

2 A Strictly on March 18th, I was just informed of the patrol  
3 call. The patrol officer took the initial report, and then forwarded it to  
4 me, which I followed up on on March 23rd.

5 Q And then what did you do after that?

6 A On March 23rd?

7 Q Right. So on March 18th, you were involved of another  
8 incident?

9 A Oh. Yes, ma'am.

10 Q And then was the next contact you made -- or the next  
11 thing you did on March 23rd?

12 A Yes, ma'am. I contacted the mother of Arianna, Shontai  
13 Whatley, and scheduled an interview with her for March 23rd.

14 Q Were you aware at all if on March 17th into March 18th  
15 that the Metropolitan Police Department had gotten involved?

16 A I was aware, yes, from the patrol officers called to meet  
17 that -- I believe initially Las Vegas Metropolitan officers had been  
18 dispatched to the address to investigate.

19 Q Do you know Metro was dispatched?

20 A As I understood it, it was originally believed that the  
21 incidents of sexual assault may have occurred in their jurisdiction.

22 Q But then was it clarified that you had already had an open  
23 case with the suspect?

24 A Yes, ma'am.

25 Q And then is that how you became involved in the case

1 involving Arianna?

2 A Yes. That's correct.

3 Q So on March 23rd, 2017, you stated that you met with  
4 Arianna's mother?

5 A Yes, ma'am.

6 Q Is that Shontai Whatley?

7 A Yes.

8 Q And did you speak with her about what had happened?

9 A I did.

10 Q What was Shontai's demeanor when you spoke with her?

11 A Sort of calm at first, but she talked about, you know, what  
12 she had been -- what she had been finding out from Arianna and  
13 Kimberly Madden. She became very upset. Again, almost to the  
14 point of being hysterical, as I would expect anyone would be having  
15 heard that their child might have been sexually assaulted.

16 Q And at that time, did you schedule a forensic interview for  
17 Arianna?

18 A I did.

19 Q Do you remember when that interview was?

20 A I believe it took place on April 3rd, 2017.

21 Q Prior to Arianna's forensic interview, on March 27, 2017, do  
22 you recall meeting with a woman my the name of Jacquelyn Atha?

23 A I do.

24 Q Who's Jacquelyn?

25 A She was a manager at the Boys & Girls Club located in

1 Henderson, where Arianna and Venice and Rodriguez had all  
2 attended.

3 Q And after speaking with her, did you collect records of  
4 attendance dates for Venice, Arianna, and Rodriguez?

5 A I did.

6 Q And was that during the time frame of when these  
7 incidents had occurred?

8 A Yes.

9 Q So let's go back to April 3rd, 2017. That was the date of  
10 Arianna's forensic interview?

11 A Yes, ma'am.

12 Q Similar to Venice and Rodriguez, did you also have reason  
13 to watch Arianna's?

14 A Yes.

15 Q What was Arianna's demeanor like during her forensic  
16 interview?

17 A Similar. She was fairly quiet, not -- not very eager to talk  
18 about what had happened to her, but she was willing to talk about it.

19 Q And on that same day, did she also have a medical  
20 examination performed?

21 A Yes.

22 Q During Arianna's interview, do you recall if she ever made  
23 any drawings or writings similar to what Venice did during her  
24 interview?

25 A I believe she did make some drawings, yes.

1 Q And did you also collect and impound that as well?

2 A I did.

3 MS. EINHORN: Your Honor, may I approach the witness  
4 with State's proposed Exhibit 1.

5 THE COURT: Sure.

6 BY MS. EINHORN:

7 Q Direct, I'm showing you what's been premarked as State  
8 proposed Exhibit 1. Do you recognize this?

9 A Yes, ma'am.

10 Q Okay. What are we looking at here?

11 A It's the evidence envelope from April 3rd, 2017 where I  
12 impounded the drawings from Arianna's interview.

13 Q So similar to what you described on the envelope from  
14 Venice, it's dated April 3rd, correct?

15 A Yes, ma'am.

16 Q April 3rd, 2017. Excuse me. And then change of custody,  
17 is that you signed it with your name and your P number?

18 A Yes, ma'am.

19 Q And then flipping it over, it was sealed with your initials  
20 and your P number as well?

21 A That's correct.

22 Q And this is how it looked, fairly and accurate depict when  
23 you impounded the drawings and writings into evidence?

24 A That's correct.

25 MS. EINHORN: Your Honor, at this time, I move to admit

1 State's proposed Exhibit 1 into evidence.

2 MR. POSIN: No objection.

3 THE COURT: State's proposed Exhibit 1 is admitted.

4 [State's Exhibit 1 admitted into evidence]

5 BY MS. EINHORN:

6 Q I'm showing you, Detective, what's already been admitted  
7 as State's 1A. Do you recognize this?

8 A I do.

9 Q And is this what Arianna's drew during her interview?

10 A Yes, it is.

11 Q Thank you. So after Arianna's forensic interview,  
12 Detective, what was the next thing you did involving the three  
13 victims in this case?

14 A After April 3rd, the -- the next step was attempting to  
15 contact the suspect, Dequincy Brass. I had attempted to go to his  
16 apartment unannounced. The -- the first time I attempted, he was  
17 not present, but his brother was. I provided him with a business card  
18 and asked him to have Dequincy give me a call. Eventually that did  
19 occur, and I interviewed Dequincy on July 20th, 2017.

20 Q So just backing up on a little bit. You stated you went to  
21 his address. Was that located at 3650 South Stober Avenue,  
22 Apartment 199?

23 A Yes, ma'am.

24 MS. EINHORN: Your Honor, permission to publish what's  
25 already been admitted as State's 26.

1 THE COURT: Yes.

2 BY MS. EINHORN:

3 Q Detective, I'm showing you State's 26. What are we  
4 looking at here?

5 A An aerial map of the city of Las Vegas with 3650 South  
6 Stober Boulevard marked on the map.

7 Q And it looks like the cross streets are Arville and Twain?

8 A It appears so, yes.

9 Q And then kind of looking down below about two blocks  
10 away, you have Flamingo near the Palms Casino Resort?

11 A Yes, ma'am.

12 Q So, Detective, you stated that you did make contact with  
13 the Defendant in July of 2017?

14 A Yes, ma'am.

15 Q Was that July 20th, 2017?

16 A Yes, ma'am.

17 Q And did you have a conversation with him?

18 A I did.

19 Q Detective, why did you wait until July of 2017 to make  
20 contact with the Defendant?

21 A Well, in that particular case, on the initial attempts, I was  
22 not able to contact him. I kind of had to put that case on the back  
23 burner because we constantly have new cases coming in, and we  
24 have to basically make a determination on the priority of each case.  
25 In this particular one, the children were no longer in any contact with

1 Dequincy Brass. Our information was that the apartment he was  
2 currently living in, that there were no children there. And so  
3 basically we had to handle cases where there were -- where there  
4 was the possibility of children being in current or imminent danger  
5 before.

6 Q And you stated that you did attempt to go prior to July of  
7 2017. When was that?

8 A I believe it was early June 2017. I --

9 Q Did you go other times to the apartment to make contact  
10 or just the time in June and then July?

11 A There may have been one other attempt. But the one I  
12 recall was in June, speaking with his brother.

13 Q The one other attempt, do you recall when that was?

14 A I couldn't say for sure.

15 Q And can you describe the Defendant's apartment on  
16 Stober?

17 A Yes. It -- it sits on a fairly typical rectangular shaped  
18 apartment building with stairways on either side going up to the  
19 second floor where Apartment 199 is located. Once you enter the  
20 door of Apartment 199, the door enters directly into a living room  
21 area. It had beige, brown carpeting, a black leather couch on the  
22 right side, and a TV on a stand on the left side. Directly back from  
23 that was a small kitchen area. And then off of the living room area to  
24 the left there was a hallway leading to bedrooms and a bathroom.

25 Q And how many stories was the apartment complex?



1           A     Two story.

2           Q     So it was on the top floor?

3           A     Yes, ma'am.

4           Q     And is it one of those apartment complexes where you  
5 enter -- do you have to go into something to enter or is it kind of you  
6 enter from the outside?

7           A     You enter from the outside. All the exterior doors are on  
8 the outside.

9           Q     Would you describe it as a clean apartment?

10          A     Not especially clean, but not overly dirty either.

11          Q     Did you take photographs of the Defendant's apartment?

12          A     I did not.

13          Q     When you spoke to the Defendant, did you ever -- did you  
14 attempt to obtain a cell phone from him?

15          A     No, I did not.

16          Q     Was a cell phone ever obtained from the Defendant?

17          A     No. We never took his cell phone.

18          Q     Speaking of cell phones, Detective, did you ever collect a  
19 cell phone for either Venice or Arianna?

20          A     Yes. From both of them.

21          Q     And was anything -- were you able to get any information  
22 off those phones of evidentiary value?

23          A     No.

24          Q     During Arianna's forensic interview -- kind of going back a  
25 little bit -- do you recall if she described a place where the Defendant

1 picked her up and she described it as a castle?

2 A Yes.

3 Q Did you ever confirm if such a place existed?

4 A Yes, I did.

5 Q And what place was that?

6 A There is a building on the corner of Sunset and Eastgate. I  
7 believe it's now called the Sunset Castle or something similar. It  
8 used to be -- Gene's Locksmith was housed there at the time she told  
9 me this.

10 Q I'm showing you State's 8. Is that that -- what used to be a  
11 locksmith, Sunset Castle that she described?

12 A That's it.

13 Q After you spoke with the Defendant in July of 2017, did you  
14 ever make an arrest?

15 A I did.

16 Q When was an arrest made?

17 A On September 30th, 2017.

18 Q And how was that done? Was a warrant issued, or what  
19 did you do?

20 A After interviewing Dequincy Brass, I submitted for a  
21 warrant. I was notified of it's approval on September 30th. I and  
22 another detective, along with patrol officers, went out and went to  
23 3650 South Stober Boulevard, contacted Dequincy Brass at that  
24 apartment, and placed him under arrest.

25 Q And, Detective, I'm showing you what's already been

1 admitted into evidence as State's 21. What are we looking at in  
2 State's 21?

3 A It's DMV records for vehicles owned by Dequincy Brass.

4 Q And in looking at those two vehicles, the first one, it looks  
5 like he owned a 1997 Buick; and that was registered from 2014,  
6 February of 2014 to February of 2015?

7 A Correct.

8 Q And then another car he owned from November 2015 to  
9 November 2016 is a 2006 Volkswagen?

10 A Correct.

11 Q And then the second page of State's 21, would this just be  
12 the other registration for those vehicles?

13 A Yes, it would be.

14 MS. EINHORN: Your Honor, at this time, I'll pass the  
15 witness.

16 THE COURT: Okay.

17 MR. POSIN: Thank you.

18 THE COURT: Thank you.

19 CROSS-EXAMINATION

20 BY MR. POSIN:

21 Q Detective, you have a lot of cases, right?

22 A Yes.

23 Q This isn't your only case?

24 A Definitely not.

25 Q Certainly not over the last several years; you've had other

1 cases?

2 A Yes.

3 Q And you'll continue to have other cases?

4 A [No audible response.]

5 Q And --

6 A Yes.

7 Q -- so when you are investigating a case, it's important for  
8 you to get all the detail correct, right?

9 A Yes, sir.

10 Q And you put them in written form so that they're preserved  
11 for later use at a possible trial, correct?

12 A Yes, sir.

13 Q And you did so in this case, correct?

14 A Yes, sir.

15 Q And amongst the details that you collected as this  
16 investigation was going on, you put some of those details, some of  
17 the important ones into the affidavit for warrant that you filed in this  
18 case, correct?

19 A Yes, sir.

20 Q And included in those details were conversations that you  
21 had with other officers, including from Metro, correct?

22 A I --

23 Q Well, let me rephrase that. That conversations. You had  
24 details that you learned through the system from other officers,  
25 including officers of Metro?

1           A     Yes.

2           Q     And specifically, there was an Officer Barrs [sic], a Metro  
3 officer, and you included details about what he had learned at the  
4 time of the -- of his investigation in your affidavit for a warrant?

5           A     Yes, sir.

6           Q     And you wouldn't put anything incorrect in -- that was not  
7 what Officer Barr had said, would you?

8           A     Not on purpose, no.

9           Q     Well, in fact, you're careful to make sure that what you say  
10 is correct, because it is an important thing when you're putting an  
11 affidavit for a warrant together, right?

12          A     I'll assume there's something in there that you have  
13 concerns about, otherwise you wouldn't be --

14          Q     I'm asking you.

15          A     -- bringing it up. But yes.

16          Q     I'm just verifying that what he said is correct.

17          A     I --

18          Q     So --

19          A     -- I do attempt to do my best to make sure there are no  
20 errors.

21          Q     Very good. So if you wrote that Officer Barr said that there  
22 were three incidents involved, one involving a hotel and two  
23 involving the Arden Valley house, and those were the details that you  
24 included in your affidavit for warrant as coming from Officer Barr,  
25 that would be true and correct, wouldn't it?

1           A     Those were the details as I understood them, yes.

2           Q     Thank you.

3                 MR. POSIN: Nothing further, Your Honor.

4                 MS. EINHORN: No redirect, Your Honor.

5                 THE COURT: Questions? No.

6                 May the witness be excused?

7                 MS. EINHORN: Yes.

8                 MR. POSIN: Yes, Your Honor.

9                 THE COURT: Okay. Thank you, Detective.

10                THE WITNESS: Thank you, Your Honor.

11                THE COURT: Is now a good time to break?

12                MS. EINHORN: Yes, Your Honor.

13                THE COURT: Okay. So Ladies and Gentlemen, we'll take  
14 our lunch break now. We'll actually have just over an hour. We'll  
15 resume at 1:00.

16                So during this recess, you're admonished not to talk or  
17 converse amongst yourselves or with anyone else on any subject  
18 connected with this trial; read, watch, or listen to any report of or  
19 commentary in the trial or any person connected with this trial by  
20 any medium of information, including, without limitation, to social  
21 media texts, newspapers, television, the Internet, and radio; do not  
22 visit the scene of any events mentioned during the trial, do not  
23 undertake any investigation, do not Google anything about the trial  
24 or anyone associated with the trial, do not do any posting or  
25 communications on any social networking sites, do not do any

1 independent research, including Internet searches; do not form or  
2 express any opinion on any subject connected with the trial until the  
3 case is finally submitted to you.

4 See you back at 1:00.

5 THE MARSHAL: All rise for the jury.

6 Please leave the notebooks on the chairs.

7 [Jury out 11:59 a.m.]

8 THE COURT: Is there anything we need to discuss?

9 MS. RHOADES: I don't think so. I'm just going to keep my  
10 fingers crossed that district court IT will be here to set everything up  
11 in a timely manner so that we can get going at 1:00, but -- so I'll be  
12 here.

13 THE COURT: Anything on your end?

14 MR. POSIN: Nothing from the Defense, Your Honor.

15 THE COURT: Okay. Sounds good. Thank you.

16 MS. RHOADES: Thank you.

17 MS. EINHORN: Thank you, Your Honor.

18 [Recess taken from 12:00 p.m. to 1:39 p.m.]

19 THE MARSHAL: All rise for the jury.

20 [Jury in at 1:39 p.m.]

21 THE COURT: Please be seated.

22 Ladies and gentlemen, thank you for your patience.

23 Real life's not like TV. And despite things, sometimes  
24 things aren't working like they're supposed to. So hopefully it goes  
25 okay now.

1 Is the State ready to proceed?  
2 MS. RHOADES: Yes, Your Honor. Thank you very much.  
3 Sandra Cetl is the State's next witness. And she is up  
4 audio/visually.

