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Respondent.

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1 A No, he didn't.

2 Q He did not have bottoms on?

3 A No.

4 Q When you say that you saw him hurting your brother, tell
5 us what you saw happening?

6 A He was like touching his butt and then he put his private
7 part inside of his butt.

8 Q So you saw Quincy's private on RaRa's butt?

9 A Yeah.

10 Q And you said he was touching RaRa's butt, too?

11 A Yes.

12 Q With what part of his body?

13 A His hand.

14 Q Do you know if Quincy said anything to you when you saw
15 this?

16 A No, he didn't say anything to me.

17 Q And what, if any -- did RaRa see you?

18 A My brother was just crying in the blanket so I don't think
19 he did.

20 Q Did you tell anyone about this right after you saw it?

21 A No.

22 Q And why not?

23 A Because I was scared to.

24 Q What made you scared? What were you scared of?

25 A He would just always say something bad would happen,

1 like my mom or something, so I just never did.

2 Q While Quincy was doing these things to you, do you
3 remember if he was still helping you with your homework or your
4 sight words?

5 A No, not no more. He like stopped.

6 Q At some point did Quincy move out?

7 A Yes.

8 Q Do you remember what grade you were in or how old you
9 were when he moved out?

10 A I think I was in like fifth -- fourth or fifth grade. I don't
11 know. I think it was in fourth grade. I'm pretty sure it was in fourth
12 grade.

13 Q After Quincy moved out, would he sometimes come back
14 over to the house?

15 A Sometimes, not like that, but yeah, sometimes.

16 Q After Quincy moved out, did he ever hurt you --

17 A No.

18 Q -- again? No?

19 A No.

20 Q When he would come back over to the house, what kinds
21 of things would he do while he was over at the house?

22 A He would just like be there with my mom and stuff.

23 Q Just hanging out?

24 A Yeah, or they'll like go somewhere like the store or
25 something. I don't really remember. They would just do stuff like

1 that.

2 Q Do you remember a time when Quincy came back to the
3 house after he had moved out when you were in the living room
4 watching a movie with him and your mom?

5 A Yeah.

6 Q Which living was that?

7 A It was the one with the fireplace.

8 Q And do you remember what movie you guys were
9 watching?

10 A We were watching "Friday."

11 Q And why do you remember this? What do you remember
12 happening?

13 A I was like on that little couch, the little white one, and then
14 my mom and him were on the other one and then they had a blanket
15 and I guess I was just like moving around on the couch and then my
16 mom said she noticed something and I was -- and then he left and
17 went home when I went to sleep.

18 Q Did your mom ask you some more questions about that?

19 A Yeah. When I woke up she was like what happened? I was
20 like what do you mean? I didn't know.

21 Q And what did you tell your mom?

22 A At first I told her nothing was happening.

23 Q And what did you tell -- you said at first. Did you tell her
24 something different?

25 A Yeah. Then I eventually told her that -- what happened.

1 Q You eventually told her what happened with Quincy?

2 A Yes.

3 Q When she first confronted you, did you tell her that
4 somebody else touched you?

5 A Yes, that Trinity touched me.

6 Q Who's Trinity?

7 A My cousin.

8 Q How old was Trinity?

9 A I don't remember. I think she was like 13. I don't
10 remember though.

11 Q Did Trinity at some point live with you?

12 A Yeah.

13 Q And who else lived with you when Trinity lived with you?

14 A It was her and her mom.

15 Q Do you remember if Trinity was there when Quincy lived
16 with you guys?

17 A I -- no. I don't remember.

18 Q What did you tell your mom Trinity did to you?

19 A I said she like touched me, but I never like really said how.

20 Q Why did you tell your mom that Trinity touched -- well --

21 A Because I was --

22 Q Well, I'm sorry. Let me ask a different question. That was
23 my bad, okay? Did Trinity ever touch you?

24 A No.

25 Q Why did you tell your mom that Trinity touched you?

1 A Because I was still scared because what he told me.

2 Q Do you know how much time went by between when you
3 told your mom it was Trinity to when you told her it was Quincy?

4 A Probably like a couple days later.

5 Q Do you remember the circumstances of how you told your
6 mom, like what was going on? What time --

7 A I don't really remember, but I remember I just -- I was just
8 telling her because she was like it's okay, Venice, you can tell me
9 what's wrong and stuff so I was like -- I just told her.

10 Q How were you able to finally tell your mom that it was
11 Quincy? What made you decide to do that?

12 A Because my mom was like just saying I'm there for you.
13 You can tell me anything and stuff like that so I just told her.

14 Q And what did you tell her?

15 A I told her that Quincy touched me.

16 Q Do you remember where you were at when you told her
17 that Quincy -- that it was Quincy that touched you?

18 A I think I was in my brother's room. I'm not really sure
19 though.

20 Q Do you remember if your brother was in the room when --

21 A No, he was in my mom's room playing the computer.

22 Q Okay, Venice. Do you remember talking to a lady a while
23 ago and at first it was a boy that you were talking to --

24 A Yeah.

25 Q -- in an interview?

1 A Yes.

2 Q Do you remember if that was in March of 2017 or you don't
3 remember the date?

4 A I don't remember the date, but I remember when we went
5 to that little place.

6 Q How were you feeling when you were being interviewed
7 by those people?

8 A I was scared. I was like scared.

9 Q Had you ever met them before?

10 A No.

11 Q And at first, was it the male or was it the lady that was -- ?

12 A It was the male and then I said I wanted to talk to a lady
13 because I didn't feel comfortable.

14 Q You said that?

15 A Yeah.

16 Q And then the lady came in?

17 A Yeah.

18 Q Did you tell them everything that happened, everything
19 that Quincy did to you?

20 A No, not at the time, no.

21 Q And why not?

22 A Because I just -- it was just like still a little part that I didn't
23 want to tell them, like stuff with Arianna and hotels and stuff.

24 Q Okay, can you repeat that because I had a hard time --

25 A Like the stuff with Arianna in hotels and stuff. I just --

1 'cause I thought she was going to get in trouble and stuff, you know,
2 and I didn't want that. So --

3 Q So you didn't tell the interviewers about anything with
4 Arianna or anything about a hotel?

5 A No.

6 Q Any other reason why you didn't tell about that?

7 A You know, I was just scared. I didn't want her to get in
8 trouble, so.

9 Q Do you remember trying to tell the interviewers about your
10 brother?

11 A I don't remember. I think I told them though. I'm pretty
12 sure I told them.

13 Q Did you write some stuff down during that interview?

14 A Yeah, I drew pictures and then I wrote stuff down that I
15 couldn't talk about.

16 Q And why couldn't you talk about it? But -- like why did you
17 prefer to write it down instead of talk about it?

18 A I just didn't want to say it. I was just like nervous so I just
19 didn't want to say it.

20 Q All right. I'm going to show you some pictures, okay?

21 A Yeah.

22 Q So what has been admitted as State's 2B --

23 A You showed me these before.

24 Q What did you say?

25 A You showed me these before in the office.

1 Q Yes.

2 A It looks like an ocean.

3 Q And Venice, you have met with me before, right?

4 A Yeah.

5 Q And when we met, what did we talk about?

6 A We talked about what happened and yeah, we talked about

7 what happened.

8 Q I'm showing you 2E. Do you recognize that?

9 A Yeah.

10 Q I'm showing you 2D. Do you recognize that?

11 A Yeah.

12 Q Is that your handwriting?

13 A A long time ago, yeah.

14 Q Back from fourth grade?

15 A Yeah.

16 Q And then 2A. Do you recognize that, too?

17 A Yeah. I recognize that.

18 Q And 2C?

19 A Uh-huh.

20 Q Are you okay?

21 A Yeah.

22 Q Are these the pictures that you drew while you were in that

23 interview room?

24 A Yes.

25 Q On that day, did you also have a medical exam?

1 A Yeah, yeah, when they took me in the room, right, yeah.

2 Q Can you tell us a little bit about that medical exam? What
3 did they do to you?

4 A They checked me down there and then they asked a couple
5 questions, I think, and then they just gave me a shot afterwards.

6 Q When they checked you down there, how did they do that?

7 A Like they told me to take off my under -- like my pants and
8 my underwear and like they just checked down there. I don't know
9 what it was but like something.

10 Q Do you remember if you did that before or after your
11 interview?

12 A After the interview.

13 Q Okay, Venice, so I'm going to have you read for us, if you
14 can, okay? Try to read 2D.

15 A Okay. "He said Venice, take off your clothes and I did it.
16 Now what to do, and I just did and then he said sit on top of me and
17 wrap your legs around me and so I did again, but I was kind of
18 scared. He didn't know that I was a little scared. I forgot to tell you
19 that he was naked, too and he had --

20 Q Hold on, Venice. One second. If you could just talk a little
21 bit louder for me so we can hear you all the way back here.

22 A "Had his D something and he put it in me. After a little bit
23 of that, I was crying. He" -- I can't read that.

24 Q You can skip the word if you can't read it.

25 A "In it up and he heard her and as so as we heard her, we

1 put back on our clothes and act like nothing other happened. And a
2 couple days of that, I" -- I can't read that. "I gave him," I think it says
3 head, "which means I sucked his D but he told me to do it. I did and
4 he kind of explained to me and so he said what he would like done
5 and I would be on top of him and would --

6 Q Okay. So do you write a little bit differently now?

7 A Yeah.

8 Q Do you spell a little bit differently now?

9 A Yes.

10 Q Okay. So I'm going to go over a couple things. So he said
11 Venice, take off your clothes and I didn't know what to do and I just
12 did and then he said sit on top of me and wrap your legs around me
13 and so I did again. You wrote that, right?

14 A Yes.

15 Q But I was kind of scared of it and he didn't know that I was
16 a little scared and I forgot to tell you that he was naked, too, and he
17 has his D showing and he put in me. When you say D, what are you
18 talking about?

19 A His private part.

20 Q Okay, that's his penis?

21 A Yeah.

22 Q After a little bit of that, I was crying and he kept wedging it
23 in. Was after a little bit of that, mommy woke up and we heard her.
24 As soon as we heard her, we put back on our clothes and acted like
25 nothing ever happened. You wrote that?

1 A Yeah.

2 Q So do you remember a time when your mom woke up?

3 A Yeah. I remember a time my mom woke up.

4 Q Was it one of the times that you already told us about?

5 A I think -- no, it wasn't. I don't think so.

6 Q Can you tell us what happened this time that your mom
7 woke up?

8 A Yeah. He told me to put like my legs around him and we
9 were downstairs. I was downstairs. And then I think he was in the
10 room with my mom though and then she was like asleep or
11 something. And I was doing something. I was like watching TV or
12 something and then he told me to put his legs around me and take
13 off my clothes, so I did, and then yeah.

14 Q Okay. So you said he was upstairs in the room with your
15 mom?

16 A Yeah.

17 Q Did he at some point come downstairs?

18 A Yeah, he came downstairs.

19 Q Where were you at when he came downstairs?

20 A I was in one of the living rooms. I don't remember which
21 one it was though.

22 Q And he told you to take off your clothes?

23 A Yes.

24 Q And what -- did he put anything inside of you that time?

25 A Yeah, his private part.

1 Q Where did he put his private part?

2 A In my butt.

3 Q Where were you guys at, do you remember?

4 A It was like on the couch. I don't really remember which
5 living room it was though.

6 Q Do you remember if he put his private anywhere else that
7 time?

8 A No. He put it just in -- I think -- I remember him putting it
9 in my butt.

10 Q Only.

11 A Yeah, that's what I remember.

12 Q Okay. And a couple days of that, I gave him head which
13 means I sucked his D but he told me to do it. I didn't do it 'cause I
14 didn't know how to do it and he kind of explained it to me and so he
15 said that he would lay down and I would be on top of him and he
16 would. That's where it ended, right?

17 A Yeah, I think so.

18 Q So when he was explaining to you how to suck his D, do
19 you remember what he told you?

20 A He was just like put your mouth on it and then like go back
21 and forth and I was like -- I didn't really know what that meant, so
22 yeah.

23 Q Did he explain it more or?

24 A No, that's basically all he said.

25 Q Did you do what he said?

1 A Yeah.

2 Q While you were doing it, did he tell you to do it differently?

3 A No.

4 Q And that was 2D, for the record. And then 2B, there's a
5 drawing here above this kind of ocean-looking thing, right?

6 A Yeah.

7 Q What is this?

8 A I think that was one of his private part, yeah.

9 Q His private part?

10 A Yeah, I think -- I'm not really sure what that is, to be
11 honest.

12 Q And up here, you said I was sucking his D?

13 A Yeah.

14 Q And then 2E, you wrote he touched me by putting his
15 finger in my bottom and my V. Is that right?

16 A Yeah.

17 Q And then the back here of that same exhibit, you said D
18 touched me by touching my butt and my V which means down there.

19 A Yeah.

20 Q But you have dum there, right?

21 A Yeah.

22 Q Why is this scratched out?

23 A I don't remember.

24 Q Did that happen?

25 A Yeah.

1 Q And then 2C, what is that? What was that a picture of?

2 A His private part.

3 Q Okay. Lastly, 2A. On one side, you wrote I took them off
4 because he told me to, right?

5 A Yeah.

6 Q And then the other side, you wrote my bottom and my V
7 and you wrote dick there. Is that right?

8 A Yeah.

9 Q Were you doing these while you were talking to the person
10 in there?

11 A Yes.

12 Q Venice, do you remember how you felt when that
13 interview was over?

14 A I felt like relieved. I was kind of happy but I was still kind of
15 like wow, like, you know what I mean?

16 Q Can you explain that? What do you mean?

17 A Like I was kind of happy that I kind of told, like and felt
18 relieved, but then I was like still kind of scared.

19 Q What were you still kind of scared of?

20 A Because like I just remember what he said, like if you tell
21 anybody your mom's going to get hurt and stuff like that.

22 Q Do you remember coming to court another time and
23 testifying?

24 A Yes.

25 Q And you remember I asked you specific questions at that

1 hearing?

2 A Yes.

3 Q Do you remember telling the court at that hearing about
4 when Quincy hurt you in your home in the living rooms with the
5 fireplace and without?

6 A Yes.

7 Q You remember talking about the time he took you to a
8 hotel alone?

9 A Yes.

10 Q And do you remember a time he took -- you told the court
11 about at that prior hearing where he took you and Arianna to a hotel?

12 A Yes.

13 Q And you told the court about your brother too that time,
14 right?

15 A Yes.

16 Q And you remember talking about Trinity at that time and
17 why you said --

18 A Yes.

19 Q -- it was Trinity, right?

20 MS. RHOADES: The Court's indulgence.

21 THE COURT: Sure.

22 BY MS. RHOADES:

23 Q So at the preliminary hearing, at that prior court date, and
24 the jury will have this, so there's a transcript of it, it's already been
25 admitted as State's 32, okay, Venice?

1 A Huh?

2 Q Remember when you testified at the other court hearing?

3 A Yes.

4 Q Someone was typing down everything you said.

5 A Oh, yes.

6 Q So the jury will have this. It's State's 32. Do you
7 remember telling the court that you were in third grade when it
8 happened to you?

9 A I remember -- I don't really remember the dates now, but I
10 remember I was telling them like which grade I was back then
11 because it was easier to remember.

12 Q And do you remember you said it happened in third,
13 maybe fourth grade?

14 A Yes.

15 Q Did Quincy ever touch you anywhere on your body with
16 his mouth?

17 A Oh yeah, on my private part.

18 Q Can you tell us about that?

19 A It was one of the times that -- it was -- we were downstairs
20 in the -- I don't remember what I was doing, but -- and then he came
21 down there. Or I think he was in there with me. I really don't
22 remember. And then he told me to take off my clothes and then I did
23 and then like he told me to like kind of open my legs and then he put
24 his private part -- his mouth in my private part.

25 Q Did that happen one of the same times you already told us

1 about?

2 A I don't think so, no.

3 Q This was a different time?

4 A Yes.

5 Q Do you remember these things happening with Quincy
6 more than the specific times that you told us or were only these
7 specific times that you told us?

8 A Like what do you mean by that?

9 Q Did it only happen these specific times or did it happen
10 more times than what you've told us?

11 A It was like this specific time.

12 Q Okay. So did he do anything else to you that time he put
13 his mouth on your private?

14 A Yeah, he -- he put his private in my private. Yeah.

15 Q He put his private in your private?

16 A Yeah.

17 Q Anything else that he did?

18 A And then he just did his -- he put his mouth on my private.

19 Q Did your mouth touch his private that time?

20 A No.

21 Q Do you remember what room that was in?

22 A I don't remember which room that was in.

23 Q Did he touch you with his hands anywhere that time?

24 A No, not that I remember.

25 Q All right. Do you see Quincy in court today?

1 A Yeah.

2 Q Can you point to him and tell me something that he's
3 wearing?

4 A Glasses.

5 Q Okay, can you point in his direction?

6 A Yeah, right over there.

7 Q Okay. May the record reflect the identification of the
8 defendant, Your Honor.

9 THE COURT: Record will so reflect.

10 Q And I believe the State will pass the witness.

11 THE COURT: Okay.

12 CROSS-EXAMINATION

13 BY MR. POSIN:

14 Q Good morning.

15 A Hi.

16 Q You mentioned just now that you have a cousin named
17 Trinity.

18 A Yes.

19 Q And Trinity has lived with you, right?

20 A Yes.

21 Q Trinity, when she was living with you, you said you didn't
22 remember whether Mr. Brass was there or not?

23 A Yes.

24 Q When you first told your mom that anything had happened
25 to you, you told her that Trinity did it to you, right?

1 A Yes.

2 Q But that was a lie, wasn't it?

3 A Yes.

4 Q Or was it?

5 A It was a lie.

6 Q You were willing to lie about somebody touching you and
7 hurting you.

8 A Yes.

9 Q Now when you went to this interview that you've just been
10 talking about, you spoke to a man and a woman, right?

11 A Yes.

12 Q And when you spoke to the man, you felt uncomfortable
13 with being with the man and so you asked for the woman?

14 A Yes.

15 Q When you asked for the woman, you told them that you
16 had been touched by Mr. Brass three times, right?

17 A I believe so. I don't really remember.

18 Q And those times were all in your house, right?

19 A Yes.

20 Q You didn't mention anything about the hotel with the
21 elevator, did you?

22 A No.

23 Q You didn't mention anything about the two-story hotel, did
24 you?

25 A No.

1 Q And you've just said just now that you did that because
2 you wanted to protect Arianna. Is that correct?

3 A Yes.

4 Q You wanted to protect her because you were concerned
5 about her, right?

6 A Yes.

7 Q Because she was somebody that was close to you, right?

8 A Yes.

9 Q Somebody that was your age, right?

10 A Older than me, but yeah.

11 Q Well, she was a child, too, right?

12 A Yes.

13 Q And it was important to you to protect somebody that was
14 close to your age and say something that ended up not being true to
15 protect them, right?

16 A I guess, yeah.

17 Q You were willing, even though you knew that that was a
18 very important interview, to basically lie about something to protect
19 this other person that you were close to who was another female
20 who was your age, right?

21 A Yes.

22 Q You didn't say anything about any of these details that
23 you've talked about today.

24 A No.

25 Q You had every opportunity to though, right?

1 A Yeah.

2 Q That interview took place for a period of approximately
3 two hours, didn't it?

4 A I think so, yeah.

5 Q And during those two hours, they repeatedly asked you,
6 there were three incidents, right?

7 A I believe so.

8 Q And at the last time -- during the questioning about the
9 incident, they specifically said and the last time, right?

10 A I don't really remember.

11 Q Or the third time? And you told them what had happened,
12 that you claimed had happened at the house, right?

13 A Yes.

14 Q And you mentioned nothing whatsoever about any of
15 these incidents that supposedly happened at the hotel?

16 A Yes.

17 Q The hotel with the elevator, right? Nothing about that.

18 A Yes.

19 Q Nothing about that?

20 A Yes.

21 Q Nothing about the two-story hotel?

22 A No.

23 Q Your interview, you didn't remember exactly when it was
24 that it took place, right?

25 A No.

1 Q But it would be fair to say that it was in March.

2 A Oh.

3 Q Do you know whether Arianna was interviewed?

4 A I don't know if she was interviewed.

5 Q Okay. Thank you. Nothing further, Your Honor.

6 REDIRECT EXAMINATION

7 BY MS. RHOADES:

8 Q Okay, Venice, why were you willing to lie about Trinity?

9 A Because I just wanted -- I didn't want her to get in trouble.

10 That's why.

11 Q You didn't want who to get in trouble?

12 A Oh wait, oh wait. Tri -- I lied about Trinity because he -- I
13 was just -- I was scared still. That's why.

14 Q Scared of what?

15 A Because what he told me.

16 Q In the interview, the interviewer never asked you if Arianna
17 was involved, right?

18 A No.

19 Q Like you didn't lie about Arianna. You didn't say anything
20 about Arianna, right?

21 A No.

22 Q Is that right?

23 A I don't think so, no.

24 Q Okay. Do you remember everything that was said during
25 your interview?

1 A Not everything, no.

2 Q Do you remember saying that this is so scary and why is
3 this so hard for me? Do you remember repeatedly saying that?

4 A Yeah.

5 Q Do you know why it was so hard for you?

6 A It was just hard for me to talk about it.

7 Q And in your interview, you told the lady that Quincy licked
8 your V, right?

9 A Yes.

10 Q And you told her all the things that you told us here today
11 about what happened in your house. Is that fair to say?

12 A Yes.

13 Q Nothing further, Your Honor.

14 RECROSS-EXAMINATION

15 BY MR. POSIN:

16 Q Venice, in fact, in that interview, they specifically asked you
17 if there was anybody else that you knew that you thought this might
18 have happened to, right?

19 A Yeah.

20 Q And what you said is you said I think to my brother, right?

21 A Yes.

22 Q You didn't say anything at all about Arianna, did you?

23 A No.

24 Q And they specifically asked you and you still didn't say.

25 MR. POSIN: Thank you. Nothing further, Your Honor.

1 MS. RHOADES: I don't have anything further, Your Honor.
2 She's free to go.

3 THE COURT: Any questions? Come on up.

4 [Sidebar begins at 12:35 p.m.]

5 MS. RHOADES: Can you describe the first time
6 [indiscernible] other times [indiscernible]? How long after he moved
7 in was there an L-shaped couch and a fireplace that you know?

8 MS. EINHORN: Sure.

9 MS. RHOADES: At the --

10 MR. POSIN: The first one --

11 THE COURT: Do you understand the first question?

12 MR. POSIN: -- seems so broad that I don't -- it seems like
13 it's asking potentially to kind of go over everything.

14 THE COURT: Yeah. Yeah.

15 MR. POSIN: The other two are a little more focused, like
16 how long after you moved in, that seems appropriate. And what was
17 the furniture seems appropriate, but that first one --

18 MS. RHOADES: Well, I think it's an appropriate question. I
19 think she's described, and to go into everything, we can direct them
20 to trust her prior testimony.

21 MR. POSIN: It's just that it says was the time you
22 described. I'm not sure which one is the time.

23 THE COURT: I mean, yeah, exactly, so the question -- the
24 first question was --

25 MR. POSIN: Was the time.

1 THE COURT: -- was the time you described the first time. I
2 mean, which time is he --

3 MS. RHOADES: If I -- I know. If we don't ask that, can I
4 have lead to ask her if she remembers what the first time was and if
5 she remembers what the last time was?

6 THE COURT: Yeah, that's not appropriate --

7 MS. RHOADES: Is that okay?

8 THE COURT: -- focused question. These -- you have
9 next --

10 MR. POSIN: I'm inclined, if we do it that way, to have the
11 Court ask that.

12 THE COURT: Okay.

13 MR. POSIN: Because I wouldn't even have any --

14 THE COURT: Sure. Yeah, that's fine.

15 MR. POSIN: -- cross on that point.

16 THE COURT: So the -- and if the State's okay, I could ask.

17 MS. RHOADES: Sure. So do you remember what the first
18 time was? Or do you remember which one was the first time that it
19 happened?

20 THE COURT: Well, I -- I --

21 MS. RHOADES: Or out of all the instances that you've
22 described, do you know which one was the first time? And do you
23 know which one was the last time?

24 THE COURT: That's super broad, too.

25 MR. POSIN: It's just like --

1 MS. RHOADES: Or just don't ask it.
2 THE COURT: How about --
3 MR. POSIN: It seems like once you get into it, it's like --
4 THE COURT: Yeah. We could --
5 MR. POSIN: -- it calls for so much clarification of what one
6 question is.
7 THE COURT: Why don't we just do the next to last two?
8 MS. RHOADES: Okay.
9 THE COURT: Okay.
10 [Sidebar ends at 12:37 p.m.]
11 THE COURT: So, Venice, we have a couple of questions
12 from the jurors, okay?
13 THE WITNESS: Okay.
14 THE COURT: How long after he moved in?
15 THE WITNESS: Well, like after my [indiscernible]?
16 THE COURT: So I guess, probably after how long was the
17 first time after he moved in?
18 THE WITNESS: I don't remember.
19 THE COURT: Was there an L-shaped couch in the fireplace
20 living room?
21 THE WITNESS: L-shaped couch? No, I don't recount.
22 THE COURT: Could you all hear her?
23 Any follow-up questions?
24 MS. RHOADES: Just briefly.
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FURTHER REDIRECT EXAMINATION

BY MS. RHOADES:

Q Did the furniture change in your house ever?
A We'll, like, move around, but it really never changed.
Q Okay. And it would move around in the two living rooms?
A Yeah, like just switching different directions.
Q I'm showing you --

MS. RHOADES: Your Honor, permission to publish 14.

THE COURT: Sure.

MS. RHOADES: It's already been admitted.

THE COURT: Sure.

BY MS. RHOADES:

Q And you see that black couch?
A Yes.
Q This is the living room without the TV, right?
A Yes.
Q Did that black couch ever go anywhere else in the house?
A Yeah, it moved, like towards to the end of the wall right

here.

Q Okay.
A And then that's all I -- yeah, it was like right there. It stayed right here for a while.

Q Toward the end of what wall?
A Like right here. It was like right over here. And then this one was in the other living room, I believe.

1 Q Okay. So that one moved to the other end?

2 A Yeah.

3 Q And then you said the white one that was in there, at some
4 point was in the other one?

5 A Yeah, or went to our storage. I don't remember.

6 Q All right. So I'm showing you 16. Is that a couch or a
7 chair?

8 A I think that's -- that's the couch.

9 Q Okay.

10 A With the -- yeah, that's the couch.

11 Q And at some point, was that couch in -- I'm showing you
12 State's 19 -- in this room?

13 A Yeah, it was like -- I think it was right here. It was right
14 here. I believe it was right there at a time.

15 Q Okay. So that white couch that was in the living room
16 without the fireplace, was at some point in this living room?

17 A Yes.

18 Q Up against that railing that goes into the kitchen?

19 A Yes.

20 Q And then was that other couch still there? That one that
21 we see on the right?

22 A This one, yeah, it was there.

23 Q When that other one was there?

24 A Yeah.

25 Q All right.

1 MS. RHOADES: Nothing further, Your Honor.

2 MR. POSIN: Nothing more, Your Honor.

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

4 MS. RHOADES: Yes, Your Honor.

5 THE COURT: Thank you.

6 THE WITNESS: Thank you.

7 [Witness excused]

8 THE COURT: If counsel could come approach?

9 [Sidebar begins at 12:40 p.m.]

10 THE COURT: I'm inclined to break and come back at 2:00, I
11 guess. It's 12:40. But before I said that, does that work?

12 MS. RHOADES: That's fine.

13 MR. POSIN: The time -- if we're going to continue with the
14 questioning today, then whatever time the Court says is fine with me.
15 But I'd again say that I should have at least until Monday morning
16 before we get either RaRa or Mom on the stand because I just think I
17 need to look a little more deeply into this issue.

18 MS. RHOADES: I say they're here. I mean, we don't need
19 the jury to hear this, but I think we can have a hearing outside the
20 presence where they're both asked questions, and he's been given
21 the opportunity to have a Miller hearing. I -- he has all the
22 information that we have right now, and that's the only information I
23 think that exists. And I'll certainly print everything for him so we can
24 have a hearing.

25 MR. POSIN: The State, on the one hand, is taking a

1 position that I have a very high burden, which throughout says it's a
2 preponderance, which is not as high as it could be, but I have --

3 THE COURT: So here's what I'm going to do right now, we
4 can keep our discussion going, but rather than have --

5 MR. POSIN: Release the jury? Yeah.

6 THE COURT: -- the jury, let me -- I'll tell them to come back
7 at 2:30.

8 MS. RHOADES: Well, maybe can we come back at 1:30?

9 THE COURT: Yeah, so I'll tell them 2:30 and let's talk after.

10 MS. RHOADES: Okay. Okay. Thank you.

11 [Sidebar ends at 12:42 p.m.]

12 THE COURT: Ladies and gentlemen, we're going to take
13 an extended lunchbreak today, so come back at 2:30. We have some
14 various items to discuss outside your presence.

15 So during this recess, you're admonished not to talk or
16 converse amongst yourselves or with anyone else on any subject
17 connected with this trial, read, watch, or listen to any report over
18 commentary on the trial or any person connected with this trial by
19 any medium of information, including, without limitation to social
20 media, text, newspapers, television, internet, radio.

21 Do not visit the scene of any events mentioned during the
22 trial. Do not undertake any investigation. Do not Google anything
23 about the trial or anyone associated with the trial. Do not do any
24 posts or communications on any social networking sites. Do not do
25 any independent research, including internet searches on your

1 phones during our break.

2 Do not form or express any opinion on any subject
3 connected with the trial until the case is finally submitted to you.
4 We'll see you back at 2:30.

5 THE MARSHAL: All rise for the jury.

6 [Jury out at 12:43 p.m.]

7 THE COURT: Please be seated. So going back to one of --
8 my overarching concerns, you could probably hear some grumbling
9 from jurors. They don't like their time -- but in any event, let's all
10 come back at 2:00, and we can have further discussion and testimony
11 if needed.

12 MS. RHOADES: If I -- I thought at the bench, you said we
13 could come back at 1:30. Would that be okay, because --

14 THE COURT: Is that what I said?

15 MS. RHOADES: I think so, because then that --

16 THE COURT: I don't --

17 MS. RHOADES: -- gives us an hour, and then we don't
18 have to keep them waiting. Also, those are our two witnesses, and
19 then we have the forensic interviewer. That's the only other witness.
20 I guess we just have to wait for the hearing to decide. I mean, will
21 they be able to testify in front of the jury after the hearing; do you
22 anticipate, Your Honor, RaRa and Kim?

23 THE COURT: I mean, that -- I can't answer that question
24 because that's why we're having the hearing.

25 MS. RHOADES: Okay. And the hearing can include

1 argument. It can include testimony. I know Mr. Posin's position has
2 been that we shouldn't have any testimony today. I don't know that I
3 agree with that, or I disagree with that at this point in time. So I can't
4 answer your question.

5 MS. RHOADES: Okay. Can we come back at 1:30 then?

6 THE COURT: Sure.

7 MS. RHOADES: Thanks.

8 [Recess taken from 12:46 p.m. to 1:38 p.m.]

9 THE COURT: So who wants to call a witness, if anyone?

10 MS. RHOADES: I think it is the Defendant's burden, and
11 the witnesses are here, Your Honor.

12 THE COURT: Okay.

13 MS. RHOADES: Kim Madden and Rodriquez Madden are
14 here.

15 THE COURT: Mr. Posin, do you want to call a witness?

16 MR. POSIN: Your Honor, I would like to call the witness
17 who I obviously cannot have yet, which would be the person in these
18 allegations. Now, we don't have a name here, but it says that there
19 are -- the Defendant has a burden of showing that there were false
20 allegations, so that, number one, requires a finding that there were
21 allegations. Apparently, from what I understand from the State,
22 RaRa doesn't remember anything about this, or claims not to
23 remember anything about this now, and perhaps Kim would say she
24 did.

25 But then the second part of that, of course, is that we have

1 to prove that they're false, or at least by that preponderance
2 standard. And, you know, there's a lot of the caselaw that says that
3 that has to be by some sort of -- we need some sort of evidence. We
4 can't have some sort of bare assertion. Let me see if I can find this,
5 the language, but I'm -- in both, I think in Miller and right now I'm
6 looking at case -- at the Brown case, 107 Nevada 164.

7 THE COURT: Uh-huh.

8 MR. POSIN: And so we have to call some witness to
9 suggest that these allegations are false. The most obvious witness
10 would be this counselor/bus driver that worked at Montevista. I think
11 that's where it was. And was alleged to have done this. There may
12 be others that we can identify, but we should at least have him, at
13 denial. I'm looking -- you know, it looks like in -- I think it was in the
14 Brown case, or maybe some other one, that I've been looking at.
15 There were the people who were alleged to have been the
16 perpetrators, were indeed people who were called as witnesses in
17 the Miller hearings. So that would seem to be who we would want
18 to call.

19 I don't feel that it -- I can effectively cross-examine either
20 RaRa, if he claims to remember anything, or Kim, who probably
21 remembers something, without having an opportunity, having had
22 an opportunity to do some investigation by at least trying to find the
23 alleged perpetrator and asking him what his side of the story is and
24 whether there's any other evidence that we contradict what RaRa
25 and/or Kim have to say about it.

1 So I don't feel it's appropriate at this stage, without my
2 having that opportunity to go forward right now. I, obviously, would
3 like a lot more time, but I know the Court's concerns, and this trial,
4 I'm sure, is going to conclude one way or the other and we're not
5 going to have the jury off waiting for an endless period of time. But I
6 don't think it would be unreasonable, and believe me, this is just a
7 fallback position because my request really is that I have adequate
8 time to do that research and investigation and now until Monday is
9 really not adequate, but at least it's something better than over the
10 lunch hour.

11 So I would ask that we not have any testimony from either
12 Kim or from RaRa until I can send my investigator out to at least try
13 to identify who this might possibly be.

14 MS. RHOADES: Your Honor, I think we can stipulate that
15 the accused would say that he didn't do it.

16 THE COURT: Sure.

17 MS. RHOADES: I don't think that's really an issue.

18 THE COURT: Okay.

19 MS. RHOADES: We don't even know what RaRa or Kim
20 are going to say when they come in here and testify, so I think that's
21 a preliminary matter that we should get to first, but as far as doing
22 other investigation, all of that is so collateral. I mean, calling the
23 person that was accused of the crime, that that's so collateral that I
24 don't even know that that would ever be admissible.

25 THE COURT: Yeah. So the stipulation will be that the

1 accused presumably, and we can all agree, would come in and say
2 he/she never done that, hasn't done that, didn't do it. Okay.

3 MS. RHOADES: I think that's fair.

4 THE COURT: So --

5 MR. POSIN: Well, but, Your Honor, if we have a burden of
6 proof, by a preponderance or otherwise, then that denial has to not
7 only be stipulated to something with denial, but the Court has to
8 choose to believe or disbelieve it. And without having those
9 witnesses here, or that witness in this case here, I don't know how
10 the Judge --

11 THE COURT: I will accept that the witness would come in
12 and would be imminently credible and his or her denial, and I would
13 accept that the witness saying that they didn't do it is true. There.

14 MR. POSIN: Okay.

15 THE COURT: All right.

16 MR. POSIN: Fine. Then --

17 THE COURT: So -- okay.

18 MR. POSIN: In that case, Your Honor, then that alleviates
19 my concerns to some extent, but I'm kind of wondering how we
20 conveyed that determination of the Court is, I guess making in the
21 Defense made to the jury.

22 THE COURT: So there's at least two issues. One is it prior
23 or not prior? Two, is multiple --

24 MR. POSIN: Yeah, can I address that, Your Honor? I'm
25 sorry, I didn't mean to interrupt. But I think I found an answer to the

1 prior or not prior issue. Of course, now I don't exactly -- it's either in
2 the Brown case, or if it's not in the Brown -- hang on a second. Let's
3 see, it's -- I'm saving a bunch of cases. Your Honor, go on, but the
4 answer I seem to have found is that in one of the cases I was looking
5 at, there was a reference to the saying that it did not matter whether
6 the allegation came before or after the conduct for which the
7 Defendant was on trial.

