

comes in for relevance, but if it would, it would be information that would come under the protection of the Rape Shield Law.

THE COURT: How is it protected under the Rape Shield Law?

MS. EISENHOWER: Well, it's evidence of the victim's prior sexual activity. And although it was never classified as that --

THE COURT: Okay.

MR. EISENHOWER: I mean, you know, that's my -- one of the arguments. But first of all, I don't think it's relevant.

THE COURT: I'm going to sustain the objection on the basis of relevance. I am, on the record, indicating I'm not going to permit you to talk about prior sexual activity in this manner and under these circumstances. I'll note your exception for the record. Please move on to something else.

MR. GREEN: Judge, can I ask -- I'm not asking REDACTED. I'm asking her that she made a complaint.

THE COURT: You did. She said "yes."

MR. GREEN: Right.

THE COURT: Miss Eisenhower was objecting to your next question.

MR. GREEN: I asked what the complaint was.

THE COURT: Right. You cannot ask that question.

MR. GREEN: Okay.

(Whereupon, the further following proceedings were then held in the presence of the Court, the Jurors, Counsel, and the Defendant.)

BY MR. GREEN:

Q In 2004, did REDACTED have a doctor that she'd go to see?

A No.

Q How about Dr. Jedacek?

A She had never went to her in July.

Q Well, I'm saying in 2004, is what I said.

A Oh, probably.

Q Did she go there for health reasons?

A Probably she had a checkup, routine checkup.

Q Did she see a psychologist in 2004?

A Yes, she did.

Q And who did she see in 2004?

A Actually no, she didn't see a psychologist. She saw a social worker.

Q Okay. She didn't see Dr. LeSure? I think that's the name.

A No.

Q Not in 2004?

A No.

Q There were no complaints in 2004, by you at least, of sexual abuse of REDACTED?

A No.

Q Okay. And I think your testimony's been your first knowledge of REDACTED possibly being sexually abused was January 11th of 2005?

A I -- when I moved out on October 20th, I had gone down to the Montville Police Station and filed a report that that's what I had suspected.

Q Who did you file that report with?

A One of the officers down at the Montville Police Station. I don't remember.

Q Was it Officer McCourt?

A No, it wasn't McCourt.

Q And was there a follow-up investigation into that report; do you know?

A I don't recall what ended up happening with that report.

Q Well, tell us what you described to the Montville Police.

A I went down to the Montville Police on October 20th, which was the day I'd moved out of Mr. Wood's house, and I had told them that I suspected sexual abuse.

Q And what led you to that conclusion?

A Him coming out of her room wearing what he was wearing.

Q You didn't see anything take place, correct?

A No, that's correct.

Q Okay. And you didn't see any evidence that REDACTED had been abused?

A That's correct.

Q And REDACTED told you she had not been abused?

A That's correct.

Q All right. But you wanted to make a report?

A Yes. I wasn't sure that REDACTED was being honest with me.

Q Did you -- who did you say the incident -- did you describe Mr. Wood in that report?

A Yes.

Q She named him as the potential perpetrator?

A I did. I filled out the report.

Q Did you remove the children out, move yourself out? You moved back with Scott Sadowsky, right?

A That's true.

Q And when did you next see Mr. Wood?

1 A Maybe two weeks later.  
 2 Q Did you talk to him in between those two weeks?  
 3 A Yes. He tried contacting me several times.  
 4 Q Did you talk to him?  
 5 A I eventually took his phone call, yes.  
 6 Q And you started to see each other again?  
 7 A We did.  
 8 Q You were intimate again?  
 9 A We were.  
 10 Q Did you tell him that you had filed a complaint?  
 11 A Yes. He knew about it, because there was apparently  
 12 a write-up in the paper.  
 13 Q Well, I didn't ask about the write-up in the paper.  
 14 Did you tell him that you had filed this report?  
 15 A I'm sure I did, yes.  
 16 Q How did he react?  
 17 A He was upset. He was upset over the allegation, of  
 18 course.  
 19 Q Right. But he still continued to see you?  
 20 A Yes.  
 21 Q And he denied the allegation?  
 22 A Yes.  
 23 Q Did you believe him?  
 24 A I wanted to, yes. I was pregnant.  
 25 Q Did he see the children after that October 20th?

1 A No.  
 2 Q Did you tell Scott Sadowsky about your filing this  
 3 incident report?  
 4 A Yes. He knew about it.  
 5 Q When did you inform Scott Sadowsky that you were  
 6 moving in with him again?  
 7 A That morning I called him. I told him what I  
 8 suspected.  
 9 And his reaction was, "You need to get to safety.  
 10 Bring the children here. You can come and stay here for a  
 11 limited time until you can get your own place."  
 12 Q Did he tell you to go see the police?  
 13 A I saw the police on my own.  
 14 Q I didn't ask if you went on your own. I said, "Did  
 15 he?"  
 16 Were you told by him to go see the police?  
 17 A No.  
 18 Q What time of day did you go see the police?  
 19 A When SHREDACTED got off school, so that would have been  
 20 around 4 o'clock.  
 21 Q Did you take SHREDACTED with you?  
 22 A Yes, I did.  
 23 Q Did they interview SHREDACTED?  
 24 A Yes, he did.  
 25 Q Did they suggest that SHREDACTED be examined by a

1 doctor?  
 2 A No.  
 3 Q So on the 11th you see the police again, of January?  
 4 A The 12th.  
 5 Q The 12th. You called the police on the 11th?  
 6 A No.  
 7 Q You didn't call them then?  
 8 A (Witness nodding negatively.)  
 9 Q The 12th you called them?  
 10 A No. I went down to the police station.  
 11 Q You went there, okay.  
 12 Who did you meet with?  
 13 A Officer McCourt. And I met with another officer. An  
 14 older gentleman, I don't remember his name.  
 15 Q And were you there by yourself?  
 16 A No. I had SHREDACTED and A with me.  
 17 Q What time of day was this?  
 18 A 8:30, 9 o'clock.  
 19 Q And what caused you to go there that day?  
 20 A The night before is when SHREDACTED came forward with  
 21 what had happened to her.  
 22 Q On the 11th, SHREDACTED comes forth on the 11th at  
 23 about 8:30 p.m.?  
 24 A She came forward, yes.  
 25 Q Tell us what happened.

1 A She told me what Frank had done to her.  
 2 Q What were the circumstances? It's 8:30. Is it a  
 3 school night?  
 4 A Yes.  
 5 Q And what time did she go to bed?  
 6 A 9:00, 9:30.  
 7 Q Okay. And she just comes up and says, "He did this  
 8 to me?"  
 9 A No. We had gotten back from the rec center, and we  
 10 were sitting and having a snack, which was typical after we  
 11 got back from the rec center. I had asked her -- because I  
 12 was going to start counseling for myself the next day, and  
 13 I had asked her, "SHREDACTED", is there anything else you want to  
 14 tell me about when we lived with Frankie?  
 15 And she said, "Yes, there is." And that's when  
 16 she started.  
 17 Q Okay. So when she -- how long did she talk to you  
 18 for?  
 19 A An hour, over an hour.  
 20 Q Did you just put her to bed then?  
 21 A No. I comforted her. She was crying, I was crying.  
 22 It was -- I eventually told her to go to bed and that we  
 23 were going to see the police in the morning. And she --  
 24 she came to the point where she didn't want to talk anymore  
 25 about it.

1 Q So this -- so this was what, 10:00, 11 o'clock when  
2 you put her to bed? Did this calm her down?  
3 A Probably. I don't remember.  
4 Q Okay. And you say in the morning you went to see the  
5 police?  
6 A That's true.  
7 Q With her?  
8 A That's true.  
9 Q Did you take A[REDACTED]?  
10 A I believe A[REDACTED] was with me, yeah.  
11 Q Did you talk to Scott about this?  
12 A Yes.  
13 Q When did you call Scott?  
14 A When did I call Scott?  
15 Q Um-hm. Or was he there?  
16 A No, he wasn't at the police station and he wasn't at  
17 my house.  
18 Q I'm sorry, I'm talking about the night of the 11th.  
19 Did you call Scott?  
20 A Yes, I did.  
21 Q Okay. Do you recall about what time you called him?  
22 A No, I don't. After she -- after she spoke to me, so  
23 it would have been sometime after 8:30.  
24 Q And you tell Scott. What does Scott tell you to do,  
25 if anything?

1 A "You need --"  
2 MS. EISENHOWER: Objection, your  
3 Honor. It's hearsay.  
4 THE COURT: Sustained.  
5 Your next question, please.  
6 Q Did Scott indicate to you that he was going to take  
7 action?  
8 MS. EISENHOWER: Objection, your  
9 Honor.  
10 THE COURT: Sustained.  
11 Q Did Scott take any action, that you know of, on the  
12 11th?  
13 A No. I spoke to him on the phone. I didn't see him  
14 on the 11th.  
15 Q On the 12th, when you went to see the police, was  
16 Scott with you?  
17 A No.  
18 Q Where was Scott?  
19 A I don't know.  
20 Q Now, you told us earlier yesterday that there was an  
21 interview on the 13th.  
22 A Yes.  
23 Q Okay. When did that --  
24 A I actually thought it was on the 12th.  
25 Q The interview with the social worker and the police.

1 A It could have been on the 12th or the 11th, I don't  
2 recall exactly, but there was an interview with the social  
3 worker and Officer McCourt at my home.  
4 Q Where did that take place?  
5 A At my home.  
6 Q At your home. Was Scott there?  
7 A Yes.  
8 Q Did he participate in the interview?  
9 A No. He came to watch A[REDACTED] so that I could  
10 participate in the interview with S[REDACTED].  
11 Q Now, the statement that S[REDACTED] makes to the social  
12 worker and the police officer, was that the same statement  
13 she made to you the night before -- or the two nights  
14 before, I guess?  
15 A Yes. She didn't tell them everything at first,  
16 because little things kept coming out. But from what she  
17 -- yeah, what she had told me was what she told them.  
18 Q And then you took her eventually to Akron Children's  
19 Hospital?  
20 A Yes, on the 26th.  
21 Q On the 26th. Were you there alone with S[REDACTED]?  
22 A No. I went with Scott, S[REDACTED], and A[REDACTED].  
23 Q And S[REDACTED] was interviewed in your presence?  
24 A No. She was interviewed without me.  
25 Q Was anybody else with her?

1 A The social worker. There were two social workers,  
2 they were both there.  
3 Q Okay.  
4 A The nurse and the social worker interviewed her.  
5 Q Did S[REDACTED] indicate what date this conduct happened  
6 on, to you?  
7 A She said it was frequent. She said it wasn't just  
8 once. She said it happened every night she was there.  
9 Q And you found out that -- you were informed that  
10 the case was terminated on February 26th, 2005.  
11 correct?  
12 A About that time. It was about that time, yeah.  
13 Q Were you given the results of the examination at  
14 Akron Children's Hospital?  
15 A No.  
16 Q Were you given an explanation as to why the case was  
17 terminated?  
18 MS. EISENHOWER: Objection, your  
19 Honor.  
20 THE COURT: You can answer  
21 whether you were given or not given that explanation,  
22 ma'am.  
23 A Yes. Officer McCourt called me.  
24 MS. EISENHOWER: Objection, your  
25 Honor.

THE COURT: The answer is "yes"?

THE WITNESS: Yes, I was informed.

THE COURT: Okay. Your next question, please.

MR. GREEN: Okay.  
Q What was your understanding of why the case was terminated?

MS. EISENHOWER: Objection, your Honor.

THE COURT: Sustained. Your next question, please.

MR. GREEN: Give me a minute, Judge.

THE COURT: Sure, sir.  
(Whereupon, a discussion between Attorney Green and the Defendant was then held out of the hearing of the court reporter.)

MR. GREEN: That's all the questions we have.

THE COURT: Thank you. Miss Eisenhower.

MS. EISENHOWER: Thank you, your Honor.

## REDIRECT-EXAMINATION

BY MS. EISENHOWER:

Q When you and Frank lived together at his home for those couple months, did you two ever have sex on the children's beds?

A No.

Q Okay. Now, you indicated earlier that Frank had a reaction to Scott. Can you tell me a little bit about what that entailed? What kind of a reaction did he have to Scott?

A He had -- he was angry. He was always very angry -- he could become violent. He once threw a chair across the room.

Q Correct me if I'm wrong, you moved out of Scott's house and into Frank Wood's house.

A That's true.

Q He's angry?

A That's true.

Q Why?

MR. GREEN: Objection.

THE COURT: Sustained.

Your next question, please.

Q Did he say why?

A Yes. He said -- yes.

Q Why?

A Because he was jealous. He thought I was still in love with Scott because I had to maintain a relationship with him for the children's sake.

Q Did he indicate to you he didn't understand why you would do that?

A Yes.

Q Was he jealous if Scott talked to SCOTT?

A He was jealous if I talked to Scott.

Q How often did he get violent about that issue?

A He asked me not to have -- not to talk to him.

Q Hm-hm.

A Every time I would take a phone call from Scott in Frank's presence, he would be -- his temper would flare.

Q Did he ever tell you that he blamed Scott for the problems you were having?

A Yeah.

Q So he had -- how many times did he say that?

A Frequently.

Q And what would -- what would precipitate that kind of a discussion?

A A phone call from Scott or if the children said something regarding Scott. Really anything.

Q Okay. When you did your laundry, aside from seeing blood on the sheets, were you looking for anything else on the sheets?

A No. I -- I was always in a hurry. I throw everything into the laundry and take it downstairs and throw it into the washer.

Q Okay. Is there anything about October 20th -- describe for me -- and I think you were asked this. When you say Frank looked guilty, can you describe for me what makes you say that?

A No wouldn't make eye contact with me.

MS. EISENHOWER: I have nothing further.

THE COURT: Thank you.

Mr. Green, sir.

MR. GREEN: Just a second, your Honor.

THE COURT: Sure.

(Whereupon, a discussion between Attorney Green and the Defendant was then held out of the hearing of the court reporter.)

## RE-CROSS-EXAMINATION

BY MR. GREEN:

Q You say that Frank would get angry about Scott calling?

A Yes. Or if I called Scott.

Q Right. And wasn't it also true that when you were living with Scott, and he knew about your dealings with

1 Frank, that Scott got angry?

2 MS. EISENHOWER: Objection, your

3 Honor. That's beyond the scope of my examination.

4 THE COURT: Overruled. You

5 can answer.

6 A No. Scott didn't know during the marriage of my  
7 relationship with Frank. Scott had no idea I was even  
8 doing it.

9 Q Scott didn't want you to see Frank at all in February  
10 of 2004.

11 A He asked me to stop seeing him, yes.

12 Q He was pretty upset, wasn't he?

13 A He fell to the floor and started crying.

14 Q He didn't want you to see him anymore?

15 A Right.

16 Q That was part of his demand?

17 A That's what he asked me. He wanted to try and save  
18 our marriage.

19 Q Did you remain in contact with Frank?

20 A No. I broke contact off at that time with Frank.

21 Q Tell me when you broke contact off with him.

22 A The latter part of February.

23 MR. GREEN: That's all the

24 questions I have.

25 THE COURT: Ma'am, you're

1 free to go. Thanks very much for coming in.

2 Call your next witness, please.

3 MS. EISENHOWER: Scott Sadowsky.

4 THE COURT: Come on up,

5 sir. My bailiff is going to swear you in, sir.

6 THE BAILIFF: Please raise

7 your right hand.

9 Whereupon, the State of Ohio, to further

10 maintain the issues to be maintained by it, called

11 one SCOTT SADOWSKY, who, after having been first duly  
12 sworn, was examined and testified as follows:

13 THE COURT: Sir, come on up

14 and have a seat. Tell me when you're in there.

15 MR. SADOWSKY: I am in.

16 THE COURT: My name is

17 Chris Collier. Would you state your name, and spell  
18 your last name for my court reporter, please.

19 MR. SADOWSKY: Sure. My name

20 is Scott Sadowsky, S-a-d-o-w-s-k-y.

21 THE COURT: Mr. Sadowsky,

22 what's going to happen is, Miss Eisenhower will have

23 some questions for you, and when she's done,

24 Mr. Green will as well. Keep your voice up. The

25 woman in the back - please raise your hand.

1 JUROR: [Complying.]

2 THE COURT: She needs to

3 hear you.

4 MR. SADOWSKY: Can you hear

5 me?

6 JUROR: Yes.

7 THE COURT: Thank you.

8 Miss Eisenhower, please.

9 MS. EISENHOWER: Thank you, your

10 Honor.

11 DIRECT-EXAMINATION

12 BY MS. EISENHOWER:

13 Q Mr. Sadowsky, tell me where you live right now.

14 A I live at 5855 Jonathon Court in Medina, Ohio.

15 Q And at one time were you married to Danielle

16 Sadowsky?

17 A Yes.

18 Q Do you have a child together by the name of A<sup>REDACTED</sup>?

19 A Yes, we do.

20 Q And you also share custody of S<sup>REDACTED</sup>?

21 A Yes, we do.

22 Q S<sup>REDACTED</sup>'s related to you, correct?

23 A She's my second cousin.

24 Q Okay. And there came a time where you two took her

25 in because she had nowhere else to go?

1 A Yes, that's correct.

2 Q Were you approached to do that?

3 A No. Actually, I spoke with my grandmother, and she  
4 said that Denise, my cousin, was in trouble and that  
5 S<sup>REDACTED</sup>, her daughter, became a ward of the State. And  
6 Danielle and I were thinking about having children, and in  
7 the process of -- of having A<sup>REDACTED</sup> at the time, and had  
8 looked into adoption.

9 Then she said, "We've got to go save that baby."  
10 So we came to Ohio. We lived in Connecticut at the time,  
11 and we came to Ohio and petitioned for visitation.

12 Q Then did it work out where you gained custody of  
13 her?

14 A Well, we got what's called a relative placement of  
15 her.

16 Q You've been supporting her ever since?

17 A That's correct.

18 Q Tell me what you do.

19 A I'm a senior sales engineer for a technical equipment  
20 company.

21 Q Okay. How long have you done that?

22 A For technical equipment, it's been five years now.

23 And before that, I worked for a previous firm in the same  
24 field for five years.

25 Q And you lived in Connecticut but came back here?

1 A That's correct.

2 Q Okay. Now, how long were you married to Danielle?

3 A Oh, just about twelve years.

4 Q And did there come a time where you became aware that

5 Danielle was having an affair?

6 A Yes, there did.

7 Q Okay. Tell me how you learned of that.

8 A She told me that she was spending time with a

9 particular individual that had come to our house to work on

10 some repairs that we needed done. We had built a house and

11 there was some warranty repair work that needed to be done.

12 The builder had contracted Frank Wood to come out and do

13 some work to repair that.

14 And she told me she was beginning to have

15 feelings for the guy, and told me that she went to church

16 with him, and different activities with him, and that's

17 when I became aware.

18 Q What was your reaction to that?

19 A I thought I was going to fall over and have a heart

20 attack.

21 Q Okay. You were understandably upset?

22 A Oh, yeah.

23 Q Were you angry?

24 A No. I was -- I was pretty hurt.

25 Q Okay. So as a result of learning about that, what

1 did you do?

2 A I asked her if there was anything I could do.

3 "What's wrong with our marriage? What is wrong? What's

4 going wrong? Can we go see counselors? What can we do to

5 change this? Having those feelings now, let's not get any

6 -- let's not get any further, let's address this."

7 Q Did you do that?

8 A Yes, we did.

9 Q Okay.

10 A We got several self-help books to sit and read

11 together at night and work on some of the things. I went

12 on-line to try to research different avenues of couples

13 that are in trouble. When one partner has feelings for

14 someone else, how do you change that? And what's the

15 avenues that you go around and try to correct that?

16 Q Okay.

17 A Then we also went to a counseling group.

18 Q Okay. Then at some point, did Danielle decide that

19 she wanted to leave?

20 A At some point, yes.

21 Q Okay.

22 A Yeah.

23 Q But before that, did you ask her to stop seeing Frank

24 Wood?

25 A Yes.

1 Q Now, tell me how that conversation went.

2 A It went that, "If you're having feelings for someone

3 like this, then you can't be around them and you can't be

4 anywhere near them if you intend to try and stay and make

5 this work with me."

6 Q Okay. Now, were you angry when you had that

7 conversation?

8 A No. Still upset.

9 Q Okay. Were you demanding when you had that

10 conversation?

