IN THE COUNTY COURT OF THE 18TH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA

CASE NO. 05-2015-CF-039871-AXXX-XX

STATE OF FLORIDA,

PLAINTIFF,

V.

DANA LYNN LOYD,

DEFENDANT.

_____/

TRANSCRIPT OF JURY TRIAL PROCEEDINGS

VOLUME I (Pages 1-123)

DATE: March 27-30, 2017

PLACE: Vassar B. Carlton Historic Courthouse
506 S. Palm Avenue
Titusville, Florida 32796-3592

BEFORE: The Honorable Robin Lemonidis,
Circuit Judge

These proceedings were digitally recorded
and the following was transcribed by:

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TITUSVILLE, FLORIDA; March 27, 2017

(Whereupon, these proceedings were transcribed from a digital recording.)

NOTE - Every effort has been made to correctly identify speakers, but due to the nature of recordings this is sometimes impossible.

NOTE - Efforts have been made not to transcribe any obvious attorney/client privileged conversations, and transcriptionist is not responsible for any inadvertent transcription of such conversations.

(Whereupon, the following proceedings took place before the Court.)

THE COURT: All right. I believe that the case we were going to go with first was Ms. Loyd.

Mr. Sendra, Ms. Stewart, are you all prepared to go forward?

MR. SENDRA: We are.

THE COURT: All right. Ms. Burgess, are you prepared to go forward today?

MS. BURGESS: Yes.

THE COURT: Yes?

MS. BURGESS: Yes, Judge.

THE COURT: All right, thank you. Is Mr. Paul Bross in the --

MS. BURGESS: (Away from mic, inaudible.)

THE COURT: Okay, okay. Thank you.

(Whereupon, this proceeding was in recess while other matters were heard by the Court.)

(Whereupon, sidebar proceedings out of the hearing of open court.)

MR. SENDRA: I know it's early and we haven't even started yet, so my question is -- and we were just talking about scheduling. I was going to ask to do jury selection today and then maybe the opening statements and then start testimony in the morning, if the Court doesn't have a problem with that?

THE COURT: Yes. Well, you can do that.

MR. SENDRA: Because I'm assuming we won't even have a jury until after lunch at this point, because I don't --

THE COURT: Right. Well, the jurors are waiting for the questionnaires to come out.

MR. SENDRA: Okay.

THE COURT: And what my thought was --

because I know that there was --

MR. SENDRA: Oh, we have to do that still.

THE COURT: Well, there was a question about --

MR. SENDRA: I'd rather do the plea before the gentleman backs out.

THE COURT: Right, this (tenders documents) right. Those are the plea forms. If it weren't for the fact that we were waiting on the jury questionnaires --

MR. SENDRA: It's going to be another open plea, so it's going to take a few minutes.

THE COURT: Oh, geez. Please, you've got to be kidding me.

MR. SENDRA: It won't be difficult.

THE COURT: Okay. No, I mean, that's fine.

MR. SENDRA: But I'd rather get it done because of the other docket that we're trying to cover.

THE COURT: Right.

MR. SENDRA: So, I don't want to let it linger.

THE COURT: Right, right, right. You're

right, I understand. I completely understand. But I know that there's a couple of open -- of motions that have not -- there was a --

MS. BURGESS: I think there's one motion in limine.

THE COURT: -- of the proposed jury instructions --

MS. BURGESS: Yes, the jury instructions.

THE COURT: -- that was the only one that --

MR. SENDRA: Is that the one that you were proposing, or Paul was proposing?

MS. BURGESS: Yeah.

MR. SENDRA: Because I thought we took one last time, but I couldn't find it.

THE COURT: I've got the -- I've only got the one that, I think, was (trailing off).

MS. BURGESS: Yeah, and I had writing on it.

THE COURT: Was this it (tenders document)?

MS. BURGESS: No, that's the original.

THE COURT: Oh, okay.

MR. SENDRA: That's the one that we

submitted.

MS. BURGESS: I have it, I'll get it.

THE COURT: Okay.

MR. SENDRA: So, if you could just send me a copy of that, that would be good, because I need to look at that.

THE COURT: Oh, wait (tenders document) this is the one?

MS. BURGESS: That's mine, yeah.

THE COURT: That's it, okay.

MR. SENDRA: And I need to --

THE COURT: So, you wanted to --

MR. SENDRA: I need a copy of that.

MS. BURGESS: I wanted to add in a definition of false report, and he wanted to add in the --

MR. SENDRA: And I need a copy of that, so I can --

THE COURT: You need a copy of this?

MR. SENDRA: Yes.

THE COURT: Would you like us to make you a copy of this?

MR. SENDRA: Probably two.

MS. BURGESS: And I think there's one motion in limine that's redacting --

MR. SENDRA: A redacting one? The redacting thing, I don't think was a problem. I cut those parts out that we --

THE COURT: Was that this (tenders documents)? These were all the reductions.

MR. SENDRA: Correct, we had some parts we left open, and I cut those two parts out of the redacted statement. So, there were two timeframes that we didn't discuss the last time.

THE COURT: Oh, here's one (tenders document) reserve, references the soccer club.

MR. SENDRA: Uh-huh, that was remote.

THE COURT: All right, reserved. Okay, reserved. No motion made. If I can read my cryptic --

MS. BURGESS: No, that's fine, I've already gone through it.

THE COURT: Okay, you have listened to the whole thing?

MR. SENDRA: There was two parts that we had to talk about last time, where I asked you to reserve on and we -- And when I edited it, I removed them. There was nothing to --

THE COURT: Okay. So, yeah, those

are -- Those are the only two that were reserved (indicating) and that was reserved.

MR. SENDRA: I think there was a timeframe at the end of the video as well, that I wasn't -- or audio -- that I wasn't positive of what was on it. And I listened to it and it wasn't anything on it.

THE COURT: So, other than that, it wasn't relevant?

MR. SENDRA: Correct.

THE COURT: Okay. And here is (indicating) oh, this was -- was this eleven (indiscernible) -- it was one, thirteen, forty-eight to one, fifteen, reserved. State agrees --

MR. SENDRA: Yeah, that was it.

THE COURT: -- if it's regarding a different article.

MR. SENDRA: Yeah, it was about a different matter that she brought to --

MS. BURGESS: Yes, that's right.

THE COURT: All right, it was like a totally non --

(More than one speaker, indiscernible.)

MR. SENDRA: -- the intention of the

police. Yeah, I just wanted to make sure there wasn't anything in there.

Okay, and that -- okay, so pretty -- so everything else you all are in agreement on?

MS. BURGESS: Right --

(More than one speaker, indiscernible.)

MR. SENDRA: The only other argument would be jury instruction at this point.

THE COURT: Right, the jury instruction.

MS. BURGESS: And that's -- yeah.

MR. SENDRA: And I think the one motion in limine that we talked about was the phone records, if that's what I remember.

MS. BURGESS: Yeah.

THE COURT: Was that the --

MR. SENDRA: Ms. Loyd's AT&T phone records.

THE COURT: So, we are back down into --

MR. SENDRA: Which I have in my files.

THE COURT: Okay. Sorry, I know this is wonderful hold music, but it drives me crazy.

You know, if they just go (ring tone sound effect) you know, a phone call with the deputy, I'd be okay with that. And probably everybody else would, too.

Okay. Yeah, I don't have the -- unless -- did you file the motion afterwards, Ms. Burgess?

MS. BURGESS: Uh-uh.

MR. SENDRA: No, that was done at the time.

THE COURT: Okay. This is all about --

MS. BURGESS: I have -- Actually I have a copy of them (tenders documents), so you can have that.

THE COURT: Alrighty. Thank you very much.

MR. SENDRA: Yeah, I'm sorry for my notes. It was definitely timely filed, Judge, there is not a --

THE COURT: I am, remembering a -- right, right, right. I remember this one. I remember that there was the argument. The Defense's objection was that she may have been pursuing other matters, other business matters.

MS. BURGESS: Just basically to limit the scope of the AT&T records.

MR. SENDRA: Can I talk to Ms. Stewart real quick, Judge?

THE COURT: Sure, then we can address --

MR. SENDRA: Because I think we had already decided, but I don't want to mis --

THE COURT: Here she comes. See, you say her name and she appears.

MR. SENDRA: Yeah.

THE COURT: Here's Ms. Stewart. And we should say for the record, we are discussing the State of Florida versus Dana Lynn Loyd, 2015-CF-39871. Ms. Loyd is represented by Jessica Burgess and the State is represented by Mr. Sean Sendra and Ms. Susan Stewart.

All right. We've been asked to do that for the audio thing. Because people talk and they try to transcribe things and they don't know who's speaking. Usually when you're coming up to the podium, I will call you by name and call the client by name and whatnot. So it depends on --

(More than one speaker, indiscernible.)

THE COURT: -- solely, but we're going to -- What I've been seeing for two years, and now I'm -- They have been asked to state their names and whatever, so.

All right. So this is (indicating) this is the phone records.

1 Outside the scope of the actual call, by
2 the request of the Defense's motion in limine,
3 is that the -- outside the call, other than the
4 actual call that's in question is -- should be
5 redacted.
6 MS. BURGESS: Without being limited to
7 just (indiscernible) I don't think (trailing
8 off).
9 THE COURT: Do you want this static on?
10 MR. SENDRA: You can turn it off.
11 THE COURT: Okay, thank you.
12 (Whereupon, before the Court.)
13 THE COURT: Because I think we are all,
14 you know, talking quietly here. Nobody cares
15 what we're talking about besides us and that
16 noise drives me nuts.
17 We finally got the jury one time and
18 they got pretty hip to it quickly. And every
19 time I would press that button someone would
20 say: We need a break.
21 Okay. Go to the jury room and drink
22 some coffee or whatever. If it weren't such a,
23 you know, of moving them back and forth, we
24 would just say, you know, we'll discuss out
25 (indiscernible) I have no idea what's --

(More than one speaker, indiscernible.)

THE COURT: -- like orders of magnitude.

MS. BURGESS: Yeah.

MR. SENDRA: I mean, this happens on April 29th of 2015, everything. So, I would just ask for the two days surrounding the 29th, just to make sure we don't have it wrong for somebody to -- But I agree that on the AT&T records, that entire -- In terms of the actual phone calls, that the user or subscriber information should come in as well, because it directly goes to show who owns phone.

THE COURT: Oh, to show that -- to show who owns the phone.

MR. SENDRA: And the phone number.

THE COURT: And, Ms. Burgess, you weren't objecting to that; is that right?

MS. BURGESS: (No audible response.)

THE COURT: You were just objecting to the actual numbers that were called to and from?

MS. BURGESS: Right, just that it's an entire period of other numbers.

THE COURT: Well, right. I understand.

MS. STEWART: And show just enough to

show that they are not doctored.

THE COURT: Right.

MS. STEWART: And which they're going to be doctored.

MR. SENDRA: So I would ask to be able to show April the 28th through April the 30th.

THE COURT: So, a day on either side?

MR. SENDRA: Correct.

THE COURT: Of the allegation, okay. And you don't have an objection, Ms. Burgess?

MS. BURGESS: I have no objection, Judge.

THE COURT: Okay, all right. And then -- so, then we'll do that, and that will be then the calls from --

MR. SENDRA: And then based on the motion, I'm assuming that not going to affect the authenticity of the records, Judge?

THE COURT: Right. And so, now they're being altered technically.

MS. BURGESS: Yes, right.

THE COURT: But at your request?

MS. BURGESS: Yes.

MR. SENDRA: Based on the Defense's motion in limine, so.

THE COURT: Right. At the Defense's request, the records are being altered. So, we wouldn't have any objection to them being altered in some way because otherwise, they would have to become unaltered rather quickly.

MS. BURGESS: Yeah, I understand.

THE COURT: And so, you are in agreement with that?

MS. BURGESS: Yes.

THE COURT: All right. So then, the 28th, 29th and 30th will be the days for which the numbers on the full records are displayed. And the other days for that month or that cycle, billing cycle, will be kept private.

MR. SENDRA: And the subscriber info.

THE COURT: Right, and the subscriber information obviously. Yeah, the person to whom the bill is mailed and the owner of the phone and whatnot.

MR. SENDRA: Right.

THE COURT: Yeah, that's all relevant.

MS. BURGESS: And the phone number.

THE COURT: Yeah. I recall that from the interview, one of the recorded interviews. Yeah.

MR. SENDRA: Well, then on the scheduling the Court could say --

THE COURT: Oh, yeah.

MS. BURGESS: Are we going to --

MR. SENDRA: We haven't started yet, so I'm assuming that --

THE COURT: Right. Well, I think we will probably take, you know, my goal is one day we will have a jury at ten o'clock.

MS. BURGESS: The call is in (trailing off).

THE COURT: Okay. But, you know --

MR. SENDRA: I think Ms. Burgess wants something about that in the ruling.

MS. BURGESS: Oh, I hear there was, I guess, issues between the Bross firm and the client on Monday, okay.

THE COURT: (Whispering, inaudible.)

MS. BURGESS: Yeah.

THE COURT: Okay.

MS. BURGESS: I just wanted to ensure that there was no -- I guess, he said there was probably a complaint filed or something.

THE COURT: All I know is that Mr. Michael Bross announced that Paul Bross was no

longer going to be affiliated with his firm.
MS. BURGESS: I know that he --
THE COURT: And he's right here, right now.
(More than one speaker, indiscernible.)
THE COURT: Okay, I'm just -- I mean, obviously, he's here right now. So he's come in as cocounsel. I know you were on the case first, but there's no issue with him remaining as cocounsel as far as you're aware?
MS. BURGESS: No ma'am.
THE COURT: Okay. Well, I just --
MS. BURGESS: He finally showed up.
MR. SENDRA: Well, I think the issue is one that the client filed some kind of Bar complaint against him --
THE COURT: Oh, no, I didn't.
MR. SENDRA: -- in the proceedings from last week.
THE COURT: Oh, no, no, no. I had -- I gave him a long --
MS. BURGESS: You're right, you --
THE COURT: No, I gave him -- I gave him --
MR. SENDRA: She had asked me earlier

on, and I understand why she did.

THE COURT: I told him I was disappointed in his lack of posture and attention (trailing off).

MS. BURGESS: I think every morning --

THE COURT: Yeah. So first comes the mom talk, second comes the hammer. So, we will see where the mom talk --

MR. SENDRA: Well, likely we're going to be starting with our witnesses tomorrow.

THE COURT: Yes. The only thing now, that might get in the way -- Unfortunately they don't show up here in my personal stuff -- I may have an appointment tomorrow in Melbourne at 5:00.

MR. SENDRA: Okay.

THE COURT: And I don't know if it's this -- if it's tomorrow -- or if it's next Tuesday.

MR. SENDRA: You're talking about the afternoon, so I mean, that would be cutting that a bit short.

THE COURT: Right. Well, that would be right, it would be cutting the day short but the -- my only thing -- My only thing is that I

1 don't know how long either of you intend to do
2 jury selection, you may not be long maybe.
3 MR. SENDRA: I think it's --
4 (More than one speaker, indiscernible.)
5 MR. SENDRA: -- but probably not,
6 there's a couple of reasons why.
7 THE COURT: Right. Oh, yeah. Yeah.
8 All right. And are you going to be doing it?
9 MS. BURGESS: Oh, we have to talk.
10 THE COURT: Okay. Okay. Oh, would you
11 like your motion back?
12 MS. BURGESS: I have one.
13 THE COURT: Okay, I can keep this?
14 MS. BURGESS: Yes.
15 THE COURT: I mean, I'm happy to keep it
16 and put it in with all the rest.
17 MR. SENDRA: But the plea, obviously
18 not. Did we get a copy of that jury
19 instruction?
20 MS. STEWART: Yes.
21 MR. SENDRA: Okay. And so, we have to
22 look at that. But we don't have to do that
23 right now.
24 THE COURT: Right. Right, that wouldn't
25 be -- oh, did I get mine back -- yes, I did.

Okay. So, these are the only things that are still on the table.

MS. STEWART: You know, since we're only just going to pick the jury today, if we have time, we probably could deal with the jury instructions this afternoon.

THE COURT: We can do that.

MR. SENDRA: Yeah, I don't have a problem --

THE COURT: Okay, we can do that.

MR. SENDRA: I don't have a problem with that. I know that, at least, the timely --

MS. STEWART: I think going in --

(More than one speaker, indiscernible.)

THE COURT: Right, right. I think that's important.

MR. SENDRA: Oh, yeah. With some of the questions that we ask.

THE COURT: Yes, a very good idea. Okay, we will do that.

Okay, where is mister -- oh, there he is.

(Whereupon, this proceeding was in recess while other matters were heard by the Court.)

(Whereupon, before the Court:)

THE COURT: Okay. So, Mr. Bross and Ms. Burgess and Ms. Stewart and Mr. Sendra, the juror questionnaires are being entered into the computer, I guess, right now.

MR. BROSS: Thank you.

THE COURT: So, we want to give you some time to look them over and figure out what you might like to do.

MR. BROSS: Yes. Thank you, Your Honor.

THE COURT: And just for your information, Mr. Bross, that is a new printer that you should, if you needed or wanted to, and Ms. Burgess, could plug your computer into.

MR. BROSS: Okay.

THE COURT: And make it print something.

MR. BROSS: Excellent. Well, thank you.

THE COURT: But I don't know if you have to, you know, I think there's something about downloading drivers and all of that.

MR. BROSS: Yeah, I know. Yeah, I think -- yeah, thank you.

THE COURT: I'm not the right person to be giving any instructions on how to do that.

MR. BROSS: Yeah, yeah. No, thank you.

THE COURT: -- on how to work any of this. But if you understand it, you are welcome to it.

MR. BROSS: Yeah, I do. Thank you, Your Honor.

THE COURT: That's why it's there, so that you all can have the capability of printing as well.

MR. BROSS: Well that's fine. Thank you.

THE COURT: All right, we will be in recess and I'll be -- I'm going to take a break -- be in recess until we've got the juror questionnaires and once we have the juror questionnaires --

The gentleman in the back with the camera, you know, it goes down and out. Okay? No camera is going while jurors are present at all, ever.

GALLERY: I was told I could just put it in the back.

THE COURT: Well, you can put it in the back. But it had better be on the floor, so that it can't, you can't be filming any jurors or --

GALLERY: Well, I'll just turn it off and put it down plugged into the wall.

THE COURT: Sir, let me just put it this way: You are welcome to film public things like pleas and the trial and whatnot. That paper is up there for a reason.

So that the folks that have come here to serve on the jury as their civic obligation are not going to feel harassed or intimidated or anything of that nature by being filmed.

And so, if I get any sense that that camera or any other device is being used during the course of jury selection, audio or video, you are going to be relieved from your station at the courthouse.

And I don't mean to leave the courtroom, I mean you are going to go outside on the front sidewalk. Okay? I want to be extremely clear about that, sir.