8 THE COURT: I only read through Miller and State, but if
9 there -- if either of those say that, or if another case says that --

10 MR. POSIN: Hang on a second.

11 MS. RHOADES: You mean Miller and Brown, Your Honor?
12 I think you said Miller and State.

13 THE COURT: Oh, man, sorry. Well, yeah, they're both
14 versus State, so, yeah, Miller and Brown.

15 MS. RHOADES: Okay. I don't know where that says that
16 either.

17 THE COURT: Okay.

18 MS. RHOADES: And I would like to be heard on that.

19 THE COURT: Well, let's see if he can find --

20 MS. RHOADES: Okay.

21 MR. POSIN: Well, continue, Your Honor, while I look at
22 this.

23 THE COURT: Is the other issue still even accepting that the
24 accused would credibly say he or she didn't do it, then the -- there's
25 still another step of is the evidence more probative than prejudicial?

1 So if you have anything to say to anything?

2 MS. RHOADES: Thank you, Your Honor, I do. With regard
3 to the prior and not prior, I mean, the purpose -- so if this Montevista
4 Hospital worker were on trial, I think he would have a better
5 argument with regard to what happened here and that RaRa said it
6 here. And so that's kind of the purpose of it, that this child has -- or a
7 child has disclosed something similar before. They're disclosing it
8 now against this person. This other time was proved false, and now
9 that would be relevant to here, and we don't have that here. And so I
10 don't think it is a prior false allegation, even if the Court considers it
11 to be a false allegation.

12 And then with regard to the probative versus prejudicial, I
13 just -- I don't see, given about that prior versus not prior issue, that it
14 would be more probative than prejudicial.

15 THE COURT: Thank you.

16 MR. POSIN: Thank you.

17 MR. POSIN: Your Honor, and I think I found what I was
18 looking for.

19 THE COURT: Okay.

20 MR. POSIN: It is -- and it's in Brown. It's actually in the
21 dissenting an opinion, but I don't see that it was really directly
22 addressed one way or the other in my --

23 THE COURT: I will note that the dissenting at least goes
24 through the actual what happened versus the majority that is
25 extremely vague.

1 MR. POSIN: If I could, Your Honor, let me find it again
2 really quick and I'll just read this one --

3 THE COURT: Sure.

4 MR. POSIN: -- paragraph. It says, "It was also error for the
5 District" --

6 THE COURT: So hold on. Let me find where you're
7 reading so I can -- it helps me -- okay. "It was also error for the
8 District Court at the Miller hearing."

9 MR. POSIN: That is exactly right, Your Honor.

10 THE COURT: Okay. Go ahead.

11 MR. POSIN: "To preclude additional witnesses from
12 testifying that allegations of sexual assault which were fabricated
13 after the trial here in question." And it goes onto say that the truth --
14 "Evidence of a poor reputation for truth and veracity does not
15 become more or less prejudicial because the events which in part of
16 this knowledge to the testifying witness happened after the alleged
17 criminal conduct." So --

18 THE COURT: So I guess an immediate question in
19 response to that is should I follow the dissent or the majority?

20 MR. POSIN: Well, and I don't know that by following the
21 dissent you're contradicting the majority. Obviously, the majority,
22 you know, affirmed the --

23 THE COURT: Conviction.

24 MR. POSIN: -- the conviction, but they didn't actually
25 address that point as far as I can tell.

1 THE COURT: No, that's -- that's true. I will fully
2 acknowledge the dissent was much, much, much more thorough
3 than the majority opinion.

4 MS. RHOADES: I do think, Your Honor, that it would go to
5 the probative versus prejudicial issue though.

6 THE COURT: Yeah. Yeah. So since we're here and we're
7 ready and we're able, Mr. Posin, if you're not going to call a witness,
8 I'll call a witness and you can examine them.

9 MR. POSIN: Okay.

10 THE COURT: So let's call Ms. Madden first.

11 MS. RHOADES: Okay. And again, before she gets on the
12 stand, I know the Defendant's family is here. Did the Court order --

13 THE COURT: Yeah, nobody's going to be in here other
14 than the attorneys, the parties, and the witness, so if any family
15 members of Mr. Brass are in here, you're ordered to leave.

16 MS. RHOADES: Thank you.

17 THE COURT: Any family members? I would also note this
18 is a -- what do the cases call it?

19 MS. RHOADES: I think a Miller hearing.

20 THE COURT: Miller hearing that is not trial testimony,
21 which is more supported even of closing the courtroom.

22 MS. RHOADES: Thank you.

23 THE MARSHAL: Please watch your step and then --

24 THE COURT: Hold on. Hold on. Don't -- just wait.

25 We have numerous people in here. Let's figure out who's

1 here and -- all right. So we had -- who's in the back still? The
2 investigator, right?

3 MS. RHOADES: And the victim advocate is here as well.

4 THE COURT: Okay. Okay. Sounds good. Now you can
5 stand over here.

6 THE CLERK: Ma'am, please stand and raise your hand.

7 KIMBERLY MADDEN, DEFENDANT'S WITNESS, SWORN

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

10 THE WITNESS: Kimberly Madden, K-i-m-b-e-r-l-y
11 M-a-d-d-e-n.

12 MR. POSIN: Thank you, Your Honor.

13 DIRECT EXAMINATION

14 BY MS. RHOADES:

15 Q Good afternoon, Ms. Madden.

16 A Afternoon.

17 Q Do you remember an incident that occurred on
18 approximately October 29th, 2017 that involved RaRa and a school
19 he was attending, or a facility he was attending at the time?

20 A Can you give me the date again? I'm sorry.

21 Q October 29th, 2017.

22 A Yes, I do.

23 Q And could you tell us what occurred on that date?

24 A This is referring to the hospital?

25 THE COURT: Yeah, I think you said school. That --

1 Q Maybe I -- I'm sorry, it's Montevista Hospital, yes.

2 A All right.

3 Q The Montevista Hospital, PHP program.

4 A I took my child, both of my kids into the hospital because
5 they were going through some things that needed to be -- actually,
6 they're in counseling and they referred me there. So I took them to
7 the hospital and they were in separate places. My daughter was on
8 one end. My son was on the other. And my son told me -- I asked
9 him what was happening, you know, because he was acting --
10 spitting, cussing, and I asked him what happened, and he said that
11 when he did that, there was a guy that was in there that took him into
12 a room. I said what happened in the room? He said the guy touched
13 his butt in the room.

14 Q Okay. And what did you do about that?

15 A I called the police and took him right to the hospital.

16 Q Okay. And who did you talk to? Did you -- or let me be
17 more specific. Did somebody from the police, and if so, which
18 police, was that Las Vegas Metropolitan Police? Did somebody
19 respond? Did you talk to someone?

20 A I definitely talked to the police.

21 Q Okay. Did somebody come to your house? Did you have a
22 telephone call? Or what happened?

23 A I took him to Sunrise Hospital and I called them, or I had
24 them called. I'm not 100 percent sure if I called them on the way
25 there, but I know that I had him -- I know that I did talk to the police. I

1 don't know if I called them or they called them, but I know that I
2 called the police.

3 Q And that was on the telephone?

4 A Yes.

5 Q Did you ever see anybody in person?

6 A Yes.

7 Q Somebody come to your house? Or where did you meet in
8 person?

9 A I met them at the -- I met them at the Child's Assessment
10 Center on Pecos.

11 Q What happened?

12 A From the hospital, they gave my kid -- they gave my son,
13 Rodriquez, some like -- well, what happened was they assessed him
14 there, and they told me that, you know, he kept mentioning about
15 Dequincy. That's all he said. That's all the officer said, and he said --
16 he mentioned he got hit by his sister and his mom because his
17 mother -- he said my mom was being mean and my sister -- or I'm
18 not exactly -- the exact words, but I know that he said that the police
19 officer said that he had got hit by his -- well, he had touched and hit
20 by his sister. I think he was just -- I don't really know, but that -- I'm
21 not 100 percent what the exact words were, but I know that he said
22 he went to --

23 Q And when they said that he got touched by his sister, what
24 did you understand that to mean?

25 A He said he got hit by his sister.

1 Q But just now you said something about got touched by his
2 sister, or --

3 A Hit.

4 Q Just hit. What happened after that conversation that you
5 had at this Child Assessment Center?

6 A After that, basically I just continued to keep going through.
7 I mean, I try to get him counseling again, and --

8 Q Okay. Have you had any further contact with Metro?

9 A No.

10 Q How about Henderson Police?

11 A Since --

12 Q Did Henderson Police contact you about this at all either?

13 A No.

14 Q Did anybody from any law enforcement contact you?

15 A Not again.

16 Q Did you contact anybody, whether law enforcement or
17 Montevista, or anywhere else?

18 A Yes, I contacted Montevista immediately.

19 Q Okay. What happened when you contacted Montevista?

20 A I let them know what person that picked my son up was
21 the one that my son said that took him in the room, and I let them
22 know everything that he told me at the time.

23 Q Now, you wrote down a written statement.

24 MR. POSIN: If I may approach, I'll show it to her, Your
25 Honor.

1 THE COURT: Sure. Let's have -- is it a voluntary
2 statement?

3 MR. POSIN: Yeah.

4 THE COURT: We'll mark that one as the Court's Exhibit --

5 THE CLERK: 4.

6 THE COURT: -- 4.

7 [Court's Exhibit 4 marked for identification]

8 BY MR. POSIN:

9 Q I'm showing you what's been marked as Exhibit Number 4.
10 Court's Exhibit Number 4. Is that your statement?

11 A Yes, this is my statement.

12 Q Now, that doesn't have any kind of name of this -- the
13 person involved?

14 A It doesn't. I don't know his name.

15 Q Were you ever -- did you try to find out his name?

16 A Yes.

17 Q How did you try to find out his name?

18 A I called Montevista Hospital, spoke with the staff, manager.
19 I even went up there actually because my daughter was in there at
20 the time still, and I went and got her out of there.

21 Q And what did they tell you?

22 A They said they were just, you know, going to get --
23 investigate the guy and they were going to get to the bottom of it,
24 but I just pursued with, you know, talking to the police on my end
25 and getting my kid out of there.

1 Q What did they say when you asked what his name was?

2 A I didn't know his name.

3 Q But did you ask them for his name, or --

4 A Yeah, they did. They didn't tell me his name.

5 Q They wouldn't tell you?

6 A Huh-uh.

7 Q Do you know anything else about this incident?

8 A No, I don't know anything else. I just know that, like, my
9 son was going through things at the time and I asked him what was
10 happening at the hospital, how were they treating him at the
11 hospital, and -- because he was just -- presented some -- the case
12 before this, before -- what you're talking about, what we're here
13 today. So I just asked him what happened. What happened when --
14 you know, and he told me what happened, so --

15 MR. POSIN: Can I have the Court's indulgence for a
16 second?

17 THE COURT: Sure. Sure.

18 MS. RHOADES: And, Your Honor, I apologize. I did just
19 give Mr. Posin two more case notes that my secretary was able to
20 review.

21 THE COURT: Okay.

22 MS. RHOADES: I would like these to be marked as Court
23 exhibits, too, if that's okay.

24 THE CLERK: Those were already given to the Judge?

25 MS. RHOADES: No, they're additional ones.

1 THE COURT: Oh, okay.

2 MS. RHOADES: If I may approach?

3 THE COURT: Sure.

4 MS. RHOADES: Thank you.

5 MR. POSIN: All right, Your Honor, if I could have another

6 moment while I read this new --

7 THE COURT: Of course. Sure.

8 [Pause]

9 BY MR. POSIN:

10 Q All right. You go by Ms. Garza [phonetic] right now, right?

11 A Yes.

12 Q Ms. Garza, I'm looking at a document that suggests that at

13 one time you may have thought that the name of this individual was

14 a Mr. Delmonte [phonetic]; does that ring any kind of bell to you?

15 A I don't remember, but I -- I know that I found a name, but I

16 don't know if that was the name because he had dropped my son off

17 and he had wrote something, but I didn't know if that was his last

18 name, first name, but it could have been.

19 Q Okay. So if there's a report, and I -- I'm not even entirely

20 sure where this comes from, but that suggests that you told

21 somebody named Todd Cadawich [phonetic] --

22 A That was the director, I think.

23 Q That's the director at Montevista?

24 A Uh-huh. Yes.

25 Q Okay. So if Todd Cadawich wrote that you may have said

1 that the -- you thought the name was Mr. Delmonte, would you think
2 that that is probably accurate?

3 A You know, I can't -- I can't say it is because I don't
4 remember the date -- the name right now. I don't remember even -- I
5 remember I had a name, but I don't know, because it was like -- I
6 seen him one time, and I didn't know his name, so I don't know if
7 that was even his name. But I just knew it was the same person that
8 dropped my son off and that picked him up and I asked them what
9 was his name, and I think they told me that, but I'm not 100 percent
10 sure.

11 MR. POSIN: Okay. All right. Before I proceed any further,
12 based on the new documents that we just received, I think there's
13 more things to go over with the Court, and rather than doing it at
14 sidebar, could we maybe have the witness excused temporarily to
15 discuss those other issues?

16 THE COURT: Anybody object to Exhibit 4 being admitted
17 for the Miller hearing before I forget that?

18 MR. POSIN: No objection.

19 MS. RHOADES: No. No, Your Honor.

20 THE COURT: Court's Exhibit 4 will be admitted, not for the
21 jury purposes.

22 [Court's Exhibit 4 admitted into evidence]

23 THE COURT: Yeah, that's -- we could excuse the witness
24 for now.

25 MR. POSIN: Okay. So I'll probably be calling you back.

1 THE COURT: You can step down.

2 MR. POSIN: But you can step outside for now.

3 THE WITNESS: Okay. Thank you, Your Honor.

4 MS. RHOADES: And just kind of while we're on the
5 exhibits, Your Honor, I did have all of the documents that we've been
6 provided, provided to Mr. Posin and to the Court, and I think -- would
7 you stipulate to the admission of all of those as Court exhibits?

8 MR. POSIN: Yes.

9 THE COURT: Okay. So Court Exhibits 4, 5, 6, 7, and 8 are
10 admitted for the Miller hearing.

11 [Court's Exhibits 5, 6, 7, 8 admitted into evidence]

12 MR. POSIN: So, Your Honor, my concern here is that there
13 is now a new additional allegation of what appears to be sexual
14 misconduct here by Venice about Kim. I'm sorry, by RaRa about
15 Venice, rather.

16 There's allegations of physical abuse against -- by RaRa
17 about both Kim and Venice, but there seems to be an allegation that
18 Venice -- let's see, where was this? In the middle, his sister also
19 touches his butt in private with her hands.

20 MR. POSIN: Right, it's like such faint writing that it's hard
21 to --

22 THE COURT: Yeah, it's hard for me to read, too.

23 MR. POSIN: -- find stuff in it. But, I mean, now we have a
24 brand-new allegation of sexual misconduct by RaRa.

25 THE COURT: Also at the end of Exhibit 7 it says in all caps,

1 "Child made no disclosure referencing," Or "ref" R-E-F, "alleged
2 incident."

3 MR. POSIN: And I see that, Your Honor. And then the
4 other document -- I don't remember which number, you said that's
5 going to be marked, it says case closed. Insufficient --

6 THE COURT: That will be Court's Exhibit 8.

7 MR. POSIN: And so, you know, what I take from that,
8 though it doesn't exactly explain it, is that what they're saying is that
9 unless the information is offered by the child, they don't really follow
10 up on it where it's offered by someone else for some reason it isn't. I
11 don't quite know what they mean by child made no disclosure, and
12 I'm just kind of making an assumption because certainly there does
13 seem to be an allegation here, and it's seemingly coming from RaRa
14 when he's interviewed, but when they say --

15 THE COURT: Well, the -- I mean, my read of that is he
16 didn't talk about the alleged incident at the hospital, but he did talk
17 about the allegations as to his mom and sister and Mr. Brass.

18 MR. POSIN: Right, so there -- I think what they're saying is
19 that because this information is coming to them from a third-party,
20 that that's why as opposed to being -- stated directly by the child,
21 that that's why they're not following up on it, I guess.

22 In any event, so now we have that allegation against
23 Venice. So amongst other things, you know, we've already had
24 Venice testify here, but if we're going to at all have RaRa talk about
25 that allegation, then we have the issue of do we bring back Venice to

1 affirm or deny the truth of that?

2 MS. RHOADES: I can speak to that, Your Honor.

3 THE COURT: Sure.

4 MS. RHOADES: I mean, for the record, these are notes --
5 LVMPD notes, and Todd Cadawich was a detective with Metro that
6 closed the investigation, and when they say, "His sister also touches
7 his butt in private with her hands," and then in parenthesis, "There's
8 no detail about how, when, et cetera."

9 With regard to this as brand-new information, that's
10 completely incorrect. The Defendant gave a recorded statement with
11 Detective Varguson [phonetic] on July 20th, 2017, where he talks
12 about this very same thing. The Defendant says -- and Mr. Posin has
13 had this the entire time. I'm looking at his interview transcript on
14 page 13. He says that, "Kim told him that Venice said that she
15 touched RaRa."

16 And I have notes that say exclude on all of these things
17 that the Defendant gets up there and tries to testify about that
18 because there's been absolutely no motion done. So to say that this
19 is brand-new and this is the first time he's ever heard about it is just
20 not true at all.

21 Page 18, again he says, "She's speaking about Kim. Was
22 afraid because she thought Venice was the one touching little RaRa,
23 and she didn't want Venice to get in trouble for it."

24 MR. POSIN: Your Honor, it's not that we haven't seen
25 them before, we haven't seen them from any source other than the

1 Defendant before. And the Defendant -- and this is --

2 THE COURT: What's she have before?

3 MS. RHOADES: This is his statement. This is the
4 Defendant's statement where he's getting it from Kim, so they did
5 have another source --

6 THE COURT: Right.

7 MS. RHOADES: -- of this information.

8 THE COURT: So it sounds like this issue is, at least as to
9 the sister, is not a new issue, right?

10 MS. RHOADES: I would argue that, yes, Your Honor.

11 THE COURT: Okay. All right. Anything else before we
12 bring Ms. Garza back in?

13 MR. POSIN: Let me just take another look at it, Your
14 Honor. Your Honor, I guess my other concern is that I don't know
15 what the protocols are for forensic interviews, if they're ever done
16 without a recording, and it's certainly the one in this case was done
17 with a recording. And so I'm assuming that this second interview of
18 Rodriguez by Ms. Espinoza was also done -- was also recorded. And
19 so that information should be out there somewhere.

20 And since it concerns all kinds of statements, apparently,
21 by RaRa about all of his family members, about Dequincy, about
22 everybody, it seems like it would be appropriate to get a hold of that
23 recording, and/or transcript if there is one.

24 MS. RHOADES: The State can certainly do that, but I don't
25 know -- of course we can do that, but I don't know how that changes

1 anything with regard to the Miller hearing today.

2 THE COURT: Well, that's what I was going to say. I mean,
3 it -- you know, the -- it seems to me that the notes are sufficiently
4 detailed to give us a summary -- more than a summary even of the
5 interview.

6 MS. RHOADES: And the State's, you know, doesn't have
7 this, and of course, Defense doesn't have it either. We're certainly
8 not going to ask RaRa, oh, you said it on this time, and also you said
9 it on that time, so really, it's inculpatory and --

10 THE COURT: Inculpatory you said, right?

11 MS. RHOADES: Inculpatory, yes.

12 MR. POSIN: There may or may not be inculpatory
13 statements there. If, for instance, RaRa made a statement -- I
14 shouldn't say -- there are almost certainly some inculpatory
15 statements, but they may contradict his other statements for all I
16 know. But I'm not so much focused on what he has to say about the
17 Defendant. I'm more focused on all these other allegations that he's
18 making. And specifically this one about Mr. Delmonte. Okay. And
19 what --

20 THE COURT: So as to -- let me make a finding real quick
21 though as to the allegations regarding -- the allegations -- claims --
22 accusations RaRa/Rodriquez made vis-à-vis against Venice or Kim.
23 Let me be clear on the record that no written notice of intent to
24 introduce those had ever been filed. And as to those, notice was in,
25 is in, remains in, apparently the evidence that Defendant's counsel

1 have had. So that is not waived to be clear. That requirement is not
2 waived as to any allegations, accusations, vis-à-vis Venice or Kim if
3 at all. I can't even remember.

4 So we only, under the Miller hearing, we're only dealing
5 with the hospital/bus driver, or whatever it is. Because that one I
6 could understand if State didn't even know, obviously. You didn't
7 know, hadn't heard, so -- but the other stuff, had it been in the file,
8 and -- so let's focus on the hospital allegation, so as it more
9 probative than prejudicial.

10 But if you want to call the witness back in, I'm ready to go.

11 MR. POSIN: All right.

12 THE COURT: Okay. Let's do that.

13 You're still under oath. Do you understand that?

14 THE WITNESS: Yes.

15 THE COURT: Okay.

16 DIRECT EXAMINATION CONTINUED

17 BY MR. POSIN:

18 Q Okay. So could you tell us exactly what RaRa said that this
19 counselor/bus driver did?

20 A He said that when he was bad, spitting, kicking -- because
21 the guy told me he was spitting and kicking and saying a lot of cuss
22 words. I said what happened when you were bad? And he said he
23 wanted -- he took him to the -- he took them to a closet, slash -- type
24 of a room, like a -- like a room that was kind of dark. And what he
25 did in there was he said he touched his butt.

1 Q And did he give any more specifics about how he touched
2 his butt?

3 A No, that's all he said.

4 Q Did you ask?

5 A And I said did he spank you? He said he touched my butt.

6 Q Nothing further?

7 A He --

8 Q Just touched his butt?

9 A That's what he said.

10 Q Okay.

11 A And he said, no, it wasn't a spanking. He touched his butt.

12 Q It wasn't a -- he touched his butt and it wasn't a spanking?

13 A Yeah, that's what he told me.

14 Q Thank you. All right. I have no further questions for her.

15 THE COURT: All right. Thank you. State have any?

16 MS. RHOADES: No, Your Honor.

17 THE COURT: All right. Thank you. You'll probably be
18 called back when the jury's back.

19 THE WITNESS: All right.

20 THE COURT: Thank you.

21 Let's bring RaRa in next.

22 MR. POSIN: Your Honor, I may want to, with the Court's
23 permission, call back Ms. Garza after we finish with RaRa.

24 THE MARSHAL: Come this way, and then you're going to
25 stand and face her right there.

1 THE CLERK: Please raise your right hand.
2 RODRIQUEZ MADDEN, DEFENDANT'S WITNESS, SWORN
3 THE CLERK: For the record, please state and spell your
4 first and last name.
5 THE WITNESS: Wait, what?
6 THE COURT: State and spell your first name.
7 THE WITNESS: R-o-d-r-i-q-u-e-z.
8 THE COURT: And your last name?
9 THE WITNESS: M-a-d-d-e-n.
10 THE COURT: Thank you. You could sit down.
11 DIRECT EXAMINATION
12 BY MR. POSIN:
13 Q Good afternoon.
14 A Good afternoon.
15 Q I understand that you usually go by RaRa, so is it okay if I
16 call you RaRa?
17 A Yes.
18 Q Okay. RaRa, do you remember an incident about three
19 years ago where something -- you said that something had
20 happened with somebody who was a bus driver and counselor at
21 Montevista?
22 A No, it didn't.
23 Q All right. No further questions, Your Honor.
24 THE COURT: Okay. Does the State have anything?
25 MS. RHOADES: No, Your Honor.

1 THE COURT: All right. All right, RaRa, you can step down
2 and we may bring you back up in a bit. Thank you.

3 MR. POSIN: And, Your Honor, I wonder if I can recall
4 Ms. Garza.

5 THE COURT: So what do you want to do that for?

6 MR. POSIN: Specifically, Your Honor, I -- and I apologize,
7 it's something I should have caught, but just having just received
8 these documents and I was caught a little off-guard, there's a
9 statement here that I --

10 THE COURT: Which one?

11 MR. POSIN: And I don't know which exhibit it is, but it's
12 landscape and starts with the word "narrative" on the top left.

13 THE COURT: Okay. Okay. It's Court's Exhibit 5.

14 MR. POSIN: And, Your Honor, the sort of middle
15 paragraph, or second paragraph towards the bottom of that
16 paragraph, it says, "Madden stated that he was bad and that the man
17 that drives him to the program is also a counselor." And this is
18 apparently coming from Kim, from Ms. Garza. "That the man who
19 drives him to the program was also a counselor, put him in a dark
20 room to cry. Madden stated that while he was in the room, the
21 counselor hit him and was trying to insert his hand into his bottom."
22 So that's a little more specific than just touching his bottom, and I'd
23 like to ask her about that one thing.

24 THE COURT: So I'm going to deny your request to recall. I
25 don't see even -- even if we assume that she remembers him saying

1 that, and remembers her saying that, I don't think it adds anything.

2 Two minutes each for any argument you want to make.

3 MR. POSIN: Your Honor, again, it looks -- I would argue
4 that that is -- if Your Honor is taking everything in the most favorable
5 light to us, then I won't complain about it, but otherwise, if we have a
6 burden of proving that there was sexual contact and not just contact,
7 simply a statement that he placed his hand -- that she heard him say
8 that he placed that the -- this bus driver placed his hand on RaRa's
9 bottom may not rise to the level of sexual contact, but certainly if we
10 take this statement, this -- that he was trying to place his hand in his
11 bottom, that would be sexual contact.

12 And if we are trying to show, as we are, that this was a
13 prior false statement of prior sexual contact, which we're introducing
14 not to get into his proclivity for any -- RaRa's proclivity for any kind of
15 sexual contact, which would have to do with [indiscernible], but
16 rather to show that he --

17 THE COURT: Impeachment.

18 MR. POSIN: Yes. Then I think that we need to have, and
19 perhaps the Court could just instruct the jury on it, that he did make
20 this statement. Next, we have to prove that it was false. And again,
21 if the Court accepts that it was false, and ordinarily, had we had this
22 earlier, we could have sent out my investigator, found this person,
23 and we actually do seem to have a name for, have him come and
24 testify, and if his testimony was credible, as the Court has already
25 indicated the Court would presumably find, then this is an example

1 of, at least maybe not prior to the incident, but prior to our trial. And
2 if the Court goes with dissent reasoning in the Brown case,
3 admissible as another prior incident of false accusation by RaRa.

4 So I would ask that the Court instruct the jury that RaRa
5 made an accusation. The accusation was against this person who
6 was a counselor at Montevista, and that the accusation -- it was an
7 accusation of -- that the counselor at Montevista was trying to insert
8 his hand into his bottom, and that that accusation was false.

9 THE COURT: Thank you very much.

10 MS. RHOADES: I mean, the State's not arguing that it's
11 not sexual. Whether he touched him on the butt or whether his hand
12 was --

13 THE COURT: I -- that --

14 MS. RHOADES: That's not -- the run -- I mean, the relief of
15 a Miller hearing is not for the Court to instruct the jury, it's to allow
16 the Defense to be able to cross-examine the witnesses about it. So I
17 think an instruction would be wholly inappropriate if the Court is
18 going to grant their -- grant their leave to cross-examine the witness
19 about this collateral matter.

20 I would just go back to the more probative versus
21 prejudicial, and because of the timing, I don't think that it's very
22 probative because it happened after. And that's what we would
23 submit on.

24 MR. POSIN: And, Your Honor, the -- that would all be true
25 if Miller didn't also stand for the proposition that we have an

1 opportunity if a witness denies something on the stand, to get
2 around the collateral -- the other -- the rule that would otherwise
3 apply, and bring in evidence. And if we can't -- we don't have the
4 time to go find this witness and call him. We can't present his
5 evidence. The jury can't hear him.

6 And so I know it's kind of an unusual way to present it, but
7 it's about the only way I can see to present anything to the jury
8 showing that that statement is false, otherwise we are stuck with my
9 asking him about something that he doesn't even remember making
10 the accusation. And if all I can say is, hey, RaRa, do you remember
11 making this accusation and he says no, there is simply no other
12 mechanism other than that Court instruction that I can think of to
13 bring that to the attention of the jury.

14 MS. RHOADES: Well, what -- I think he can -- if the Court is
15 inclined to let him ask about this, I think he can ask Kim, and Kim can
16 testify about the circumstances. He can ask RaRa. We can ask them
17 questions about it as well, and interestingly enough, it's Elizabeth
18 Espinoza who did both interviews, and he can certainly ask her did
19 you interview him on this day about this allegation? Did he make
20 any disclosure about this allegation? No.

21 THE COURT: I think that's appropriate. So to be clear,
22 we've had our Miller hearing. As I stated, a part from this
23 driver/hospital worker, the notice -- written notice of the intent wasn't
24 given, so any issues, allegations, vis-à-vis or against sister, Venice, or
25 Mom, that's excluded. And that includes any cross-examination as

1 to either of them.

2 Now, Mr. Posin, obviously can't control what the witness
3 says in an answer, especially if it's the examiner, the mom, but
4 questions, you know, has Venice ever touched you, or something like
5 that, that's excluded. The -- any questions on that part?

6 MR. POSIN: No, Your Honor.

7 THE COURT: Okay. The accusation against the bus
8 driver/hospital worker, I do believe it is appropriate to cross-examine
9 and/or impeach vis-à-vis RaRa and -- I forget her name -- the other
10 examiner, right? There's another one.

11 MS. RHOADES: Elizabeth Espinoza is the examiner, yes.

12 THE COURT: Ms. Espinoza. And to be clear, I do find that
13 the written requirement and notice, that's met and/or waived under
14 the circumstances because as a surprise to everybody today, the
15 accusation was made; that's conceded appropriately, so stipulated.
16 The accusations were false, I find, given that the -- I would -- taking
17 the evidence and the Court's exhibits that's been admitted, taking
18 RaRa's testimony, his mom's testimony, as well as the fact that I am
19 safe to presume that the person would come in and credibly say they
20 didn't do it, and so that's met.

21 The evidence, more probative than prejudicial, that's a fine
22 line, but under the circumstances with RaRa's credibility being as key
23 as it may be, the evidence is more probative than prejudicial, and
24 therefore, Defendant's met the burden under that. If RaRa testifies in
25 front of the jury, like he did in front of me, and says he doesn't

1 remember, Defendant may thereafter present extrinsic evidence of
2 the false accusations through testimony of the other examiner,
3 and/or the mom.

4 And prior, I think the dissent actually is probably right.
5 This is prior to the trial even, whereas in the other one, the
6 accusations include after they even had the trial, I guess, but so that's
7 the ruling.

8 MS. RHOADES: Okay. Thank you, Your Honor.

9 THE COURT: Any questions?

10 MS. RHOADES: No, Your Honor, not from the State.

11 THE COURT: Okay.

12 MR. POSIN: No, Your Honor.

13 THE COURT: Okay. Are we ready otherwise?

14 MS. RHOADES: Sure.

15 THE COURT: Are you ready?

16 MR. POSIN: Ready.

17 THE COURT: Okay.

18 [Pause]

19 THE MARSHAL: Some of the jurors are in the restroom.

20 THE COURT: Okay.

21 THE MARSHAL: Counsel, who are you calling, so I know
22 who to tell the family?

23 MS. RHOADES: RaRa and then Kim.

24 [Pause]

25 THE MARSHAL: All rise for the jury.

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[Jury in at 2:42 p.m.]

THE COURT: Please be seated.

Welcome back, ladies and gentlemen. Thank you for your service and patience.

Is the State ready to continue?

MS. RHOADES: Yes, Your Honor. The State calls Rodriquez Madden.

THE MARSHAL: Remain standing and face that way.

THE CLERK: Please raise your right hand. The other hand.

RODRIQUEZ MADDEN, STATE'S WITNESS, SWORN

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

THE WITNESS: R-o-d-r-i-q-u-e-z M-a-d-d-e-n. Hello, everybody.

THE COURT: Hello.

DIRECT EXAMINATION

BY MS. RHOADES:

Q Hey, Rodriquez, do you have a nickname?

A Just call me RaRa.

Q Okay. RaRa, do you know the difference between the truth and a lie?

A Yes. A lie is not telling the truth. And a truth -- telling the truth is never [indiscernible] -- okay, I don't know what truth is, but I know what truth is, all right?

Q Do -- okay. So I have a piece of paper in my hand. If I told

1 you that this piece of paper was black, would that be a truth or a lie?

2 A Truth.

3 Q It would be a truth if I told you that this piece of paper was
4 black?

5 A Yes.

6 Q Well, what color is this piece of paper?

7 A Pink.

8 Q Okay. So am I telling the truth when I say this piece of
9 paper is black?

10 A No.

11 Q Okay. So going back to my question, if I said this piece of
12 paper is black, is that a truth or a lie?

13 A A lie.

14 MR. POSIN: Objection. Asked and answered.

15 THE COURT: Overruled.

16 BY MS. RHOADES:

17 Q Okay. We'll try it again, okay? Okay, RaRa, if I told you
18 that this file folder in my hand was rainbow colored with sparkles, is
19 that a truth or a lie?

20 A Truth.

21 Q Okay. What color is this file folder in my hand?

22 A Pink -- purple.

23 Q So if I tell you that this is rainbow colored with sparkles, is
24 that a real thing or not a real thing?

25 A Not a real thing.

1 Q Okay. Is the truth a real thing or not a real thing?
2 A Not -- truth is a real thing.
3 Q And a lie is that not a real thing?
4 A Uh-huh.
5 Q Is that a yes?
6 A Yes.
7 Q Okay. So going back to my question, if I told you this file
8 folder in my hand is rainbow colored with sparkles, is that a truth or
9 a lie?

10 A A lie.

11 MR. POSIN: Objection. Asked and answered.

12 THE COURT: Overruled.

13 BY MS. RHOADES:

14 Q So that's a lie, right? And for the record the file folder in
15 my hand is purple and the prior piece of paper in my hand was pink.

16 Okay, RaRa, this file folder in my hand right now if I told
17 you this was brown, would that be a real thing or not a real thing?

18 A A real thing.

19 Q Is this file -- what color is this file folder?

20 A Green.

21 Q Okay. So is it real when I say this file folder is brown?

22 A No.

23 Q Why? Why is that not a real thing?

24 A Because you're not mostly telling the truth, and truth is like
25 telling the truth and not lying. And that's -- you're mostly lying to me

1 and -- yeah.

2 Q So if I told you this file folder is brown, is that a truth or a
3 lie?

4 A A truth -- a lie.

5 Q Okay. If I told you this file folder is green, is that a truth or
6 a lie?

7 A A truth.

8 MS. RHOADES: Okay. And for the record, this file folder is
9 green.

10 BY MS. RHOADES:

11 Q RaRa, can you promise that you only talk about real and
12 true things at this hearing today?

13 A Yes.

14 Q Okay.

15 A [Indiscernible].

16 Q How old are you?

17 A Eight years old.

18 Q When is your birthday?

19 A Next to Thanksgiving.

20 Q In November?

21 A Yes.

22 Q Okay. And what did you have for breakfast today, RaRa?

23 A I didn't eat breakfast today.

24 Q You didn't?

25 A Mostly, sometimes every night, sometimes nighttime or

1 evening time, I eat some here, some cereal. So I mostly call that an
2 early breakfast.

3 Q Okay.

4 A A late breakfast.

5 Q Who do you live with?

6 A My mom and my -- just my mom and my sister. Just
7 them.

8 Q Do you know your address?

9 A No. [Indiscernible].

10 Q Can you describe your house for us?

11 A It's apartment and we have gates to protect us. Only
12 people who have the code know what it is or a keycard to open it if
13 you don't have the code. And we have apartment. There's some
14 yellow and orange. So mostly we have the orange. We have some
15 neighbors, and they're cool. But I got bit by one once. Hurts. By my
16 hand and by my side. And mostly, it hurts. And it healed. And
17 they're sorry about that. And because the dog was trying to protect
18 its family. I didn't blame it because --

19 Q Okay. So let me stop you there. So you're telling us about
20 where you live in your apartment, and you said one of your --

21 A Neighbor's.

22 Q -- neighbor's dogs bit you?

23 A Yes.

24 Q Okay.

25 A On accident because he was trying to protect his family. I

1 know about that. I know how it feels.