11 A Yes.

12 Q And tell me why.

13 A "How do you tell me every day that you want to make

14 it work with me but yet you still keep seeing him?"

15 Q So did that happen?

16 A Yes.

17 Q She stayed away from Frank Wood for a while?

18 A She told me she did, but I found out that they'd

19 still see each other.

20 Q So what happened after that?

21 A Oh, I think that went on for quite some time. My dad

22 had a heart attack, and I was spending a lot of time at the

23 hospital, and I think when I would go to the hospital with

24 the children, to take them there for visitation, that she

25 would start seeing him again.

1 Q Did there come a time where you said you didn't want

2 to work on the marriage anymore?

3 A Oh, yeah.

4 Q Okay.

5 A Yeah.

6 Q And that happened?

7 A Yes.

8 Q Okay. And did there come a time where you're aware

9 that -- well, did you devise a plan for when she moved out,

10 how the children would be kept back and forth?

11 A Yes.

12 Q And how did that work?

13 A Well, every day it changed. It was, "Okay, we're

14 going to -- " we understood that the kids are the most

15 important thing.

16 "Because you've decided to go sleep somewhere

17 else, Danielle, it doesn't mean the kids have to. They can

18 stay here with me. This is their house, where we planned

19 to raise them."

20 They had neighborhood kids that they had grown up

21 with. "Why do you want to upset this arrangement? Let the

22 kids stay with me."

23 She would visit with them over at my house or she

24 would take them where she was going to go that day or do

25 what they wanted to do.

1 Q Did there come a time where they were sleeping over  
2 where Danielle was living?  
3 A Yes, yes.  
4 Q Okay. And they slept there a couple nights every  
5 week?  
6 A Yes.  
7 Q Okay.  
8 A I would traditionally have them on the weekend and  
9 she would take them during the week.  
10 Q Now I'm going to ask you this. Did you have any  
11 direct communication with Frank Wood?  
12 A Yes, I did.  
13 Q And when was that?  
14 A That was in July.  
15 Q And was it one time, or was there more than one time?  
16 A One time, on the 10th.  
17 Q Can you tell me what precipitated that event?  
18 A Yes. That morning, A<sup>1</sup> and S<sup>1</sup> were having  
19 breakfast before school -- or actually in July they were  
20 off from school. So we were having breakfast that morning.  
21 Danielle would typically pick up the kids because I would  
22 be going to work, and they expressed to me - A<sup>1</sup>  
23 especially - that he was getting a lot of hugs from Frank  
24 Wood and thought that was kind of strange, he didn't like  
25 it, he didn't like that he was trying to force himself --

1 his words were, "He's trying to be my dad and he's not my  
2 dad."  
3 Q Okay.  
4 A So I told Danielle, when she came to pick up the kids  
5 so I could go to work, "It seems kind of strange. You've  
6 only lived with the guy for a short period of time. Why is  
7 he kind of pushing himself on the kids?"  
8 And she says, "I agree it sounds kind of strange.  
9 I'm going to tell him to back off a little bit, that's  
10 probably not a good idea."  
11 And then he called me that afternoon.  
12 Q "He" who?  
13 A Frank Wood.  
14 Q Okay. So Frank Wood called you?  
15 A No-hm.  
16 Q You didn't call him?  
17 A No.  
18 Q He called you?  
19 A Yes.  
20 Q What was that conversation?  
21 A He said that I was using the kids as a weapon against  
22 him, that it was a real kick in his gut that he can't show  
23 affection to the children.  
24 And I had said, "This is something that your  
25 girlfriend and I already decided. Take it up with her, not

1 me," that he shouldn't be calling me about these kind of  
2 issues.  
3 Q All right.  
4 A I didn't really care about his feelings, and that he  
5 should take it up with her.  
6 Q Now, was that the only conversation you ever had with  
7 Frank Wood?  
8 A Yes.  
9 Q And did you have conversations with Danielle about  
10 the children pretty regularly?  
11 A Yes.  
12 Q And what kind of conversations were those?  
13 A "How's S<sup>1</sup> doing? How's A<sup>1</sup> doing? What are  
14 the kids up to? What are their emotions? What are their  
15 feelings?" Daily stuff that parents talk about.  
16 Q Okay.  
17 A She was concerned that they were settling in under my  
18 care.  
19 Q Okay. Let's go to the -- did you ever -- did there  
20 come a time where there was a dispute over the custody of  
21 the children?  
22 A Yes, there did. I think it was probably after she  
23 came to me and said, "I think the children might be in harm  
24 being at Frank's house."  
25 Q Okay.

1 A And she came to me and said that she had these  
2 suspicions and that she wanted to report them to the police  
3 department.  
4 After she came to me and said -- told me these  
5 things, she went to the police department. Then she --  
6 that was probably -- that was around October.  
7 December comes around, I'm getting hints from her  
8 conversations that she's telling me she's kind of seeing  
9 Frank again, because she's pregnant with his baby and that  
10 they're having a relationship again.  
11 And I said, "You know, if this is going to  
12 happen, our divorce isn't over, and I don't want the kids  
13 anywhere around him, because you've told me that he's a  
14 personal threat to our children, that there's some  
15 inappropriate activity going on here.  
16 "I have to fight for custody at this point.  
17 Before it was, 'Hey, you know, we're going to do our shared  
18 custody, shared parenting.' Now I don't see that you're  
19 making wise decisions at this point."  
20 Q Okay. And tell me, was that like -- was that like a  
21 threat or --  
22 A Oh, yeah. It was, like, "If you're telling me that  
23 -- if you're saying my kids are going to be around him,  
24 then I will come after you with every penny I have to take  
25 you to court to fight for custody of these children."

Q But that was based on what REDACTED was telling --

MR. GREEN: Objection.

THE COURT: Sustained. Ask your next question, please, Miss Eisenhower.

Q What was that decision based on?

A On Danielle telling me that she thought the kids were in jeopardy by being around Frank Wood, especially REDACTED.

MS. EISENHOWER: Nothing further, your Honor.

THE COURT: Thank you.

Sir.

CROSS-EXAMINATION

BY MR. GREEN:

Q Mr. Sadowsky, you said that she wanted to go save this baby when you went to go get REDACTED?

A Yes.

Q That's what Danielle wanted to do?

A Yes. That's what Danielle said, yes.

Q Did you have Alex at that time?

A Well, REDACTED -- we were just going through the birth of Alex at that time.

Q Excuse me?

A We were just going through the birth of REDACTED at that time.

Q Oh, okay. He wasn't born yet --

A Yes.

Q -- she was pregnant with REDACTED?

A Right about to give birth.

Q Okay. And help me out here, because I don't know a whole lot of this history. She's your second cousin;

Denise is the mom?

A Correct.

Q And what is Denise to you?

A Denise is my first cousin.

Q Your first cousin?

A Um-hm.

Q Which would mean she's the child of an uncle or aunt?

A No. Denise is my first cousin. REDACTED is Denise's daughter.

Q No relationship to you?

A Oh, yes. My dad's brother's daughter is Denise.

Q Your dad's brother?

A Yes.

Q Is he still alive?

A Yes.

Q So your uncle is still alive?

A Yes.

Q Your aunt is still alive?

A Yes, she is.

Q Were there other -- did they have other children?

A No. That was their only child.

Q All right. Is maybe that your Aunt Alice?

A Yes, correct.

Q I saw her name mentioned somewhere in the reports.

So that's Grandma --

A Right.

Q -- Alice.

But your parents are only, I guess, greataunts and uncles -- greataunt and uncle?

A No. They're grandma and grandpa to REDACTED.

Q But by lineage --

A Lineage, yeah, they would be greataunt and greatuncle.

Q Greatuncle and greataunt, okay.

How did you find out about REDACTED?

A When she was born, I got a phone call telling me that, "Key, Denise had a baby."

Q Okay.

A And then subsequent, after that, Denise and Alice came to the baby shower for REDACTED when he was born. So that was the first time I met REDACTED.

Q Okay. And didn't Grand -- I'll say "Grandma Alice."

A Okay.

Q Didn't she initially have custody of REDACTED?

A She had some placement of REDACTED at the time, yes.

Q Is she the one that asked you to take her?

A No.

Q No? This was your independent decision?

A That's correct. Well, Danielle's and my decision.

Q All right. During the course of your marriage, while you had REDACTED, did she become a problem in the marriage?

A Yes.

Q She was a focal point of your problems?

A Oh, yeah. To have a five-and-a-half year old and a newborn at the same time is quite challenging.

Q Okay. Did Danielle pay a lot of attention to REDACTED?

A I think she was too busy with the baby a lot of times to pay too much attention to her.

Q As the baby got older, did she still pay more attention to REDACTED than REDACTED?

A As she got older, I think REDACTED demanded more attention, or REDACTED started to be more independent.

Q And I guess REDACTED entered school about the time you got her, or was in school?

A She was in preschool around the time we got her. We had to test her to get her into kindergarten.



1 Q And that was in Connecticut?

2 A That was in Connecticut, yes, sir.

3 Q And how long were you in Connecticut with her?

4 A Not -- probably not even a whole year before we

5 started building our house here.

6 Q And that's when you took the other job?

7 A That's correct.

8 Q Was that move for your job, or was that move because

9 you wanted to get back to Ohio?

10 A I wanted -- she was having a baby, my sister was

11 having a baby, my sister-in-law was having a baby. It

12 seemed like, "Hey, this is what we need to do, is raise the

13 kids together, not, you know, half a world apart".

14 Q How long had you been in Connecticut?

15 A I had been in Connecticut almost five years -- it was

16 four months shy of six years.

17 Q And when you got back here, SREDACTED's

18 eight-years-old and A was three?

19 A [Witness nodding affirmatively.]

20 Q About five years apart?

21 A That's correct.

22 Q Was there any sibling rivalry between the two of

23 them?

24 A No. They seemed to get along pretty well.

25 Q They got along?

1 A [Witness nodding affirmatively.]

2 Q And they -- but was there divided attention between

3 the two of you -- when I say "between the two of you," you

4 and Danielle -- as to which child you're kind of favoring?

5 A At this point?

6 Q Yes.

7 A I don't know that it's favoring, but SREDACTED feels

8 more comfortable staying with me and sleeping in her own

9 bedroom. A can go either way.

10 Q Okay.

11 A So after school SREDACTED will go -- SREDACTED and A

12 go over to Danielle's after school. When I get home,

13 sometimes in the evening she'll drop SREDACTED off at my

14 house or sometimes keep her overnight.

15 THE COURT: Were you asking

16 about currently, today?

17 THE WITNESS: Yes.

18 THE COURT: Stop.

19 Were you asking about currently?

20 MR. GREEN: I was --

21 THE COURT: Were you asking

22 about currently, today?

23 MR. GREEN: No. I was

24 asking --

25 THE COURT: Stop.

1 MR. GREEN: -- back to --

2 THE COURT: Stop.

3 MR. GREEN: Thank you, your

4 Honor.

5 THE COURT: He was asking

6 about another point in time -- and I became confused --

7 about what the sleeping arrangements were, and that's

8 why I stopped you. I apologize.

9 I'm going to have Mr. Green ask you the question

10 again and form a time period for it so you have a

11 better chance to answer, because I think you were

12 answering a question that he didn't ask.

13 THE WITNESS: Okay.

14 THE COURT: Mr. Green, your

15 next question, please.

16 BY MR. GREEN:

17 Q I'm talking about, Mr. Sadowsky, back when SREDACTED

18 was eight- to nine-years-old, and A is, I guess, five --

19 four- to five-years-old.

20 A Okay.

21 Q Or three- to four-years-old. There's a five-year

22 difference.

23 I'm talking about prior to when you find out that

24 Danielle's having an affair with Mr. Wood.

25 A Okay.

1 Q And I'm talking about the relationship that was

2 taking place.

3 You've indicated that SREDACTED was a problem

4 between the two of you.

5 A Yes.

6 Q And she was then, correct?

7 A Correct.

8 Q And did Danielle pay as much attention to SREDACTED at

9 that time as she did A?

10 A I think that she probably paid more attention to A

11 during that time, and she wanted me to take more of a

12 disciplinary role with SREDACTED, kind of like, "Wait until

13 your dad gets home. I don't want to deal with it at this

14 point."

15 Q Did she have an issue that she would present to you,

16 that this is not her biological child, meaning SREDACTED?

17 A Yes.

18 Q And obviously, you didn't have an issue with SREDACTED

19 not being a biological child?

20 A No.

21 Q Okay. Now, when she told you -- when you found out

22 about the affair, do you recall when that was?

23 A Well, the first time that I started getting a sniff

24 of that, and understood what potentially probably was going

25 on here, was in October 2003.

1 Q Is that when she first met Mr. Wood?

2 A Probably shortly before that, when he was working on

3 the house.

4 Q You got an understanding -- you lost me here.

5 A Okay.

6 Q Help me out. I'm asking, you found out -- you had an

7 idea about Mr. Wood or someone else in October of 2003?

8 A That was Mr. Wood.

9 Q It was Mr. Wood.

10 A (Witness nodding affirmatively.)

11 Q And he came over there because he was doing warranty

12 work?

13 A For the builder that built my house.

14 Q Did you make those arrangements or did the builder?

15 A The builder did.

16 Q Okay. When he came to the house initially, did he

17 meet with you?

18 A No. He met with my wife.

19 Q He met with your wife?

20 A (Witness nodding affirmatively.)

21 Q Because it was daytime and you were at work or

22 something?

23 A Yeah. Danielle, at that time, was saying, "I know

24 that you're really stressed out with the new job and what's

25 going on with work." The economy was kind of bad in our

1 industry. She said, "You know, let me take something off

2 of your plate."

3 At the time I was extremely stressed out. I

4 said, "Yeah. There's a leaky window here. Can you handle

5 this with the builder?"

6 Q Mr. Wood is the one you called?

7 A She called the builder and he said, "Okay, we'll take

8 care of it."

9 Q What created your suspicion in October 2003 that

10 something was going on?

11 A A church had called me and said, "It was nice to see

12 you and your wife in church today."

13 And I said, "Wait a minute. I didn't go to

14 church with my wife today."

15 So that was my --

16 Q Why did you think it was Mr. Wood?

17 A Because she told me.

18 Q I mean in October.

19 A Yes.

20 Q She told you that in October?

21 A Hm-hm.

22 Q That she went to church with him on Sunday?

23 A Yes, that's correct.

24 Q Okay. Weren't you generally home on Sundays?

25 A Yeah. I was with the kids.

1 Q Was she working at the time?

2 A Yes. She was working part-time for a property

3 management company.

4 Q This is October of 2003?

5 A Hm-hm.

6 Q She didn't have two jobs back then?

7 A I don't remember her having two jobs.

8 Q She didn't work two different sites maybe?

9 A Yes, possibly. There's many properties that that

10 company owned.

11 Q And so you were aware in 2003, in October, that

12 something maybe was going on with Mr. Wood?

13 A Hm-hm.

14 Q Did you two talk?

15 A Danielle and I? Or Mr. Wood and I?

16 Q You and Danielle.

17 A Yes.

18 Q And her explanation was what at that time?

19 A "I have to tell you I'm having feelings for him. I

20 don't know what we're doing. I don't know what's going on

21 with me. Please help me. I just -- I've got to tell you

22 this is what's going on."

23 Q Did she tell you she was intimate with him?

24 A No.

25 Q But this isn't when you say you were so hurt. That

1 was later on, correct?

2 A No. At that moment I just fell right off the edge of

3 the bed.

4 Q Is this when you talked to her about going to see the

5 counselor?

6 A No. That's when I said, "Okay, let's get some

7 self-help books and workbooks. Let's figure this out, why

8 you're having these feelings, what's going on, what's

9 happening."

10 Q So you were doing that --

11 A Hm-hm.

12 Q -- at the time.

13 And when you're going through this, I guess you

14 two are working together on this?

15 A Danielle and I, yes.

16 Q Okay. And did you tell her not to see him anymore at

17 that point?

18 A Yes.

19 Q That's in October 2003?

20 A Yes.

21 Q Was she seeing him; do you know?

22 A It's hard to tell. Because she said she was seeing

23 him versus she was denying that she was seeing him, she

24 said she wasn't going to see him again, and it was just a

25 big -- it was hard for me to understand when she was

1 telling me the truth and when she wasn't telling me the  
2 truth at the time in regards to that relationship.

3 Q That was a problem in your marriage, about whether  
4 she was truthful with you?

5 A No, not until this time. At this point it was, but  
6 up until October, no. I never had any reason to doubt  
7 her.

8 Q But it obviously continued for a considerable period  
9 of time where she wasn't truthful with you?

10 A That's correct.

11 Q You treated her well financially, right?

12 A I think so.

13 Q Okay. You met her needs financially?

14 A [Witness nodding affirmatively.]

15 Q She never complained?

16 A No, never complained.

17 Q The issue with SPENDING being a problem for you two,  
18 did it remain the same from October 2003 forward into 2004,  
19 or did it increase?

20 A I'd say the focus of the children kind of decreased,  
21 because the focus now was on saving our marriage.

22 Q So SPENDING was not an issue for you in trying to  
23 save the marriage?

24 A No. Well, when I -- let me rephrase that. When I  
25 asked her, "What makes you want to go to be with somebody

1 else? What's wrong with what we have here in the house,"  
2 she would say, you know, "There are certain things in my  
3 life that I resent you for, and one of those things is what  
4 I felt like after I said, 'Let's go save that baby.' You  
5 put a bunch of wheels in motion to go save SPENDING, and I  
6 don't think you consulted me, so I had some resentment  
7 towards that."

8 Then she mentioned several other things that she  
9 thought about in our marriage that she was resentful of.  
10 One of the other being my family's involvement in our  
11 lives, and that Grandma Alice was too involved in our life,  
12 and she didn't want her, because she didn't feel Grandma  
13 Alice gave us a proper chance to jell as a newly -- a  
14 family with SPENDING, there was too much intervention on  
15 her part.

16 Q She was making these complaints when you had been  
17 married what, nine, ten years --

18 A Correct.

19 Q -- at this point?

20 A Hm-hm.

21 And then, "Why are you with -- why do you find  
22 interest in this -- our marriage?" These are the reasons  
23 why she brings them up again.

24 Q Did that make you angry?

25 A No. Hurt.

1 Q Hurt.

2 Did you seek counseling?

3 A Yes, I did.

4 Q What type of counseling?

5 A Well, at the church group, and then also with a  
6 psychologist.

7 Q And did you involve the children in counseling?

8 A They would come with us, but there was a special  
9 group for the kids to go play off to the side while we did  
10 the counseling.

11 Q So they weren't involved in that?

12 A No.

13 Q That was for -- both of you went to counseling?

14 A Yes.

15 Q And do you recall when you did that? It started in  
16 2003, didn't it?

17 A Well, yeah. But by this time it was probably more  
18 around January, after that.

19 THE COURT: January of  
20 2004, sir?

21 THE WITNESS: Correct.

22 THE COURT: Thank you.

23 Sir.

24 MR. GREEN: Okay.

25 Q How long did that counseling last?

1 A My counseling with the Ph.D., the doctor, that was  
2 just for one visit for two hours. And then with the  
3 Sterling Group, that was -- boy. I think we would do that  
4 like a Friday and, also, a Sunday with them probably for  
5 three or four weeks.

6 Q Both of you?

7 A Danielle and I both going twice a week, yeah.

8 Q Sterling Group, you have to help me with that. I  
9 don't know what that is.

10 A That's the Christian counseling group that we would  
11 go see.

12 Q Was that from your church?

13 A No. It was just from someone that I knew from work,  
14 who recommended it.

15 Q But the children were not included in the counseling?

16 A No, they were not.

17 Q Just perhaps they were there in a play area or  
18 whatever?

19 A Right. Exactly right.

20 Q Okay. Did you have occasion to send SPENDING for  
21 counseling?

22 A Yes.

23 Q When was that?

24 A Oh, since we got SPENDING, she's always been in some  
25 sort of counseling, so to say that she was in any

particular one counseling at any particular time is kind of hard for me to say. Because of the circumstances of where she came from, her household, and the transference with us and Children's Services, the placement agency, there has always been some sort of counseling since I've known her.

Q And in 2003, was she in counseling; do you recall?

A She may have well been.

Q In 2004, was she in counseling?

A I'm sure she'd seen some counselors during that time.

Q Okay. In October of 2004, did you find out about an incident between your wife and Mr. Wood?

A October 2004? Yeah. That's when she came to my house and said that she thought the kids were in danger.