So, no recording device of any sort, audio, visual or whatever else exists in the techno world that I am unaware of. And if you wish to have a copy of jury selection, apparently there is a way you can go through Court Administration and get something.

GALLERY: It used to be 25 -- pay $25 and ask for it.

THE COURT: Right, but there's a -- it's different for jury selection, because their names are private. There's redaction fees and there's all kinds of --

GALLERY: Well, a lot of -- and I don't know -- I've been --

THE COURT: I understand that for us, for lawyers, it's $25.

GALLERY: But, you know, it's --

THE COURT: But for members of the public it's $48, I believe, the last time I looked.

GALLERY: Well, can I have -- because I know I picked the jury with you a while ago, but I can't remember. I know some judges in Viera are now requiring us to use numbers instead of names.

THE COURT: I know, we haven't --

GALLERY: So, I don't know what would be your preference.

THE COURT: We have not gone to numbers at this point.

GALLERY: Yeah, because -- yeah.

THE COURT: Because well, I still -- I still believe that we have human beings that are trying our cases.

GALLERY: Yeah, you know, it's impersonal. I think it's impersonal. And they always inevitably use our names anyway, it seems like: Juror Number Two, you know.

THE COURT: Yeah.

GALLERY: And I didn't know if you had a preference.

THE COURT: Yeah, it sounds rude. Yeah.

GALLERY: Yes, okay.

THE COURT: So, I've just decided -- I mean, we are a small courthouse where -- and, you know, yes, we have numbers on these seats (indicating) but we don't have numbers on -- well, we do -- but no, we use their names.

GALLERY: Thank you, Your Honor.

THE COURT: So that would be the issue, is that their names would have to be redacted from any audio recording, et cetera, et cetera.

GALLERY: Right.

THE COURT: And there is a redaction fee with the Clerk's office and all that. So, just to let you know, sir. Okay?

GALLERY: I've already talked to Michelle Kennedy (phonetic) and the Sergeant. I'm not going to be sitting in on any of the jury selection.

THE COURT: Okay, great. It's usually not the most exciting part of the trial anyway.

GALLERY: No, it's not exciting.

THE COURT: All right. I will see you all in a few minutes. We will be in recess until we start jury selection. And then we'll break for lunch, and then you all can start voir dire immediately afterward, after lunch at 1:30.

(Whereupon, noon recess.)

(Whereupon, Venire out.)

(Whereupon, Court/Clerk discussion.)

(Whereupon, before the Court:)

THE COURT: Yes. Ms. Burgess, come on in, the jury is on the way up. Where's Mr. Bross?

MS. BURGESS: He's almost through at the office.

THE COURT: He's almost what?

MS. BURGESS: He's working on a plea.

THE COURT: Well, he's got until the

jury gets up here to do that.
MS. BURGESS: Yes, ma'am.
THE COURT: So, I mean, and when you say working on it" do you mean he's writing it or he's discussing it?
MS. BURGESS: He's already written it actually, and he's talking to them about it.
THE COURT: Okay. Well, can you ask him --
COURT DEPUTY: He's here, Your Honor.
THE COURT: All right. Mr. Bross, we're going to bring the jury up and I'm going to go through the preliminary instructions. And then we will break for lunch, because that should take about 40 minutes approximately.
MR. BROSS: Well, let me get my client, Judge.
THE COURT: Where did Ms. Loyd go?
MR. BROSS: She was right there.
THE COURT: She may still be locked out. We definitely don't want to lock her out.
(Whereupon, Defendant enters courtroom.)
THE COURT: All right, Ms. Loyd is present.
(Whereupon, Attorney/Client discussion.)

THE COURT: I want that laid down and put on the floor. Thank you. We don't want to even see a tripod. We don't want the jurors to see a tripod.

GALLERY: Can I leave it all over here?

THE COURT: Why don't you bring it over here (indicating) so that they do not see it.

GALLERY: The jury sits on the side?

THE COURT: The jury sits on that side, yes, sir. Thank you.

GALLERY: (Indiscernible) Your Honor.

THE COURT: All right.

All right. We're on the record now in the State of Florida versus Dana Lynn Loyd, 2015-CF-39871-A. Mr. Bross and Ms. Burgess are present along with Ms. Loyd, who is present. And the State is represented by Ms. Stewart and Mr. Sendra, who were also present.

Let me bring up one preliminary matter, folks. We are going to seat one through 18 up here (indicating).

(Whereupon, Attorney/Client discussion.)

THE COURT: Mr. Bross, you might want to listen to this.

MR. BROSS: Okay.

THE COURT: We're going to seat one through 18 up here (indicating). And then if there is a cause challenge, what we customarily do, is we just move number 19 up into that slot number and so forth.

MR. BROSS: Okay.

THE COURT: If there are three, we just take the next three because they are in random order on this (indicating) sheet.

MR. BROSS: Thank you, Your Honor.

THE COURT: All right. There are no objections to that proceeding?

MR. BROSS: No, ma'am.

THE COURT: All right, thank you.

MR. SENDRA: May I approach (trailing off).

THE COURT: Sure.

MR. SENDRA: (Tenders document.)

THE COURT: Thank you. All right, thank you very much.

And Ms. Burgess and Mr. Bross, do you have anything to add to this?

MR. BROSS: No, Your Honor.

THE COURT: All right, so as it is?

MR. BROSS: Yes, Your Honor.

THE COURT: All right. Thank you very much.

(Reviewing documents.) Oh, let me give you all, before the jury comes up, the particular charging document. So that you can look and make sure that I am reading the one that you have (tenders exhibit).

Mr. Sendra or Ms. Stewart, do you want to take a look at the charging document?

MR. SENDRA: Yes. (Reviewing document.)

THE COURT: Is there any objection to that being read?

MR. BROSS: Not from the Defense, Your Honor.

THE COURT: All right, any objection from the State?

MR. SENDRA: No, Judge. that's fine.

THE COURT: All right, thank you.

(Whereupon, Court/Clerk discussion.)

COURT DEPUTY: The jury is present outside, Your Honor.

THE COURT: All right, thank you. Thank you. The jury is present?

COURT DEPUTY: Yes, ma'am.

THE COURT: All right.

COURT DEPUTY: All rise for the jury.

THE COURT: Oh, Mr. Bross, would you like for me to read the Right to Remain Silent instruction?

MR. BROSS: Ma'am?

THE COURT: Would you like for me to read the Right to Remain Silent as part of the instruction.

MR. BROSS: Yes. Yes, ma'am.

THE COURT: All right, okay. I normally do unless specifically asked not to.

MR. BROSS: Yes. That's for me to tell you, Judge.

THE COURT: Okay.

COURT DEPUTY: They are all present, Your Honor.

(Whereupon, before the Court and Venire:)

THE COURT: All right, thank you.

Good morning, folks.

THE VENIRE: Good morning.

THE COURT: Please have a seat, everyone.

All right. Good morning, my name is Robin Lemonidis. And I am the circuit judge

who will be presiding over the jury selection and the trial in this case.

I would like to welcome you to the Criminal Division of the Titusville Historic Courthouse in the Eighteenth Judicial Circuit.

I will make every effort to see that the demand upon your time for this duty will not be unreasonable and that your time is not wasted.

The estimated length of this trial is approximately five days, which means the rest of this business week. The hours that we will work are generally 9:00 AM to 5:00 PM, unless we come toward the end.

And I will ask the folks that are actually selected to serve on the jury whether, if we have a witness that may go a little after 5:00, if anyone has a problem in staying a longer. Sometimes folks prefer to work a little later and maybe eliminate that last day. So, but it's always -- You are our guests, that's what you're called.

We are going to have -- We are definitely going to break every day at, at or as close to noon as possible, and make sure that you all have an hour and 15 minutes for

lunch, so that you can enjoy the many restaurants in the Titusville area.

Does the schedule as I've explained to you present a great hardship for anyone?

If yes, please raise your hand. And if no, just please say so.

Yes, sir? And tell us your name please, sir.

VENIREPERSON: My name is Miguel Angel Mercado Echevarria.

THE COURT: I'm sorry. Your name is --

VENIREPERSON: Echevarria.

THE COURT: Your last name is --

VENIREPERSON: E-C-H and then E-V --

THE COURT: Oh, E-H --

VENIREPERSON: E-C-H.

THE COURT: Oh, E-C-H. Echevarria.

VENIREPERSON: Yes.

THE COURT: Oh, okay, Echevarria. I'm sorry, I didn't hear that. Okay, so you are -- it's not a problem for you right now. Okay?

VENIREPERSON: Okay.

THE COURT: At this moment, it is not a problem. But if it -- but if we get -- If we get there, then we will cross that bridge when

we come to it.

VENIREPERSON: Very good.

THE COURT: All right. Well, let me ask you this, sir: Does it present a hardship in terms of today?

VENIREPERSON: Medical reasons.

THE COURT: Medical reasons, okay. We won't go into it any further with you now, but if you find it necessary to stand up or move around or kind of, you know, get the blood flowing or whatever, you're welcome to do that.

VENIREPERSON: Thank you.

THE COURT: All right. As long as you just continue to listen to what everybody is saying and doing.

Is there anyone else for whom the schedule presents a problem?

THE VENIRE: (No audible response.)

THE COURT: All right, I see no hands.

The case for trial today is a criminal case. It is the State of Florida versus Dana Lynn Loyd.

The accused is represented by Attorneys Jessica Burgess and Paul Bross. Will Ms. Burgess and Mr. Bross please rise and introduce

yourselves and your client to the jury?

MR. BROSS: Good morning, ladies and gentlemen of the jury. My name is Paul Bross and I, along with Jessica Burgess, have the privilege of representing Dana Loyd. Thank you.

THE COURT: All right. The State of Florida is represented by Attorneys Susan Stewart and Sean Sendra. And Ms. Stewart and Mr. Sendra, would you like to introduce yourselves?

MS. STEWART: Good morning, my name is Susan Stewart, and I am a prosecutor in the office of Phil Archer.

MR. SENDRA: I'm Sean Sendra, and I also work for the same office.

THE COURT: All right. The lady to my right (indicating) is Madam Clerk and she is, as you will see, she performs a very essential function in the courtroom.

The gentlemen in uniform here are Court Deputies, and they are your liaison to the Court. So, they are also playing a very important role here, as you will later understand.

Is the State ready for trial?

MR. SENDRA: Yes.

THE COURT: All right. Is the Defense ready for trial?

MR. BROSS: Yes, Your Honor.

THE COURT: Thank you.

Folks, the first phase of the trial is called voir dire. It is a French Latin phrase which means that the attorneys have the opportunity to hear you speak the truth in response to questions concerning your selection as a juror in this case.

A voir dire examination is for the purpose of determining if your decision in this case would in any way be influenced by any opinions which you may now hold, or by some personal experience or special knowledge which you do have concerning the subject matter to be tried.

The object is to obtain jurors who will impartially try the issues of this case upon the evidence presented in this courtroom without being influenced by any outside factors.

I will first ask you some general

1 questions, and after I have finished, the
2 attorneys will ask you, I'm sure, more specific
3 questions. The questions asked will not
4 determine your fitness as a juror.
5 They are asked to assist the attorneys
6 in selecting jurors which each attorney feels
7 will be best suited, because of their education
8 and life experiences, background, et cetera, to
9 deliberate this specific case.
10 The questions are not designed to pry
11 into your personal affairs or to embarrass you
12 in any way. If a question is asked which you
13 prefer to answer outside of the hearing of the
14 other jurors, please indicate that by saying
15 "private." And you will be allowed to answer
16 the question in the courtroom in a more private
17 environment.
18 And let me just say that you have just
19 entered the alternate universe that we know as
20 the courtroom. So "private" in this universe
21 means that Counsel will be present. Ms. Loyd
22 obviously will be present. The Court Deputies
23 will be present. Madam Clerk and I will be
24 present. But the other members of the panel
25 will not be present.

And so, that's the private, it's not -- whatever it is that troubles you is not going to be disseminated out to the public.

If you are not selected as a juror in this case, please do not feel your honesty or integrity is being questioned. I assure you it is not. We have what, approximately 30 people attending -- yeah, you look like about 30 folks -- and we only seat seven persons on the jury. So, you understand that this is a narrowing down process.

When asked a question please be sure to answer in an audible and understandable voice.

COURT'S VOIR DIRE EXAMINATION

THE COURT: The Defendant in this case is Ms. Loyd. Are any of you related by blood or marriage to Ms. Loyd, or from any business or social relationship?

If not, please say no. And if yes, please raise your hand.

THE VENIRE: (Responded Negatively.)

THE COURT: All right. We have one hand.

Sir, can you tell us your name please?

VENIREPERSON: Justin Campbell.

THE COURT: All right. And, Mr. Campbell, who do you know?

VENIREPERSON: Dana Loyd.

THE COURT: All right what is the nature -- Well, what is the nature of that -- of that relationship, sir?

VENIREPERSON: They used to be our neighbors.

THE COURT: Okay. Is there anything about -- Would your knowledge of Ms. Loyd prevent you from acting with impartiality in this case?

VENIREPERSON: I wouldn't think so.

THE COURT: Okay, we have an example. If I were the pilot of the plane that and you are a passenger and I said: I think I can land this plane. It's my first shot, but I think I can do it. Are you going to feel very good about that.

VENIREPERSON: Probably not.

THE COURT: Okay. So, can you give me a definitive answer, sir?

VENIREPERSON: No.

THE COURT: You cannot give me a definitive answer or is your --

VENIREPERSON: What was the question, what were you asking like --

THE COURT: I'm sorry?

VENIREPERSON: What's the answer for like --

THE COURT: Well, no. I'm just saying would your -- The fact that your former neighbor -- or are you a current or former neighbor?

VENIREPERSON: Former neighbors.

THE COURT: Okay, all right. A former neighbor of Ms. Loyd. How long were you all neighbors.

VENIREPERSON: I don't know, six months.

THE COURT: Okay, so would any -- would -- Would the fact that you were Ms. Loyd's neighbor for six months prevent you from acting with impartiality in this case?

VENIREPERSON: No.

THE COURT: Okay, all right. Is there anyone else on this?

THE VENIRE: (No audible response.)

THE COURT: All right, only one gentleman. Do you -- I'm sorry, sir -- tell us -- tell me your name again.

VENIREPERSON: Justin Campbell.

THE COURT: Mr. Campbell.

MR. BROSS: Juror 29, Your Honor -- or 19 Your Honor.

THE COURT: Okay, thank you.

All right. Do any of you all know the attorneys for Ms. Loyd?

If not, please say no. If yes, please raise your hand.

THE VENIRE: (Responded Negatively.)

THE COURT: All right.

COURT DEPUTY: There's a hand, Your Honor.

MS. STEWART: There's a hand up.

THE COURT: Oh, we do have hand.

Yes, sir?

VENIREPERSON: Both attorneys. Because I was thinking, if that's Phil, I was thinking I know him.

THE COURT: Do you know Mr. Sendra?

VENIREPERSON: I don't know if he's -- which one is the Archer?

THE COURT: He is their boss.

VENIREPERSON: Oh, okay.

THE COURT: The big boss.

VENIREPERSON: Okay.

THE COURT: There are bosses in between but he's the --

VENIREPERSON: Yes, I understand.

THE COURT: Yeah. Neither of these folks are Phil Archer, Mr. Phil Archer.

MS. STEWART: Can we get the juror's name for that?

THE COURT: Excuse me?

MS. STEWART: The name of the juror.

THE COURT: Yes. What is your name, sir?

VENIREPERSON: Jim Brown.

THE COURT: Jim Brown?

VENIREPERSON: James.

THE COURT: James Brown, all right. And you are Juror Number 12. All right. The attorneys may want to ask you some more questions about that, Mr. Brown.

VENIREPERSON: Okay.

THE COURT: All right. Does any -- Do any of the others know either of the folks from the State Attorney's Office?

If no, please say no. If yes, please raise your hand.

THE VENIRE: (Responded Negatively.)

THE COURT: All right. The following persons may be called as witnesses in this case and they are:

Oneil Brooks from the Department of Children and Families in Viera, Florida.

Patty Buchanan from Titusville, Florida.

Debra Christensen, who formally worked for the Department of Children and Families in Rockledge, Florida.

Landis Ender, E-N-D-E-R, who works for the Department of Children and Families in Tallahassee, Florida.

Deputy Robert P. Fischer, who works for the Brevard County Sheriff's Office.

Deputy Darryl Johnson, who is a former Brevard County Sheriff's deputy.

Timothy Michaud, who lives in Marietta Georgia.

Deputy Matthew Preston, from the Sheriff's department.

Theresa Smith, who is from West Melbourne, Florida.

Kristin Sorokin, from Viera, Florida.

And Matthew Fante from the Department of

Children and Families in Tallahassee, Florida.

Do any of you know any of the potential witnesses?

If no, please say so. If yes, raise your hand.

THE VENIRE: (Responded Negatively.)

THE COURT: Oops, we've got one hand. What is your name, sir?

VENIREPERSON: Michael Pace.

THE COURT: Mr. Pace, okay. And, Mr. Pace, who is it that you know?

VENIREPERSON: Patti Buchanan, I might know. I worked with Patti Buchanan when I worked for the School Board at Viera.

THE COURT: All right. Will your knowledge of -- or will your acquaintance with Ms. Buchanan prevent you from acting with impartiality in this case, or cause you to give greater or lesser weight to any testimony that she may give in this Court?

VENIREPERSON: No.

THE COURT: All right. Anyone else?

THE VENIRE: (No audible response.)

THE COURT: No other hands, all right.

Let me proceed to some more general

1 questions.
2 Do you all agree -- Do you agree with
3 our theory of jurisprudence that a jury trial
4 is the proper method of resolving civil and
5 criminal matters which come before the Court?
6 If so, please say yes. If you do not
7 agree with that, please raise your hand.
8 THE VENIRE: (Responded Affirmatively.)
9 THE COURT: All right. If you are
10 selected to serve on this jury, could you put
11 aside any preconceived ideas you may have as to
12 what the law ought to be and promise to accept
13 and follow the Court's instructions to you on
14 the law, even if you disagree with the law and
15 wish it were different?
16 If so, if you are agree -- If you agree
17 to follow the law as it is, as it stands today,
18 please say yes. If not, please say no or raise
19 your hand.
20 THE VENIRE: (Responded Affirmatively.)
21 THE COURT: All right, we've got one
22 hand.
23 Yes, sir. Please tell us your name.
24 VENIREPERSON: David Macon.
25 THE COURT: I'm sorry, your last name,

sir?

VENIREPERSON: Macon, M-A-C-O-N.

THE COURT: All right, just like in Georgia. Okay, Number 23. All right. Mr. Macon, when the time comes, the attorneys may want to ask you some more questions about that.

Let's see, all right. The Information, which is the charging document -- I'm sure you're all familiar with the term "indictment." In the State of Florida, we do not use "indictment," except for first-degree murder cases. So, all other charges on the charging document is called an "Information."