5 THE CLERK: Ma'am, please raise your right hand.

6 SANDRA CETL, STATE'S WITNESS, SWORN

7 THE CLERK: For the record, please state and spell your  
8 first and last name.

9 THE WITNESS: It is Sandra Cetl, S-a-n-d-r-a, C-e-t-l.

10 THE CLERK: Thank you.

11 DIRECT EXAMINATION

12 BY MS. RHOADES:

13 Q How are you employed?

14 A So I work at a general pediatrician at a company called  
15 Loan Star Circle of Care in and around Austin, Texas.

16 Q How long have you been a pediatrician in Texas?

17 A Just a little bit over a year and a half.

18 Q How long have you been a pediatrician?

19 A For 13 years.

20 Q Prior to working out in Texas, where did you work?

21 A Yeah. So prior to Texas, I was in Las Vegas. I worked for a  
22 company called Mednax, M-E-D-N-A-X. Mednax. And I worked as a  
23 pediatrician that evaluates concerns of a child sexual abuse, physical  
24 abuse, and neglect. I worked out of two locations; so at children's  
25 Hospital as well as a Clark County Children's Advocacy Center. Out



1 of both of those locations I did child abuse evaluations. And then I  
2 additionally worked at Sunrise Children's Hospital emergency  
3 department as a part-time emergency room physician.

4 Q How long did you do that for?

5 A Eight years.

6 Q And the Southern Nevada Children's Assessment Center,  
7 what is that?

8 A So that's -- it's been kind of called previously a one-stop  
9 shop for children when there are concerns of abuse or neglect in that  
10 they don't have to go from place to place to place when there are  
11 concerns of child abuse. My particular part of it, we had a clinic  
12 space where we would see children two days a week by  
13 appointment, and we would evaluate non-emergent concerns of  
14 child abuse.

15 Q And what were your duties at Sunrise? What were you  
16 doing over at Sunrise?

17 A So as I said before, I did pediatric emergency room visits.  
18 So anything that came through the door. I did that part-time. But my  
19 responsibilities in [indiscernible] child abuse, I was to consult on the  
20 various pediatric floor; the intensive care unit, the regular pediatric  
21 floor, as well as in the emergency department whenever there were  
22 concerns of child abuse or neglect. And then I additional would  
23 consult in the emergency department for child sexual abuse if, for  
24 instance, forensic kits needed to be collected or other such matters  
25 arose.

1 Q Okay. Can you briefly describe your training and  
2 experience that allows you to do what you do?

3 A Sure. So after completing my bachelor's in neuroscience  
4 at the University of California in Los Angeles, I attended a medical  
5 school at the University of Vermont. After that period, I attended a  
6 specialty pediatric residency at the University of Nevada, but in the  
7 Las Vegas section of that residency. In the residency program that I  
8 was in, I was also allowed to work with a child abuse pediatrician and  
9 start my training. And then once I graduated residency, I was able to  
10 continue an apprenticeship with a child abuse pediatrician that was  
11 working at that time also in Las Vegas throughout the years as well  
12 as I attended something called a continued medical education, which  
13 is attending conferences both in person and online, you know,  
14 largely about child abuse and neglect, but additionally it was about  
15 other general pediatric concerns.

16 Q And have you testified here in Clark County in the Eighth  
17 Judicial District Court previously?

18 A Yes, I have.

19 Q Has that testimony been about physical child abuse cases  
20 and sexual child abuse cases?

21 A Yes.

22 Q How many times approximately have you testified?

23 A Probably 120 or more.

24 Q Have you testified in other places besides here in the  
25 Eighth Judicial District Court?

1           A     Yes. So I've also testified in the Nevada Supreme Court --  
2 or like I'm not sure if that's it. But in -- in Reno or Clark -- yeah, in  
3 Reno. I then also testified in various smaller jurisdictions around  
4 Nevada. So in Goldfield, which is Esmeralda County, and in  
5 California, San Bernardino County, which also included kind of our --  
6 our catchment area. And then in Mohave County, which takes place  
7 in Kingman, Arizona.

8           Q     And you touched on this. At Sunrise, you would go and  
9 evaluate suspected abuse. But have you specifically reviewed other  
10 doctors' examinations to determine whether or not there is  
11 suspected child abuse?

12          A     Yes, because we were understaffed and -- and it was  
13 mostly just me doing the examinations. I wasn't able to see every  
14 child that came through the emergency department. Instead what  
15 had to do is a peer-review process in which I reviewed every single  
16 case of child sexual abuse, as well as physical abuse that came  
17 through the emergency department. I would review any photo  
18 documentation that was taken in addition to the documentation just  
19 for our regular medical notes that were identified by my colleague.  
20 And then provide not just feedback to them but also to any agencies  
21 that were investigating the -- the case.

22          Q     You yourself, can you give us an estimate of how many  
23 child sexual abuse exams you've conducted?

24          A     Probably two to 3,000 --

25          Q     Can you --

1       A     -- just myself.

2       Q     I'm sorry?

3       A     Yeah. With -- with me doing the actual exam, probably  
4 two or 3,000.

5       Q     Okay. Can you briefly describe the anatomy of a vagina for  
6 us?

7       A     Yeah. Sure. So the reason why -- you know, a lot of times  
8 this comes up when I do examinations as well, in that there are a lot  
9 of myths surrounding the vagina.

10               So the basics that I can -- if I can move the camera a little  
11 bit -- is that when we look at the vaginal area, imagine that this  
12 would be the vaginal opening or the hole. Surrounding that, we  
13 have something called labia majora. So those are the larger of the  
14 two lips that usually cover this area. If we keep going further, we  
15 have labia minora, which are the smaller two. The clitoris, which is  
16 going to be on the upper end. And then the anus, which is at the  
17 lower end.

18               At the vaginal opening itself, oftentimes people think that  
19 there is skin called a hymen, which, there is, but the thought is that it  
20 is covering completely the opening to the vagina and has to be  
21 somehow broken or changed in some way. However, that's not true.  
22 The hymen actually is skin that surrounds the vaginal opening, like a  
23 collar. And it actually changes a lot during the lifetime, especially as  
24 a child develops.

25               Those are the basic structures of the -- of the vagina. Also

1 included just under the clitoris and above the opening of the vagina  
2 is something called a urethra, and that's where urine comes from.

3 Q Can you talk more about the myths of -- relating to the  
4 hymen and the vaginal opening?

5 A Yeah. So there's a lot of myths. The one, as I talked about,  
6 that there is a cover over the vagina. And that's not true. It's -- it's a  
7 collar of skin with a whole in the middle. Every female is born with a  
8 hymen. There is thought that the hymen, if it is injured in some way,  
9 scars or that it is broken and is not able to heal. In fact, the -- that --  
10 you know, the vagina itself and the hymen have a lot of blood  
11 vessels running through it just like inside the mouth. If you imagine  
12 skin in the mouth, if it gets injured, heals very, very well, and will  
13 heal without scar tissue, and scar tissue that we can see with our eye.  
14 And so there is no scarring to it. It heals very, very well. It heals very  
15 quickly. And it's not a covering. It's not broken in any way.

16 Other myths are if a female participates in certain sports or  
17 horseback riding, gymnastics, they use a tampon, things of that  
18 nature, that the hymen is broken and that also breaking of the hymen  
19 speaks to their -- their level of sexual activity, if they're a virgin or  
20 not. And, in fact, has nothing to do with that. Being another myth of  
21 the vagina. It does not speak to virginity or sexual activity of any  
22 kind. That is actually more in your head and in your heart, and in  
23 your belief system.

24 Q Okay. Can you talk to us about sexual assault exams in  
25 general? What do you do during an exam?

1       A       During an exam, we explain everything to a child,  
2 everything that's going to be done with -- with their clothing on  
3 before they even have a gown. We show them all of the equipment  
4 that's going to be used. And then once their clothing is off and there  
5 is somebody in the room there that they choose to have in the room -  
6 - so it could be a parent, sometimes it's a sibling -- myself and  
7 medical staff will enter the room and the child will be on their back.  
8 And so we call that supine or laying on your back. Oftentimes with  
9 younger kids, their legs, we just kind of have them crisscross their  
10 legs, and put their feet together so that they can just open their  
11 knees, and making that easier to see the -- the general area.

12               For teenagers, a lot of times we'll put them in stirrups. So  
13 stirrups, such as like leg rests that are similar to ones that are used  
14 when an adult woman is getting an examination or giving birth, for  
15 instance.

16               And at that time, what I do with gloved hands is I will  
17 move the -- the labia majora, so those outer lips, around. I will take  
18 my fingers and sometimes pinch lightly and pull back the skin so that  
19 I'm able to visualize all of the vagina and the skin surrounding it as  
20 well as the anus.

21               And then if any testing needs to be done, sometimes we  
22 need to use cotton swabs both externally, sometimes internally,  
23 depending on the age, to collect any samples that we need in order  
24 to run sexually transmitted infection testing. Meanwhile, we take  
25 pictures of the examination for the majority of the cases. And then

1   lastly, we check the anus and we do the same for that, whereas we  
2   move the skin around. And then after which, if there's any additional  
3   testing that needs to be done by blood, then we obtain those  
4   samples. And urine samples as well.

5       Q     When you are opening those outer lips, how do you orient  
6   yourself in regards to the vagina? Is it -- do you use a clock?

7       A     So I will sit in between the legs and be facing the vagina as  
8   would a camera additionally kind of in between myself and the  
9   patient.

10      Q     Do you use a clock to kind of dictate where or note where  
11   you see anything?

12      A     So what we do use is like -- for instance, as you know, a  
13   child ages, sometimes it is difficult to see all of the skin of the hymen  
14   or different areas. So we will use a Q-tip or sometimes a larger Q-tip  
15   and we'll move the skin around. Because I only have two hands,  
16   usually the nurse that I was working with there would help me with  
17   that; move skin around and push it so that I am able to see every  
18   single part of it.

19      Q     Okay. And when you notate any injuries that you see, how  
20   do you notate those?

21      A     Any findings, whether normal, abnormal, of like injuries,  
22   anything like that, they're noted in my medical record. So it's on an  
23   examination sheet which has pictures of the genital areas, and then  
24   verbally on the -- against the sheet after that. In -- in a -- I -- I  
25   document it with words, but in categories based on whether it's

1 concerning for sexual abuse, definitive for sexual abuse, something  
2 that's normally seen, or perhaps could be sexual abuse but could be  
3 some other diagnosis as well.

4 Q Okay. What is the main purpose of these child sexual  
5 abuse exams?

6 A The -- for the health of the child both emotional as well as  
7 medical. The main purpose of the exam is to make sure if testing  
8 needs to get done for sexually transmitted infections that may not  
9 have any symptoms but are -- are being -- damaging in the body.  
10 And then additionally to oftentimes reassure or talk to a child, make  
11 sure that they know that their body looks normal, or if something is  
12 abnormal, explain it to them. And so a lot of times we talk to  
13 parents. So a lot of it's education, and then making sure that a child  
14 is medically well.

15 Q What is the difference between an acute exam and a  
16 delayed exam?

17 A Acute just means right now. Something happens within  
18 hours or a few days in which perhaps there is an evidentiary aspect  
19 to the exam. All that means is evidence can be collected, such as  
20 saliva, semen, something, you know, on the body that is not  
21 belonging to the patient. And that happens in the emergency  
22 department or at the time the -- when I was working there, it was  
23 happening almost exclusively in the emergency department.

24 And then a nonacute exam is where a child has either said  
25 something that somebody's concerned about or has concerns, for



1 whatever reason, and it is brought to the attention of investigating  
2 agencies. And then those exams don't need to happen in an  
3 emergency department. They can be taken to the CAC.

4 Q Okay. What's the time period to make something acute  
5 versus nonacute?

6 A A detailed answer would be that it's dependent on the age.  
7 However, it would be within usually one week if -- probably at the  
8 real outer limits of when evidence could be collected. It's thought to  
9 be within one day to five days or so.

10 Q In the 2' to 3,000 exams that you've conducted, tell us what  
11 do you see more, acute or nonacute?

12 A Nonacute.

13 Q And can you tell us maybe some of the reasons why?

14 A Sure. Oftentimes a perpetrator or child abuser will  
15 manipulate the child. So they will spend a lot of time gaining trust  
16 from the child or making threats against the child so that the child  
17 often will not say anything or it will be found out in, you know, some  
18 way in the future after contact has occurred. And then additionally,  
19 the child spends -- and an adult -- and will note to have feelings of --  
20 of guilt and concern that they're going to get in trouble. So there's a  
21 lot of reasons. But most of the children just won't tell because  
22 they're afraid of some kind of repercussion on themselves. And then  
23 additionally, if there's any trust involved, then they definitely have --  
24 have fear.

25 Q Okay. Can you tell us how many exams approximately,

1 what percentage, have injuries that you're able to document of the  
2 exams that you do?

3 A So based on my experience, but also looking at kind of  
4 nationally other child abuse pediatricians, experiences, you know,  
5 that they have shared, and the literature on the topics, approximately  
6 about five percent of the time both in acute and nonacute exams that  
7 you'll find have some type of definitive injury that -- or an injury at  
8 all.

9 Q Okay. In preparation for your testimony today, did you  
10 review three different medical exams from the Southern Nevada  
11 Children's Assessment Center?

12 A Yes, I did.

13 Q And were two of those for the Madden children, one for  
14 Rodriguez and one for Venice, that were done on March 2nd, 2017?

15 A Yes, they were.

16 Q And was one -- another one a medical exam of Arianna  
17 Whatley that was done at the CAC on April 3rd, 2017?

18 A Yes. That's correct.

19 Q And do you have copies of those records in front of you?

20 A Yes, they're in front of me.

21 Q Did you review those records, and are those records that  
22 are normally kept in the course of your ordinary business at the CAC?

23 A Yes.

24 Q And Arianna's -- I'm sorry -- yes, Arianna's exam that was  
25 done April 3rd, you actually did that exam; is that right?

1           A     Yes.

2           Q     And then the Madden children, tell us who did those  
3 exams and what part you played in those exams.

4           A     So at the -- at that time, I was undergoing some training of  
5 a physician's assistant. And my part in those is that I -- I participated  
6 in most of the examinations. We shared an office, and all of the  
7 exams that she conducted in the beginning -- so at that time -- you  
8 know, at that time, in 2017, I would have been in the exam room.  
9 And then additionally what I would do is review all the pictures that  
10 she has taken, the exam that she did, as well as the documentation  
11 so that I could comfortably co-sign that the process that she -- she  
12 went through with the examination was correct.

13          Q     Okay.

14               MS. RHOADES: And at this point, Your Honor, I would  
15 move for the admission of State's 23 through 25, I believe it is.

16               MR. POSIN: No objection, Your Honor.

17               THE COURT: State's proposed Exhibits 23 through 25 are  
18 admitted.

19               [State's Exhibit 23 through 25 admitted into evidence]

20               MS. RHOADES: Thank you very much.

21               THE COURT: Thank you.

22 BY MS. RHOADES:

23          Q     Dr. Cetl, I'm going to first go to Arianna Whatley's  
24 examination. So for the record, that is State's admitted 25.

25          A     Okay.

1 Q Tell us about this examination and your findings.

2 A So this is an examination that took place no differently  
3 than what I explained before. She's a 13-year-old female. So when  
4 she was on her back for the exam, her legs are placed in stirrups or  
5 leg holders so that her knees were bent, and her knees were  
6 separated so that when I'm doing the examination it's easier on both  
7 the patient and myself to be able to visualize the -- the vaginal area.

8 When going through her exam, the one finding that I  
9 noted, she was at kind of the last stage of puberty. So that's stage 5.  
10 What that means is that the skin of the hymen, as a child ages, that  
11 skin that's around the hymen tends to get kind of thicker and more  
12 floppy. And due to that, we needed extra support to have one of the  
13 nurses kind of follow the tissue along with a Q-tip.