Q Did she explain to you why they were in danger?

A She said she saw Frank come out of SREDACTED's bedroom in the early morning time period and it scared her. He didn't really have an explanation for it. She thought the kids were in danger; he had no business being in there in his underwear. And she came to my door and said, "I don't know what to do."

She called my aunt Terry, and her and my aunt Terry went to the police department. The kids stayed there with me. And I had said, "This is unbelievable. I can't believe this is happening."

And she says, "I don't know what to do."

And I said, "Well, you can stay here for three weeks until you find a place, then you need to get out on your own."

Q You gave her a term of three weeks?

A Hm-hm. I think I gave her a term of thirty days.

Q Thirty days?

A Yeah. I think it was three weeks before she found a place to live, some transitional period of time to get situated there.

Q Was part of that arrangement that the children would stay with you?

A The children would stay with me at my house, yes.

Q How about after the thirty days?

A No. Then they could go live at her new place.

Q Stay with her all the time?

A When they wanted to, when it was convenient for us and our schedules.

Q Now, when you heard about what she described to you, did you take any actions yourself on behalf of SREDACTED?

A No, I did not.

Q You didn't send SREDACTED for counseling at any time after this?

A Well, at that -- I think she might have been seeing someone at the -- what's the name of the group?

Q Perhaps Cornerstone?

A Thank you very much. Cornerstone, yes.

I think she was seeking counseling at Cornerstone.

Q Okay. Was there a report of possible sex abuse in 2004?

A In regards to SREDACTED?

MS. EISENHOWER: Objection, your Honor.

THE COURT: We're going to take a little break here. Actually we're about eight minutes over. Boy, I'm glad that came up. So you guys can take your break. We'll see you in ten minutes.

Don't discuss the case among yourselves or begin to form or express an opinion about the matter. We'll see you in about ten or fifteen minutes. Until then we're at recess.

Thanks, folks.

(Whereupon, the Jury exited the courtroom, and the further following proceedings were then held in the presence of the Court, Counsel, and the Defendant.)

THE COURT: I need you back here in about five minutes; I'll see you at five

minutes to 11:00.

MS. EISENHOWER: Your Honor --

THE COURT: Five minutes,

Miss Eisenhower.

MS. EISENHOWER: I was

objecting.

THE COURT: Yes, I know.

All right, Miss Eisenhower, your objection is what?

MS. EISENHOWER: I'm renewing

the same objection I had when he attempted to get in the evidence of the allegation with SREDACTED from the prior witness.

THE COURT: Sir?

MR. GREEN: I'm just asking

if she had any counseling based upon the information that they had.

THE COURT: All right. I'm going to sustain the objection. I'll see you guys in ten minutes.

(Recess taken.)

THE COURT: We're back on

the record in Case Number 05 CR 0365, that's State of Ohio versus Frank Wood.

You remember where we are? This is the third stage of the trial; we're in the midst of the

1 presentation of the State's witnesses, we're on the  
2 cross-examination of Mr. Sadowsky. I broke that up  
3 for our break, and now we're going to have Mr. Green  
4 continue that cross-examination.

5 Sir, you may continue.

6 MR. GREEN: Thank you, your  
7 Honor.

8 THE COURT: You bat.

9 BY MR. GREEN:

10 Q Mr. Sadowsky, I want to go back to one point you  
11 made. You said that Danielle came over to see you in  
12 October. Do you recall the date that she came to see you?  
13 It was about the concerns of the children.

14 A When she showed up at my door, she said, "Hey, I've  
15 got concerns about the kids. I think that the kids are in  
16 trouble."

17 THE COURT: When?

18 THE WITNESS: I think October

19 19th, 20th, something like that.

20 Q Do you remember the time of the day?

21 A Probably around 8:00 a.m., before I left for work.

22 Q Okay. So it was in the morning?

23 A Yes.

24 Q And you're getting ready to go to work. What time do  
25 you go to work?

1 A Well, sometimes I leave from my house and go right to  
2 see my clients, or sometimes I go to the office, so it  
3 varies every day.

4 Q She had --

5 A Sometimes I'm out of the house before 7:30, sometimes  
6 about 9:00.

7 Q She didn't -- she just showed up at the house?

8 A No. She called and said, "I got -- I've got some  
9 scary news. I think I'm in trouble."

10 And I said, "As I told you, any problems with the  
11 kids or you're in trouble, just show up at my door, no  
12 questions asked. We'll figure it out."

13 Q When did she call you?

14 A She called me that morning.

15 Q That morning?

16 A [Witness nodding affirmatively.]

17 Q So she just -- all you knew is she was in trouble at  
18 this point?

19 A Yeah.

20 Q You didn't know the circumstances --

21 A No idea, no.

22 Q -- of what it was?

23 So she meets you at the house that morning?

24 A Yes.

25 Q And you say, "Come on in. We'll take care of it."

1 The kids can stay. We'll solve this."

2 A I said, "What happened? What's going on?"

3 Q Okay. And what did you understand happened?

4 A She told me that she had seen Frank come out of  
5 ~~SEEN~~'s bedroom in the early morning hours in his  
6 underwear and thought that was highly unusual.

7 Q Did you find that -- do you believe that to be  
8 suspicious conduct?

9 A Yeah, absolutely.

10 Q Did you talk to ~~SPENACHTER~~ about it?

11 A I said, "~~SPENACHTER~~, are you okay? What happened?"

12 She says, "I don't know. I was sleeping."

13 Q So she didn't know anything was wrong?

14 A No.

15 Q Did you talk to A[redacted]?

16 A Yes.

17 Q What did he say?

18 A "I don't know. I was sleeping, Dad."

19 Q Did Danielle tell you that she and Frank had had a  
20 fight the night before?

21 MS. EISENHOWER: Objection, your  
22 Honor.

23 THE COURT: And the basis  
24 of the objection?

25 MS. EISENHOWER: Hearsay.

1 THE COURT: Sustained.

2 Your next question, please.

3 MR. GREEN: I'm sorry, your  
4 Honor?

5 THE COURT: She objected,

6 I asked the basis of the objection, she said

7 "hearsay," I sustained the objection and said you can  
8 ask your next question.

9 MR. GREEN: Judge, I didn't  
10 ask what she said. I just asked if she --

11 THE COURT: Oh, we're going  
12 to fight about it.

13 Ladies and Gentlemen, don't discuss the case  
14 among yourselves. Don't begin to form or express an  
15 opinion about the matter until you hear all the  
16 evidence, you get your instructions of law, and you  
17 begin your deliberations.

18 [Whereupon, the Jury exited the courtroom, and  
19 the further following proceedings were then held in  
20 the presence of the Court, Counsel, and the  
21 Defendant.]

22 THE COURT: I'm not having  
23 the best day today, folks.

24 MR. GREEN: I understand.  
25 your Honor.

THE COURT: Here's how it goes. I don't need you talking, Mr. Green. Have a seat.

You may not like my ruling, you may think that I'm just crazy about ruling in the way that I ruled. You can note it as an exception and you can appeal. You can do anything in the whole world you want, but what you can't do is engage in a colloquy with me after I've made a ruling on an objection. See as it is, I'm the one that's got to do this thing, and I did it. And I need you, when I make the ruling, if you don't understand the ruling, that to say you haven't heard what I've said - that's fair game. That's why I repeated, "Oh, I'm sorry, sir. I sustained the objection. Please move on."

What I don't need from you, and now I'm instructing you not to, is engage in a discussion with me about why I did it, why I shouldn't have done it, and what I should have done instead, and what your answer was.

Now, here's when I need from you. A simple explanation, either yes or no that you understand the direction I'm giving you at this time, sir. "Yes, I do; no, I don't."

MR. GREEN: Yes, I do.

THE COURT: Good. Thank you. That's what I need, sir. There is going to be no more of this, is there, sir?

MR. GREEN: Yes.

THE COURT: Thank you, sir.

(Whereupon, the further following proceedings were then held in the presence of the Court, the Jurors, Counsel, and the Defendant.)

THE COURT: Thanks, folks. Come on in and be seated.

I just needed to get something straight. I think I understand it a little better now. We're going to continue on.

Mr. Green, sir, you can continue your examination.

MR. GREEN: Thank you, your Honor.

THE COURT: You bet, sir.

BY MR. GREEN:

Q When the children returned to your home in October, late October I guess, 2004 --

A Hm-hm.

Q -- you now have the family all back together again, at least for a few weeks, right?

A The family?

Q Well, you've got your wife.

A We're -- at that point we're going through a divorce. She's living with this other guy. There's --

Q Okay. My point is, you're all together --

A Well --

Q -- in the house.

A -- it was hard for me to stay in the same house with Danielle. At that point we had already called it quits and she was already with another man, everything was already clear we were going to separate with a divorce.

I was already dating at this time, okay? It wasn't, "Oh, boy, we're all back together again." Sometimes I had to sleep in my mom's basement because I didn't want to stay in that house every single day.

Q This was a circumstance that you were all back --

A Okay.

Q -- just living all in the household together?

A Sometimes, yes.

Q You were with the children more time than usual at this point because they were there every day?

A Yes.

Q Okay.

A If I was at this house. Like I said, sometimes I spent the night at my mom's house or my dad's house. I didn't want to be there every single day.

Q All right. Thank you.

Did you have an opportunity to be one-on-one with the children?

A Yes.

Q Okay. And did you have an opportunity to talk to them any further about what happened that morning at Frank's house?

A Hm-hm.

Q And did you get any more information from them?

A Same. Just, "Gee, Dad, I don't know. I was sleeping."

Q Did you sense that they were being truthful with you?

A Yes.

Q When did you first learn that SHREQUAN made a complaint about Frank?

A It was probably sometime after that New Year's.

Q After New Year's?

A Hm-hm.

Q And how did you learn about this complaint?

A I got a phone call from Danielle.

Q A phone call from Danielle?

A Hm-hm. I was -- I was at work. She called me and said, "I've got some unbelievable news. SHREQUAN's come forward and told me everything that's happened."

And I said, "Well, what happened?"

She said, "The worst possible thing that could have happened." She said the police department was coming and the Children's Services was coming over to meet her at her apartment, because she was in her apartment at that time.

So we all ran over there. They started interviewing her and SHERMAN, and then M and I went upstairs so I could entertain him.

Q Did SHERMAN talk to you about it at that time?

A No.

Q Has she talked to you about it since?

A She has just said that it happened. And I've not probed her about any details or asked her any questions about it. I can't stomach it.

Q Did you participate in any other tests regarding SHERMAN?

A Yes. We took her to Akron Children's Hospital.

Q Do you remember when that was?

A Shortly after the interview with McCourt and Carchedi at Children's Services.

Q Did you participate in any of those interviews?

A No. With McCourt and Carchedi?

Q At Akron Children's Hospital.

A There was no interview with me at the -- we just

waited in the room while they examined her and brought her back out.

Q How about you with McCourt and Carchedi?

A No. Just when they first came there, they sat her down and asked her a couple of questions. I went upstairs with A, and that was it.

Q Do you know Robyn Spencer?

A No, I do not.

Q Do you know Robyn Spencer?

A No, I do not.

MR. GREEN: That's all the questions I have, your Honor.

THE COURT: Thank you.

Ma'am, redirect examination?

REDIRECT-EXAMINATION

BY MS. EISENHOWER:

Q When you and Danielle were married, did you -- what was your habit for walking around the house as far as how you were dressed?

A While we were married, typically my underwear, my boxers.

Q Did you ever walk around in just a towel?

A No, never.

Q Did you ever suggest to SHERMAN that she should make these allegations up?

A No, I did not.

MS. EISENHOWER: Nothing further, your Honor.

THE COURT: Thank you.

Mr. Green.

MR. GREEN: No questions, your Honor.

THE COURT: You're free to go. You can step down. Thank you, Mr. Sadowsky.

Miss Eisenhower, call your next witness, please.

MS. EISENHOWER: The State of Ohio would call SHERMAN.

THE COURT: How old is this child?

MS. EISENHOWER: She's eleven now, your Honor.

THE COURT: All right. Thank you.

Come on up.

THE BAILIFF: Stop right there because I need to swear you in, okay?

MS. EISENHOWER: (Nodding affirmatively.)

THE BAILIFF: Can you raise

your right hand.

MS. EISENHOWER: (Complying.)

THE BAILIFF: Do you swear to tell the truth, the whole truth, and nothing but the truth so help you God?

MS. EISENHOWER: Yes.

THE BAILIFF: Very good.

Have a seat right here.

THE COURT: Let me fix the microphone and get you comfortable.

Are you up close enough to that? Can you move up a little? Does it move?

MS. EISENHOWER: (Complying.)

THE COURT: This is the microphone, so you talk into there and then you don't have to shout real loud, so we can hear you. Okay?

MS. EISENHOWER: Okay.

THE COURT: Can you just say "okay" in there? I'll see if that fits you. Can you say "okay"?

MS. EISENHOWER: Okay.

THE COURT: That's great.

Hi. My name is Chris Collier. What's your name?

1 MS. [REDACTED]: [REDACTED]  
 2 THE COURT: Do you know how  
 3 to spell that?  
 4 MS. [REDACTED]: S-I [REDACTED]  
 5 THE COURT: Perfect. What  
 6 is your last name?  
 7 MS. [REDACTED]: [REDACTED]  
 8 THE COURT: Miss [REDACTED] -  
 9 I'm going to call you "Miss [REDACTED]," okay?  
 10 MS. [REDACTED]: (Nodding  
 11 affirmatively.)  
 12 THE COURT: What's going to  
 13 happen is, Miss Eisenhower is going to have some  
 14 questions for you, and when she's done, Mr. Green  
 15 over there is going to have some questions for you as  
 16 well. Okay?  
 17 MS. [REDACTED]: Okay.  
 18 THE COURT: What's really  
 19 important is, the lady with the cup in her hand, I  
 20 don't know if you can see her, she's got to be able  
 21 to hear you. So keep an eye on her and make sure  
 22 she's not waving at you. Fair enough?  
 23 MS. [REDACTED]: Okay.  
 24 THE COURT: Good.  
 25 Miss Eisenhower, you may proceed.

1 DIRECT-EXAMINATION  
 2 BY MS. EISENHOWER:  
 3 Q [REDACTED], spell your last name for me.  
 4 A I-I [REDACTED].  
 5 Q And how old are you?  
 6 A Eleven.  
 7 Q Remember, you can lean up a little bit if you want  
 8 to.  
 9 A Okay.  
 10 Q When is your birthday?  
 11 A [REDACTED].  
 12 Q Okay. So you just turned eleven in October, right?  
 13 A (Witness nodding affirmatively.)  
 14 Q What grade are you in?  
 15 A Fifth.  
 16 Q All right. What school do you go to?  
 17 A I go to H.G. Blake.  
 18 Q Okay. What's your favorite subject?  
 19 A Art.  
 20 Q You like to draw?  
 21 A Yes.  
 22 Q And who's your favorite teacher?  
 23 A Miss Mitchell.  
 24 Q Miss Mitchell. Does she teach art or something else?  
 25 A No. She teaches fifth grade for me, but she has

1 cancer right now.  
 2 Q Who lives in your house with you?  
 3 A My mom, my dad, my brother, and me.  
 4 Q Who is your dad?  
 5 A Scott Sadowsky.  
 6 Q Who is your mom?  
 7 A Danielle Sadowsky.  
 8 Q And they don't live together anymore, huh?  
 9 A No, they do not live together.  
 10 Q Okay. And do you spend time with your mom?  
 11 A Yes.  
 12 Q And you spend some time with your dad?  
 13 A Yes.  
 14 Q All right. Now, I want to go back to not last year,  
 15 but the year before, 2004. That's the year you turned ten,  
 16 right?  
 17 A (Witness nodding affirmatively.)  
 18 Q Okay. Do you remember a time when your mom and dad  
 19 split up?  
 20 A Yes.  
 21 Q Okay. Do you remember when that was?  
 22 A No. I just remember the time that they split up. I  
 23 don't remember why.  
 24 Q What happened when they split up? Did you move?  
 25 A Yes.

1 Q Okay. Where did you go live?  
 2 A I lived with Frank Wood.  
 3 Q Okay. In his house?  
 4 A Yes.  
 5 Q Okay. And who all lived there with you?  
 6 A My mom, Frank, me, and my brother.  
 7 Q All right. Anybody else?  
 8 A No.  
 9 Q [REDACTED] lived there --  
 10 A Yeah.  
 11 Q -- sometimes?  
 12 A He -- he lived there all the time.  
 13 Q Okay. Did you stay at Frank Wood's house all the  
 14 time?  
 15 A No.  
 16 Q Where else would you live?  
 17 A At my dad's.  
 18 Q Okay. Now, did you go to school when you stayed at  
 19 Frank Wood's house?  
 20 A Yes.  
 21 Q Did you stay there mostly with your mom?  
 22 A Yeah.  
 23 Q Okay. Did there come a time where you heard a real  
 24 loud argument --  
 25 A Yes.



1 Q -- between your mom and Frank Wood?

2 A Yeah.

3 Q Okay. Do you remember -- can you tell me what you

4 remember about that?

5 A I remember they were yelling at each other.

6 Q And do you remember what time of day or night it

7 was?

8 A It was during the day.

9 Q Okay. And can you tell me now, did there come a time

10 or was there ever a time -- do you know what good

11 touches/bad touches are?

12 A Yes.

13 Q Okay. You talk about that at school?

14 A Yes.

15 Q Was there a time where Frank Wood touched you?

16 A Yes.

17 Q Okay. Can you tell for me -- tell me now what Frank

18 Wood did when he touched you?

19 A He got on top of me.

20 Q Okay. Where were you?

21 A In bed.

22 Q And where was that? In your room?

23 A Yes.

24 Q Okay. And was this in the daytime or the nighttime?

25 A Night.

1 Q Okay. Now, when you say he got on top of you, what

2 was he wearing?

3 A Sometimes he wore his jeans and work shirt, but

4 sometimes he just wore his underwear.

5 Q Okay. Did this happen more than once?

6 A Yes.

7 Q All right. When he got on top of you, did he do

8 anything?

9 A Yes. He touched me.

10 Q All right. Now, where on your body did he touch you?

11 A On my private.

12 Q When you say your "private," tell me what you mean by

13 that.

14 A One and two.

15 Q All right. Private Number One is where?

16 A Front.

17 Q The front. Do you have a word for it?

18 A No.

19 Q Another word for it?

20 A No.

21 Q Okay. The front area between your legs?

22 A Yes.

23 Q Okay. And Private Number Two --

24 A Yes.

25 Q -- is where?

1 A At my bottom.

2 Q Is that the back area between your legs?

3 A Yes.

4 Q Like your butt?

5 A Yeah.

6 Q Okay. All right. Remember to speak up, okay?

7 Now, when he touched your private, what did he

8 touch it with?

9 A His hand or sometimes his private.

10 Q Okay. His hand or his private is what you said?

11 A (Witness nodding affirmatively.)

12 Q And when you say "his private," what do you mean?

13 A Number one.

14 Q Okay. On a boy?

15 A Yeah.

16 Q Okay. Do you have a word for that?

17 A No.

18 Q Okay. Now, did he touch you anywhere else?

19 A Yeah. My chest.

20 Q Okay. Where at on your chest?

21 A I don't know how to explain that.

22 Q Can you point to it?

23 A Right here (indicating).

24 Q Okay. All right.

25 MS. EISENHOWER: Let the record

1 reflect she's touched the front of her chest.

2 THE COURT: So noted for

3 the record.

4 Q Describe for me when he touched your private between

5 your legs, Number One Private, with either his hands or his

6 private, what happened? How did it make you feel?

7 A It made me feel uncomfortable.

8 Q Okay. Physically, did it hurt?

9 A Yeah.

10 Q It did?

11 A Yeah.

12 Q Okay. Did he put either his hands or his private

13 inside your private?

14 A Yes.

15 MR. GREEN: Objection.

16 THE COURT: Overruled. Go

17 ahead.

18 Q Now, did that happen every time?

19 A Yes.

20 Q Okay. Now, can you describe for me what else

21 happened when he got on top of you and did that?

22 A He moved back and forth.

23 Q Okay. When you say "back and forth," what do you

24 mean?