So, the Information in this case charges the Defendant as follows:

Count 1, it's a false report of child abuse, abandonment or neglect.

Count 1: In the County of Brevard the State of Florida on April 29th of 2015, Dana Lynn Loyd did knowingly and willfully make a false report of child abuse, abandonment or neglect, or advised another to make such false report to the Department of Children and Families concerning a child, Riley Michaud, date of birth July 8th, 2003, for the purpose

of harassing, embarrassing or harming another person, contrary to the applicable Florida Statutes.

The Information is merely the formal charge against Ms. Loyd. It is not evidence and is not to be considered by you as any proof of guilt. You must not consider it as evidence and must not be influenced by the fact that an Information was filed by the State?

Without disclosing what it is, do any of you have knowledge of the facts of the case?

If not, please say no. If yes, please raise your hand.

THE VENIRE: (Responded Negatively.)

THE COURT: All right, no hands.

Do any of you have a state of mind with reference to false report of child abandonment or child abuse, abandonment or neglect, which would in any way prevent you from acting with impartiality as a juror?

If not -- if you do have such a state of mind, please say yes. And raise your hand.

THE VENIRE: (No audible response.)

THE COURT: No hands and no -- no vocal response.

Do any of you have a religious, conscientious or other objection to sitting in judgment of your fellow citizen?

If not, please say no. And if you do, please raise your hand.

THE VENIRE: (Responded Negatively.)

THE COURT: All right, no hands.

The case to be tried is a criminal case. The burden of proof in a criminal case is one of the highest burdens of proof under the law.

In a criminal case, the State has the burden to prove each element of the crime beyond and to the exclusion of every reasonable doubt.

The Defendant has entered a plea of not guilty. This means you must presume or believe that the Defendant is innocent. This presumption stays with Ms. Loyd as to each material allegation in the Information, through each stage of the trial, unless and until it has been overcome by the evidence to the exclusion of and beyond a reasonable doubt.

To overcome Ms. Loyd's presumption of innocence, the State has the burden of proving that the crime which the Defendant was charged

was committed, and the Defendant is the person who committed the crime. Ms. Loyd is not required to prove anything.

If you understand what I just instructed you, please say yes. And if not -- or if no -- please raise your hand.

THE VENIRE: (Responded Affirmatively.)

THE COURT: All right, no hands.

Whenever the words "reasonable doubt" are used, you must consider the following:

A reasonable doubt is not a mere possible doubt, a speculative, imaginary or forced doubt. Such a doubt must not influence you to return a verdict of not guilty if you have an abiding conviction of guilt.

On the other hand if, after carefully considering, comparing and weighing all of the evidence, there is not an abiding of conviction of guilt, or if having a conviction, or it is one -- if having a conviction, it is one which is not stable, but one which wavers and vacillates, then the charge is not proved beyond every reasonable doubt, and you must find the Defendant not guilty because the doubt is reasonable.

And the attorneys will likely speak to you more about that.

The law under our system of jurisprudence regarding the presumption of innocence and burden of proof is as follows:

First, the fact that a person is arrested by the police and charged with a crime does not create a presumption that the person is guilty of committing the crime.

Second, a Defendant is presumed to be innocent of the crime, unless the State overcomes that presumption by evidence to the exclusion of all reasonable doubt.

Third, the Defendant has no duty to prove or disprove anything or to prove his or her innocence.

If you understand and accept these principles of law, please say yes. If not, please raise your hand.

THE VENIRE: (Responded Affirmatively.)

THE COURT: All right, thank you.

(Whereupon, Court/Clerk discussion.)

THE COURT: See, Madam Clerk is on the ball. And many brains make the best work.

Madam Clerk, could you please swear the

panel?

VENIRE SWORN

THE CLERK: Would you please stand and raise your right hands?

Do you solemnly swear or affirm that you will answer truthfully all of the questions asked of you as prospective jurors, so help you God?

THE VENIRE: (Responded Affirmatively.)

THE CLERK: Thank you, you may be seated.

THE COURT: All right, thank you.

And, folks, now that you have been sworn, are all of the answers that you have previously given to the -- Well, we're on the seventh question, but does everyone still stand by the answers that were given to the first seven questions.

THE VENIRE: (Responded Affirmatively.)

THE COURT: All right, thank you.

COURT'S VOIR DIRE EXAMINATION (Cont'd.)

THE COURT: All right. So, we've gotten to -- We went through presumption of innocence and everyone said that you are able to go along with -- you are able to -- you understand and

will abide by the law with regard to the presumption of innocence. Yes?

THE VENIRE: (Responded Affirmatively.)

THE COURT: All right, thank you.

Will each of you follow the Court's instruction to you on those principles of law?

If you will, please say yes. If no, please raise your hand.

THE VENIRE: (Responded Affirmatively.)

THE COURT: All right, no hands.

Will any of you require Ms. Loyd to prove or disprove anything?

If not, please say no. And if yes, please raise your hand.

THE VENIRE: (Responded Negatively.)

THE COURT: All right. Did any of you know any of the other jurors before this process?

If no, please say so. If yes, please raise your hand.

THE VENIRE: (Responded Negatively.)

THE COURT: All right. We're in a tiny town, there's always at least a group. And there's always one person that seems to know everyone, or that everyone seems to know.

All right. Let's start in the front row. Is there anyone who knows another member of the jury?

Yes, ma'am. All right. Ma'am, you in the jean shirt, please tell us -- or chambray, that seems more -- What is your name, ma'am?

VENIREPERSON: Victoria Mercado.

THE COURT: I'm sorry?

VENIREPERSON: Mercado.

THE COURT: All right.

VENIREPERSON: Victoria.

THE COURT: And who do you know?

VENIREPERSON: This is my husband.

(More than one speaker, indiscernible.)

THE COURT: Oh, you just kind of know Mr. Echevarria?

VENIREPERSON: I kind of do, he is my husband.

THE COURT: All right. Mr. Echevarria is your husband. Well, that presents a very interesting -- We've not had that yet.

VENIREPERSON: I'm sure --

(More than one speaker, indiscernible.)

THE COURT: Yeah. I mean, I'm talking, you know, like 27 years of trying cases, I've

never had that either. Okay?

Okay, all right. Now comes the really tricky questioning. Ms. Mercado, you have just explained how you know Mr. Echevarria. If you and Mr. Echevarria, your husband, were seated on this jury. And the two of you had a different view of the evidence, would you be inclined to vote his way or, Mr. Echevarria, would you be inclined to vote her way, just because you have to live together for the rest of your lives or could you politely agree to disagree?

VENIREPERSON: I can politely agree to disagree. It happens all the time.

THE COURT: Well, this simply -- it sounds like you're going to be in for the big fight, for however many years that is.

Mr. Echevarria, would you agree with that?

VENIREPERSON: Yes.

THE COURT: If the two of you were seated together, and then had a disagreement on the evidence, then could you agree to disagree?

VENIREPERSON: Yes, Your Honor.

THE COURT: Politely?

VENIREPERSON: Yes.

THE COURT: Okay, thank you. Boy, I'll tell you what, you never know what's going to happen.

All right. Then going down the rest of the first row, anyone?

THE VENIRE: (No audible response.)

THE COURT: No, all right.

The second row?

THE VENIRE: (No audible response.)

THE COURT: No, okay. I know there were a number of hands in the back row.

How about the third row?

Yes, ma'am, tell us your name first please.

VENIREPERSON: Virginia Williams.

THE COURT: Okay.

VENIREPERSON: I know James Taylor just through work.

THE COURT: All right. And is Mr. Taylor seated in the back row?

VENIREPERSON: Yes.

THE COURT: All right, okay. You were one of the hands.

And so, you can -- And you know Mr.

Taylor through work. And the same question to you, although probably not as dangerous a question.

If you and Mr. Williams -- if you and Mr. Taylor were seated on the same jury and the two of you had a different view of the evidence. Would you be able to agree to disagree?

VENIREPERSON: Yes.

THE COURT: Or would that be a problem? No problem for you Ms. Williams?

VENIREPERSON: No, no problem.

THE COURT: And, Mr. Taylor, how about you?

VENIREPERSON: No problem.

THE COURT: All right. And is Ms. Williams the only other, the only person that you -- on the jury panel that you know.

VENIREPERSON: That's correct.

THE COURT: Okay. So, okay, all right.

All right, anyone else in the third row?

THE VENIRE: (No audible response.)

THE COURT: All right. Now, the last row, there were several.

All right. Sir, in the very -- on the

back?
VENIREPERSON: John Allen. And I know Barbara McGillicuddy.
THE COURT: Okay. And how do you know her, sir?
VENIREPERSON: We've known each other for what, like seven years. We had Scouts (phonetic) in her house, full teams together.
THE COURT: Okay, and the same question. If you and Ms. McGillicuddy were seated on the same jury and had a different view of the evidence, would you be able to agree to disagree, or would that cause a problem for you?
VENIREPERSON: I would agree to disagree, I guess.
THE COURT: Whoops, we're getting back to that plane. I can land it, I guess.
VENIREPERSON: Okay. Basically yes, I can.
THE COURT: Okay. And, Ms. McGillicuddy, how about you?
VENIREPERSON: It will not be an issue.
THE COURT: It will not be an issue, okay. Oops, sounds like somebody just laid

down the law, Mr. Allen. Okay. The next time, if your steak is black and blue or extremely well-done -- No, never mind.

Okay. And now, who else in the back row?

Mr. Taylor, I know we got you. Was there -- Is there anyone else?

THE VENIRE: (No audible response.)

THE COURT: All right. Alrighty. The burden is entirely upon the State to prove that Ms. Loyd is guilty beyond and to the exclusion of every reasonable doubt.

In every criminal proceeding a Defendant has the absolute right to remain silent. At no time is it the duty of a defendant to prove or disprove anything or testify at trial.

From the exercise of a defendant's right to remain silent and the exercise of the Defendant's constitutional right not to testify, if she chooses not to do so, a jury is not permitted to draw any inference of guilt.

The fact that a Defendant does not take the witness stand must not influence a juror's verdict in any manner whatsoever.

The State has the burden to prove the

Defendant guilty without the assistance of the Defendant.

Do each of you accept and understand that proposition of law?

If so, please say yes. If not, please raise your hand.

THE VENIRE: (Responded Affirmatively.)

THE COURT: All right. And no hands, thank you.

The testimony of witnesses is evidence, just as a document, an object or other physical things is evidence.

If you understand, please say yes. And if not, please say no and raise your hand.

THE VENIRE: (Responded Affirmatively.)

THE COURT: All right. Thank you, no hands.

The jury is the trier of facts. The jury's job is to determine the facts of the case. It will be up to the jury to decide what evidence is reliable. You should use your common sense in deciding what is the best evidence and which evidence should not be relied upon in considering your verdict.

You may find some of the evidence not

reliable or less reliable than other evidence. You may rely upon your own conclusion about the witnesses. A juror may believe or disbelieve any or all or part of the evidence or testimony from any witness.

If you understand what I have just instructed you, please say yes. And if no, please raise your hand.

THE VENIRE: (Responded Affirmatively.)

THE COURT: Thank you, no hands.

No juror should be concerned about any possible punishment of Ms. Loyd, if she is found guilty. The job of the jury is to determine if the Defendant has been proven guilty or not in accord with the law. It is the judge's job to determine the proper sentence, if a Defendant is found guilty.

If you understand what I've just instructed you, please say yes. And if not, please raise your hand.

THE VENIRE: (Responded Affirmatively.)

THE COURT: All right, no hands.

Every crime has elements. Elements are the facts that the State must prove beyond and to the exclusion of all reasonable doubt to

meet its burden of proof. I'm sure the attorneys will discuss this with you in much greater detail.

If all elements are proved beyond a reasonable doubt, your verdict should be guilty. If you find they have not, your verdict should be not guilty. Again, I am sure the attorneys will discuss this with you in much greater depth.

I will instruct you on the elements of the crime charged against Ms. Loyd at the end of the trial.

If you understand what I have just instructed, please say yes. And if not, please raise your hand.

THE VENIRE: (Responded Affirmatively.)

THE COURT: All right, no hands. Thank you.

If you are selected for this jury, and while deliberating your verdict you find that other jurors feel differently than you do about the verdict, can you listen to the reasons the others state for their verdict but still maintain your verdict, if the reasons given to you do not convince you that your verdict is

wrong?

If you can do this, please say yes. If you cannot, please raise your hand.

THE VENIRE: (Responded Affirmatively.)

THE COURT: All right, thank you. No hands.

Is there any other matter about which I've not asked you, that you feel might in any way impair your impartiality or your ability to sit, or your ability to be a fair and impartial juror in this case?

If no, there are no other matters about which I have not asked you, please say no. And if yes, please raise your hand.

THE VENIRE: (Responded Negatively.)

THE COURT: All right. Now, we are right around the noon hour, so we'll just -- We will go through this quickly.

As I told you, we have entered a somewhat alternative universe. So, we're going to give you a little set of ground rules here.

To provide a fair and lawful trial, there are rules that all jurors must follow. The basic rule is that jurors must decide the case only on the evidence presented in the

courtroom.

Therefore, a jury is not allowed to communicate any information about this, the people and places involved in the -- involved in it or your jury service to anyone, including family members and friends, until after the trial has been concluded and the jury dismissed.

Obviously you can tell your spouse, significant other, roommate: I'm going to jury -- or your boss -- I'm still on -- I'm in court, I'm on a jury, but not -- We're talking about that and things of that nature.

A juror is not allowed to disclose any thoughts about the case or the evidence to anyone. And a juror is prohibited from asking advice from anyone about how to decide the case.

We probably all have some electronic devices in our home or office and most likely on your person. A juror is not allowed to use electronic devices or computers to communicate with anyone about this case.

This includes computer researching, Tweeting, texting, blogging, emailing, posting

information on a website or chat room, or any other way of communicating.

Do not send or accept any messages about this case or your jury service aside from: I'm coming home now, or we're staying a little later today. All right, factual matters regarding that.

Once you know a little about the case, it is tempting to research or to -- it is tempting to research or to look up words, names, maps or other information which may relate to the case being tried.

You must not research or look up anything in this case, including using a computer, reading a news -- reading newspaper stories or watching TV news or listening to radio news about this case or the people or the places involved in it. This includes the internet or any other electronic device and that applies -- This applies at the courthouse, at home or anywhere else you may be.

We depend upon jurors to follow these rules, so that there will be a fair and lawful resolution to this case. Unlike questions that you may be allowed to ask in court, if you

1 investigate, research or make inquiries on your
2 own outside of court, the trial judge has no
3 way to ensure that they are proper and relevant
4 to the case.
5 And the parties have no opportunity to
6 dispute the accuracy of what you may find, or
7 to provide rebuttal evidence to it. That would
8 be a violation of our justice system which
9 assures each party the right to ask questions
10 and rebut evidence being considered against
11 that party and to present argument with respect
12 to that evidence.
13 Inquiries and investigations on your own
14 outside of the trial unfairly and -- too many
15 papers going around here -- unfairly and
16 improperly prevent the parties from exercising
17 the rights that our justice system promises.
18 If you become aware of any violation of
19 these instructions, or any other instructions
20 that I've given in this case, you must let me
21 know by writing a note and giving it to one of
22 the Court Deputies, who will bring it to me.
23 And then the lawyers and I will sort out how to
24 proceed.
25 All right. One final note and then I

will send you to lunch. Folks, this is a small town, as you know, and an even smaller courthouse. The lawyers are bound by certain rules of professional responsibility that prohibit them from talking to you now that we've begun the trial, or even making eye contact with you. Please understand that they are not being rude, they are just following our rule. So, please do not infer anything from it.

All right. Then, folks, if either Counsel, anything you would like to add at this time, then we could break for lunch and please come --

COURT DEPUTY: Downstairs.

THE COURT: Yeah. Please be downstairs, I'd say 1:25 be downstairs, because our goal is to try and get you up here at 1:30.

COURT DEPUTY: You have one bond hearing.

THE COURT: One bond hearing?

COURT DEPUTY: Yes, ma'am.

THE COURT: Okay. We've only got one thing on the docket at 1:15, so that shouldn't take us terribly long. So, if we can get you

1 up here by 1:30, we can stay -- the parties can
2 begin selecting -- their jury selection and get
3 a large number of you on your way by the end of
4 the day.
5 All right. Thank you, folks. We will
6 see you at 1:30 up here and at 1:25 downstairs.
7 Oh, may I tell you something very
8 important?
9 When you go downstairs, make sure you go
10 into that jury room. Because we could have sat
11 up here for 20 minutes before saying: There's
12 a -- Juror Number 20 didn't come back or, you
13 know. Juror Number 20 was sitting out on the
14 bench outside of the jury room, so the rest are
15 sitting in the jury room for no reason.
16 So, please go inside the jury room so
17 that the jury clerk can check that you are all
18 here, she says: Present and accounted for,
19 that's when we know to bring you up.
20 All right. Thanks, folks.
21 (Whereupon, Venire out.)
22 COURT DEPUTY: The jury is out, Your
23 Honor.
24 THE COURT: All right, thank you.
25 The record should reflect that the jury

has left the room and the -- there it goes -- and the door is closed.

ISSUE: PRESS ADMONISHED RE WRITING DOWN PROSPECTIVE JUROR'S NAMES

THE COURT: I just got a note that I want to show Counsel. (Tenders document.) That was from one of the jurors.

COURT DEPUTY: From me.

THE COURT: Oh, it wasn't?

COURT DEPUTY: I witnessed it, is what I -- it wasn't a juror.

THE COURT: No, I mean, it was from -- oh, it wasn't from one of the jurors?

COURT DEPUTY: No, it was from me. I witnessed it.

MR. BROSS: Well, okay. Yeah.

THE COURT: Oh, oh, oh, I'm sorry. Okay, right.

COURT DEPUTY: It is something I observed.

THE COURT: And we know that --

(Whereupon, sidebar proceedings out of the hearing of open court.)

THE COURT: (Whispering, inaudible.)

COURT DEPUTY: I just wanted you to be

aware that she was writing those names down, Your Honor.

(Whereupon, the following proceedings were had before the Court:)

THE COURT: Okay, ma'am, in the orange. I thought I would -- what is your name, please?

MS. BANDOR: Kimberly Bandor.

THE COURT: Van -- I'm sorry?

MS. BANDOR: Kimberly Bandor.

THE COURT: V-A-N-D-O-R?

MS. BANDOR: Bandor with a "B" as in boy.

THE COURT: Excuse me?

MS. BANDOR: "B" as in boy.

THE COURT: Oh, B-A-N --

MS. BANDOR: Bandor.

THE COURT: Bandor?

MS. BANDOR: Yes.

THE COURT: Okay. And, ma'am, are you writing down people's names?

MS. BANDOR: I was writing down -- I'm a reporter from Volusia Exposed.