2 Q Are you all healed from that? Are you okay from that bite?

3 A Yes.

4 Q You said your birthday is coming up around Thanksgiving?

5 A Yeah, but it's already passed.

6 Q Okay. Do you remember this past Christmas?

7 A Yes. Past Christmas was my favorite. It was so good.

8 Better than the last one.

9 Q What did you do this past Christmas?

10 A We watched Disney Bless and [indiscernible] Four, and we
11 ate some -- we mostly had this popcorn where we have cheese
12 flavored and just candy popcorn and normal popcorn, just the white
13 flavored.

14 Q Do you remember what you got for Christmas?

15 A I got toys. My sister got lots of stuff for her and her got a
16 phone. I was a little jealous, but I wasn't mad. I wasn't mad.

17 Q She got a phone and you were a little jealous?

18 A Yes.

19 Q Okay.

20 MR. POSIN: Objection. Relevance.

21 MS. RHOADES: I'm laying some foundation for this
22 witness since --

23 THE COURT: Overruled.

24 MS. RHOADES: Thank you.

25 BY MS. RHOADES:

1 Q Okay. How about the Christmas prior to that? Do you
2 remember what you did on that Christmas?

3 A Yeah.

4 Q What did you do on that Christmas?

5 A Wait. Christmas prior?

6 Q Yeah. The one before the one that just passed.

7 A We was getting ready. I was -- I couldn't wait. I peeked at
8 the present a little, and I knew it was a Hot Wheels. And I peeked at
9 the other big one and guess -- it was another Hot Wheels. And then
10 my parents knew [indiscernible] I went -- I was pretending I didn't
11 know, but they didn't get mad.

12 And plus, it's okay because after it was -- after tomorrow
13 was Christmas Eve, before Christmas, I was about to open my
14 Woody toy, Toy Story 4, not like the old ones, my favorite ones. But I
15 couldn't wait for my sister to see what we are just open myself. I
16 wait for my sister was hard to wait because I was so excited. And I --
17 her come and I opened the present and I was -- and I -- other -- at
18 nighttime and the next morning my momma was on break and we
19 was about to open my presents.

20 Q Okay. Do you remember where you were living the
21 Christmas that you were just telling us about?

22 A Yeah, at my apartment.

23 Q At the same apartment?

24 A Yes.

25 Q Okay. Do you remember the Christmas before that?

1 A No. That was like a year ago where I used to have my big
2 house? That Christmas?

3 Q Is that where you had the Christmas before the one you
4 just told us about?

5 A Yes.

6 Q Okay.

7 A But I got my house locked out. I don't know why.
8 Probably for the rent.

9 Q Do you remember the address of that big house that you
10 used to live in?

11 A Nope. I was little and I didn't -- I don't know about
12 addresses at that time.

13 Q Who did you live with at that house?

14 A My mom, my sister and me. That's it.

15 Q What's your sister's name?

16 A Venice Madden.

17 Q Do you know someone named Quincy?

18 A Yes.

19 Q How do you know Quincy?

20 A He was at our big house with me. He was at our big
21 house.

22 Q Okay. Did he live with you for some time at your big
23 house?

24 A Yeah, every day.

25 Q When he lived with you, did anybody else live with you?

1 A No, just all four of us.

2 Q Your dad didn't live there when Quincy lived there; is that
3 right?

4 A Yes. He was in prison.

5 Q Okay. Is your dad in the courtroom today?

6 A Yes, right behind you.

7 Q Okay. Is that Venice's dad, too?

8 A Yes.

9 Q Okay. So when Quincy lived with you and your sister and
10 your mom at the big house, did you do anything fun with him?

11 A One night I used to -- we watched a show. And I didn't
12 know what it was. It was like a lizard. And I knew after a year ago
13 where I am right now, he's -- I knew it was like a old video, and I
14 didn't know what it was because it was so old. And they made the
15 new, and they called it Godzilla. So I won't see it now, a lizard.

16 Q So you watched a Godzilla show with him?

17 A Yes. On like a old -- you know like those old shows like
18 that don't have color? They just have like black and white.

19 Q Yes.

20 A Or just white.

21 Q Uh-huh. And you watched that with him?

22 A Yes.

23 Q Okay. Can you remember any other fun things that you
24 did with Quincy?

25 A No, just that time.

1 Q Did Quincy ever touch you somewhere where you didn't
2 want to be touched?

3 A Yes.

4 Q Can you tell me about that?

5 A He did touch me in my butt, and it didn't feel right. And I
6 didn't why did he do that, but he just did it. And I didn't know why
7 he did that. And also, he gave my mom drugs to go to sleep. And
8 so, yeah.

9 Q Okay. How did you -- how do you know about your mom
10 and the sleeping thing?

11 A My mom told me.

12 Q Okay. So I don't want to talk about that.

13 MR. POSIN: Objection. Hearsay.

14 THE COURT: Sustained. The Court will disregard that
15 testimony regarding that.

16 BY MS. RHOADES:

17 Q I want to talk about where were you at when he touched
18 you on your butt?

19 A On the couch.

20 Q And in the house that you lived in with him?

21 A Yes.

22 Q Okay. What did he use to touch your butt?

23 A Just his hands.

24 Q Just his hands?

25 A Yes.

1 Q Can you describe how he did that?

2 A Mostly straight hand, like this.

3 Q Just his hand. When he touched you on your butt, was it
4 on top of your clothes or under your clothes?

5 A Under my clothes because doing that and --

6 Q You said under your clothes?

7 A Yes.

8 Q Okay. Do you know in what living room of the house it
9 happened in?

10 A Just the middle living room. We just have a living room.
11 We used to have like another living room, but the big living room we
12 have and that one was a little one. So we have the big one because
13 there was a TV in there.

14 Q Which living room did this happen in that you're telling us
15 about?

16 A The big, big one.

17 Q Okay. So I'm going to show --

18 MS. RHOADES: Your Honor, permission to publish 14?

19 THE COURT: Sure.

20 BY MS. RHOADES:

21 Q Can you see this on your TV screen?

22 A Probably.

23 Q Can you see it on your screen right in front of you?

24 A Yes.

25 Q Okay. Did it happen in this room?

1 A Yeah, I think so. It was a long time ago. I think there was a
2 TV in there.

3 Q Okay. Did anything else happen in the living room that
4 day?

5 A No.

6 Q And I'm going to show you State's 15. Is that another
7 angle of that same room?

8 A Yeah, I think so. There used to be like a TV, a big TV.
9 Probably we moved it so we could see it. It was a long time ago. I
10 miss that house, though.

11 Q Okay. Do you remember Quincy ever touching you any
12 other time?

13 A Nope. Just that time.

14 Q Okay.

15 A He didn't touch me anywhere else. Just that time.

16 MS. RHOADES: Okay. The State will pass the witness,
17 Your Honor.

18 THE COURT: Okay.

19 CROSS-EXAMINATION

20 BY MR. POSIN:

21 Q RaRa, did somebody other than Quincy ever touch you?

22 A I don't think so. Yeah. No.

23 Q Did you ever say that somebody else other than Quincy
24 touched you?

25 MS. RHOADES: I would ask to approach.

1 THE COURT: Sure. Come on up.

2 MS. RHOADES: Thank you.

3 [Sidebar begins at 2:58 p.m.]

4 MS. RHOADES: That's a little too open ended, considering
5 the --

6 THE COURT: Yeah.

7 MS. RHOADES: -- Court's ruling.

8 MR. POSIN: I'll tighten it up, Your Honor.

9 THE COURT: Yeah.

10 MS. RHOADES: Thank you.

11 [Sidebar ends at 2:58 p.m.]

12 BY MR. POSIN:

13 Q RaRa, in 2017, were you going to Montevista?

14 A Monte what?

15 Q Were you going to a hospital in 2017, about three years
16 ago?

17 A I don't think so. That was a pretty long time.

18 Q Did you -- were you taking a bus somewhere about three
19 years ago? Somewhere other than just your school?

20 A Oh, yeah.

21 Q What was that place?

22 A Wait. No, just there, I think.

23 Q You never took a bus anywhere other than your school?

24 A Yeah, just my school. And someone took me to my house.

25 It was one of my mom's friends, and I trusted him. I trust him. He's

1 a good guy.

2 Q RaRa, isn't it true that about three years ago you said that a
3 man who was a bus driver and a counselor touched your butt?

4 A Yes.

5 Q But that wasn't true; was it?

6 A Yeah, not true.

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

8 MS. RHOADES: I have nothing further for him, Your
9 Honor.

10 THE COURT: Okay.

11 Any questions from any jurors? All right.

12 Thank you, RaRa. You can step down with Marshall
13 Durazzo.

14 THE WITNESS: Thank you.

15 THE COURT: Thank you.

16 THE WITNESS: Good-bye, good man.

17 THE COURT: Thank you.

18 [Witness excused]

19 MS. RHOADES: And the State calls Kimberly Madden.

20 THE COURT: And come up for a short --

21 [Sidebar begins at 3:00 p.m.]

22 THE COURT: I was going to say, but then probably not --
23 we can open the courtroom, right?

24 MS. RHOADES: Sure. I mean, if that's the -- yeah, that's
25 normal.

1 THE COURT: Because before it was closed for the --
2 MS. RHOADES: The minors.
3 THE COURT: Right.
4 MS. RHOADES: Yes.
5 THE COURT: Okay.
6 MS. RHOADES: Yeah.
7 THE COURT: Did you hear me? Anybody can come in
8 now.
9 THE MARSHAL: Okay.
10 [Sidebar ends at 3:00 p.m.]
11 THE MARSHAL: Watch your step. You'll stand and face
12 this way.
13 THE CLERK: Please raise your right hand.
14 KIMBERLY MADDEN, STATE'S WITNESS, SWORN
15 THE CLERK: For the record, please state and spell your
16 first and last name.
17 THE WITNESS: Kimberly Garza-Madden. K-i-m-b-e-r-l-y,
18 M-a-d-d-e-n, G-a-r-z-a.
19 MS. RHOADES: May I proceed?
20 THE COURT: Yes, thank you.
21 MS. RHOADES: Thank you.
22 DIRECT EXAMINATION
23 BY MS. RHOADES:
24 Q Kim, what is your date of birth?
25 A April 3rd, 1986.

1 Q Do you have children?

2 A Yes.

3 Q How many?

4 A Two.

5 Q What are their names and birthdays?

6 A Rodriguez Madden, 11/25/11. Venice Madden, 5/4/07.

7 Q Do you know someone named Dequincy Brass?

8 A Yes.

9 Q How do you know him?

10 A I used to date him.

11 Q Do you see him in court today?

12 A Yes.

13 Q Can you point to him and tell me something that he's
14 wearing?

15 A He's wearing glasses, right here.

16 Q And what color shirt does he have on?

17 A I can't see his shirt.

18 Q Okay.

19 A But I can stand up if you need me to?

20 Q Sure.

21 A It's like gray/blue.

22 Q Okay. Thank you.

23 MS. RHOADES: May the record reflect the identification of
24 the Defendant, Your Honor?

25 THE COURT: The record will so reflect.

1 MS. RHOADES: Thank you.

2 BY MS. RHOADES:

3 Q When did you meet him?

4 A I met Dequincy about 2016.

5 Q Do you remember how you met him?

6 A I used to work with him.

7 Q Where did you work with him?

8 A Sprint.

9 Q And how did the relationship turn into a sort of dating
10 relationship?

11 A Probably about a year and a half to two years later we
12 started dating. We used to talk a lot on the phone and then we
13 started dating.

14 Q And you said 2016. Do you remember saying that you
15 guys met earlier than that?

16 A Probably before then, but I didn't talk to him until like 2016.
17 We used to be on the same team together.

18 Q Okay.

19 A But I just kind of seen him pop -- like in the hallway, or we
20 were like different teams, like working like at Sprint, we had different
21 teams we'd work with, like with a group, with a manager, and I was
22 on his team at one point, and then I wasn't on his team. It's like a
23 deal, but I didn't really interact with him at that time in 2016.

24 Q Where did you live when you first met Dequincy?

25 A I lived on 7- -- on Arden Valley in Henderson.

1 Q Okay.

2 A 736 Arden Valley Way.

3 MS. RHOADES: And permission to publish, Your Honor.

4 THE COURT: Sure.

5 MS. RHOADES: State's 5.

6 THE COURT: Sure.

7 BY MS. RHOADES:

8 Q Does that look like a map of where you used to live with a
9 little red dot on the Arden Valley Drive house?

10 A Yes.

11 Q Okay. Who did you live with when you first met him?

12 A When I first met him, my mother was in transition of
13 moving out. Or, my mother.

14 Q And did anybody else live there with you?

15 A When I first met him?

16 Q Yes.

17 A No.

18 Q No?

19 A No.

20 Q Okay. Did your kids live there with you?

21 A Oh, yes, sorry.

22 Q And I'm showing you what's been marked as State's
23 Proposed 4. Do you recognize the little girl in that picture?

24 A Yes.

25 Q Who is that?

1 A That's my daughter, Venice.

2 Q And about how old is she in that picture?

3 A She's about nine -- eight, nine.

4 Q Okay. Does this fairly and accurately depict how she
5 looked when she was eight or nine years old?

6 A Yes.

7 MS. RHOADES: Okay. I move for the admission of State's
8 4.

9 MR. POSIN: No objection.

10 THE COURT: State's Proposed Exhibit 4 is admitted.

11 [State's Exhibit 4 admitted into evidence]

12 BY MS. RHOADES:

13 Q And that's -- I'm showing you that. That's Venice, right?

14 A Yes.

15 Q And that's RaRa's older sister, right?

16 A Yes.

17 Q Okay. At some point, did Quincy move into your home?

18 A Yes.

19 Q Was your mom living with you when that happened?

20 A No.

21 Q Do you remember when your mom moved out?

22 A Yeah, it was summer of '14. I'm sorry, summer of '17,
23 2017. I mean, '16, I'm sorry. Yeah, 2016.

24 Q Are you really good with dates, Kim?

25 A Pretty good.

1 Q Okay. Do you remember sending an email to Elaine, the
2 investigator in this case saying that it was about 2014 that your mom
3 moved out?

4 A Yes, I do.

5 Q So do -- did your mom live with you both times in 2014
6 and 2017, or 2016?

7 A Oh, it was 2016. I'm sorry, yeah. It was -- she did move
8 out about -- yeah, she did move out in 2014. I'm sorry.

9 Q That's okay.

10 A Yeah, she moved.

11 Q When in 2014 did your mom move out?

12 A Probably like the summertime.

13 Q Do you know when -- about when Quincy moved into your
14 home?

15 A A few months later, about September.

16 Q So that would have been 2014?

17 A Correct.

18 Q And was there any particular reason why Quincy moved in
19 with you?

20 A No, just --

21 Q Were you in a dating relationship when you guys -- when
22 he moved in?

23 A Yes.

24 Q When he moved in, where would he stay?

25 A For the beginning of the relationship, or the time when he

1 moved in, I had a separate guest room, and he would sleep in the
2 guest room.

3 Q And at some point, did that change?

4 A Yes.

5 Q How did that change?

6 A He started sleeping in my room.

7 Q Did you and Quincy have a sexual relationship?

8 A Yes.

9 Q Is there anything noticeable about his hands?

10 A Yes.

11 Q Okay. What is it?

12 A They're kind of webbed together a little bit.

13 Q The sexual relationship that you had with him, did you
14 guys have sex?

15 A Yes.

16 Q Did he use his hands when you guys had sex?

17 A Yes.

18 Q Was he able to do everything that another person that you
19 may have had sex with was able to do with their hands while you're
20 having sex?

21 A Yes.

22 Q How did Quincy get along with the kids?

23 A I never noticed any problems with him getting along with
24 my kids.

25 Q Did he do anything to help around the house or help the

1 kids?

2 A He would -- I would say, yes.

3 Q Can you give us some examples of things that he did?

4 A You know, like my son got dropped off right in front of the
5 -- on the bus, right in front of the door. I know sometimes I'd be on
6 the call, looking right outside my office/his ex-bedroom, and --
7 because I was -- I used to work from home, or I work from home, so
8 basically, I would, you know, he would go down and get my son off
9 the bus and he would come right upstairs, you know, like right back
10 in the office.

11 Q Anything else that you can think of that he did to help?

12 A Anything that -- like -- I mean, I can say if it was things that
13 needed to be picked up around the house, he would pick it up, you
14 know, like my son -- but like, I don't really remember everything that
15 -- but he did help around the house.

16 Q Do you remember about when he moved out?

17 A Yeah, it was like before his birthday in 2016.

18 Q When is his birthday?

19 A August 13th.

20 Q Okay. After he moved out in August of 2016, did he come
21 back to stay sometimes? Or was he totally out?

22 A He's came back a few times just to come spend the night.

23 Q While he was living with you from the end, or around 2014
24 up until 2016, was he living with you all the time, every day? Or was
25 it on again, off again?

1 A Can you give me the dates again?

2 Q Sure. I think you gave us when your mom moved out,
3 after summer of 2014, up until -- toward the end of 2016. So the
4 whole time that he was living at your house --

5 A Uh-huh.

6 Q -- was it he was there all the time, every day?

7 A Most of the time he was there.

8 Q Okay. Did he ever live anywhere else during that time?

9 A Sometimes we'd have a -- he would go somewhere and
10 he'd go to his cousins or his family's house. And he would go for a
11 period of time. He would leave. And he would come back.

12 Q While he was living with you and the kids, was there ever
13 an occasion where he was home alone with the kids?

14 A Whenever he was -- can you repeat that?

15 Q Sure. When he was living with you guys, was there ever
16 an occasion when he would be home alone with the kids?

17 A I know a couple of times I'd run to the grocery store. I
18 know one time I was like at a pedicure shop and, like, the kids were
19 getting off of school and I wasn't done. So there was a few times
20 that he was at home with the kids.

21 Q Was there ever any kind of a rule that he couldn't be home
22 alone with the kids?

23 A There wasn't really a rule, but I was most likely there all
24 the time. But there wasn't like a rule, but --

25 Q Okay. But there were times when you weren't there?

1 A That's right.

2 Q Did you ever go to hotels with Quincy?

3 A Yes.

4 Q What hotels did you go to with Quincy?

5 A We went to the Palms Place. We went to -- we went to the
6 Palms Place. We went to the Golden Nugget. Those are the only two
7 that I can remember.

8 Q When you went there, did you go just you and him, or did
9 the kids go with you?

10 A It was me and my kids and Quincy, and sometimes we'd
11 have like -- I know one time it was his sister's birthday, and she was
12 there, too.

13 Q When you said around August of 2016, he moved out, but
14 then you said he would come back and stay the night?

15 A Can you repeat those dates again?

16 Q Sure. You said August of 2016, around his birthday is
17 when he moved out, but then after that, he would come and stay the
18 night?

19 A Yes.

20 Q Is there a point in time where it stopped where he would
21 come and stay the night?

22 A I know he was there like a couple of times in November,
23 and then, yeah, for like after November, I don't remember seeing him
24 until after the new year, I think or maybe -- yeah, there was a couple
25 times that he stopped coming.

1 Q How do you remember that he was there in November?

2 A Because I took a look -- I just remember a couple of photos
3 that we took.

4 MS. RHOADES: And there have been some photos, Your
5 Honor. Permission to publish admitted photos.

6 THE COURT: Sure.

7 MS. RHOADES: Okay. And this looks like State's 27.

8 BY MS. RHOADES:

9 Q Do you recognize that photo?

10 A Yes.

11 Q Okay. Who is that?

12 A Dequincy.

13 Q And then the date up here, can you see it? It's November
14 19, 2016.

15 A Yes. I went to pick him up.

16 Q Go ahead.

17 A Sorry. I -- we went to -- this is on the Convoy of Hope.

18 Q Okay. What is Convoy of Hope?

19 A It's like a Christian -- it's like a church thing that -- put
20 together to help the community my mom was involved in. And I
21 invited him to go with me, and I picked him up, and we went there,
22 the Convoy of Hope.

23 Q I'm showing you State's 28. Who is in that picture?

24 A Me and my little sister.

25 Q Is that Gabby [phonetic]?

1 A Gabby.

2 Q And then the same date, November 19, 2016, is that the
3 same event?

4 A Yes.

5 Q I'm showing you State's 29. Is that the same date up at the
6 top?

7 A Yes.

8 Q And who's in this picture?

9 A Arianna.

10 Q Is that at that same event?

11 A Yeah, her and her mother went.

12 Q And do you know Arianna?

13 A Yes.

14 Q How do you know her?

15 A She lived in the same community that I did, and she went
16 to school with my little sister for a short period of time, but she
17 would always come try to -- she would play with my daughter
18 randomly.

19 Q And do you know her mom's name?

20 A Yes, Shontai.

21 Q And what -- how would you describe your relationship
22 with Shontai?

23 A I really didn't talk to her much. Like, I would kind of see
24 her at the community homes that we lived at. They would have like
25 an event here or there. They would throw like a community event,

1 and I would see her there, and I invited her to the Convoy of Hope
2 before just because it was like a -- you know, but I didn't really have a
3 relationship with her.

4 Q And I'm showing you State's 30. Who is that?

5 A That's my daughter, Venice Madden.

6 Q And that's the same date up above and the same event?

7 A Yes.

8 Q Okay. Did Venice and Arianna go to the Boys and Girls
9 Club together?

10 A Yes.

11 Q Did you and Shontai have any kind of discussion about
12 picking the kids up on certain days?

13 A She asked me to pick up the kids. She asked me to pick up
14 her daughter a couple of different times, but it wasn't like a
15 discussion, like I was going to pick them up all the time. She just
16 asked me, hey, do you think you can pick them up -- pick her up?
17 And I was -- that's it.

18 Q Do you know if you put Quincy on as a relative to be able
19 to pick up your kids?

20 A My kids, yes.

21 Q Do you remember a time ever talking to Shontai about
22 Quincy picking up the kids?

23 A I remember talking to Quincy -- yeah, I do remember
24 saying, like -- like there's no need to pick up her kids every time,
25 because sometimes we would be on the way to do something and it

1 was -- yeah, I do remember it.

2 Q Can you tell us the circumstances of him moving out?
3 Like, why did he move out close to his birthday in 2016?

4 A We were having disagreements and just, we separated,
5 and just -- he just moved out.

6 Q Do you remember anything big happening or what the
7 disagreements were about?

8 A No, I don't remember exactly why. We kind of just used to
9 disagree sometimes.

10 Q But after he moved out, he would come back and stay the
11 night sometimes?

12 A Yes.

13 Q And then you said that was November 2016, and then you
14 don't remember really seeing him until after the first of the year?

15 A Yes.

16 Q Tell us about what you remember, how you remember
17 seeing him after the first of the year?

18 A I remember seeing him. He came over, like to pick up his
19 tax paper, and I just remember him -- sorry, I just remember him
20 coming over and he brought dinner over, and are you talking about
21 the day that -- okay. So basically, he came over, and when he came
22 over -- are you referring to the day, the last time I seen him? Like the
23 --

24 Q Well, you tell me. I mean, do you remember other days in
25 January of 2017 that --

1 A No.

2 Q Well, let me finish the question.

3 A Sorry.

4 Q That's okay. Do you remember other days in January of
5 2017 that he came over to your house?

6 A No.

7 Q Do you remember one specific day in January of 2017?

8 A Yes. Yes.

9 Q You've got to let me finish the question before you answer,
10 okay?

11 A Okay. Sorry.

12 Q That's okay. So tell me about this day. You said he
13 brought over dinner; is that the day you're talking about?

14 A Yes.

15 Q Do you remember what he brought?

16 A McDonalds.

17 Q Okay. And what were you guys doing at the house?

18 A I put on the Barbershop movie.

19 Q Okay. And where did you put that movie on?

20 A In my second living room.

21 Q Is that the living room with the fireplace or without the
22 fireplace?

23 A With the fireplace.

24 Q I'm going to show you a couple of pictures. I'm showing
25 you State's 15. So it was in the other living room; is that right?

1 A Yes, that's right.

2 Q Was this furniture that's in State's 15, did it ever change
3 while you were living at the house?

4 A I believe -- I believe so.

5 Q Do you remember specifically how it changed?

6 A I know I had -- I'm trying to see if that's the big couch or
7 the little couch. Actually, no, this is -- this is the way it stayed in this
8 living room. I wasn't sure if that was the big couch or the little
9 couch. But it's the little armor couch. One-person couch.

10 Q Okay. I'm going to show you 17. Is that the living room
11 that you're talking about that you guys are watching a movie in?

12 A Yes.

13 Q Did the furniture ever change in this living room?

14 A No.

15 Q Okay. Where was -- well, who was in the living room
16 watching the movie?

17 A Venice was on the little couch on this side by herself.

18 Q And is that on the left of the photograph?

19 A That's on the right of the photograph.

20 Q Okay. I'm going to turn this on. Hopefully -- yes. So you
21 can mark on here. So show us where Venice was.

22 A Venice was right here.

23 Q Okay. And who else was in the living room watching the
24 movie?

25 A Dequincy was right here, and I was --

1 Q And where were you?

2 A And I was right here.

3 Q So you and Dequincy were on the couch and then Venice
4 was on that chair?

5 A Yes, and Barbershop was on right here.

6 Q Where was RaRa?

7 A RaRa was -- I think RaRa was playing in the room,
8 watching movies on my TV upstairs.

9 Q And what stands out to you about this particular date?

10 A This particular date, I noticed my daughter, in -- on that
11 chair, swinging her legs, like out of nowhere. She was like swinging
12 back and forth, and I told her to -- I was like, Venice, stop -- stop
13 doing that. And then after that, I just noticed Dequincy kept staring
14 at my daughter. And I remember -- I remember a lot about this day,
15 actually. I remember I was laying down, kind of right here, and kind
16 of just went to the side, and my daughter, after I told her to stop,
17 Venice. Stop playing around; we're watching TV. She wouldn't stop
18 and she kept looking at Dequincy, and I just was like -- it just felt so
19 weird.

20 Like, and then I kept looking at Dequincy and he -- like, the
21 TV -- this couch was over a little bit more, but like his -- his eyes
22 should have been looking at the TV, not at my daughter, and I just
23 kept seeing look, and then I remember him getting up out of the chair
24 to come on this side. Like, he got up right here, and then he came
25 over here to lock this door with this little chain thing. And then he

1 came back and sat down. And then I just remember the movie being
2 on and him -- and my daughter kept moving and looking at
3 Dequincy. And --

4 Q Do you remember what happened after that?

5 A After that, I told my daughter to go lay down. It was time
6 to go to bed. And me and Dequincy -- I know I -- I know I extended
7 my legs and -- like he was like -- it seemed like it was like a weird
8 breathing that he was -- like breathing like -- and I extended my legs
9 because I kind of had them like this, and I extended my legs, and like
10 his private area was hard.

11 Q And when you say you extended your legs like this, are
12 you saying that your legs were previously on the floor as you were
13 sitting on the couch, or were they on top of the couch?

14 A They were on top of the couch, kind of like sitting like this,
15 laying back.

16 Q And you got -- for the record, you've got your legs curled
17 up close to your body?

18 A Yeah. Correct.

19 Q And then you said you extended your legs so that your
20 legs were touching his body?

21 A Yeah, and there was a pillow right here. I don't know -- I
22 don't know why I put a pillow right there, but there was jut a pillow
23 right there and I had a pillow behind me, but I don't know how the
24 pillow was right there, but there was a pillow, like, between me and
25 him. And after I -- he kept looking at her and like was like a weird

1 breathing, I told my daughter to go to bed. I like, put my legs out,
2 and I felt something going on down there.

3 Q And what did you do when you felt that?

4 A I told him he needs to go. What's going on? Like, what do
5 -- we're watching Barbershop.

6 Q Did you get upset?

7 A Yeah, very upset.

8 Q And did he leave?

9 A He left.

10 Q Did you ask Venice something after that incident?

11 A Yeah. She had a -- we had this event she needed to go to
12 the next day, but I did ask her, I said what -- you know, I did ask her,
13 yes.

14 Q What did she tell you when you asked her?

15 A At first, she didn't say anything. She just said that she was
16 being -- she didn't say anything at first too much, that she was just
17 being distracting. And I said where did you learn how to be
18 distracting like that at? And then she said she learned -- she was
19 giving Quincy hugs when I wasn't around.

20 Q When did she tell you that?

21 A She told me that on Saturday, February -- it was the
22 Saturday before I took her to the hospital.

23 Q Do you remember the exact date of that?

24 A I think February 27th -- 26th, 25th -- I think it was the 25th
25 of February, if that's -- if I'm not -- if I'm thinking the right date.

1 Q Okay. Do you remember what day you took her to the
2 hospital?

3 A Yeah, on Sunday, February -- Sunday; I think it was like the
4 25th or the 27th.

5 Q Would it refresh your memory if I showed you a record
6 that's already been admitted, State's 9, about when you called the
7 police?

8 A Yes, ma'am.

9 Q Okay. After she told you something about Quincy, did you
10 call the police?

11 A Yes.

12 Q Okay. I'm showing you State's 9, paragraph 4. Does that
13 refresh your memory about the day you called the police?

14 A Yes.

15 Q Okay. And what day did you call the police?

16 A On February 27th, 2017.

17 Q Okay. And so does that refresh your memory about the
18 day that Venice told you it was Quincy?

19 A Yes.

20 Q Was it that same day, February 27th?

21 A The hug was the day before. She said she hugged, and
22 then the next day she told me every -- that it was more than just a
23 hug.

24 Q So the 26th, she told you that it was a hug?

25 A Yes.

1 Q Okay. So going back to January when he was there and
2 you guys were watching the movie in the living room, did you ask
3 Venice something that day or the next day about what she was
4 doing?

5 A I did ask her, like -- I thought -- I don't think it was the next
6 day. I -- it could have, but I know she had like a -- this school event
7 that we're working on, and I don't know if it was the next day, I asked
8 her, but I know I didn't ask her anything that night. She went to
9 sleep.

10 Q When you initially asked her, did she tell you that
11 somebody other than Quincy touched her?

12 A Yes.

13 Q Who did she tell you touched her?

14 A She told me it was her cousin, Trinity.

15 Q Who is Trinity? You said her cousin.

16 A It's my cousin. It's our cousin. It's my mom's sister's
17 niece. So it's my mom's niece.

18 Q And at that time in January 2017, about how old was
19 Trinity?

20 A Probably about 10, 11.

21 Q Did Trinity live with you ever?

22 A For a couple of weeks. For like a month, maybe less than a
23 month.

24 Q Do you remember when that was?

25 A Right before I -- like -- I'm thinking like -- I think it was like

1 right before -- I think it was like -- I know when he moved out, my
2 aunt came to live with me for like a month or less, and I don't really
3 remember the exact day she moved in and out, but it was like a few
4 weeks, and I'm thinking like -- like Septemberish of 2016.

5 Q Okay. So it was after Quincy moved out?

6 A Yes.

7 Q But while Quincy was still coming over sometimes?

8 A Yes.

9 Q So Trinity and your mom lived with you? Is that what you
10 said?

11 A No, my mom already was moved out. My aunt had came
12 for like a month.

13 Q Okay. And how was your and the kids' relationship with
14 Trinity?

15 A It was all right. It was just, you know, we're kind of -- how
16 was our relationship between who?

17 Q You and Trinity and the kids and Trinity.

18 A It wasn't -- it was okay.

19 Q What did Venice tell you Trinity did to her?

20 A She said Trinity had hit her, her butt before.

21 Q And did she at some point tell you that that was not true?

22 A Yes.

23 Q When did that happen?

24 A She told me it wasn't true on February 27th, 2017.

25 Q So tell us what Venice said the day before February 27th,

1 the day before you called the police, you said something about a
2 hug?

3 A Yeah, she said that she would go get hugs from Quincy
4 when I wasn't around, and she said that she would give him hugs or
5 just interact with him when I wasn't around, play fight with him or
6 interact with him when I wasn't around.

7 Q And then you said she told you something else the next
8 day; is that right?

9 A Correct.

10 Q Do you remember where you were at when she told you?

11 A We were in the car.

12 Q And what happened?

13 A She told me that Quincy is the one that touched her.

14 Q How did she tell you? How did it come up?

15 A I was asking her is there anything that she needs to tell me,
16 and she told me Quincy touched her.

17 Q Okay. Is there any reason that you were asking her that
18 after she had already told you that Trinity touched her?

19 A Yeah, I was asking her because I've never seen a grown
20 man look at a child like that, and I didn't think that was episode A,
21 and I felt like is -- if I did -- I needed to know for my own -- as a
22 mother, if anybody was touching her or harming her that's coming
23 into my house. So I did ask her, has anybody -- is anybody messing
24 with you? Anybody hurting you?

25 Q The day before when she told you that she would give him

1 hugs, where were you guys at when that happened?

2 A We were at our house when she told me.

3 Q Do you remember where in the house?

4 A I believe we were in my room.

5 Q Do you remember, as it daytime? Nighttime?

6 A It was during the day.

7 Q And how about the car, when she told you?

8 A It was during the day, about 1:00. 1:00 to 2:00.

9 Q And what did you do when you learned that information
10 on the 27th?

11 A I called the police.

12 Q Do you know where Quincy was living at that time?

13 A No. Oh, actually -- actually I do.

14 Q Where was he living?

15 A He was -- I believe he was living with his brother.

16 Q After you called the police, where did you go?

17 A To Sunrise Hospital.

18 Q And what happened at Sunrise?

19 A They did an evaluation -- well, they talked to us, the
20 detectives, and we went ahead and -- my daughter and me, we talked
21 to him and they gave us a date to kind of go to this child
22 investigation place that was on Pecos, and so we got -- we went -- we
23 got that paper to go there pretty much.

24 Q Okay. And you were interviewed at the hospital; is that
25 right?

1 A Yes.

2 Q And did you take the kids to the Children Assessment
3 Center on March 2nd?

4 A Yes.

5 Q Where they were both interviewed and medically
6 examined?

7 A Yes.

8 Q A couple of weeks after that, did you see something in
9 Venice's cell phone that caused you concern?

10 A Yes.

11 Q Tell us a little bit about that.

12 A I was going through Venice's phone and I noticed that
13 there was -- she had another email attached to her phone, so it was
14 like email A, that was a Google account, which is hers; email B,
15 which is Arianna's email. I went ahead and looked at, like, their
16 search history just because I was looking at their search history, and
17 it was abortion clinics. And then I went into the map of each device.
18 And the map showed from device -- Venice's device, from, you know,
19 email A and B, they were over there, and then it showed Arianna's
20 phone, because you can go through the different devices, and it
21 showed they were at Dequincy's house, his brother's house, or at
22 least the map it showed it was mapped to there on Google Map.

23 Q Okay. So you were able to look in Venice's phone. You
24 were just looking at one device; is that correct?

25 A Yeah, but if you're -- yes.

1 Q Okay. But there were different things that you could look
2 at in that phone?

3 A Yes.

4 Q Based on what you saw in that phone, what did you do?

5 A I called the police.

6 Q Did you ask Venice anything about Arianna?

7 A Yes.

8 Q Where were you at when you first asked her something
9 about Arianna?

10 A At my home.

11 Q Do you remember where in your home?

12 A I think in the living room.

13 Q And what did you ask Venice?

14 A I asked her was -- I asked her if there's anything else she
15 needs to tell me or anybody else involved, or anything like that, and
16 she said -- she looked at me like kind of like shock, and I said, I see
17 Arianna's email in here. And then she said, Mom, Arianna was
18 involved, too.

19 Q And then what did you do after that?

20 A I went to Shontai's house, her mother.

21 Q And do you remember how you got there?

22 A I drove over there.

23 Q Did you take the kids over there?

24 A Yes.

25 Q Who did you make contact with when you got to Shontai's

1 house?