25 A This way (demonstrating).

1 Q Hold your hands up --  
 2 A Like this [demonstrating].  
 3 Q -- so they can see.  
 4 A Like this [indicating].  
 5 Q Did he make any noise?  
 6 A No.  
 7 Q Okay. Did he say anything?  
 8 A Yes. A couple times he said, "Don't tell anyone."  
 9 Q Okay. Now, when did that happen? When did that  
 10 start happening?  
 11 A As soon as I got my own bed.  
 12 Q Okay. In Frank Wood's house?  
 13 A Yes.  
 14 Q And let's talk about some specific times you  
 15 remember, okay?  
 16 A [Witness nodding affirmatively.]  
 17 Q Do you remember the last time it happened?  
 18 A Yeah.  
 19 Q When?  
 20 A As soon as he got out, mom started yelling at him and  
 21 they argued.  
 22 Q "As soon as he got out," what do you mean?  
 23 A Like, as soon as he was out of my bedroom, I heard  
 24 Mom say, "What were you doing?" And I couldn't hear  
 25 anything else.

1 Q Okay. Was she saying it? Were they just talking?  
 2 Or were they -- what?  
 3 A They were trying to keep it a little bit quiet.  
 4 Q All right. Now, do you remember a time that it  
 5 happened right before your birthday?  
 6 A Yes.  
 7 Q Okay. A couple days before your birthday?  
 8 A Yes.  
 9 Q Okay. Tell me what happened that time.  
 10 A He did the same thing as he always did.  
 11 Q Which is what?  
 12 A He put his private into my private, and it really  
 13 hurt, and he got on top of me.  
 14 Q Okay. And when you say "it really hurt," where did  
 15 it hurt?  
 16 A In my private.  
 17 Q Okay. Did you notice anything else?  
 18 A Yeah. My bed was a little bit wet.  
 19 Q Your bed was a little bit wet?  
 20 A Yeah.  
 21 Q Okay.  
 22 A The sheet part.  
 23 Q Okay. That was from you?  
 24 A No.  
 25 Q Okay.

1 A It wasn't.  
 2 Q Do you remember after that incident when your mom was  
 3 yelling, did she ask you about it?  
 4 A Yeah.  
 5 Q Okay. What did you tell her?  
 6 A I didn't say anything.  
 7 Q How come?  
 8 A I was too nervous and scared.  
 9 Q Okay. What were you nervous and scared about?  
 10 A I -- well, Frank had told me not to tell anybody, so  
 11 I didn't.  
 12 Q Okay. What did you think was going to happen if you  
 13 told somebody?  
 14 A I didn't know.  
 15 Q Okay. Did there -- later on, did there come a time  
 16 where you did tell somebody?  
 17 A Yeah.  
 18 Q And --  
 19 A I told him -- I told my mom exactly what he did, and  
 20 the police came the next day and asked me questions.  
 21 Q Okay. Now, SPECA'IFY, what made you tell your mom  
 22 that day?  
 23 A I -- it was like she kept on begging me and I  
 24 couldn't hold it in any longer.  
 25 Q You couldn't hold it in any longer, okay.

1 You go to Dr. LeSure now, right?  
 2 A Yes.  
 3 Q And do you remember going to Akron Children's  
 4 Hospital?  
 5 A Yes.  
 6 Q Okay. And do you remember telling them what  
 7 happened, too?  
 8 A Yes.  
 9 Q Okay. SUBTRACTED, are you making this up?  
 10 A No.  
 11 Q Okay. Did Frank Wood put his hand in your private,  
 12 inside your private?  
 13 A No. He only put his private inside of my private.  
 14 Q His private inside of your private?  
 15 A [Witness nodding affirmatively.]  
 16 Q Did he ever put his private inside your mouth?  
 17 A No.  
 18 Q Okay. And that incident that occurred a couple days  
 19 before your tenth birthday, did he put his private inside  
 20 your private?  
 21 A Yes.  
 22 MS. EISENHOWER: One minute,  
 23 your Honor.  
 24 Q SUBTRACTED, Frank Wood, the person who put his private  
 25 inside your private, is he in the courtroom today?

1 A Yes.

2 Q Okay. Can you point him out and describe what he's

3 wearing?

4 A He -- yeah. He's over there and he's wearing a black

5 -- a black suit.

6 THE COURT: The record will

7 note the in-court identification of the Defendant for

8 the record.

9 MS. EISENHOWER: Thank you, your

10 Honor.

11 Q ~~REDACTED~~, I'm going to try and narrow this down a

12 little bit. When you say "his private," there is a

13 difference between girls' privates and boys' privates.

14 A Yes.

15 Q And can you describe the boys' private?

16 A No, not exactly.

17 Q Okay. Can you -- do you remember doing a diagram

18 when you were at the hospital?

19 A No, I do not.

20 Q Okay. You don't recall doing that?

21 A I don't.

22 Q Okay. But are you sure that Frank Wood put something

23 inside your private?

24 A Yes.

25 Q Okay.

1 MS. EISENHOWER: I have nothing

2 further, your Honor.

3 THE COURT: Thank you.

4 Mr. Green, sir.

5 CROSS-EXAMINATION

6 BY MR. GREEN:

7 Q ~~REDACTED~~, you're off from school today, right?

8 A Yes.

9 Q That part's good.

10 A Yeah.

11 Q Okay. Do you remember when you first met Frank Wood?

12 A Yes.

13 Q Can you describe what took place?

14 A Yeah. We met at a -- my mom, my brother, me, and

15 Frank all met at this -- at Denny's, I think it was, and he

16 got us lunch.

17 Q Got you lunch. Did you think he was a pretty good

18 guy then?

19 A It was nice of him.

20 Q Hm-hm. Did your mom explain who he was?

21 A Yeah.

22 Q Who did she say he was, other than "Frank Wood"?

23 A He was -- he was the person that we would be probably

24 around a lot.

25 Q Did she say he could become your dad?

1 A No.

2 Q Did you understand they might get married?

3 A Yes.

4 Q Okay. Then he would become your dad, wouldn't

5 he?

6 A Well, stepped.

7 Q Yeah. But anyway, you got to know him for a period

8 of time, right?

9 A Yes.

10 Q He always treated you well, didn't he?

11 A Yeah.

12 Q And then you moved into his home?

13 A Yeah.

14 Q For part of the week?

15 A Yeah.

16 Q During the school days, right --

17 A Yep.

18 Q -- you'd be there.

19 And he'd help you out with your homework?

20 A Yeah.

21 Q Treated you pretty good that way?

22 A Yeah.

23 Q Tried to give you attention?

24 A Yeah.

25 Q Okay. Did he give ~~REDACTED~~ attention, too?

1 A Not as much.

2 Q Not as much, okay. He paid attention to you.

3 And your mom was giving ~~REDACTED~~ attention, right?

4 A Yeah.

5 Q Did you think he was your friend?

6 A Yeah.

7 Q Okay. Now, Ms. Eisenhower talked with you about good

8 touch/bad touch.

9 A Yeah.

10 Q You knew about that sometime before?

11 A Yeah.

12 Q You got that in school?

13 A I learned it in school, in health class.

14 Q Right. Did you learn that in first grade, second

15 grade?

16 A Fifth grade.

17 Q Fifth grade. Just this year?

18 A Yeah.

19 Q Not before?

20 A I think I may have learned it in first or

21 kindergarten.

22 Q First, yeah. Okay.

23 When -- what you've just described to us that

24 took place with Mr. Wood, what time of day would that be?

25 A At night.

1 Q Okay.

2 A Like maybe sometimes in the morning.

3 Q Would it be late at night?

4 A No.

5 Q It could be early in the evening?

6 A It could be, sometimes.

7 Q Okay. Where was your mom when this was going on?

8 A She was in bed.

9 Q Okay. And this happened in your bedroom?

10 A Yes.

11 Q Is that right across the hall from where your mom was sleeping --

12 A Yeah.

13 Q -- where she'd stay?

14 A All right. Is it pretty close?

15 A Yeah.

16 Q Your door was open?

17 A Yeah.

18 Q Okay. And her door was open, too?

19 A Sometimes it's closed.

20 Q Sometimes it's closed?

21 A (Witness nodding affirmatively.)

22 Q Okay. When this would happen, did you actually see Mr. Wood?

23 A Yeah. Because sometimes I had my eyes open a little

1 bit.

2 Q You had them open a little bit?

3 A Yeah.

4 Q Okay. When you say that you saw his Private Number One --

5 A I didn't see that but --

6 Q So you never saw it?

7 A I just saw his face.

8 Q You saw his face.

9 A And this happened, I guess, a couple of years ago almost, right?

10 A Yeah.

11 Q And you're now eleven?

12 A Yeah.

13 Q And you were nine and ten when this was going on?

14 A Yeah.

15 Q Have you grown since then?

16 A Yeah.

17 Q That's good. I wish I grew since then.

18 A But have you grown a lot since then? Try to understand that.

19 A Yeah.

20 Q Okay. Were you ever asleep when this happened?

21 A No.

22 Q No? But most of the time you kept your eyes closed?

1 A Yeah.

2 Q He just would come in?

3 A Yeah.

4 Q Okay. ~~SHAMAZING~~, I hate to bring up about your mom, your real mom, your biological mom. Did you have a dream about her once?

5 A Yeah.

6 Q What can you tell us about that dream?

7 A It was when -- it was a dream about how she -- it was like an animated dream about her death, when she died. It was like where soap had killed her. It was scary for me.

8 Q Okay. Did she come out of the woods? Is that where she was or something? Now did she appear to you?

9 A She was actually in a barber shop.

10 Q A barber shop, okay. And what happened there?

11 MS. EISENHOWER: Your Honor,

12 objection at this point.

13 THE COURT: Go ahead, you can answer. That's okay.

14 A She -- they were washing her hair and the soap had killed her.

15 Q The what?

16 A Soap.

17 THE COURT: Soap,

1 s-o-a-p.

2 Q I'm sorry, I couldn't hear you.

3 Okay. Did anybody else die in that picture?

4 A No.

5 Q How long did this dream last?

6 A About -- I don't know.

7 Q Okay. Was that very frightening to you?

8 A Yeah.

9 Q Okay. And who did you tell about this dream?

10 A I told my mom and the counselor.

11 Q Okay. Did you tell Frank Wood about it?

12 A No.

13 Q You don't think so?

14 A I don't think I did.

15 Q Okay. Do you recall when you had that dream?

16 A I was at my dad's house, that's all I remember.

17 Q Hm-hm. Now, your mom's had another baby, right?

18 A Yes.

19 Q ~~QUESTIONS~~?

20 A Yeah.

21 Q Okay. And was she pregnant with ~~QUESTIONS~~, when this happened, when you had that dream?

22 A No.

23 Q No. When you had that dream, were you upset with yourself about having that dream?

1 A No.

2 Q You were not. You didn't say, "Boy, that was  
3 stupid?"

4 A No.

5 Q Now, you say that this would go on with Frank  
6 when you were at his house, these activities in your  
7 bedroom?

8 A Yeah.

9 Q When he'd come to your room, would you say it was  
10 every night?

11 A No, not every night.

12 Q Not every night. And it -- did you tell Akron  
13 Children's, the people at Akron Children's Hospital, that  
14 it happened fifty times?

15 A I do not remember saying that at all.

16 Q How long did you stay at Frank's house; do you  
17 remember?

18 A I have no idea.

19 Q Okay. Was it a year? Months?

20 A Maybe four, five months.

21 Q Four or five months.

22 A (Witness nodding affirmatively.)

23 Q Okay. And Mr. Wood was there, too?

24 A Yeah.

25 Q Did you ever tell Mr. Wood about this?

1 A No.

2 Q Did you tell your dad about this?

3 A No.

4 Q Why didn't you tell your dad?

5 A I was afraid that he might tell Frank and I would be  
6 in trouble.

7 Q So you didn't tell your dad because you thought Frank  
8 would get in trouble?

9 A No. I thought I would get in trouble.

10 Q You would get in trouble. With your dad?

11 A No, Frank.

12 Q But you told your mom, right?

13 A Right. That was after we had already left the house  
14 and I wasn't as scared of talking. I couldn't hold it in  
15 anymore.

16 Q But you knew she was still seeing Frank, didn't you?

17 A Yeah.

18 Q And you knew that she might still wind up with Frank,  
19 get married to Frank?

20 A She never said -- she said that she would leave him  
21 and not get married to him.

22 Q SPROCKED, do you remember the first time you went to  
23 counseling about what had happened at Frank's house?

24 A No.

25 Q "No"?

1 A (Witness nodding negatively.)

2 Q Was it before you were interviewed by the police?

3 A It was after, that's all I remember.

4 Q Do you remember going to the police with your mom the  
5 day you left Frank's house?

6 A Yeah.

7 Q Did you talk to the police at that time?

8 A Yeah.

9 Q What did you tell them, if you recall?

10 A I told them that nothing happened. I was still  
11 scared.

12 Q You told them you were scared?

13 A I didn't tell them that.

14 Q Other than Frank saying, "Don't tell anybody" a  
15 couple of times, right --

16 A (Witness nodding affirmatively.)

17 Q -- he didn't say anything else to you?

18 A He didn't say anything else.

19 Q When he would come into the room, would he say  
20 something to you?

21 A No. He just whispered in my ear, "Don't tell  
22 anybody." That's all he ever whispered in my ear.

23 Q He didn't say why he was there?

24 A No.

25 Q This happened sometimes early in the morning?

1 A Yeah.

2 Q And you said there were times -- you said --  
3 particularly one time, you said you were hurt from the  
4 touch in your Private Number One.

5 A Yeah.

6 Q Is that because something was inserted in your  
7 Private Number One?

8 A I -- I can't --

9 Q You don't know?

10 A I just hurt really bad.

11 Q You just hurt. You don't know what it was from?

12 A I didn't know what it was from.

13 Q You didn't know if it was from Mr. Wood?

14 A I had a feeling it was from him, but I didn't know  
15 for sure.

16 Q And you weren't looking?

17 A I had my eyes like a crack open, but that was all.

18 Q And as you described, you say that he was on top of  
19 you?

20 A Yes.

21 Q Was that a lot of weight on you?

22 A Yeah.

23 Q Did you complain about that weight?

24 A No. I tried to roll over, but he stopped me from  
25 rolling over.

1 Q Okay. You say sometimes your bed was wet?  
 2 A Yeah, just like a dot.  
 3 Q Excuse me? I didn't hear you.  
 4 A It was like a dot.  
 5 Q "A dot"?  
 6 A Yeah.  
 7 Q A big dot, dime size?  
 8 A About, yeah.  
 9 Q Pennies (indicating)?  
 10 A Yeah.  
 11 Q ~~SC (MID)~~ Now, how many times have you had to tell this  
 12 unfortunate story?  
 13 A I have no idea.  
 14 Q Lots?  
 15 A (Witness nodding affirmatively.)  
 16 Q I know you had to tell it to the social worker and  
 17 the police officer.  
 18 A Yeah.  
 19 Q And you told them over at Akron Children's Hospital.  
 20 A Yeah.  
 21 Q And you probably talked to a psychologist about it,  
 22 right?  
 23 A Yeah.  
 24 Q And I assume you've talked to Ms. Eisenhower about  
 25 it?

1 A Yeah.  
 2 Q Have you talked to her a lot about it?  
 3 A Yeah.  
 4 Q She's met with you several times?  
 5 A Not several times, but like two or three. But we  
 6 talk a lot.  
 7 Q Two or three.  
 8 (Whereupon, the witness was offered a cup of  
 9 water.)  
 10 THE BAILIFF: There you go.  
 11 THE WITNESS: Thank you.  
 12 MR. GREEN: Go ahead, take  
 13 a sip.  
 14 Q Have you told your dad what happened?  
 15 A Yes.  
 16 Q When did you tell him?  
 17 A I told him about the same time that I told my mom.  
 18 Q Okay. Is this the first time you've seen Mr. Wood  
 19 since you left his house?  
 20 A Yes.  
 21 Q You're not afraid of Mr. Wood, are you?  
 22 A No.  
 23 MR. GREEN: Give me just a  
 24 minute, your Honor.  
 25 Q Samantha, Ms. Eisenhower asked you about incidents

1 before your birthday in 2004.  
 2 A Yes.  
 3 Q That was when you turned ten?  
 4 A Yeah.  
 5 Q You got into double figures.  
 6 A Yeah.  
 7 Q Did your dad celebrate your birthday with you, too,  
 8 that year?  
 9 A Yeah. We had a big birthday party at his place, not  
 10 at Frank's house.  
 11 Q Okay. That was on the birthday, right?  
 12 A Yeah.  
 13 Q You were staying with him at that time, weren't you?  
 14 A Yeah.  
 15 Q And that was your dad's weekend, wasn't it?  
 16 A (Witness nodding affirmatively.)  
 17 Q And when you got back home after your birthday, you  
 18 had another little birthday at Frank's house?  
 19 A Yes.  
 20 Q That was with your mom?  
 21 A Yes.  
 22 Q And with, I guess, Al<sup>low</sup>?  
 23 A Yes.  
 24 Q And Little Bear, the dog?  
 25 A Yeah.

1 Q Is that what he's called?  
 2 A Yeah.  
 3 Q You liked Little Bear, didn't you?  
 4 A Yeah.  
 5 Q Do you miss Little Bear?  
 6 A Well, I -- I enjoyed the birthday, and it was fun,  
 7 but it was the two days before that that really -- he hurt  
 8 me the two days before.  
 9 Q Hm-hm. I was asking you about Little Bear. Do you  
 10 miss Little Bear?  
 11 A Yeah.  
 12 Q You liked Little Bear. Did Little Bear sleep with  
 13 you?  
 14 A Sometimes he came in my room.  
 15 Q Jump in bed?  
 16 A No.  
 17 Q No? He didn't come in the room?  
 18 A He was too big.  
 19 Q Too big?  
 20 A Yeah.  
 21 Q You probably would have liked that, though, right?  
 22 A Yeah. Dogs are fun.  
 23 Q When your mom would be around the house, early in  
 24 the morning, whatever, when she'd go to wake you up, how  
 25 would she be dressed?

1 A I usually have my --  
 2 Q How would she be dressed?  
 3 A Oh, she? She would usually be wearing a nightgown.  
 4 Q This was at Frank's house?  
 5 A Yeah.  
 6 Q What would Frank wear when you would see him in the  
 7 morning, when you'd get up?  
 8 A Jeans.  
 9 Q Jeans?  
 10 A Jeans.  
 11 Q He's already dressed?  
 12 A Yeah. And shirts, yeah.  
 13 Q How about when he'd go to bed, did you see him then?  
 14 A No.  
 15 Q No?  
 16 A He stayed on the couch before bed.  
 17 Q Okay. And when you're at your dad's house, how would  
 18 he be dressed when you'd see him in the morning?  
 19 A Usually just wear his underwear.  
 20 Q Just in his underwear?  
 21 A Yeah.  
 22 Q Okay. And sometimes you'd see him in just a towel?  
 23 A No.  
 24 Q No, okay.  
 25 Did you ever have any other -- when you had this

1 dream about your mother, did anybody console you about  
 2 that? Did you wake up in the middle of the night about  
 3 it?  
 4 A No, I didn't.  
 5 Q You didn't?  
 6 A No.  
 7 Q Did you ever have any nightmares and your mother came  
 8 in and tried to calm you down?  
 9 A Yeah.  
 10 Q Did you ever have any nightmares and Frank tried to  
 11 calm you down?  
 12 A Once or twice.  
 13 Q Did he get you calmed down?  
 14 A Yeah. Usually I would fall back asleep.  
 15 Q He didn't do anything with his Number One and your  
 16 Number One at that time, did he?  
 17 A No.  
 18 Q Okay. Do you recall staying at Frank's house on a  
 19 weekend?  
 20 A No.  
 21 Q You always got to be with dad on the weekends?  
 22 A Yeah. Put-in-Bay.  
 23 Q Put-in-Bay?  
 24 A Yeah.  
 25 Q Was that fun?

1 A Yeah.  
 2 Q It's pretty nice up there.  
 3 A Yeah.  
 4 MR. GREEN: I think that's  
 5 all the questions I have.  
 6 THE COURT: Miss  
 7 Eisenhower.  
 8 MS. EISENHOWER: Thank you, your  
 9 Honor.  
 10 REDIRECT-EXAMINATION  
 11 BY MS. EISENHOWER:  
 12 Q Mr. Green asked you if Mr. Wood -- if Frank helped  
 13 you with your homework. Did he?  
 14 A Yes.  
 15 Q And how did he do that?  
 16 A He would show me how all the things worked.  
 17 Q Okay. Were there times where you would ask him for  
 18 help with homework?  
 19 A Yes.  
 20 Q And where would he be when you would go and ask him  
 21 for help with your homework?  
 22 A Sometimes -- sometimes he would be in the basement,  
 23 but sometimes he'd be up at the table.  
 24 Q And did you ever go down in the basement and ask him  
 25 for help with your homework?