14 And when doing -- in doing so, at one part of the hymen,  
15 she was missing hymen tissue almost nearly completely to the face  
16 of the hymen. So if you imagine this to be one big circle, that part  
17 was missing, and only a tiny, little bit of skin was left at the bottom.  
18 We call this a very deep like -- or a deep notch. So that was a  
19 significant finding on her exam. Otherwise, there was also two tiny,  
20 little red kind of dots almost next to each other. And then the vaginal  
21 area was a bit red.

22 Q Why is that deep notch a significant finding?

23 A It's significant because even though the hymenal tissue --  
24 just like your mouth and your ears and everything else -- can be a  
25 little bit different and we can have little dips or we have some

1 bumps, [indiscernible]. What doesn't happen is a very deep area  
2 where there's hymen actually kind of almost cut out or missing. And  
3 so due to that fact, it was consistent -- most consistent with some  
4 type of injury to the area.

5 Q Did it appear to be at the 7:00 position?

6 A Yes. We use a -- kind of a clock's face to describe what  
7 we're looking at so that no matter what direction you are looking at it  
8 when you document, everybody will understand what you were  
9 looking at.

10 Q Okay.

11 MS. RHOADES: And for the record, I'm going to page 3 of  
12 the report. That's noted at the bottom. And so I'm looking at -- and I  
13 can't publish this to the jury because we have this, but you'll have  
14 this back there with you.

15 BY MS. RHOADES

16 Q I'm looking at page 3 where there are boxes. There are  
17 different boxes and the first one says, "normal exam," the second,  
18 "nonspecific," the third, "concerning for abuse or trauma," and then  
19 the fourth says, "specific physical findings."

20 Do you see where I'm looking at?

21 A Yes.

22 Q Okay. So what was marked for Arianna?

23 A So for her, she had the exam finding. Her -- the skin was  
24 also a little bit bumpy, and she had those two little red dots. Those  
25 are marked as nonspecific. Meaning that could sexual abuse cause

1 it? Yeah, sure, it could. But are there other things, you know,  
2 naturally or infection or, you know, other kind of condition that could  
3 cause it? Yes. So it's not really specific one way or the other.

4 But for that deep notch, it was marked as concerning for  
5 abuse or trauma.

6 Q Tell me about -- I know that this is not marked for  
7 Arianna's exam, but that next kind of step up, the specific physical  
8 findings, can you tell us kind of what those are?

9 A Yeah. So a specific finding for sexual abuse would be that  
10 there is acute injury -- so as we said, so an injury that I can see:  
11 bruising, there is bleeding, there is tissue that's been torn, and then,  
12 you know, it's oozing, and it looks like there is actual injury at the  
13 time that I see it.

14 Additional would be a hymenal transection, which we  
15 talked about the collar. That is not just leaving a tiny, little bit at the  
16 base; that means that it's missing all the way through the base,  
17 through and through. And so when we put that -- that Q-tip in the  
18 back side of it to try to see it, it goes all the way through. And then  
19 very similarly, if there is a deep and -- laceration or -- or a tearing of  
20 the skin near or around the anus. And then those -- those are the  
21 kind of examples that are put out there.

22 Q Can you talk to us about the injury? I know you told us  
23 about the injury you saw on Arianna's exam. But that compared to a  
24 transected hymen, which would be the specific finding.

25 A Correct. Yeah. Because there was just a tiny, little bit on

1 the -- the base of that hymen that was left, you know, is that seen in  
2 nature? Are you born that way? You know, it's not something that  
3 I've seen and not something that I see in the literature when we look  
4 at that. You know, it's considered as a very unusual finding. But the  
5 fact that it didn't go through and through, you know, makes me just  
6 hesitate a little bit to say, well, it's most consistent and I'm very  
7 concerned about trauma. Can I say that it's all the way through,  
8 which is definitive, there's no other way for that to happen? No. And  
9 so that is why it's marked one and not the other. But it is as close to  
10 a transection as you can be for the amount of tissue that's missing.  
11 So the amount of that -- that hymen skin that's missing. There's just  
12 a very little bit left at the base.

13 Q Okay. And in the five percent -- that estimate of five  
14 percent in the literature and in your experience of findings, does that  
15 include all these categories of findings that we've talked about?

16 A Yes. Well, it doesn't -- it will not include the -- the  
17 nonspecific or normal findings. And the five percent includes  
18 definitive findings and then some very concerning findings, yeah.

19 Q So Arianna's finding would have -- would be included in  
20 that five percent?

21 A Correct.

22 Q So going back to, you know, the five percent, do you know  
23 the phrase, "It's normal to be normal"?

24 A Yes.

25 Q Can you explain that to us?

1           A     Yes. I believe -- so it's -- I think that was coined by the  
2 American Academy of Pediatrics in conjunction with Dr. Adams out  
3 of I believe San Diego. It's normal to be normal because you -- you  
4 know, with all of these exams that are done, with actually watching,  
5 you know, child pornography, and then later examining that child,  
6 we still have only 95 percent of the time is normal exam. You know,  
7 is there -- you know, with video, anything like that, we have evidence.  
8 And you know, again, and over and over again it's normal.

9                     So normal to be normal means that just because an exam  
10 is normal, it does not exclude the possibility that there was some  
11 type of sexual abuse that occurred.

12           Q     Doctor, I'm next just going to go to Rodriguez Madden's  
13 exam and medical records that the State submitted. 23.

14           A     Okay.

15           Q     Was he noted -- was his behavior noted to be age  
16 appropriate?

17           A     Yes.

18           Q     And can you tell us when you remember about him or  
19 anything that was noteworthy?

20           A     Yeah. During the exam, he was age appropriate. Meaning  
21 that he didn't want to be there and he wanted to be somewhere else.  
22 And so he was a bit active, and appropriately acting [indiscernible].

23                     I do actually remember him in our kind of small lobby area  
24 that we have. It's not the main lobby; it's just for the medical clinic  
25 area. He was being quite destructive, not following any rules or



1 instructions and being very, very active.

2 Q And what was the results of his medical exam?

3 A He had a normal exam.

4 Q So can you talk to us about if something went into a child  
5 or a person's anal opening, would that necessarily leave injuries,  
6 scars, something like that?

7 A No. The anus and -- and kind of that area itself, similar to  
8 the mouth, the vagina, have a lot of blood vessels running through it.  
9 Blood vessels bring kind of what we need to heal. It heals very  
10 quickly. And then additionally, if you think about it in terms -- all of  
11 us or most of all of us have experienced constipation at some point  
12 or had a very large stool, a large, firm stool even. And if I did an  
13 exam on anybody after having a very large, you know, bowel  
14 movement or constipation, the -- the anus would look no different,  
15 even with maybe some small injury or something. You know, it  
16 would appear to be completely normal and return to normal as well.

17 So that too is a myth that if a penis, a finger, an object  
18 went into the anus that somehow that would change how the anus  
19 functions or how it looks on exam. Well, that wouldn't be true. So  
20 no, a normal exam doesn't mean nothing went into the anus.

21 Q And going to page 4 of Rodriguez's exam, there are four  
22 sections; "no medical indication of abuse, possible abuse, probable  
23 abuse, and definitive" -- "definite evidence of abuse." Do you see  
24 where I'm looking at?

25 A Yes.

1 Q And this is different from page 3 where the findings were  
2 actually listed out, right?

3 A Correct.

4 Q So should the -- well, tell me about the check marks on this  
5 page.

6 A Right. Well, when I was reviewing it prior to the testimony,  
7 I did notice that some of the boxes that were supposed to be checked  
8 off were not. However, when I go through, you know, any medical  
9 exam, whether you're there for a cough or a runny nose or sexual --  
10 you know, the concern of sexual abuse, we look at subjective. So  
11 that is the information that's brought by a parent or -- or some type  
12 of history. There is the objective part, which is what we just went  
13 through, the examination itself. And then there's an assessment and  
14 plan.

15 And so this page falls under the assessment, and it talks  
16 about an overall impression, that there are no medical indications of  
17 abuse. There's possible indications of abuse taking everything  
18 together, not just the examination, probable abuse and then  
19 definitive evidence of abuse or sexual contact of some sort.

20 Q Okay. So in this case, the probable abuse should have  
21 been checkmarked on this page of Rodriguez's exam; is that right?

22 MR. POSIN: Objection. Leading.

23 THE WITNESS: That is -- that --

24 THE COURT: Hold on one second, Doctor.

25 THE WITNESS: Okay.

1 THE COURT: Thank you.

2 MS. RHOADES: It's -- I mean, I can reframe, Your Honor.

3 THE COURT: Sure. Thank you.

4 MS. RHOADES: Okay.

5 BY MS. RHOADES:

6 Q Should any box have been checkmarked that wasn't on  
7 page 4 of Rodriguez's exam?

8 A Can you repeat that?

9 Q Sure. Should any box on page 4 of Rodriguez's exam,  
10 should it have been checkmarked and it wasn't?

11 A Yes. The probable abuse as well as the kind of subsection,  
12 the box right underneath it, about the reasoning behind why it's  
13 probable abuse.

14 Q Okay. And what was the reasoning?

15 A The child has given a spontaneous, clear, a detailed  
16 description to the neutral fact finder with or without positive exam  
17 findings. And then it says, "Indicate to whom." Usually that box  
18 says, "Click here to enter text." On this one it says, "To the forensic  
19 interviewer." And that is, you know, that the child gave a  
20 spontaneous disclosure to a forensic interviewer as the neutral fact  
21 finder, that should have been checked off based on the fact that it  
22 says "forensic interviewer" in that -- that normally blank space. And  
23 then the -- the major category, "probable abuse," should have been  
24 checked off.

25 Q Okay. And then at the Children's Assessment Center, are

1 the forensic interviews always done first, are the exams always done  
2 first, or can you explain that to us?

3 A You know, it depends. Sometimes it depends on -- on the  
4 child's health, and sometimes it depends on, you know, caregivers  
5 being able to come to appointments when appointments are  
6 available. So no. Sometimes the forensic interviews are done first,  
7 sometimes on the same day, sometimes on different days,  
8 sometimes afterwards. And the same thing, the schedule was  
9 different.

10 Q Okay. So sometimes the medical exams are done first and  
11 then the forensic interviews are done later?

12 A That's correct.

13 Q Going to Venice Madden's medical records, which is  
14 State's admitted 24, for Venice, on page 1 of the exam, which is  
15 about page 5 in the packet, "The patient's behavior was noted to be  
16 apprehensive." Can you explain that to us?

17 A Yes. So apprehensive is kind of what the sounds like;  
18 that -- that the patient also didn't want the exam, but it wasn't the  
19 kind of appropriate either being kind of bashful about having this  
20 type of exam sometimes for the first time, more than just modesty or  
21 embarrassment, and this was over and beyond anxious of not  
22 wanting to participate in the exam. And then it's also noted, because  
23 during the -- the rest of the time that the child was in the office, in our  
24 little waiting room or getting ready for the exam, all those parts  
25 wasn't acting age appropriate or acting -- you know, acting

1 appropriately and not apprehensive.

2 Q Okay. And what were the findings for Venice's exam?

3 A So Venice, she -- mostly she just had a little bit of -- she  
4 had some discharge that we could see, some redness as well as like  
5 a -- kind of a thick, white substance around where the clitoris is, the  
6 hood of the clitoris.

7 Q Okay. And what category of findings is that?

8 A That category is nonspecific.

9 Q Can you explain why that is part of the nonspecific  
10 findings?

11 A Sure. If someone has a sexually transmitted infection, that  
12 could cause redness, that can cause discharge. If somebody has a lot  
13 of injury or rubbing or something of the genital area, that can cause  
14 irritation, it can also lead to the finding of discharge or kind of thick  
15 substances, the thick -- thick, pasty stuff kind of around. However,  
16 there's also another one with -- of -- of things that can cause it; like  
17 hygiene. You know, so not wiping well, wiping too much, having a  
18 little bacterial infection. So it's nonspecific because it's just that. It --  
19 you know, it could be caused by one or the other.

20 Q Okay. Anything about your experience or your review of  
21 the literature about kids and if they're being sexually abused for a  
22 prolonged period of time, does anything happen to their cleaning  
23 habits, their washing habits, anything like that?

24 A Oh, gotcha. Yeah. So you know, it has been seen and  
25 noted -- and I couldn't give you figures on something like that -- that

1 children who have been sexually abused, sometimes they do  
2 develop kind of fear or apprehension, if you will, to -- to wipe, to  
3 clean, to ask for help from a -- you know, a parent because they're  
4 itchy, and -- and maybe have something more innocent going on.  
5 But again, you know, the psychological effects of -- of sexual abuse  
6 can play a part in that. So yes, that can happen.

7 Q Okay. Thank you very much, Doctor.

8 MS. RHOADES: I will pass the witness, Your Honor.

9 THE COURT: Okay.

10 THE WITNESS: Thank you.

11 THE COURT: Thank you.

12 MR. POSIN: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. POSIN:

15 Q Good afternoon, Doctor.

16 A Good afternoon.

17 Q So again, turning to page 3 of, I think it's Exhibit 25,  
18 actually several of these -- it's going to be the same page 3 in any of  
19 them -- there's --

20 A Okay. I'm sorry. I didn't hear. Which name?

21 Q Page 3 I believe it is.

22 THE COURT: Which report?

23 THE WITNESS: Of Arianna?

24 BY MR. POSIN:

25 Q Of -- let's start with Arianna's, yes.

1           A     Okay.

2           Q     But there's the same four boxes, in any event, whichever  
3 one of these we turn to, right?

4           A     Yes.

5           Q     That's the normal, nonspecific, concerning, and specific?

6           A     Correct.

7           Q     Thanks. In none of these cases was there anything that  
8 was listed under the specific listing; is that correct?

9           A     That's correct.

10          Q     And there is nothing in any of these that can tell you who  
11 or where or when if there was any kind of abuse or trauma that  
12 occurred; is that correct?

13          A     Yeah. Correct. That's out of the scope.

14          Q     Thank you.

15               MR. POSIN: That's all I have. Thank you, Your Honor.

16               MS. RHOADES: I have no questions based on that,  
17 Your Honor.

18               THE COURT: Okay. Any questions from any jurors?

19               All right. Can the witness be excused?

20               MS. RHOADES: Yes.

21               THE COURT: Thank you, Doctor.

22               THE WITNESS: Thank you very much. I appreciate it.

23               MS. RHOADES: Thank you.

24               THE COURT: Are we breaking for the day?

25               MS. RHOADES: Yes, Your Honor.

1 THE COURT: Okay. Ladies and Gentlemen, we are going  
2 to break for the day. Again, realize, sometimes shorter, sometimes  
3 longer. So come back tomorrow at 10:30.

4 During this recess, you're admonished not to talk or  
5 converse amongst yourselves or with anyone else on any subject  
6 connected with this trial; read, watch, or listen to any report of or  
7 commentary on the trial or any person connected with this trial by  
8 any medium of information, including, without limitation, to social  
9 media, texts, newspapers, television, the Internet, and radio; do not  
10 visit the scene of any events mentioned during the trial, do not  
11 undertake any investigation, do not Google anything about the trial  
12 or anyone associated with the trial, do not do any posting or any  
13 communications on any social networking sites, do not do any  
14 independent research, including Internet searches; do not form or  
15 express any opinion on any subject connected with the trial until the  
16 case is finally submitted to you.

17 See you back tomorrow morning at 10:30.

18 THE MARSHAL: All rise for the jury.

19 [Jury out 2:23 p.m.]

20 THE COURT: Anything we need to discuss?

21 MS. RHOADES: I don't think so, Your Honor. Not from the  
22 State.

23 MR. POSIN: No, Your Honor.

24 THE COURT: I assume we're on track to finish probably  
25 before Wednesday?



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MS. RHOADES: Probably Monday.

THE COURT: Okay.

MS. RHOADES: We have no more audio/visual testimony.  
I'm so sorry. We tried.

THE COURT: It ended up working --

MS. RHOADES: We tried. I swear --

THE COURT: It ended up working fine.

MS. RHOADES: -- we tried.