2 A Arianna. I'm sorry, Shontai.

3 Q And --

4 A I seen --

5 Q Go ahead. Did you tell Shontai something?

6 A Yes.

7 Q And what happened after you told Shontai?

8 A She called the police.

9 Q Did you talk to Arianna that day?

10 A Yeah, we did talk to Arianna that day.

11 Q And when you say we, who are you talking about?

12 A Her mom was there, me, and like -- I guess her mom's -- I
13 don't know, it was I think her mom's neighbor, or maybe best friend.
14 I don't know, but she was there, too.

15 Q And you said you called 911, right?

16 A Yes.

17 Q I'm showing you what's been already admitted and played
18 for the jury as State's 10. Do you see your name on that disc?

19 A Yes.

20 Q And did you -- why did you write your name on that disc?

21 A Because we heard it.

22 Q And you recognize that as the 911 call that you and
23 Shontai made that day?

24 A Yes.

25 Q And on that 911 call, did you give them the Defendant's

1 address?

2 A I think I did.

3 Q Do you remember it being on South Stover Boulevard?

4 A Yeah.

5 Q And is that Woodhaven Apartments?

6 A Woodhaven Apartments, yes.

7 Q When is the last time that you saw Quincy in person?

8 A I believe that was the last time I seen him, which was in
9 January.

10 Q And when you say the last time, are you talking about that
11 chair incident?

12 A Yes.

13 Q When is the last contact, email, phone, anything that
14 you've had with Dequincy Brass?

15 A I didn't email him back, but he emailed me in the
16 summertime.

17 Q Of what year?

18 A Of 2017.

19 Q And going back to the kids going to the Children
20 Assessment Center in March of 2017, at some point did the kids go to
21 Montevista Hospital?

22 A Yes.

23 Q And was that after they were interviewed and examined at
24 the CAC?

25 A Yes.

1 Q What is Montevista Hospital?

2 A It's like a crisis center for kids.

3 Q And --

4 A I believe; they get medical treatment and examined and
5 help.

6 Q And why did they go to that hospital?

7 A After this incident, they were going -- we went through like
8 therapy, and they were just going through a lot, and the therapist
9 actually recommended that I take them there.

10 Q And do you remember the months or the timeframe that
11 you were taking them there?

12 A I took them a few different times. I think this was a -- it
13 was the summer of 2017.

14 Q Going to October of 2017, was RaRa going to that
15 Montevista Hospital?

16 A That's right, yes.

17 Q At some point in October of 2017, did RaRa tell you that
18 something happened at that hospital?

19 A Yes.

20 Q What did he tell you?

21 A When he was acting really bad, or going through the
22 things that he was going through, I said what happened at the
23 hospital? What did they do to you? And he said that the guy that
24 examined, or dropped him off, had took him into a quiet room, a dark
25 room. And I asked him what happened in the dark room?

1 Q And what did he tell you?

2 A The guy touched his butt.

3 Q Did -- what kinds of things was he doing that was bad?

4 A Spitting, kicking, throwing himself everywhere.

5 Q And did you call the police after that incident?

6 A Yes.

7 Q Did you know this person at all or have any relationship
8 with the person?

9 A No.

10 MS. RHOADES: The State will pass the witness, Your
11 Honor.

12 THE COURT: Sure.

13 CROSS-EXAMINATION

14 BY MR. POSIN:

15 Q Good afternoon again, Mrs. Garza.

16 A Good afternoon.

17 Q Let's start with that incident at Montevista Hospital. In fact,
18 RaRa said more than just that this gentleman touched his butt,
19 correct?

20 A Can you repeat that?

21 Q In fact, RaRa said that the person -- well, let's back up a
22 little bit. The person involved, you said was a counselor and a bus
23 driver, correct?

24 A Uh-huh. Yes.

25 Q And that was somebody that you dealt with directly,

1 correct?

2 A Yes, when he dropped my son off and picked him up.

3 Q And RaRa made an accusation against that person, right?

4 A Yes.

5 Q And that accusation was more than just that he had
6 touched his butt, right? He did something more specific to his butt,
7 didn't he?

8 A Yeah, he said he touched and hurt his butt, uh-huh.

9 Q Isn't it true that he said that the counselor hit him and was
10 trying to insert his hand into his bottom?

11 A That's true.

12 Q Now, when Venice initially made her accusations against
13 Mr. Brass, that was after she told you that it was Trinity that had
14 done something to her, correct?

15 A That's correct.

16 Q And there was some time that past between her accusing
17 Trinity and her saying anything against Mr. Brass, correct?

18 A A little time, yes.

19 Q How long?

20 A Less than a month.

21 Q Less than a month. Okay. And during that period, she
22 maintained that it was Trinity that was hurting her, correct?

23 A Yes.

24 Q And during that period --

25 THE COURT: Was that a yes?

1 THE WITNESS: Yes.

2 BY MR. POSIN:

3 Q During that period of less than a month, did you ever
4 contact the police?

5 A No, I didn't.

6 Q Why didn't you contact the police when you heard that
7 Trinity had been molesting your child?

8 A She didn't say -- she didn't say those words.

9 Q What words did she say?

10 A She just said she had hit her butt. Touched her butt.

11 Q Hit her butt. Touched her butt?

12 A She didn't say -- I asked her was it with her clothes on, off?
13 She didn't -- she said none of that.

14 Q And you didn't inquire any further?

15 A I got her -- I didn't -- I did talk to her, but she didn't say.

16 Q What did she say?

17 A She just said she hit her butt, hurt her butt. And I said
18 what do you mean, like did she spank you or -- and she didn't -- she
19 didn't go further. So I wanted to get her counseling because it
20 looked like she was being -- she didn't want to tell me everything, so
21 I did get counselors involved to get some help.

22 Q But you never contacted the police?

23 A No, I didn't contact the police.

24 MR. POSIN: The Court's indulgence just one moment.

25 THE COURT: Sure.

1 BY MR. POSIN:

2 Q Ms. Garza, isn't it true that it's because of those
3 accusations that you tossed both her and her mother out of the
4 house?

5 A There was a lot of -- like, that was part of it.

6 Q So you did take this very seriously?

7 A Very, yes.

8 Q And seriously enough to throw them out of the house?

9 A It wasn't just for that reason.

10 Q But this was one of the reasons?

11 A Yes.

12 Q And when did you throw them out of the house?

13 A As soon as I heard it.

14 Q And --

15 A I don't know exactly the date.

16 Q And so that was -- when you heard it, that was after Mr.
17 Brass was out of the house, right?

18 A Yes.

19 Q And you threw them out of the house. You testified that
20 on all but a few occasions, you were home when Mr. Brass was
21 home with your children, right? Where were you when --

22 THE COURT: So you have to respond audibly.

23 THE WITNESS: Yes.

24 THE COURT: Okay.

25 THE WITNESS: Yes.

1 BY MR. POSIN:

2 Q And in fact, the two of you both worked out of the house,
3 right?

4 A Yes.

5 Q And you started your work at what time?

6 A I believe I was on 9:00 to 8:00 schedule.

7 Q And then that 9:00 to 8:00 schedule, you were working for
8 Apple, correct?

9 A Yes.

10 Q You would clock in by clocking in on your computer, right?

11 A Yes.

12 Q And then he would clock in on his computer as well?

13 A Yes.

14 Q So you were both there on the same, very similar hours,
15 correct?

16 A Similar.

17 Q And you were there virtually all the time when he was
18 there, right?

19 A Yes.

20 Q Thank you.

21 MR. POSIN: That's all I have, Your Honor. Thank you.

22 REDIRECT EXAMINATION

23 BY MS. RHOADES:

24 Q Why else did Trinity get kicked out of your house?

25 A She was just supposed to be there for a short period of

1 time with her mother. And I noticed -- you know, it was just that time
2 for her to go. Her and her mother were, you know, only supposed to
3 be there to kind of help me get together to move, and I ended up not
4 choosing to move.

5 Q Was there anything else that happened with Trinity while
6 she was at your house?

7 A I noticed my daughter just not being very nice to my son,
8 and I know one time I walked into the room, and Trinity was kind of
9 being -- pushing my son around and Venice was just sitting there.
10 So I just think that -- you know, I thought that wasn't -- that wasn't
11 okay for me. You know, and things starting changing with Venice.

12 Q Did you and Dequincy go to sleep at the same time every
13 night and wake up at the same time every morning?

14 A I -- I could remember sometimes we would be --
15 sometimes I would fall asleep first.

16 Q When was he staying in a different room than you?

17 A Most -- most of the time, except for the last part, he was --

18 Q When you say the last part, what does that mean?

19 A I would say like the last six months -- eight months -- six to
20 seven months that he lived with me, he wasn't in -- he was -- he was
21 in my room.

22 Q But before that, he was in a different room?

23 A Yes.

24 Q Did you check up on him all of the time to make sure he
25 was in the room, or --

1 A Yes.

2 Q -- sleeping? Okay.

3 A Or I would sleep in there and then I would go back to my
4 room in the morning. I just didn't want the kids to kind of know what
5 was like -- I guess we were together kind of a deal.

6 Q Oh, so you were trying to hide the fact that you guys were
7 in a sexual relationship?

8 A Kind of.

9 Q Where would RaRa sleep?

10 A My -- both of the kids slept with me most of the time. Like,
11 if I -- if he wasn't in there, they would sleep with me.

12 Q And if he was in there, where would they sleep?

13 A In their room.

14 Q Why didn't you contact the police when Venice told you
15 Trinity touched her?

16 A She didn't tell me, like it was under her clothes. She just
17 said she had touched her butt. She didn't tell me it was under her
18 clothes, and I said, what do you mean? How? Did she hit you? And
19 she just kind of started crying and was like, she touched me on my
20 butt. And I was just like, Venice, something's up and we're going to
21 get some help. We'll figure it out. But I didn't call the police for that
22 reason because she didn't say, Mom, it was under my clothes or, you
23 know, any of that type of a deal. It was just like Trinity touched my
24 butt. And I said, you know -- and I was getting her help for that, to
25 like trying to figure it out, what I can help her with, with some kind of

1 counseling. She never said, like, Trinity went under her clothes or
2 took off her pants or anything like that.

3 Q Okay.

4 MS. RHOADES: Nothing further.

5 MR. POSIN: No recross, Your Honor.

6 THE COURT: Come on up.

7 [Sidebar begins at 3:46 p.m.]

8 MR. POSIN: I think she's talking about the [indiscernible], I
9 guess?

10 MS. RHOADES: Yeah, so I think that's fair.

11 THE COURT: Okay.

12 MS. RHOADES: Uh-huh. Yes. I think she can answer, did
13 detectives ever ask her what the name of the hotel that they went to
14 was.

15 MS. EINHORN: Ask -- is her -- oh, I'm sorry [indiscernible].

16 MR. POSIN: Did the detective ever ask --

17 MS. RHOADES: I don't think the first part should be read
18 though. Do you know what I mean?

19 MR. POSIN: Yeah.

20 MS. EINHORN: Yeah.

21 MS. RHOADES: So did detectives ever ask you what the
22 name of the hotel was that you guys went to together? Is that okay?

23 MR. POSIN: That's fine.

24 THE COURT: So what was the --

25 MS. RHOADES: I don't think the narrative part, the first --

1 THE COURT: Yeah, I agree.

2 MS. RHOADES: So did detectives ever ask you what the
3 name of the hotel --

4 MR. POSIN: The name of the hotel.

5 MS. RHOADES: -- that --

6 MR. POSIN: That the -- but the second. But I -- and I think
7 we need to incorporate that in there; did the detectives ever ask you
8 the name of the second hotel was?

9 MS. RHOADES: Okay. Or just did detectives ever ask you
10 what the name of a hotel that my mom took me to a lot for my
11 birthday?

12 MR. POSIN: Well, I don't -- I think that there's -- this juror
13 is asking specifically about what the jury sees as the second --

14 MS. RHOADES: But Mom doesn't know that.

15 THE COURT: Yeah, the problem is this is the question,
16 right?

17 MS. RHOADES: Right.

18 THE COURT: So the question, did detectives ever ask her
19 what the name of --

20 MS. RHOADES: The hotel that you took her for her
21 birthday.

22 THE COURT: Okay.

23 MS. EINHORN: Didn't she say it was her sister's birthday?
24 I think that's what she said.

25 THE COURT: Yeah, she --

1 MS. RHOADES: Venice's sister.
2 MS. EINHORN: No, she --
3 THE COURT: She did say that.
4 MS. EINHORN: -- said that they went to the hotel for her
5 sister's -- his sister's birthday.
6 THE COURT: His sister's. His sister's.
7 MS. RHOADES: Oh, this is separate though. This is asking
8 specifically apart from that.
9 THE COURT: I'm going to say we don't ask that.
10 MR. POSIN: Okay.
11 THE COURT: Because we're just trying --
12 MR. POSIN: yeah.
13 THE COURT: -- to figure out.
14 MS. RHOADES: I would like to ask that.
15 THE COURT: Well, you --
16 MS. RHOADES: If I could.
17 THE COURT: It would be a totally different question then.
18 MS. RHOADES: I will.
19 THE COURT: Okay.
20 MS. RHOADES: But if I could just follow-up on that, leave
21 to follow-up on that?
22 THE COURT: Any objection?
23 MR. POSIN: I guess not.
24 THE COURT: Okay. So I won't ask that.
25 MS. RHOADES: I think that those are fair.

1 MR. POSIN: Okay.

2 THE COURT: All right.

3 [Sidebar ends at 3:49 p.m.]

4 THE COURT: Okay. We have a couple of questions for
5 you.

6 THE WITNESS: Okay.

7 THE COURT: What kind of motion or movement was your
8 daughter doing that you told her to stop doing?

9 THE WITNESS: She was sitting in the chair, like that one
10 chair thing, and she was like, had her legs over the chair like this, and
11 then just kind of wiggling it. Then she got turned around and was
12 doing it on the other leg. She was like doing these -- then she moved
13 her leg up here. Like, she was just turning around in that chair like
14 I've never seen her do before.

15 THE COURT: Did Venice ever have a doctor's appointment
16 scheduled that she was supposed to go to after school that she never
17 made it to?

18 THE WITNESS: I'm not 100 percent sure.

19 THE COURT: Did you ever take your kids to any hotels on
20 the strip without Dequincy?

21 THE WITNESS: Yes, lots of times.

22 THE COURT: Any follow-up questions?

23 MS. RHOADES: Yes, please.

24 BY MS. RHOADES:

25 Q What hotels did you take the kids to on the strip?

1 A I took them to Circus Circus a lot, and I took them to -- I
2 took them to Circus Circus, and I've took her to the -- I took them
3 both to Golden Nugget without Dequincy.

4 Q Were there any particular occasions that you would take
5 them to the hotels on the strip for?

6 A Not really.

7 Q Just for fun?

8 A Just to kind of go hand out and go to their pool.

9 Q Do you remember if the detective in this case ever asked
10 you if you took them to any hotels on the strip?

11 A I believe he did.

12 Q Okay.

13 A I'm not 100 percent sure if he asked, but I think he did.

14 MS. RHOADES: Okay. Nothing further, Your Honor.

15 MR. POSIN: Nothing, Your Honor.

16 THE COURT: Okay. Any other questions? Okay.

17 Thank you. You can step down.

18 THE WITNESS: All right. Thanks.

19 MS. EINHORN: Your Honor, may the State call its next
20 witness?

21 THE COURT: Sure.

22 MS. EINHORN: The State's next witness is Elizabeth
23 Espinoza.

24 THE COURT: I'm going to stretch a little.

25 THE MARSHAL: Stand and face the clerk.

1 THE CLERK: Please raise your hand.

2 ELIZABETH ESPINOZA, STATE'S WITNESS, SWORN

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

5 THE WITNESS: Elizabeth Espinoza. E-l-i-z-a-b-e-t-h
6 E-s-p-i-n-o-z-a.

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

8 THE COURT: Yes. Thank you.

9 DIRECT EXAMINATION

10 BY MS. EINHORN:

11 Q Ma'am, how are you currently employed?

12 A I work with the Department of Family Services as a
13 forensic interview specialist.

14 Q And how long have you held that position?

15 A It will be four years this coming June.

16 Q And what type of education and training do you have that
17 qualifies you to be a forensic interview specialist?

18 A So I have 20 years of working with children. Five years
19 were spent in California, working as a probation officer with juvenile
20 offenders, and six -- let's see, 2004 -- 2004 to 2015, I worked as a
21 permanency case manager with children and families working
22 towards reunification or guardianship or other plans. And the
23 current past four years, it's been as a forensic interview specialist.

24 Q And do you work, or are you familiar with a place known
25 as the Southern Nevada Children's Assessment Center?

1 A Yes, I am.

2 Q And what is that place?

3 A It's a place where we interview children that are referred
4 by law enforcement or CPS regarding issues of sexual abuse,
5 witnessing violence, and some cases, high profile cases related to
6 child fatalities.

7 Q And, Ms. Espinoza, what is a forensic interview?

8 A It's a legal and defensive interview. So we use open-ended
9 questions with children and we are not able to use leading questions
10 or suggest anything. We allow them to give us their story, or give us
11 a statement, and then we can follow up with questions. It's -- there's
12 two phases to our interview, because we use a protocol called
13 National Children's Advocacy Center protocol. And what that
14 protocol is, is there's two phases to it. One is rapport building, and
15 the second phase is a substantive phase where we go into tell me
16 what you're here to talk about.

17 The initial phase is building rapport, going over some rules
18 that we have, and helping them practice how we're going to talk in
19 that room. We ask them to give us a narrative episode. Something
20 they remember well. It could be their morning; it could be a special
21 day like a birthday.

22 Q Thank you. And as a forensic interviewer, is your main
23 duty to kind of conduct these forensic interviews that you just
24 described?

25 A Yes.

1 Q And that protocol that you just described, have there been
2 studies done on that and are you trained in that specific type of
3 protocol?

4 A Yes. The reason why our CAC selected that protocol a few
5 years back is because it is a very organic way of getting information
6 from children, open-ended narratives elicit more accurate
7 information.

8 Q And how much training do you have on that specific type
9 of protocol that you just mentioned?

10 A I'm sorry, I didn't recall the hours. I believe --

11 Q It's okay. Just a general fine -- is fine.

12 A 100- and -- maybe over 160 hours of training.

13 Q And in your time as a forensic interviewer, how many
14 forensic interviews, guesstimation would you say you've done?

15 A Approximately 2,500.

16 Q Now, in your role as a forensic interviewer, Ms. Espinoza,
17 do you have any input or a final decision on what's made by either
18 Child Protective Services, or law enforcement?

19 A No, I do not. My position is to be neutral and just gather
20 facts from the children.

21 Q And once you gather the facts from the children to conduct
22 your interview, you hand it back to law enforcement and they do
23 their thing?

24 A Yes, it stays with them.

25 Q Now, Ms. Espinoza, directing your attention back to March

1 2nd of 2017, on that date, did you conduct a forensic interview with a
2 child by the name of Venice Madden?

3 A Yes, I did.

4 Q And where was that interview conducted?

5 A At the Southern Nevada Children's Assessment Center.

6 Q And regards to Venice's interview, did you conduct the
7 entirety of the interview?

8 A No, I did not. My co-worker, Matt Terrio [phonetic],
9 another forensic interview specialist was actually assigned to
10 interview Venice and her brother that day. He started Venice's
11 interview, and I think his interview was about close to 45 minutes, I
12 believe. I'm guesstimating. And he started the rapport building,
13 narrative practice, practiced the rules with her, and when they got to
14 the substantive phase, she had difficulty talking about what had
15 occurred and she requested a female interviewer.

16 Q And is that when you got involved?

17 A Yes.

18 Q And before you went into the room, did you have a
19 conversation with your co-worker about Venice, or did you build,
20 kind of your own rapport with her?

21 A I walked into the -- well, I was given very few details about
22 what was going on. Other -- I had just finished a forensic interview
23 with somebody else, and I was told that she was requesting a female.
24 I was given some of the details of the allegations, and at that point,
25 when I was walking into the interview room, she was writing her

1 statement because she told Mr. Terrio she probably felt more
2 comfortable writing what had occurred to her, so that's when I
3 walked in. So I don't believe we built a lot of rapport. We just went
4 into what she was writing about.

5 Q Okay. And prior to testifying here today, the part that you
6 were not a part of during her interview, have you had a chance to
7 review that portion of her interview?

8 A Correct, I hadn't reviewed it.

9 Q Okay. And going just back a little, generally speaking,
10 prior to going into the interview room, do you kind of -- you do
11 develop a rapport with the children; is that fair to say?

12 A Prior to the interview, I meet them in the lobby. I introduce
13 myself to the child, the parents, explain the process, and then walk
14 them into the room with me and start the rapport building.

15 Q And then when you're in the room, do you kind of go over
16 that there's cameras and it's being recorded, different things like
17 that?

18 A Yes, I do.

19 Q So you interviewed Venice, correct?

20 A Yes.

21 Q Can you describe -- or let me back up. Sorry about that.
22 While you're in there, do you know if any other people are watching -
23 - live watching the interview?

24 A Yes.

25 Q Who is usually watching the interview?

1 A In this case, it was the detective assigned to the -- two
2 detectives assigned to the case. Matt Terrio was there to fill me in on
3 information, and I believe that was it.

4 Q Okay. And is it usually standard protocol for a detective to
5 kind of be watching from another room as you're conducting the
6 interview?

7 A Yes, it is.

8 Q So going back to Venice's interview, how would you
9 describe Venice during her interview?

10 A So she was nervous. She was scared. At times, she was,
11 you know, covering her head, covering her ears, stating, you know, I
12 can't hear what you're about to repeat, because I had to repeat her
13 statement. She was fidgeting. It's almost as she was trying to talk
14 herself into telling me her story because she said she was afraid, and
15 she seemed embarrassed about it.

16 Q Can you describe a little more what you meant that she
17 had to talk herself into describing her story?

18 A She made statements like, oh, I don't know why this is so
19 hard. This is so difficult. I'm so scared. Can you just -- can I just tell
20 you what happened and you can go tell them? You know, just -- she
21 struggled. And so at times, what she said is maybe if I just write
22 down the word that was touched, for example -- she used the word
23 "V" to describe her vagina, and I have to use her same terms.

24 So he did this to me, and then she would say, okay, I'll
25 write it down because I can't say it. And I have to repeat stuff back to

1 them. And she wanted to cover her ears. And I said, I need you to
2 acknowledge that, you know, you wrote this.

3 Q At times that she was describing to you what happened,
4 do you recall if she gave, like any sensory details or descriptive
5 details about what happened?

6 A Yes, she did.

7 Q And was she crying at all during her interview?

8 A She was whining at times, stating she wanted her
9 mommy. She did cry, I believe a few times.

10 Q Do you recall how many incidents -- and she eventually
11 told you that something had happened to her, correct?

12 A Yes, she did.

13 Q Do you recall how many incidents she told you about?

14 A The way she gave me her disclosure, some of those
15 incidents seem to be running together, but she described a time
16 where Mr. Brass was unclothed. She was unclothed. He used his
17 finger and placed it in, what she called her buttohole. She said it hurt
18 a lot. And she gestured in motion how the finger moved. She stated
19 that his "D", referring to his penis, was in her "V", her vagina. She
20 stated it hurt. It stopped because she was crying. She described
21 another incident in which he was performing cunnilingus on her, and
22 she was doing the same thing to him.

23 Q And so it's known to the jury, what is cunnilingus?

24 A Oral sex. So she stated that he had to give him head. That
25 she was sucking his "D." And she said what stopped it was she was

1 gagging and she gestured what happened, so she grabbed the bottle,
2 put it in her mouth, and she was gagging. She's saying that's what
3 made it stop.

4 Q Thank you, Ms. Espinoza. And you stated, I think earlier,
5 that she kind of was writing out things?

6 A Yes.

7 Q And making drawings?

8 A Uh-huh.

9 MS. EINHORN: Your Honor, may I approach the witness?

10 THE COURT: Sure.

11 BY MS. EINHORN:

12 Q Ms. Espinoza, I'm showing you what's already been
13 admitted into evidence as State's 2-A through 2-E. Are these the
14 drawings and writings that Venice made during her forensic
15 interview with you on March 2nd, 2017?

16 A I don't remember the drawings very well, but I do
17 remember what she was writing, and when I review the video
18 recording, I can't see the drawings.

19 Q You can't see the drawings.

20 A Yeah.

21 Q And before you came in, she had -- was interviewed with
22 Matt, correct?

23 A Yes.

24 Q So she -- is it possible that maybe she made these
25 drawings while she was still talking with Matt?

1 A It's possible, or maybe some of them were with me as
2 well, but I -- I remember she drew his -- Mr. Brass' penis.

3 Q During her interview, did she tell you anything that
4 happened to her brother, RaRa?

5 A She said that -- I can't remember her exact words, but she
6 said that the same thing had happened to her brother, RaRa. That
7 she, at times, randomly would hear him upstairs with Mr. Brass, and
8 she would hear the door shut and she would hear crying. I asked her
9 if she saw it, she heard it, or something else. We have to ask it in
10 that way. And she didn't give me an answer. She just said she heard
11 the door shut and she heard the crying.

12 Q Did you ask her any follow-up on anything with her
13 brother?

14 A I don't remember what I asked her. I know that she
15 mentioned it and then we proceeded to talk more about what
16 happened to her.

17 Q And did she ever tell you about an incident that happened
18 with Arianna?

19 A No.

20 Q Now, after you finished your forensic interview with
21 Venice, Ms. Espinoza, what was your overall impression of that
22 interview when you left the room?

23 A She struggled with her forensic interview. She was
24 nervous. She did mention how she felt threatened by him. She was
25 nine years old. There's certain acts that children aren't aware of at

1 that age unless they've experienced it. She did give us a lot of
2 sensory details such as his -- after she sucked his "D," there was what
3 looked like spit, and she, I believe, said clear. She stated that it hurt a
4 lot. She stated that when she went to go use the bathroom, her
5 butthole burned and her vagina was bloody.

6 Q Based on your training and experience, did you feel that
7 Venice was holding anything back during her interview?

8 A It's possible because she seemed embarrassed at times.
9 For example, when she was going to describe cunnilingus and what
10 happened to her, she wrote that down and she said it was very
11 disgusting. And she also mentioned how he showed her porn, and
12 she described what was a threesome, girls that looked like they were
13 teenagers. It's possible she had more to say, but again, she
14 struggled.

15 Q Now, on that same date, Ms. Espinoza, now turning your
16 attention to her brother, Rodriquez, did you also have a reason to
17 conduct a forensic interview with her brother, Rodriquez Madden?

18 A Yes.

19 Q And that's a separate interview, correct?

20 A Yes, it was after hers.

21 Q And what was Rodriquez's demeanor like during his
22 interview?

23 A He was very energetic, very active. He turned off my
24 recorder as we walked into the interview room. And you don't see it
25 on the transcripts, but he walked in telling me that he referred to him

1 as Quincy, that's Mr. Brass, hit him; I believe he said he hit my butt.
2 He was a little hyper. At times, I couldn't understand him. There
3 were some -- what seemed like speech issues. What I got out of that
4 interview was that Mr. Brass hit him on the butt, punched him on the
5 head, and that he touched -- he called it at the time, the part where
6 he pees. He said he touched the part where he pees and that he
7 drank his pee; that he drank a lot of his pee and he used his tongue.

8 Q And how long was your interview with Rodriguez Madden?

9 A I don't recall, ma'am.

10 Q Was it kind of cut short, just kind of given his energetic
11 demeanor?

12 A Yes. He was standing on the chairs, going behind the
13 chairs, going underneath the table. And at one point, I think I told
14 him -- it's in the audio -- you're going to hurt yourself, because it
15 seemed like he was going to do like a backflip on the chair.

16 Q And now turning your attention, Ms. Espinoza, to April 3rd
17 of 2017. On that date, did you conduct another forensic interview of
18 the child by the name of Arianna Whatley?

19 A Yes, I did.

20 Q And what was Arianna's demeanor like during her
21 interview?

22 A She made minimal eye contact with me. Her head was
23 down most of the time, and she had what appeared to be just a
24 saddened look, just kind of -- I don't know what word to give you, but
25 she just looked sad and head down.

1 Q Any -- did she give any descriptive details about what
2 happened to her?

3 A Yes, she did.

4 Q And how many incidents did she tell you about what
5 happened to her?

6 A Three incidents.

7 Q Okay. And that was all involving Mr. Brass as well?

8 A Yes.

9 Q Ms. Espinoza, turning your attention to October of 2017, in
10 October of 2017, did you conduct another forensic interview with
11 Rodriquez Madden?

12 A With RaRa, yes, I did.

13 Q With RaRa.

14 A Uh-huh.

15 Q And that was completely unrelated to this case; is that fair
16 to say?

17 A Yes, it was.

18 Q And that was about an incident that had occurred at
19 Montevista Hospital?

20 A Yes.

21 Q And during his interview, did he disclose to you that
22 anyone had touched him at Montevista Hospital, or done anything to
23 him at the hospital?

24 A He didn't disclose anything about that hospital.

25 MS. EINHORN: And, Your Honor, now pursuant to

1 stipulation, State has -- or permission to publish what's been
2 admitted as State's Exhibit 31A. And just for the record, this is
3 Venice Madden's forensic interview.

4 THE COURT: Permission granted.

5 (Whereupon, a video recording, State's Exhibit 31A was played in
6 open court at 4:10 p.m., and transcribed as follows:)

7 MALE INTERVIEW: Tell me your name.

8 (Video paused at 4:10 p.m.)

9 MR. POSIN: Your Honor, can I --

10 THE COURT: Oh, pause.

11 MR. POSIN: Pause it, please.

12 (Video paused at 4:10 p.m.)

13 THE COURT: Do you need go --

14 MR. POSIN: Nothing where we need to go, just a
15 technological issue, which is I don't have this on my monitor. It
16 didn't really matter for some of the other stuff, but for this, my
17 monitor needs to be working.

18 There we go. Thank you, Your Honor.

19 THE COURT: Okay.

20 MS. EINHORN: Okay.

21 THE COURT: Thank you.

22 (Video resumed at 4:11 p.m.)

23 MALE INTERVIEW: [Indiscernible].

24 MS. MADDEN: I like art. I like making bracelets.

25 [Indiscernible].

1 MALE INTERVIEW: You want to draw [Indiscernible]?

2 MS. MADDEN: Yeah.

3 MALE INTERVIEW: Okay. So tell me about the bracelets
4 you're making.

5 MS. MADDEN: I make [Indiscernible] bracelets for my art
6 teacher, like helping me [Indiscernible].

7 MALE INTERVIEW: Okay. And so tell me all about how
8 you make the bracelets.

9 MS. MADDEN: So you have to get a loom. I actually have
10 one in my backpack, but want to try it?

11 MALE INTERVIEW: Oh, it's okay.

12 MS. MADDEN: Okay.

13 MALE INTERVIEW: Just describe it for me.

14 MS. MADDEN: It's like this loom, like -- it's like this little --
15 it's like a loom, but it kind of looks like waves a little bit. And so you
16 have to do that, and then you have to get three rubber bands and
17 then get your hook, put -- like twist it on, like the loom. And then put
18 some on top, and then you like keep on doing that and -- but -- until
19 your whole bracelet's done.

20 MALE INTERVIEW: Okay. Tell me about your favorite
21 bracelet you've made so far.

22 MS. MADDEN: Well, it's not here, but it's like -- I just
23 switch it all in different colors [Indiscernible].

24 MALE INTERVIEW: What color do you like to use?

25 MS. MADDEN: All colors.

1 MALE INTERVIEW: All colors?

2 MS. MADDEN: Yeah.

3 MALE INTERVIEW: Okay. And how long have you been
4 making bracelets?

5 MS. MADDEN: A long time. Like, probably almost like a
6 year or two.

7 MALE INTERVIEW: Okay. And how'd you get started
8 doing that?

9 MS. MADDEN: My Aunt Gabby, she taught me how to
10 them. I thought it [Indiscernible]. So I asked. And then I got one for
11 Christmas, and then -- so I started doing it.

12 MALE INTERVIEW: Okay. And how many bracelets do you
13 think you've made?

14 MS. MADDEN: Five.

15 MALE INTERVIEW: Five.

16 MS. MADDEN: Yeah.

17 MALE INTERVIEW: Okay.

18 MS. MADDEN: I [Indiscernible].

19 MALE INTERVIEW: All right, Venice. Well, I appreciate you
20 telling me more about yourself. I want to tell you all about this room
21 okay?

22 MS. MADDEN: Uh-huh.

23 MALE INTERVIEW: There's some cameras in here. There's
24 one in that corner. There's one above the door, and there's one on
25 the wall, and so that's so people can watch me.

1 MS. MADDEN: [Points to one of the cameras.]

2 MALE INTERVIEW: That's right. That's so people can
3 watch me and make sure that I do a good job and ask all the
4 questions I need to ask, okay?

5 MS. MADDEN: Okay.

6 MALE INTERVIEW: And then we have this recorder. It's
7 going to record all that we talk about. So if I forget something, I can
8 listen to that instead of having you come all the way down here and
9 talk with me again, okay?

10 MS. MADDEN: Okay.

11 MALE INTERVIEW: And we have some rules in this room.
12 The first rule is that if I repeat something you say and I get it wrong,
13 it's okay to correct me and tell me I'm wrong.

14 MS. MADDEN: Okay.

15 MALE INTERVIEW: Okay? So earlier, you were telling me
16 you made your bracelets [Indiscernible]; is that right?

17 MS. MADDEN: Yeah. It's like a loom.

18 MALE INTERVIEW: A loom, okay. Thank you for
19 correcting me. And then another rule we have is that if I ask you a
20 question and you don't understand, it's okay to tell me so I can ask it
21 in a different way that makes more sense.

22 MS. MADDEN: Okay.

23 MALE INTERVIEW: So like if I ask you, tell me where
24 [Indiscernible] is, what would you say?

25 MS. MADDEN: [Indiscernible].

1 MALE INTERVIEW: So I now I would ask you a different
2 way. Tell me where your knee is.

3 MS. MADDEN: Right here. [points to left knee]

4 MALE INTERVIEW: Okay. What part of your body is it on?

5 MS. MADDEN: My leg?

6 MALE INTERVIEW: Yeah, that's right. And another rule we
7 have is that if I ask you a question and you don't know the answer,
8 it's okay to tell me you don't know instead of trying to guess or make
9 something up.

10 MS. MADDEN: Okay.

11 MALE INTERVIEW: So like if I ask you, tell me what the
12 color of my car is, what would you say?

13 MS. MADDEN: I don't know what it, but I don't know the
14 color.

15 MALE INTERVIEW: That's right, because you don't know.
16 All right, Venice, so everything I tell you is going to be stuff that's
17 true and really happened, okay?

18 MS. MADDEN: Okay.

19 MALE INTERVIEW: Will you make sure everything you tell
20 me is stuff that's true and really happened?

21 MS. MADDEN: Yeah.

22 MALE INTERVIEW: Okay. All right. So tell me everything
23 you did today, from the very moment you woke up until you got
24 here.

25 [Video is paused at 4:14 p.m.)

1
2 MS. EINHORN: And pausing for the record at 3:35 in the
3 video.

4 BY MS. EINHORN:

5 Q Ms. Espinoza, is that your co-worker, Matt?

6 A Yes, it is.

7 Q And he's the one who started the interview with Venice?

8 A Yes.

9 Q And kind of the rules that he just went over with Venice
10 about everything you say must be the truth and going over his car,
11 the bracelets, is that kind of the rapport you were talking about that
12 you develop with the children at the beginning of the interview?

13 A Yes. He did the rapport early on when he was asking her
14 about things she likes to do and she was explaining how she makes
15 bracelets.

16 Q Okay. And just another question, Ms. Espinoza, these
17 interviews were conducted, the one with Venice, on March 2nd, 2017,
18 correct?