1 A Yeah.  
 2 Q All right. Do you remember a time going down in the  
 3 basement to ask him for help with homework and seeing  
 4 things on a computer?  
 5 A Yes.  
 6 Q What kind of things did you see on the computer?  
 7 MR. GREEN: Objection.  
 8 A Naked people.  
 9 THE COURT: You can answer.  
 10 A Naked people.  
 11 Q Naked people. Naked grownup people?  
 12 A Yes.  
 13 Q Okay. And were they doing anything?  
 14 A Yeah. They were touching each other.  
 15 Q They were what?  
 16 A Touching each other.  
 17 Q Okay. Talk into here so the people out there can  
 18 hear.  
 19 They were what?  
 20 A They were touching each other.  
 21 Q And was Frank watching that?  
 22 A Yes.  
 23 Q Did Frank show that to you?  
 24 A Yes.  
 25 Q Okay. And what was he doing?

1 A He was -- he had his hands in his pants.  
 2 Q Okay. Now many times did that happen?  
 3 A About ten.  
 4 Q Okay. Is it possible that you spent weekends with  
 5 Mom and Frank sometimes?  
 6 MR. GREEN: Objection.  
 7 THE COURT: Overruled. You  
 8 can answer.  
 9 A Maybe once or twice.  
 10 Q Okay. ~~REDACTED~~, are there things that -- that --  
 11 little details that you remembered clear, back when you  
 12 first told people about this, that you might not remember  
 13 now?  
 14 A Yes.  
 15 Q Okay. When you and I met about this case, every time  
 16 we met, did we talk about the details of what happened?  
 17 A Sometimes.  
 18 Q Did I ever tell you what to say?  
 19 A No.  
 20 Q Did anybody ever tell you to make this up?  
 21 A No.  
 22 MS. EISENHOWER: I have nothing  
 23 further.  
 24 THE COURT: Mr. Green.  
 25 sir.

## RE-CROSS-EXAMINATION

1 BY MR. GREEN:  
 2 Q ~~REDACTED~~, when you say you were down in the basement  
 3 with Frank at his computer, you went down there on your  
 4 own, correct?  
 5 A Yeah, to ask for help.  
 6 Q To ask for help. You didn't -- he didn't tell you,  
 7 "Come down here, I want you to see this"?  
 8 A No.  
 9 Q No. And these -- you saw pictures on the computer?  
 10 A Yes.  
 11 Q What time of day would this be?  
 12 A It would probably be about around dinnertime.  
 13 Q Where was your mom?  
 14 A Upstairs, making dinner.  
 15 Q Okay. Did you tell your mom about those pictures?  
 16 A No.  
 17 Q Why not?  
 18 A I was -- he told me not to tell either, that time,  
 19 too.  
 20 Q How far are you from the kitchen to the basement  
 21 where he was, where he had the computer?  
 22 A At least one level.  
 23 Q What kind of computer was this?  
 24 A A laptop.  
 25

1 Q A laptop.  
 2 Were these -- do you know if he was on the  
 3 Internet? Do you know what that is?  
 4 A Yeah.  
 5 He was on the Internet, because it said "Yahoo"  
 6 right next to it.  
 7 Q Yahoo?  
 8 A Hm-hm.  
 9 Q Did he show you how to work the computer?  
 10 A No.  
 11 Q No? Was he moving around on the computer to  
 12 different sites while you watched?  
 13 A No.  
 14 Q How long did you stay and watch?  
 15 A He said, "Wait a few minutes," and I waited until he  
 16 could help me.  
 17 Q So he was looking at something on the Internet when  
 18 you came down, right?  
 19 A Yeah.  
 20 Q So it wasn't that he invited you to look at what was  
 21 on the Internet, right?  
 22 A [Witness nodding affirmatively.]  
 23 Q He told you just to wait and then he'd help you?  
 24 A Yes.  
 25 Q Okay.

1 MR. GREEN: Nothing  
 2 further, your Honor.  
 3 THE COURT: Thank you.  
 4 Key, ~~REDACTED~~, we're done.  
 5 Folks, I'm going to send you to lunch in just  
 6 one second.  
 7 Can you take the witness out?  
 8 THE BAILIFF: Yes.  
 9 THE COURT: It's ten  
 10 minutes to 12:00. Let's go to lunch and come back at  
 11 1:00.  
 12 Don't discuss the case among yourselves or begin  
 13 to form or express an opinion about the matter until  
 14 you get all the evidence, you get your instructions  
 15 of law, and you begin your deliberations.  
 16 We'll see you back at 1 o'clock. Until then  
 17 we're at recess.  
 18 (Whereupon at 12:00 noon a luncheon recess was  
 19 taken until 1:15 p.m., at which time the further  
 20 following proceedings were had and placed upon the  
 21 record.)  
 22 THE COURT: Thanks, folks.  
 23 You can come in and be seated.  
 24 Back on the record in Case Number 05 CR 0765,  
 25 State versus Frank Wood.



STATE OF OHIO, )  
 ) SS:  
COUNTY OF MEDINA. )

MEDINA COUNTY COMMON PLEAS COURT

STATE OF OHIO, )

vs. )

FRANK P. WOOD, )

Defendant. )

Case No. 05 CR 0365  
Appeal No. 06 CA 0044-M

COMMON PLEAS COURT  
06 AUG -3 PM 2:46  
FILED  
NANCY E. GRIFFIN  
CLERK OF COURTS  
MEDINA COUNTY  
OHIO

TRANSCRIPT OF PROCEEDINGS  
VOLUME II

APPEARANCES:

Dean Holman, Medina County Prosecutor,  
by Anne Eisenhower, Assistant County Prosecutor,  
on behalf of the State of Ohio.

F. Harrison Green, Esq., and  
Ronald Stanley, Esq.,  
on behalf of the Defendant.

COURT OF APPEALS  
06 AUG -3 PM 2:52  
FILED  
NANCY E. GRIFFIN  
CLERK OF COURTS  
MEDINA COUNTY  
OHIO

MEDINA COURT REPORTERS, INC.  
REGISTERED PROFESSIONAL REPORTERS  
209 North Broadway Street  
Medina, Ohio 44256  
(330) 723-2482

This is our third day of trial, we're in the  
afternoon session of the trial, and it's 1:15. We're  
going to continue now with the State's next witness.

Ma'am.

MS. EISENHOWER: Donna Abbott.

THE COURT: Ma'am, come on  
up this way.

If you will step right around here and raise  
your right hand, I'll swear you in.

Whereupon, the State of Ohio, to further  
maintain the issues to be maintained by them, called  
one DONNA ABBOTT, who, after having been first duly  
sworn, was examined and testified as follows:

THE COURT: Have a seat,  
ma'am.

My name is Chris Collier. What's your name?

MS. ABBOTT: Donna Abbott.

THE COURT: Spell your last  
name for my court reporter, please.

MS. ABBOTT: A-b-b-o-t-t.

THE COURT: Ma'am, what's  
going to happen is, Miss Eisenhower is going to have  
some questions for you, and when Miss Eisenhower's  
done asking you questions, Mr. Green may have some

for you as well.

MS. ABBOTT: Okay.

THE COURT: The woman back  
there is going to raise her hand for you. She needs  
to hear you. You've got a microphone. If you can  
keep your voice up so she can hear you, I'd  
appreciate it.

Miss Eisenhower, you may proceed.

MS. EISENHOWER: Thank you, your  
Honor.

(Whereupon, medical records from Akron  
Children's Hospital were then marked as State's  
Exhibit 4 for purposes of identification.)

DIRECT-EXAMINATION

BY MS. EISENHOWER:

Q You've already told us your name. Where do you  
work?

A I'm a nurse practitioner at Akron Children's  
Hospital.

Q And how long have you been a nurse practitioner?

A I've been a nurse practitioner for twenty-five years.

Q How long have you been with Akron Children's  
Hospital?

A I've been with Akron Children's for about sixteen  
years.

Q And do you have a specialized area at Akron  
Children's Hospital?

A Yes. I work in the care center for children at  
risk evaluations. It's a clinic within the hospital that  
sees children whenever allegations or suspicions of abuse  
arise.

Q And when you say "abuse," does that include both  
sexual and physical abuse?

A Yes.

Q Okay. Now, can you tell me a little bit about your  
education, please.

A My basic education as a registered nurse was at  
Mercy School of Nursing.

I also have a bachelor of science in nursing from  
Walsh University.

I obtained my training as a nurse practitioner at  
Metro General Hospital in Cleveland.

Q All right. And do you have, also, continuing  
education and training that you do as part of the nurse  
practitioner's duties?

A Yes, I have. My license as a registered nurse and my  
certification as a nurse practitioner need to be renewed  
yearly or every three years, and that requires a certain  
number of hours of continuing education.

Q And are you currently certified in the State of

Onio7

A Yes, I am.

Q As what?

A As a registered nurse and a nurse practitioner.

Q And are you -- is there a board certification for a nurse practitioner?

A There is a board certification, and I am board certified.

Q All right. Now, have you testified in court before?

A Yes, I have.

Q How many times?

A Oh, probably a hundred and fifty.

Q And have you testified here in Medina before?

A Yes, I have.

Q All right. Now, just by way of telling me what you do at the care center, could you give me the basic rundown of a routine visit. And when I say "routine visit," the things that you do everytime a child comes in, and we'll limit it to specifically allegations of sexual abuse.

A Okay. When a child comes into the care center, generally they are scheduled for an appointment and they were referred by a number of different people or agencies -- child protection agencies, law enforcement, their private physician, other hospitals.

Myself and the care center social worker meet

initially with -- well, with whoever brings the child in. If it's their parents or guardian, we meet with them; if it's a child protection worker, we meet with them. It's mainly to get a history of why the child is at the hospital.

After that, the child, if their age permits, is interviewed by the social worker at the hospital or in the care center. The child is interviewed alone with no one else except the child and the social worker in the room.

After that, the social worker comes to me and gives me the history that she has obtained from the child, and then I perform the physical examination.

Q All right. And is that pretty much routine on every one of those cases?

A Yes.

Q Now I'm going to direct you specifically to what I believe to be SPEDACTED SPEDACTED. Do you remember SPEDACTED visiting your care center?

A Yes.

Q And do you remember the day she visited your care center?

A January 26th of 2005.

Q All right. And do you remember the purpose for which she was at the care center?

A The purpose was for an evaluation for allegations of sexual abuse.

Q Okay. And the purpose of a medical exam, tell me what the purposes of a medical exam in that case are.

A The purpose of a medical exam in a child alleging sexual abuse is multipurpose. The first and foremost reason is to make sure that the child is medically without any type of harm or disease and to assure them that their body is okay.

Sometimes in situations of sexual abuse it might be necessary to collect forensic specimens or a rape kit that we turn over to the law enforcement people. Sometimes it's necessary to check for sexually-transmitted diseases. Sometimes in older girls, if we see them right after something has happened, it's necessary to prevent pregnancy or give them things like the morning-after pill and antibiotics to keep them from getting any diseases they may have been exposed to.

Q All right. Now, you're familiar with -- SPEDACTED was how old when you saw her?

A She was ten when I saw her.

Q Okay. So the purposes for conducting a medical exam on a child SPEDACTED's age would be to detect any diseases or problems in her body, correct?

A That's correct.

Q Is there a window that you normally would do that? In other words, what I'm getting at is, is there a time frame after which that exam becomes unnecessary?

A No. We see children that are alleging abuse that occurred years before we see them. But it's also important to do a physical exam, again, to check for anything abnormal -- diseases, physical abnormalities -- and to reassure them of anything like that or not like that.

Q Now, the social history that you referred to, taken by the social worker, is that a necessary piece before you conduct your exam?

A Yes. It's done for medical purposes, as in any other type of physical examination. The history certainly is a very important part of that evaluation, whether you're coming in with chest pain or an earache.

It's also important to get a history before the physical exam is done.

Because of the nature of the type of history in these situations, the social worker obtains that history because they have special training in doing it.

Q Okay. And then you use that information to help guide your medical exam?

A Yes, I do.

Q All right. Now, in the case of SPEDACTED SPEDACTED, are

1 you aware of whether or not a social history was taken?

2 A It was.

3 Q All right. And then are you also aware of who

4 brought her in?

5 A Yes.

6 Q And did you speak with those people?

7 A I believe I spoke with her -- her mother or her legal

8 guardian.

9 Q Okay. And then did you conduct a physical

10 examination on SPEDACTED?

11 A Yes, I did.

12 Q All right. Now, going over in detail, what exactly

13 -- well, let's go over in detail the physical exam that you

14 conducted on SPEDACTED.

15 A The physical exam essentially is a head-to-toe

16 physical exam that the child would get for a preschool

17 physical, or any other type of well-child exam. But

18 because of the nature of the complaints, or allegations,

19 that the child is coming in with, the bulk of the exam, or

20 the most important part of the exam, is to look at the

21 vaginal and the labial areas. That is done first just by

22 me looking at those parts with the naked eye. We also have

23 a piece of equipment called a colposcope that is

24 essentially a magnifying device that allows me to see

25 things a little more clearly. It's not inserted into the

1 child in any way, it stays about nine inches to a foot

2 away, but again, it allows me to see things more clearly.

3 It also has the capability for photo documentation.

4 If it's necessary, we do testing for

5 sexually-transmitted diseases. That was not done in

6 SPEDACTED's case.

7 And that's essentially the physical exam process.

8 Q All right. So you examined her from head to toe?

9 A Yes.

10 Q And then you examine both her vaginal area and her

11 labial area?

12 A Yes.

13 Q Okay.

14 (Whereupon, a discussion between Prosecutor

15 Eisenhower and Attorney Green was then held out of

16 the hearing of the court reporter.)

17 Q Now, as part of your exam, did you generate a report?

18 A Yes.

19 Q All right. Showing you what's been marked as State's

20 Exhibit 4, can you identify that for me, please

21 A (Witness perusing document.)

22 This is a copy of the medical record that was

23 completed on SPEDACTED SPEDACTED. It contains my

24 documentation, the documentation of Elizabeth Morstatter.

25 Q Elizabeth Morstatter is the licensed social worker

1 who interviewed S. ?

2 A Yes.

3 Q And she gave you the history from that interview?

4 A That is correct.

5 Q All right. Let's turn to the pages that you

6 completed as a result of the physical exam.

7 A I put the time there that I dictated the report and

8 another nurse did the rest of that.

9 Q All right. Now, did you, in fact, report that she

10 seemed to be in fairly normal health?

11 A Yes.

12 Q She's in good health for a child her age?

13 A Yes.

14 Q And that first page is just basically her

15 immunizations and her regular checkup kind of information?

16 A Yes.

17 Q All right. Then the next page. It's the Suspected

18 Child Abuse and Neglect Record.

19 A Yes.

20 Q And you filled that out, correct?

21 A Yes, I did.

22 Q Explain for me what that is and what the findings

23 mean.

24 A This is a series of checkboxes that we use to just

25 check the history that is given to us, mainly on what type

1 of information the child is describing or the historian is

2 describing to us.

3 There's also a section that asks if there have

4 been any physical symptoms or behavioral symptoms related

5 to the allegation of sexual abuse.

6 Q All right. The next page. Does that represent the

7 social history of the incidents that Elizabeth Morstatter

8 took?

9 A No. This actually is my dictation that was --

10 Q Okay.

11 A -- transcribed. It was the history from SPEDACTED's

12 legal guardian, and a history that was given to me by

13 Elizabeth Morstatter.

14 Q Okay. And the next page?

15 A The next page is documentation of the physical exam

16 that I did.

17 Q All right. Now, you go over her mouth, her face, her

18 head, her neck. There are no signs of physical trauma?

19 A That's correct.

20 Q Physical trauma is defined as what?

21 A Physical trauma is an injury to the body, a

22 disruption of the tissue in any way, an abrasion, a cut.

23 Q Okay. And she had none of that?

24 A She had none of that.

25 Q All right. And then you examined her vaginal area?

1 A Yes, I did.

2 Q Tell me what you found.

3 A I found a completely normal exam. During the exam, a  
4 small, little portion of skin got, I guess, somewhat of an  
5 abrasion, which is not uncommon in some little girls. That  
6 happened during the exam, though. It was not there before  
7 that. Otherwise, there was nothing out of the ordinary on  
8 her physical exam.

9 Q All right. Now, you also then noted that you did not  
10 really -- you also checked her labia region, correct?

11 A Yes.

12 Q And the same kind of findings, correct?

13 A Correct, nothing abnormal.

14 Q All right. Now, did you note anything else in those  
15 areas out of the ordinary?

16 A No.

17 Q Okay. The next page. Did you -- you indicated you  
18 did not check for socially-trans -- or sexually-transmitted  
19 diseases.

20 A I did not.

21 Q Why not?

22 A Because I discussed that with her mother, and she did  
23 not feel that that needed to be done, and based on her  
24 explanation of why medically it was appropriate not to do  
25 testing, I didn't.

1 Q All right. Now, did you draw a conclusion based on  
2 your exam, after reading the history and after conducting  
3 your exam?

4 A Yes.

5 Q And did you reflect that in your report?

6 A Yes, I did.

7 Q And what conclusion did you draw?

8 A That ~~REDACTED~~ had been a victim of sexual abuse.

9 Q All right. Now, you also indicate that there weren't  
10 any physical findings.

11 A That's right.

12 Q Can you tell me how those two things can coexist?

13 A There are a number of reasons for that. Can I first  
14 start by kind of explaining the anatomy on a child  
15 ~~SMALLACTED~~'s age?

16 Q Yes.

17 A When we're talking about the genital or the private  
18 part anatomy, the first thing you see when you look at a  
19 little girl that is not wearing any clothes in the private  
20 part is the labia. That's the outer surface of the genital  
21 system. If you separate that skin about a half an inch,  
22 about an inch inside of that is a piece of tissue called  
23 the hymen. The hymen is a piece of tissue that is kind of  
24 like a curtain around the vaginal area. It does not  
25 completely occlude the vagina, which is a pretty common

1 misconception among everyone.

2 When a girl starts to go through puberty, that  
3 tissue changes. But irregardless, unless there's a  
4 congenital abnormality, when a hymen is completely closed  
5 together, there's also an opening there, and as a little  
6 girl gets older, the opening gets bigger.

7 And then inside of the hymen is the vaginal  
8 canal, and when you go further up there's the cervix and  
9 the uterus and the rest of the reproductive system.

10 Q Okay. So how is it that you can conclude she was a  
11 victim of sexual abuse, because there are no physical  
12 findings of that?

13 A First of all, in most cases of children describing  
14 sexual abuse, in about ninety percent there are no physical  
15 findings. And that's because either when they have a  
16 physical exam and some time has elapsed, if there was any  
17 type of injury -- a bruise, an abrasion, a cut, a tear -- the  
18 tissue in that area heals very quickly. It's kind of like  
19 the tissue inside of your mouth. We've all been chewing  
20 and bitten the wrong way and it hurts, and if you drink  
21 something with citrus in it, it burns. You might even  
22 taste a little bit of blood, but two or three days later  
23 it's completely healed so you don't even know that it's  
24 there.

25 The tissues in the vaginal area are tissues of

1 the same structure. So there can be an injury there  
2 initially and it heals very quickly. I have seen children  
3 with injuries and then seen them two days, two weeks later,  
4 and it's healed beyond recognition. So if there is an  
5 initial injury, it can heal so we don't see it when we do  
6 an exam after time lapses.

7 Sometimes there isn't any injury because things  
8 can go inside of the vaginal area and it's not going to do  
9 any damage. As I said, the hymen sits back about a half an  
10 inch or an inch inside the body, so a finger or a penis can  
11 go in that far and nothing happens. Sometimes penetration  
12 can go through the hymen and nothing happens.

13 In children, before they go through puberty,  
14 usually the hymen is very sensitive if it's touched, so if  
15 something touches the hymen they will describe that there  
16 was pain but, you know, we just kind of surmise that maybe  
17 that's when the penetration stops and that's why there  
18 wasn't any injury.

19 So there can be sexual abuse without any physical  
20 findings because there either weren't any injuries done at  
21 all or there were some minor injuries that have healed by  
22 the time the exam is done.