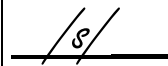
THE COURT: So that's just partly me being -- having  
anxiety with times.

MS. RHOADES: Me too. I -- we did try.

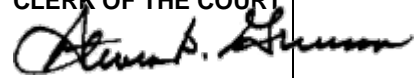
[Proceedings adjourned at 2:24 p.m.]

\* \* \* \* \*

ATTEST: I do hereby certify that I have truly and correctly transcribed the  
audio/video proceedings in the above-entitled case to the best of my ability.

  
Valori Weber  
Transcriber

Date: May 29, 2020



RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA

THE STATE OF NEVADA,	)	CASE#: C-18-329765-1
	)	
Plaintiff,	)	DEPT. XV
	)	
v.	)	
	)	
DEQUINCY BRASS,	)	
#2707679,	)	
	)	
Defendant.	)	

BEFORE THE HONORABLE JOSEPH P. HARDY,  
DISTRICT COURT JUDGE

FRIDAY, FEBRUARY 28, 2020

***RECORDER'S TRANSCRIPT OF JURY TRIAL [DAY 4]***

APPEARANCES:

For the Plaintiff: KRISTINA A. RHOADES, ESQ.  
KELSEY EINHORN, ESQ.

For the Defendant: MITCHELL L. POSIN, ESQ.

RECORDED BY: MATTHEW YARBROUGH, COURT RECORDER

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## None

1 Las Vegas, Nevada, Friday, February 28, 2020

2  
3 [Hearing began at 10:31 a.m.]

4 [Outside the presence of the Jury]

5 THE CLERK: Case Number C-329765, State of Nevada vs.  
6 Dequincy Brass.

7 MS. RHOADES: Good morning, Your Honor. Kristina  
8 Rhoades and Kelsey Einhorn on behalf of the State.

9 MR. POSIN: Good morning, Your Honor. Mitchell Posin  
10 for the Defendant who is here present in custody.

11 THE COURT: Good morning. So I heard something about  
12 the Miller case?

13 MS. RHOADES: Yes, Your Honor. The State did receive  
14 information about 15 minutes ago from Elizabeth Espinoza, the  
15 forensic interviewer in this case. She sent me a text, which I have  
16 forwarded to Mr. Posin, and it says that essentially she interviewed  
17 Rodriguez Madden, RaRa, in November of 2017 for an allegation that  
18 a hospital worker at Montevista touched him on his butt and that that  
19 was investigated by a Metro detective, Todd Katowich (phonetic).  
20 That is the only information that I have right now, and I gave that to  
21 Mr. Posin as soon as he walked into court today.

22 I'm trying to get any -- an event number and any reports  
23 and/or notes from Metro that they may have so I can provide that to  
24 Mr. Posin as well. I think the issue comes up with Miller as a  
25 potential prior false allegation where the Defense generally would

1 have this information because they would have investigated it or I  
2 would have had it and I would have given it to him previously, but  
3 again, I just received it today so they would have to do a notice.

4           They would have to show what those allegations were.  
5 They would have to prove that they were, in fact, false, which is a  
6 very high burden, and that the extrinsic evidence of asking the child  
7 witness questions about it is more probative than prejudicial. That  
8 would be the requirement in Miller and order to appear as rape  
9 shield because otherwise, you know, Mr. Posin can't ask Rodriguez  
10 Madden about it otherwise it would be rape shield.

11           So the status is, I'm working on getting those reports right  
12 now.

13           MR. POSIN: And, Your Honor, I am just at this point  
14 having just heard about this and going primarily on what  
15 Ms. Rhoades says about the requirements of Miller, I haven't had a  
16 chance to review it myself, but even, you know, on the State's  
17 version of that, that would -- in order for me to be able to do all of  
18 those things, I would need to have some more time.

19           There -- I don't see any possible way that between now --  
20 it's my understanding that the Rodriguez Madden is scheduled to  
21 testify today, so my first request of the board and the State is that he  
22 not testify today at all and that we put off any testimony from him  
23 until -- from him and his mother, I should say, until at least Monday  
24 morning. But that's going to be an at least kind of situation because  
25 more likely than not, I'm going to -- especially upon further review of

1 this Miller case, I'm going to be asking the Court to either continue --  
2 call a mistrial or continue.

3 I don't know what my options necessarily are without  
4 having had more than a moment or two to think them through, but  
5 certainly before we take any testimony from Rodriquez, it seems  
6 appropriate for me to have the time to do that investigation. I  
7 actually have my investigator here in the room today, Your Honor, so  
8 I don't know how long -- once we even get such a thing as an event  
9 number, which we -- even the State doesn't have yet.

10 I don't know how long it would take, but we're going to  
11 have to presumably go and interview both the hospital personnel,  
12 Montevista, you know, whoever was the alleged perpetrator in that  
13 case. If it is a -- as the State says, if we have to prove it's a false  
14 allegation, then we obviously have to know what was done in that  
15 investigation.

16 I'm kind of making an assumption here that no charges  
17 were brought in that case, but we don't even know that yet. If no  
18 charges were brought in that case, then somebody determined that it  
19 was a false accusation, I guess. If charges were brought in that case,  
20 then we'd have to go through and find out what happened. All of  
21 that takes more time than could possibly be done between today,  
22 Friday, and even Monday.

23 My concern is that it's -- you know, we've got three alleged  
24 victims here. Rodriquez, in a sense, is maybe already the least, you  
25 know, I'm going to allege the least credible, but even aside from his

1 credibility, he's the youngest, he has behavioral problems. But that  
2 doesn't take away from the fact that there- are extremely serious  
3 charges only relating to Rodriquez against my client and even if you  
4 took away all the other charges, this would be a very serious case if  
5 we were only dealing with the charges against Rodriquez.

6 We also on top of anything specifically to do with him, we  
7 have to figure out okay well, if he is making false accusations, where  
8 does mom play into that? So I would also ask the court not to have  
9 any testimony from Kim today because my cross-examination of her  
10 is absolutely positively necessarily going to have to do with talking  
11 about this.

12 Again, if I can, and maybe upon further emotional work,  
13 the Court would determine this is rape shield and we can't even get  
14 into it, but we're not anywhere near that point where the Court can  
15 even begin to undertake that evaluation yet. So at this point, I'm just  
16 simply asking for there to be no testimony from either of those  
17 witnesses and to tell you the truth, no testimony from Denise either  
18 today because she may have some knowledge of that fact.

19 And then, very likely upon -- very likely upon my doing  
20 some further research on this and finding -- I don't think, you know,  
21 even the State has any more information to give me on the facts, but  
22 doing some more legal research on what my options are, whether  
23 this would be a basis for a continuance, which I know we already  
24 have a jury. I don't know when, you know, the idea of bringing back  
25 this same jury at some later date is --



1 THE COURT: It's not going to happen.

2 MR. POSIN: -- it's not going to happen, so --

3 THE COURT: Yeah, I mean --

4 MR. POSIN: -- if this is the basis for a mistrial or exactly  
5 what my potential remedies are, I've had no time to even look at that,  
6 but obviously there are going to be things I'm going to be asking for.  
7 I'm probably not going to make any specific requests until I do that,  
8 which is probably going to be Monday morning, but obviously --

9 THE COURT: You're very much repeating yourself now --

10 MR. POSIN: Sorry.

11 THE COURT: -- and so I'll put on the record one of the  
12 issues I have, and I tell attorneys this way too often, and I'll tell you  
13 both this on the record because this is not the first time this has  
14 already happened in this trial: You all don't appreciate the jurors'  
15 time. It's 10:37 and this is not the first time already in this trial that  
16 we find ourselves wasting their time. We all get paid to do this, but --  
17 I don't know what else to say right now.

18 MS. RHOADES: Can I respond to Mr. Posin?

19 THE COURT: Well, bear with me a moment, okay?

20 MS. RHOADES: Okay.

21 THE COURT: I mean, the fact that neither of you  
22 apparently spoke with this doctor at any point is puzzling to me. The  
23 fact that this apparently was just brought to Counsel's attention is  
24 puzzling to me. I mean -- I'm going to print a copy of Miller for you,  
25 Mr. Posin, right now. I'd give you my copy but it's got my notes all

1 over it.

2 MR. POSIN: And Your Honor, you don't need to do that. I  
3 can certainly look it up. I'm just saying that I didn't have a chance to  
4 do that before Your Honor took the bench.

5 THE COURT: No, I don't blame you. Apparently this  
6 computer, though, is not -- doesn't go to my printer in chambers.

7 MS. RHOADES: I have a copy. I have an extra copy I can  
8 give to Mr. Posin.

9 THE COURT: Can you do that, please?

10 MS. RHOADES: Yes.

11 THE COURT: That would be wonderful. So who does the  
12 State plan on calling? In what order today?

13 MS. RHOADES: RaRa, Kim, Venice, and then we have  
14 Elizabeth Espinoza as well and I would like to tell the Court that we  
15 did speak with Elizabeth, the forensic interviewer, multiple times. We  
16 spoke with her last May prior to the trial and we spoke to her a  
17 couple days ago prior to this trial. She sent me the text this morning.  
18 I don't know why she didn't tell me previously. So I don't have any  
19 control of that. We did speak with her though.

20 Can I respond to Mr. Posin's?

21 THE COURT: Sure.

22 MS. RHOADES: With regard to the extrinsic evidence, I  
23 mean, the extrinsic evidence is the question itself. Did you -- were  
24 you touched by somebody else? That's what's barred by rape shield.  
25 Even if they were able to get into this, it wouldn't allow them to, you

1 know, bring in other witnesses from that other instance. It wouldn't  
2 allow them to bring in the hospital worker. It wouldn't allow them to  
3 ask mom about it necessarily, so I think that's a little far-fetched. And  
4 also, even if the case was not submitted, that doesn't mean that it's a  
5 prior false allegation and I am trying to work on getting those reports  
6 right now.

7           We could possibly have testimony outside the presence of  
8 the jury of Kim Madden and Rodriguez Madden about this incident  
9 where Mr. Posin is free to cross-examine them or examine them  
10 about it. I think that that might be an acceptable remedy.

11           And we are happy to put Venice on right now, Your Honor,  
12 first. I certainly don't think Denise is going to be able to be asked  
13 about this no matter what happens with these reports. I also don't  
14 think that Kim Madden would be able to be asked about this by the  
15 Defense. I think that goes beyond the questioning that Miller allows  
16 for, and I would note for the record Rodriguez did not testify at the  
17 preliminary hearing. Rodriguez -- that -- those counts were bound up  
18 because Venice talked about how she walked into a room and saw  
19 Quincy doing something to her little brother. That's how those were  
20 bound up in the first place.

21           THE COURT: So under Miller, there's a few steps. It talks  
22 about threshold inquiry must establish the fact that accusations and  
23 the falsity before defense counsel answers on the cross-examination.

24           The defense counsel must, prior to such questioning, file  
25 written notice of his intent or must hold a hearing outside the

1 presence of the jury to determine propriety admissibility. Not,  
2 obviously in this circumstance where the State just received notice  
3 and Defendant received notice after the State, I think it's fair and  
4 appropriate to waive the written notice of his intent requirement so  
5 then the Court needs to hold a hearing outside the presence which  
6 we're kind of doing right now. Defendant must then establish by  
7 preponderance of the evidence one accusation or accusations were  
8 in fact made. Does the State concede that that is --

9 MS. RHOADES: From the information that I have, I think  
10 that that can be conceded that the accusations were made.

11 THE COURT: Okay. And two, that the accusation or  
12 accusations were in fact false and at this stage, I don't know that any  
13 of us can determine that. And then three, evidence is more probative  
14 than prejudicial.

15 Again, I don't know if we can determine that either. And  
16 on -- once those are met, then the next step at least it seems to me is  
17 cross-examination is allowed about the false accusations and  
18 extrinsic evidence, which I may understand to be more broad than  
19 the State mentioned, may be presented only if the complain witness  
20 denies or fails to recall the accusation. To me, extrinsic evidence  
21 may perhaps be like some type of report or some other witness  
22 testimony versus it sounded like, Ms. Rhoades, you're saying that it's  
23 only the victim's testimony?

24 MS. RHOADES: That's what I believe, yes, that they would  
25 be able to ask the victim. That's generally how it happens. Did you

1 make these statements? Were they false? And it is a very high  
2 burden to prove that they're false in the first place.

3 THE COURT: Well, it's a preponderance of the evidence,  
4 right? Or no?

5 MS. RHOADES: Yes.

6 THE COURT: Okay.

7 MS. RHOADES: I mean but false is more than saying they  
8 think they made it up or even more than the accused person coming  
9 in, the hospital worker saying no, I never did that. And there's  
10 another case that we cite in our -- in our oppositions to these, if I  
11 could just give the Court and Mr. Posin this citation for that. It's State  
12 versus Brown. It's 107 Nevada 164. And that talks about proof of  
13 falsity must be more than a bare, unsupported opinion that the  
14 complaining witness is lying.

15 MR. POSIN: Your Honor, I -- at one point, as far as I can  
16 tell just from a brief glance at Miller, it looks like there really was only  
17 one complaining witness it involved, so I don't think it was really  
18 touching on the issue of whether there had been, for instance, as we  
19 have here a mother that was also a witness in the trial for the same  
20 case, whether there might be any questioning of any sort allowed  
21 about that.

22 Now, I may not, based on rape shield, be able to  
23 specifically ask mom about this particular case, but there could be  
24 other types of inquiry that would not necessarily be precluded such  
25 as, you know, asking her if he has ever lied about anything to do with

1 sexual contact. You know, that's just an example. And again, I'm  
2 just kind of doing this off the cuff here, but there may be all kinds of  
3 reasons why I'm perfectly well allowed to question mom about  
4 something to do with this without necessarily violating any rape  
5 shield issues.

6 MS. RHOADES: That's why Miller is in place. I mean  
7 people can't ask have you ever had any false sexual allegations to  
8 anybody ever? I mean that's just not allowed.

9 MR. POSIN: This is a specific one.

10 THE COURT: So --

11 MR. POSIN: I'm just saying that the part about mom, I just  
12 don't even think is covered one way or another by this Miller case.

13 THE COURT: Well, wouldn't the mom testimony be  
14 extrinsic evidence?

15 MS. RHOADES: I would, I mean -- if they are able to prove  
16 that it is false, I would say that that goes beyond and it makes a trial  
17 within a trial where we don't need this other evidence to come in,  
18 that it would be confusion of the issues for the jury if we're asking  
19 multiple witnesses about this. I mean, again, we can have a hearing  
20 maybe after Venice so the jury can take a break where Mr. Posin is  
21 allowed to ask Ms. Madden and Rodriquez Madden about this  
22 incident.

23 I did get a statement, a written statement, from this event  
24 and I have the event number. It's a written statement by Kimberly  
25 Madden that I will send to Mr. Posin, and it doesn't look like the

1 detective followed up or filed any charges, which I don't -- again, I  
2 don't believe that that necessarily means that it was false.

3 THE COURT: What's the event number?

4 MS. RHOADES: It is 1710293590.

5 MR. POSIN: And Your Honor --

6 THE COURT: So does that mean it'd be October 29, 2017?

7 MS. RHOADES: Yes.

8 MR. POSIN: Your Honor, in this case, the falsity of the  
9 allegations is the issue. It is the issue that I have -- that I have argued  
10 already to the jury and so this is the central point of this case. So it's  
11 not some peripheral issue. I don't think that, you know, we're  
12 dealing with something where we can just kind of say well, it's, you  
13 know -- we can just Venice in and it may not matter, but these are  
14 three children, brother and sister and the other gal who is a friend,  
15 and I think it's all related. And I just don't feel that I can --

16 THE COURT: Well --

17 MR. POSIN: -- properly --

18 THE COURT: -- so does the State except that RaRa will --  
19 so what's the State's offer of proof on RaRa's expected testimony?