THE COURT: I understand you may be a reporter, ma'am, but I don't know if you were present when I spoke to the gentleman with the

face on his shirt.
MS. BANDOR: Uh-huh.
THE COURT: There is to be no reporting of anyone's name.
MS. BANDOR: Okay.
THE COURT: Period, end of story.
MS. BANDOR: Okay, you said no recording.
THE COURT: Yes. May we have the notes that you wrote down, please?
MS. BANDOR: Huh?
THE COURT: We need the notes that you wrote down. Please hand them to Deputy Bosner. You may not write down anyone's name. You may --
COURT DEPUTY: And, Your Honor, anything with the jurors' names on it, I confiscate it?
THE COURT: All right, ma'am, please -- yes, confiscate that immediately.
MS. BANDOR: Can I write down the phone number on the back?
COURT DEPUTY: Yes, sure can.
THE COURT: There will be no writing of any jurors' names, does that -- is that -- am I clear? How much more clear do I have to be on

this?

And, sir, in the gray shirt, what is your name?

MR. BANDOR: John Bandor.

THE COURT: John Bandor. Was Ms. Bandor not present when I explained to you this morning that there was absolutely no writing of any jurors' names? No recording, no writing, no nothing of any juror's name. I told you --

MR. BANDOR: You said recording or any device known to you.

THE COURT: Okay, writing names, is just as egregious.

MR. BANDOR: Okay.

THE COURT: And there will be no juror's name published anywhere on any form of media.

MS. BANDOR: Okay.

THE COURT: Am I clear?

MR. BANDOR: You are clear.

THE COURT: Because if you -- Ma'am, I am directing you: Do not attempt to write a name --

MS. BANDOR: You are clear.

THE COURT: Because you will be found in direct contempt of court if you do.

And that goes for the rest of you, Mr. Bandor.

And what is your name in the green shirt, sir?

MR. KATARAKIS: Dean Katarakis (phonetic).

THE COURT: Say it again.

MR. KATARAKIS: Dean Katarakis.

THE COURT: Dean Katarakis?

UNKNOWN SPEAKER: Yes.

THE COURT: Okay. Mr. Katarakis, are you affiliated with the Bandors?

UNKNOWN SPEAKER: Um --

COURT DEPUTY: Your Honor, you've already had to warn him about turning off -- about the cell phone.

THE COURT: Oh, you're the one that had a cell phone at one point and was trying to --

COURT DEPUTY: Yes, ma'am.

MR. KATARAKIS: Yeah, yes. I don't have a cell phone today. I listened to --

THE COURT: All right, Mr. Katarakis and Mr. Bandor, understand right now, I am telling you, along with Ms. Bandor, that if any jurors' name via handwriting, recording of any nature

is taken down by you, you will be found in direct contempt of court, because this is an order that I am giving you in the Court that disrupts the orderly functioning of the Court system, because jurors become intimidated and other --

And it drives people away from jury duty, which is the most important service one can do for this country besides serve in the military. It is right up there neck and neck. And we are not going to have people coming in here and thwarting that effort.

And so, please understand: Contempt is summarily punishable by up to 180 days in jail without Counsel.

Summarily. You know what summarily means? Approach the podium tell me why you did what I told you exactly what you weren't supposed to do. And if I decide that you have done it, then out the side door you go in handcuffs.

Am I clear?

Ms. Bandor, am I clear?

MS. BANDOR: Yes.

THE COURT: Mr. Katarakis, am I clear?

1 MR. KATARAKIS: Yes.
2 THE COURT: Mr. Bandor, am I clear?
3 MR. BANDOR: Crystal.
4 THE COURT: Okay. Thank you. See you
5 all at 1:30.
6 COURT DEPUTY: Court is in recess until
7 1:30.
8 UNKNOWN SPEAKER: Do I have to come
9 back?
10 THE COURT: No, you don't have to come
11 back. In fact, you're welcome to stay away if
12 you like. You don't have to risk contempt of
13 court.
14 COURT DEPUTY: Sir, if you would wait
15 outside, we're closed now please.
16 UNKNOWN SPEAKER: Okay.
17 COURT DEPUTY: Thank you very much.
18 Do you want me to stamp with my name on
19 it?
20 THE COURT: Yes, thank you. Perfect,
21 thank you.
22 COURT DEPUTY: You want me to write on
23 that piece of paper that that was me?
24 THE COURT: Oh, yes, there we go.
25 (Tenders document.) Thank you very much. I

very much appreciate your being vigilant.
And, Ms. Burgess, can you please instruct these people to stop, because they're all going to be in jail by the end of this trial if they don't.
And I don't know if that's what you desire or not, but I would think not, if these are folks that you might even be remotely friendly with.
MS. BURGESS: I will.
THE COURT: So please, let them know I am not kidding.
MS. BURGESS: I have already spoken to them.
THE COURT: If it's -- if it's -- I have -- then clearly, you have not spoken clearly enough or emphatically enough.
MS. BURGESS: I know.
THE COURT: And I feel that I have been a bit emphatic. I'm not messing around and you better tell them that 180 days in the county jail is child's play when you -- when you are -- when you're accustomed to sentencing people to life, okay?
MS. BURGESS: I Understand. I

apologize.
THE COURT: Not your fault. I appreciate it, though, that if you would tell these people that I mean business.
MS. BURGESS: I will tell them.
THE COURT: And they are not going to thwart this process.
MS. BURGESS: I understand.
THE COURT: In any way, shape or form.
MS. BURGESS: I will talk to them right now.
THE COURT: Thank you.
MS. BURGESS: I apologize on their behalf.
THE COURT: Thank you. It may be safer if they stayed away, if they can't control their impulses a little better.
COURT DEPUTY: And their mouths on their way out of the courtroom.
THE COURT: Yeah. And their mouths on the way out of the courtroom. They're muttering things on their way out that Deputy Hughes heard.
MS. BURGESS: I heard it as well, Judge, and I'm not happy.

THE COURT: Okay, thank you.

MS. BURGESS: I will tell them, I apologize.

THE COURT: Thank you. Please instruct them that they will be found in direct contempt of court.

MS. BURGESS: I understand, I'll take care of it.

(Whereupon, the Court is in recess.)

VID #521

THE COURT: All right. Are we ready to bring the jury up?

COURT DEPUTY: I don't know.

THE COURT: I thought they were here.

MR. SENDRA: I think they are outside talking.

THE COURT: Oh, they are out in the hallway, okay. Mr. Walbright (phonetic), would you mind asking those folks out there to come on in? Ms. Burgess and Mr. Bross and Ms. Loyd?

MR. WALBRIGHT: I will find them.

THE COURT: If you see them.

MR. WALBRIGHT: I'll look down the hallway, Judge.

MS. STEWART: I think they are --

THE COURT: Oh, if they're not there, don't worry.

MR. WALBRIGHT: Okay, Your Honor.

THE COURT: I thought they were just right outside the doorway.

(Whereupon, Court is at ease.)

(Whereupon, Venire out.)

THE COURT: All right, there we go. We just needed the last three important players.

MR. BROSS: Sorry, Your Honor, we were just down the hall.

THE COURT: No problem.

MR. BROSS: We were discussing a possible plea resolution.

THE COURT: Okay, no problem.

MR. BROSS: It might be fruitful if you gave us like two or three more minutes.

THE COURT: Well, until a quarter of, because I know how two to three minutes stretches into 20, and we've got jurors waiting downstairs.

MR. BROSS: I know. Yes, ma'am, I understand.

THE COURT: Okay?

MR. BROSS: Thank you. Thank you very

much.

THE COURT: All right, thank you.

(Whereupon, Court is at ease.)

(Whereupon, Venire out.)

ISSUE: PLEA AGREEMENT

MR. SENDRA: Will you give me that yellow copy there?

MR. BROSS: No, you can have the gold copy. There you go (tenders documents).

THE COURT: Alrighty. We are back on the record in the State of Florida versus Dana Lynn Loyd, 2015-CF-39871. Ms. Loyd is present with Counsel, Jessica Burgess and Mr. Paul Bross. The State is here represented by Mr. Sendra and Ms. Stewart.

And I have just been handed a plea form. And what I'm doing is just putting white out through the strikeout portion here. So that when they scan it, you can't see the strikeout portion.

MR. BROSS: Thank you, Your Honor.

THE COURT: Okay, the word -- okay, do you want the word "directly" it's kind of -- it is kind of scratched through.

Here (Tenders document.) Let me show

you what I whited out, just so you can fix it if you need to.

MR. BROSS: Uh-huh. (Reviewing document.)

THE COURT: See the word "directly" appeared to be there, but like a lot of the strikeout had obscured --

MR. BROSS: Okay, yeah. No -- yeah, yeah.

THE COURT: -- is obscuring the word "directly."

MR. BROSS: Yeah. I accidentally wrote over the strikeout. Well, I actually didn't leave --

THE COURT: Struck out over the writing.

MR. BROSS: Right. Yeah, that's correct.

THE COURT: Yeah.

All right. Ms. Loyd, can you raise your right hand please ma'am?

Do you swear or affirm that everything you say here today will be the truth, the whole truth and nothing but the truth?

THE DEFENDANT: I do.

WHEREUPON:

DANA LYNN LOYD,

a Witness herein, having been duly sworn, testified upon her oath as follows:

ISSUE: PLEA EXAMINATION

BY THE COURT:

Q. All right. Tell us your name for the record please.

A. Dana Delaney Loyd.

Q. Okay. And, Ms. Loyd, I know that you are -- that you're a little emotional, but we do have an audio record. So, if you could do your best and speak up and answer clearly, it would be greatly appreciated.

A. Yes, Your Honor.

Q. Ms. Loyd, how old are you?

A. I am 44.

Q. How far did you go in school?

A. I have an Associate's.

Q. Have you taken any pills, drugs or drunk any alcohol in the last 24 hours?

A. I've been taking Tylenol Sinus because I have congestion.

Q. Okay, thank you. Actually someone is admitting --

A. To be honest.
Q. -- that they really took something.
The main question is: Are you thinking clearly and exercising your best judgment?
A. I don't know.
MR. SENDRA: The airplane.
BY THE COURT:
Q. Well, it kind of goes back to: I hope I can land this plane.
Are you thinking clearly and exercising your best judgment now?
A. I'm --
Q. If you don't feel you are then -- But we're ready to proceed if you know. No one is forcing you to enter into a plea.
A. I don't -- to be honest, I just don't feel a hundred percent.
Q. You don't feel a hundred percent what?
MR. BROSS: I think what -- and I don't mean to step in, but what she means is that I've been talking to her, as you've probably noticed, all day.
And I've dealt with her in the past, and she's usually pretty quick in responding and that sort of thing. And she is a little slow

today and it takes her longer to respond and comprehend.

And earlier she has commented: You know, I'm educated. I just took a Tylenol for sinus. And she sounds really sick.

And I'm actually -- and I've been -- I think she's saying that she's, you know, that the medication is making her a little sluggish. I think that's what she's saying.

THE COURT: I thought Tylenol Sinus had that nasty Sudafed stuff and Excedrin that makes you all shaky and --

THE DEFENDANT: I don't -- I really have just the opposite, so I just -- I feel like everything is slow.

THE COURT: Okay. Well, we can go slowly, if that will help. You know, I tend to speak quickly but I'm happy to go slowly.

BY THE COURT:

Q. So, let me go back and ask you: Are you thinking clearly and exercising your best judgment with regard to entering a plea?

A. (No audible response.)

Q. I'm sorry, we're back to the audio record.

A. Yes.

Q. All right. And you are represented by Attorneys Jessica Burgess and Paul Bross?
A. Yes, Your Honor.
Q. Have you discussed your case with Ms. Burgess and Mr. Bross?
A. I have, Your Honor.
Q. Are you satisfied with the representation that they've given you?
A. I am.
Q. All right.
THE COURT: Mr. Bross, how shall we proceed then?
MR. BROSS: Your Honor, my client is currently charged with one count of false report of child abuse. There's is punishable by a maximum of five years in the Department of Corrections, a $5000 fine or both.
Since negotiations, she will plead no contest. And pursuant for that, the State would agree to a cap of a withhold, 15 months probation, early term after one half.
Defendant has no contact indirectly or directly or through third persons with the person against whom she made the child abuse claim.

She will remove her blog, posts, news articles, et cetera regarding the incident at issue in this case. And she shall refrain from posting any news articles, et cetera, about this case in the future.

She will pay court costs, cost of prosecution, cost of investigation, submit DNA and fingerprints; and she will pay $933 -- or $983 in cost of investigation.

And the intent is that she would plead no contest. It's a best interest plea. And the Court could sentence her to as much as those things, and the Court can sentence her to as little or none of those things.

So we would actually ask for a sentencing date. And we would want to present some witnesses at sentencing. I think the victim has a right to be heard as well.

THE COURT: Certainly, we can do that. We can probably do that next week.

MR. BROSS: Okay.

THE COURT: We may have some time next week that we can that. I'll get Mike to confirm.

Mr. Sendra, you're standing, what do you

have?

MR. SENDRA: I would assume we could probably do this as soon as they are ready. I've spoken to the victim. I don't know that he would want to be here for a sentencing.

THE COURT: Okay.

MR. SENDRA: He has work obligations. He was going to come for the trial obviously but --

THE COURT: Right, okay. So, you don't think that that --

MS. STEWART: Next week would be fine.

THE COURT: You don't have any arrangements to make with regard to your end?

MR. SENDRA: No, not yet.

THE COURT: Okay. Here comes Mike right on cue. Is there a day next week when we could -- Ms. Loyd wishes to enter a plea and then have the sentencing.

MIKE: How long do they need?

THE COURT: How long do you anticipate, Mr. Bross?

MR. BROSS: Probably 45 minutes.

MIKE: It could be on Wednesday or Thursday at 9:00 AM.

THE COURT: Okay. Wednesday or Thursday at 9:00 AM, so that would be --

Do you mean this Wednesday or next Wednesday?

MIKE: Next Wednesday.

THE COURT: Next Wednesday, so that's --

MR. BROSS: So the 27th --

THE COURT: Either the 5th or the 6th of April at 9:00 AM.

MR. BROSS: No, it's --

MS. STEWART: I've got --

MR. BROSS: No, I'm sorry. So it would be March the 29th or --

THE COURT: No, April 5 or 6.

MR. BROSS: Oh, so it's a month. It's five weeks out, okay.

MS. STEWART: No, it's --

THE COURT: No, today's March 27th.

MR. BROSS: Right.

THE COURT: 28, 29, 30, 31.

MR. BROSS: Oh, I'm sorry. It's next week, April the 6th, sorry.

THE COURT: Yeah.

(Whereupon, Defense Counsel discussion.)

MS. BURGESS: Does it have to be 9:00

AM, do you have an afternoon? Sorry.
THE COURT: Can you do Thursday afternoon at 1:30 PM.
MR. BROSS: Yes.
THE COURT: Thursday afternoon at 1:30 PM. Are the folks that you wish to have speak available either day?
MR. BROSS: Yes, they should be available, Your Honor, I believe.
THE COURT: Okay, all right. So Thursday at 1:30, that's April the 6th.
MR. BROSS: Yes, ma'am.
THE COURT: Okay. I'm going to count that as three pleas. That's 45 minutes and I'm allowing 15-minute time-slots, that's where I check on the check marks on my calendar.
ISSUE: DEFENDANT'S MEDICAL CONDITION
All right. So, Ms. Loyd, I noticed that as Mr. Bross and Ms. Burgess have been looking at their calendars, you said you had to sit down.
Are you feeling well, ma'am, are you dizzy, are you -- I mean, are you emotional because of what's going on or is there some other -- Are you sick, I mean like getting the

cold or flu or something.

COURT DEPUTY: Do we need to call the paramedics?

THE DEFENDANT: No.

THE COURT: Yes, you're shaking.

THE DEFENDANT: Yes, I know. I have a sinus infection and an ear infection.

THE COURT: Okay. You are nodding your head yes when I'm asking you these questions. When I said are you sick? You nodded your head yes.

But my question is: Does that in any way impede your ability to determine that you wish to resolve your case in this manner?

THE DEFENDANT: (No audible response.)

THE COURT: Does that prevent you from thinking clearly enough to resolve your case?

THE DEFENDANT: Okay, I'm -- oh, I -- I honestly don't think that I -- I just am not -- I don't -- I'm not on drugs, I've only taken Tylenol, but I just -- I don't know if I'm more sick because I'm not making -- I don't know if I'm making the right --

THE COURT: Well, ma'am, we've got -- we're ready to start picking the jury in your

case. And I'm sorry if you're not feeling well.

THE DEFENDANT: I know, I'm trying to pull it together.

THE COURT: Right. I understand you are, I understand. And I understand completely that people are emotional when they are making a decision to enter a plea or go to trial or continue with trial or what have you.

But I want to make sure that you are making a knowing and intelligent decision, and that you are doing so while exercising your best judgment. Because as you know, if we proceed with jury selection and whatnot, then all you have to do is remain, sit there, remain seated and let Ms. Burgess to Mr. Bross do all the thinking and talking to the jury. And there's really nothing required of you. I mean, obviously we want you to be mentally alert while you're doing that.

THE DEFENDANT: Yes, correct.

THE COURT: But I don't in any way want you to feel that you are being pressured into resolving your case in one way as opposed to a way you may prefer, because at the end of the

day, this is about you.
THE DEFENDANT: Thank you.
THE COURT: And about your making a decision that you feel is in your best interest.
THE DEFENDANT: Well, Your Honor, I just don't want to make this decision right now. I don't -- I'm not comfortable and it's -- I feel like -- I just want to go with the trial. And if I can just go throw up, I need to throw up.
THE COURT: Go, please. Don't anybody get in her way please. She's running, too.
(Whereupon, Defendant exits courtroom.)
THE COURT: Counsel, can you all approach for a moment please?
(Whereupon, side bar proceedings, out of the hearing of the open court:)
THE COURT: I understand that Ms. Loyd is very emotional. And she obviously sounds like she's got a very bad cold, or she's been crying all morning.
MR. BROSS: She does have a really bad cold.
MS. BURGESS: Yes, she's sick.
THE COURT: And there have been some

other observers that said she's been crying all morning, so that always adds to the nose blowing and the backed up (indicating); but if she's got a the sinus infection, that just makes it worse.

But I don't want to take a plea when she saying a lot of equivocal things about not thinking clearly, being sick, not knowing whether she's, you know, not, et cetera. You heard it all at the same time I did.

MR. BROSS: I'll just say earlier that, when we were discussing the plea, she never made a decision one way or the other. It was like she was in zonky-mode.

And I just assumed it was because of the Tylenol. I mean, she never gave us a -- When we were talking to her about a plea this morning, she never gave us an answer one way or the other.

She was just -- When we were told to come back in the courtroom, when we came back in the courtroom, it was like when I was talking to her and explaining about the recent change or, you know, the changes in the things that I crossed out, you know, she said: I'm

just not -- She said, I'm just having a hard time understanding right now because of this Tylenol or whatever I took.