23 Q Those injuries that heal, would they leave scars?

24 A Most of the time they do not.

25 Q Is State's Exhibit 4, that I gave you, to your

1 knowledge, a true and accurate copy of the record that you  
2 generated after the exam with SPENDING? IMPROVING?

3 A Yes, it is.

4 Q Okay.

5 MS. EISENKOWER: I have nothing  
6 further, your Honor.

7 THE COURT: Thank you.

8 Sir.

9 MR. GREEN: Thank you, your  
10 Honor.

11 CROSS-EXAMINATION

12 BY MR. GREEN:

13 Q Ms. Abbott, I've got a copy of your report but I'm  
14 not sure it's in the same order that was presented to you.

15 A Okay.

16 Q You found no physical findings of sexual abuse?

17 A That's correct.

18 Q Correct, none?

19 A That's correct.

20 Q And the determination that you make is based upon the  
21 history that was given to you, correct?

22 A Yes.

23 Q Nothing else?

24 A That's right.

25 Q Strictly her words. You didn't interview her, did

1 you?

2 A I did not.

3 Q So it was strictly on what your licensed social  
4 worker gave you?

5 A Yes.

6 Q And then, if I understand you correctly, I guess you  
7 dictated a report. Is that correct?

8 A Yes.

9 Q Let me see if maybe you can help me.

10 MR. GREEN: May I approach,  
11 your Honor?

12 THE COURT: Yes, you can.

13 Q Is this the report you generated?

14 A This page is dictated, the physical exam findings and  
15 then the impression.

16 Q So on the physical side, you cannot make any  
17 conclusion that sexual abuse had taken place?

18 A That's correct.

19 Q So in your conclusion, you're relying strictly on  
20 what the social worker's report was to you?

21 A Yes.

22 Q Okay. You've seen how many kids in your sixteen  
23 years at Akron Children's?

24 A I've seen a little over five thousand victims of  
25 physical and sexual abuse.

1 Q Okay. And how many of them were sexually abused,  
2 percentage-wise or number-wise?

3 A Based on the determination that we made medically?

4 Q Let me rephrase the question.

5 A Okay.

6 Q Let me try to help you out here.

7 You have kids come in, brought in by parents --

8 A Yes.

9 Q -- agencies, whatever.

10 How many, in your sixteen years of experience,  
11 have been brought in on complaints or allegations of sexual  
12 abuse?

13 A Of the children -- of the five thousand that I've  
14 seen, I primarily see sexual abuse victims, so at least  
15 forty-five hundred of those children have alleged sexual  
16 abuse.

17 Q Okay. And how many of those cases have you found  
18 have physical evidence?

19 A Probably only twenty percent.

20 Q Okay. That would be about nine hundred over the  
21 years?

22 A Right.

23 Q And of the other thirty-six hundred cases that you've  
24 seen over that sixteen-year period that you've had  
25 allegations of sexual abuse, how many did you determine to

1 be sexually abused?

2 A I don't know that I have a hard number on that, but  
3 probably only about twenty-five to thirty percent.

4 Q Okay. And was that based upon histories, again,  
5 being taken by social workers?

6 A Yes.

7 Q Okay. You don't take any histories?

8 A No, not from the child.

9 Q The children are videotaped, aren't they?

10 A Now they are. As of February of 2004, I believe we  
11 have recorded it.

12 Q Do you view those?

13 A Sometimes I do. Not always. Just because of time  
14 constraints.

15 Q Isn't it important for you to see the child and get  
16 an evaluation of how they are actually reacting to the  
17 questions?

18 A It is, but I have worked with these same social  
19 workers for so long that I don't doubt what they're telling  
20 me. And if there's any concerns about the child's demeanor  
21 or behavior, they relay that to me.

22 Q Okay. So when you signed off on -- you checked off,  
23 "Impression: Sexual abuse."

24 A Yes.

25 Q That's strictly your impression, correct?

1 A Yes.

2 Q You didn't consult with anyone?

3 A No.

4 Q You further checked off, "No physical findings.

5 History and/or behavioral indicators consistent with," and

6 it's got an asterisk, right?

7 A Yes.

8 Q And I assume that means no sexual abuse?

9 A Yes. It's refers to which one -- every one of those

10 boxes we checked above that.

11 Q Now, the report that you went over, that the social

12 worker gave you, that was her impression of what REDACTED

13 REDACTED told her?

14 A Well, she doesn't come to a conclusion or make an

15 impression, she just documents what the child has told

16 her.

17 Q You're just seeing her notes, though?

18 A I had seen her notes at the time that I compiled my

19 report.

20 Q Right.

21 A It's given to me verbally because her notes are not

22 compiled yet.

23 Q So when you -- now you've got me confused a little.

24 I'm sorry.

25 A After she speaks with the child --

1 Q When did you --

2 A -- she goes over her findings with me verbally.

3 Q -- dictate your findings?

4 A I dictated that shortly after I saw REDACTED that

5 very same day.

6 Q And that's after you had a conversation with --

7 A Yes.

8 Q -- is it "Morstatter"?

9 A Ms. Morstatter.

10 Q Okay. So it wasn't based upon her notes, it's based

11 on a conversation --

12 A Yes.

13 Q -- with her?

14 And I assume she referred to her notes --

15 A Yes.

16 Q -- when she talked to you?

17 A And she told me what the child had said.

18 Q Okay. So we have a process of kind of honing it

19 down?

20 A Yes.

21 Q So she's giving you the highlights?

22 A Yes.

23 Q Okay.

24 MR. GREEN: That's all the question

25 I have.

1 THE COURT: Thank you.

2 Miss Eisenhower.

3 MS. EISENHOWER: Just briefly,

4 your Honor.

5 REDIRECT-EXAMINATION

6 BY MS. EISENHOWER:

7 Q The entire paragraph that you signed off on, just so

8 that we're clear, on your findings, you checked "No

9 physical findings. History and/or behavioral indicators

10 consistent with sexual abuse."

11 A Yes.

12 Q And then this paragraph below it --

13 A Hm-hm.

14 Q -- you put in there your impressions.

15 A Yes.

16 Q And you said that she had "given a history of sexual

17 abuse. Her physical examination does not reveal any

18 abnormal findings; however, the type of contact that she

19 has described can occur with no residual findings."

20 A Yes.

21 Q That's in there, right?

22 A Yes.

23 Q All right.

24 MS. EISENHOWER: I have nothing

25 further, your Honor.

1 THE COURT: Thank you.

2 Sir.

3 MR. GREEN: Yes, I do have

4 a few.

5 THE COURT: Absolutely. Go

6 ahead.

7 MR. GREEN: Thank you.

8 RECROSS-EXAMINATION

9 BY MR. GREEN:

10 Q You've indicated "can occur" in that last paragraph,

11 right?

12 A Yes.

13 Q That's not an absolute?

14 A That's right.

15 Q That's an opinion --

16 A Yes.

17 Q -- that it can occur?

18 A Yes.

19 Q In this case, you don't know if it occurred?

20 A That's right.

21 Q And you base that -- even though the paragraph that

22 you dictated talks about approximately fifty times --

23 A Right.

24 Q -- you've seen kids that have had intercourse fifty

25 times in your career --

1 A Yes.

2 Q -- and no physical signs?

3 A Sometimes.

4 Q Sometimes or most of the time?

5 A Most of the time.

6 Q Most of the time with fifty, right?

7 A Most of the time without physical findings.

8 Q When it's fifty times, they have had some form of

9 intercourse - anal or vaginal intercourse?

10 A Yes.

11 Q On a nine-year-old, ten-year-old?

12 A Yes.

13 Q I assume your testimony about the -- when you're

14 talking about this, you're including the anal intercourse,

15 also?

16 A Yes.

17 Q And you inspected that?

18 A Yes. The anus can withstand penetration even more

19 so than the vagina without it being injured. Because

20 it's more muscular, it's allows for things to pass

21 through it, so things can be put inside of it without any

22 damage.

23 Q All right. When you say "things," that's a penis or

24 other things?

25 A Yes.

1 Q That could include vibrators, I guess?

2 A Yes.

3 MR. GREEN: That's all the

4 questions I have.

5 THE COURT: Thank you,

6 ma'am. I appreciate you coming in. You're free to

7 go at this time.

8 Your next witness, please.

9 MS. EISENHOWER: Your Honor, I

10 have to see if she's out there.

11 THE COURT: No problem.

12 --

13 THE COURT: Come on up this

14 way, ma'am. My bailiff is going to swear you in.

15 THE BAILIFF: I want you to

16 raise your right hand.

17 --

18 Whereupon, the State of Ohio, to further

19 maintain the issues to be maintained by them, called

20 one ELIZABETH MORSTATTER, who, after having been

21 first duly sworn, was examined and testified as

22 follows:

23 THE COURT: Come on up, ma'am,

24 have a seat.

25 Tell me when you're in there.

1 MS. MORSTATTER: Okay.

2 THE COURT: My name is Chris

3 Collier. What's your name?

4 MS. MORSTATTER: Elizabeth

5 Morstatter.

6 THE COURT: Hi, Miss Morstatter.

7 What's going to happen is, Miss Eisenhower is going

8 to have some questions for you, and then Mr. Green

9 may have some for you as well.

10 Can you spell your last name for my court

11 reporter, please.

12 MS. MORSTATTER: M-o-r-s-t-a-t-t-e-r.

13 THE COURT: Miss Morstatter, you

14 seem like you have a good voice. That's good. That

15 woman in the back -- raise your hand.

16 JUROR: (Complying.)

17 THE COURT: She needs to be

18 able to hear you. You've got a microphone.

19 MS. MORSTATTER: Okay.

20 THE COURT: That's the only

21 real concern here.

22 Ms. Eisenhower, you may proceed.

23 MS. EISENHOWER: Thank you, your

24 Honor.

25 --

1 DIRECT-EXAMINATION

2 BY MS. EISENHOWER:

3 Q Could you tell me where you work, Miss Morstatter.

4 A I work at Children's Hospital in Akron, Ohio.

5 Q And where? Is there a specific part of Akron

6 Children's Hospital that you work in?

7 A I'm assigned to the emergency department and to the

8 care center.

9 Q All right. And in what capacity do you work there?

10 A I'm a social worker.

11 Q And are you a licensed social worker?

12 A Yes. I'm an LSW.

13 Q Okay. Tell me what you have to do to be an LSW.

14 A I have a bachelor's degree in psychology from the

15 University of Akron; some credits towards a master's.

16 I'm licensed by the State of Ohio as a social

17 worker, and have been for -- ever since they have had

18 licensing.

19 Q Okay. That's a lot, huh?

20 A Yes.

21 Q And how long have you been with Akron Children's

22 Hospital?

23 A It's about eighteen years.

24 Q And you work with Donna Abbott at the care center,

25 correct?

1 A Yes, I do.

2 Q Tell me what your role is. Well, first of all, do  
3 you continue to train to keep your license as a social  
4 worker? Do you have continuing education that you do?

5 A Yes. We're required to complete thirty hours of  
6 continuing education every two years.

7 Q Okay. Is there an area of specialty in licensed  
8 workers, or is it just a general --

9 A It's general, but my coverage and the workshops I  
10 attend focus on interviewing children, working with  
11 children.

12 Q Okay. So you have a kind of specialty in smaller  
13 children? What kind of age range do you --

14 A We see children in the care center at all different  
15 ages.

16 Q Okay. Now, I would like to take you to the 26th day  
17 of January, 2005. Do you remember interviewing a REDACTED  
18 PERSON?

19 A Yes, I do.

20 Q Do you know why she was brought to the care center?

21 A She was brought to the care center to be evaluated  
22 for a suspicion of sexual abuse.

23 Q All right. And tell me what normally happens with  
24 you when someone comes into the care center with that kind  
25 of an allegation. What's your job?

1 A Well, I start off talking with the parent or guardian  
2 who's brought them to the care center. Then I interview  
3 the child alone, I record that interview, then I discuss  
4 the case with the person who's going to be doing the  
5 medical exam in order to facilitate the medical evaluation  
6 so the person doing the exam will know what's going on.

7 Q All right. And did you do that for REDACTED PERSON?

8 A Yes, I did.

9 Q All right. Now, when you talked to REDACTED, was  
10 there anyone else present -- was there anyone else present  
11 when you had that conversation?

12 A No one was in the room with us.

13 Q Okay. And when you talked to REDACTED, what kind of  
14 questions did you ask her?

15 A I stressed nonleading questions. Those are questions  
16 that you don't assume to know the answer to.

17 And I spent a lot of time building rapport and  
18 finding out just where she seems to fit developmentally.

19 Q All right. And did she seem developmentally able to  
20 talk to you that day?

21 A Yes, she did.

22 Q And did she seem developmentally appropriate?

23 A Yes.

24 Q All right. Now, did she give you details -- or did  
25 she give you details of the allegation of the sexual abuse?

1 A Yes, she did.

2 Q Do you remember what she told you?

3 A She told me that her mom's boyfriend would come into  
4 the bedroom, he would rub up against her with his private  
5 part. And she said that's -- and her -- that his private  
6 -- he rubbed his private part against her private part.  
7 And her private part is where she said the pee would come  
8 out.

9 She said that it would hurt. He would rub up  
10 against her. She could feel the bed shake, and she  
11 described him like this, going back and forth on the bed  
12 (demonstrating).

13 Her pants would be down.

14 He would also lick her, and she could feel his  
15 tongue up against her private part. She said that he would  
16 -- he licked her butt, too, and she thought that that would  
17 -- you know, what would happen if she had to poop or  
18 something, and wasn't that gross.

19 She also described him calling her down into the  
20 basement and showing her things on the computer that  
21 involved boys and girls having sex. And she said, "Well,  
22 they weren't little boys and girls," and that their  
23 privates would be touching and that kind of thing, and how  
24 gross that is.

25 MR. GREEN: Objection.

1 Move to strike.

2 THE COURT: Come on up.

3 (Whereupon, the further following proceedings  
4 were then held at sidebar out of the hearing of the  
5 Jurors.)

6 THE COURT: Your objection,  
7 sir?

8 MR. GREEN: It's hearsay,  
9 your Honor. It was not made by client. His conduct  
10 -- the statement was not made in his presence.  
11 They're statements not made in my client's  
12 presence.

13 THE COURT: So you're  
14 saying that this is a -- it's hearsay?

15 MR. GREEN: Hearsay.

16 THE COURT: All right.

17 (Whereupon, the further following proceedings  
18 were then held in the presence of the Court, the  
19 Jurors, Counsel, and the Defendant.)

20 THE COURT: Folks, I'm  
21 going to have you step out for just a minute. Don't  
22 discuss the case among yourselves or begin to form or  
23 express an opinion about the matter until you get all  
24 the evidence, you get your instructions of law, and  
25 you begin your deliberations.



(Whereupon, the Jury exited the courtroom, and the further following proceedings were then held in the presence of the Court, Counsel, and the Defendant.)

THE COURT: Miss Eisenhower, in response to the hearsay objection, please.

MS. EISENHOWER: Your Honor, my understanding is that - and Donna Abbott has testified - these statements are necessary for the purpose of a medical exam and treatment and, therefore, they come in for that reason. They are a hearsay exception.

THE COURT: All right. Anything in response, sir?

MR. GREEN: Yes, your Honor. Miss Morstatter did a very nice job, but her statements are -- they're just statements based upon something and -- they're not the statements of ~~SPERDACTED~~ JACOBELLI. It's what she's summarizing them as today, which comes out as hearsay.

THE COURT: Okay, thank you.

I need to go through a series of questions, Miss Morstatter, with you so I can kind of figure out

a little bit about what it is you do and why it is you do what you do.

THE WITNESS: Okay.

VOIR DIRE

THE COURT: First of all, tell me the purpose for getting this statement. Obtaining the statement from the child is for what purpose?

THE WITNESS: To provide information to the person doing the medical evaluation so they will know what to do in order to help the child through the exam.

THE COURT: So is what you're saying, the purpose of the statement is for a medical diagnosis or treatment?

THE WITNESS: Yes.

THE COURT: Do you have any other reason for obtaining that statement? Is there any other reason why you're getting a statement from the child at that time, other than for medical diagnosis and treatment?

THE WITNESS: No.

THE COURT: All right. Is your agency paid by any government agency --

THE WITNESS: No.

THE COURT: -- police agency?

Are you directed -- I'm trying to figure out if the statement that she gave you, were you using this in order to make the statement testimonial, something that would necessarily come forward in court? I'm trying to figure out your --

THE WITNESS: No. I'm an employee of Children's Hospital.

THE COURT: Okay.

THE WITNESS: Okay.

THE COURT: So you're not a law enforcement person? You weren't directed by law enforcement to do this? You do this whenever a child comes in?

THE WITNESS: Yes.

THE COURT: It's always the same kind of thing: is that right?

THE WITNESS: Right.

THE COURT: All right.

THE WITNESS: Yes.

THE COURT: All right. I have a couple more questions. Give me a couple more seconds here.

Did you have any sense, when you were speaking

to this child, that the statements she was giving to you at that time would later be used in court for any reason?

THE WITNESS: I could never predict.

THE COURT: Did she say that to you? Did you say that to her?

THE WITNESS: No.

THE COURT: Did you tell her at the time you're being given this statement, "This is going to be used in court in a testimonial fashion"?

THE WITNESS: No. I

explained to her that I'm talking to her and then I'll be talking to the -- to the person doing the exam so they will know what to do to help her.

And then I talked with her, too, about her own doctor, and the importance of telling the doctor the truth and that type of thing.

THE COURT: Okay. So what you're telling me is that the sole purpose of this was for the purpose of diagnosis and treatment of this child alone?

THE WITNESS: Yes.

THE COURT: And it was not

forensically for use at trial?

THE WITNESS: Correct.

THE COURT: All right.

Good.

The Court's done a little bit of work on this thing with regard to the issue that's been raised. In Crawford versus Washington, my district court, the Ninth District Court of Appeals, in a series of cases, they have examined this issue about whether a statement made by a woman or a child to a social worker and to a medical person is such a statement that would be considered to be testimonial in the context of a confrontational clause challenge. And my district, the Ninth District Court of Appeals, indicated that it is highly doubtful that the child in these kinds of circumstances would have any idea her statement would be preserved for later use at trial. They - my Court of Appeals - concluded, that the victim's declaration in this case to a social worker, to a medical person, or to a social worker under this setting, could be characterized as testimonial. The child at issue in that case - and I'll give you the site for it in a little bit - was a six-year-old at the time the declaration was made to an examining medical person and a social worker.

So what the Court's going to conclude in the case - and I'll note counsel for the Defendant's objection - this is not a statement that would not otherwise come in. The statement will come in under the -- under the examination the Court has done with regard to this witness, and the Court having considered the Crawford definition of hearsay, in the Crawford definition of testimonial clause, I'm going to let it in.

(Whereupon, the further following proceedings were then held in the presence of the Court, the Jurors, Counsel, and the Defendant.)

THE COURT: Thank you very much.

Miss Eisenhower, you may continue.

MS. EISENHOWER: Thank you, your

Honor.

BY MS. EISENHOWER:

Q Miss Morstatter, I want to show you what's been marked as State's Exhibit 4. That has previously been identified as a record that's generated as a result of the examination of ~~REDACTED~~ ~~UNIDENTIFIED~~. I'd like to go through your portions of that with me, if you could.

A Okay.

Q All right. And that starts out with your actual

history by the presenting caregiver. What does that mean?

A That was the history given to me by Danielle Sadowaky.

Q Okay. The people who brought her in?

A Yes.

Q Okay. And that's reflected in there, correct?

A Yes.

Q And that's what you normally do? You do that in every case?

A Yes.

Q Okay. Now, the next page. You then document the history told to you by the child, correct?

A Yes, I do.

Q Okay. And that's listed on that page. And that's your signature at the bottom, correct?

A Yes.

Q Okay. And that reflects the things that you just told us?

A Right.

Q It also reflects other things?

A Yes.

Q Like what?

A It talks about -- about the -- I -- it let's her know that we will be recording what we're talking about with her, why I was doing that, because I want to make sure

things would be accurate.

Q Okay. And you also talk about her family history, correct?

A Yes, we do.

Q Things she likes?

A Yes.

Q All right. Next page.

A That's more of the same.

Q All right. And then you talk about the circumstances surrounding the disclosure, correct?

A Yes.

Q Is there any other part of that report that you generated?

A Let's see. I -- I wrote the remaining couple pages.

Q Okay. And what are those?