20 MS. RHOADES: I think he's going to say that Quincy  
21 touched my butt and that he doesn't remember much else after that.  
22 And I think that it is -- I mean, it's not a prior, even if it is false  
23 allegation, right, because this was made months after his disclosure  
24 about Quincy touching his butt.

25 MR. POSIN: It may not be prior, but whether it's prior or

1 not, I don't see as necessarily determinative under this Miller case,  
2 which in that particular case, the other allegation happened to be  
3 prior. I don't know if the Court's analysis would have been any  
4 different if it had been subsequent.

5 THE COURT: Well prior certainly matters. The question  
6 then is when they talk about prior and I'm trying to figure it out, are  
7 they talking about prior being prior to when the allegation in our case  
8 was made or are they talking about prior to our conducting this trial?

9 MS. RHOADES: My understanding in litigating it  
10 previously is prior to the allegation. That's the issue. If there was  
11 other things prior to the allegation. And it was closed, Your Honor,  
12 for insufficient evidence that -- the case. So I guess there was follow-  
13 up done. I have these notes that I'll send to Mr. Posin right now and  
14 it was closed for insufficient evidence, but I have litigated this before  
15 other courts and that does not necessarily mean that it is false.

16 MR. POSIN: I have not litigated this issue, Your Honor --

17 THE COURT: Uh-huh.

18 MR. POSIN: -- so I, you know, I respect Ms. Rhoades's  
19 position, but I can't --

20 THE COURT: Can't flat-out agree.

21 MR. POSIN: -- say I agree with it.

22 THE COURT: Sure.

23 MR. POSIN: Or disagree with it.

24 THE COURT: Yeah.

25 MR. POSIN: But I certainly don't think that it's appropriate



1 to move forward without my at least having an opportunity to look  
2 into it.

3           You know what I'm inclined to do, Your Honor, and I know  
4 Your Honor's position about the jury's time and I understand all of  
5 that and I appreciate the jury's time; however, we've actually gone  
6 somewhat faster than we anticipated. This -- the jury is still  
7 expecting this is a case that's going to last through next Wednesday  
8 and had this not occurred, it looked like we would have been  
9 wrapping up testimony today and moving into closing argument  
10 even as early as this afternoon -- well, not this afternoon, but  
11 Monday morning with it going to the jury probably by Monday  
12 lunchtime.

13           So I'm inclined to ask the Court the excuse the jury for the  
14 day, come back Monday. That gives me the rest of the day at least to  
15 look into this and, you know, at least get something on file stating a  
16 position, that I'm not just doing kind of in the dark as I am now.

17           MS. RHOADES: I would ask that the Court allow us to at  
18 least call Venice. I just don't think that she plays into this at all and  
19 I'm happy to read Kim's statement into the record. I don't think  
20 Venice had anything to do with this incident, the one in October.

21           MR. POSIN: And she may not have, but we don't know  
22 that she didn't. You know, we just don't have any information one  
23 way or the other.

24           THE COURT: Okay. Do we have any information --

25           MR. POSIN: For instance, Your Honor --

1 THE COURT: Well, hold on, hold on.

2 MR. POSIN: Sorry.

3 THE COURT: You've got to let me think some. So the  
4 information of the accusation RaRa that a hospital worker touched  
5 him on his butt --

6 MR. POSIN: And Your Honor, I know you want to think,  
7 but let me just throw one more thing out there, if I may. We don't  
8 know, for instance, if one possibility is that this information was  
9 originally disclosed by Venice. What if that were the case? What if  
10 RaRa allegedly said it to Venice, Venice reported it to Kim, and Kim  
11 never reported it? That's one perfectly plausible --

12 THE COURT: We can do that outside their presence. So, in  
13 terms of -- can you read into the record verbatim the text from the  
14 examiner?

15 MS. RHOADES: From the examiner? Yes. And I have  
16 Kim's statement as well which is, you know, more --

17 THE COURT: Okay. So do the examiner and then Kim's  
18 statement.

19 MS. RHOADES: Okay. The -- Elizabeth Espinoza sent me a  
20 text at 9:50 a.m. today. She said, "I don't know if you knew, but I  
21 interviewed RaRa a second time 11/06/2017 for a separate case with  
22 Metro. He was placed in half-day partial hospitalization program due  
23 to his behavior throughout week. It was reported to a counselor at  
24 Montevista, touched his bottom." And this is verbatim. "RaRa  
25 allegedly stated the counselor hit him and touched the bottom. I

1 don't know what happened with that case. The detective was Todd  
2 Katawich. I just remembered it."

3 THE COURT: Okay.

4 MS. RHOADES: Do you want me to read the statement  
5 from mom?

6 THE COURT: Yeah. And tell us when and how you got  
7 that statement.

8 MS. RHOADES: I -- when I learned that information at 9:50  
9 a.m., I sent a text to my secretary, Jennifer Georges, and asked her to  
10 go into the access that we have which is on base and Premier One  
11 for notes to find this with the victim's name and she was able to find  
12 the event number with the victim's name. And so that event number  
13 is 1710293590.

14 There is a written statement from Kimberly Madden that is  
15 dated October 30th, 2017. And it says, "Friday I got a call from the  
16 team at Montevista Hospital PHP program where my son was on a  
17 half-day program for his behaviors advising me they are sending my  
18 son home with meds to treat ADHD. My son was acting possessed  
19 with his behaviors.

20 "The same bus driver also gave me a report when he  
21 brang my son home and we talked for about 45 minutes the day prior  
22 to Friday when we was on his way to bring my son. He gave me this  
23 weird vibe after about 30 minutes of our conversation on Thursday.  
24 He opened up and told me some things that kids were doing at the  
25 hospital and acting out with possessive behaviors. He said kids

1 would call him names for no reason and call him a child molester.  
2 He talked about church souls being passed from people to others and  
3 how he had a weakness for women -- woman.

4 "On Friday a.m., my son was so scared to go to this  
5 program, I thought it would be the best place for him as  
6 recommended so he gets picked up and dropped off by the same  
7 man who told me on Friday he took my son in a dark room/office  
8 where he let RaRa cry until he settled down and decided to stop  
9 crying.

10 "On Friday when he was dropping my son off, he told me  
11 this. My son was so sleepy and exhausted when he came in, he went  
12 to sleep until Saturday morning. He didn't mention what happened  
13 Saturday.

14 "On Sunday, I asked him again how was this program?  
15 What did he do? He said he was bad. I asked him what did they help  
16 him do when he was bad or what did they do to him? He told me the  
17 man took him to this dark room and hit him and touched his butt  
18 with his pants off with his hand. He said he was screaming and the  
19 lady came back and he was so bad she hit him when she go back to  
20 the place where my son was and the male teacher who touched his  
21 butt."

22 That's what the statement says.

23 THE COURT: So it sounds to me that there's no  
24 involvement whatsoever by Venice.

25 MS. RHOADES: That's what it sounds like to me, too.

1 THE COURT: Potentially, and I don't know if I can say  
2 more than potentially, but potentially Kim -- is it Kim? Is that her first  
3 name --

4 MS. RHOADES: Yes.

5 THE COURT: -- who made the report to the hospital  
6 maybe. So let's start with Venice.

7 MS. RHOADES: Okay.

8 THE COURT: And I don't -- there's nothing that I've seen or  
9 heard or read in the cases that would indicate that any testimony by  
10 Venice would be relevant as to this false accusation issues --  
11 allegedly false accusation issued by Rara, so --

12 MS. RHOADES: Thank you, Your Honor.

13 THE COURT: We'll probably have to break for lunch after  
14 Venice.

15 MS. RHOADES: Okay.

16 MR. POSIN: Your Honor, I have my investigator here, and I  
17 know you ordered -- Your Honor had previously cleared the  
18 courtroom for minor witnesses, but I'd ask that she be allowed to  
19 stay.

20 THE COURT: State have any issue with the investigator  
21 remaining?

22 MS. RHOADES: Well, I don't know if she is going to be  
23 called as a witness, or if she's going to investigate -- I mean, I don't  
24 know -- I don't believe she was noticed, but the Court did clear the  
25 courtroom for the other minor victim. I don't know --

1 THE COURT: That was because of the family.

2 MR. POSIN: We do actually have Mr. Brass's brother  
3 outside, who is remaining outside.

4 THE COURT: So if you give me a good reason, maybe.  
5 But I don't -- so far, I haven't heard any good reason to exclude the  
6 investigator.

7 MS. RHOADES: As long as she's not going to be testifying  
8 as --

9 THE COURT: You're not going to call her as a witness,  
10 right?

11 MR. POSIN: I -- hang on just one moment.

12 [Pause]

13 MR. POSIN: No, I'm not going to call her as a witness,  
14 Your Honor.

15 THE COURT: Okay, so --

16 MS. RHOADES: That's fine then, Your Honor, with the  
17 State.

18 THE COURT: Okay, okay.

19 THE MARSHAL: All rise for the jury.

20 [Jury in at 11:05 a.m.]

21 [Within the presence of the Jury]

22 THE COURT: Please be seated. Welcome back ladies and  
23 gentlemen, and thank you, very much for your patience and your  
24 service. As I stated previously, and maybe even more than once,  
25 from time to time issues arise that aren't anticipated, and so we

1 sometimes need to deal with those outside your presence, so thank  
2 you for your patience.

3 So is State ready to proceed?

4 MS. RHOADES: Yes, Your Honor. State calls Venice  
5 Madden.

6 THE MARSHAL: And you will stand and face the Clerk.

7 THE CLERK: Please raise your right hand.

8 VENICE MADDEN, STATE'S WITNESS, SWORN

9 THE CLERK: For the record, please state and spell your  
10 first and last name.

11 THE MARSHAL: And speak into the microphone, please.

12 THE WITNESS: That did she say?

13 THE MARSHAL: Spell and state --

14 THE CLERK: Yeah, please state and spell your first and last  
15 name.

16 THE WITNESS: Venice Madden, V-e-n-i-c-e M-a-d-d-e-n.

17 MS. RHOADES: May I approach the witness, Your Honor?

18 THE COURT: Sure.

19 DIRECT EXAMINATION

20 BY MS. RHOADES:

21 Q Good morning, Venice.

22 A Hi.

23 Q How are you?

24 A Good, how are you?

25 Q I'm good. So I'm going to move this a little closer, so you

1 don't have to bend forward to talk. You should just be able to talk  
2 normal and talk right into it, okay?

3 A Yeah.

4 Q And also, when you answer questions, you have to say yes  
5 or no. You can't say uh-huh or huh-uh. Okay.

6 A Okay.

7 Q And you have to speak up for me, okay. Because I'm going  
8 to stand back here and -- and talk to you like I'm back here, okay.

9 A Okay.

10 Q Okay. How old are you?

11 A I'm 12.

12 Q What grade are you in?

13 A Seventh.

14 Q When is your birthday?

15 A May 4th, 2007.

16 Q So are you going to be 13 this year?

17 A Yes.

18 Q Where do you go to school?

19 A J. Harold Brinley Middle School.

20 Q Do you like school?

21 A Yeah.

22 Q Do you have a favorite subject in school?

23 A Science.

24 Q Why is science your favorite subject?

25 A It's just fun to learn.



1 Q Do you like any other subject in school?

2 A English.

3 Q Who do you live with Venice?

4 A My mom and my brother.

5 Q What's your mom's name?

6 A Kimberly Madden.

7 Q What is your brother's name?

8 A Rodriquez Madden.

9 Q Does he have a nickname?

10 A Rara.

11 Q How old is Rara?

12 A He's 8.

13 Q Do you guys get along?

14 A Yeah.

15 Q What kinds of things do you like to do for fun?

16 A Watch movies.

17 Q Do you have a favorite type of movie?

18 A No.

19 Q Do you know Arianna Whatley?

20 A Yeah.

21 Q How do you know her?

22 A She was my friend.

23 Q Are you guys still friends?

24 A No, we don't talk no more.

25 Q Do you know about the last time, what grade you were in,

1 when last time you talked to her?

2 A No, I don't remember.

3 Q Is there any reason why you don't talk anymore?

4 A No.

5 Q How did you know Arianna?

6 A She used to go to school with -- I think it was with me, or  
7 with my tía.

8 Q Your tía, you said?

9 A Yeah, my aunt.

10 Q I think you said it better than me --

11 COURT RECORDER: We need her to speak up. The jury  
12 can't hear this.

13 BY MS. RHOADES:

14 Q So you have to talk louder. So I'm going to try to talk  
15 louder, and you talk louder with me, okay?

16 A Okay.

17 Q Okay. So you know Arianna from your aunt, you said?

18 A Yes.

19 Q What's your aunt's name?

20 A Gabby.

21 Q How is it that you knew Arianna from your aunt?

22 A They used to be friends. They used to be -- like go to  
23 school together.

24 Q Is Arianna your same age, or older than you --

25 A She's --

1 Q -- or younger?

2 A -- older than me.

3 Q Do you know how much older she is than you?

4 A No.

5 Q And is your aunt -- is she older than you, too?

6 A Yeah.

7 Q Okay. Do you know Dequincy Brass?

8 A Yeah.

9 Q How do you know him?

10 A He was my mom's ex-boyfriend.

11 Q Do you remember what grade you were in when you first

12 met Quincy?

13 A Third grade, I believe.

14 Q Where were you living when you first met him?

15 A In my house. My -- the house that is on Arden Valley.

16 Q Do you know the address?

17 A 737 Arden Valley Avenue.

18 Q Is that in Las Vegas, Henderson, or something else?

19 A Henderson.

20 Q And what grade were you in when you first started

21 hanging out with Arianna?

22 A I don't remember.

23 Q Did she live in the same neighborhood as you?

24 A Yeah, she lived in the neighborhood with me.

25 Q Would you go to -- over to her house?

1 A Yeah.

2 Q Would she come over to your house?

3 A Uh-huh.

4 Q Is that a yes?

5 A Yes, sorry, I'm sorry.

6 Q That's okay. Would you guys play anywhere else besides

7 each other's houses?

8 A Like the park and stuff like that.

9 Q Did you guys go to the Boys and Girls Club together?

10 A Yeah.

11 Q Can you tell us a little bit about the Boys and Girls Club?

12 Where was it at?

13 A It was like down the street by our -- by my school.

14 Q Was there a park near it?

15 A Yeah, there was a park near it.

16 Q When you first met Quincy, how did that come about?

17 A I needed help with my sight words.

18 Q Can you tell me what are sight words?

19 A Like words that I needed help like learning for my grade.

20 Q Where was he at when you first met him?

21 A What do you mean by that?

22 Q Were you guys out at some place or --

23 A Oh, I don't remember.

24 Q Okay. When he -- when you needed help with your sight

25 words, where were you at? School, home, somewhere else?

1 A There would be times we'd be like at home, and -- yeah.

2 Q So you knew him as your mom's boyfriend.

3 A Yeah. After like -- at first, she was like -- they were just  
4 friends.

5 Q Did he ever live with you?

6 A Yeah.

7 Q When did he live with you?

8 A After -- like -- probably couple -- -like probably like a year  
9 later.

10 Q Do you remember what grade you were in that he lived  
11 with you?

12 A No.

13 Q Do you remember what school you were going to when he  
14 lived with you?

15 A No.

16 Q When he moved in with you, who all was living in your  
17 home?

18 A It was me and my mom and my brother.

19 Q Was it at the Arden Valley home?

20 A Yeah.

21 Q When Quincy would help you with your sight words, did  
22 he do that at home?

23 A Sometimes, yeah.

24 Q So sight words are -- like what are they?

25 A They're just like words you're supposed to like know how

1 to say and like sound out and stuff.