MS. STEWART: I would ask that you inquire whether or not she's able to sit at Counsel table and she's -- Because that she's got to do and it's got to be on the record that she was there helping or --

MR. BROSS: Right, and that she's able to --

(More than one speaker, indiscernible.)

MS. STEWART: -- when she's agreeing with the jury selection.

MS. BURGESS: Well, I personally think that she's just emotional about what -- which way to go, because of all of the people that are in her ear.

THE COURT: Right. Right, that may be.

MR. BROSS: Yeah, and not -- not -- her tears are not even really about this case. It's about her childhood. I mean, that's really what it's all about.

It's not about the decision that she's making at this minute. It's about things that happened to her when she was a child. So just

be aware --

THE COURT: Okay. But the problem is she has to be coherent, and she has to be completely:

(a) I'm on board with whatever direction we wish to go.

(b) She does have to be able to be mentally capable of assisting you.

MR. BROSS: Right.

THE COURT: And then helping you come to a -- helping you select the jury that she feels is going to be fair and impartial for her. Now, there's going to be a lot of other --

MS. BURGESS: I think she's mentally capable. When we just sit and talk about anything other than taking a plea, she's just fine. It's just when it comes to actually discussing her options on moving forward, is when the emotion starts.

MR. BROSS: Yes, she refuses -- Basically refuses to make any sort of decision on anything, like she's not, she's not -- She's not chosen to go to trial. She has acquiesced to go to trial. You understand what I mean by that?

THE COURT: Yeah.
MR. BROSS: And to me that's --
THE COURT: Well, and I mean.
MR. BROSS: To me, I don't think she's even really assisting at all because I -- She's not -- She's not making decisions or really able to talk to you.
THE COURT: All right. My concern is partly like you said or Mr. Bross or Ms. Burgess has just said, there's just a lot of people in her ear pulling her in different directions.
But the problem -- The other problem is that the case has to be resolved at some point. It's 577 days old and it's a third-degree felony.
MS. BURGESS: Well, we want it resolved. We're tired of coming in here.
THE COURT: I know. You are here and want to get it resolved.
MS. BURGESS: We like you and all, but we just don't want to come back.
THE COURT: Yeah. I understand, you don't want to keep coming back here indefinitely, yes.

MS. BURGESS: I understand.
THE COURT: But I can't lawfully resolve it. And certainly I don't want to subject the two of you to an ineffective assistance of counsel motion for the next three years, you know, because she was either bullied into taking a plea or bullied into going trial because it's not her choice.
But what she has to understand is she has to make that choice.
MS. BURGESS: Can we get like -- And I hate to ask for more time, but can we just have time, so we can get her to actually make a decision, because usually when it's just talking, she doesn't ever --
THE COURT: Right.
MS. STEWART: The Court is going to have to inquire anyway.
THE COURT: Right. I mean, are you talking about right this minute?
MR. BROSS: No.
MS. BURGESS: For him to --
MR. BROSS: I think what she's trying to say is --
THE COURT: You mean like take 20 minute

1 break to --
2 MR. BROSS: We have never been able to
3 get an answer.
4 MS. STEWART: She's never answered.
5 MR. BROSS: She's never answered one of
6 my more than -- And then she's trying to -- I
7 mean she was -- Her statement was: Well, you
8 know, I was molested as a child. And I need to
9 try this case because I was molested as a
10 child.
11 And I said: This has nothing to do with
12 what happened to you as a child, and you need
13 to take this up with --
14 MS. STEWART: You know, I'm really
15 worried about competency, Judge, I am really
16 afraid.
17 MR. BROSS: And actually I am, you know.
18 And I was about to file a competency motion
19 because she said something to me, which I
20 believe is absolute grounds for competency.
21 She basically said: God in heaven had told her
22 to proceed.
23 And I don't -- I don't think -- I'm
24 pretty sure there's case law that says that
25 it's --

THE COURT: That wouldn't necessarily be so.

MR. BROSS: Well, I'm pretty sure --

THE COURT: There are plenty of people that God -- there's plenty of people who believe that God directs their life.

MR. BROSS: But I think the case law is pretty clear that, if God is the one telling you to try the case, I mean it's -- And you make your decision because God told you so, I think there's cases out there that's says that's actually incompetent.

And I've filed that motion before on someone else and I think that's --

MS. STEWART: I'm more concerned about the: I was molested as a child and therefore, we have to go forward on this case, because that's --

MS. BURGESS: And I'm --

(More than one speaker, indiscernible.)

MR. BROSS: And that's -- and I've tried to explain to --

THE COURT: I'm a little concerned about that, too, because this doesn't have anything to do with that.

1 MR. BROSS: Right. And when I explained
2 that to her, she understood. And she signed
3 the plea form and she said: Okay, I'm good
4 with it.
5 And then when you started asking her
6 about it, you saw the reaction.
7 THE COURT: Right, she apparently --
8 MR. BROSS: So her hangup is really --
9 THE COURT: And quite honestly, her
10 reaction is not consistent with someone that
11 took one Tylenol with, you know, a cold or
12 whatever with sinus stuff, or even a Sudafed.
13 I mean, I guess that Sudafed component --
14 MR. BROSS: I mean, a sinus infection
15 alone can make you feel like a zombie.
16 THE COURT: Yeah, but --
17 MR. BROSS: I used to get them all the
18 time, and they're all --
19 THE COURT: Okay, very true. Very true.
20 And that concerns me, that she -- I
21 don't know whether she isn't feeling that
22 whacked out from that particular medication, or
23 whether it's the combination of dealing with
24 what, you know, very emotional as you said and
25 having an infection of some sort; and then

1 having taken a Tylenol sinus component.
2 MR. BROSS: Well, she acted coherent, I
3 don't know what --
4 THE COURT: But the other problem is
5 it's got to be resolved. And it was number one
6 and, you know, we've all worked very hard to
7 get you all on a week when everybody was up to
8 speed.
9 Mr. Sendra, I know, has spent an awfully
10 long time editing out portions of the tape.
11 And everybody has cleared their schedules.
12 And, you know, we sent away this lady
13 who's got a 2013 case.
14 Because I know that, you know, you had
15 mentioned that you had your own (indiscernible)
16 was beginning, so I don't want to keep bringing
17 you all back.
18 MR. BROSS: Does the Judge know we are
19 doing this pro bono?
20 THE COURT: Yes.
21 MR. BROSS: What, no good deed goes
22 unpunished?
23 THE COURT: Yes, I think that's usually
24 applies in full.
25 MS. BURGESS: Well, I can afford it.

I'm working for me. It's not free.
MR. BROSS: Well, I'm doing it -- I'm doing it for me, too.
THE COURT: Yeah, well -- But by the same, you know, by the same token, if you feel that 20 or 30 minutes with her might help then we --
MS. BURGESS: We probably won't even need that long. We just haven't gotten a decision either way which way she wants to go.
MR. BROSS: Well, she did -- She did sign the plea form and it wasn't by argument after --
MS. BURGESS: Yeah, I think like 30 seconds for that.
MR. BROSS: Well, after --
THE COURT: Well, my understanding was that you all had been talking about this for like six months.
MR. BROSS: Yeah. But well, the offer's changed, Judge. The offer's changed, Judge.
THE COURT: Maybe closer to 12 months.
MR. BROSS: Yeah.
THE COURT: Since the case is --
MR. BROSS: The offer changed.

MR. SENDRA: And the offer did change today, that's true.

MR. BROSS: And I believe it changed substantially as away from, you know, a term to a cap. You know, it gives the Court discretion.

THE COURT: Okay.

MR. BROSS: So I think that's what's substantial about it.

THE COURT: Yeah.

MR. SENDRA: And one of the -- One of the conditions that she really had an issue with was one of the ones that we agreed to strike.

MR. BROSS: Which was a psychological evaluation, whatever.

THE COURT: I won't say -- okay. Based on what you've just said to me as to her competency, maybe it wasn't an accident that it was left in. I don't know.

MR. BROSS: Yeah.

THE COURT: She may get one anyway.

MS. BURGESS: I mean, it's all about -- it's a lot about image, because she's got people that are rooting --

(Whereupon, three people enter courtroom.)

THE COURT: Get this, this is part of my concern. The gentleman is (indiscernible) and the other two that are accompanying him are potentially influencing her in a negative way.

MS. STEWART: They are.

MR. BROSS: Yeah.

THE COURT: And so they --

MR. SENDRA: They know. That's why we've been fair and left the plea offer where it is.

THE COURT: You know, I don't want her to be influenced in a negative way by folks that really don't -- They're not --

MR. BROSS: Well, honestly they're -- and I agree with you, but they actually agree with our assessment of the case which makes -- which also confuses the matter. They agree with our assessment of the case.

THE COURT: So they agree that she should be (trailing off).

MR. BROSS: No, they agree -- They agree --

MS. BURGESS: They agree with our

assessment, but not with what the State offered.

MR. BROSS: Right.

THE COURT: Okay.

MR. BROSS: Which is why I explained -- which is why we got a cap.

THE COURT: Okay.

MR. BROSS: And they kind of point her to go on a suicide mission to be able --

THE COURT: That's what it seems.

(More than one speaker, indiscernible.)

MR. BROSS: -- for everybody.

THE COURT: Right.

MR. BROSS: And which is not good, you know.

MS. STEWART: And who is it going to help?

MR. BROSS: Well, either all of the bloggers, reporters. And this is an affront, too, walking into court, and you know, if she's potentially -- And they have basically brought on the First Amendment freedom of speech and their ability to write papers.

MS. STEWART: If it's not smeared.

MR. BROSS: Yeah. No, no.

MR. SENDRA: He's also the only one risking being a convicted felon.

THE COURT: Yeah, that's kind of --

MR. BROSS: Yeah, they have no skin in the game and I made that very clear. None of these people are --

(More than one speaker, indiscernible.)

THE COURT: Right, and not -- and those folks don't stand by (indiscernible).

MR. BROSS: Uh-huh.

THE COURT: And, you know, they are not in the hotspot.

MR. BROSS: Yep. They get to go home, no matter what.

THE COURT: You took the words right out of my mouth.

MS. BURGESS: We have both explained this to her until we're blue in the face.

THE COURT: I thought you had. I know you all have had lengthy discussions.

I mean you've been months and months and months to discuss this with her; and she's obviously emotional, sitting back there trying to figure out what she's going to do.

And so, why don't we just recess for 20

1 minutes?
2 MR. BROSS: I think that's good.
3 MS. BURGESS: Well, we don't even need
4 that. We need like approximately five or 10
5 minutes.
6 THE COURT: Okay. You just tell me
7 know. And I'll give this back (tenders
8 document). Thank you.
9 (Whereupon, before open Court.)
10 THE COURT: All right. Folks, we're
11 going to be in recess for about 15 or 20
12 minutes. Whenever Mr. Bross and Ms. Burgess
13 and Ms. Loyd -- Are you okay, Ms. Loyd?
14 THE DEFENDANT: Yes, thank you.
15 THE COURT: Okay, are you sure?
16 THE DEFENDANT: Thank you, yes.
17 THE COURT: Okay. We will be back with
18 you all, and let me know when you're ready.
19 MS. BURGESS: Thank you, Judge.
20 (Whereupon, Court is in recess.)
21 (Whereupon, Venire out.)
22 MR. BROSS: Can we approach, Your Honor?
23 MS. BURGESS: Yeah, can we approach?
24 THE COURT: Sure.
25 MR. SENDRA: That's okay, I've got it.

MS. STEWART: Right, okay.

(Whereupon, sidebar proceedings out of the hearing of open court.)

MS. BURGESS: We've got a little issue. Apparently while she was vomiting, she urinated on herself.

MR. BROSS: Which has a --

MS. BURGESS: And Paul and I are concerned that something's going on.

MR. BROSS: She didn't realize she urinated on herself. And I was -- I thought she was urinating on herself all the time when she was standing in front of me, I thought she was urinating on herself.

MS. BURGESS: I thought it happened beforehand, but --

THE COURT: Do you think the question is she's just not feeling this stuff or do you think there's a (indiscernible).

MS. BURGESS: I don't think there's --

MR. BROSS: Well, she's definitely not malingering. I don't -- I know that. She's not malingering.

THE COURT: Well, no, I don't think it's malingering.

MR. BROSS: Oh, you think no?

THE COURT: No.

MR. BROSS: Oh, I'm sorry.

MS. BURGESS: I personally, just having known her for the last two years.

THE COURT: Yes.

MS. BURGESS: I that it's stress, I think it's going back and forth between what decision she should make. I don't think there's a psychological issues.

THE COURT: So you think she's (indiscernible) to make a final decision?

MS. BURGESS: Right. So, now you have somebody who has vomit on their shirt and urine on their pants.

MR. BROSS: Well, I recognized it but she -- We had to bring it up to her that the vomit is there. And that's what's bothering her and typically -- It's like very noticeable. Okay, and someone with --

MS. BURGESS: Well, her response was that she thought that she had cleaned it up, but she hadn't.

THE COURT: Okay, okay.

MR. SENDRA: I would agree with that.

THE COURT: Yeah.

MR. SENDRA: So anyway, we can just continue until tomorrow?

THE COURT: I was going to say, why don't we just start --

MR. SENDRA: We don't really want to start the process over again.

THE COURT: Right.

MR. SENDRA: I think, if she has some time to compose herself and clean up, then I'm thinking they will talk to her again and it might actually resolve itself.

THE COURT: Yeah. And I am going to instruct her not to take any sinus medicine --

MS. STEWART: Right, yeah.

THE COURT: -- before coming to court tomorrow.

MS. BURGESS: Can we still do like jury instructions today and get that --

THE COURT: Huh?

MS. BURGESS: Can we still do like jury instructions today and get that done?

THE COURT: Sure we can, sure.

MS. BURGESS: All right.

THE COURT: But, I mean, my concern is

that she not take anything, meaning not even an aspirin that will affect her --

MS. BURGESS: Right.

MR. SENDRA: Right.

THE COURT: -- her ability to think clearly in making her decision.

MS. BURGESS: She said something about -- and I've taken these messages where she's taken medicine and then all of a sudden she's feels in an altered state, but it shouldn't do that.

THE COURT: None of that. No, none of over-the-counter stuff. I've actually OD'ed DayQuil before, where I got really violently sick to my stomach.

And I've never taken it again, that was 25 years ago I took it. So I know what this stuff does, the over-the-counter cold stuff can mess with you.

So I will just recess for today and let her go home and compose herself. I am going to direct her not to take any over-the-counter drugs of any sort.

And she says she has a sinus infection. Is she on antibiotics or do you know?

1 MS. BURGESS: I don't think so.
2 THE COURT: You know, someone with an
3 infected nose, there's a --
4 MS. BURGESS: And even antibiotics, they
5 shouldn't be mood altering.
6 THE COURT: No, no. I mean usually with
7 any kind of infection, usually the first thing
8 they do is call the drugstore and get an
9 antibiotic prescription called in. I'm just
10 saying.
11 MS. BURGESS: That's what I thought.
12 THE COURT: Yes. Well, okay, sorry. I
13 thought about that.
14 So we will just recess for the day for
15 her to go home and compose herself.
16 MS. BURGESS: Okay.
17 THE COURT: Okay, thank you very much.
18 MS. BURGESS: And how much
19 (indiscernible).
20 THE COURT: Give me a moment, because
21 I'll have to go down and excuse the jurors for
22 the day, because they are very anxious right
23 now to know what's going on.
24 MS. BURGESS: I understand.
25 THE COURT: Yeah, okay. I asked Doris

1 to just tell them that we've been overtaken by
2 events, and that's what -- that's my --
3 MS. BURGESS: I think that's the best
4 answer. Even if she were to make a decision,
5 there could be an ineffective Counsel, just
6 like you said, which is something that I --
7 THE COURT: And I don't want that to
8 happen either. I don't know, I don't even --
9 no.
10 MS. BURGESS: Yeah. Either way we'll
11 proceeding forward for a trial.
12 THE COURT: Well, it won't -- And we're
13 -- I'm going to do anything and everything
14 necessary ward off that for you.
15 MS. BURGESS: Right.
16 THE COURT: So, because I've been where
17 you are, I guess. Okay, thank you.
18 (Whereupon, Venire out.)
19 COURT'S RULING RE DEFENDANT'S MEDICAL CONDITION
20 THE COURT: All right. Ms. Loyd, I do
21 have some concerns about your well-being today.
22 And so, what I'm going to do is recess
23 for the day. And we will be back -- Please be
24 back tomorrow at 8:45, but please do not any
25 over-the-counter medicine, prescribed medicine;

1 nothing. Just bring tissue.
2 If you want to use -- What do you call
3 it Afrin or whatever for a stuffy nose, I don't
4 think that should be mood altering in any way.
5 But please not -- I know those over-the-counter
6 medications can sometimes have a really weird
7 effect on people.
8 As I told Counsel, I've been the victim
9 of a DayQuil overdose where just I got very
10 sick.
11 And so, please don't take anything,
12 because we want you to be thinking clearly and
13 able to make a knowing and voluntary decision
14 tomorrow on whether to go forward.
15 And if that's what you wish to do, then
16 you must be able to assist your attorneys in
17 selecting the jury. I mean, obviously you're
18 not going to be standing up asking everybody
19 questions.
20 But you have to be able to listen to
21 what they're saying and say: Well, this one
22 gives me the creeps. And I really like this
23 one or whatever, however it is you feel.
24 But you have to be able to give cogent
25 input to your attorneys and I don't think today

is the best day for that.

THE DEFENDANT: I'm sorry.

THE COURT: No, it's not your fault, you know, these things happen, so don't worry. Just come back tomorrow at 8:45, and hopefully you will get a good night's rest and we'll pick up where we left off.

And I hope you don't go home and have that other effect from the Sudafed stuff, and end up at two a clock in the morning with your heart coming out to your chest; which is what happened to me from those medications. Anyway, so we will be in recess for today for you, Ms. Loyd.

And then Ms. Burgess and Mr. Bross, would you like to discuss the jury instruction issue? We'll just take care of that since we're all here.

MS. BURGESS: Sure.

(Whereupon, Court/Clerk discussion.)

COURT DEPUTY: Do you want me to go down with you, Judge?

THE COURT: Sure.

COURT DEPUTY: All rise, Circuit Court is in recess until tomorrow morning at 8:45,

thank you.

(Whereupon, the Court is in recess.)

THE COURT: We can't do jury instructions without Ms. Loyd present.

MR. SENDRA: Right.

MR. BROSS: Yes, we just realized that.

THE COURT: Yes, we just --

MR. BROSS: We just realized that.

THE COURT: Yes. So why don't -- I know it's going to be a crushing blow that you all have to go home at a quarter till three on a sunny Monday afternoon.

MS. STEWART: I'm heartbroken.