A There's the place of occurrence, family data, assessment, chart review, and then what other agencies or programs are involved, and referrals that may have been made.

Q Okay.

A And then that I discussed it with Donna Abbott.

Q Okay.

A And then I included a math problem that she had done for me during the interview.

Q I saw that.

1 A Yes.

2 Q That math problem, I wanted to ask you about that.

3 What was the purpose of that math problem?

4 A We were talking about school, and she just kind of

5 wanted to demonstrate math to me.

6 Q It's long division, isn't it?

7 A Yes.

8 Q It looks difficult.

9 A It was.

10 Q All right. Now, how many of these cases do you do,

11 say, in a year?

12 A I would say in the ball park of --

13 Q More than a hundred?

14 A It would be at least -- it would be -- I've seen

15 several thousand children.

16 Q Okay. When a child is relating a history to you,

17 let's say a small child under the age of ten, do numbers

18 mean much to children under the age of ten?

19 A It -- a lot depends on the child.

20 Q Okay.

21 A There are some that can't count, some that can.

22 There are some that can count but aren't sure what the

23 counting means.

24 Q Are there often times where historically they give

25 you the frequency of the occurrence? In other words, is

1 that a question you ask, "How often did this happen?"

2 A There are times that I do ask that, yes.

3 Q Okay. And for children under ten, what kind of

4 answers do you get?

5 A You may get a lot. You may get their favorite

6 number. There's some children who are fixated, let's say,

7 on the number six and everything is six.

8 You may get "a lot" or "a couple."

9 Q Okay. Is it ever -- it varies on the child then?

10 A Yes.

11 Q Okay. And that's part of your questioning, right?

12 A Yes.

13 Q That's not the only part, though?

14 A Right.

15 Q Did SPREDACTED ever talk to you about a wet feeling, a

16 wetness on her legs?

17 MR. GREEN: Objection.

18 THE COURT: And the basis,

19 please?

20 MR. GREEN: She's leading.

21 THE COURT: No, sustained.

22 Q What did SPREDACTED feel?

23 THE COURT: You can answer

24 that question, ma'am.

25 MR. GREEN: I'll withdraw

1 the objection.

2 A Okay. I'm -- I'll look for her statement on that.

3 "Patient said there was 'wetness between my legs

4 when he left.'"

5 She also talked about "it was gross and wet from

6 his mouth. He was licking it, too. Tongue was moving back

7 and forth."

8 MS. EISENHOWER: I have nothing

9 further, your Honor.

10 THE COURT: Thank you.

11 Mr. Green, sir, you may cross-examine.

12 CROSS-EXAMINATION

13 BY MR. GREEN:

14 Q Miss Morstatter, as part of your process, you

15 interviewed her legal guardian?

16 A Yes, I did.

17 Q Her guardian at that time, that was Danielle

18 Sadowsky?

19 A Yes.

20 Q Did you interview Scott Sadowsky?

21 A I had some brief contact with him.

22 Q He's the one that gave authorization for this, isn't

23 he?

24 A Yes.

25 Q But you didn't interview him?

1 A I spent just a little bit of time with him.

2 Q What did you learn from him?

3 A I --

4 MS. EISENHOWER: Objection, your

5 Honor.

6 THE COURT: Overruled.

7 A I mostly talked with him about different resources

8 that would be available in the community and victim's

9 rights, and those types of things.

10 Q Now, when you interviewed SPREDACTED, these notes that

11 you have, they are typed up, correct?

12 A Yes.

13 Q You didn't do those contemporaneously at the time

14 you're sitting there with her, did you?

15 A No.

16 Q You did those some time later?

17 A Yes, I did.

18 Q And in these notes, when you -- you asked her, I

19 guess, why was she -- you know, you asked her why she was

20 brought there, right?

21 A Hm-hm.

22 Q And she told you she heard that she had been raped,

23 right?

24 A She said, "I heard that Frankie -- "

25 Q Then you, quote, break?

1 A Pause, "He raped me."  
 2 Q And who did you understand told her that?  
 3 A Her mother.  
 4 Q Her mother told her she was raped?  
 5 A Yes.  
 6 Q Okay. And you asked her that, and that's what she  
 7 said, right?  
 8 A Yes.  
 9 Q He laid on top of her --  
 10 A Right.  
 11 Q -- is that right?  
 12 A Yes.  
 13 Q Did she say which way he laid on top of her?  
 14 A No.  
 15 Q She didn't say that.  
 16 She didn't say whether he was face up? Face  
 17 down? You didn't ask that?  
 18 A She demonstrated his position but not hers.  
 19 Q Not hers.  
 20 A Yes.  
 21 Q Okay. Was -- did she describe to you a male penis?  
 22 A She had seen her little brother's when she had  
 23 changed his diaper and said that it was different. She  
 24 didn't -- she had said she had seen penises on the computer  
 25 when he would show her pictures of boys and girls that were

1 old - older, but she did not say she saw his penis.  
 2 Q When we talk about this on the -- I guess it's Page 3  
 3 of 3 -- 3 of 5, the second block.  
 4 A Yes.  
 5 Q "Patient said 'He called me down'" -- then you've got  
 6 "to the basement."  
 7 You have broken these phrases up --  
 8 A Yes.  
 9 Q -- right?  
 10 Again, "He called me down to the basement. He  
 11 never took any pictures of me."  
 12 And then you've got, "Frankie never said  
 13 anything."  
 14 A Right.  
 15 Q But he called her to the basement?  
 16 A Yes.  
 17 Q Did you inquire as to why he called her to the  
 18 basement?  
 19 A To show her the computer.  
 20 Q He didn't talk to her, correct?  
 21 A Correct.  
 22 Q You've got this as fifty times.  
 23 A Yes.  
 24 Q Okay. Did you understand the time frame that this  
 25 took place in?

1 A I believe a five-month span.  
 2 Q Okay. When you took the history not only from  
 3 ~~SPERMINATED~~ but from her mother, did she indicate to you when  
 4 there was visitation with this girl, with her daughter?  
 5 A He was living in the home of the mother.  
 6 Q You're talking about Mr. Wood?  
 7 A Yes.  
 8 Q He was living in her place, is that what you  
 9 understand?  
 10 A They were living in his.  
 11 Q Oh, his, okay.  
 12 But ~~SPERMINATED~~ didn't stay there all the time, did  
 13 she?  
 14 A I don't know.  
 15 Q You don't know that question -- you don't know the  
 16 answer to that question?  
 17 A Right. I don't know how often she would visit her  
 18 father or --  
 19 Q You didn't explore that in light of the fifty times?  
 20 A Correct.  
 21 Q That was every time she was there?  
 22 A Correct.  
 23 Q You further indicated that the "patient does not know  
 24 how to get a girl or boy private ready."  
 25 A Yes.

1 Q So she didn't know anything about excitement or a  
 2 difference, a change, whether it's a flaccid penis or not?  
 3 A Correct.  
 4 Q Okay. And was she -- she wasn't able to describe it  
 5 for you, was she?  
 6 A Pardon?  
 7 Q She couldn't describe Mr. Wood's penis, could she?  
 8 A No, she did not.  
 9 Q Did she say she ever saw it?  
 10 A She didn't see it.  
 11 Q She didn't see it.  
 12 Did she tell you that she'd be asleep when these  
 13 things would happen?  
 14 A That he would come in and she would keep her eyes  
 15 closed.  
 16 Q Okay. Did she tell you, though, also, that she was  
 17 asleep when it happened?  
 18 A She said her eyes were closed.  
 19 Q She's indicated she never touched a private part of a  
 20 boy or a man?  
 21 A Only when she used to touch her brother --  
 22 Her little brother?  
 23 A -- to wipe him when he peed in his diaper.  
 24 Q Okay. Did she tell you who she told first --  
 25 A Let me see.

Q -- about this incident?

A I don't recall. I don't see it in the note.

Q Did she give you any specific dates when this happened?

A I don't remember when the dates were. I don't know if I have it in here or not.

She said in October was when there was the yelling, that's when the mother found him coming out of her room.

Q In preparation of your testimony today, you reviewed your notes --

A Yes.

Q -- before you came in?

Okay. Is there anything else you looked at?

A I watched the DVD.

Q Okay.

MR. GREEN: That's all the questions I have, your Honor.

THE COURT: Thank you, sir. Anything else, Miss Eisenhower?

MS. EISENHOWER: One question.

REDIRECT-EXAMINATION

BY MS. EISENHOWER:

Q Was the word "rape" in SENNACIO's vocabulary?

A It may not be. I don't know.

Q Well, is it normal for a child under ten to have the word "rape" in their vocabulary?

MR. GREEN: Objection.

THE COURT: Yes. I'm going to sustain the objection.

Your next question, please.

Q In your experience with the children that you've treated, do children necessarily under the age of ten know what rape is?

MR. GREEN: Objection, your

Honor.

THE COURT: Overruled. You can answer.

A They generally get the name for what happened from someone else.

Q Usually from an adult?

A Or another kid or TV.

Q Okay.

MS. EISENHOWER: Nothing further.

THE COURT: Thank you.

Mr. Green, sir?

MR. GREEN: Nothing, your Honor.

THE COURT: Thank you.

ma'am. You can step down. Thank you for coming in, Miss Morstatter.

Your next witness, please.

MS. EISENHOWER: Tricia Carchedi.

THE COURT: Come on up this way, ma'am. My bailiff is going to swear you in.

MS. CARCHEDI: Okay.

Whereupon, the State of Ohio, to further maintain the issues to be maintained by them, called one TRICIA CARCHEDI, who, after having been first duly sworn, was examined and testified as follows:

THE COURT: Hi. My name is Chris Collier. What's your name?

MS. CARCHEDI: My name is Tricia Carchedi.

THE COURT: Spell your last name for my court reporter.

MS. CARCHEDI: Okay. C-a-r-c-h-e-d-i.

THE COURT: Ma'am, what's going to happen is, Miss Eisenhower is going to have some questions for you, and when she's done, Mr. Green is going to have some questions for you. And

really, what's going on here in the courtroom, the most important thing is that women in the back row can hear you.

MS. CARCHEDI: Okay.

THE COURT: There you go.

Miss Eisenhower, you may inquire.

DIRECT-EXAMINATION

BY MS. EISENHOWER:

Q State your name for the record, please.

A Sure. My name is Tricia Carchedi, C-a-r-c-h-e-d-i.

Q And what do you do?

A I am a social worker for Medina County.

Q Medina County what?

A Job and Family Services.

Q Okay. And are you a licensed social worker?

A No, I'm not.

Q All right. And as a social worker for Job and Family Services, what are your job duties?

A Um, I was an -- at the time -- I've been an intake investigator, and I've also been an ongoing worker. Back in October -- or back in January of 2005, I was an intake investigator.

Q Okay. What are you now?

A I'm an ongoing worker.

Q Okay. What's the difference?

1 A An intake investigator is when the agency receives  
2 referral information about a child that there's concerns  
3 about in the community. As a -- as an intake investigator,  
4 we have to go out and assess the situation to determine the  
5 level of risk and do referrals to community agencies,  
6 medical professionals and therapists.

7 Q And what's an ongoing worker?

8 A An ongoing worker is -- um, after an intake  
9 investigator assesses the situation, if it's determined  
10 that, um, the case has to be, you know, transferred into  
11 the next level, where we will continue to supervise the  
12 case, um, it goes to ongoing. And that's where we monitor  
13 families that are doing case plans and -- you know, and  
14 services.

15 And we -- as social workers, we make sure that  
16 people are doing what they need to do and, also, provide  
17 referrals and any assistance to that family.

18 Q All right. Now, when a referral comes to your  
19 agency, what kind of referrals are we talking about?

20 A We get, um, neglect; we get sex abuse, we get  
21 physical abuse, and, um, we get requests for services.

22 Q Okay. And neglect does not necessarily involve any  
23 kind of physical act, right?

24 A Correct.

25 Q It's leaving your kids home alone?

1 A Correct.

2 Q Okay. Do you remember receiving a referral in  
3 January of 2005 on a child by the name of SREDACTED, THE CHILD?

4 A Yes, I do.

5 Q And were you assigned that in your capacity as an  
6 intake worker?

7 A Yes, I was.

8 Q All right. And could you tell me what you did once  
9 you received that referral?

10 A Um, once I received that referral, I -- um, the first  
11 thing I did was I, um, notified Montville Police  
12 Department, and, um, we -- I set up a time asking him if he  
13 wanted to come out with me.

14 The police do not always come out with us; it  
15 depends on the circumstances.

16 And, um, you know, I made arrangements with the  
17 mother to, um, interview SREDACTED.

18 Q All right. Now, when you conducted that interview  
19 with SREDACTED, what was the purpose of conducting that  
20 interview?

21 A Um, the purpose would be to assess the concerns,  
22 determine the level of risk, and to, um, provide -- find  
23 out if there's any need or referral being made to medical  
24 professionals, like Akron Children's Hospital.

25 Or we do, um, referrals over to different

1 therapists in the community or, um, sometimes referrals to  
2 just community -- you know, resources in the community.

3 Q And did you then set up an interview with SREDACTED  
4 THE MOTHER?

5 A Yes, I did.

6 Q All right. And who was present during that  
7 interview?

8 A Present during that interview is, um, myself, um,  
9 Officer McCourt from Montville Police Department, SREDACTED,  
10 THE MOTHER, Danielle Sadowsky, which is mother, Scott Sadowsky,  
11 which is father.

12 Q All right. Now, was Scott Sadowsky present during  
13 the entire interview?

14 A I don't believe so. He -- um, there's also A  
15 SREDACTED, which is the -- or SREDACTED's younger brother  
16 who's there. Scott was walking in and out of the room and  
17 checking A throughout the interview.

18 Q All right. And did you proceed to interview SREDACTED  
19 THE MOTHER concerning her allegations?

20 A Yes.

21 Q All right. And what did she tell you?

22 A Well, SREDACTED told me that --

23 MR. GREEN: Objection.

24 THE COURT: Folks, I'm

25 going to send you out for about five minutes. Don't

1 discuss the case among yourselves or begin to form or  
2 express an opinion about the case.

3 (Whereupon, the Jury exited the courtroom, and  
4 the further following proceedings were then held in  
5 the presence of the Court, Counsel, and the  
6 Defendant.)

7 THE COURT: Mr. Green, your  
8 objection, sir.

9 MR. GREEN: Judge, it's  
10 a restatement of the earlier objection when we had  
11 the other social worker, about the hearsay issues.  
12 And the hearsay we have, I believe, is from a  
13 governmental worker who works with law enforcement.  
14 I think we have -- we may have a different  
15 scenario.

16 THE COURT: Let me take a  
17 look and see. The case that I was citing before,  
18 Ladies and Gentlemen, was State versus Edinger,  
19 E-d-i-n-g-e-r, it's 2006-Ohio-1527.

20 Specifically what I was talking about were  
21 Paragraphs 80 through 82 of that decision, which was  
22 issued in 2006, relating to how a court is to  
23 consider the hearsay argument and the confrontational  
24 clauses after the issue of Crawford was raised.  
25 Basically, what the Supreme Court in Crawford -- I'm

1 sorry, what the Supreme Court of the United States  
2 and our local Supreme Court in the State of Ohio  
3 determined was that if a statement is made and it  
4 is a testimonial statement, then the only way that  
5 it can come in is if the defendant had an  
6 opportunity - prior opportunity - to cross-examine or  
7 it has to be given on the witness stand cannot be  
8 permitted.

9 They also make the distinction between --  
10 Crawford also makes the distinction between  
11 testimonial and nontestimonial statements. If the  
12 statement is nontestimonial, then the statement  
13 can come in under a clearly defined hearsay  
14 exception.

15 The Court determined that what clearly defined  
16 the hearsay exception that was used last time was  
17 that the statement was used for medical diagnosis and  
18 treatment. In that particular case I had to voir  
19 dire the witness and make determinations as to why  
20 she took this child's statement and what was the  
21 purpose.

## VOIR DIRE

22 THE COURT: Ma'am, tell  
23 me a little bit about where you work and what you  
24 do.  
25

1 THE WITNESS: Um, I work for  
2 Medina County Job and Family Services as a -- at that  
3 time I was an intake investigator. And our job is to  
4 -- is to make sure kids are safe in the community.  
5 We go out and, like I said, um, assess the concerns,  
6 talk to children about what -- um, you know, what the  
7 allegations are and, um, you know, get the facts from  
8 the child.

9 THE COURT: Who was present  
10 when you took your statement?

11 THE WITNESS: Um, Officer  
12 McCourt and Danielle Sadowsky.

13 THE COURT: So in the first  
14 case, it's different from the previous statement  
15 inasmuch as there was a police officer present at the  
16 time.

17 Why was Officer McCourt there?

18 THE WITNESS: Um, you mean --  
19 we do -- you mean, when do we call the police  
20 department? You know, when there's a possibility  
21 that, um, we're at risk, in which -- in this case we  
22 weren't, but if --

23 THE COURT: You weren't  
24 fearful of her?

25 THE WITNESS: No, I wasn't

1 fearful of her.

2 THE COURT: Okay.

3 THE WITNESS: Or if we, um,  
4 believe that there may be, um, a criminal or, um, you  
5 know, an investigation that needs to follow.

6 THE COURT: Is at least one  
7 purpose of taking the statement from this child so  
8 that you can use it later in a criminal prosecution  
9 like this today?

10 THE WITNESS: Yeah. We  
11 also have the McKid policy at Medina County, which  
12 is where -- that's protocol that we call the  
13 police.

14 I just want to add this in there. There's a  
15 McKid policy out there that we do call -- um, I'm  
16 sorry, what was your question? I'm sorry, your  
17 Honor.

18 THE COURT: Oh, you're  
19 doing okay.

20 THE WITNESS: I lost track  
21 and went blank.

22 THE COURT: You're doing  
23 fine.

24 Is it at least one of the reasons why you obtain  
25 a statement from the child is if you're called on to

1 testify at some later point in time, you can testify  
2 in court?

3 THE WITNESS: Um, I don't  
4 think in a -- like, you know, we usually aren't  
5 testifying in court, in Common Pleas Court.

6 THE COURT: Have you done  
7 it in the past?

8 THE WITNESS: Not in your  
9 court, not in Common Pleas.

10 THE COURT: Really? Okay.

11 THE WITNESS: So it's not  
12 usually our, um, role. I mean, that's not really --  
13 I mean, when we get to interview the child, my  
14 biggest concern is -- like I said, um, I'm trying to  
15 find out if the child's safe and, um, if there's any  
16 risk, immediate risk from the child and, um --

17 THE COURT: Okay.

18 THE WITNESS: You know, the  
19 police do assist us and do come out, and we interview  
20 an individual to avoid having to reinterview children  
21 more than once. I know that the child was  
22 interviewed by other people, but the -- the -- the --  
23 um, the model is that -- like, is that if Officer  
24 McCourt was with me, it would save her from having  
25 to go through the trauma of it again on the second

time.

THE COURT: I understand exactly why, and it makes all the sense in the world and I appreciate it.

The Court's going to make the ruling in this particular case, under these circumstances, to sustain the objection.

Let's take a five-minute break and I'll see you in five minutes.

MS. EISENHOWER: Your Honor --

THE COURT: You can step down. It's okay.

THE WITNESS: Thank you.

MS. EISENHOWER: Your Honor --

THE COURT: You're not going to let it alone, are you?

MS. EISENHOWER: Your Honor, I just --

THE COURT: That's fine. I thought I could take five minutes. What can I help you with, please?

MS. EISENHOWER: It can wait, your Honor.

THE COURT: Okay. Thank you, Miss Eisenhower.

(Recess taken.)

THE COURT: Come on in, folks, and be seated.

If you remember, before we took our break, Miss Eisenhower was in the process of asking the witness questions, there was an objection to a question, you took a break while I ruled on the objection. The witness thought she was done, so she went back to work. Miss Eisenhower and Mr. Green have a couple more questions for her, so we've got a call going to her saying, "Come on back."

Rather than have you wait for the social worker to come back, Miss Eisenhower is going to call another witness. We're going to hear from that witness, and when the attorneys are done, we'll have Miss Eisenhower and Mr. Green talk to the social worker again. So I'm asking you - and you folks can do this - to kind of adjust your mind forward a little bit.

Go ahead, Miss Eisenhower.

MS. EISENHOWER: I'm going to call Nick Stolph.

THE BAILIFF: Raise your right hand, please.