19 A Yes, that's correct.

20 Q If we're looking in this video down at the left-hand side, we
21 can see that it says 2016.06.11, so June 2016, do you know why the
22 date is different than March 2nd, 2017?

23 A Yes, I do. Our camera system was completely down for
24 several months and we didn't have a system until, I believe May
25 2017. We had video cameras that were equivalent to GoPro. I'm not

1 technically inclined, so I don't know how to explain it to you. And
2 they would reset themselves, but it wasn't always accurate dates that
3 would be stamped.

4 Q Okay. So the accurate date of this video is March 2nd,
5 2017?

6 A Yes.

7 Q And now we're going to skip a little bit and start again at
8 7:06.

9 (Video resumed at 4:16 p.m.)

10 MALE INTERVIEW: Okay. All right, Venice, well, I
11 appreciate you telling me more about yourself and your family. So
12 tell me [indiscernible].

13 MS. MADDEN: Well, my mom, she had feeling that I was --
14 I don't want to -- my mom had a feeling like I was touched.

15 MALE INTERVIEW: Okay. Why did she think that?

16 MS. MADDEN: Because I was.

17 MALE INTERVIEW: Well, tell me what happened.

18 MS. MADDEN: Well, in -- like -- well -- well, my mom kind
19 of like -- like when I was -- like when my cousin, Trinity was here, she
20 like, all kind of changing, she like [indiscernible] and stuff like that
21 and -- like I wasn't like that. I'm like -- I wasn't like that at all. And
22 then like she -- like she would have -- like my mom would have seen
23 her like smash my fingers a lot, like on my clipboard and then like
24 [indiscernible]. And then so -- and then after that, like my mom
25 would like -- she'd be like, are you okay, and then stuff like that. And

1 then she'll be saying that a lot. And then like, she would also be
2 saying when my -- like when she used to hit me and stuff like that.

3 MALE INTERVIEW: And you said this was Trinity; is that
4 right?

5 MS. MADDEN: Yeah. She was my cousin -- she's my
6 cousin.

7 MALE INTERVIEW: Okay. If something had happened that
8 bothered you, are you going to feel it was okay? What would you
9 do?

10 MS. MADDEN: I would tell my mommy.

11 MALE INTERVIEW: Okay. And when was the last time you
12 told mommy about something that bothered you or you didn't feel
13 was okay?

14 MS. MADDEN: A couple days ago.

15 MALE INTERVIEW: What'd you tell her?

16 MS. MADDEN: I told her -- well, I told her -- I think it was
17 on Monday, because I -- it was like 3:00 in the morning, and I told her
18 all what happened and tell her and stuff like that.

19 MALE INTERVIEW: You said that Trinity touched you; is
20 that right?

21 MS. MADDEN: No. I -- well, at first I said that in my -- and
22 I -- I said that, and then I didn't say that, and I said it, and then I didn't
23 say it. And then my mom kind of got confused. And then but like --
24 but that was a while ago. And then -- but like now, I think
25 [indiscernible] I told her like 3:00 in the morning, he [indiscernible].

1 MALE INTERVIEW: And who was that?
2 MS. MADDEN: Quincy.
3 MALE INTERVIEW: And who is he?
4 MS. MADDEN: Well, he's my mom's roommate, but not
5 anymore.
6 MALE INTERVIEW: And what's his last name?
7 MS. MADDEN: Brass.
8 MALE INTERVIEW: So tell me how he touched you?
9 MS. MADDEN: [Makes noise] This is uncomfortable.
10 MALE INTERVIEW: What would make you uncomfortable?
11 MS. MADDEN: I don't know.
12 MALE INTERVIEW: Do you want to write it down?
13 MS. MADDEN: I don't know. I don't [indiscernible].
14 MALE INTERVIEW: Okay. If you want to write it on this
15 piece of paper. Just you need more paper, just write it on there,
16 okay?
17 MS. MADDEN: Okay. So what was the question? I'm
18 sorry.
19 MALE INTERVIEW: I asked you, how did Quincy touch
20 you?
21 MS. MADDEN: Okay. I don't want to [indiscernible].
22 MALE INTERVIEW: Okay.
23 [Pause while Venice Madden is drawing on paper.]
24 MS. MADDEN: Sorry [indiscernible].
25 MALE INTERVIEW: That's okay.

1 MS. MADDEN: [Indiscernible] and then, um.
2 [Indiscernible].

3 MALE INTERVIEW: [indiscernible] he said. This is a safe
4 room, okay. You can tell me anything you want to tell me. You can
5 write down anything you want to write down. I've a lot of cases on a
6 lot of different things, and use any kind of words you want to
7 [indiscernible], okay, and you're not going to be in trouble. All right?

8 MS. MADDEN: Yeah. [Indiscernible].

9 MALE INTERVIEW: Okay.

10 MS. MADDEN: [Indiscernible].

11 [Pause while Venice Madden is drawing on paper.]

12 MS. MADDEN: I don't want to do this. Are we done?

13 MALE INTERVIEW: So you wrote, "D touched me by
14 putting his finger in my bottom and my V"; is that right?

15 MS. MADDEN: Uh-huh.

16 MALE INTERVIEW: Okay. How old were you when this
17 happened?

18 MS. MADDEN: I don't remember. I think either -- well
19 [indiscernible]. Well, it was either I'm eight or nine.

20 MALE INTERVIEW: Okay. Was it this year, last year, or
21 something else?

22 MS. MADDEN: I think -- it wasn't this year, I don't think. I
23 think it was -- I can't say for sure. I think it was last year.

24 MALE INTERVIEW: Okay. What do you remember
25 happening around that time that you remember?

1 MS. MADDEN: [Indiscernible].

2 MALE INTERVIEW: What do you remember happening

3 around that time that you remember?

4 MS. MADDEN: Well --

5 MALE INTERVIEW: Were you school? Were you out of

6 school, or something else?

7 MS. MADDEN: Well, I think I was in [Indiscernible].

8 MALE INTERVIEW: Okay. And how did you remember it

9 happening around that time?

10 MS. MADDEN: I don't remember.

11 MALE INTERVIEW: When it happened, was it hot outside,

12 was it cold outside, or something else?

13 MS. MADDEN: I want to say -- I don't remember. I'm

14 sorry. I can't remember.

15 MALE INTERVIEW: What grade were you in?

16 MS. MADDEN: Either I think third or fourth. Either

17 [Indiscernible] or last -- or third.

18 MALE INTERVIEW: Who was your teacher at the time?

19 MS. MADDEN: Like I said -- well, now, Ms. Gibson

20 (phonetic) [indiscernible] fourth. And then last year, it was I think

21 Mr. Smith [indiscernible].

22 MALE INTERVIEW: When this happen, who was your

23 teacher?

24 MS. MADDEN: Ms. -- I think Mr. Smith.

25 MALE INTERVIEW: Mr. Smith?

1 MS. MADDEN: I think, because I think -- because like, at
2 first it was like Ms. Deal (phonetic) and then she got fired, and then it
3 was Mr. Smith.

4 MALE INTERVIEW: Okay. And what grade is Mr. Smith?

5 MS. MADDEN: He was in third.

6 MALE INTERVIEW: Third grade? Okay. Where did this
7 happen at?

8 MS. MADDEN: That?

9 MALE INTERVIEW: Yeah.

10 MS. MADDEN: Home.

11 MALE INTERVIEW: Whose home?

12 MS. MADDEN: Huh?

13 MALE INTERVIEW: Whose home was it?

14 MS. MADDEN: Mine.

15 MALE INTERVIEW: Yours?

16 MS. MADDEN: Uh-huh.

17 MALE INTERVIEW: And what's your address?

18 MS. MADDEN: 736 Oregon Valley, I don't know.

19 MALE INTERVIEW: Is it a house, is it an apartment, or
20 something else?

21 MS. MADDEN: House.

22 MALE INTERVIEW: Okay. And where at in the house did it
23 happen?

24 MS. MADDEN: Downstairs.

25 MALE INTERVIEW: Where at downstairs?

1 MS. MADDEN: In the living room.

2 MALE INTERVIEW: Okay. And who was home?

3 MS. MADDEN: Well, sometimes, mommy would be home,
4 or she would be like asleep, or like getting nails done, or going to the
5 store, something like that.

6 MALE INTERVIEW: And did this happen one time, more
7 than one time, or something else?

8 MS. MADDEN: More than one time.

9 MALE INTERVIEW: Tell me about the first time you
10 remember it happening.

11 MS. MADDEN: First time I remember it happening?

12 MALE INTERVIEW: Yeah.

13 MS. MADDEN: [Indiscernible] now or?

14 MALE INTERVIEW: Tell me all about the first time you
15 remember.

16 MS. MADDEN: Um -- um, well you don't -- well, I think
17 [Indiscernible] probably asleep. And then -- and then...

18 MALE INTERVIEW: Where were you at in the house?

19 MS. MADDEN: Downstairs living room.

20 MALE INTERVIEW: Okay. And what were you doing?

21 MS. MADDEN: We were watching the TV shows.

22 MALE INTERVIEW: What show were you watching?

23 MS. MADDEN: I think it was either SpongeBob or
24 something like that.

25 MALE INTERVIEW: Okay. And then what happened?

1 MS. MADDEN: I don't know. Well, mom -- well,
2 Dequincy's upstairs and -- yeah, he went upstairs and then he came
3 down.

4 MALE INTERVIEW: And then what happened?

5 MS. MADDEN: [Puts her head down on the table on her
6 hands and mumbling.] Um, he bothered me.

7 MALE INTERVIEW: What did he say when he bothered
8 you?

9 MS. MADDEN: Well, like he was -- well, he's -- so like I say,
10 he was upstairs and then like, he was -- well, he was upstairs with
11 mommy, I think, and then she -- like mommy, I think fell asleep at the
12 time because he downstairs. And then like, he wanted to sit on the
13 couch next to me. And he was going to my mom's like
14 [indiscernible]. Well, like -- I don't [sighs]. Like how? Like --

15 MALE INTERVIEW: How was he bothering you?

16 MS. MADDEN: Like when I was like watching TV by myself
17 -- and I liked it that way -- like I said, when I was watching TV by
18 myself, he came downstairs and then like, he sat next to me
19 [Indiscernible].

20 MALE INTERVIEW: And then what happened?

21 MS. MADDEN: Then [puts her head down on the table on
22 her hands and mumbling.] [Indiscernible]. Well, after -- could I write
23 it down?

24 MALE INTERVIEW: Sure, you want to write it?

25 MS. MADDEN: Yeah.

1 MALE INTERVIEW: So write everything that happened to
2 you, beginning to the end, that you remember, okay?

3 MS. MADDEN: Okay. Let me see [indiscernible]. Do you
4 have like a pen?

5 MALE INTERVIEW: Sure. You can use this pen.

6 MS. MADDEN: Yeah.

7 MALE INTERVIEW: All right. I'm going to take a -- I'm
8 going to sit outside while you write that and I'll be back, okay?

9 MS. MADDEN: [Indiscernible].

10 (Video paused at 4:28 p.m.)

11 MS. EINHORN: For the record, just pausing at 19:39, and
12 we're going to skip to 20:23.

13 (Video resumes at 4:28 p.m.)

14 MS. MADDEN: [Male interviewer not in room. Venice
15 writing on paper.] Well [indiscernible]. But -- so I forgot his
16 question. Oh, what then happened. Okay. He said --

17 (Video paused at 4:29 p.m.)

18 THE COURT: Let's pause.

19 Let's take a break. Ten-minute break. During this recess,
20 ladies and gentlemen, you're admonished not to talk or converse
21 amongst yourselves or with anyone else on any subject connected
22 with the trial, read, watch, or listen to any report or any commentary
23 in the trial or any person connected with this trial by any medium of
24 information, including, without limitation to social media, text,
25 newspapers, television, internet and radio. Do not visit the scene of

1 any events mentioned during the trial. Do not undertake any
2 investigation. Do not Google anything about the trial.

3 Do not do any posting, communications on any social
4 networking sites. Do not do any independent research, including
5 internet searches. Do not form or express any opinion on any
6 subject connected with the trial until the case is finally submitted to
7 you. We'll see you back in ten minutes.

8 THE MARSHAL: All rise for the jury.

9 [Jury out at 4:30 p.m.]

10 THE COURT: You can step down.

11 THE WITNESS: Thank you.

12 THE COURT: Or you can stay here, too.

13 THE WITNESS: Stay. Thanks.

14 THE COURT: You can sit. Either is fine.

15 While they're on break, how much time do we anticipate
16 left for today?

17 MS. EINHORN: We have -- well, we have a while longer
18 with this witness, but I know she does have to be out of here by 5:00
19 to pick up her child.

20 THE COURT: Okay. So do you anticipate resuming on
21 Monday then, or --

22 MS. EINHORN: Yes.

23 THE COURT: Okay. Okay.

24 [Recess taken from 4:31 p.m. to 4:40 p.m.]

25 THE COURT: We wouldn't -- I'm thinking somewhat out

1 loud. Let me rewind a little. So in terms of jury instructions, you
2 sent them over to Mr. Posin.

3 Have you looked at them?

4 MR. POSIN: I have not yet look at them, Your Honor.

5 THE COURT: Okay. So over the weekend, you all need to
6 work on those. When we come in Monday, because we can't --

7 Do you anticipate, Mr. Posin, calling anybody other than
8 potentially Mr. Brass?

9 MR. POSIN: No, Your Honor.

10 THE COURT: Okay.

11 So maybe what we do is tell the jurors to come in at 1,
12 because my calendar is long and we need the instructions done
13 before.

14 MS. RHOADES: Okay. Then we'll come --

15 THE COURT: But I'm thinking out loud, so --

16 UNIDENTIFIED FEMALE: And we can come like before that
17 and settle any issues?

18 THE COURT: That's kind of what I'm thinking.

19 UNIDENTIFIED FEMALE: Does that work for you as well?

20 MS. RHOADES: That works for us. You just tell us when
21 you want us here.

22 THE COURT: Does that make sense?

23 MR. POSIN: Your Honor, I have a hearing that was going
24 to have somebody else try to cover for me at 12:30, and I still -- if I'm
25 going to be back here at 1:00, I'll still have to have somebody else do

1 it.

2 THE COURT: Where is it? Is the hearing here or --

3 MR. POSIN: Just a -- no. It's not even in the RJC. So I
4 think I'll just -- yeah. So 1:00 is fine. Yeah.

5 THE COURT: Okay.

6 MS. RHOADES: Well, I think we were coming earlier than
7 1:00, right?

8 THE COURT: Say that again?

9 MS. RHOADES: Wasn't the plan that --

10 THE COURT: Yeah. You all need to come in before 1:00.
11 I'm telling the jurors 1:00, and so we would meet -- I don't know --
12 sometime before that. Like at 11:30 or something like that, or 12:30,
13 but it will take -- let's tell the jurors 1:30, and then we can figure it
14 out.

15 Are they ready out there?

16 THE MARSHAL: Yes, they are, Judge.

17 THE COURT: Okay.

18 We've only got 19 more minutes.

19 MS. RHOADES: Okay.

20 THE MARSHAL: All rise for the jury.

21 [Jury in at 4:43 p.m.]

22 THE COURT: Please be seated.

23 Welcome back, ladies and gentlemen, and thank you for
24 your service and patience with us.

25 Is the State ready to continue?

1 MS. RHOADES: Yes, Your Honor. So just since we're back
2 on the record, I'm restarting State's Exhibit 31A, the interview -- the
3 forensic interview with Venice Madden. And I don't know if I already
4 did this, but just for clarity, 31A is the CD of the interview, and within
5 the CD there are four separate videos, and this is still the first of the
6 four videos.

7 (Video resumed at 4:44 p.m.)

8 MS. MADDEN: [Male interviewer not in room. Venice
9 writing on paper.] [Indiscernible]. He said, Venice [indiscernible]. I
10 don't have to come close, but I think it's before, but anyway.
11 [Indiscernible] know what to do. Know what to do and I just did.
12 [Indiscernible]. He said, Venice, take off her clothes, and I didn't want
13 to do and we just did. Then he showed [indiscernible] around me.
14 And so I [indiscernible] I did. And then [continues writing and
15 mumbling].

16 So he said, Venice, take off your clothes [indiscernible]. I
17 didn't know what to do and I just get in. He said, sit on top of me and
18 wrap your legs me around me, so I did what -- what [indiscernible]
19 and he did [continues writing and mumbling]. So there's one, two,
20 three, four places recording. Yeah. I think it would probably be
21 better [indiscernible]. I don't know, because I -- I think I'll
22 [indiscernible]. It's just hard doing this [indiscernible]. What's
23 [indiscernible]. That's weird. And I'm [indiscernible]. I don't want to
24 say this. I want to [indiscernible] to mention [indiscernible]. I forgot
25 to tell you that he was [indiscernible]. And he had his [indiscernible]

1 showing. [Indiscernible]. And his knee showing. And
2 [indiscernible]. I want mommy in here with me. [Indiscernible] can
3 you please get me a girl up in here. It's hard to talk about this with a
4 guy. I'm sorry to say, it's just hard. [Indiscernible].

5 (Video paused at 4:52 p.m.)

6 MS. RHOADES: For the record, pausing it at 29:13. I'm
7 just going to skip ahead to 30:57.

8 (Video resumed at 4:52 p.m.)

9 [Male interviewer returns to room.]

10 MS. MADDEN: [Venice continues to write on paper.]

11 MALE INTERVIEW: What's the matter?

12 MS. MADDEN: This is bad.

13 MALE INTERVIEW: [Indiscernible].

14 MS. MADDEN: [Indiscernible]. You're making me
15 uncomfortable.

16 MALE INTERVIEW: Okay. Well, like I told you before, I've
17 had a lot of kids tell me lots of different things in this room, okay.
18 They've used lots of different words and sayings. Okay. And I want
19 to do everything I can to [Indiscernible] make sure that you're safe.
20 All right?

21 MS. MADDEN: [Mumbling while continuing to write.]
22 Why is it so hard for me?

23 MALE INTERVIEW: How about I read what you've written
24 so far?

25 MS. MADDEN: Huh-uh.

1 MALE INTERVIEW: No? Why not?

2 MS. MADDEN: I don't know. [Buries head in hands on
3 table.]

4 MALE INTERVIEW: If you want, you can cover your ears
5 while I read it, but I have to read it so that the voice recorder knows
6 what you wrote.

7 MS. MADDEN: They can't see what I wrote?

8 MALE INTERVIEW: No, the voice recorder can't see it.

9 MS. MADDEN: Oh. No. [Continues to bury head in hands
10 on table.] Why is it so hard? Am I the only one that does this?

11 MALE INTERVIEW: No, there are other kids to do the same
12 thing because it's hard for them too. But writing is easier for them to
13 talk -- than talking about it sometimes. And then for some people,
14 it's easier for them to talk about [indiscernible]. It just depends.
15 Everybody's different.

16 MS. MADDEN: [Continues to bury head in hands on table.]
17 I don't know. Well [indiscernible].

18 MALE INTERVIEW: What?

19 MS. MADDEN: Because -- I don't know.

20 MALE INTERVIEW: If you have a question, you can ask it.

21 MS. MADDEN: Okay. Oh, if you read it, do I have to be
22 here when you read it?

23 MALE INTERVIEW: Well, because if I have any other
24 questions after I read [indiscernible].

25 MS. MADDEN: Can I come back in though, right?

1 MALE INTERVIEW: Well, you can cover your ears if you
2 want.

3 MS. MADDEN: But I'll still hear it.

4 (Video ended at 4:57 p.m.)

5 MS. RHOADES: Your Honor, that's the end of the first
6 video, so now might be a good time to break?

7 THE COURT: Sure.

8 So, ladies and gentlemen, the trial is -- is proceeding along
9 at the -- a good pace, although, it may not seem like it sometimes.
10 But we anticipate ending, hopefully, prior to Wednesday, but as part
11 of that, I -- there are some issues I need to go over. I have a very
12 long calendar Monday morning before we would even start, and then
13 there's some issues I need to talk about with the attorneys. Rather
14 than have you wait outside in the hallway, we'll bring you in at 1:30
15 Monday afternoon. So come back at 1:30 Monday afternoon.

16 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 any
19 commentary on the trial or any person connected with this trial by
20 any medium of information, including without limitation to social
21 media, text, newspapers, television, internet, and radio.

22 Do not visit the scene of any events mentioned during the
23 trial. Do not undertake any investigation. Do not google anything
24 about the trial. Do not do any posting or communications on your
25 social networking sites. Do not do any other research, including

1 internet searches. Do not form or express any opinion on any
2 subject connected with the trial until the case is finally submitted to
3 you. We'll see you Monday at 1:30.

4 THE MARSHAL: All rise for the jury. Please leave your
5 notebooks on the seats.

6 [Jury out at 4:59 p.m.]

7 THE COURT: So please be seated.

8 And you can step down. Thank you.

9 THE WITNESS: Oh. Thank you, Your Honor.

10 MS. RHOADES: So she'll be back 1:30 on Monday?

11 THE COURT: Yeah.

12 MS. RHOADES: Okay.

13 THE COURT: Yeah.

14 MS. RHOADES: Thank you.

15 THE COURT: So for us, I don't know, 12:30? Would that be
16 enough time to finish instructions?

17 MS. RHOADES: I think so.

18 THE COURT: Do you want to come here at noon?

19 MS. RHOADES: We're here whenever you want us to be
20 here.

21 MR. POSIN: The same here, Your Honor. I think 12:30 is
22 probably sufficient. I understand the State, although I haven't looked
23 at them yet, apparently, they only have a couple of instructions that I
24 may have any issue with, and I will probably have relatively few
25 instructions, so --

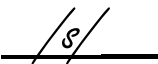
1 THE COURT: Okay.
2 Yeah, so come back at 12:30 Monday.
3 MS. RHOADES: Okay.
4 THE COURT: For me, instructions, it's easiest for me to go
5 through them if you have a -- two piles or three, I guess. A pile that
6 you all agree on. Hopefully, that's the biggest one. And then the
7 other two, which, hopefully, are much smaller, you know, the State's
8 proposed, the defendant objects to, and maybe another pile that the
9 Defendant would propose that the State might have objections to. If
10 there are objections or issues, provide me with the law that supports
11 the proposed -- either proposed instruction or the objection to it.
12 Any questions?
13 MR. POSIN: No, Your Honor.
14 MS. RHOADES: No.
15 THE COURT: Okay. We'll see you Monday, and we said
16 12:30.
17 MS. RHOADES: Yes. Thank you.
18 THE MARSHAL: When do you want the Defendant?
19 THE COURT: What's that?
20 THE MARSHAL: When do you want the Defendant?
21 THE COURT: He'd have to be here at --
22 UNIDENTIFIED SPEAKER: 12:30 as well.
23 THE COURT: -- 12:30. Thank you.
24 MR. POSIN: And, if we could, have him here maybe a little
25 bit early, so I can chat with him before we --

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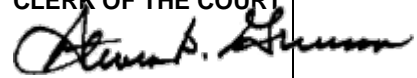
[Proceedings adjourned at 5:02 p.m.]

* * * * *

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 30, 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 MONDAY, MARCH 2, 2020

15 ***RECORDER'S TRANSCRIPT OF JURY TRIAL [DAY 5]***

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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FOR THE PLAINTIFF: OFFERED MARKED

None

FOR THE DEFENDANT:

None

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Las Vegas, Nevada, Monday, March 2, 2020

[Hearing began at 12:47 p.m.]

[Outside the presence of the Jury]

THE CLERK: Department 15 is now in session, the
Honorable Judge Hardy presiding.

THE COURT: Please be seated.

THE CLERK: Case number C-329765, State of Nevada vs.
Dequincy Brass.

THE COURT: Good afternoon.

MS. RHOADES: Good afternoon.

MS. EINHORN: Good afternoon.

MR. POSIN: Good afternoon.

THE COURT: Okay. So jury instructions. I think the State
sent then over, was it Thursday?

MS. RHOADES: Yes, Your Honor.

THE COURT: And then, Mr. Posin, have you had a chance
to review them?

MR. POSIN: Yes, Your Honor. And I haven't objected to
any of them. There's, you know, a couple of remarks I have.

One, they have an instruction on an expert witness. And at
least at this point, I don't if they've specifically qualified anybody as
an expert that I recall. I don't necessarily object to the way it's
phrased, but I don't know if it's not superfluous.

THE COURT: So the State probably has a response to that,

1 I assume.

2 MS. RHOADES: I sure do, Your Honor.

3 Dr. Suttle [phonetic] was definitely an expert witness.

4 THE COURT: So a few years ago -- I can't remember when
5 it was -- but -- and I forget, I'm sorry, I wish I remembered the case
6 name -- but the Supreme Court said -- and I think it was in a footnote
7 maybe -- but they've also confirmed, that we as judges are not to
8 confirm that somebody's an expert or not. And so that's probably
9 why the State didn't ask me to do that.

10 So we've -- so it's essentially for the jury to determine.

11 MR. POSIN: Yeah, and I understand, Your Honor. They
12 certainly did go through Dr. Suttle's qualifications. And as I said, you
13 know, the wording of that instruction, I have no --

14 THE COURT: Okay.

15 MR. POSIN: -- problem with.

16 THE COURT: Okay.

17 MR. POSIN: The other one that's again, not an objection,
18 is -- but may end up being superfluous, is I believe that Mr. Brass will
19 be testifying, so...

20 THE COURT: Okay.

21 THE CLERK: [Indiscernible].

22 THE COURT: Yeah. Is that towards the back, I assume?

23 MR. POSIN: Yeah.

24 THE COURT: Okay. Gotcha, okay.

25 And that decision will be made after the State closes.

1 MR. POSIN: Yeah, until after the State rests, we'll make a
2 final decision, but it --

3 THE COURT: Okay.

4 MR. POSIN: -- appears that we're heading that direction.

5 THE COURT: Okay. So anything else?

6 Ms. RHOADES: You don't object to any of the other ones
7 being --

8 MR. POSIN: No, Your Honor.

9 THE COURT: Okay. The --

10 MS. RHOADES: The --

11 THE COURT: Oh, sorry, go ahead.

12 MS. RHOADES: I'm sorry, Your Honor. I did want to make
13 a record of the one. It's two before the Carter instruction about him
14 testifying. It says -- and this was concluded in the State's proposed --
15 it says, "Evidence the Defendant may have committed offenses other
16 than that for which he is on trial, if believed, was not received and
17 may not be considered by you to prove that he is a person of bad
18 character, or to prove that he has a disposition to commit crimes."

19 The State included this traditional Bad Act instruction
20 without the reasons for it to be included such -- or considered, such
21 as motive, intent, opportunity. We just included that first because of
22 the statements that Arianna makes in her -- largely because of the
23 statements that Arianna makes in her forensic interview.

24 I did inform Mr. Posin of this. I told him it was up to him,
25 but we included it out of an abundance of caution, and I will let him

1 make the record whether or not he wants that to be included in the
2 packet.

3 THE COURT: Okay.

4 MR. POSIN: And thank you, Your Honor. I guess I did look
5 at that, and I do think for precisely the reasons that Ms. Rhoades has
6 stated, that it is appropriate to have it included.

7 THE COURT: Okay. So we'll include that. And we'll
8 format then -- take out the citations number then. And, yeah, on the
9 testifying one, we'll include it for now, but if a decision's made not
10 to, then we would take it out. Or, I mean, if the decision's made to
11 testify, we would take it out.

12 MS. RHOADES: Thank you, Your Honor

13 THE COURT: Okay.

14 MS. RHOADES: Is the Court inclined to canvas Mr. Brass
15 now about that?

16 THE COURT: I think it's best after -- after you close --

17 MS. RHOADES: Okay.

18 THE COURT: -- or rest.

19 MS. RHOADES: Okay.

20 THE COURT: Unless you have a reason for me to do it
21 now.

22 MS. RHOADES: I was just thinking, because we have time,
23 I don't think he certainly has to make a decision until after we rest,
24 but I think --

25 THE COURT: I think I've done that -- actually, now that you

1 say that, I think we've done it that way before as well.

2 MR. POSIN: And, Your Honor, just as long as he doesn't
3 have to make that final decision --

4 THE COURT: Yeah.

5 MR. POSIN: -- I see no -- I have no objection to the canvas
6 now.

7 THE COURT: Let's do that. That's a good idea. Thank you
8 both. Let me just find it.

9 MS. RHOADES: And, Your Honor, while you're
10 canvassing, do you mind if I approach your clerk just to get the
11 exhibits?

12 THE COURT: Oh, not all, sure. Thank you.

13 So, Mr. Brass, good afternoon, I guess it is now.

14 THE DEFENDANT: Good afternoon.

15 THE COURT: So I'll be addressing you directly. If you
16 have any questions while I'm speaking, don't hesitate to ask. Okay?

17 THE DEFENDANT: Yes, Your Honor.

18 THE COURT: Okay. So, Mr. Brass, under the Constitution
19 of the United States, and under the Constitution of the State of
20 Nevada, you cannot -- repeat, cannot be compelled to testify in this
21 case. Do you understand that?

22 THE DEFENDANT: Yes, Your Honor.

23 THE COURT: You may, at your own request, give up this
24 right and take the witness stand and testify. If you do, you will be
25 subject to cross-examination by the Deputy District Attorney. And

1 anything you say -- anything you may say, be it on direct or on cross-
2 examination, will be the subject of fair comment when the Deputy
3 District Attorney speaks to the jury in her final argument. Do you
4 understand that?

5 THE DEFENDANT: Yes, Your Honor.

6 THE COURT: If you choose not to testify, the Court will not
7 permit the Deputy District Attorney to make any comments to the
8 jury because you have not testified. Do you understand that?

9 THE DEFENDANT: Yes, Your Honor.

10 THE COURT: If you elect not to testify, the Court will
11 instruct the jury, but only if your attorney specifically requests.

12 And, Mr. Posin, if he chooses not to testify, you are making
13 the request, right?

14 MR. POSIN: Read that again, Your Honor.

15 THE COURT: So let me just say the first part and then -- so
16 if you, Mr. Brass -- going back to you -- if you elect not to testify, the
17 Court will instruct the jury, but only if your attorney specifically
18 requests as follows:

19 "The law does not compel a defendant in a criminal case to
20 take the stand and testify, and no presumption may be raised and no
21 inference of any kind may be drawn from the failure of a defendant
22 to testify."

23 Do you have any questions about these rights?

24 THE DEFENDANT: No, Your Honor.

25 THE COURT: And, Mr. Posin, if Mr. Brass chooses not to

1 testify, you want that instruction in there, right?

2 MR. POSIN: Yes, Your Honor. I will want that instruction.

3 THE COURT: Yeah. Going back again to you, Mr. Brass.

4 You're further advised that if you have a felony conviction
5 and more than ten years has not elapsed from the date you have
6 been convicted or discharged from prison, parole, or probation,
7 whichever is later, and the Defense has not sought to preclude that
8 coming before the jury, and you elect to take the stand and testify,
9 the Deputy District Attorney, in the presence of the jury, will be
10 permitted to ask you the following questions:

11 Have you been convicted of a felony?

12 What was the felony?

13 When did it happen?

14 However, no details may be gone into. Do you understand
15 that?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Okay. And as we discussed a moment ago,
18 we'll wait until after the State rests to confirm with you whether you
19 choose to testify or not. Do you understand that?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Okay.

22 Anything else from either side?

23 MS. RHOADES: No, Your Honor.

24 MR. POSIN: Nothing further, Your Honor.

25 THE COURT: Okay. So we'll go off the record. And I think

1 they're coming at 1:30, right?

2 MS. RHOADES: Yes.

3 THE COURT: Okay, sounds good. Thank you.

4 MS. RHOADES: Thank you.

5 MR. POSIN: Thank you, Your Honor.

6 [Recess taken from 12:57 p.m. to 1:35 p.m.]

7 THE COURT: Anything we need to discuss before we bring
8 them in?

9 MS. RHOADES: I don't think so. We would just ask that
10 the witness be brought in first. I mean, she was here on the stand
11 when they left.

12 THE COURT: So bring the witness in.

13 THE MARSHAL: Will do.

14 [Pause]

15 THE MARSHAL: All rise for the jury.

16 [Jury in at 1:37 p.m.]

17 THE COURT: Please be seated.

18 And good afternoon, ladies and gentlemen. And thank
19 you, as always, for your service and patience with us.

20 Is the State ready to continue?

21 MS. RHOADES: Yes, Your Honor.

22 THE COURT: Okay.

23

24

25 ///

1 ELIZABETH ESPINOZA, STATE'S WITNESS, PREVIOUSLY SWORN
2 DIRECT EXAMINATION

3 BY MS. EINHORN:

4 Q Good afternoon, Ms. Espinoza. So we left on Friday, we
5 were going through Venice's forensic interview, which is State's
6 Exhibit 31A. So I'd like to just start with that as well.

7 MS. EINHORN: And, Your Honor, for the record, this is still
8 State's 31A the second of the four videos starting at 3 minutes 21
9 seconds.

10 THE COURT: Okay.

11 (Whereupon, a video recording, State's Exhibit 31A was played in
12 open court at 1:38 p.m., and transcribed as follows:)

13 MS. MADDEN: [Male interviewer not in room.] My finger
14 hurts. After a little bit, I was crying and he -- I don't know how to
15 spell wetting [indiscernible] wetting. It is -- [pounding on table and
16 mumbling]. I don't get this because if I would say out loud and you --
17 your voice recorder can hear me, why does he have to remain? I
18 could just say -- can I just say it for -- how do you say it? I'd rather
19 say it when you're not in here because kind of hard. [Indiscernible].

20 I'm hungry. I'm hungry. Okay. Well, like I said -- okay,
21 sorry. I was crying and he kept wetting it in me. [Indiscernible] of
22 that, mommy woke up and we heard her and as -- as soon as I --
23 sorry -- we heard her, we put back on our -- our clothes and act like
24 nothing -- I spelled it wrong -- nothing ever happened, period.

25 [Grunts] Sorry. This is so hard to do.

1 [Indiscernible] nothing ever happened. And then -- and --
2 and a couple [indiscernible] of that -- I think he knows -- I think he
3 does. It's probably [indiscernible]. And a couple days like that.

4 [Male interviewer returns to room.]

5 MALE INTERVIEW: All right [indiscernible] going. I know
6 you were saying that you would -- would feel more comfortable
7 talking to a woman; is that right?

8 MS. MADDEN: Yeah.

9 MALE INTERVIEW: Okay. Would you be okay if I had a
10 woman come in who does the same thing I do and talk with you
11 [indiscernible]?

12 MS. MADDEN: I don't know, because if my brother
13 [indiscernible].

14 MALE INTERVIEW: Well, don't worry about your brother.
15 We'll figure that out. Okay?

16 MS. MADDEN: [Indiscernible].

17 MALE INTERVIEW: I want to make sure that you're
18 comfortable and that you would be okay with a woman who came in
19 and talked with you and read your -- what you're writing. Would that
20 be okay?

21 MS. MADDEN: Yeah.

22 MALE INTERVIEW: Would you feel good with her reading
23 it?

24 MS. MADDEN: Yeah.

25 MALE INTERVIEW: Okay. Well, her name's Elizabeth.

1 Okay? And so I'm going to step out and I'm going to have her come
2 in and she'll talk with you. I already told her about you. Okay?

3 MS. MADDEN: Okay.

4 MALE INTERVIEW: So she's just going to talk with you a
5 little more about what you're writing. Okay?

6 MS. MADDEN: Okay.

7 MALE INTERVIEW: All right. I'll tell her to come in.

8 MS. MADDEN: Bye.

9 MALE INTERVIEW: I'll see you when we're done. Okay?

10 MS. MADDEN: Okay.

11 [Male interviewer leaves room.]

12 MS. MADDEN: A couple of days like that --

13 [Knock on door. Elizabeth Espinoza enters.]

14 MS. ESPINOZA: Hi, Venice. How are you?

15 MS. MADDEN: Good. How are you?

16 MS. ESPINOZA: I'm good, thank you. My name's
17 Elizabeth Espinoza. You were talking to my friend, Mr. Terio
18 [phonetic]. Is that right?