THE COURT: When it's only about 77 degrees outside and -- yeah.

MR. SENDRA: I'm not going home, I got tons of work to do.

THE COURT: Let's not rub it in, right?

So anyway, at least, that was a small consolation to the jurors. Hopefully not so cold comfort.

MS. STEWART: Right.

THE COURT: So anyway, we'll just -- I told them not to come until 9:30 tomorrow morning; because I said, just based on small

bumps we've hit in the road at this lunch hour, that I'm not going to be quite as optimistic about time, so.

MS. BURGESS: What time would you like us here, Judge?

THE COURT: Could you please come by 9:00? Because that way we -- I know we've got three pleas, so they shouldn't take a long time.

And then if Ms. Loyd doesn't -- Well no, we can't go over the jury instructions without her.

But if she gets here at 9:00 -- if you can call her please. Make sure that you bring her at 9:00. If we've got like 20 or 30 minutes, then we can have our discussion about the jury instructions prior to --

MR. BROSS: Okay.

THE COURT: And shall I say before we close, I've kept my record.

MR. BROSS: All right.

THE COURT: Any day I bring my computer, the trial washes.

MS. STEWART: Will you leave that in your chambers? What are you thinking?

(More than one speaker, indiscernible.)
THE COURT: If I leave it in there. I actually looked at it this morning and almost took it out of my backpack.
Oh, Mr. Bross, do you still have the plea form?
MR. BROSS: Yeah, I have it, I'm not -- She said it was a lucky plea form, so I'm hoping maybe Ms. Loyd will change her mind.
THE COURT: Okay.
MS. BURGESS: Yeah.
THE COURT: Yes. Well, let me know.
MR. BROSS: Hope springs eternal.
THE COURT: Madam Clerk, because you've marked it, you don't have to have it back?
THE CLERK: No, you can have that. I'll fill it in.
THE COURT: Okay, okay. Then we're good.
Have a good afternoon, everyone. We will be in recess until tomorrow.
Oh, just so that you know what we did to make us more in line with Viera, and so nobody has to be trying to mangle out names like McGillicuddy -- I mean, I thought that was a

name that my father made up when I was a kid but --

MS. STEWART: About the Irish cop named McGillicuddy?

THE COURT: Mike made numbers for everybody.

MR. BROSS: Oh, okay.

THE COURT: So I was going to tell them that we're not trying to be impersonal and no offense.

MR. BROSS: Okay.

THE COURT: We are just trying to streamline it and make sure we don't butcher your name.

MR. BROSS: Okay, okay.

THE COURT: So we're just going to do on as number one, two, three.

MR. BROSS: And Judge Mahl, I think, is making everyone do those.

THE COURT: Right.

MR. BROSS: And Judge Dugan is.

THE COURT: Judge Mahl is, Judge Dugan is. Oh, pretty much everybody in Viera.

MR. BROSS: It's like some are doing it. It's like half-and-half, but I think --

THE COURT: Yeah.

MR. BROSS: I've been telling other ones, and they've been using numbers, too. So, I don't know, it's something that --

THE COURT: You know what, in the age now of everybody wanting to protect their identity and their personal information, they are being asked questions about: Do you have any children and you know, how old are they?

MR. BROSS: Right, yes.

THE COURT: Have they ever been convicted of a crime and all this kind of --

MR. BROSS: Yeah.

THE COURT: I think it's better to say: Number Three --

MR. BROSS: Right. Oh, yeah, and you're not going to put any --

THE COURT: Right? Instead of, you know, Ms. Jones. You know, that kind of thing.

MR. BROSS: Yeah.

THE COURT: And I know that there are quite a few concerns, so I'll, you know.

MR. BROSS: Okay.

THE COURT: Much, much more so than we had back when we had phones on our walls and we

dialed them to call people.

MR. BROSS: Right, that's true. Okay, Judge, have a good day.

THE COURT: Take care. See you all tomorrow. Take care, Ms. Burgess, see you tomorrow.

(Whereupon, Court will be in recess overnight. Proceedings will resume at 9:00 AM on March 28, 2017.)

(Whereupon, Proceedings continued in Volume II.)

1 IN THE COUNTY COURT OF THE 18TH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA
2
3 CASE NO. 05-2015-CF-039871-AXXX-XX
4 STATE OF FLORIDA,
5 PLAINTIFF,
6 V.
7
8 DANA LYNN LOYD,
9 DEFENDANT.
10 _____/
11 TRANSCRIPT OF JURY TRIAL PROCEEDINGS
12 VOLUME II (Pages 124 -470)
13 DATE: March 27-30, 2017
14 PLACE: Vassar B. Carlton Historic Courthouse
506 S. Palm Avenue
15 Titusville, Florida 32796-3592
16 BEFORE: The Honorable Robin Lemonidis,
Circuit Judge
17
These proceedings were digitally recorded
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(Whereupon, Proceedings continued from Volume I.)
TITUSVILLE, FLORIDA; March 28, 2017
(Whereupon, Venire out.)
THE COURT: Okay. We lost our other key players for the day. Deputy Hughes, would you get Ms. Burgess and hopefully Mr. Bross, and I saw Ms. Loyd as well.
COURT DEPUTY: Yes, ma'am.
THE COURT: Thank you. Tell them we would like to address their case now.
Good morning Mr. Bross.
MR. BROSS: Good morning, Judge, how you doing today?
THE COURT: Good, thank you. How are you?
MR. BROSS: Good, nice to see Your Honor.
THE COURT: You, too. Okay. Good morning Ms. Burgess again and good morning Ms. Loyd. Come on up, folks. Are you all ready to proceed today?
MR. BROSS: Yes, Your Honor.
THE COURT: All right. Since we did not discuss the jury instruction issue yesterday because Ms. Loyd had left.

MR. BROSS: Yes, ma'am.
THE COURT: I mean, obviously we can't discuss anything out of her presence.
MR. BROSS: Yes ma'am.
THE COURT: We can address that now while we're waiting for the jurors to all get checked in and whatnot. So let's see, about right here.
(Whereupon, Defense/State discussion.)
THE COURT: Ms. Burgess, can you approach for a moment please?
MR. SENDRA: And can we approach, Judge?
THE COURT: Yes, certainly.
(Whereupon, sidebar proceedings out of the hearing of open court.)
THE COURT: I appreciate the fact that Ms. Loyd brought cloth bags with her. But could you ask her to take the bag off the table and just put it like, you know, five of them or whatever she thinks. So that it doesn't look like she's got --
MS. BURGESS: Yes, Judge.
MR. SENDRA: All right, here's the deal then.
THE COURT: Thank you. We're going to

have guests here, we don't want then to think -- We've got to make it look --

MR. SENDRA: Here's the issue, Judge: I think Ms. Stewart and I both agree that you have to ask Ms. Loyd some questions first to make sure she's in the right frame of mind before we start discussing anything based on what happened yesterday.

THE COURT: Yes.

MR. SENDRA: Then I think they want to have the discussion about the jury instruction. There's some indication, depending on how that comes out, that Ms. Loyd may actually enter the plea at that point.

THE COURT: Okay.

MR. SENDRA: So, I'd want to do that first obviously.

THE COURT: Okay.

MR. SENDRA: Because it completely changes what's going to happen.

THE COURT: Right. But.

MS. STEWART: If she does not take the plea, I would like you to put on the record that she --

MR. SENDRA: I'll put it all in the

record again at that point, you know, when it comes up.

MR. BROSS: But I think --

(More than one speaker, indiscernible.)

THE COURT: -- be sure it makes the record.

MR. BROSS: I think it would be helpful to have the argument for the jury instructions first before you ask about the plea, though.

THE COURT: Certainly.

MR. BROSS: I think she understands now.

THE COURT: No, no, no, I wasn't going to --

MS. STEWART: And should we actually end up picking a jury today, we need to inquire about any computer -- There was a lot of -- a lot of stuff posted yesterday on Facebook pages, and things of that nature regarding this case.

THE COURT: There were?

MS. STEWART: By the people that were sitting back there.

THE COURT: Okay.

MS. STEWART: So that -- And I mean, I hope the jurors follow their oath and don't go

1 searching, because some people are curious when
2 there's --
3 THE COURT: Well, there's some alternate
4 --
5 MR. SENDRA: Well, what's her name that
6 violated your order from what we saw --
7 THE COURT: Right, was that --
8 MR. SENDRA: -- she was posting general
9 things about the case obviously.
10 THE COURT: Yeah. Well, we got them not
11 to, you know, we've got the jurors --
12 MS. STEWART: Right.
13 THE COURT: -- not to look at any social
14 media or anything and all of that.
15 MS. STEWART: Okay.
16 THE COURT: Whether they've viewed
17 anything that would impair their ability to be
18 fair and impartial.
19 MS. STEWART: Okay.
20 MR. SENDRA: So the other thing is
21 first, and then we'll see if we even get to
22 that point.
23 MR. BROSS: All right.
24 THE COURT: Yeah, that's right. We'll
25 do that.

(Whereupon, Venire out.)

THE COURT: All right. And this is what I'm going to do, I'm going to put it on jury trial. And, Ms. Burgess, tap that microphone, do you mind? Tap that microphone please.

MR. BROSS: (Complies.)

THE COURT: I want you to realize that it's dead, you don't have to worry about hitting mute buttons or whatever.

MR. BROSS: Oh, okay.

THE COURT: The stations that you have over there are private.

MR. BROSS: Thank you, Your Honor.

THE COURT: All right, thank you.

Now, first of all --

MS. BURGESS: Pardon me, we're swapping chairs.

THE COURT: Okay. You're playing musical chairs, no problem.

All right. Ms. Loyd, can you -- Good morning, ma'am. Can you raise right hand please?

THE DEFENDANT: Yes. Do you want me to stand up?

THE COURT: Yes, ma'am.

Do you swear or affirm that everything you say here today will be the truth, the whole truth and nothing but the truth?

THE DEFENDANT: I do.

THE COURT: All right. Ms. Loyd, you sound a lot better today.

THE DEFENDANT: I took a whole bunch of vitamin C.

THE COURT: Okay. Well, it's amazing what vitamins do. They are very helpful.

So, do you feel like you're thinking clearly today and are in a position to proceed? However it is that you all choose to proceed, but you're not clouded by any medication that has adversely affected your ability to think clearly?

THE DEFENDANT: And I'm so sorry to you and the State and my attorneys for yesterday.

THE COURT: Completely understandable, no problem. But I appreciate your thought, thank you.

And so, what I just want to make sure of is that you are -- you seem much more alert -- I'm looking at you and you're -- you are in a much different frame of mind it appears today

1 than yesterday.
2 And so, have you taken any kind of
3 medication?
4 THE DEFENDANT: No, ma'am. I have some
5 cough drops like they suggested.
6 THE COURT: Okay, perfect. Okay,
7 perfect. Cough drops ought to be a good thing
8 and that will -- if they are -- What do you
9 call it, eucalyptus or whatever. They help
10 with a lot of things. So good, hopefully they
11 have vitamin C, that means a lot.
12 THE DEFENDANT: I think so, because my
13 skin turns different colors when I don't take
14 vitamins.
15 THE COURT: Right. No, no, no, that's
16 only vitamin A, it turns orange. So yes, I'm a
17 bit of a vitamin believer myself. And so, you
18 are prepared to proceed?
19 THE DEFENDANT: Yes, I am.
20 THE COURT: All right. Perfect, thank
21 you, ma'am.
22 THE DEFENDANT: Thank you, Your Honor.
23 THE COURT: All right. Then why don't
24 we take up the -- and I am glad that you're
25 feeling better.

THE DEFENDANT: Thank you.
THE COURT: I could tell that you were not feeling well yesterday.
Why don't we take up the issue with the jury instruction?
ISSUE: JURY INSTRUCTIONS
THE COURT: All right. I've got a copy of the instruction proposed by Defense Counsel which -- where it appears that you wish to insert the word under -- the jury instructions submitted by the State --
MR. BROSS: Yes, Judge.
THE COURT: Do you all have copies of it?
MR. BROSS: Yes, Your Honor.
THE COURT: All right. I'm looking at the two copies right here.
MR. BROSS: Okay, thank you.
THE COURT: Do you both -- Does everyone have a copy?
MR. BROSS: Yes, ma'am.
THE COURT: Okay. The instruction that you have submitted that you would like to have includes a second element which is, quote: "For the purpose of harassing, embarrassing or

1 harming another person."
2 DEFENSE ARGUMENT
3 MR. BROSS: That's correct, Your Honor.
4 Essentially that's a more accurate statement of
5 the law and a more accurate statement of the
6 statute under which Ms. Loyd is charged,
7 Section 39.205 Sub (9).
8 And just for the record reciting Count 1
9 one of the Information it states: In the
10 County of Brevard, State of Florida on April
11 29th of 2015, Dana Lynn Loyd did knowingly and
12 willfully make a false report of child abuse,
13 abandonment or neglect, or advised another to
14 make such a false report to the Department of
15 Children and Families concerning a child, Riley
16 Michaud, date of birth July of 2003, for the
17 purpose of harassing, embarrassing or harming
18 another person contrary to Florida Statute,
19 Section 39.205 Sub (9).
20 So, we believe by looking at the plain
21 language in the Information that 39.205 Sub (9)
22 has two elements. That is, that she knowingly
23 did make a false report. And then the second
24 element says: For the purpose of harassing,
25 embarrassing or harming another person.

And that's tracking the exact language of the statute.

THE COURT: Would you like to read the statute (tenders document)?

MR. BROSS: Well, no, I'm -- I'm sorry.

THE COURT: Would you like to read the statute?

MR. BROSS: I read the statute, Your Honor. But I'm sorry, that part I was reading is the language of the amended Information.

THE COURT: Okay. But, may I ask?

MR. BROSS: Yes, ma'am.

THE COURT: What is the law? What's in a charging document or is the law what is in the statute?

MR. BROSS: Well, I think, the reason that the amended Information includes the language of "For the purpose of harassing, embarrassing or harming another person," because even if you look at the jury instruction proposed by the State which says Falencio (phonetic) --

THE COURT: Well, right, we can omit the name.

MR. BROSS: I'm sorry.

1 THE COURT: That person, jury
2 instruction, was used in Seminole County last
3 year.
4 MR. BROSS: Yeah. It's proof of a crime
5 of false report of child abuse, abandonment or
6 neglect includes the following elements.
7 THE COURT: Right. And there is no
8 standard jury instruction for this particular
9 offense.
10 MR. BROSS: That's correct. But it has
11 the single element, you know, knowingly and
12 willfully made a false report of child abuse
13 and abandonment.
14 But then, if you look at the very next
15 sentence, it says: It is not a, you know, if,
16 at the time of making the false report of child
17 abuse, abandonment or neglect, Falencio did it
18 in good faith.
19 And then if you look at the case law
20 specifically --
21 Your Honor, it's the Defense's position
22 that the reason that the admitted Information
23 includes the language it does, and the reason
24 that the jury instruction proposed by the State
25 has the good faith exception, is that our

1 proposed jury instruction merely kind of
2 clarifies and better explains the law and more
3 accurately states the law.
4 And that is because if a report of child
5 abuse is not made in good faith, it would be
6 made for one of those purposes: Harassing,
7 embarrassing or harming another person.
8 Otherwise, it's our contention that, you
9 know, that other -- that is the -- to add that
10 additional element, for the purpose of
11 embarrassing or harming another person, more
12 accurately states the law.
13 And it explains to the jury the -- or
14 it requires the jury to -- It requires the jury
15 to find the knowingly and willful aspect of the
16 false report, I guess is what I'm trying to
17 say.
18 Because to knowingly and willfully make
19 a false report, it would have to be for some
20 bad purpose; which is why we put that second
21 part of the statute in there, and which tracks
22 the language of --
23 THE COURT: You put the second part of
24 what in there?
25 MR. BROSS: I'm sorry?

THE COURT: You put the second part of what where?

MR. BROSS: I'm sorry. The second part of the language contained in the amended Information.

THE COURT: Okay.

MR. BROSS: And that is "harassing, embarrassing or harming another person contrary to section 39.205."

THE COURT: Okay. Is it your position then that the State can add elements to a crime?

MR. BROSS: No, Your Honor.

THE COURT: That the statute -- Isn't that -- The legislature is part of the Executive Branch, correct? And the Legislative Branch is the one that writes the laws?

MR. BROSS: Yes, Your Honor.

THE COURT: The Executive Branch brings charges. And the Judiciary, which is the third branch, is the impartial arbiter of the dispute of whether or not the charge has been proven pursuant to the statute.

MR. BROSS: Yes, Your Honor.

THE COURT: Would you agree?

MR. BROSS: Yes, Your Honor.

THE COURT: Okay. Mr. Sendra, do you have anything?

MR. SENDRA: May I approach, Judge?

THE COURT: Certainly.

MR. SENDRA: (Tenders document.) And I've got a copy for Mr. Bross.

THE COURT: Thank you.

MR. SENDRA: The State's position is that 39.205 Sub (9) lends itself to one element, the one that's in the proposed jury instruction that we provided.

We do agree that there should be a definition of false report. I don't know why they didn't use it in Seminole County, but I agree that there should be one.

And obviously the jurors need to know what qualifies under the law, so that they can apply the facts. So from that regard, they should get a definition.

But the problem with the Defense's argument is they are trying to add a second element to this charge. That language in the Information is in there, because when you look at the definition of false report in Chapter

39, which I've laid out on that paper, it simply uses that language when it defines what a false report is.

So we're not adding extra elements to the crime. That's in the Information so the jurors understand what theory we're proceeding under. And then they need to apply the facts to that law and make a determination of whether that's a false report. There's no additional element.

39.01 Sub (27). That's the false report definition in Chapter 39. That's directly from the statute, so I think that's what should be used.

And I believe, if anything, like I said, that we should not add extra elements to the crime. That's not what we do with jury instructions. That would be putting an unfair burden on -- placing a burden against the State that's not applicable under the law.

She is entitled to the definition and I think that clarifies this issue and why that language is in the Information. It makes this very simple.

THE COURT: Okay. And this is part of

39.01 Subsection (27)?

MR. SENDRA: Correct, I have --

THE COURT: Which is the -- The 01 section of the statutes are always the definitions.

MR. SENDRA: Correct. All of these definitions are taken directly out of Chapter 39.

THE COURT: Okay. So, Mr. Bross, in --

MR. BROSS: Yes, Your Honor. And I guess the State has actually helped me better articulate or crystallize my argument.

And the proposed instruction by the Defense, that is "knowingly and willfully making a false report of child abuse, abandonment for the purpose of harassing, embarrassing or harming another person," actually is a better statement of the statute.