Whereupon, the State of Ohio, to further maintain the issues to be maintained by them, called one NICK STOLPH, who, after having been first duly sworn, was examined and testified as follows:

THE COURT: Come on up and have a seat.

MR. STOLPH: Good morning, Judge.

THE COURT: Good morning. I'm Chris Collier. What's your name?

MR. STOLPH: Nick Stolph.

THE COURT: Spell your last name for my court reporter, please.

MR. STOLPH: S-t-o-l-p, as in Paul, H.

THE COURT: Mr. Stolph, what's going to happen is, Miss Eisenhower is going to have some questions for you, and then when she's finished, Mr. Green may have some questions for you. The folks in the Jury are going to need to be able to hear your answers.

MR. STOLPH: Okay.

THE COURT: Come on, you can do it. Talk to her (indicating).

MS. STOLPH: Hello.

THE COURT: If she can hear you, everybody else can hear you.

Go ahead, Miss Eisenhower.

DIRECT-EXAMINATION

BY MS. EISENHOWER:

Q How old are you?

A Thirty-eight.

Q Where do you live right now?

A South side of Medina.

Q And what do you do for a living?

A I'm a carpenter.

Q And in your employment as a carpenter, do you work for other people?

A I work for other people.

Q All right. Do you know Frank Wood?

A Yes.

Q How do you know Frank Wood?

A He -- I was employed by him for three years.

Q When? From when to when?

A From 1999 -- 2000 to 2005, so about -- about five years, four or five years.

Q Okay. And did you know him before that?

A Yes.

Q Okay.



1 A Went to school with him.

2 Q Now, Mr. Stolph, I've asked you to come here and  
3 testify today about something that you saw when you were  
4 working for Frank Wood; however, I need to clear up some  
5 things first.

6 You've got a little bit of a criminal background.

7 A Yes. Back when I was younger.

8 Q Okay. Back when you were younger?

9 A Yeah, I was younger.

10 Q You were in the service; is that correct?

11 A Yes. I was in the Air Force from '91 to '95.

12 Q Where at?

13 A Edwards Air Force Base, in California.

14 Q Did you have some problems when you were in the  
15 service?

16 A Yeah. When I first enlisted in the military, my wife  
17 and I, being a new couple and all, and being away from home  
18 and the stresses and the strains thereof, yeah, we had a  
19 little argument one night.

20 Q Did it turn into a domestic violence?

21 A Turned into domestic violence, yeah.

22 Q Okay. And have you been arrested for anything else?

23 A Yeah. I was involved in an altercation down in  
24 Cleveland, but all the trials were -- all the charges were  
25 reduced to say -- I do believe it was a disorderly conduct.

1 Q Okay. Now, I want to take you to the time that you  
2 worked for Frank Wood. When you worked for Frank Wood, did  
3 you have work in Cleveland, or in Cuyahoga County  
4 somewhere?

5 A Yeah. We worked all over Medina, Lorain, Cuyahoga; a  
6 couple spots out of state, New York and Maine we did a  
7 couple of jobs. We were all over.

8 Q Okay. I'm going to direct your attention to a time  
9 where you -- you and Mr. Wood traveled up to Cleveland  
10 sometime in February of 2005?

11 A Yes.

12 Q Just the two of you were going up to Cleveland?

13 A Yeah. We just finished up a job up there, and we  
14 were going to clean up the job site, scrap it basically,  
15 that's what we call it, and grab our ladders.

16 Q Okay.

17 A And so we went up to Cleveland to do that.

18 Q What happened when you got up to that job site?

19 A We picked up the job, and everything looked really  
20 good, and we were done basically with everything. And  
21 Frank asked me to take a walk and --

22 Q Was that unusual?

23 A No. It's not unusual for Frank.

24 Q Okay.

25 A You got to know this guy.

1 Q Okay.

2 A No, it's not unusual.

3 Q So you -- did you do that?

4 A I lit up a cigarette and took a walk.

5 Q And what happened when you took the walk?

6 A I looked back and he was -- he had what appeared to  
7 be a computer. He was hitting it with a sledgehammer,  
8 basically destroying it in a million little pieces.

9 Q Did you see what he did with it then?

10 A He picked it up and threw it -- flung it with all the  
11 scrap and threw it away.

12 Q Threw it away where?

13 A In some -- on the job site Dumpsters.

14 Q More than one?

15 A Yeah, I believe so.

16 Q Did you ask him why he did that?

17 A No.

18 Q How come?

19 A Wasn't my place to ask.

20 Q Okay.

21 MS. EISENHOWER: Nothing

22 further, your Honor.

23 THE COURT: Thank you.

24 Mr. Green, sir.

25 MR. GREEN: Steve, how are

1 you this afternoon?

2 THE WITNESS: Good.

3 CROSS-EXAMINATION

4 BY MR. GREEN:

5 Q You've known Frank how long?

6 A Since eighth grade.

7 Q Since you were twelve years old?

8 A A lot of years. Twelve years old, yeah.

9 Q And Frank, every once in a while, he gets angry?

10 A As we all do, yeah.

11 Q As you have?

12 A Well, yeah.

13 Q You moved to Cleveland one time because you were  
14 angry with him?

15 A I wasn't angry, that was just a misunderstanding.

16 Q Okay. Anyway, you mentioned you worked all over with  
17 Frank in these various counties and said something about  
18 Maine.

19 A Yes.

20 Q When were you in Maine with him?

21 A Oh, I do believe December of 2004, maybe.

22 Q You guys were out there actually trying to get home  
23 at Christmas?

24 A Yeah. We were home by Christmas.

25 Q Right. But did you make more than one trip out

1 there?

2 A Yes. We didn't get the whole job done before  
3 Christmas, and we had to go up for about a week-and-a-half  
4 longer to finish it up.

5 Q He uses a computer in his work, right?

6 A Yeah.

7 Q Laptop?

8 A Hm-hm.

9 Q And didn't that laptop get damaged in Maine, when you  
10 guys were in Maine?

11 A It may have. When we were up in Maine, I was -- I  
12 was basically there to March, so I was trying to keep  
13 everybody in line, keep the job moving, and Frank was doing  
14 all the details and the running and, also, it may have  
15 gotten damaged up there. I do not know.

16 Q It was out in the rain or something, it got wet?

17 A Again, I don't know.

18 Q You don't know?

19 A No.

20 Q He didn't complain to you about it?

21 A He was always complaining about the computer being a  
22 lemon when he bought the thing. He was always taking it in  
23 and having something fixed on the hard drive or fix the  
24 screen. It went out all the time; it was always in and  
25 out.

1 Q Yeah. They can be that way.

2 A Yeah, well, I don't own a computer.

3 Q You don't know.

4 Did you see him use that computer for anything  
5 other than the work?

6 A No, no.

7 Q When you guys traveled --

8 A Hm-hm.

9 Q -- out of state, you're up in Maine.

10 A Hm-hm.

11 Q You stayed where? In a motel or something?

12 A Yeah, stayed in motels.

13 Q Did you have separate rooms or did you stay  
14 together?

15 A No. We doubled up. You know, we had six guys on the  
16 crew, so everybody had, you know, shared a room, so --

17 Q Did somebody stay with Frank?

18 A Frank's brother Chris stayed with him when we were up  
19 in Maine.

20 Q Okay. Did you ever stay with him --

21 A No.

22 Q -- on a job?

23 A No, no.

24 Q To see him break up this computer, you knew he was  
25 very upset with it, right?

1 A Yeah, yeah.

2 Q That didn't surprise you?

3 A Again, you have to know Frank. I've known Frank  
4 since I was twelve years old, and he -- he's a character.  
5 But when he was destroying the computer, I didn't think  
6 anything of it. And like I told the prosecutor, I didn't  
7 ask and he never really told me why, so we left it at  
8 that.

9 MR. GREEN: That's all the  
10 questions I have.

11 THE COURT: Miss  
12 Eisenhower?

13 MS. EISENHOWER: Nothing  
14 further.

15 THE COURT: Thank you for  
16 coming in. You're free to go.

17 Your next witness, please, ma'am.

18 --  
19 Whereupon, the State of Ohio, to further  
20 maintain the issues to be maintained by them, called  
21 one JOHN SARAYA, who, after having been first duly  
22 sworn, was examined and testified as follows:

23 THE COURT: Have a seat.

24 MR. SARAYA: (Complying.)

25 THE COURT: My name is

1 Chris Collier. What's your name?

2 MR. SARAYA: John Saraya.

3 THE COURT: Spell your last  
4 name for my court reporter.

5 MR. SARAYA: S-a-r-a-y-a.

6 THE COURT: Mr. Saraya,

7 what's going to happen is, Miss Eisenhower is going  
8 to have some questions for you, and then Mr. Green  
9 will as well. The Jury's got to be able to hear you.  
10 Those are the folks seated to your left. The woman  
11 way back in the corner has to be able to hear you.

12 Come on, raise your hand.

13 JUROR: (Complying.)

14 THE COURT: Talk to her,  
15 okay?

16 MR. SARAYA: Yes, sir.

17 THE COURT: Thanks.

18 Miss Eisenhower, you may proceed.

19 MS. EISENHOWER: Thank you, your  
20 Honor.

21 DIRECT-EXAMINATION

22 BY MS. EISENHOWER:

23 Q Agent Saraya, you're with the Bureau of Criminal  
24 Investigation, right?

25 A Yes, ma'am, I am.

Q Why don't you explain to me, first of all, what the BCI is?

A BCI is the Ohio Bureau of Criminal Investigation. We're a division of the Ohio Attorney General's office. Our job is the enforcement side of the Attorney General's office. We are divided into three divisions. We are the repository for the criminal histories of everybody in the State of Ohio, as well as the State crime lab and the investigations division.

Our agents are assigned to various divisions, including narcotics, crime scene, computer crimes, and special investigations.

We work upon request of law enforcement agencies and assist them in their investigations.

Q Did you receive a request in January of 2005 from the Montville Police Department to assist in their investigation?

A Yes, ma'am, I did.

Q And when you did that, what was the purpose of your assistance?

A I was requested by a Patrolman McCourt to come out. He had a sex crime investigation, and he asked that I lend assistance in examining a couple mattresses for possible biological evidence.

Q All right. Now, first of all, why don't you tell me

what exactly your title is and what you do for BCI.

A I am a special agent in BCI investigations. I'm in the division assigned to the crime scene unit. We are available twenty-four hours a day, seven days a week to any law enforcement that asks us.

Depending on where we're at, we respond to a ten-county region out of this part of the state, and we respond from our homes upon request of an agency.

The crime scene units, we go out and examine items, locate documents, collect evidence, and take it to the lab for further analysis by the scientists at the crime lab.

Q Now, are you a law enforcement officer?

A Yes, ma'am, I am.

Q And are you specially trained in evidence collection?

A Yes, ma'am. I spent nine years with the Liberty Township Police Department in Youngstown, Ohio, and under that got assigned to the Trumbull County Task Force in 1995. Under that job I received the basic crime scene training. I've been involved in death investigations since that time.

In 1996 I came to work for the State. Since I've been at BCI, I've been involved and received training in advanced crime scene, blood spatter interpretation, post-mortem investigation, sex crimes investigation,

medical/legal investigation of death, fingerprinting dead bodies, statement analysis, interviewing techniques.

As well as my duties at BCI, I'm also one of the division's firearm instructors.

Q All right. Now, when you were called to the scene by the Montville Police Department, what was the purpose of you going there?

A They had a couple mattresses and some bedclothes that they wanted examined, looking for biological evidence.

Q And how did they want them examined?

A That was up to me.

Q Okay. What did you decide to do?

A Okay. What we were presented with were two mattresses. The resident there wasn't sure which one may have been involved. The mattresses themselves were relatively new, twin bed size, they were small.

They were examined individually with just the natural light that we have here. And then with the room darkened, we use alternate light power, an alternate light source, which is basically a high-power flashlight that works in the ultraviolet range. Various bodily fluids react to the ultraviolet wavelengths, and in most cases they glow similar to a white shirt underneath a black light.

Both mattresses, both sides as well as the edges,

were examined with the alternate light source looking for fluorescence, something to glow back at me.

We did find a couple stains, not very large, that did, in fact, fluoresce. Once those stains were identified, they were noted.

And then the next step that we would do is take a sterile swab, a brand-new swab, dampen it, wipe down the stain to collect a sample of it, and that is submitted to our lab for analysis by the laboratory itself.

Q Now, did you actually gather up some evidence from that scene?

A We did locate a couple stains. I did take some swabs over to the Montville officer, because he had a couple other items he was collecting that he would be submitting to the lab at one time.

Q Now, tell me why you did that. Were you -- well, first of all, let me -- were you aware that the allegation you were investigating was alleged to have occurred in a different place?

A Yes, I was.

Q And were you aware the allegation that you were investigating was alleged to have occurred several months before that?

A Yes, I was.

Q And is that a commonplace event, that you would take

evidence under those circumstances?

A It's not uncommon to get requests to investigate a crime that occurred some time ago. There's also a possibility that there will be evidence still in place, residual evidence that can be collected and can be compared, yes.

Q And when you did that, what were you thinking the odds were of actually finding it?

A Initially, on speaking with the resident, after talking to her about the mattresses, she wasn't sure if she had mattress pads on those mattresses at the time this incident occurred, but there was a potential.

When we explored this potential, we did find, again, some staining. There's no real presumptive tests to do for saliva or urine in the field, so we took the swab and sent it on to the lab and left the forensic scientist examine it further.

Q And what -- again, given the circumstances that you were given, why did you collect the evidence?

A That would be just to cover all bases, make sure every avenue was explored.

Q And did you expect to find any evidence that you would be able to use after that period of time?

MR. GREEN: Objection.

THE COURT: Overruled. You

can answer.

A I figured it was a fifty/fifty shot.

Q All right. And you're aware, of course, that the findings came back that there was no evidence?

A I never saw the lab report back again.

Q Okay.

MS. EISENHOWER: I have nothing further, your Honor.

THE COURT: Mr. Green, sir.

# CROSS-EXAMINATION

BY MR. GREEN:

Q Mr. Saraya -- or Agent Saraya --

A Yes, sir.

Q -- you found a couple of -- or evidence of some liquid stains that had been on the mattress somewhere?

A Yes, sir.

Q Do you recall where they were located?

A As I recall, one stain was toward the center, one of the sides of the mattresses, and another one was down towards an edge, towards a corner.

Q Were they on the same mattress or on each mattress?

A They were on two separate mattresses.

MR. GREEN: That's all the questions I have.

THE COURT: Anything else, Miss Eisenhower?

MS. EISENHOWER: No, your Honor.

THE COURT: Sir, thank you so much for coming in. I appreciate it. Thank you for your patience with me.

Do we have our witness back?

MS. EISENHOWER: Not yet, your Honor.

THE COURT: Folks, I'm going to send you out. Do not discuss the case among yourselves or begin to form or express an opinion about the matter. We'll see you in five minutes. It isn't going to take too much longer than that.

[Recess taken.]

THE COURT: Come on back in, folks, and have a seat.

Miss Eisenhower, have we located her?

MS. EISENHOWER: She's here now, your Honor.

THE COURT: Okay. Let me orient everybody. If you remember the last time we had this witness on the witness stand, she was testifying, there was a question with regard to some

evidentiary issue, I ruled on the evidentiary issue, she thought, and probably wisely so, that she was done, and fled back to work. She has now come back for us. Miss Eisenhower is now going to continue her direct-examination of this witness. When Miss Eisenhower is done with her direct-examination, Mr. Green will have a chance to cross-examine the witness, redirect, recross.

And then I think this is our last witness of the day, and then what we'll do is talk to you about the schedule on Thursday and Friday. All right? Are you all okay?

Miss Eisenhower.

MS. EISENHOWER: Thank you, your Honor.

Whereupon, the direct-examination of TRICIA CARCHEDI then resumed.

BY MS. EISENHOWER:

Q I think that I had just asked if you had done an interview with SPEDACTED, REDACTED concerning some allegations, and you indicated that you had, correct?

A Correct.

Q All right. And as a result of that interview where you talked to SPEDACTED, REDACTED, what was your next step?

A My next step was is that I, um, called Akron

1 Children's Hospital and, um, talked to -- I talked to their  
2 -- um, I don't remember the person who -- directly who I  
3 talked to, but I set up an appointment for her and her  
4 family to go out and, um, have a physical exam and be  
5 interviewed.

6 THE COURT: Just talk a  
7 little louder. Pull that mic a little closer to  
8 you.

9 THE WITNESS: (Complying.)

10 THE COURT: You're doing  
11 great. I need to make sure that we can all hear you.

12 THE WITNESS: Okay.

13 Q Why did you do that?

14 A Um, anytime we have -- we have an indication that a  
15 child has been sexually abused, we do send the children  
16 over to Akron Children's Hospital, further to be -- I mean  
17 to be further evaluated, you know, medically.

18 Q All right. And to your knowledge, was that done?

19 A Yes.

20 Q All right. And did that pretty much conclude your  
21 involvement with that family?

22 A Um, I believe so. I did, um, also recommend that  
23 SPERDACKED get therapy, and I believe she did, um, go to see  
24 Dr. Suzanne LeSure.

25 MS. EISENHOWER: Nothing

1 further.

2 THE COURT:

Mr. Green,

3 sir.

4 CROSS-EXAMINATION

5 BY MR. GREEN:

6 Q You are an intake worker at this time?

7 A Correct.

8 Q And you did the interview -- you interviewed not only  
9 SPERDACKED, you interviewed the others, didn't you?

10 A I interviewed SPERDACKED, I interviewed mom, and I -- I  
11 interviewed SPERDACKED and I, um, spoke with Danielle and  
12 Scott Sadowsky.

13 Q Okay. This is the interview -- just to help the Jury  
14 -- that took place on approximately January --

15 A 12th

16 Q January 12th --

17 A Correct.

18 Q -- 2005?

19 A Correct.

20 Q Okay. At the Sadowsky -- or at Mr. Sadowsky's  
21 residence?

22 A No. Um, it was actually, um, Danielle Sadowsky's  
23 residence.

24 Q Okay. Danielle lived in that apartment at that time?

25 A Yeah. Like a townhouse, condo.

1 Q Okay. And did you do an assessment in this case?

2 A Yes. I do what we call a risk assessment.

3 Q And did you make any recommendation regarding this  
4 case as to whether it should proceed?

5 A Yes. I made the recommendation -- as I testified  
6 earlier, I, um, made the recommendation that they follow  
7 through with appointments at Akron Children's also, and,  
8 also, follow up with the therapeutic services.

9 Q Did you continue on the case after January 12th?

10 A Yeah. We probably usually -- I don't know exactly  
11 the date that I closed the case, but we usually do keep  
12 cases open for approximately thirty days to continue  
13 evaluation to make sure that all the needs are being taken  
14 care of for the child.

15 Q And you closed the case for what reason?

16 A Well, we typically do close the cases after -- um,  
17 even when we -- no matter what the outcome is, cases get  
18 closed when, um, it's not necessary for the agency to stay  
19 involved. If parents are cooperating, doing the services,  
20 and protecting their child the way they need to, um, our  
21 agency doesn't, um, stay involved.

22 Q Did you make any referral of your recommendations  
23 to --

24 A No.

25 Q -- anyone?

1 A Well, as I said before, I, um, made the referrals to  
2 Akron Children's Hospital and to, um, Dr. LeSure.

3 Q Okay. You didn't make any referrals to any  
4 governmental agencies?

5 A Um, I'm not -- "governmental agency," I'm not clear.  
6 I mean, I -- no, I don't believe so.

7 Q You didn't make any referral to the prosecutor's  
8 office?

9 A Well, we send what we call -- a letter gets sent  
10 anytime we substantiate or find indications of sexual abuse  
11 or, um, a crime, like a physical abuse that's severe, we do  
12 send what we call a letter -- a police letter to the  
13 prosecutor's office.

14 Q Okay. Do you send a letter to the victim's parents?

15 A We do send them letters and tell them what we -- it's  
16 not the same letter, but we do send a letter to victim's  
17 parents, um, with recommendations of what we think is  
18 necessary to keep that child safe.

19 Q Did you send a letter that sexual abuse was not  
20 indicated in this case?

21 A No. We sent a letter indicating sexual abuse.

22 Q Who did you send that to?

23 A I sent one to -- to -- um, to Scott Sadowsky, because  
24 he was the custodian, and, um, Frank Wood, would have  
25 gotten a letter alleged -- if you're an alleged perpetrator