19 MS. MADDEN: Yes.

20 MS. ESPINOZA: Okay. And I heard you wanted to talk
21 about something, but you felt more comfortable with a female
22 interviewer. Is that right?

23 MS. MADDEN: Yes.

24 MS. ESPINOZA: Okay. Well, I'd like to talk to you some
25 more. And is there any way we could switch seats for a minute?

1 MS. MADDEN: Yeah.

2 MS. ESPINOZA: Yeah? Thank you. All right. And we do
3 that, Venice, because the cameras can see you better if you sit there
4 and I sit over.

5 MS. MADDEN: Okay.

6 MS. ESPINOZA: Okay. So my job is to talk to kids all day
7 and ask a lot of questions to get to know you, just like Mr. Terio did. I
8 know he went over the rules with you. And I'm going to tell you the
9 same rules that I have when I talk to kids. And also that I can only
10 talk about things that are true and really happened. So will you only
11 tell me things that are true and really happened?

12 MS. MADDEN: Yeah.

13 MS. ESPINOZA: Okay. So I heard you had written
14 something. Is it okay if I read it out loud?

15 MS. MADDEN: Well, I don't know. I'm so scared
16 [indiscernible].

17 MS. ESPINOZA: Well, this is -- this is a very safe room.
18 Okay? You can tell me whatever you want to tell me in here. The
19 only people who can hear are you, me, Mr. Terio, the gentleman
20 [indiscernible] outside. I just want to make sure that we have it right
21 so that we'll -- you know, we can call or we can talk to help you.

22 MS. MADDEN: Do you want me to finish or?

23 MS. ESPINOZA: You have more to write?

24 MS. MADDEN: Yes.

25 MS. ESPINOZA: Okay. Go ahead. And then just know --

1 MS. MADDEN: Well, I have his pen.

2 MS. ESPINOZA: That's okay. I'll give it to him after
3 [indiscernible]. But just know that after you finish writing, I have to
4 read it out loud and then ask you questions about it. Okay?

5 MS. MADDEN: Okay. But like I asked him, would I'm
6 allowed to step out and step back in?

7 MS. ESPINOZA: Well, we can take a break. But you know
8 what, it's better that whatever is on your mind right now, that we
9 finish writing it, and then just read it and then ask some questions.
10 Okay?

11 MS. MADDEN: Oh, it hears from both sides?

12 MS. ESPINOZA: Yeah, it's a recorder. It copies everything
13 you and I say. So like the two cameras that are above so that we can
14 remember what we talk about, and so that people can see that I'm
15 doing a good job and asking you the right questions.

16 MS. MADDEN: Okay.

17 (Video paused at 1:47 p.m.)

18 MS. EINHORN: For the record, pausing at 12:05, and we're
19 going to fast forward to 20:33. 20:29.

20 (Video resumes at 1:47 p.m.)

21 MS. ESPINOZA: What is it that you're writing about? Who
22 is it that you're writing about?

23 MS. MADDEN: Oh, you don't know? Well, my mom, she
24 was [indiscernible] well, like, not -- we came here today because my
25 mom -- I've been touched.

1 MS. ESPINOZA: Tell me where you were touched.
2 MS. MADDEN: Huh?
3 MS. ESPINOZA: Tell me where you were touched.
4 MS. MADDEN: Oh. Two places and [indiscernible].
5 MS. ESPINOZA: You're showing me something with your
6 hands, Venice, but tell me what your [indiscernible] showing. You
7 said two places. What are the name of the two places?
8 MS. MADDEN: My -- can I write them dow?
9 MS. ESPINOZA: You can write it down.
10 MS. MADDEN: I'm sorry. It's just easier.
11 MS. ESPINOZA: [Indiscernible]. Here you go.
12 [indiscernible] okay?
13 MS. MADDEN: Okay.
14 MS. ESPINOZA: So you wrote, my bottom and my "V."
15 Tell me what you use your bottom for.
16 MS. MADDEN: Huh?
17 MS. ESPINOZA: What do you use your bottom for?
18 MS. MADDEN: Oh, to go to the bathroom.
19 MS. ESPINOZA: And what comes out your bottom when
20 you go to the bathroom?
21 MS. MADDEN: Poop.
22 MS. ESPINOZA: And how about your "V"? What do you
23 use your "V" for?
24 MS. MADDEN: Bathroom.
25 MS. ESPINOZA: What comes out of it?

1 MS. MADDEN: Pee.

2 MS. ESPINOZA: And who touched your bottom and who
3 touched your "V"?

4 MS. MADDEN: Well, Quincy. Dequincy.

5 MS. ESPINOZA: And who is Dequincy?

6 MS. MADDEN: Well, he's my -- he was my mom's
7 roommate, but not [indiscernible].

8 MS. ESPINOZA: Tell me about the touching. When did it
9 happen?

10 MS. MADDEN: It happened a while ago.

11 MS. ESPINOZA: How old were you?

12 MS. MADDEN: Either eight or nine.

13 MS. ESPINOZA: How old are you now?

14 MS. MADDEN: Nine.

15 MS. ESPINOZA: Tell me everything about it, from how it
16 started to how it stopped.

17 MS. MADDEN: [indiscernible] or?

18 MS. ESPINOZA: Well, can I read what you wrote me?

19 MS. MADDEN: Yeah.

20 MS. ESPINOZA: Okay. So read it out loud, okay. I just
21 need you to tell me if it's correct what I'm reading or not.

22 MS. MADDEN: Okay.

23 MS. ESPINOZA: So you wrote, "He said, Venice, take off
24 your clothes, and I didn't know what to do, and I just did. And then
25 he said, Sit on top of me and wrap your legs around me, and so I did.

1 But I was kind of scared a bit and he didn't know that I was a little
2 scared. And I forgot to tell you that he was naked too. And he had
3 his "D" sewing -- sewing and he put in me."

4 What do you mean by "sewing"?

5 MS. MADDEN: Huh?

6 MS. ESPINOZA: What does "sewing" me?

7 MS. MADDEN: I mean show.

8 MS. ESPINOZA: Oh, "He had his "D" showing and he put
9 [indiscernible]. After a little bit of that, I was crying and he -- he -- I
10 was crying and he kept wedging?" --

11 MS. MADDEN: Yeah.

12 MS. ESPINOZA: -- "wedging it in me. After a little a bit of
13 that, mommy woke up and -- and we heard her. And as soon as we
14 heard her, we put back on our clothes and acted like nothing ever
15 happened. In a couple of days of that, I gave him thread, which
16 means I sucked his "D." I gave him head, which means I sucked his
17 "D," but he told me to do it. I didn't do it because I didn't know how
18 to do that. And he kind of explained it to me. And so he said that he
19 would lay down and -- and I would be on top of him and" --

20 MS. MADDEN: That's [indiscernible].

21 MS. ESPINOZA: -- "and I would" -- and what would you do
22 next?

23 MS. MADDEN: Well [indiscernible].

24 MS. ESPINOZA: It's okay. So once he had you -- once he
25 laid down and you went on top of him, what did you have to do

1 next?

2 MS. MADDEN: [indiscernible]. I'm sorry.

3 MS. ESPINOZA: It's okay. I just want to ask you some
4 questions about this so I can understand some things first.

5 MS. MADDEN: Okay.

6 MS. ESPINOZA: When you say his "D," what are you
7 talking about?

8 MS. MADDEN: Ah --

9 MS. ESPINOZA: You want to [indiscernible] --

10 MS. MADDEN: Yeah.

11 MS. ESPINOZA: -- on this paper.

12 MS. MADDEN: I don't like saying his name.

13 MS. ESPINOZA: Okay. And you wrote down
14 [indiscernible]; is that correct?

15 MS. MADDEN: Yeah.

16 MS. ESPINOZA: And what does he use his dick for?

17 MS. MADDEN: "D."

18 MS. ESPINOZA: "D." Okay, I'll use your word. What does
19 he use it for?

20 MS. MADDEN: Well, what do -- me? He -- it's hard.

21 MS. ESPINOZA: What comes out of a "D"?

22 MS. MADDEN: Huh?

23 MS. ESPINOZA: What comes out of a "D"?

24 MS. MADDEN: Pee.

25 MS. ESPINOZA: Okay. And tell me where his "D" went.

1 When you said --

2 MS. MADDEN: In me.

3 MS. ESPINOZA: In you.

4 MS. MADDEN: In my "V."

5 MS. ESPINOZA: Tell me how [indiscernible] when he put
6 in your "V."

7 MS. MADDEN: Well, it hurted.

8 MS. ESPINOZA: Describe how it hurt.

9 MS. MADDEN: Well [indiscernible].

10 MS. ESPINOZA: Describe to me how it hurt, in your words.

11 MS. MADDEN: I don't know how to describe it. Sorry.

12 Like, it just hurt. It's hard to describe. Like -- like, if you get -- if you
13 get -- like [indiscernible] if you get punched, it's -- it's so hard to --

14 MS. ESPINOZA: It's okay. Tell me how his "D" moved
15 when it was in your "V."

16 MS. MADDEN: Well, it was going like side to side.

17 MS. ESPINOZA: And what part of your "V" did it go in?

18 MS. MADDEN: Front [indiscernible]. Front.

19 MS. ESPINOZA: Okay. In the front. And when you say
20 "the front," do you know how when you go to the bathroom --

21 MS. MADDEN: Yeah.

22 MS. ESPINOZA: -- is it the part where you wipe? Is it
23 outside of the part where you wipe?

24 MS. MADDEN: Oh, it was like -- kind of like the part where
25 you wipe. Well, yeah. You get a part like -- um -- yeah, kind of part

1 where you wipe.

2 MS. ESPINOZA: Okay. And you said it hurt, and you said
3 it moved side to side. And what -- what did he say when he was
4 doing that?

5 MS. MADDEN: He was making this noise, but I don't know
6 how to make the noise, but my mom does. Well --

7 MS. ESPINOZA: Tell me --

8 MS. MADDEN: -- I don't know how to make it.

9 MS. ESPINOZA: Tell me how you know your mom knows
10 how to make that noise?

11 MS. MADDEN: Well, she -- well, it's hard.

12 MS. ESPINOZA: It's okay.

13 MS. MADDEN: I like kind of explained -- I -- like, it's -- I
14 know how to do a little bit of it, but like -- it's so hard. Well, like --
15 well, like I said -- like I told her how to say it, but like it's kind of hard
16 -- like --

17 MS. ESPINOZA: Use whatever words you want to use,
18 okay. And if I have a question, I'll ask you about it.

19 MS. MADDEN: Okay. Well, kind of like -- I basically almost
20 said it, but like, she -- like -- I like said it wrong though, like --

21 MS. ESPINOZA: Well, what sounds did you hear? What
22 [indiscernible]?

23 MS. MADDEN: This is scary.

24 MS. ESPINOZA: What's scary?

25 MS. MADDEN: This.

1 MS. ESPINOZA: You tell me how [indiscernible].
2 MS. MADDEN: He comes like [indiscernible]. I want to go
3 with mommy.
4 MS. ESPINOZA: You like being with your mommy?
5 MS. MADDEN: Yeah.
6 MS. ESPINOZA: You know what, from this room, it can
7 only be you and me. She's outside.
8 MS. MADDEN: What sound did I hear?
9 MS. ESPINOZA: Uh-huh. What sounds did you hear him
10 make?
11 MS. MADDEN: It was kind of like -- I'm scared. Like I could
12 -- like I feel a little bit [indiscernible] scared. I'll write it down, but
13 [indiscernible]. Well, kind of like -- I'm sorry.
14 MS. ESPINOZA: It's okay. Where were his hands when --
15 when he had his "D" in your "V"?
16 MS. MADDEN: Like -- well, like -- well, he was -- well, like
17 -- like head or like top or?
18 MS. ESPINOZA: When -- when he put his "D" in your "V,"
19 were you sitting down, were you standing up, or something else?
20 MS. MADDEN: Basically, kind of on top.
21 MS. ESPINOZA: Was he -- where did it happen?
22 MS. MADDEN: Downstairs. I think -- I'm pretty sure -- I
23 don't -- I'm not [indiscernible] I shouldn't say it because I might be
24 wrong. But I was going to say, I think mommy was either at the store
25 or like [indiscernible].

1 MS. ESPINOZA: Where downstairs were you with
2 Dequincy -- with Quincy [indiscernible]?
3 MS. MADDEN: We were downstairs in the living room.
4 MS. ESPINOZA: And were you sitting down, were you
5 standing up, or something else?
6 MS. MADDEN: Laying down.
7 MS. ESPINOZA: And where were you laying down?
8 MS. MADDEN: On top of him.
9 MS. ESPINOZA: Okay. How about him? Was he standing
10 up, sitting down?
11 MS. MADDEN: Laying down.
12 MS. ESPINOZA: What was he laying down on?
13 MS. MADDEN: On top of a blanket.
14 MS. ESPINOZA: A blanket. And where was the blanket?
15 MS. MADDEN: In the living room on the floor.
16 MS. ESPINOZA: Okay. And what color was the blanket?
17 MS. MADDEN: [indiscernible].
18 MS. ESPINOZA: Okay. And so you said he was laying
19 down. So was his back to the floor? Was his [indiscernible] --
20 MS. MADDEN: Yeah, on his back
21 MS. ESPINOZA: -- or something else?
22 MS. MADDEN: It was like -- like [indiscernible].
23 MS. ESPINOZA: Okay. And then you said you got on top
24 of him. How were your clothes when you got on top of him?
25 MS. MADDEN: Huh?

1 MS. ESPINOZA: How were your clothes when you got on
2 top of him?

3 MS. MADDEN: Oh, I didn't have any clothes.

4 MS. ESPINOZA: What happened to your clothes?

5 MS. MADDEN: [indiscernible].

6 MS. ESPINOZA: Well, how did they come off?

7 MS. MADDEN: Um -- wait, how did they come off?

8 MS. ESPINOZA: Uh-huh, because you said your clothes
9 were not on. So what happened to them?

10 MS. MADDEN: [indiscernible].

11 MS. ESPINOZA: You wrote, "I took them off because he
12 told me too." Is that right?

13 MS. MADDEN: Yes.

14 MS. ESPINOZA: Okay. And how were his clothes when he
15 was laying there?

16 MS. MADDEN: Off.

17 MS. ESPINOZA: What -- how did his clothes come off?

18 MS. MADDEN: He took them off.

19 MS. ESPINOZA: Okay. And then you said, "You got on
20 top." And when you got on top, what parts of your body were
21 touching his body besides your "V"?

22 MS. MADDEN: Huh?

23 MS. ESPINOZA: So what parts of your body was -- were
24 touching his when you got on top of him?

25 MS. MADDEN: I don't get it.

1 MS. ESPINOZA: Okay. That's all right. I'll rephrase the
2 question. Where were his hands when you got on top of him?

3 MS. MADDEN: Well, they were -- like, they were -- um, so
4 when I was undone, we kind of [indiscernible] I think waist.

5 MS. ESPINOZA: And tell me how his hands were moving
6 on your waist.

7 MS. MADDEN: Well, they were [indiscernible] waist. They
8 were kind of -- they were like back, basically.

9 MS. ESPINOZA: And when you said he put his "D" in your
10 "V," you said it hurt, and you said it moved side to side. What made
11 him stop putting his "D" in your --

12 MS. MADDEN: Oh, I was crying.

13 MS. ESPINOZA: You were crying?

14 MS. MADDEN: Yeah, I was crying loud.

15 MS. ESPINOZA: And what made you cry loud?

16 MS. MADDEN: Cause it hurted.

17 MS. ESPINOZA: And then, what did he say when you cried
18 loud?

19 MS. MADDEN: [Mumbling.]

20 MS. ESPINOZA: When you were crying, was his "D" still in
21 your "V" --

22 MS. MADDEN: Well, like --

23 MS. ESPINOZA: -- or what was happening?

24 MS. MADDEN: It was going like [make noise].

25 MS. ESPINOZA: Okay. And then what made him stop

1 putting his "D" in your "V"?

2 MS. MADDEN: When he said I was crying.

3 MS. ESPINOZA: And then what happened after you cried?

4 MS. MADDEN: He like eventually stopped.

5 MS. ESPINOZA: Okay. And tell me what made him stop.

6 MS. MADDEN: Like I said, I was crying loudly. And then I
7 think by this time, my mom was almost getting home [indiscernible].

8 MS. ESPINOZA: Okay. Tell me all the parts of your body
9 that he touched besides your "V" that time when you were
10 downstairs.

11 MS. MADDEN: My bottom.

12 MS. ESPINOZA: Your bottom. What did he do to your
13 bottom?

14 MS. MADDEN: He put his finger.

15 MS. ESPINOZA: Where exactly did he put his finger?

16 MS. MADDEN: I think the -- the hole.

17 MS. ESPINOZA: Okay. And what comes out of the hole?

18 MS. MADDEN: Poop.

19 MS. ESPINOZA: Okay. How did it make your hole when
20 he put his finger in there?

21 MS. MADDEN: It hurted bad.

22 MS. ESPINOZA: And tell me how his finger moved when it
23 went in your hole.

24 MS. MADDEN: My -- kind of like that, like -- it was not
25 going like that, it was kind of going like that. It's like --

1 MS. ESPINOZA: And then, were -- were you sitting down?
2 Were you laying down, or something else when he put --

3 MS. MADDEN: I think I was --

4 MS. ESPINOZA: -- his finger?

5 MS. MADDEN: -- I was -- sorry [indiscernible] -- I was
6 sitting on top of him this time.

7 MS. ESPINOZA: And was that the same day where he put
8 his "D" in your "V," or was it another day, or same day?

9 MS. MADDEN: Like it was the day before he put his finger
10 in.

11 MS. ESPINOZA: Okay. So -- so you said he put his finger
12 in your hole where you poop.

13 (Video paused at 1:49 p.m.)

14 MS. EINHORN: Now starting the third video of State's 31.

15 (Video resumed at at 1:49 p.m.)

16 MS. MADDEN: [indiscernible].

17 MS. ESPINOZA: Yeah, he explained that to you.

18 MS. MADDEN: Yeah.

19 MS. ESPINOZA: So was that the day before?

20 MS. MADDEN: No, he -- oh, yeah, yeah [indiscernible].

21 MS. ESPINOZA: Okay. Talk to me about that time. Tell
22 me how it started. What were you guys doing?

23 MS. MADDEN: Well, like -- I was upstairs -- well, no, no
24 [indiscernible], I'm sorry. I was downstairs. And then it was kind of
25 almost [indiscernible] downstairs. And then like he came downstairs

1 and then, like I said, I was watching SpongeBob [indiscernible]. I
2 can't say his name.

3 MS. ESPINOZA: That's okay.

4 MS. MADDEN: [indiscernible]. I told it to Mr.
5 [indiscernible] was watching SpongeBob, he came downstairs. He
6 kind of disturbed me. And then, like he said [indiscernible], he said,
7 take off your clothes. And then -- so I didn't know what to do, and so
8 I did, but I wasn't thinking and [sighs]. And so -- yeah.

9 MS. ESPINOZA: And then what happened after you took
10 your clothes off?

11 MS. MADDEN: He told me to sit on top of him.

12 MS. ESPINOZA: And where was he? Was he laying down,
13 sitting up, or something else?

14 MS. MADDEN: He kind of -- well, he was kind of like -- I
15 don't know how to explain it. Well, like, he wasn't laying down, but
16 he was like up sort of laying down. It's confusing [indiscernible].

17 MS. ESPINOZA: Was he laying down on the couch, on the
18 floor, or something else?

19 MS. MADDEN: I think -- how -- like, okay, so like
20 [indiscernible]. So like -- it was like -- it was kind of like that sort of,
21 kind of like that.

22 MS. ESPINOZA: And then where were you?

23 MS. MADDEN: Up on top.

24 MS. ESPINOZA: Okay.

25 MS. MADDEN: Like [indiscernible].

1 MS. ESPINOZA: And where were his hands when you
2 were sitting on top of him?
3 MS. MADDEN: Right here. Well, like stomach
4 [indiscernible].
5 MS. ESPINOZA: Okay. And then what was -- what did he
6 do next?
7 MS. MADDEN: Oh. Well, that day [indiscernible].
8 MS. ESPINOZA: And when his clothes were off, tell me
9 everything that was happening.
10 MS. MADDEN: [indiscernible].
11 MS. ESPINOZA: So when you were sitting up --
12 MS. MADDEN: I saw his "D."
13 MS. ESPINOZA: Tell me what the "D" looked like.
14 MS. MADDEN: I can draw a picture.
15 MS. ESPINOZA: Okay.
16 MS. MADDEN: Okay.
17 MS. ESPINOZA: When you draw the picture, I'll ask you
18 some questions. Okay?
19 MS. MADDEN: Okay.
20 MS. ESPINOZA: What color was the "D"?
21 MS. MADDEN: Black. He's black.
22 MS. ESPINOZA: And tell me the different shapes, or the
23 shapes that you saw when you saw --
24 MS. MADDEN: A little curve. I don't even know what the
25 shape [indiscernible].

1 MS. ESPINOZA: Tell me all the colors you saw
2 [indiscernible].
3 MS. MADDEN: [indiscernible].
4 MS. ESPINOZA: Okay.
5 MS. MADDEN: [indiscernible]. Okay. Sorry. I'm sorry.
6 [indiscernible]. Almost kind of like a banana.
7 MS. ESPINOZA: Uh-huh. What -- tell me all the different
8 things you saw on his "D" --
9 MS. MADDEN: Uhuh?
10 MS. ESPINOZA: -- besides it was black and it looked like a
11 banana. What else did you see?
12 MS. MADDEN: Well, it wasn't -- it was -- so it was like
13 curvy. And then it was -- it's so -- okay. So it wasn't like -- it wasn't
14 going up. It was kind of going like -- like down sort of and --
15 MS. ESPINOZA: Tell me -- tell me how you saw it change.
16 MS. MADDEN: Huh? Oh, because -- well, like -- how does
17 it change?
18 MS. ESPINOZA: How did it change?
19 MS. MADDEN: You mean his "D."
20 MS. ESPINOZA: Did you notice any changes about it, or
21 did it stay the same, or something else?
22 MS. MADDEN: I think -- it was like the same.
23 MS. ESPINOZA: Yeah?
24 MS. MADDEN: [indiscernible], yeah.
25 MS. ESPINOZA: So when you were on top of him and he

1 was sitting down, what parts of his body did you feel touching you?

2 MS. MADDEN: His finger and his "D."

3 MS. ESPINOZA: And where was his "D"?

4 MS. MADDEN: My "V."

5 MS. ESPINOZA: And what part of your "V" was his "D" in?

6 MS. MADDEN: The part where you wipe.

7 MS. ESPINOZA: Tell me how it was moving.

8 MS. MADDEN: Mostly like that, like side [indiscernible].

9 MS. ESPINOZA: You didn't tell me how your "V" felt when
10 he did that.

11 MS. MADDEN: Well, it felt -- like it hurted, but like it also
12 felt like -- well, you -- like at the time, he wasn't like -- I don't know if
13 this is working for you or not, I don't know. But like it wasn't going
14 all the way in. It just like -- it was -- okay, so -- okay, so, for an
15 example. This is [indiscernible]. This is my hand, so it changes -- it
16 was like -- it was like -- at first, it was going in like that, and then it
17 was going in like that. It wasn't just like [indiscernible].

18 MS. ESPINOZA: Okay. So where exactly was it on? When
19 you say it was in your "V," but not really in your "V," what was it --
20 what part of your "V" was it touching?

21 MS. MADDEN: The part where you wipe.

22 MS. ESPINOZA: Okay. And [indiscernible]. And tell me
23 how his body was moving when he was doing that?

24 MS. MADDEN: He was going like that. Like that.

25 MS. ESPINOZA: Okay. And where were his hands?

1 MS. MADDEN: Well, one of his hands, like I said, was in
2 my bottom. And then his hand [indiscernible] so basically like that.

3 MS. ESPINOZA: Okay. And what was he saying
4 [indiscernible]?

5 MS. MADDEN: His noise.

6 MS. ESPINOZA: What noise was he making?

7 MS. MADDEN: He was going like -- he was making this
8 noise. Okay. The noise was kind of like -- I don't -- I might get it
9 wrong.

10 MS. ESPINOZA: Okay. I don't want you to guess. If I ask
11 you a question, you can tell me you don't know. Okay?

12 MS. MADDEN: Well, I know, it's just I might do it wrong.

13 MS. ESPINOZA: And tell me how your -- tell me what
14 made it stop.

15 MS. MADDEN: Huh?

16 MS. ESPINOZA: Tell me what made it stop that time.

17 MS. MADDEN: Well, cause that time I was also crying.

18 MS. ESPINOZA: Okay. You were also crying? And then
19 what happened after you cried?

20 MS. MADDEN: Well, he -- eventually, he stopped.

21 MS. ESPINOZA: Tell me the "D" looked like when it wasn't
22 in your "V" anymore after it stopped. What did it look like?

23 MS. MADDEN: Well, like -- kind of like a [indiscernible].
24 Like -- here, want me to draw it again? Sorry.

25 MS. ESPINOZA: It's oay. You know what. I'll go ahead

1 and have [indiscernible]. Can you come [indiscernible]?
2 MS. MADDEN: Yes.
3 MS. ESPINOZA: Tell me --
4 MS. MADDEN: I'll move?
5 MS. ESPINOZA: Yeah. Tell me what you noticed about his
6 "D" when it wasn't in your "V" anymore after it stopped. What did
7 you see? What shapes did you see? What colors did you see, or
8 something else?
9 MS. MADDEN: Well, like the same color. It was still the
10 same.
11 MS. ESPINOZA: Tell me what sounds the "D" made when
12 it was in your "V."
13 MS. MADDEN: What sound it made?
14 MS. ESPINOZA: Yeah. What sound --
15 MS. MADDEN: Well, kind of like [makes noise]. I can't do
16 it. I'm sorry.
17 MS. ESPINOZA: Okay, that's all right.
18 MS. MADDEN: [Makes noise] like that.
19 MS. ESPINOZA: So --
20 MS. MADDEN: [indiscernible].
21 MS. ESPINOZA: -- what happened after you guys stopped?
22 MS. MADDEN: Huh?
23 MS. ESPINOZA: What happened after you stopped?
24 MS. MADDEN: Like I said, either my mom was coming,
25 that's why he stopped, or else crying too loud, or --

1 MS. ESPINOZA: And how old were you that time?

2 MS. MADDEN: Either eight or nine. I think -- like either --
3 yeah, eight or nine.

4 MS. ESPINOZA: Did all of this happen at the same house,
5 a different house, or something else?

6 MS. MADDEN: All at the same house.

7 MS. ESPINOZA: Okay. And tell me where everybody else
8 was at. You said your mom was out somewhere. Where was
9 everybody else?

10 MS. MADDEN: Oh, there was only -- okay. Well, like this
11 time, my brother, he was like upstairs in his room. Well, actually, he
12 was in my mom's room [indiscernible] computer, watching, cussing
13 like he always does. And so -- like, he was -- yeah, he was just
14 [indiscernible] watching movies.

15 MS. ESPINOZA: And was it daytime, nighttime, or
16 something else?

17 MS. MADDEN: Daytime.

18 MS. ESPINOZA: Tell me how it started when -- what were
19 you guys doing before that started?

20 MS. MADDEN: Like I said, I was watching SpongeBob.
21 And then he came downstairs -- no, no, no. I think it was either
22 upstairs with Robert. I don't know what, because my mom came
23 here to check on my brother, because she thinks he might
24 [indiscernible]. Like -- cause randomly -- like randomly, he would go
25 upstairs and like, he would be -- I would be crying and he left the

1 door [indiscernible].

2 MS. ESPINOZA: And how do you know that? Did you see
3 that, did you hear that, or something else?

4 MS. MADDEN: Well, like the door was -- our door kind of
5 makes a noise, almost kind of like this door [indiscernible] it was like
6 closing. And then -- but I saw it [makes noise].

7 MS. ESPINOZA: Like that.

8 MS. MADDEN: And then -- and then -- but like I -- and then
9 after [indiscernible] a couple minutes later, my brother was
10 [indiscernible] behind the door.

11 MS. ESPINOZA: And when was that?

12 MS. MADDEN: [indiscernible].

13 MS. ESPINOZA: Or how old were you, I'm sorry
14 [indiscernible]?

15 MS. MADDEN: I don't know, eight or -- eight or nine.

16 MS. ESPINOZA: Tell me -- that time where you told he put
17 you on top of him and he was sitting and --

18 MS. MADDEN: On the couch?

19 MS. ESPINOZA: Uh-huh, on the couch. How did your "V"
20 feel when you went to use the restroom?

21 MS. MADDEN: Oh, well, it -- when I went to the bathroom,
22 it was bloody.

23 MS. ESPINOZA: And tell me what was bloody.

24 MS. MADDEN: My "V."

25 MS. ESPINOZA: Okay. And where did the blood go?

1 MS. MADDEN: In the toilet.

2 MS. ESPINOZA: Okay. Tell me how your butt felt when
3 you went to go use it after he put his finger in your hole.

4 MS. MADDEN: It was burning.

5 MS. ESPINOZA: Okay. And did -- did he put his "D" in
6 your "V" one time, more than one time, or something else?

7 MS. MADDEN: More than -- well, not like a whole bunch,
8 like -- not like two -- probably like three or four. [indiscernible].

9 MS. ESPINOZA: Okay. The time that you just described to
10 me, was that like the first time, the time you remember the most, or
11 something else?

12 MS. MADDEN: [indiscernible].

13 MS. ESPINOZA: Tell me about a time you remember the
14 most.

15 MS. MADDEN: That.

16 MS. ESPINOZA: Okay. Tell me about the last time.

17 MS. MADDEN: Well, [indiscernible] similar. I can't say the
18 word. Similar. Yeah, similar. It was kind of like the time I
19 remember, so...

20 MS. ESPINOZA: So was it always the same way, a
21 different way, or something else?

22 MS. MADDEN: Kind of like the same way, but like it was --
23 it was like the same sort of way'ish. Well, I can try to draw it
24 [indiscernible].

25 MS. ESPINOZA: Yeah, you can draw it, and I'll ask you

1 questions while you're drawing. Okay?

2 MS. MADDEN: Okay.

3 MS. ESPINOZA: So tell me about another time you
4 remember.

5 MS. MADDEN: Well, I remember these because it was like
6 -- it was kind of like -- I'm sorry, I can't draw. Okay. So basically, he
7 was like laying like how he's [indiscernible] before, and then like --
8 but I was like by his "D" and then like my legs are by his head. Well,
9 my bottom was by his head.

10 MS. ESPINOZA: Your bottom was by his head. And then
11 what were you doing?

12 MS. MADDEN: Huh?

13 MS. ESPINOZA: What were you doing? Okay.

14 MS. MADDEN: And [indiscernible].

15 MS. ESPINOZA: In this paper --

16 MS. MADDEN: Here, I'll tell you -- I'll tell you.

17 MS. ESPINOZA: Okay.

18 MS. MADDEN: [Venice gets up from chair.]
19 [indiscernible].

20 MS. ESPINOZA: So you said your hand was by his "D"; is
21 that right?

22 MS. MADDEN: Uh-huh.

23 MS. ESPINOZA: Is that the time you described the first
24 time, another time, or something else?

25 MS. MADDEN: This is like the second time I remember.

1 MS. ESPINOZA: Okay. So when your head was by his "D,"
2 what were you doing?

3 MS. MADDEN: [Uses hand gestures.]

4 MS. ESPINOZA: You're showing me with your hand, but
5 tell me with your words what you were -- what you just did.

6 MS. MADDEN: Like what [indiscernible]. I'm sorry.

7 MS. ESPINOZA: You showed me something with your
8 hand. Tell me with your words what you just did.

9 MS. MADDEN: Oh. This is like the best way, to put it on
10 paper. Like I'm scared [indiscernible]. Is this like the weirdest one
11 you have to [indiscernible]?

12 MS. ESPINOZA: What do you mean [indiscernible].

13 MS. MADDEN: Like -- like weird, like -- like has this ever
14 happened to you when you [indiscernible] or I'm the only one?

15 MS. ESPINOZA: I'm sorry?

16 MS. MADDEN: Well, like, am I the only one that you've
17 been [indiscernible] or like I'm not?

18 MS. ESPINOZA: I've talked to many different kids. Little
19 kids, big kids, sometime grown-ups.

20 MS. MADDEN: Whoa.

21 MS. ESPINOZA: And we talk about lots of different things
22 inhere. Okay. Nothing surprises me or shocks me, so you can tell
23 me whatever you want to tell me.

24 MS. MADDEN: Okay. Here you go. [Hands Ms. Espinoza a
25 piece of paper.]

1 MS. ESPINOZA: All right. Have to read it out loud.
2 MS. MADDEN: Okay.
3 MS. ESPINOZA: So you said, "I was sucking his 'D'"; is that
4 right?
5 MS. MADDEN: Yes.
6 MS. ESPINOZA: Okay. And when you say "suck his 'D,'"
7 what -- what were you sucking his "D" with?
8 MS. MADDEN: My mouth.
9 MS. ESPINOZA: Okay. And tell me how the "D" tasted in
10 your mouth?
11 MS. MADDEN: Ew. Um, well -- well, like -- like compared
12 to or like?
13 MS. ESPINOZA: Just tell me in your words, how did it
14 taste?
15 MS. MADDEN: It taste disgusting.
16 MS. ESPINOZA: Tell me what made it taste disgusting.
17 MS. MADDEN: Like, let's say -- I don't know
18 [indiscernible]. But like, if you have -- well, like kind of you if you
19 have an orange peel, and it goes in your mouth. Ew.
20 MS. ESPINOZA: Tell me what it smelled like.
21 MS. MADDEN: Dirty. Like a girl's "V" when you haven't
22 cleaned it.
23 MS. ESPINOZA: And tell me how your mouth moved.
24 MS. MADDEN: It was like -- like -- I'm sorry, itch -- it was
25 kind of like [makes noise and touches face].

1 MS. ESPINOZA: Tell me -- tell me what made it stop.

2 What made you stop sucking his "D"?

3 MS. MADDEN: Only like [makes gagging noise].

4 MS. ESPINOZA: Okay. And then what did he do?

5 MS. MADDEN: Well, he was making his noise.

6 MS. ESPINOZA: What did he say?

7 MS. MADDEN: Well -- well, like, I forgot to mention one
8 more time, but [indiscernible]. Well, he would like -- he was making
9 noise.

10 MS. ESPINOZA: Where were his hands when your mouth
11 was on his "D"?

12 MS. MADDEN: Bottom.

13 MS. ESPINOZA: Your bottom. And how were you clothes?

14 MS. MADDEN: Off.

15 MS. ESPINOZA: What happened to your clothes?

16 MS. MADDEN: They were -- I don't -- they were off, like --

17 MS. ESPINOZA: And how did they come off?

18 MS. MADDEN: I don't know.

19 MS. ESPINOZA: And how about his clothes?

20 MS. MADDEN: He --

21 MS. ESPINOZA: How were his clothes?

22 MS. MADDEN: They were off.

23 MS. ESPINOZA: When you stopped sucking his "D," tell
24 me what you noticed about his "D."

25 MS. MADDEN: It was wet.

1 MS. ESPINOZA: Tell me what colors it was.

2 MS. MADDEN: Black. Well, like, he's not black. He's like a
3 dark brown.

4 MS. ESPINOZA: When you say "it was wet," tell me what it
5 was wet with.

6 MS. MADDEN: Like -- I think saliva. I don't know.

7 MS. ESPINOZA: What color did it look like?

8 MS. MADDEN: Black. No, like -- it was like -- it was like
9 maybe this color like [indiscernible].

10 MS. ESPINOZA: You know how you said it was black.

11 MS. MADDEN: Yeah.

12 MS. ESPINOZA: What did the wet look like?

13 MS. MADDEN: Well, it's hard for me -- so his -- can you
14 please [indiscernible].

15 MS. ESPINOZA: You said it was wet, and you said you
16 think it was your saliva. Tell me what colors it was when you
17 stopped sucking his "D."