Because, and as Your Honor received from the State, 39.01 Subsection (27). False report means to report neglect or abandonment of a child to the Central Abuse Hotline; which report was maliciously made for the purpose of harassing, embarrassing or harming another person, personal financial gain for the

1 reporting person or acquiring custody of a
2 child or person.
3 THE COURT: So, you're reading the
4 definitions set forth in 39.01 Sub (27).
5 MR. BROSS: Correct. And that is the --
6 if you look at --
7 THE COURT: Or (d) Personal benefit for
8 the reporting person and any other private
9 dispute involving a child.
10 MR. BROSS: Right.
11 THE COURT: So I mean, just for the
12 purpose of reading the entire definition that's
13 set forth in Subsection (27).
14 MR. BROSS: That's correct. And if you
15 look at the State's -- If you look at the
16 State's proposed jury instruction: "Knowingly
17 and willfully made a false report of child
18 abuse, abandonment or neglect," it totally
19 excludes the false report definition.
20 And then it totally excludes the
21 requirement that it's made for the purpose of
22 -- it's maliciously made for the purpose of
23 harassing, embarrassing or harming another
24 person; which is an absolute requirement of the
25 statute.

To be convicted of 39.205 Sub (9), you have to use the definition false report. And false report -- The definition of false report contained in the statute is not a definition that is commonly known or understood by everybody, I'm sure.

You would have to look at the statute to understand the definition of false report as it is used in the statute. And the definition of false report as used in the statute, specifically requires the State to prove that it was maliciously made for the purpose of harassing, harming -- I'm sorry -- harassing, embarrassing or harming another person.

So I believe that to include "for the purpose of harassing, embarrassing or harming another person" is an accurate statement of the law.

And it is not including another element, it is merely requiring the jury to properly consider the definition of false report; and to properly consider the requirement under the statute that to be a false report, it has to maliciously be made for the purpose of harassing, embarrassing or harming another

1 person.
2 THE COURT: So, you agree with Mr.
3 Sendra that that should be added as a
4 definition, along with the definition of abuse,
5 abandonment or neglect?
6 MR. BROSS: Well, I absolutely agree
7 that it should be added as a definition, but I
8 don't think that's enough. I don't think that
9 merely to add the definition in the jury
10 instruction would -- is a necessary -- is a
11 necessary proper statement of the law.
12 Because although you look at the plain
13 language of Statute 39.205 Sub (9), I mean, the
14 plain language of the statute says: "A person
15 who knowingly and willfully makes a false
16 report of child abuse, abandonment or neglect,
17 or advises another to make a false report, is
18 guilty of a felony in the third degree."
19 I mean --
20 THE COURT: Okay. So, how many elements
21 do you see there?
22 MR. BROSS: Well, I see two. And the
23 reason I see two is because of the definition
24 of false report. And the definition of false
25 report is maliciously -- which the definition

of false report requires the State to prove that it was done for the purpose of harassing, embarrassing or harming another person. Maliciously done for the purpose of embarrassing or harassing another person.

And that's why I believe it's important to include or to clarify the language of the statute by adding -- Well, not adding, by putting that element in there; because otherwise, I would ask the Court to give us an interrogatory instruction that is something that would announce loud and clear to the jury that false report is not the common language or the common understanding that everyone would have of false report.

But in this instance false report is a magic type language; because what false report means for the purposes of this instruction is that it is maliciously made for the purpose of harassing, embarrassing or harming another person. And that's right out of the statute.

Because you have to look at 39.205 Sub (9) in conjunction with 39.01 Sub (27). Because you have to look at the definition of false report that's included in that statute.

So that's why I think it's a better statement of the law to include the jury instruction that the Defense is written.

I mean, it's not adding another element. It's merely requiring the jury to follow the statute. I mean, and that's really why -- that's really why it's there.

THE COURT: All right. Mr. Bross, let me ask you.

MR. BROSS: Yes, ma'am.

THE COURT: You say you've got -- you say you're not adding another element.

MR. BROSS: I am not.

THE COURT: You agree, though, that Florida Statute 39.205, Subsection (9) states: "A person who knowingly and willfully makes a false report of child abuse, abandonment or neglect, or who advises another to make a false report, is guilty of a felony of the third degree, punishable by up to," blah-blah-blah. "Anyone making a who is acting in good faith is immune from any liability under this subsection."

MR. BROSS: Correct.

THE COURT: Okay. So, in that

1 Subsection (9), do you see more than one
2 element before they start, before the language
3 turns to the penalty?
4 MR. BROSS: I believe -- and I agree
5 with Your Honor, that if you look at the plain
6 language of Section 39.205 as written, it does
7 not appear to have two elements. Okay.
8 But when you look at -- false report has
9 a specific definition.
10 THE COURT: Uh-huh.
11 MR. BROSS: And the State gave you a
12 copy of that specific definition and it says:
13 "False report means a report of abuse, neglect
14 or abandonment of a child to the Central Abuse
15 Hotline, which report is maliciously made for
16 the purpose of harassing, embarrassing or
17 harming another person."
18 So, when you look at the plain language
19 of 39.205 and you include the definition of
20 false report which is an element -- The
21 definition of false report is an element in and
22 of itself because it has a -- it has an
23 additional requirement.
24 THE COURT: Well, would that fall --
25 Well, abuse would be an element under your

1 theory. Abandonment would also be an element,
2 as would neglect, as opposed to a definition
3 which the statute allows or provides as a
4 definition.
5 MR. BROSS: No, I would not agree
6 because -- And that's why the State has written
7 the amended Information in the way that they
8 have because --
9 I mean, I agree that it's -- I agree
10 it's a little unorthodox and I agree at first
11 blush, it may not make a lot of sense.
12 But when you look at the plain language
13 of the statute, I agree with you, it appears to
14 only have one element. But they have included
15 this special definition of false report, which
16 is not a definition that would commonly be
17 understood.
18 THE COURT: Which you agree should be
19 included as a definition, right?
20 MR. BROSS: That's correct.
21 THE COURT: Okay.
22 MR. BROSS: But I don't believe merely
23 including a definition of false report is an
24 accurate statement of the law or requires the
25 jury to make the requisite findings to convict

1 Ms. Loyd under the statute. Because the
2 language of false report has and it requires
3 that it has to be made for one of these
4 purposes.
5 COURT'S RULING
6 THE COURT: All right. Mr. Bross, I
7 appreciate your argument.
8 MR. BROSS: Thank you.
9 THE COURT: But I want you to
10 understand, I am not here to legislate from the
11 bench.
12 MR. BROSS: Okay, I'm not -- and I mean
13 --
14 THE COURT: My job is to follow the law.
15 MR. BROSS: Yes, ma'am.
16 THE COURT: And to give the jury the law
17 as the legislature has written it. Our elected
18 representatives have drafted a statute that is
19 very specific and it has a single element in
20 it.
21 And on your copy, your proposed copy,
22 you are saying the State must prove the
23 following -- and you've got a little caret --
24 and you said two elements beyond a reasonable
25 doubt.

1 That would be the Court condoning --
2 legislating from the bench essentially.
3 Because the plain language of the text of the
4 statute says: A person who knowingly or
5 willfully makes a false report of
6 blah-blah-blah -- We don't have to read it
7 again. I'm sure everyone in the audience has
8 it memorized at this point.
9 MR. BROSS: Okay.
10 THE COURT: But it's not a single
11 element. And then there are definitions that
12 go along with that. And I completely agree
13 with you that the definition ought to be given.
14 Just as when someone says -- When the
15 charge is aggravated battery with a firearm, it
16 will say -- the Information will say: Did
17 commit an aggravated battery to wit: Shot the
18 person with a firearm.
19 However, then there is a definition, in
20 case somebody doesn't know what a -- somebody's
21 been under a rock for the last 40 years and
22 they don't know what a firearm is, there is a
23 definition:
24 A firearm is any -- whatever the word is
25 they use -- designed to expel -- any device

1 designed to expel a projectile by means of the,
2 you know, gunpowder, et cetera and it does not
3 include -- and it specifies -- it defines it.
4 And that is a definition that is given
5 with -- whether it's aggravated battery by a
6 fire -- with a firearm when -- when the harm
7 done to a person is spelled out in an
8 Information or when it's a variety of other
9 circumstances.
10 So I am not -- as I said -- I'm not here
11 to legislate from the bench, I'm here to follow
12 the law. And to follow the law as the
13 legislature -- the legislators have written it.
14 And they have written this particular
15 law, Section 39.205 Subsection (9) with a
16 single element, and their definitions that go
17 along with Chapter 39.
18 And so, I completely agree with you that
19 the definition of false report should be given
20 here, along with the definition of abuse,
21 abandonment and neglect.
22 And then the final line that's in the
23 statute is: Anyone making a false -- anyone
24 making a report who is acting in good faith is
25 immune from any liability under this law.

1 And this jury instruction tracks that --
2 Let me find it. This jury instruction tracks
3 that: Medical services from a licensed
4 physician, dental or dentist, optometrist,
5 pediatric physician or other qualified
6 healthcare provider, or treatment by a duly
7 accredited practitioner who relies, et cetera.
8 That is there.
9 And it does say right up at the top,
10 right after knowingly and willfully made a
11 false report of child abuse, abandonment or
12 neglect.
13 And the very next paragraph -- and
14 there's nothing in between this -- states: "It
15 is not a crime, if, at the time of making the
16 report of child abuse, abandonment or neglect
17 the Defendant was acting in good faith."
18 MR. BROSS: Okay, Judge, I'm --
19 THE COURT: So, the good faith part is
20 there. The definitions are there. I
21 completely agree with you that this (displaying
22 document) definition must be added.
23 But beyond the clear language of the
24 statute, I am not going to add an element. It
25 is not my place to do that.

MR. BROSS: Okay. And just to -- just to clarify -- And I appreciate your taking time to have discussions.

If you look at statute, the jury instruction that you just stated, nowhere in there does it state that it has to maliciously be made for the purpose of harassing, embarrassing or harming another person.

THE COURT: Well, that's paragraph (a) under the definition of false report, that's Subsection (a) under false report, under the definition of 39.01 Subsection (27).

MR. BROSS: Yes.

THE COURT: False report means: "A report of abuse, neglect or abandonment of a child to the Central Abuse Hotline, which report is maliciously made for the purpose of: Subsection (a) Harassing, embarrassing or harming another person."

MR. BROSS: Would Your Honor consider an interrogatory instruction that would require the jury to find that under the purposes of -- for the purposes of this jury instruction, you must find that a false report means; and then give the definition of false report, and the

jury would be required to check that special interrogatory that that was found?

Because I believe, and I think we all agree, that for the State to convict her under the statute, that the State has to prove that it was maliciously, you know, willfully and maliciously done for one of these bad purposes. And I think we all agree that they have to prove that.

THE COURT: Well, certainly you may argue that. I mean, you're welcome to argue that. But I cannot include in the jury instructions what the legislature has not included in the statute.

And there is no standard jury instruction for this particular offense, so it was derived directly from the statute. It was word for word from --

MR. BROSS: Well, I think -- Well, that's the problem with the standard jury instruction as written here.

THE COURT: Well, there isn't a standard jury instruction.

MR. BROSS: Okay. I'm sorry, Judge. I understand. I misstated that.

THE COURT: This is a jury instruction that was created for this offense because there is no standard.

MR. BROSS: That is what is wrong with the jury instruction that is proposed by the State; is because nowhere does it include the requirement that the State prove the -- will prove that it was maliciously made for the purpose of harassing, embarrassing or harming another person.

THE COURT: Right. Which is why I grant your request to add this (displaying document) to the definitions. This is 39.01 Sub (27) which defines false report in four different ways, (a) (b) (c) and (d).

MR. BROSS: Okay, and so --

THE COURT: And so, I'll grant your request to add that to the definitions. I think that's entirely appropriate because it is taken directly from the statutory definitions that are in the very beginning of Chapter 39.

ISSUE: INTERROGATORY INSTRUCTION

DEFENSE'S ARGUMENT

MR. BROSS: I guess my fear is, is that merely adding the definition and including it,

1 you know, somewhere in the pages of the jury
2 instructions --
3 THE COURT: Well, it's not pages. It's
4 the definition of abuse, the definition of
5 abandonment and the definition of neglect. And
6 if you want to put the definition of false
7 report first, you know, or you want to do it in
8 alphabetical order, however you would like to
9 order it and it makes sense, then, you know.
10 I mean the words of abuse, abandonment
11 and neglect are used with commas. They're just
12 separated by commas.
13 MR. BROSS: Well, that's why people --
14 THE COURT: So it makes sense that each
15 of those, that those three would be grouped
16 together. And then this, false report, is
17 separate. So perhaps you would like it to go
18 first.
19 MR. BROSS: Okay, yeah. Well, that's
20 why I thought maybe an interrogatory
21 instruction might be good, because it would
22 ensure that the jury actually, you know,
23 considered and found that -- found that --
24 found that, in fact, that the report in this
25 case was maliciously made for one of these bad

1 purposes.
2 I'm just afraid that the jury is going
3 to miss that, because I think that's an
4 important part of --
5 THE COURT: Mr. Bross, with you arguing,
6 do you think the jury is going to miss
7 something; come on.
8 Mr. Sendra, what are your thoughts on
9 this?
10 STATE'S ARGUMENT
11 MR. SENDRA: I think I stated the
12 State's position pretty clearly before.
13 THE COURT: Well, the thoughts on the
14 interrogatory aspect?
15 MR. SENDRA: I disagree with and
16 interrogatory.
17 THE COURT: Well, what are your --
18 MR. SENDRA: Interrogatories are
19 generally used for when there's an enhancement
20 under statutes for those types of crimes. And
21 there's nothing here that does that.
22 If you do an interrogatory, you would
23 have to do a four or five question
24 interrogatory under the definition for each
25 one. And that doesn't make any sense

1 considering we specifically charged under
2 Subsection (a), so that's why the language is
3 in the Information in the first place.
4 Although I'm sure we would've been here
5 on a Motion to Dismiss for the Information
6 being too broad or for a Statement of
7 Particulars; which is unnecessary, given that
8 we track that language in the statutes.
9 So, I don't think the Court should be
10 adding elements to this crime. We should
11 proceed as we discussed: Add the definition
12 and to give them one element, which tracks the
13 statute exactly and then we go from there.
14 THE COURT: And, Mr. Bross --
15 MS. STEWART: And as far as the -- and
16 I'm sorry, Judge.
17 THE COURT: All right.
18 MS. STEWART: As far as the definitions
19 go here, we would ask that they go
20 alphabetically like they do in any jury
21 instruction; which means it would be abuse,
22 abandonment and then false report and neglect.
23 THE COURT: False report and then
24 neglect.
25 MS. STEWART: Right, right.

THE COURT: And my -- and so --
MS. STEWART: And we may not need all of those definitions. We're going to try to tweak this before we get there.
THE COURT: Okay.
MR. BROSS: For the record, the proposed instruction from the State actually reads alphabetically has "child" first, and then it has abuse, then it has abandonment, and then it has neglect. So I would ask that --
THE COURT: Right. So abuse would precede -- both abuse --
MR. BROSS: And I would ask that --
THE COURT: No, wait. Abandonment would be first. Abuse would be second. Child would be third. And neglect -- false report would be fourth -- and neglect would be fifth, if we're going alphabetically.
MR. BROSS: Okay. But I would -- I would ask not to go alphabetically. I mean, again, in the proposed jury instruction the State did not offer that alphabetically.
And I think, again, that the false report's definition, which I believe changes the plain language of the statute because it

adds -- it adds an element by -- by this definition, which is not a common definition, I believe in essence that -- in essence it does add an element.

Because to properly convict it has to be a false report made for one of these malicious purposes; because the definition of false report includes malicious and one of these bad purposes.

THE COURT: Right.

MR. BROSS: Right. And so I don't necessarily -- I believe that by looking at the language of the statute, and including the special definition of false report, I believe there are two elements there.

But that's where I'm at, Your Honor. And that's fine, Your Honor. I don't expect you to agree and that's fine.

So if you're not going to give me an interrogatory or you're not going to give me two elements, I would ask you, at least, put false report first, only so it's not buried in the instructions.

And, again, I think the definition of false report is very important the way the

1 statute is written.
2 THE COURT: Okay. And then, Mr. Bross,
3 you do agree that interrogatories are always
4 used when there's some sort of an enhancement,
5 such as a firearms enhancement or, you know:
6 If you find that a battery was committed, do
7 you find that the person was pregnant at the
8 time the battery was committed; which enhances
9 the penalty obviously.
10 If you find that the person -- And
11 there's, you know, committed a burglary, do you
12 find that they were in actual possession of a
13 firearm while committing that burglary?
14 Your understanding is that is an
15 enhancement, correct?
16 Each of those of those interrogatories
17 is designed to require the jury to prove beyond
18 a reasonable doubt that anything that would
19 enhance the penalty is specifically proven
20 beyond a reasonable doubt to the jury, or that
21 the jury agrees that it has been proven beyond
22 a reasonable doubt, or not.
23 MR. BROSS: I agree that -- I agree that
24 there are many instances where an interrogatory
25 instruction is used on an enhancement, but

there are other situations where interrogatory instructions are used as well. I don't think it's only in that circumstance.

THE COURT: Can you name one?

MR. BROSS: I -- in civil cases --

THE COURT: That's what I was just going to say: Take off your civil hat, Mr. Bross.

MR. BROSS: Yes, well --

THE COURT: Take off your civil hat, we are in criminal court here.

MR. BROSS: I understand, Judge, but again, I -- Well, that's fine. Okay. Well, again, I would just ask, if nothing else, you would allow false report to be put first, again, in the instruction offered by the State, you know, it's not alphabetical.

THE COURT: And abuse, abandonment and neglect are always one after the other, so those three should be grouped together. I don't see any problem with putting false report first.

MS. STEWART: After child?

THE COURT: Right. After the child, yes.

MR. BROSS: Well, let me -- okay.

THE COURT: "Child means an unmarried person under the age of 18 years old, who has not been emancipated by order of the Court."

So, child is defined, then false report is defined, and then abuse, abandonment or neglect is defined.

And then the exceptions, which are the medically related exceptions.

COURT'S RULING

THE COURT: And so, I think that settles it. It is a single element case and I do find that it is -- it would be improper for me to attempt to legislate from the bench. It would be completely improper.

And the legislature has been very clear in the definition -- or in the statute that it is a single element, and therefore, adding the definition of the, that is included in that statute is still comporting with statutory construction and following the actual text of the statute.

So, the request to include a second element is denied. But the request to include the definition of false report is absolutely granted.

And the jurors are present, and they have been present for about 20 minutes and they are anxious. So are you all ready to proceed?

MR. BROSS: Yes, Your Honor.

THE COURT: All right. Shall we bring the jury up?

MR. SENDRA: Well, I think we discussed some other events that needs to be coming first.

THE COURT: Yeah. Well, that's why I'm asking if everyone is ready to proceed?

MR. SENDRA: Well, I'm asking that we proceed as we discussed at the bench.

THE COURT: Would you like a 10 minute recess?

MR. SENDRA: Well, we can do the things we talked about.