2 Q So kind of like homework?

3 A Yeah.

4 Q And Quincy helped you with those?

5 A Uh-huh.

6 Q Is that a yes?

7 A Yes.

8 Q What else did Quincy do around the house?

9 A He would just help me with my sight words and stuff.

10 Q Did you get along with him?

11 A At the time, yeah.

12 Q At some point, did you stop getting along with him?

13 A I don't really think so, no.

14 Q So when you say at the time; what do you mean by that?

15 A Like I was like getting along with him. I was just like, yeah.

16 Q I need you to speak up, okay. So can you tell me what you  
17 mean by at the time you were getting along with him? Was there  
18 some time that you didn't get along with him anymore?

19 A There was just time it would be problematic, but, yeah,  
20 other than that, yeah.

21 Q Do you remember why you were made at him?

22 A No.

23 Q No?

24 A No.

25 Q Do you know if there's anything different about Quincy's

1 hands?

2 A Yeah, they're like -- they're like just like shaped different.

3 Q Can you describe how they're shaped different?

4 A They're like curved.

5 Q So you talked about some of the things that Quincy did  
6 that -- that he helped you with. Did he ever do something to you that  
7 you didn't want him to do?

8 A Yeah.

9 Q What did he do to you?

10 A He hurt me.

11 Q When you say he hurt you, did he do that one time, or  
12 more than one time?

13 A More than once.``

14 Q What do you mean when you say that he hurt me?

15 A He touched me.

16 Q Can you tell us about a time that you remember when that  
17 happened?

18 A Uh-huh. Yeah. We were downstairs in the living room.  
19 Well, I was downstairs in the living room and I was watching TV.  
20 And then he came downstairs and then yeah, he hurt me.

21 Q Venice, I'm going to show you some pictures, okay. Your  
22 Honor, permission to publish exhibits that have already been  
23 admitted.

24 THE COURT: Permission granted.

25 MS. RHOADES: Thank you.

1 BY MS. RHOADES:

2 Q Okay. I'm showing you State's 15. It's already been  
3 admitted. Do you recognize that?

4 A Yeah.

5 Q And where is that?

6 A That's the living room.

7 Q And then showing you State's 14. Is that the same living  
8 room?

9 A Yeah, it's the same living room.

10 Q Going back to 15, do you see this -- this kind of, it looks like  
11 a few stairs going down toward the right?

12 A Yes.

13 Q What's that over there?

14 A That's another living room.

15 Q How do you tell the difference between living rooms?

16 A It's like one has a fireplace and one doesn't.

17 Q Is this the living room with the fireplace or without?

18 A Without the fireplace.

19 Q Showing you State's 17. What's this?

20 A The second living room.

21 Q That's the one with the fireplace?

22 A Yeah.

23 Q And then State's 19. Is that the second living room again?

24 A Yes.

25 Q And you can kind of see the kitchen over there from that?



1       A     Yeah.

2       Q     So this time that you're telling us about that he hurt you,  
3 you said it was in the living room. Which living room was it?

4       A     The first one.

5       Q     The one with the fireplace or without?

6       A     Without the fireplace.

7       Q     Without, okay. When he hurt you, do you remember what  
8 grade you were in, or how old you were?

9       A     I think it was third grade.

10      Q     Do you remember --

11      A     I don't really -- really remember the grade.

12      Q     Can you speak up a little bit?

13      A     Yeah.

14      Q     Do you remember how old you were?

15      A     No.

16      Q     I'm showing you State's 15. When he hurt you, was the  
17 living room that you're talking about right now, was it set up like this,  
18 or was it set up differently?

19      A     It was set up differently.

20      Q     How was it set up?

21      A     Like the TV was over there, and the couch was over there.

22      Q     And you can mark on there. I don't know exactly how to  
23 do it, but you can just describe for us, too. So where was the TV  
24 when he hurt you?

25      A     It was like there. Kind of over here.

1 Q Which side of the picture?

2 A Like by the couch -- like the bigger couch area. This one.

3 Q Where the black couch is?

4 A Yeah.

5 Q So the TV was on the right side of the picture that we're  
6 looking at, right?

7 A Uh-huh.

8 Q Is that a yes?

9 A Yes.

10 Q And then was it that same black couch that was in there?

11 A Yeah. It was over here, though. Like right here.

12 MS. RHOADES: And may I approach your staff, Your  
13 Honor.

14 THE COURT: Sure.

15 MS. RHOADES: I need the mouse.

16 BY MS. RHOADES:

17 Q Okay, I'm going to -- bear with me, okay. Okay, so show  
18 me where the black couch was.

19 A It was over here.

20 Q So the black couch was over where that white kind of chair  
21 thing was; is that right?

22 A Yeah.

23 Q Were those chairs that you see on the left side of the  
24 picture in the living room?

25 A Like these?

1 Q Yes.

2 A Yeah, they were there.

3 Q Where were they?

4 A They were right -- I think they were right here. Yeah, I  
5 believe they were right there.

6 Q How about that white chair? Was that in the living room,  
7 too?

8 A I think that was in the other living room, because we had  
9 the whites ones in the other living room.

10 Q All right. So you remember that black chair in the upper  
11 left corner being kind of similar there, and then that black couch was  
12 on that same side; is that right?

13 A Yes.

14 Q Okay. So how did he hurt you in this living room?

15 A He put his like -- he touched -- like he put his private part  
16 [indiscernible].

17 Q I'm going to need you to speak up a little bit, okay. You  
18 said he put his private part -- he touched you with his private part?

19 A Yeah.

20 Q Where on your body did he touch you with his private  
21 part?

22 A Inside my private part.

23 Q Where did that happen in the living room?

24 A On the couch.

25 Q And when you say his private parts, do you know another

1 word for his private part?

2 A Yeah, his -- his penis.

3 Q Do you know another word for your private part?

4 A Vagina.

5 Q So it was on the couch that it happened; is that right?

6 A Yes.

7 Q Can you tell us how it started?

8 A I was downstairs watching TV and then he came  
9 downstairs. And the was just like sitting kind of by me. And then he  
10 touched my leg. And, yeah, like. That's how it started.

11 Q After he touched your leg, what happened?

12 A He was -- he was like, shh, don't tell. And then he -- like he  
13 put his like hand up a little bit higher. And then, he did that. He  
14 touched me.

15 Q So he put his hand on your leg and his hand moved up a  
16 little bit higher. What part of his body -- what part of your body did  
17 his hand move to?

18 A Like my leg. Like is that what you mean by?

19 Q Well, you said that he first put it on your leg; is that what  
20 you said?

21 A Yes. He put his hand on my leg.

22 Q And then you said he moved it up higher, right?

23 A Yes.

24 Q So what part of your body did he move his hand to?

25 A It was like going up to my private area.

1 Q Did he touch your private area?  
2 A Yeah.  
3 Q With his hand?  
4 A Yes.  
5 Q Do you remember what you were wearing? Is that a no?  
6 A No.  
7 Q Do you remember what you were watching on TV?  
8 A I think it was like Sponge Bob or something like that.  
9 Q Did you watch Sponge Bob a lot?  
10 A Yeah.  
11 Q Do you remember if anybody else was home?  
12 A I don't think nobody was home, no.  
13 Q Do you remember if you had a blanket, or anything that  
14 you were laying with on the couch?  
15 A Oh, I don't remember.  
16 Q Do you remember what he was wearing?  
17 A No.  
18 Q When he touches you on his private with his hand, does he  
19 do that over your clothes, or under your clothes?  
20 A He could do it both.  
21 Q So in this time that you're telling us about, did he touch  
22 you over or under your clothes?  
23 A Over.  
24 Q What did he do with his hand while he was touching you  
25 there over your clothes?

1 A What do you mean by that like?

2 Q Did he do anything with his hand?

3 A Yeah, he was moving it up towards my -- to my private

4 area.

5 Q So when he had his hand on your private area, did he do

6 anything with his hand while it was there?

7 A No, he just had it there.

8 Q And then what happened after that?

9 A And then he told me to shh, don't tell. And then, yeah.

10 Q And then what happened after that?

11 A And then he told me to take my clothes off.

12 Q Did you take your clothes off?

13 A Yeah.

14 Q Why did you take your clothes off?

15 A Because I was scared.

16 Q When he told you, shhh, don't tell, did he say anything,

17 what would happen if you told?

18 A Something bad would happen.

19 Q After you took your clothes off, what happened?

20 A He told me to sit on top of his lap.

21 Q And where -- where was that in the living room?

22 A Like on the couch.

23 Q Still on the couch?

24 A Yeah.

25 Q Did anything happen with Quincy's clothes?

1 A Yeah, they came off.

2 Q At what point did Quincy's clothes come off?

3 A Like what do you mean? Like what happened?

4 Q Well, speak up a little bit. Did your clothes come off first,  
5 or did his clothes come off first?

6 A I don't remember. I think it was mine.

7 Q Did all of his clothes come off?

8 A It was his pants.

9 Q Did he have a shirt on still?

10 A Yes.

11 Q And when he told you to sit on his lap, did you do that?

12 A Yes.

13 Q Is that while you were naked?

14 A Yes.

15 Q And is that while Quincy had his pants off?

16 A Yes.

17 Q Did he have his underwear off, too?

18 A Yes.

19 Q And so how did you sit on him, while you were naked?  
20 You said that was on the couch. Was somebody's bottom on the  
21 couch?

22 A Yes.

23 Q Whose bottom was on the couch?

24 A Quincy's.

25 Q And where was your bottom?

1 A On top of him. His like legs, I guess you could say.  
2 Q How were your legs positioned?  
3 A Like facing the wall. Like, yeah, facing the wall.  
4 Q Could you see Quincy's face?  
5 A Yeah.  
6 Q So you guys were facing each other?  
7 A Yes.  
8 Q And so your bare chest was facing his chest; is that right?  
9 A Yes.  
10 Q What happened after you were sitting on him like that?  
11 A He told me to get on top of him again and he put his  
12 privates right into me.  
13 Q And what happened after that?  
14 A He touched me.  
15 Q Where else on your body did he touch you?  
16 A On my chest.  
17 Q What did he touch your chest with? What part of his body?  
18 A His hand.  
19 Q Did he touch you anywhere else on your body?  
20 A Not that I remember, no.  
21 Q So that time that you're telling us about, did he touch you  
22 anywhere else on your body with his private?  
23 A No.  
24 Q Did you touch him? Did he tell you to touch him anywhere  
25 on his body?



1 A Not during that time, no.

2 Q Do you remember what you were feeling when this was  
3 happening?

4 A I was scared.

5 Q Did you feel any -- anything physical while this was  
6 happening?

7 A No, I was just in pain.

8 Q How did that stop?

9 A I think -- I don't really remember. I think my mom was in  
10 the car on the way home, or something. I don't remember.

11 Q At some point, did you get off of him?

12 A Yeah.

13 Q So how did that happen?

14 A He told me to get off of him.

15 Q And did it stop after you got off of him that time?

16 A Yeah.

17 Q Did you tell anybody what happened after that happened?

18 A No.

19 Q How come?

20 A Because he said something bad was going to happen.

21 Q Did you believe him?

22 A Yeah, I did.

23 Q What did you think would happen if you told?

24 A I don't know, I thought like my mom would get hurt or  
25 something, or like my brother.

1 Q Was there another time that Quincy did something to hurt  
2 you?

3 A Yeah. In the other living room.

4 Q I'm going to show you that again. Your Honor, permission  
5 to approach?

6 THE COURT: Sure.

7 BY MS. RHOADES:

8 Q I'm publishing State's 17. Is that the other living room that  
9 we're talking about?

10 A Yes.

11 Q That's the one with the fireplace?

12 A Yes.

13 Q When Quincy hurt you that time in this living room, do you  
14 remember what grade you were in?

15 A No.

16 Q Do you remember how old you were?

17 A No.

18 Q Were you friends with Arianna when that happened?

19 A I believe so, yeah.

20 Q Do you remember who else was home?

21 A No. I don't think anybody was home.

22 Q Was the living room that we're looking at, was it set up the  
23 same as it is in this photo?

24 A Yes.

25 Q So how did he hurt you in this living room?

1 A Like on the couch area, over by the couch on the floor.

2 Q By the couch area, so the one on the left?

3 A This one, yeah.

4 Q And you said it was on the floor?

5 A Yeah, it was like right there.

6 Q And since I can't get the technology to work, you're  
7 pointing to right in front of this couch. If you look at me right here,  
8 right in front of this couch here?

9 A Yeah.

10 Q Okay. How did this time start?

11 A It was watching TV, I think downstairs, or -- yeah. I was  
12 downstairs watching TV.

13 Q Do you remember what you were watching?

14 A No.

15 Q What happened?

16 A I was downstairs and like sitting like right here. And then  
17 he was -- I don't know where he came from. And then he -- he came  
18 in there and then, yeah, he hurt me in another room.

19 Q How did he hurt you?

20 A He told me to take off my clothes. And then I did it for like  
21 over here and then, yeah, he put his private part inside of me and it  
22 hurt.

23 Q And you said and then?

24 A Yeah, like he put his private part inside of me.

25 Q Okay. When you took off your clothes, you pointed to

1 somewhere on the picture. Where were you pointing to?

2 A Like right here.

3 Q Okay, so over --

4 A Like this area.

5 Q -- and look at me again. Over here by this chair, is that

6 where you took your clothes off?

7 A Yes.

8 Q Okay. Why did you take your clothes off that time?

9 A Because he told me to.

10 Q Did anything happen with his clothes?

11 A Yeah, they came off, too.

12 Q When did they come off?

13 A Like the time I was taking my clothes off.

14 Q Did all of his clothes come off at that time; or just some of

15 them?

16 A It was all of his clothes.

17 Q So he took his top off, too, that time? Is that a yes?

18 A Yes.

19 Q Okay. And did all of your clothes come off?

20 A Yes.

21 Q You said he put his private inside your private; is that

22 right?

23 A Yes.

24 Q Where in the living room did that happen?

25 A Like right -- like right by the couch. Like right around the

1 couch.

2 Q Was it on the floor or on the couch?

3 A It was on the floor.

4 Q Was there anything on the floor when he did that?

5 A I don't --

6 Q Like a blanket or anything?

7 A I don't remember.

8 Q Okay. How was his body positioned when he did that?

9 A It was like -- like he was like on his knees like right here.

10 Like I don't know how to explain it. It was like right here.

11 Q Let me try that. Okay, so he's on his knees in front of the  
12 couch on the left; is that right?

13 A Yes.

14 Q Okay. And how is your body positioned?

15 A Like I'm on my hands and knees.

16 Q Can you repeat that?

17 A I'm like on my hands and my knees.

18 Q On your hands and your knees?

19 A Yeah.

20 Q And are you touching any part of his body?

21 A No, not at the time. I'm just like right here.

22 Q So you're on your hands and your knees, and he's on his  
23 knees; is that right?

24 A Yes.

25 Q And then what happens?

1 A And then he put his privates inside of my butt.

2 Q And how were your bodies positioned when he did that?

3 A Like I was right here and then he was right here.

4 Q Were you kneeling, standing, laying, something else?

5 A I was like on my hands and my knees, like, yeah. I don't

6 really know how to explain it.

7 Q Okay. Was he under you?

8 A No.

9 Q You said he put his private part where?

10 A In my butt.

11 Q Okay. And you said earlier that he put his private in your

12 private; is that right?

13 A Yeah.

14 Q And is your butt different than your private?

15 A Yes.

16 Q Is he behind you when he's doing that?

17 A Yes.

18 Q How did that feel when he did that?

19 A It didn't feel good.

20 Q Before he did that, did he touch you anywhere on your

21 body?

22 A No, not that I remember.

23 Q Okay. Did he use his hands at all to touch you?

24 A Yeah. He touched my private with his hands.

25 Q This time in the living room, he touched your private with

1 his hands?