18 MS. MADDEN: It was still like [indiscernible] it was just --
19 like looked like it was wet.

20 MS. ESPINOZA: And what color was the wet?

21 MS. MADDEN: Well, like [indiscernible] like if you spit
22 [indiscernible]. But like -- so it was -- it was hard to see because it
23 was like my skin color and --

24 MS. ESPINOZA: Yeah. And the -- the clear wet stuff,
25 where did it come from?

1 MS. MADDEN: My mouth. Can we pause real quick?
2 [Indiscernible].
3 MS. ESPINOZA: Want to take a break? Okay.
4 MS. MADDEN: Yeah, I [indiscernible].
5 MS. ESPINOZA: Take a break.
6 (Video paused at 2:21 p.m.)
7 MS. EINHORN: Stopping at 17:30. Starting again at 21:57.
8 (Video resumes at 2:21 p.m.)
9 MS. ESPINOZA: You know how you were telling me -- I
10 have no questions obviously, just you know -- you know how you
11 were telling me about when you had to suck his "D," you know how
12 you told me earlier that a "D" is to pee or something like that.
13 MS. MADDEN: Yeah.
14 MS. ESPINOZA: Besides the clear stuff that you said you
15 saw when your mouth -- when you took your mouth off of the "D,"
16 what else did you see on his "D"?
17 MS. MADDEN: I think that's it.
18 MS. ESPINOZA: Did something come out of his "D"?
19 MS. MADDEN: I don't think so. [Indiscernible].
20 MS. ESPINOZA: Okay. Tell me who -- who was the first
21 person you told about what happened with Dequincy.
22 MS. MADDEN: I told my mommy, but -- okay, so like
23 [indiscernible] I don't think you know who Trinity is. I don't think
24 [indiscernible].
25 MS. ESPINOZA: I don't know who Trinity is.

1 MS. MADDEN: Oh. Trinity is my cousin. I told -- because
2 she like used to hurt like -- like she used to hurt me like expand my
3 fingers and stuff like that. And she didn't. And then my mom -- and
4 then my mom because like they were changing me, that I like -- like,
5 she liked demons, but like -- she thought I started liking demons.
6 And so I told [indiscernible] she thought it was -- she thought -- she
7 was just like [indiscernible] her that -- that hurt me because like, she
8 would ask sometimes about me, like no one hurt me.

9 And then I used -- I told her a while ago, a while back, that
10 she did, and then she didn't, and then she did, and then she didn't,
11 and then I kept -- I did that. And then my mom kind of left it alone
12 because she didn't really know which one to believe. And then like
13 again, she like -- I don't want to her [indiscernible]. I was like -- it was
14 last week for sure. And I kind of told her it was Quincy.

15 And then like on Monday -- on Monday, I woke up at 3:00
16 in the morning and told her everything. And then she took me to the
17 police. And then I got my appointment then.

18 MS. ESPINOZA: [Indiscernible].

19 MS. MADDEN: Well, because he kind of threatened -- like
20 he -- well, the reason why I didn't tell is because he threatened me.

21 MS. ESPINOZA: What -- what do you mean when you say
22 "threatened"?

23 MS. MADDEN: He like -- I don't -- well, like --

24 MS. ESPINOZA: [Indiscernible].

25 MS. MADDEN: Like he -- he threatened -- okay. He

1 basically made something that if I don't do something, I would get
2 like hurt or something like that.

3 MS. ESPINOZA: And how did you get threatened?

4 MS. MADDEN: Well, cause if -- wait, like, what was his
5 threat? It wasn't to me though. It was to my -- it was like to my mom
6 and my brother. The threat was, if -- if you tell anything that --
7 anything would happen, like that we've been talking about, I would
8 beat her -- I would hurt you and my other brother.

9 MS. ESPINOZA: And how would she hurt you or your
10 brother?

11 MS. MADDEN: Well, he.

12 MS. ESPINOZA: Thank you for correcting me.

13 MS. MADDEN: Yeah. Well, he would tell me that -- I was
14 like, how. And he was like, you're going to have to find out.

15 (Video paused at 2:25 p.m.)

16 MS. EINHORN: Pausing at 25:39. Starting at 30:45.

17 (Video resumed at 2:25 p.m.)

18 MS. MADDEN: Here you go.

19 MS. ESPINOZA: Okay. [Indiscernible]. You wrote, "He
20 licked my "V" or bottom."

21 MS. MADDEN: Yeah, because [indiscernible] this time
22 was, like I'm going like that position [indiscernible] like doing -- not
23 like going laying down, like [indiscernible]. Like, the one I was kind
24 of like -- like top basically, kind of that way, but like -- like the part
25 when I was like -- oh, my gosh. Okay, remember when I said, like he

1 sat right here and then I was like right here?

2 MS. ESPINOZA: Uh-huh.

3 MS. MADDEN: It wasn't that way. It was like -- I was kind
4 of like on top of him like that. It's hard to explain.

5 MS. ESPINOZA: And what were you looking at when you
6 were on top of him?

7 MS. MADDEN: Knee.

8 MS. ESPINOZA: Okay. So this time that you're writing
9 about here, was it the time that --

10 MS. MADDEN: It was like --

11 MS. ESPINOZA: -- [indiscernible]?

12 MS. MADDEN: Like he was -- well, sometimes, it would
13 either be that time or the third time.

14 MS. ESPINOZA: Okay. So the time that you said he licked
15 your "V" or your -- is it your "V" or your bottom?

16 MS. MADDEN: Yeah, it was one of those two because it
17 was -- if you're like my bottom, for example, like -- well, here's my
18 "B" and then like -- it was kind of like going like that, so like -- I don't
19 -- I don't know [indiscernible].

20 MS. ESPINOZA: Tell me how your clothes were.

21 MS. MADDEN: Off. He told me to take them off. And then
22 but like, at this specific -- like at this time, like when he did it, I started
23 shivering.

24 MS. ESPINOZA: Tell me what he used to lick your "V"
25 with.

1 MS. MADDEN: His tongue.

2 MS. ESPINOZA: And tell me how your "V" felt when he did
3 that.

4 MS. MADDEN: It felt -- it felt weird. Like, ew, like ew, like
5 [indiscernible].

6 MS. ESPINOZA: And you said you shivered. Tell me what
7 made you shiver.

8 MS. MADDEN: I -- cause like -- when he went like that, like
9 -- like I just shivered. I got scared and I was like, whoa.

10 MS. ESPINOZA: You showed me something, but tell me
11 with your words what you just showed when you said --

12 MS. MADDEN: I was like shivering like -- like --

13 MS. ESPINOZA: When he did what. Tell me with your
14 words.

15 MS. MADDEN: He -- when he licked my "V" or my bottom,
16 like I was like shivering. Like I was cold and like -- kind of if you're
17 like cold or like -- if you're warm and then like water gets on you and
18 it's cold, it would make you cold [indiscernible].

19 MS. ESPINOZA: And where were his hands when he did
20 that?

21 MS. MADDEN: He was going like -- they're -- well, they
22 were like kind of going on my waist.

23 MS. ESPINOZA: Were you laying down, standing up, or
24 something else?

25 MS. MADDEN: Basically, this time on my -- like -- I'll show

1 you and explain it to you, but this will probably easier. Kind of like
2 on me "V" sort of, he was like running down and -- so if he's coming
3 down, I'll be like that sort of.

4 MS. ESPINOZA: On your knees.

5 MS. MADDEN: Yeah.

6 MS. ESPINOZA: And what part --

7 MS. MADDEN: My bottom was facing like towards his
8 face.

9 MS. ESPINOZA: Your bottom was facing towards his face.
10 And what was he laying down on?

11 MS. MADDEN: Like I said, I think a blanket.

12 MS. ESPINOZA: And where did that happen?

13 MS. MADDEN: The living room downstairs, we have two --
14 I think it was the one by the fireplace.

15 MS. ESPINOZA: Okay. And was this time that you're
16 talking about, him licking your "V," is this another time or one of the
17 times where you said he -- you sucked his "D" or --

18 MS. MADDEN: I think this was another time. But I also
19 forgot to mention -- I think this is the last [indiscernible] -- he put a
20 thingy on TV. I don't -- I think it's -- I don't want to say it.

21 MS. ESPINOZA: You said "he put a thingy on the TV."
22 What did he put on the TV?

23 MS. MADDEN: Porn.

24 MS. ESPINOZA: I heard you say "porn." Is that right?

25 MS. MADDEN: Oh.

1 MS. ESPINOZA: Is that right?

2 MS. MADDEN: Porn.

3 MS. ESPINOZA: Okay. And --

4 MS. MADDEN: And this part -- I remember this part. The

5 only one I remember, it was like [indiscernible] -- it was kind of like --

6 it was like this Black dude kind of [indiscernible].

7 MS. ESPINOZA: Okay.

8 MS. MADDEN: And so it was like these two like teen girls,

9 but like -- like he wasn't like -- the guy wasn't like a teen. It was kind

10 of -- he was kind of like older like, not like 50, like -- kind of like 30 or

11 something like that. And it was like two teenage girls.

12 MS. ESPINOZA: Tell me what they were doing.

13 MS. MADDEN: [Makes motion with hands and mumbles].

14 MS. ESPINOZA: I heard you say f-u-x.

15 MS. MADDEN: S-e-x.

16 MS. ESPINOZA: What?

17 MS. MADDEN: S-e-x.

18 MS. ESPINOZA: Oh, they were having s-e-x. And what's

19 s-e-x?

20 MS. MADDEN: [Makes motion with hands and mumbles].

21 MS. ESPINOZA: You're showing something with your

22 finger in your hand. Tell me what [indiscernible].

23 MS. MADDEN: Do you have [indiscernible]. I'm sorry.

24 MS. ESPINOZA: Well, tell me what you saw on the porn.

25 What were they doing?

1 MS. MADDEN: Well, they were like laying in bed and --

2 MS. ESPINOZA: How were their clothes?

3 MS. MADDEN: They were off. They were kind of --
4 basically, a threesome.

5 MS. ESPINOZA: Okay. What do you mean a "threesome"?
6 How do you know about a threesome?

7 MS. MADDEN: Well, like threesome is like when -- usually
8 two people have s-e-x. And so -- but like if you add another person,
9 it's like a threesome.

10 MS. ESPINOZA: Where did you learn the word?

11 MS. MADDEN: Huh?

12 MS. ESPINOZA: Where did you learn the word?

13 MS. MADDEN: Oh, well, I seen it on YouTube.

14 MS. ESPINOZA: And when you saw on YouTube, tell me
15 what you saw on YouTube.

16 MS. MADDEN: Well, like -- it was like -- okay, this there's
17 this dude name Derek Yuso [phonetic]. And he like does pranks and
18 then -- this was kind of like a prank on his girlfriend. And he was like
19 -- they're like -- they're in it together, but the baby -- I'm sorry. So
20 they were pranking. But his girlfriend, when she --

21 (Video paused at 2:31 p.m.)

22 MS. EINHORN: And then starting video four of State's
23 exhibit.

24 (Video resumed at 2:31 p.m.)

25 MS. MADDEN: But she ended up getting pranked.

1 MS. ESPINOZA: Okay. So -- and you said they had their
2 clothes off. Who put the porno on the TV?

3 MS. MADDEN: Dequincy.

4 MS. ESPINOZA: Okay

5 MS. MADDEN: Like I said, I [indiscernible].

6 MS. ESPINOZA: And what was Quincy doing when he put
7 the porno on?

8 MS. MADDEN: He was -- well, like he pushed play on our
9 Xbox. And then -- sorry. Well, wait, what was he doing? Like, he
10 laid -- okay, so at first, he was like -- so he put the porno on, and then
11 he got back down [indiscernible].

12 MS. ESPINOZA: You said he put the porn on, and then he
13 got back down and something else. What did he get back down to?

14 MS. MADDEN: Like on the floor.

15 MS. ESPINOZA: Okay. And how were his clothes
16 [indiscernible]?

17 MS. MADDEN: They were off.

18 MS. ESPINOZA: And then where were you?

19 MS. MADDEN: Floor.

20 MS. ESPINOZA: On the floor. And then what was he
21 doing that time?

22 MS. MADDEN: He got back in his position.

23 MS. ESPINOZA: And what position did he get into?

24 MS. MADDEN: It was [yawns] sorry. He was like laying
25 down.

1 MS. ESPINOZA: And what was he doing when he was
2 laying down?

3 MS. MADDEN: [Yawns]. Sorry. He was like -- when he
4 was laying down?

5 MS. ESPINOZA: Uh-huh.

6 MS. MADDEN: I'm sorry.

7 MS. ESPINOZA: Okay. So the day that you were watching
8 the porno that he usually put on the Xbox, and then you said he laid
9 down. And then where were you?

10 MS. MADDEN: Oh, I was already on the floor.

11 MS. ESPINOZA: You were already on the floor. And how
12 were your cloths?

13 MS. MADDEN: They were off.

14 MS. ESPINOZA: Okay. And how did they come off?

15 MS. MADDEN: Yeah, he told me to take them off.

16 [Indiscernible].

17 MS. ESPINOZA: Okay. And so then what did he do?

18 MS. MADDEN: Well [indiscernible] then he was
19 [indiscernible] put it on, like put the porn on then --

20 MS. ESPINOZA: Yeah, so --

21 MS. MADDEN: And then after he put the por on, he like --
22 like [indiscernible] on the floor, and then he got back into position,
23 which his position was like he was laying down and then like back.

24 MS. ESPINOZA: You're showing me something with your
25 fingers on the side. Tell me [indiscernible].

1 MS. MADDEN: I was -- sorry, I [indiscernible]. Like -- well,
2 he was like laying down and my knees were like facing -- facing
3 towards me.

4 MS. ESPINOZA: Okay. And was this the time where you
5 told me he licked her "V" with his tongue or --

6 MS. MADDEN: Yeah, his tongue [indiscernible].

7 MS. ESPINOZA: Okay. And then what made him stop
8 licking your "V" that time?

9 MS. MADDEN: Well, like I said, I was shivering. And then
10 he -- he didn't stop, and then I was like -- I was like -- I kind of had
11 started crying.

12 MS. ESPINOZA: And then what happened?

13 MS. MADDEN: And then after that, like he stopped.

14 MS. ESPINOZA: And then what happened after he
15 stopped?

16 MS. MADDEN: And then -- like he -- like he -- sorry. He
17 like pushed paused on the porno and --

18 MS. ESPINOZA: And then what did you do after that?

19 MS. MADDEN: I put my clothes on. I went upstairs in
20 [indiscernible].

21 MS. ESPINOZA: Where was everybody that time?

22 MS. MADDEN: I think my mom was in [indiscernible].

23 MS. ESPINOZA: Was it nighttime, daytime, or something
24 else?

25 MS. MADDEN: I think daytime.

1 MS. ESPINOZA: And where were his hands when he was
2 licking your "V"?

3 MS. MADDEN: Well, they were like on my, like waist, but
4 kind of like [indiscernible], so --

5 MS. ESPINOZA: And how was -- how was his tongue
6 moving when it was licking your --

7 MS. MADDEN: It was going like up and down.

8 MS. ESPINOZA: And where exactly was it going up and
9 down?

10 MS. MADDEN: On my bottom and "V."

11 MS. ESPINOZA: Okay. Was it in the part where you wipe,
12 was it on the outside, or something else?

13 MS. MADDEN: Well, it was -- so like I was like -- it's kind of
14 like -- not like in the front part where you wipe, but kind of like in the
15 back almost [indiscernible] your butt, and then it was going -- like --
16 so if this would be it, but say [indiscernible]. And like he was going
17 like that, like -- it's so hard to explain this. I'm sorry.

18 MS. ESPINOZA: Besides doing something to your "V"
19 [indiscernible] with his tongue, was there something else he did
20 something to or something else he touched?

21 MS. MADDEN: He did only those three things.

22 MS. ESPINOZA: When you say "he only did those three
23 things," what are you talking about?

24 MS. MADDEN: He did -- well, he -- I got on his lap and he
25 was going like that with my bottom. And then [indiscernible] -- well,

1 he was going like that with my bottom, like moving his finger like
2 that. And then -- and then that was one time.

3 And then the second time he went, I got on top of him, and
4 then like -- I was going like -- putting my mouth on his "D."

5 And then the next time, it was kind of similar to that, I was
6 leaning and he was licking my butt.

7 MS. ESPINOZA: Is there something else that you want to
8 tell me that I haven't asked you?

9 MS. MADDEN: I don't think so.

10 MS. ESPINOZA: Give me a minute. I just need you to wait
11 for me here, please, and then I'm going to step out and talk to
12 somebody, and then I'll be back so you and I can finish talking, okay?

13 MS. MADDEN: Okay. Is it fine if I get my snack now, or --

14 MS. ESPINOZA: I don't know about your --

15 (Video paused at 2:36 p.m.)

16 MS. EINHORN: I'm pausing at 5:28.

17 BY MS. EINHORN:

18 Q And then, Ms. Espinoza, you also interviewed Rodriguez
19 Madden, correct?

20 A Yes, I did.

21 Q And that was on the same day that you conducted that
22 interview with Venice?

23 A Yes. It was after Venice's interview.

24 MS. EINHORN: Your Honor, permission to publish State's
25 31A, already been admitted.

1 THE COURT: Permission granted.

2 (Whereupon, a video recording, State's Exhibit 31A was played in

3 open court at 2:37 p.m., and transcribed as follows:)

4 MS. ESPINOZA: Come on in, RaRa, have a seat, please.

5 So --

6 MR. MADDEN: [Mumbles].

7 MS. ESPINOZA: What?

8 MR. MADDEN: [Mumbles].

9 MS. ESPINOZA: My name's Elizabeth Espinosa. What's

10 your name?

11 MR. MADDEN: Something's in my mouth, so...

12 MS. ESPINOZA: You've got something in your mouth.

13 What do you have in your mouth? What is it?

14 MR. MADDEN: [Indiscernible].

15 MS. ESPINOZA: Oh okay. Well, how old are you, RaRa?

16 MR. MADDEN: I was [indiscernible].

17 MS. ESPINOZA: I heard you wanted to be called RaRa. Is

18 that right?

19 MR. MADDEN: Uh-huh.

20 MS. ESPINOZA: Okay. Well, you're not in trouble, RaRa.

21 You and I are just going to talk. My job is to ask a lot of questions

22 [indiscernible] you.

23 MR. MADDEN: [Indiscernible].

24 MS. ESPINOZA: [Indiscernible]. Here, we can't touch it,

25 okay. We'll get it, but we can't touch it. It copies everything you and

1 I talk about, just like those two cameras up there, and on the wall.
2 Okay? That's so that people can see that I'm asking you good
3 questions and doing a good job. So tell me [indiscernible].

4 MR. MADDEN: He hit me.

5 MS. ESPINOZA: What did he hit you with?

6 MR. MADDEN: He hit.

7 MS. ESPINOZA: What did he use?

8 MR. MADDEN: [Indiscernible].

9 MS. ESPINOZA: Where did he hit?

10 MR. MADDEN: Let me show you [[indiscernible]. [Picks up
11 a piece of paper].

12 MS. ESPINOZA: And you said you were going to show
13 me; is that right?

14 MR. MADDEN: Punched [indiscernible].

15 MS. ESPINOZA: You said "punched on your head"; is that
16 right?

17 MR. MADDEN: He hit my head.

18 MS. ESPINOZA: And what did he punch your head with?

19 MR. MADDEN: He hit.

20 MS. ESPINOZA: How old were you when he did that?

21 MR. MADDEN: [Indiscernible].

22 MS. ESPINOZA: He hit, okay. How come?

23 MR. MADDEN: And I was sad.

24 MS. ESPINOZA: You were sad?

25 MR. MADDEN: Yeah [indiscernible].

1 MS. ESPINOZA: Who is Quincy?
2 MR. MADDEN: He's my uncle.
3 MS. ESPINOZA: He's your uncle.
4 MR. MADDEN: Yeah, has [indiscernible] not my uncle
5 now. And I [indiscernible].
6 MS. ESPINOZA: Okay. So he's your uncle, but he's not
7 your uncle now.
8 MR. MADDEN: Yeah. [Indiscernible].
9 MS. ESPINOZA: Who's Angel?
10 MR. MADDEN: He -- he [indiscernible] he's my uncle. He's
11 [indiscernible] grandma [indiscernible]. That's him. He's my --
12 MS. ESPINOZA: What do you like about him?
13 (Video paused at 2:40 p.m.)
14 MS. EINHORN: Pausing at 2:40. Starting again at 6:55.
15 (Video resumed at 2:40 p.m.)
16 MS. ESPINOZA: Why don't you show me?
17 MR. MADDEN: Well, that's how Dequincy hit me -- hit me.
18 He got [indiscernible].
19 MS. ESPINOZA: You said one time he hit you. Where did
20 he hit you?
21 MR. MADDEN: He hit my butt, then he [indiscernible].
22 Dequincy hit my butt and he -- he got
23 MS. ESPINOZA: What did he use to hit your butt?
24 MR. MADDEN: Hand. And hit -- and he got training.
25 MS. ESPINOZA: He's got training?

1 MR. MADDEN: Yeah. He's about training.
2 MS. ESPINOZA: What's training?
3 MR. MADDEN: Training so he can fight bad guys.
4 MS. ESPINOZA: He fights bad guys? And who --
5 MR. MADDEN: No, [indiscernible] --
6 MS. ESPINOZA: -- who told you --
7 MR. MADDEN: -- to good guys.
8 MS. ESPINOZA: He [indiscernible] good guys. Where did
9 he get the training?
10 MR. MADDEN: In school.
11 MS. ESPINOZA: In school. How do you know about the
12 training?
13 MR. MADDEN: Karate school.
14 MS. ESPINOZA: Oh, karate school, okay.
15 MR. MADDEN: It has [indiscernible] on the toys
16 [indiscernible] and karate.
17 MS. ESPINOZA: Where were your clothes when he hit
18 your butt?
19 MR. MADDEN: [Indiscernible].
20 MS. ESPINOZA: You said something about your pants.
21 What happened to your pants?
22 MR. MADDEN: [Indiscernible].
23 MS. ESPINOZA: What happened to your pants when he hit
24 your butt?
25 MR. MADDEN: [Indiscernible].

1 MS. ESPINOZA: What?
2 MR. MADDEN: [Indiscernible].
3 MS. ESPINOZA: What did he use --
4 MR. MADDEN: What?
5 MS. ESPINOZA: What -- I'm sorry, let me repeat the
6 question. Has somebody done something to the part where you
7 pee? [Indiscernible].
8 MR. MADDEN: Yeah.
9 MS. ESPINOZA: Who?
10 MR. MADDEN: Quincy.
11 MS. ESPINOZA: What did he do to your pee?
12 MR. MADDEN: Touch it.
13 MS. ESPINOZA: What did he use to touch it?
14 MR. MADDEN: Touch and drink it.
15 MS. ESPINOZA: He touched it and drink it. Is that what
16 you said?
17 MR. MADDEN: Yeah.
18 MS. ESPINOZA: What did he drink?
19 MR. MADDEN: Pee.
20 MS. ESPINOZA: Your pee? What did he use to touch your
21 pee?
22 MR. MADDEN: [Indiscernible].
23 MS. ESPINOZA: I can't hear you.
24 MR. MADDEN: He cleaned my butt.
25 MS. ESPINOZA: He cleaned your butt?

1 MR. MADDEN: He hit my butt.

2 MS. ESPINOZA: He hit your butt, okay. You said he
3 touched your pee. What did he touch your pee with?

4 MR. MADDEN: His hand.

5 MS. ESPINOZA: His hand?

6 MR. MADDEN: [Indiscernible].

7 MS. ESPINOZA: What did he do to your pee with his
8 hand?

9 MR. MADDEN: He --

10 MS. ESPINOZA: Hit you?

11 MR. MADDEN: Yes.

12 MS. ESPINOZA: Okay. Did you have [indiscernible]
13 touched somebody's pee or butt?

14 MR. MADDEN: No.

15 MS. ESPINOZA: Have you ever seen somebody's butt or
16 pee or something else?

17 MR. MADDEN: No.

18 MS. ESPINOZA: Okay.

19 MR. MADDEN: But I want to understand --

20 (Video concluded at 2:40 p.m.)

21 BY MS. EINHORN:

22 Q And then, Ms. Espinoza, regarding RaRa's interview, kind
23 of the demeanor we saw on that video, is that generally speaking
24 how he was throughout the majority of your time talking to him?

25 A Yes.

1 Q And then lastly, Ms. Espinoza, you also interviewed
2 Arianna Whatley?

3 A Yes, I did.

4 Q And that was about a month after, correct?

5 A I believe hers was April 3rd.

6 MS. EINHORN: Your Honor, permission to publish what's
7 already been admitted as State's 33A.

8 THE COURT: Permission granted.

9 MS. EINHORN: I'm starting the first video. Fast forward to
10 nine minutes.

11 (Whereupon, a video recording, State's Exhibit 33A was played in
12 open court at 2:43 p.m., and transcribed as follows:)

13 MS. ESPINOZA: Tell me what rape means to you.

14 MS. WHATLEY: I [indiscernible].

15 (Video paused at 2:44 p.m.)

16 MS. EINHORN: I apologize, Your Honor. I went a little too
17 much. I'm going to go back a little bit.

18 (Video resumes at 2:44 p.m.)

19 MS. WHATLEY: [Indiscernible]. I think it's something
20 about sex, I think, and Quincy and RaRa.

21 MS. ESPINOZA: Tell me about that.

22 MS. WHATLEY: Quincy is [indiscernible] mom's ex-
23 boyfriend. Well, he was [indiscernible], but now that he's
24 [indiscernible]. And he raped me, and the same RaRa.

25 MS. ESPINOZA: Tell me what rape means to you.

1 (Video paused at 2:44 p.m.)
2 THE COURT: Can you pause it? Is that --
3 UNIDENTIFIED SPEAKER: It's not being picked up. If you
4 need me to move the microphone, sir.
5 MS. RHOADES: Well, it's playing --
6 UNIDENTIFIED SPEAKER: It's on the table?
7 MS. EINHORN: It's playing through --
8 MS. RHOADES: Isn't it on the TV?
9 THE COURT: Yeah.
10 UNIDENTIFIED SPEAKER: Yeah.
11 THE COURT: Is it because of the [indiscernible] or the
12 background?
13 UNIDENTIFIED SPEAKER: Yeah, they're just talking really
14 super low.
15 MS. RHOADES: Is the TV turned up as much as it can be
16 because that's how it's been playing?
17 UNIDENTIFIED SPEAKER: Let's try that.
18 MS. RHOADES: Okay.
19 (Video resumes at 2:45 p.m.)
20 MS. WHATLEY: [Indiscernible].
21 MS. ESPINOZA: Sex means a lot of different things to
22 many different people.
23 MS. WHATLEY: [Indiscernible].
24 MS. ESPINOZA: Arianna, tell me -- you said that it's not
25 consensual?

1 MS. WHATLEY: [Indiscernible].

2 MS. ESPINOZA: Tell me everything that happened.

3 MS. WHATLEY: I don't remember a lot of stuff, so -- I just
4 -- well, at the beginning, before this stuff happened, Quincy started
5 picking me, Venice, and RaRa, my little brother, from the Boys &
6 Girls Club. And then he just started picking me and my -- just me
7 and Venice because my older brother went and my younger brother
8 went. But my older brother always took my younger brother with
9 him. I don't know why, but he didn't let him go with us.

10 And then after that, one day -- well the Convoy of Hope --
11 do you know what that is?

12 MS. ESPINOZA: No, what is that?

13 MS. WHATLEY: It's like a festival thing where homeless
14 people and like people just come for fun. They gave out shoes, food,
15 and stuff. And there was like face painting, and there was clothes,
16 and there was [indiscernible]. There was like a bunch of booths
17 there. And they were [indiscernible].

18 And then I went to -- well, my mom's car broke down. And
19 then she was parked in the right spot, so she had to go. And then
20 she got lucky with them because she got to go get in her car because
21 it broke down.

22 So we went to -- after we left, we got [indiscernible]. And
23 Quincy went off [indiscernible] with Venice's mom. Wait, no, no. I'm
24 telling the story wrong. Yeah, he -- yeah. But Quincy went upstairs
25 with Venice's mom. And then after that, she was hungry, but we

1 were all hungry. And so she, can I cook some food -- or, no, she
2 bought food. And then from -- I think it was from Taco Bell
3 [indiscernible]. And then --

4 (Video paused at 2:48 p.m.)

5 MS. EINHORN: Stopping at 11:27. Starting at 12:26.

6 (Video resumes at 2:48 p.m.)

7 MS. WHATLEY: -- him, you'll see, but she -- Kim won't
8 take him to the doctor. But he had a -- like a mark on his head. And
9 we didn't -- we didn't do it. We didn't mean [indiscernible] do it. But
10 RaRa hit himself in the head because he was playing around with his
11 toys and hit him in his head. And so Venice got in trouble, so Kim
12 drove me home. And Kim was crying because she was talking about
13 how that could hurt him and stuff, and how [indiscernible].

14 And I went home. And then Venice had texted me on her
15 phone. I don't now if you guys saw it or not, but she had texted me
16 on my phone and told me to come over to her house. And then I
17 rode my bike, and then I came over to her house because I thought
18 she was still -- well, I texted her, I -- she texted me, and she's like,
19 come over. I said, are you still in trouble? She said no. I said, your
20 mom said to come. And she said yes. So I just grabbed my bike and
21 I came over.

22 And then I knocked on the door and then Quincy
23 answered. And I said, is Venice here? And he's like yes. So Venice
24 came to the door. And I asked here again, I want her to come over, I
25 said [indiscernible]. She said she's sleeping. And I was like, she's

1 still sleeping. And she said yes, so I just came inside.

2 I came inside. I put my bike down. And then -- and then I
3 sat down on the couch with Venice and Quincy was staring at me.
4 And I didn't say anything. I was just looking at the floor
5 [indiscernible].

6 And then I asked for some water, and Quincy got it. And I
7 drank it, and I felt weird after that.

8 And then after -- after that, I just -- I don't remember
9 anything. And then I just woke up and I felt pain on my side.

10 And then after that, Quincy wasn't there, and Venice's
11 mom was awake.

12 And then after, the next time, I came to Venice's house and
13 came to sleep -- well, that was after the first time because I didn't
14 know. I just thought my side was hurting, but I don't -- I don't
15 remember. But I went home after [indiscernible]. And then I think it
16 was like a couple weeks after that, because I went to the mental
17 hospital in February. Yeah, I went to the mental hospital in -- no, I
18 went to the mental hospital at the end of January. On January 24th,
19 but I left in February.

20 And then I came back and I started to tell my regular
21 friends, like, Shea [phonetic], Viola [phonetic], Venice, Marquette,
22 Quadro [phonetic] [indiscernible], like all my [indiscernible] friends.

23 And then Quincy picked up us up from the Boys & Girls
24 Club again. Wait, no, that is not what happened. Wait. No. I think it
25 was like a weekend or something, and I went to Venice's house, and

1 it was -- I think it was for Daylight Saving's Time when I got back
2 really early. I went to Venice's house. And I was with her. And then
3 I said I had to go, and Quincy drove -- he didn't drive me home. He
4 took us to this place. I don't know what it's called, but I think it was
5 called The Palms, or The Palm. Either one of those two. I don't know
6 what it's called, but it was one of those. And he took us again.

7 And then Venice just told me some stuff like about sex or
8 something. She was just telling me stuff. And I was like, why are
9 you talking about this. I'm like, she was -- I guess Quincy was telling
10 her she had -- I have to do it, or -- or -- or [indiscernible] -- or
11 something. And then after that, she was telling me some stuff. And
12 then Quincy [indiscernible]. I was like, are we going now? He was
13 like, no. And then Venice just looked at me.

14 And then he told us to take off our clothes. But I didn't do
15 it. I said I didn't want to. And then he forced me to do stuff.

16 And then after that, he told -- he told me and Venice that if
17 we told anybody, that he was going to kill -- kill us. Kill me. He was
18 going to me, Kim, and -- and

19 (Video paused at 2:53 p.m.)

20 MS. EINHORN: Stopping at 17:09.

21 (Video resumes at 2:53 p.m.)

22 MS. WHATLEY: But before all of like that I just told you,
23 before it --

24 (Video paused at 2:53 p.m.)

25 MS. EINHORN: Starting again at 21:53.

1 (Video resumes at 2:53 p.m.)

2 MS. WHATLEY: What happened. He was saying, my butt,
3 my butt. He said Quincy hurt me in my butt. And -- and then after
4 that, he -- we asked him -- he said I hate Quincy. Well, before he said
5 that, he said -- he told me that he hated Quincy, he said he hates
6 Quincy. I said why. And then I went and got his mom, and he told
7 us what happened. And then we all just started crying.

8 And then before he told us, I wasn't there, but Venice was
9 just letting Quincy punch him in his face and in his forehead. And he
10 had bruises on his head.

11 And then Kim thought that Venice did it. But Venice didn't
12 do it. She told -- Venice had finally told her mom what happened,
13 because her mom works for Apple, and she got hacked -- well, she
14 had -- went through her phone and everything. And she went
15 through everything and she had found it -- everything she was
16 talking to him and all of that stuff.

17 And then she came to my house and told my mom. And
18 that's the day before I went to the mental hospital.

19 And then after I got out, I thought -- I still think he's trying
20 to kill us because I don't even like [indiscernible] my house, because I
21 think it was yesterday my mom left, she said I couldn't go with her,
22 but I was crying because he has two cars, I think -- yeah, it's two cars.
23 The car he took us into is The Palms or The Palm -- The Palm or The
24 Palms, whichever one or his house, I don't know which one it is.
25 Because every time he takes us, it's dark, but it's like [indiscernible]

1 so I can never see.

2 (Video paused at 2:55 p.m.)

3 MS. EINHORN: Stopping at 23:38. Starting 18:15

4 (Video resumes at 2:53 p.m.)

5 MS. WHATLEY: -- [indiscernible] and drunk, but I don't
6 know if he was intoxicated because he didn't smell like alcohol. He
7 just -- he didn't smell like alcohol. And it just seemed like he was
8 high and drunk at the same time, but he didn't smell like alcohol
9 though. And he does drugs. I just don't know which one. I know
10 he's [indiscernible], but I know he does drugs.

11 And then we went back to Kim's house -- Kim's house.
12 And then -- and then he -- Kim kicked him out because he said -- he
13 said something about RaRa hitting himself in the head
14 [indiscernible]. And she made him go home.

15 And then we went to the [indiscernible] -- well, we didn't
16 go -- we went to the Phantom Ring. And then we came back and we
17 went to Redbox and got a movie. We got Ghostbusters and another
18 movie. We got Ghostbusters and Collision Course. And then we had
19 got -- and then we had got -- we had called and got pizza. And we
20 had came back to Kim's house.

21 And the Quincy was there. Well, he wasn't there -- well, he
22 was sitting outside the door. And then Kim was like, well, why are
23 you here? Didn't I tell you to leave? And then he was like, I'm going
24 to just come back. And he came back in. And then he came to sleep
25 again. I don't know -- he went up in her room and he just went to

1 sleep. She went to sleep.

2 And I knew something wasn't right, but I -- I didn't tell
3 anybody because I knew he was going to try to kill me if I told. Of
4 course, he already tried to kill Kim, so I thought he was going to
5 come and kill me.

6 And so after that, she went to sleep. She went to sleep
7 and RaRa was sleeping with Kim. Well, no -- yeah, he -- she was
8 sleeping with Kim, like your door. I locked it so he couldn't get in, so
9 nothing will happen to her because I knew something was wrong
10 because every time he gave her something, or he went by her, she
11 went to sleep.