2 A Yes.

3 Q When he touched your private with his hands, do you  
4 know if his finger went inside your private?

5 A Yes.

6 Q It did? Is that a yes?

7 A Yes.

8 Q Okay. Do you remember if that happened before or after  
9 he put his private inside your butt?

10 A It was -- I think it was like before. I'm sure it was before.

11 Q When he put his private inside your butt, what, if  
12 anything, was he saying when he was doing that?

13 A He was like making a noise. I don't really remember.

14 Q Do you remember him saying anything to you?

15 A He was like shhh. That's all I remember.

16 Q After he put his private inside your butt, what happened?

17 A It stopped eventually. Yeah, it stopped.

18 Q Did he touch your butt with his hand ever? This time in  
19 the living room that we're talking about.

20 A No, I don't remember him touching my butt in the living  
21 room.

22 Q Can you repeat that, please?

23 A No, I don't remember him touching my butt in this living  
24 room.

25 Q When he put his private inside your private, where were

1 you at in the living room?

2 A I was right here, still like in front of the couch.

3 Q In front of the couch?

4 A Yeah.

5 Q Okay. How were your bodies positioned?

6 A Like -- like I showed you before. It was like right here and  
7 over here, and then right there.

8 Q So was he kneeling, laying, standing, something else?

9 A He was like facing me like here. He was on his knees.

10 Q He was on his knees?

11 A Yeah.

12 Q Okay. And how was your body?

13 A I was like facing towards this way and then I was like on  
14 my hands and knees.

15 Q I can't hear you, honey, you're going to --

16 A I was facing this way and then I was on my hands and my  
17 knees.

18 Q So you were on your hands and your knees and he was on  
19 his hands and -- he -- his knees?

20 A He was on his knees, yeah.

21 Q Okay. So how did he put his private inside your private?

22 A He put it -- like if my butt was facing this way.

23 Q Is your butt facing toward him?

24 A Yes.

25 Q Did he put his private inside your private after or before he



1 put it in your butt?

2 A He put -- he put his private in my butt before he put it in  
3 my -- my vagina.

4 Q Was he still in that same position? So you described the  
5 position that he was in when he put his private in your butt, right?

6 A Yes.

7 Q Was he still in that same position when he put his private  
8 in your private?

9 A No.

10 Q Okay, so tell me how it changed.

11 A I was -- well, he was, but I was like laying this way, like, I  
12 don't know how to explain it. Like this way.

13 Q So you're laying against that white couch; is that right?

14 A Yes.

15 Q So is your back to the white couch?

16 A Yes.

17 Q Okay. Are you sitting on your bottom?

18 A Yes.

19 Q All right. And then how was he?

20 A Oh, he was -- I don't really know how to explain it, but he  
21 was like right -- he was in front of me, like --

22 Q He was in front of you on his knees you said?

23 A Yes.

24 Q Was he on his hands?

25 A He was like -- I don't know how to really explain it. Like --

1 Q Let me see if I can get this. There you go. It wasn't  
2 working over there. Okay. Now, if you move this, I think if we click  
3 this red thing here, you can draw on it. And then I think if we click  
4 home, and then I have to come --

5 UNIDENTIFIED SPEAKER: He erased that.

6 BY MS. RHOADES:

7 Q Okay. So we can draw -- well, we can draw like this, okay?  
8 Just like a regular mouse on a computer. And then I think this will  
9 clear it. So show us where you were in the living room when he put  
10 his private inside your private.

11 A I was right here in this area.

12 Q And you described for us you were sitting on your bottom  
13 with your back toward the couch, right?

14 A Yes.

15 Q And where was he?

16 A He was like right here.

17 Q And you said he was on his knees. Was he on his hands?

18 A He -- I don't think he was on his hands. I don't really  
19 remember.

20 Q And that's where he put his private in your private?

21 A Yes.

22 Q How did that feel when he did that?

23 A It hurted (sic).

24 Q Do you remember if he said anything to you while he was  
25 doing that?

1       A     No, he was just like shhh and then -- yeah, that's all he  
2 really said.

3       Q     And what happened after he did that?

4       A     Like I started crying.

5       Q     What did you say, honey?

6       A     I said I started crying.

7       Q     Okay. Did your body -- any part of your body touch any  
8 other part of his body this time in the living room that we're talking  
9 about?

10      A     Oh. My mouth touched his private.

11      Q     This time?

12      A     Yeah.

13      Q     Okay.

14      A     I think it was this time, yeah.

15      Q     So I'm going to erase this. So show us where you were at  
16 when your mouth touched his private.

17      A     I was right here. Right here.

18      Q     In the same spot that you were talking about before?

19      A     Uh-huh.

20      Q     Is that a yes?

21      A     Yes. Sorry.

22      Q     That's okay. In the same position? Were you on your  
23 bottom with your back turned toward the couch?

24      A     I was turned this way, like towards the couch.

25      Q     So now you were turned toward the couch?

1 A Okay.

2 Q Where was Quincy?

3 A He was right here, like right here on the couch.

4 Q Was he sitting down on the couch?

5 A Yes.

6 Q And you said your mouth touched his private?

7 A Yes.

8 Q Did his private go inside your mouth?

9 A Yes.

10 Q How did that happen?

11 A He told me to put it in my mouth.

12 Q When did that happen in relation to the other things that

13 you described for us happening?

14 A What do you mean by that?

15 Q So you said he put it in your butt before he put it in your

16 vagina, right?

17 A Yes.

18 Q And then so when did this happen when you put his

19 private in your mouth?

20 A Like, it happened after he put it in my private.

21 Q Do you remember him touching you anywhere else on

22 your body at this time?

23 A No.

24 Q Did anything else happen after you -- after this happened?

25 A It stopped and then he -- I went -- he told me to go put my

1 clothes back on and he put his pants back on, his clothes back on.

2 And then he told me not to tell my mom.

3 Q Did he tell you whether or not something would happen if  
4 you told your mom?

5 A Yeah, he just said something bad would happen. That's all  
6 he would say.

7 Q And did you think that that meant the same thing that you  
8 previously told us about?

9 A Yes.

10 Q Okay. Did you tell anyone about this incident right after it  
11 happened?

12 A No.

13 Q And why not?

14 A Because I thought something bad would happen if I told  
15 my mom.

16 Q Did something else happen? Was there another time that  
17 Quincy hurt you?

18 A Yeah. Yes.

19 Q Can you tell us where that was?

20 A It was one time in a hotel.

21 Q Do you know what hotel?

22 A I don't remember, but -- no, I don't really remember.

23 Q Do you remember if it was a big hotel or a small hotel?

24 Like was it a big hotel you had to use elevators or a small hotel

25 where there were only stairs?

1 A It was -- you had to use elevators.

2 Q One where you had to use elevators?

3 A Yes.

4 Q Okay. When you went to this hotel, who went?

5 A It was me and him and Arianna went to this hotel.

6 Q So you, him and Arianna went to the hotel?

7 A Yes.

8 Q Is that a yes?

9 A Yes.

10 Q Do you remember what grade you were in when this

11 happened?

12 A No.

13 Q Do you remember if it was cold or hot outside or

14 something else?

15 A No, I don't remember.

16 Q Do you remember what you were wearing?

17 A No.

18 Q Do you remember anything else going on earlier in the

19 day?

20 A No, not really. I think it was like school or something. No,

21 I don't really remember actually.

22 Q Do you remember how you and Arianna were together?

23 Like what were you guys doing together in the first place?

24 A I think we like got off school or something and then we

25 were like at the park because that's where we always used to go.

1 Q Was it daytime or nighttime when --

2 A It was daytime.

3 Q Okay. All right. And so what happened when you go to  
4 the hotel?

5 A He took us in the room and then he hurt me and her.

6 Q How did you get to the room?

7 A Because he took -- he drove us there.

8 Q When you got to the building, how was it that you got in --  
9 up into the room?

10 A Like, he went to the register, then he -- and then he took us  
11 up to the room.

12 Q So say that one more time and talk a little bit louder.

13 A He went to the register, to the -- I don't know what it's  
14 called -- and then he took us up to the room.

15 Q Did you take stairs or an elevator?

16 A An elevator.

17 Q Do you remember anything about the room? What it  
18 looked like?

19 A It had a bed, a little couch and there was like a table.

20 Q Do you remember anything else about the room?

21 A No.

22 Q You said he hurt you and Arianna. Tell us how it started  
23 and the first thing that happened when you guys went into the room.

24 A We went to the room, and then, like, I sat on the couch and  
25 then she sat like on the bed towards like the end of the bed. And

1 then we were just chilly there for a little bit. And then he told us to  
2 take our clothes off and then -- yeah, then he hurt us.

3 Q And then he hurt you?

4 A Yeah, me and her.

5 Q So when he told you to take your clothes off, do you  
6 remember taking them off right away?

7 A No, not really right away. Like, it was like kind of slowly.  
8 And then just like took them off.

9 Q Did all of your clothes come off?

10 A Yes.

11 Q And how about Arianna? Did you see her clothes come  
12 off?

13 A Yeah, her clothes came off, too.

14 Q Did you want to take your clothes off?

15 A No.

16 Q Could you tell whether or not Arianna wanted to take her  
17 clothes off?

18 A No.

19 Q You couldn't tell?

20 A No, it just didn't seem like she wanted to.

21 Q What did you see that made it seem like she didn't want  
22 to?

23 A She was just like looked a little sad.

24 Q Did anything happen with Quincy's clothes?

25 A Yeah, they came off.



1 Q And what happened?

2 A And then he hurt us on the bed.

3 Q So tell us what happened. What happened first? How did  
4 he hurt you?

5 A He hurt Arianna first. And, like, he put his private inside  
6 her butt, and then he hurt me. He did the same thing with me.

7 Q Where were you at when he hurt you?

8 A I was on the bed.

9 Q Where was Arianna at when he hurt her?

10 A She was on the bed.

11 Q Were you guys all three on the same bed?

12 A Ah, yeah.

13 Q Was there one bed in the room or more than one bed?

14 A There was one bed.

15 Q You said he put his private in your butt?

16 A Yes.

17 Q Did it go inside of your butt?

18 A Yes.

19 Q How did that feel when it went inside of your butt?

20 A It hurted.

21 Q Was there -- do you remember anything -- was there  
22 something on TV or the radio or anything at that time?

23 A It was like this video. It was like -- yeah, it was just like this  
24 video.

25 Q What kind of video?

1 A It was like a nasty video.  
2 Q A nasty video?  
3 A Yeah, like -- yeah.  
4 Q That was playing at the time this happened?  
5 A Yes.  
6 Q Did he put his private anywhere else on your body?  
7 A Not that I really remember. He put it on my -- his hands on  
8 my chest, but...  
9 Q Okay. So he touched you on your chest with his hands; is  
10 that right?  
11 A Yes.  
12 Q Did he touch you anywhere else on your body using his  
13 hands?  
14 A He put his hand in my private.  
15 Q So he touched your private with his hand as well --  
16 A Yes.  
17 Q -- right? When he did that, did his finger go inside your  
18 vagina?  
19 A Yes.  
20 Q Did he touch you anywhere else on your body with his  
21 private?  
22 A No, not that I remember.  
23 Q Did your mouth touch his private?  
24 A I don't think -- not that time. No, I don't believe so.  
25 Q Did you see him do anything else to Arianna?

1 A Yeah, he did the same thing to her.

2 Q And what did you see him do to her?

3 A He put his private part in his butt -- her butt and then he  
4 hurt her with his hand.

5 Q When you say he hurt her with his hand, what did you see  
6 him do with his hand?

7 A He put his fingers inside her private part.

8 Q Did you see his hand touch anywhere else on her body?

9 A No.

10 Q Do you remember if he was saying anything while this was  
11 happening?

12 A No.

13 Q Were you or Arianna saying anything while this was  
14 happening?

15 A No, we were just like crying.

16 Q Do you remember going to the bathroom with Arianna this  
17 time in the hotel room?

18 A No.

19 Q How did it stop?

20 A It just stopped after a little while. And then he just like  
21 stopped, and then we went to go put our clothes back on. And then  
22 we were just like sitting on the thing, and we were just like sad.

23 Q Did he hurt you in that hotel room one time or more than  
24 one time?

25 A It was one time in that hotel.

1 Q One time in that hotel?

2 A Yeah. I mean yes.

3 Q What, honey?

4 A I said I mean yes.

5 Q Okay. And did you put your clothes back on eventually?

6 A Yes.

7 Q Where were you at in the hotel room when you put your  
8 clothes back on?

9 A It was like towards like the side, like, not right in front of  
10 everybody. It was just like towards the side.

11 Q How about Arianna? Did you see her put her clothes back  
12 on?

13 A She put her clothes on like towards the side, too.

14 Q And you said it was daytime or nighttime when you got  
15 there?

16 A Daytime.

17 Q When you left, was it daytime or nighttime?

18 A It was like getting like night like around I would say like  
19 later on then. It was like going down. The sun was like going down.

20 Q So it wasn't dark yet, but --

21 A No, it was like --

22 Q -- getting dark?

23 A Yeah.

24 Q When you left the hotel, where did you go?

25 A I went home.

1 Q And do you know where Arianna went?

2 A Arianna went home, too.

3 Q How did Arianna get home?

4 A He took her home.

5 Q When you say he, do you mean Quincy?

6 A Yes.

7 Q Do you remember what kind of car you guys were in?

8 A No. It was like a black car, but I don't really remember.

9 Q Do you remember if it had two doors, four doors?

10 A Four doors.

11 Q Okay. And it was a car not a truck or a van or something?

12 A No.

13 Q Was there another time that Quincy hurt you?

14 A Yeah. Yes.

15 Q Can you tell us about that?

16 A Yeah, it was just another hotel time.

17 Q Another hotel time?

18 A Yeah.

19 Q So who went to the hotel this time?

20 A It was me.

21 Q Just you?

22 A Yes.

23 Q And Quincy?

24 A Yes.

25 Q Do you remember what hotel it was?

1 A No.

2 Q Do you remember if it was a big hotel with elevators or a  
3 small hotel?

4 A It was a big hotel.

5 Q Okay. Did you have to take the elevator to get up to the  
6 room?

7 A Yes.

8 Q Do you remember what grade you were in when this  
9 happened?

10 A No.

11 Q Do you remember how old you were?

12 A No.

13 Q And this time that you went to the hotel, what happened?

14 A He did the same thing. He hurt me in the room.

15 Q How did you get to the hotel?

16 A He took us there -- took me there. My bad. He took me  
17 there.

18 Q Okay. And then what kind of car did he take you there?

19 A It was in the same car.

20 Q It was in the same car?

21 A It was in the same car.

22 Q Oh, okay. So when you get up into the room, you said he  
23 hurt you. What did he do?

24 A He put his private part in my butt and then in my other  
25 private part and then -- yeah, that's what he did.

1 Q Can you describe the room for us?

2 A It had like a little chair kind of by the window and then  
3 there was like a table and then there was just a bed.

4 Q I didn't hear that last part.

5 A It was just a bed, like there was a bed.

6 Q Okay. Do you remember anything about the bathroom or  
7 anything at all?

8 A No.

9 Q Was it the same hotel that he took you and Arianna to or  
10 was it a different hotel?

11 A It was a different hotel.

12 Q Do you remember where it was at?

13 A It was like on the Strip area, like by the Strip.

14 Q And how do you know it was on the Strip area?

15 A Like you seen all the little people and everything.

16 Q Had you ever been to that hotel before?

17 A No.

18 Q How about the hotel that he took you and Arianna to? Had  
19 you ever been to that hotel before he took you guys there?

20 A Yeah.

21 Q But you don't know which one it was?

22 A I forgot what it -- I forgot what it was called, but my mom  
23 used to take me there all the time like for my birthday.

24 Q So in this hotel room, you said he put his private part in  
25 your butt; is that right?

1 A Yes.

2 Q Okay. How did it start?

3 A I really don't remember how it started. But I was just in the

4 room and then he was in the room. And then he was, like, take my

5 clothes off, and so I did. Yeah.

6 Q Okay. You said he told you to take your clothes off so you

7 did?

8 A Yes.

9 Q Did you take all of your clothes off?

10 A Yeah.

11 Q And did anything happen with Quincy's clothes?

12 A Yeah, they came off.

13 Q And where were you guys at when you said he put his

14 private in your butt? Where were you at in the room?