12 So I went upstairs and I locked her door before I went
13 outside and he couldn't get in. So nobody can get in. So when she
14 wakes up, her or RaRa can unlock the door, but RaRa won't -- doesn't
15 know how to unlock doors. Well, he does, but I don't think he would
16 open it because he --

17 But after that, he took us to this other -- I think it was a
18 hotel, and it looked like the suite that myi grandma had got. It's like
19 when we walk inside of it, there was a TV with a -- with a dresser, like
20 -- and then a couch with a bed inside. And then there's a balcony in
21 and there's like a master bedroom with a king-size bed. And there
22 was like a jacuzzi bathtub [indiscernible]. And then we walk out of
23 that part, and then you walk into like that other room, there's a --
24 there's like a shower, like a box shower kind of [indiscernible]. Like,
25 the glass and then there's a shower inside. Just a shower, no -- it

1 wasn't a bath or anything.

2 And then you walked into another room, like you walk
3 outside of the bathroom. Like where the jacuzzi bath was, when you
4 walk inside, it's connected to the shower bathroom. And you walk
5 out of there and then there's a kitchen, and that's how that room
6 looked.

7 And Quincy, he made -- he was being mean to Venice.
8 Like, I don't know how to explain it. He was just being, like I don't
9 know if you have -- it's like kind of like how you have those friends
10 are mean and nice at the same time. And that's how -- that's how he
11 was being mean to Venice.

12 And I just said, why are you being mean to Venice for?
13 And he said something really rude. He said -- he said, "Fuck that
14 ugly fat bitch." And I didn't say anything. I just looked at him.

15 And then I guess Venice -- she looked [indiscernible]. And
16 then I took her up to the bathroom and I said, are you okay. And I
17 said, don't listen to him. He's just -- I don't remember the word I
18 used, but I just said something about him being high or drunk or
19 something.

20 And then after that, I -- she went back out there, then I
21 went back out there. But I was thinking, because I had my phone and
22 it was at my aunt's and I was asleep, and then they came in
23 [indiscernible], but I didn't want to and I told him that -- I told him I
24 was going to tell on him. And that he said -- and then he said, if you
25 tell, remember, I'm going to kill you. Did you see that I already tried

1 to kill Kim?

2 And after that, I just didn't threaten to tell or anything
3 because I would think that he's going to kill me because he knows
4 where we live, he knows what -- he knows where we live. He knows
5 what we do every day. He knows what school we go to. You know,
6 he knows the time we get out of school. He knows everything, like --
7 it's like he observes us -- like it's like he's -- like it's like -- I don't know
8 if you -- never mind [indiscernible] but --

9 (Video paused at 3:01 p.m.)

10 MS. EINHORN: Now starting the second video, State's
11 33A.

12 (Video resumes at 3:02 p.m.)

13 MS. WHATLEY: -- or not, but it -- but it's up -- up MGM --

14 (Video paused at 3:02 p.m.)

15 MS. EINHORN: And we're starting it at 4:46, Your Honor.

16 (Video resumes at 3:02 p.m.)

17 MS. ESPINOZA: Okay. So tell me about -- you mentioned
18 about the time where he gave you something to drink. You fell
19 asleep, you woke up with pain on your side. Is that correct?

20 MS. WHATLEY: Yes.

21 MS. ESPINOZA: You told me about another time where he
22 took you to The Palms hotel; is that correct?

23 MS. WHATLEY: I think it was inside The Palms or The
24 Palm. I don't know which one it was, but it was either those two.

25 MS. ESPINOZA: And you talked about another time where

1 he took you and Venice to The Palm once again, and he made you
2 guys have sex with him; is that correct?

3 MS. WHATLEY: Yes.

4 MS. ESPINOZA: Okay. Tell me about one time where you
5 remember -- tell me about a time you remember the most. Of the
6 times you mentioned, tell me about the one you remember the most.

7 MS. WHATLEY: I think it was just [indiscernible], the one
8 time he took me by myself.

9 MS. ESPINOZA: Tell me -- when you said the word, he
10 forced you to have something with, tell me exactly what he forced
11 you to do.

12 MS. WHATLEY: [Indiscernible] didn't want to.

13 MS. ESPINOZA: Okay. How old were you?

14 MS. WHATLEY: Thirteen.

15 MS. ESPINOZA: When was that?

16 MS. WHATLEY: It was before -- no, before February.

17 MS. ESPINOZA: Was that before February this year,
18 another February --

19 MS. WHATLEY: February this year.

20 MS. ESPINOZA: Okay. Do you remember the date?

21 MS. WHATLEY: No.

22 MS. ESPINOZA: Okay. Tell me how it started.

23 MS. WHATLEY: Well, I had my phone, and he kept on
24 blowing up my phone. He kept -- well, he kept on throwing up my
25 phone. And I didn't answer. I didn't answer the phone.

1 MS. ESPINOZA: Where were you at when he was blowing
2 up your phone?

3 MS. WHATLEY: I was in school. And then I came home,
4 and he kept on blowing up my phone some more, and I didn't
5 answer.

6 MS. ESPINOZA: And when you say "blowing up," was he
7 calling you or something else?

8 MS. WHATLEY: Calling and texting me.

9 MS. ESPINOZA: What would he say when he would text?

10 MS. WHATLEY: He said, answer the phone, answer the
11 phone, where are you? Answer the phone, answer the phone.

12 And then after that, when I look to text messages, hey all
13 disappeared, like someone deleted it. And he deleted them
14 [indiscernible]. He tapped my phone, he deleted it. My phone. And
15 he deleted a bunch of stuff from my phone. He deleted pictures that I
16 have my friends. And he deleted apps from my phone.

17 And then I -- and then I -- I didn't call him, but I texted him.
18 And I said, why did you leave stuff on my phone for? And he said
19 because I want to. He needed -- he said you need to answer your
20 phone. And I said, but -- I said, I don't want to answer my phone.
21 And he kept on playing with my phone, and he deleted some more
22 stuff.

23 And then I just finally answered the phone call, he called.
24 And I told him, what do you want? And then he said, to meet me by -
25 - what's it called -- at the time, it was called -- I think it was called

1 [indiscernible]. It's like this big castle. Well, it's still a big castle. But
2 at the time, it was -- it had orange cones on it -- on -- at the top. And
3 it was right by -- it's -- I live right down the street from Galleria Mall.
4 I live right across the street from the water park. And then if you
5 drive past those two [indiscernible] right there, up the street, there's
6 a Storage R Us right there. And then there's a -- there's a car place
7 right there. And there's that castle place. He took me to meet me
8 right by there. I told him I couldn't go, and he said [indiscernible].
9 He said, if you don't come, you know what's going to happen, so I
10 just came. I told my mom I was going outside with my friends.

11 MS. ESPINOZA: And what time was that?

12 MS. WHATLEY: I think it was like -- I get out of school at
13 2:45. I get home around 3:30. So -- no -- well, yeah [indiscernible]. It
14 was like 4:00 -- 4:00.

15 MS. ESPINOZA: Okay. And so how did you get to that
16 place where you described with the orange cones?

17 MS. WHATLEY: I walked there.

18 MS. ESPINOZA: Okay. And then what happened after you
19 got there?

20 MS. WHATLEY: He was already there.

21 MS. ESPINOZA: What was he in?

22 MS. WHATLEY: He was in a car. He was in the black one,
23 the one that looks like my mom's car, the colored car.

24 MS. ESPINOZA: What kind of model?

25 MS. WHATLEY: I don't know. But I know it was either a

1 Ford or a Honda.

2 MS. ESPINOZA: Okay. And it is like a two-door, four-door
3 car?

4 MS. WHATLEY: Four.

5 MS. ESPINOZA: Okay. And so then what happened when
6 he showed up?

7 MS. WHATLEY: Well, he was already there. But I got in
8 the car [indiscernible] because I was scared. And then after thinking
9 in my head, I was just thinking, I don't know why I came. I should
10 have just said no. But I was afraid and I was just thinking in my
11 head. And he took me to this hotel. I don't know what it's called. It's
12 either The Palm or the The Palms. I don't know which one it is
13 [indiscernible].

14 MS. ESPINOZA: What street is it on?

15 MS. WHATLEY: I don't know. It would start
16 [indiscernible].

17 MS. ESPINOZA: Is it like where the strip is at, or away
18 from the strip, or something else?

19 MS. WHATLEY: It's -- I think it's -- it's like kind of by the
20 strip, kind of not. Like, I don't know if you know those hotels. This
21 [indiscernible] flashy. It had a square TV, a dresser, and it had like a
22 small bed in it. And it was like a small kitchen and a small bathroom,
23 but --

24 MS. ESPINOZA: Tell me what the front of the hotel looked
25 like.

1 MS. WHATLEY: It was like -- I don't know if you ever seen
2 those hotels, but there's like numbers on the doors. And then there's
3 like -- in the front, there's -- there's like a little -- there's like a little
4 [indiscernible] it was brown. And then [indiscernible] like all doors,
5 like -- I don't know if I can draw it.

6 MS. ESPINOZA: And is the entrance to the room outside,
7 or is it like a hotel where you go inside to the TV room?

8 MS. WHATLEY: Outside.

9 MS. ESPINOZA: Okay. So it's on the outside.

10 MS. WHATLEY: It was like -- it's like a bed -- it's like
11 straight -- like these are all rooms. And then it'd be like straight, and
12 then there would be like [indiscernible] and --

13 MS. ESPINOZA: And what makes you think it was called
14 The Palm or The Palms?

15 MS. WHATLEY: Because that's what he told me they was
16 called. And I saw the -- when I -- when we drove past it -- he drove
17 past it, but like he was speeding down it. Like, that's why he would
18 speed because he speed past it. It had a "P," but so I just put it
19 together because I -- I looked up on my phone. I don't know if you
20 guys saw it or not, I looked up hotel -- I looked up hotels that had a
21 "P" -- a "P" at the beginning of their name in Las Vegas. I don't know
22 [indiscernible] or not, but --

23 MS. ESPINOZA: Was there like a store next to it, anything
24 you can remember it, or gasoline station or something different?

25 MS. WHATLEY: I think when we -- like -- I was like, yeah

1 [indiscernible] store.

2 MS. ESPINOZA: Okay. So then what would -- what did he
3 tell you when you were driving there?

4 MS. WHATLEY: He just asking me about Venice. He was
5 asking me about Venice and where he -- and is she okay, because
6 Kim stopped talking to him for like a couple of -- like -- for like a
7 couple of days or weeks.

8 MS. ESPINOZA: Okay. So tell me what happened. What
9 was the first thing happened when you walked into the room?

10 MS. WHATLEY: I went into the bathroom. And I think I
11 was going to say something -- I don't know what I was going to say,
12 but I was going to say something.

13 MS. ESPINOZA: Where was he at when you walked into
14 the bathroom?

15 MS. WHATLEY: He was in the [indiscernible].

16 MS. ESPINOZA: Tell me how he got you into the hotel.

17 MS. WHATLEY: He just opened up the door and I walked
18 in.

19 MS. ESPINOZA: Okay. And then what did he do?

20 MS. WHATLEY: He didn't do anything.

21 MS. ESPINOZA: [Indiscernible] with the door once he
22 opened it and you walked in?

23 MS. WHATLEY: He slammed the door shut, and I just
24 walked into the bathroom and I locked the door.

25 MS. ESPINOZA: Okay. And then what happened?

1 MS. WHATLEY: And then I was going to go back and say
2 something, but [indiscernible] what I was going to say. And then we
3 walked out into -- we walked -- I walked back into the room, and he
4 told me --

5 (Video paused at 3:12 p.m.)

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

7 THE COURT: Sure.

8 [Sidebar begins at 3:12 p.m.]

9 MS. EINHORN: One of the jurors is falling asleep, so I
10 don't know if you want to take a break.

11 MR. POSIN: I'm sorry?

12 MS. EINHORN: One of the jurors is falling asleep --

13 THE COURT: Okay.

14 MS. EINHORN: -- so I don't know if you --

15 THE COURT: Yeah, it's a good time.

16 MS. EINHORN: -- want to take a break.

17 THE COURT: Sure.

18 MS. EINHORN: Okay.

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

20 THE COURT: Okay. Ladies and gentlemen, we'll take our
21 afternoon break. Come back at 3:30.

22 During this recess, you're admonished not to talk or
23 converse amongst yourselves or with anyone else on any subject
24 connected with this trial, read, watch, or listen to any report over
25 commentary on the trial or any person connected with this trial by

1 any medium of information, including, without limitation to social
2 media, text, newspapers, television, internet, radio.

3 Do not visit the scene of any events mentioned during the
4 trial. Do not undertake any investigation. Do not Google anything
5 about the trial. Do not do any posts or communications on any
6 social networking sites. Do not do any independent research,
7 including internet searches.

8 Do not form or express any opinion on any subject
9 connected with the trial until the case is finally submitted to you.
10 We'll see you back at 3:30.

11 THE MARSHAL: All rise for the jury. Please leave your
12 notebooks on the desk.

13 [Jury out at 3:13 p.m.]

14 THE COURT: Anything we need to discuss?

15 MS. RHOADES: No, I don't believe so.

16 MR. POSIN: No Your Honor.

17 THE COURT: Okay. See you at 3:30.

18 MS. RHOADES: Thank you.

19 [Recess taken from 3:14 p.m. to 3:33 p.m.]

20 THE MARSHAL: All rise for the jury.

21 [Jury in at 3:33 p.m.]

22 THE COURT: Please be seated.

23 Welcome back, ladies and gentlemen. Thank you for your
24 service and patience.

25 Is the State ready to continue?

1 MS. EINHORN: Yes, Your Honor.

2 THE COURT: Okay.

3 MS. EINHORN: We'll just be continuing the vide of State's
4 33A at 14:31.

5 (Video resumed at 3:33 p.m.)

6 MS. WHATLEY: Get all dressed and [indiscernible]. I said I
7 didn't want you to get undressed. And I -- he -- he gave me a
8 [indiscernible] -- well, no, on the couch, like he -- like [indiscernible]
9 the wall. And he -- and I wasn't [indiscernible], but it hurt really bad.
10 And then he was forcing -- he forced himself on me. And I was keep
11 wanting him to get off me. And then he just kind of [indiscernible]
12 and I was -- and I'm not sure, I can't [indiscernible].

13 MS. ESPINOZA: And then what happened?

14 MS. WHATLEY: And then he stopped. And then he
15 [indiscernible]. Well, I didn't take off all my clothes, I just took off my
16 pants. Well, he [indiscernible] it. And then he took me to the
17 [indiscernible] car and he drove me home at the locksmith place, and
18 I walked home.

19 MS. ESPINOZA: Tell me what he did when you said he
20 forced himself on top.

21 MS. WHATLEY: He told me to shut up, just do it.

22 MS. ESPINOZA: Tell me what happened.

23 MS. WHATLEY: What happened?

24 MS. ESPINOZA: You told me earlier, you used the words
25 [indiscernible] and you used the word "force," and you used the word

1 "sex" and "non-consensual." Tell me exactly what he did to you that
2 time.

3 MS. WHATLEY: From me, it was not non-consensual. I
4 told him that I didn't want to do it and [indiscernible], like he forced
5 himself on me.

6 MS. ESPINOZA: And what did he do? Tell me everything
7 he did when he forced himself on top of you.

8 MS. WHATLEY: Like, he -- I was like -- like [indiscernible]
9 trying to get up, and he liked push -- he put his hands like this on my
10 -- like right here, and he pushed me down on the couch. And he put
11 his elbow on my chest so I wouldn't get up, and I was kicking and
12 fighting and stuff. And then he -- like he punched me. And I told him
13 to get off of me, and he didn't listen. He just kept on going.

14 MS. ESPINOZA: And you said he kept on going. Tell me
15 everything he did when he kept on going.

16 MS. WHATLEY: Have sex.

17 MS. ESPINOZA: When you say "sex," what exactly did he
18 do?

19 MS. WHATLEY: Put his penis inside.

20 MS. ESPINOZA: And when you say "put his penis inside,"
21 tell me what you mean.

22 MS. WHATLEY: Inside of my vagina.

23 MS. ESPINOZA: Okay. And tell me how his penis moved
24 when it was inside your vagina.

25 MS. WHATLEY: In and out.

1 MS. ESPINOZA: Tell me how it made your vagina fell.
2 MS. WHATLEY: I didn't -- I don't know. Wasn't thinking,
3 but I didn't like it.
4 MS. ESPINOZA: Okay. Describe when you say you don't
5 like it, what you felt.
6 MS. WHATLEY: Like that it felt -- like I felt sick, like I'm
7 going to throw up.
8 MS. ESPINOZA: Tell me how your vagina felt.
9 MS. WHATLEY: It felt like it was hurting.
10 MS. ESPINOZA: Okay. Describe -- when you say "hurting,"
11 describe hurting.
12 MS. WHATLEY: Painful.
13 MS. ESPINOZA: And tell me all the parts of his body that
14 were touching your body when he did that.
15 MS. WHATLEY: His forearm and his -- yeah, just his arm
16 and his legs.
17 MS. ESPINOZA: Okay. And what made him stop putting
18 his penis in your vagina?
19 MS. WHATLEY: I don't know.
20 MS. ESPINOZA: Tell me what changed with his penis after
21 he stopped.
22 MS. WHATLEY: I think it got smaller, I don't know.
23 MS. ESPINOZA: Can you tell me all the shapes you saw,
24 tell me all the colors you saw when you -- when you looked at his
25 penis.

1 MS. WHATLEY: I didn't look. I just felt [indiscernible] that
2 it got small. It felt like softer.

3 MS. ESPINOZA: Besides feeling soft, tell me what else you
4 felt.

5 MS. WHATLEY: That it [indiscernible].

6 MS. ESPINOZA: What did he say when he put his penis
7 inside and you said he was moving it? What did he say?

8 MS. WHATLEY: He was moaning.

9 MS. ESPINOZA: What sounds did you hear?

10 MS. WHATLEY: I don't know how to say it, like
11 [indiscernible].

12 MS. ESPINOZA: Okay. And describe what his penis
13 looked like.

14 MS. WHATLEY: It looked like [indiscernible].

15 MS. ESPINOZA: Tell me the shape. Tell me about the
16 shape when you saw it.

17 MS. WHATLEY: I don't know how to say it. Can I draw it?

18 MS. ESPINOZA: Sure.

19 MS. WHATLEY: [Drawing on paper.] It was curved.

20 MS. ESPINOZA: And what color was it?

21 MS. WHATLEY: It was brown.

22 MS. ESPINOZA: Besides brown, what other colors did you
23 see?

24 MS. WHATLEY: White.

25 MS. ESPINOZA: Tell me what the white was.

1 MS. WHATLEY: It was semen.
2 MS. ESPINOZA: And tell me how you know it was semen.
3 MS. WHATLEY: Because I've heard about it in class.
4 MS. ESPINOZA: Okay. And tell me where it came out.
5 MS. WHATLEY: Out of his penis.
6 MS. ESPINOZA: And where did the white stuff go?
7 MS. WHATLEY: On the couch.
8 MS. ESPINOZA: What color was that couch?
9 MS. WHATLEY: It was brown.
10 MS. ESPINOZA: Okay. You know how you said you saw
11 numbers on the outside of the hotel. Do you remember the number
12 of that room when you walked in?
13 MS. WHATLEY: No. [Indiscernible].
14 MS. ESPINOZA: Okay. If somebody took you back to that
15 location, would you be able to recognize it?
16 MS. WHATLEY: I do not know.
17 MS. ESPINOZA: Okay.
18 MS. WHATLEY: If -- I think if -- I know it was on the --
19 because there's bottom motels and there's top.
20 MS. ESPINOZA: Which one were you on?
21 MS. WHATLEY: The top floor.
22 MS. ESPINOZA: Okay. And you told me that he took your
23 pants off. What were you wearing under your pants.
24 MS. WHATLEY: My [indiscernible].
25 MS. ESPINOZA: And what happened to your

1 [indiscernible]?

2 MS. WHATLEY: He took them off.

3 MS. ESPINOZA: Okay. How about [indiscernible], what
4 happened?

5 MS. WHATLEY: My shirt was still on, but he took off my
6 pants.

7 MS. ESPINOZA: Okay. What were you wearing that day?

8 MS. WHATLEY: I was wearing like -- I was wearing like --
9 it's like a blue bleach colored like [indiscernible] I don't think. But it
10 had like holes at the top. And then the bottom, they're like -- like
11 ripped jeans kind of thing.

12 MS. ESPINOZA: And then where did you put those
13 clothes?

14 MS. WHATLEY: He threw them on the floor.

15 MS. ESPINOZA: And then what happened after?

16 MS. WHATLEY: After everything?

17 MS. ESPINOZA: Well, after you said the -- you saw the
18 white stuff.

19 MS. WHATLEY: He told me to put back on my clothes, and
20 he [indiscernible]. And then he just covered my face.

21 MS. ESPINOZA: Besides touching your vagina with his
22 penis, what other parts of his body did he touch that time, or what
23 other parts of your body did he touch?

24 MS. WHATLEY: My chest, like right here, and he put
25 [indiscernible].

1 MS. ESPINOZA: Okay. He put his arm on your chest.
2 When you were on the couch, was your back to the couch, were you
3 on the side, or something else?
4 MS. WHATLEY: Back.
5 MS. ESPINOZA: And how about him?
6 MS. WHATLEY: He was on top. His chest was -- I guess if
7 you saw I was there, then his chest was up.
8 MS. ESPINOZA: Okay. So was he facing you, to the side
9 of you, or --
10 MS. WHATLEY: Yeah, facing me.
11 MS. ESPINOZA: Okay. And so after you [indiscernible],
12 the very next thing that happened.
13 MS. WHATLEY: After I got what?
14 MS. ESPINOZA: After you got dressed.
15 MS. WHATLEY: He said get in the car, and he drove me
16 back.
17 MS. ESPINOZA: And then you said earlier he dropped you
18 back koff to the --
19 MS. WHATLEY: [Indiscernible] place [indiscernible].
20 MS. ESPINOZA: And then what did you do?
21 MS. WHATLEY: I just started crying, then I went home.
22 MS. ESPINOZA: Okay. And how did you get home?
23 MS. WHATLEY: I walked.
24 MS. ESPINOZA: What time was it?
25 MS. WHATLEY: My phone was dead. I think it was like

1 7:00.

2 MS. ESPINOZA: And is that 7:00 at night, morning time --

3 MS. WHATLEY: 7:00 at night.

4 MS. ESPINOZA: Okay. And who was home when you got
5 home?

6 MS. WHATLEY: My mom and my brother, Donald.

7 MS. ESPINOZA: And what did you do after you got home?

8 MS. WHATLEY: I [indiscernible].

9 MS. ESPINOZA: And what happened to the clothes you
10 were wearing?

11 MS. WHATLEY: I took them off and I put them in the dirty
12 clothes [indiscernible] shower [indiscernible] my clothes.

13 MS. ESPINOZA: Okay. Tell me what you noticed about
14 your vagina when you went to go use the bathroom that time.

15 MS. WHATLEY: It just hurted really bad.

16 MS. ESPINOZA: Tell me what you saw when you went to
17 the bathroom.

18 MS. WHATLEY: Nothing, just regular.

19 MS. ESPINOZA: Okay. Tell me about the time where you
20 said he took you and Venice to The Palm.

21 MS. WHATLEY: To The Palm. We went to The Palm, and
22 he was being mean to Venice. Like, he was calling her names. Like,
23 he was also nice at the same time. I don't know how that's possible,
24 but it was like -- like he would like get her something or something,
25 but get her food or something, and then [indiscernible] or something.

1 And then he would be nice to her again, like [indiscernible].

2 MS. ESPINOZA: When was that incident? What did that
3 happen?

4 MS. WHATLEY: It was right before -- no, I can't say that.
5 Like -- it was right before -- no, no. It was like a week before I went to
6 the mental hospital, the first time.

7 MS. ESPINOZA: So you said it was the week before you
8 went to the mental hospital, the first time you went. What month
9 was that?

10 MS. WHATLEY: February of this year. February
11 [indiscernible].

12 MS. ESPINOZA: So did that happen first, or did you and
13 him alone at The Palms happen second, or what was the order of
14 that?

15 MS. WHATLEY: Of both the events?

16 MS. ESPINOZA: Yes.

17 MS. WHATLEY: First event was [indiscernible] where we
18 were only [indiscernible]. And then the next thing was myself, Palms
19 -- well, Palms [indiscernible]. And then the next one was me and
20 Venice. And then the last one was RaRa -- the RaRa thing. And then
21 -- and then the -- and then the -- that's it.

22 MS. ESPINOZA: Okay. So tell me -- so you said that
23 incident with you and Venice at the Homer Palms, that was after, and
24 it was in February; is that right?

25 MS. WHATLEY: Yes.

1 MS. ESPINOZA: Okay. Tell me how that started.

2 MS. WHATLEY: That started, like -- it started like -- I don't
3 know, it was like -- it started --

4 MS. ESPINOZA: Where were you guys at?

5 MS. WHATLEY: Well, like how the event started, or how
6 we got to the place and how the whole thing started?

7 MS. ESPINOZA: Yes.

8 MS. WHATLEY: Okay. So we -- he picked us up from the
9 Boys & Girls Club. And then we had went to Kim's house. We went
10 to Kim's house. And then we -- then Kim was sleeping again. So I
11 locked the door so nobody could get in because I didn't want
12 anything to happen to RaRa or Kim. They were sleeping together.
13 And I locked the door.

14 And then we came downstairs. And I told Venice that I
15 need to go home, but he said there's [indiscernible] to my house.
16 And Venice had came with -- came with us. But he did not go to my
17 house. We went to this hotel that had -- it wasn't the one that I went
18 to, because the one he took us to, me and Venice, was nicer. It had
19 flat-screen TV, master bedroom, jacuzzi bath, the shower, the big
20 kitchen, and the couch bed [indiscernible].

21 And so, like I already told you, he was being nice
22 [indiscernible] to the bathroom and she was crying. And I said don't
23 listen to him, it's okay. Well, she wasn't crying; she was like sad. But
24 I told her don't listen to him. He's just like -- there's -- like he
25 [indiscernible]. And then she went back out, then he came back out.

1 And then I was going to say that was when my period, so I
2 couldn't do anything. But he told me to pull my pants down, there
3 was nothing there [indiscernible] maybe have sex with him.

4 And Venice, she [indiscernible] -- well, she got
5 [indiscernible] the day before I went to the hospital again, she had
6 told us that she was in love with him and that she liked it. And I just
7 looked at her very, like [indiscernible] loving her, like what's wrong
8 with you. And I told her [indiscernible].

9 And then after that -- well, go back to the [indiscernible].
10 But after the whole thing, we came back in there, and he told Venice
11 to get undressed, you know, both get undressed. He undressed
12 Venice, and I just took off my pants because [indiscernible].

13 And then I pulled back up my pants, and he -- then he told
14 me to take my clothes off. And I said, why -- why do you always
15 make us do this. He didn't say anything. And I just stood there. And
16 then I took off my pants again. And then I just sat there. And then he
17 just smacked me, my face [indiscernible]. And then Venice just
18 looked at him like she was scared.

19 And then -- and then he raped both of us again.

20 And then after that, we went to -- after that, we went back
21 home, or we went back to Kim's house. And then I went home, and I
22 just was talking to Venice on the phone, and her mom was still
23 sleeping.

24 MS. ESPINOZA: When you said he raped the both of you,
25 tell me step-by-step what happened.

1 MS. WHATLEY: He messed up our clothes. Like, he'd tell
2 us to sit down. And then he put his dick inside Venice. And then he
3 took his out and then put it inside of me. Then he just kept on doing
4 that.

5 MS. ESPINOZA: When you said he had you guys sit down,
6 where did you guys sit down?

7 MS. WHATLEY: On the couch.

8 MS. ESPINOZA: Okay. And what color was that couch?

9 MS. WHATLEY: It was like -- I would say it was this color.
10 It was like a beige color. It was kind of the light -- the light -- it's that
11 color.

12 MS. ESPINOZA: You told me he told you to take off your
13 pants.

14 MS. WHATLEY: Well, my clothes, but I just took off my
15 pants.

16 MS. ESPINOZA: Okay. What do you wear under your
17 pants again?

18 MS. WHATLEY: Underwear.

19 MS. ESPINOZA: What happened to your underwear?

20 MS. WHATLEY: He made me take -- he took them off.

21 MS. ESPINOZA: Okay. And how did he take them off?

22 MS. WHATLEY: He grabbed them and took them off. Like,
23 he went for the -- he grabbed them by the top and he took them off
24 my legs.

25 MS. ESPINOZA: Okay. And then you said he undressed

1 Venice. Tell me what happened to her clothes.

2 MS. WHATLEY: He took them off of her, and he put them
3 on the floor.

4 MS. ESPINOZA: What did he take off of her?

5 MS. WHATLEY: Her shirt, her pants, and her underwear.

6 MS. ESPINOZA: And what was the first thing -- tell me in
7 order what happened first when you said he put his dick somewhere,
8 where did he put it first?

9 MS. WHATLEY: Inside of her vagina.

10 MS. ESPINOZA: Inside of whose vagina?

11 MS. WHATLEY: Venice.

12 MS. ESPINOZA: And was he standing up, sitting down, or
13 something else?

14 MS. WHATLEY: Something else.

15 MS. ESPINOZA: What's the something else?

16 MS. WHATLEY: He was like -- I don't know how to say it --
17 he was like squatting.

18 MS. ESPINOZA: He was -- okay. And how was Venice?

19 MS. WHATLEY: He was sitting on the couch.

20 MS. ESPINOZA: Okay. Describe to me how he was able to
21 put his dick in her vagina; he was squatting and she was sitting.

22 MS. WHATLEY: Like -- I don't know how to like explain it.
23 Like, she was sitting on the couch, and he was like -- like -- I want to
24 like -- like his legs was bent, like he like moved forward, kind of like
25 squatting.

1 MS. ESPINOZA: And when he moved forward, was he on
2 the floor? Was he --

3 MS. WHATLEY: He was like when he moved forward, he
4 was still like -- I would --

5 MS. ESPINOZA: Where were his hands [indiscernible]?

6 MS. WHATLEY: He put them on the floor [indiscernible]
7 like he -- it was like this -- kind of like a squat. He was like -- he was
8 like laying back kind of. I don't know how to say it, but -- and then he
9 put his legs -- I mean, his hands on the [indiscernible] he put his dick
10 inside of her vagina.

11 MS. ESPINOZA: And how do you know it was inside her
12 vagina?

13 MS. WHATLEY: Because I heard things.

14 MS. ESPINOZA: Tell me what you heard.

15 MS. WHATLEY: Like a wet noise kind of.

16 MS. ESPINOZA: And where was the wet noise coming
17 from?

18 MS. WHATLEY: Her vagina.

19 MS. ESPINOZA: Okay. And what was he saying to her
20 when he did that?

21 MS. WHATLEY: He was just moaning.

22 MS. ESPINOZA: And what did she say?

23 MS. WHATLEY: She was [indiscernible].

24 MS. ESPINOZA: And were you sitting next to her on the
25 couch, in front of her, or something else?

1 MS. WHATLEY: I was sitting next to her, and I wasn't
2 looking. I was just trying not to scream.

3 MS. ESPINOZA: And then what was -- and then what did
4 he do after that?

5 MS. WHATLEY: [Indiscernible] inside of me. And then
6 [sneezes].

7 MS. ESPINOZA: Bless you.

8 MS. WHATLEY: Thank you. And then --

9 MS. ESPINOZA: When he put it inside of you, Arianna,
10 was he standing up, sitting down, or something else?

11 MS. WHATLEY: He was standing up. And then he like
12 pulled me off the couch and told me to stand up.

13 MS. ESPINOZA: Pulled you off the couch and told you to
14 stand up, and then what happened?

15 MS. WHATLEY: And then he put it inside of me.

16 MS. ESPINOZA: What parts of his body were --

17 (Video concluded at 3:54 p.m.)

18 BY MS. EINHORN:

19 Q Ms. Espinoza, just final question. Based on all the training
20 and experience that you have in the over 2500 forensic interviews
21 that you've conducted, the behaviors and mannerisms that Arianna,
22 Venice, and RaRa all exhibited, were those behaviors and
23 mannerisms consistent with a child whose been abused?

24 A Yes.

25 Q Why is that?

1 A With Venice, she gave you a lot of gestures that a child her
2 age should not be able to express with body language and sensory
3 details. She was nervous, she was scared, she was fidgeting the
4 whole time.

5 With RaRa, he was very distracted and hyper. It was
6 difficult for me to make sense of what he was saying at times.

7 With Arianna, her head was down the whole time. She
8 made minimal eye contact. If you listen to her forensic interview, she
9 says at one point that the sex abuse made her go into the mental
10 hospital because she was suicidal. So she exhibited some of the
11 behavior and mental health issues that come with it.

12 Q Thank you, Ms. Espinoza.

13 MS. EINHORN: I pass the witness, Your Honor.

14 MR. POSIN: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. POSIN:

17 Q So, Ms. Espinoza, you just said that Venice you felt was
18 consistent because she was making gestures.

19 A Yes.

20 Q She was making all sorts of gestures, and she was very --
21 very vocal, was she not?

22 A Yes, she was.

23 Q RaRa, as you mentioned, was distracted and moving all
24 around the room.

25 A Yes.

1 Q And Arianna had a very soft and deflated sort of aspect --
2 or affect.

3 A Yes.

4 Q Those are all quite different, aren't they?

5 A Yes.

6 Q So there are actually quite a number of different
7 demeanors that somebody might have.

8 A Yes. It all depends on the person.

9 Q And everybody is different, aren't they?

10 A Yes.

11 Q And you have no way of knowing whether those particular
12 people were telling the truth about anything, or not telling the truth
13 about anything.

14 A Sir, it's not my job to determine if they're credible or not.
15 But my job is to gather information --

16 Q Correct.

17 A -- through questions that elicit more information, but then
18 help us follow up. In some of these examples that you saw, it was
19 sensory questions: what did you feel, what did you smell, what did it
20 sound like. All those questions are asked to determine if some things
21 can be corroborated or not. Because as I said, these children should
22 not be aware of that, experience those feelings if there was no action
23 committed.

24 Q And that's why you ask just open-ended questions, right?

25 A Yes.

1 Q Thank you.

2 MR. POSIN: I have nothing further, Your Honor.

3 MS. EINHORN: No redirect, Your Honor.

4 THE COURT: Okay. Any questions from the witness -- or
5 not -- questions from the jurors? No. Okay.

6 May the witness be excused?

7 MS. EINHORN: Yes.

8 MR. POSIN: Yes, Your Honor.

9 THE COURT: Thank you.

10 THE WITNESS: Thank you, Your Honor.

11 Thank you, jury.

12 [Witness excused]

13 MS. RHOADES: May I approach your clerk?

14 THE COURT: Sure.

15 MS. RHOADES: The State has verified that all of its
16 exhibits have been admitted, and we will rest.

17 THE COURT: Okay.

18 STATE RESTS

19 THE COURT: Would now be a good time to take a break?

20 MS. RHOADES: Yes, Your Honor.

21 THE COURT: Okay.

22 Ladies and gentlemen, we'll take a shorter break, 10-
23 minute break.

24 During this recess, you're admonished not to talk or
25 converse amongst yourselves or with anyone else on any subject

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DEQUINCY BRASS,) No. 81142
)
Appellant,)
)
v.)
)
THE STATE OF NEVADA,)
)
Respondent.)
)

DARIN IMLAY Clark County Public Defender 309 South Third Street Las Vegas, Nevada 89155-2610 Attorney for Appellant	STEVE WOLFSON Clark County District Attorney 200 Lewis Avenue, 3 rd Floor Las Vegas, Nevada 89155 AARON FORD Attorney General 100 North Carson Street Carson City, Nevada 89701-4717 (702) 687-3538 Counsel for 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:

I further certify that I served a copy of this document by mailing a true and correct copy thereof, postage pre-paid, addressed to:

DEQUINCY BRASS, #1233421
HIGH DESERT STATE PRISON
P.O. BOX 650
INDIAN SPRINGS, NV 89070

BY /s/ Rachel Howard
Employee, Clark County Public Defender's Office