15 A It was on the bed.

16 Q How were your bodies positioned?

17 A Mine was like on my stomach, and then his was like

18 standing up.

19 Q So your stomach was on the bed?

20 A Yes.

21 Q And Quincy was standing up?

22 A Yes.

23 Q Behind you?

24 A Yes.

25 Q Okay. And then you said he put his private part



1 somewhere else?

2 A Oh, he put it in my butt and in my other private part.

3 Q Which one did he do first?

4 A It was my butt.

5 Q Did your body move in any way?

6 A It like shivered, but yeah.

7 Q You said your body shivered when that happened?

8 A Yeah.

9 Q When he put his private in your private, are you talking  
10 about your vagina?

11 A Yes.

12 Q Were you still in that same position when his private went  
13 inside of your vagina?

14 A No, I was like the other way around. Like flipped the other  
15 way.

16 Q So now you were on your back on the bed?

17 A Yes.

18 Q And was he still standing up?

19 A Yes.

20 Q What happened after he put his private inside your  
21 private?

22 A I just like started, like, just crying, like, and just screaming,  
23 but -- yeah.

24 Q Do you remember if he said anything to you?

25 A He was just like shhh and then, yeah.

1 Q And what happened after that?

2 A And then like it stopped eventually.

3 Q Do you know what made it stop?

4 A No, I think it was just -- it just stopped.

5 Q And what happened after it stopped?

6 A I was just like sad, and then I went to go put my clothes

7 back on. And then I went to go sit down somewhere like on the

8 couch.

9 Q And did Quincy put his clothes back on?

10 A Yes.

11 Q Did you guys do anything else in the hotel room?

12 A No.

13 Q Where did you go after the hotel room?

14 A I went home.

15 Q Did Quincy go home with you?

16 A Yeah.

17 Q Do you remember -- I don't think I asked you this, but was

18 it -- do you remember if it was daytime, nighttime when you guys

19 went to the hotel?

20 A It was like darker. Oh, well, like when I was going to the

21 hotel?

22 Q When you went to the hotel at first, yes.

23 A Yeah, it was like light, it was light out. It was still daytime.

24 Q It was still daytime? Is that a yes?

25 A Yes.

1 Q Do you remember what else was going on during the day  
2 that day?

3 A No. No, I don't.

4 Q Okay. Do you know if you went to school that day or didn't  
5 go to school or you don't know?

6 A I think I went to school that day, and I got picked up early.

7 Q What makes you say that? What makes you think that?

8 A Because I had like a doctor's appointment that day because  
9 I wasn't really feeling good.

10 Q And who picked you up?

11 A Dequincy.

12 Q And who took you to the doctor?

13 A I didn't go.

14 Q So did you ever go to the doctor that time when you  
15 weren't feeling good?

16 A No.

17 Q Do you remember leaving school early because you didn't  
18 feel good?

19 A Yes.

20 Q Do you know where your mom was at?

21 A I think she was like at work. I don't remember.

22 Q Did Quincy pick you up often from school?

23 A Every once in a -- it was like --- yeah. Yeah.

24 Q When you said every once in a while --

25 A Yeah.

1 Q -- so who would pick you up more?

2 A I wouldn't really get picked up, like, it would just, like, I  
3 would just go to school, like --

4 Q How would you get home from school?

5 A It was the bus.

6 Q But this time you remember Quincy picking you up from  
7 school?

8 A Yes.

9 Q When you got home, do you remember if anybody was  
10 home?

11 A I don't remember if any -- I think my mom was home,  
12 yeah, and my little brother.

13 Q Was there ever a time at home where Quincy showed you  
14 a video?

15 A Yeah, I was in that living room with the fireplace.

16 Q The one with the fireplace?

17 A Yeah.

18 Q Okay. Tell us about that.

19 A He went to -- I was in the living room and then -- I think I  
20 was on a game, though. I don't really remember, though. And then  
21 he came downstairs. And then he like turned it off, and then he put  
22 like a movie in. And then it was that movie.

23 Q Can you describe the movie for us?

24 A It was just like with -- it was like a nasty movie with like a  
25 dude and girls.

1 Q Do you remember what the dude and the girls were doing?  
2 A He was hurting them.  
3 Q The dude was hurting the girls?  
4 A Yes.  
5 Q Were they wearing clothes or not wearing clothes?  
6 A They weren't wearing clothes.  
7 Q And you said he was hurting them. Do you remember  
8 exactly what he was doing to them?  
9 A No.  
10 Q But they were naked?  
11 A Yes.  
12 Q And is it a movie that you normally watch like with your  
13 mom?  
14 A No.  
15 Q Okay. Is that the same kind of movie that you remember  
16 being on when you were in the hotel room with Arianna?  
17 A Yes. It was like a different movie, but it was the same  
18 movie, you know, yeah.  
19 Q When you were in the living room with the fireplace and  
20 he had that movie on, did he hurt you?  
21 A Yes.  
22 Q What did he do that time?  
23 A He put his private part in my butt and then my other  
24 private part.  
25 Q And that's a different time than what you told us about?

1 A Yes.

2 Q Do you remember if that was daytime or nighttime?

3 A I don't remember.

4 Q Do you remember what grade you were in?

5 A I think I was like in fourth or something. I'm not really

6 sure, though.

7 Q Where were you at? We'll go back to this.

8 MS. RHOADES: If I may, Your Honor, publish 17?

9 THE COURT: Sure.

10 MS. RHOADES: Thank you.

11 BY MS. RHOADES:

12 Q Going back to State's 17, I think your mouse works. So

13 you said that he put his private in your butt. This time did he show

14 you the movie?

15 A Yes.

16 Q Okay. Where were you at when that happened?

17 A I was like right here. I was right here.

18 Q Oh, let me fix it for you. I'm sorry.

19 A It's okay.

20 Q Okay. There you go.

21 A I was right here.

22 Q Can you draw it for us?

23 A Oh, yeah.

24 Q Were you on the floor or on the couch?

25 A I was on the floor.

1 Q You were on the floor. And how did this time start?

2 A I was downstairs. And yeah, I was like playing a game or  
3 something. And then I think he was, like, upstairs and then he came  
4 downstairs.

5 Q And you were playing the game -- a game on what?

6 A It was like the Xbox.

7 Q When he showed you the video, was that on the Xbox?

8 A Yes.

9 Q Did he have to put a disc into the Xbox --

10 A Yes.

11 Q -- or something else?

12 A It was a disc.

13 Q And then you were sitting -- I'm sorry, you said on the floor  
14 or on the couch?

15 A I was on the floor.

16 Q And what happens?

17 A And then he came downstairs, and he hurt me in my butt  
18 and then my private part.

19 Q Did your clothes come off?

20 A Yeah.

21 Q How did your clothes come off?

22 A He told me to go take them off. So I went in the bathroom  
23 and went to go take them off.

24 Q You went in the bathroom to take off your clothes? Is that  
25 yes?

1 A Yes.

2 Q Can we see the bathroom in this picture?

3 A Yeah, it's right here. Right here.

4 Q Every time Quincy hurt you, did it kind of start off the same

5 way by him telling you to take off your clothes?

6 A Yes.

7 Q And there's water up there if you want it, okay?

8 A Okay.

9 Q So when he put his private in your butt, where were you

10 at?

11 A I was right there.

12 Q Okay.

13 A Where the red thing is.

14 Q And how was your body positioned?

15 A Like the same way it was like before. I was like right here.

16 Q You can draw on there.

17 A I was like right here.

18 Q So where is --

19 A I was --

20 Q -- your butt?

21 A My butt is right here.

22 Q The end of that line that you just drew?

23 A Yes.

24 Q And where is your chest?

25 A It's right here. Like right here.



1 Q Can you draw on there?

2 A Yeah. Like right here.

3 Q Okay. Are you bending? Like is your chest on top of the

4 couch or are you just facing the couch?

5 A Yeah, it's like on top of the -- it's like on top of the couch.

6 Q Okay. So your butt is kind of in the air?

7 A Yeah.

8 Q And your chest is on top of the couch?

9 A Yes.

10 Q Got you. Where's Quincy?

11 A He's right here. He's right here.

12 Q And he had his clothes off you said?

13 A Uh-huh.

14 Q Is that a yes?

15 A Yes.

16 Q When he touched your private with his butt (sic), did his

17 butt go inside your private -- your butt?

18 A Yes.

19 Q Did his private go inside your butt? I'm sorry.

20 A Yes.

21 Q Is that a yes?

22 A Yes.

23 Q Okay, honey. And then what happens after he does that?

24 A He just kept on putting it in. And then I was like crying, like

25 my face was in the couch. I was like crying.

1 Q Your face was in the couch and you're crying?

2 A Yeah.

3 Q And then what happens?

4 A And then he eventually like took it out. And then he told  
5 me to flip over, and then I did so --

6 Q And when you flipped over, how is it that you flipped over?  
7 Like what were you on now, if anything?

8 A My back was like faced like right here. My back was like  
9 right here. I don't want to draw. Well, you might not be able to see  
10 it, but it was like right here.

11 Q So was your back laying on the couch or were you  
12 standing up or something else?

13 A I was laying on the -- I was like leaning towards the back of  
14 the couch like here.

15 Q Was your butt -- was your bottom on the cushion?

16 A Yes.

17 Q It was. And how was his body?

18 A His body was like on -- he was like -- I don't know how to  
19 really explain it, but like it was right here. And then he was like -- I  
20 don't really know how to explain it.

21 Q Was he standing up that he --

22 A No, he wasn't standing up.

23 Q Okay. So how was -- what was he doing with his legs?

24 A Like they were like I guess you could say like they were on  
25 his -- he was on his knees. It's like really hard to explain.

1 Q That's okay. Just try to explain it for us.

2 A Like, he was like kind of on his knees. I don't know how to

3 really explain it.

4 Q Was he all the way on his knees?

5 A Oh, yeah, it was like on his --

6 Q Let me erase this. So when he put his private inside your

7 private, you said he was on his knees?

8 A Yes.

9 Q Okay. And you were -- your back was on the couch?

10 A Yes.

11 Q And is that your vagina that he put his private in?

12 A Yes.

13 Q The same private that we've been talking about?

14 A Yes.

15 Q How do you remember it feeling when he did that?

16 A It still hurted [sic].

17 Q And this is the time that he had the movie on the Xbox?

18 A Yes.

19 Q After he did that, what did he do?

20 A It just -- it stopped like after that because he already put it

21 in my butt and then he put it in my [indiscernible].

22 Q Okay. So he put it in your butt first and then your vagina?

23 A Yes.

24 Q Did he tell you to touch him anywhere else on his body

25 with any part of your body?

1 A No, not that I remember. No.

2 Q Did he tell you anything about your mouth that time?

3 A No.

4 Q He did not?

5 A I don't remember, no.

6 Q Okay. Did he touch you on your body with his hands that

7 time?

8 A No. No.

9 Q No? Okay. Can you tell us do you remember any other

10 times that this happened?

11 A No. It was like only like a couple times in his living room

12 and then once in that living room.

13 Q Can you -- you're going to have to repeat that whole thing

14 because we have -- I'm having real trouble hearing you.

15 A It was like only a couple times in his living room. So no.

16 Q So a couple times in his living room?

17 A And it was like once in the other living room.

18 Q Once in the other living room?

19 A Yes.

20 Q Okay. Did he ever take you anywhere else or was it just

21 the two times that you told us about, about the hotels?

22 A It was like the -- yeah. It was the hotels.

23 Q Did he ever take you anywhere else and hurt you?

24 A No.

25 Q Do you remember one time when you heard your brother,

1 RaRa, crying?

2 A Oh, yeah.

3 Q Can you tell us about that?

4 A I was in the other living room downstairs, and then I was  
5 watching TV. And then my brother was just like -- he went in the  
6 room, and then like a couple minutes later my brother just like  
7 started crying. So I went --

8 Q Which living room were you in, Venice?

9 A The other living room.

10 Q The one without the fireplace?

11 A Yes.

12 Q Okay. Do you remember if anybody else was home?

13 A No, my mom wasn't home.

14 Q And do you remember what grade you were in when this  
15 happened?

16 A No.

17 Q Do you remember if it was daytime, nighttime, something  
18 else?

19 A It was daytime.

20 Q And you said you were downstairs. Do you remember  
21 what you were doing in the living room?

22 A I was like watching TV.

23 Q Do you remember what RaRa was doing?

24 A He was like on the computer in my mom's room.

25 Q I'm going to show you another picture, maybe. Describe

1 the house for us, just generally.

2 A There was one living room as soon as you walk in. And  
3 then a little more down it was like the kitchen and then like little  
4 steps, there was another living room. And then up the stairs there  
5 was my brother's room, my room, a bathroom and my mom's room.

6 Q When Quincy lived with you, where did he sleep?

7 A He would sleep in my brother's room.

8 Q And would your brother sleep in the room when he was  
9 sleeping in the room?

10 A No, he would sleep with my mom or sometimes me.

11 Q Would he always sleep in your brother's room?

12 A No. He would go in like my mom's room, and then my  
13 mom would like -- my brother would come in there with me or like  
14 lay downstairs.

15 Q Okay. So when he would sleep in your brother's room,  
16 your brother wasn't in there when he was in there, right?

17 A No.

18 Q Okay. I'm going to show you State's 14. So this is not the  
19 best view; but if you go upstairs, do you see some doors --

20 A Yeah.

21 Q -- up here?

22 A That was my brother's room right here.

23 Q You can draw -- draw with the clicker.

24 A Oh, it's right here. It's like right here.

25 Q Okay. So that's your brother's room when you go right up

1 the stairs?

2 A Yes.

3 Q And then how are the other -- whose rooms -- who belongs  
4 to the other rooms?

5 A My room was right here. It's like right here. I think it was  
6 right here. I'm not -- yeah, it was right here. So it was my brother's,  
7 mine, and then the bathroom was right here.

8 Q And then where -- I know you can't see it on this, but do  
9 you know where your mom's room was?

10 A Yeah. Her room was more back here though. It's like --  
11 would be over here.

12 Q Okay. So all the way in the back?

13 A Yeah.

14 Q And you said you remembered that RaRa was playing the  
15 computer -- or on the computer in your mom's room?

16 A Yeah.

17 Q And what did you hear?

18 A My brother just like started crying and like he was crying  
19 loud and I could hear it downstairs, so I went up there. I went to go  
20 check and then I opened the door and it was like him -- like my  
21 brother on the bed and him hurting my brother.

22 Q When you say him are you talking about Quincy?

23 A Yes.

24 Q When you went upstairs, was it in your mom's room that  
25 you saw this?

1 A Yes.

2 Q Was the door to your mom's room closed or open when  
3 you went up there?

4 A It was closed.

5 Q Did you open it?

6 A Yes.

7 Q Was it locked?

8 A No, it wasn't locked.

9 Q What position was your brother in? Like how was he --

10 A He was like on his stomach like -- like if the bed -- he was  
11 on his stomach.

12 Q Where at in the room?

13 A On the bed.

14 Q Did he have his clothes on or off?

15 A He had his pants off.

16 Q How about a top?

17 A I don't think he had his top on either. I'm not really sure  
18 though. I don't really remember.

19 Q Do you remember how old your brother was when you  
20 saw this?

21 A No, he was like younger though.

22 Q And then what did you see Quincy -- like what kind of  
23 clothes was he wearing?

24 A I don't remember.

25 Q Do you remember if he had bottoms on?



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DEQUINCY BRASS, ) No. 81142  
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 Appellant, )  
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 v. )  
 )  
 THE STATE OF NEVADA, )  
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 Respondent. )  
 )

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I hereby certify that this document was filed electronically with the Nevada Supreme Court on the 26 day of January, 2021. Electronic Service of the foregoing document shall be made in accordance with the Master Service List as follows:

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