THE COURT: Okay.

MR. SENDRA: Or bring the jurors in, I don't want to waste their time.

THE COURT: Right, I don't either. But that's what I'm saying, would you all like a recess?

MR. SENDRA: That would be fine. It's midmorning anyway. I can use the time.

THE COURT: You can use a comfort break.

All right. Well, we will be in recess for 15 minutes while you all have a comfort break and sort out how you would like to proceed.

(Whereupon, the Court is in recess.)

(Whereupon, Venire out.)

THE COURT: All right. Folks, are you ready to proceed or how would you like to proceed?

MR. BROSS: Well, Your Honor --

Did she ask the State or the Defense?

I'm sorry. We're ready, Your Honor.

THE COURT: And you are ready to bring the jury up?

ISSUE: PLEA OFFER

MR. SENDRA: Well, I'm going to put the plea offer on the record, Judge, and make sure she's definitely rejecting that at this point.

THE COURT: Okay.

MR. SENDRA: Based on yesterday and then this morning.

THE COURT: Okay.

MR. SENDRA: It's false report of child abuse, abandonment or neglect, a third degree

1 felony, punishable by up to five years in
2 prison.
3 The plea offer is a cap, so the Court
4 would be restricted as to any sanctions, other
5 than what's listed.
6 A withhold of adjudication of guilt, so
7 she would not be a convicted felon.
8 Sixty months of probation with the
9 option of early term after half, if all the
10 special conditions are met and she's in good
11 standing.
12 The Defendant is to have no contact
13 directly or indirectly or through a third-party
14 with the person against whom the Defendant
15 filed the child abuse claim with DCF or with
16 his or her minor child.
17 The Defendant shall remove her blogged
18 news articles regarding this case within 24
19 hours, and shall refrain from posting on any
20 social media, news media or giving interviews
21 regarding the allegations or the family members
22 involved; and even fictional, slash, creative
23 scenarios picture of this family dynamic.
24 The Defendant shall not contact any
25 person, business or entity sharing information

with this family.

Cost of prosecution. Court costs. DNA. Cost of investigation to BCSO of $983. Fingerprints.

And obviously based on the fact that the offer is the cap, the Court can do anything less than what's already included in this.

This was the offer made by the State before. We've agreed to leave it open.

I guess the things that need to be made clear are that this guarantees that she would not be a convicted felon at the end of this proceeding, if she accepts this offer.

I know there's been a lot of back-and-forth, so she's the only one here risking going to prison for five years at the end of this trial and not going home. So that needs to be made clear.

She's getting a withhold, which means if she completes this and is not adjudicated guilty on a VOP, she could get her records sealed at the end of this; which that option may not be available to her after trial, depending on how the Court sentences, if she's found guilty by the jurors.

1 And obviously the sanctions could be
2 lower than what I've stated, based on what Mr.
3 Bross and Ms. Burgess negotiated with us
4 yesterday. They asked us to cap it at this and
5 we agreed to do that so they could ask for less
6 probation or early term sooner than what the
7 State had offered; which was what they've been
8 asking us for, for the last two months.
9 THE COURT: With early term, you said
10 early term at half?
11 MR. SENDRA: They wanted -- That's our
12 offer, correct.
13 THE COURT: Right, okay.
14 MR. SENDRA: But they wanted it sooner.
15 And by giving them the cap, this offered them
16 the ability to ask the Court to do that.
17 MR. BROSS: And actually, I guess, my
18 understanding was -- Then just to clarify, the
19 offer that is on the record at this point is
20 different the offer before because it is a cap
21 and it does include a withhold of adjudication.
22 And as I've explained to Ms. Loyd, that
23 the Judge can't do anything worse than what Mr.
24 Sendra just stated on the record. And the
25 Judge can do anything less, much less. The

1 Court would not have to include some of those
2 conditions, would not have to include, you
3 know, probation could be, you know, whatever
4 Your Honor wanted to do up to five years.
5 And I was just explaining to Ms. Loyd
6 that basically the way the plea is set up, it's
7 a cap of those conditions, and the floor is
8 whatever Your Honor would agree to basically.
9 And we would set it for sentencing and
10 present whatever evidence we wanted to present
11 at sentencing.
12 ISSUE: COURT'S INQUIRY RE PLEA OFFER
13 THE COURT: All right, all right. Then,
14 Ms. Loyd, I placed you under oath a little
15 while ago, so you are under oath, ma'am.
16 THE DEFENDANT: Should I stand?
17 THE COURT: Certainly. Do you
18 understand that your plea offer as Mr. Sendra
19 has stated it?
20 THE DEFENDANT: I do, Your Honor.
21 THE COURT: All right. And would you
22 like to accept it or reject it this time?
23 THE DEFENDANT: Reject it.
24 THE COURT: Okay. That's completely
25 your call, that's not a problem. That's what

we're -- That's why we are here. That's why we have jurors downstairs.

So, could we bring them up please?

MS. STEWART: Judge, do you still have commitments this afternoon?

THE COURT: No, no.

MS. STEWART: Okay.

THE COURT: Next Tuesday.

MS. STEWART: Scheduling is what we're trying to do.

THE COURT: Right. No, next week.

MS. STEWART: Okay.

THE COURT: Just out of an abundance of caution, I had my Tuesdays mixed up.

MS. STEWART: Oh, okay.

THE COURT: Wishful thinking perhaps. The ladies in attendance here would understand why certain appointments are practically inviolable.

MS. STEWART: Yes.

THE COURT: And, Mr. Bross, you might understand, too.

MR. BROSS: Yeah.

THE COURT: I think there's a member of your family that is engaged in that profession,

or that was.

MR. BROSS: Yeah, yes.

THE COURT: Oh, and Mr. Bross and Ms. Stewart and Mr. Sendra, what we've done, is we're using the same system. Did I mention yesterday, we are using the same system that is used in Viera?

MR. BROSS: Yes, ma'am, you did. Thank you.

THE COURT: Okay. So that nobody has to murder anybody's name.

MR. BROSS: All right, very good.

THE COURT: I think a lot of people are going to appreciate that.

MR. BROSS: Yes. Yes, Your Honor.

(Whereupon, Court/Deputy discussion.)

COURT DEPUTY: The jury is outside the door, Your Honor.

THE COURT: All right, thank you. Then let's bring them in please.

COURT DEPUTY: All rise for the jury.

(Whereupon, before the Court and Venire:)

COURT DEPUTY: All present, Your Honor.

THE COURT: All right. Good morning,

everyone.

THE VENIRE: Good morning.

THE COURT: Once again we apologize for keeping you waiting. But I promise we were working while you are waiting.

You may notice that you have numbers, which is in an effort to streamline the process and keep us from butchering anybody's name. So please don't be offended that we are calling you by number. We mean no disrespect. It's easier to say a number than to pronounce someone's name improperly.

Madam Clerk, would you like to swear the panel in please?

ISSUE: VENIRE SWORN

THE CLERK: Would you please stand and raise your right hands?

Do you solemnly swear or affirm that you will truthfully answer all questions asked of you as prospective jurors, so help you God?

THE VENIRE: (Responded Affirmatively.)

THE CLERK: Thank you, you may be seated.

THE COURT: All right, thank you.

Folks, I think yesterday we went through

all of the preliminary questions. So we are at the point now -- ah, Mr. Wilbert (phonetic), yes.

We are at the point now where we will call you forward to sit in the box. And the attorneys will have an opportunity to ask you some more questions.

So could Number One please come forward? And followed by Number Two. Number Three. And just -- It is important that you stay in order because Deputy Hughes is going to put you in a certain order, because we have a seating chart so we know who is one, two and three.

Number Four, Five and Six, please come forward. And Seven, Eight and Nine get ready, you're next. Imagine that.

All right Seven, Eight and Nine, come on up please. 10, 11 and 12 please.

Just pause for a moment and let Seven, Eight and Nine be seated. Then Deputy Hughes will direct you all.

And now we've got numbers 13, 14 and 15.

And then last, but never forgotten: 16, 17 and 18. But make sure you let 13, 14 and 15 in, before 16 and company come in. Perfect.

All right. Now, we have got the panel seated. Ms. Stewart or Mr. Sendra, would you like to inquire?

MS. STEWART: Yes, thank you.

STATE'S VOIR DIRE EXAMINATION

MS. STEWART: Good morning.

THE VENIRE: Good morning.

THE COURT: Welcome to your job interview. You're going to have to bear with me a little bit. This number thing is a bit -- first of all, my eyes are terrible, so I've got my chart and I'm looking at you. But if I kind of squint looking at your numbers, bear with me is what I'm saying.

You are at the point now where the attorneys are to question you and ask you about your life experiences, in as little time as possible and as small of a vacuum. Trying to learn everything about you we possibly can.

Okay. How many of you have served on the jury before? Just a show of hands.

THE VENIRE: (Complies)

THE COURT: Okay. Did you all get to this point, where you were being questioned?

Juror Number 18?

VENIREPERSON: I was selected as alternate, and then I got --

MS. STEWART: Oh, you came to the dance all dressed up and you didn't get to dance, did you?

That's the worst part about being an alternate, because you sit through everything and you think: I just want to -- I want to go back.

Okay. But let's see, who else was on a jury before?

Juror Number 15?

VENIREPERSON: Yes ma'am.

THE COURT: Did you make it this far to questioning.

VENIREPERSON: Yes, ma'am, it was a murder trial.

MS. STEWART: Oh, okay. How long ago was that?

VENIREPERSON: Maybe in '04 or '05.

MS. STEWART: Here in Brevard County?

THE DEFENDANT: Yes, right here.

MS. STEWART: In this courthouse?

VENIREPERSON: Yes.

MS. STEWART: Anything about that

experience that made you go: I don't ever want to do that again.

VENIREPERSON: Yes.

MS. STEWART: Okay. What was it? Was it a problem you had with either the prosecution or the Defense in the case?

VENIREPERSON: No, not really.

MS. STEWART: Or did you have a problem with the Court?

VENIREPERSON: No.

MS. STEWART: Was it just to -- Well, tell me what it was.

VENIREPERSON: Well, it was a murder trial and we had to look at like those graphic pictures.

MS. STEWART: Right.

VENIREPERSON: And one of the witnesses for the Defense was a day and-a-half. A person, at that point, that droned on for a day and-a-half. And it was like -- And all of us jurors were like (indicating), but we did it.

MS. STEWART: All right, so it was just --

VENIREPERSON: But other than that, it was, you know.

MS. STEWART: Right. So there was nothing that would make you, you know, not be able to be fair and impartial --

VENIREPERSON: No.

MS. STEWART: -- if you were chosen in this case, which is not a murder trial.

VENIREPERSON: Right.

MS. STEWART: Okay. Let's see, who else?

Juror number 3?

VENIREPERSON: Yes.

MS. STEWART: So you're back there in the squint list, okay.

VENIREPERSON: It was a civil trial in Broward County. I was the foreman.

MS. STEWART: Oh, okay. And did you reach a verdict?

VENIREPERSON: Yes.

MS. STEWART: Okay. And anything about that experience?

VENIREPERSON: No.

MS. STEWART: Okay. Anybody else?

Juror Number 11?

VENIREPERSON: I was an alternate back in the late 80s. I served here in Brevard

1 County.
2 MS. STEWART: Okay.
3 VENIREPERSON: It was in the other
4 courthouse off of South Street, I believe.
5 MS. STEWART: Oh, the 10-47-09
6 INVESTORS/INFESTED building?
7 VENIREPERSON: Right.
8 MS. STEWART: That's where my office is
9 now. Yeah, okay.
10 VENIREPERSON: And it was a civil case.
11 MS. STEWART: Oh, okay. Anything about
12 that experience -- or you've not been picked or
13 called for jury --
14 VENIREPERSON: I was picked as an
15 alternate.
16 MS. STEWART: But I mean since that time
17 in the late 80s, you have not been called?
18 VENIREPERSON: No, no.
19 MS. STEWART: Wow. There's some people
20 that get called every year.
21 VENIREPERSON: Oh, I'm sorry. I was
22 called, but I never got picked.
23 MS. STEWART: Okay, you never had to --
24 VENIREPERSON: Right.
25 MS. STEWART: And Juror Number 12, you

said?
VENIREPERSON: I served on a jury as a juror about 25 or 30 years ago.
MS. STEWART: Oh, okay. Anything about that experience that -- do you even recall much of it?
VENIREPERSON: It was like an assault.
MS. STEWART: Oh, okay. All right. Okay. So Juror Number 1. I don't have to see your tag because you are number one.
Let me ask you a question: You have been in Brevard County for 13 years?
VENIREPERSON: Yes.
MS. STEWART: And where did you live before Brevard County?
VENIREPERSON: In Wisconsin.
MS. STEWART: I'm sorry?
VENIREPERSON: Wisconsin.
MS. STEWART: In Wisconsin?
VENIREPERSON: Yeah.
MS. STEWART: You didn't like the snow or what?
VENIREPERSON: No, I liked the snow. But my parents didn't like it, though.
MS. STEWART: Okay. Okay. Have you

ever been called for jury duty before?
VENIREPERSON: No, this is my first time.
MS. STEWART: Like when you were in Wisconsin?
VENIREPERSON: My first time.
MS. STEWART: First time, okay. All right. Let's see, have you ever been -- anybody, you or anybody in your family ever been convicted of a crime?
VENIREPERSON: As far as I know, no. My dad went to trial for a traffic violation, but that's about it.
MS. STEWART: Okay, yeah. That's civil, that's a little different than criminal. Okay.
What about a victim of a crime, have you ever been a victim of a crime?
VENIREPERSON: I haven't.
MS. STEWART: Never had a bicycle stolen out of the garage or anything like that?
VENIREPERSON: My dad, his moped got stolen, but that's about it.
MS. STEWART: His what?
VENIREPERSON: His moped got stolen.
MS. STEWART: His moped?

VENIREPERSON: Yeah, they found it. They found it when some guy was driving around the courthouse.

MS. STEWART: Okay.

VENIREPERSON: I don't know what they thought was so smart about that.

MS. STEWART: I don't -- I don't think so. I would have to agree with you on that one.

And I noticed that you work at Walmart.

VENIREPERSON: Yes.

MS. STEWART: You don't know anybody in law enforcement.

VENIREPERSON: As far as I know. A few cops that go in and out, I don't know them by name or anything like that.

MS. STEWART: Right, okay. Thank you.

Juror Number 2, how are you?

VENIREPERSON: I'm fine, thank you.

MS. STEWART: Let me check back on my notes from yesterday, seems like a very long time ago.

Okay, you said that you might know Patti Buchanan?

VENIREPERSON: I had a supervisor in --

at Viera. I work in Human Resources there.
MS. STEWART: Uh-huh.
VENIREPERSON: And she, or a Patti Buchanan, was my supervisor.
MS. STEWART: Okay. And the fact that she was your supervisor, would that make you lean in one way or the other --
VENIREPERSON: Oh, not at all.
MS. STEWART: Okay, good. I just wanted to make sure.
And what does a campus monitor do?
VENIREPERSON: I've worked -- I work directly with the resource officer or officers.
MS. STEWART: Oh, okay.
VENIREPERSON: And I make sure that only people who are supposed to be on campus are on campus; and make sure that the students aren't roaming the campus.
MS. STEWART: Okay. And it's all level of grades?
VENIREPERSON: All.
MS. STEWART: Okay.
VENIREPERSON: Well, it's a high school.
MS. STEWART: Oh, are you it Viera High?
VENIREPERSON: No, I'm at Titusville

High.

MS. STEWART: Titusville High, okay. You had worked in Viera, since you said that --

VENIREPERSON: Right, right. I retired from the school district, and then I went back to work for them after couple of years.

MS. STEWART: Okay. Now, you said you work with the school resource officers?

VENIREPERSON: Right.

MS. STEWART: Are those armed officers?

VENIREPERSON: They are Titusville police officers.

MS. STEWART: Okay. And anything about those relationships that you have with them that would keep you from being fair and impartial in this case?

VENIREPERSON: Not at all.

MS. STEWART: Okay. And were you the victim of a crime ever?

VENIREPERSON: I think when I first moved to Florida, we had a break-in in our home. We had just moved into West Melbourne and someone broke into our house shortly after we moved there. I think that's about the only time I've ever had any problems like that.

MS. STEWART: Okay. Because a lot of times when people are filling out these questionnaires, they'll mark no. And then when they get the old bicycle stolen from the garage thing, they go: Oh, yeah, that happened to me.

Okay. Juror Number 3, how are you?

VENIREPERSON: Good.

MS. STEWART: You have on your questionnaire that you are retired?

VENIREPERSON: Yes.

MS. STEWART: What did you retire from?

VENIREPERSON: Mims Water (phonetic).

MS. STEWART: I'm sorry?

VENIREPERSON: Mims Water, Brevard County, in billing.

MS. STEWART: Water?

VENIREPERSON: Yeah. Mims Water, we did the billing for Mims Water.

MS. STEWART: Okay. So Mims is separate from the city of Titusville?

VENIREPERSON: Oh, yeah.

MS. STEWART: Wow.

VENIREPERSON: I worked (Indiscernible -- courtroom noise.)

MS. STEWART: Okay, all right. And you

served on a jury, as a juror before?
VENIREPERSON: Yes.
MS. STEWART: And you put on your questionnaire you had been a victim of a crime?
VENIREPERSON: Right.
MS. STEWART: And can you talk about that?
VENIREPERSON: Sure. In 1993 our house was broken into. They were in our house for three days. They stole everything electrical, electronics, jewelry, tools, cars.
MS. STEWART: I'm going to go out on a limb here and say you weren't home, right?
VENIREPERSON: No, ma'am.
MS. STEWART: For those three days?
VENIREPERSON: I was in (indiscernible).
MS. STEWART: Oh, okay.
VENIREPERSON: It turned out that it was the lady that cleaned my house.
MS. STEWART: Oh, okay.
VENIREPERSON: Her 28-year-old son, her 22-year-old nephew, her grandson and two of her son's friends.
MS. STEWART: So obviously law enforcement got involved?

1 VENIREPERSON: Oh, yes.
2 MS. STEWART: Were they prosecuted?
3 VENIREPERSON: Actually three of them
4 pleaded guilty. The oldest one pleaded not
5 guilty. We went to trial. He was convicted.
6 We went to sentencing. We went to restitution.
7 He got out of jail when he finally
8 served his sentence, and he didn't even make 90
9 days before he got caught with $20 bills he
10 made on the printer.
11 MS. STEWART: Oh, isn't that -- It
12 sounds like that guy --
13 (More than one speaker, indiscernible.)
14 VENIREPERSON: And they brought him back
15 and he got out. He just got out.
16 MS. STEWART: Wow. Was anything about
17 that experience, did you get mad at the
18 prosecutors, mad at the Defense?
19 VENIREPERSON: No, I got mad at my
20 cleaning lady, you know.
21 MS. STEWART: The very person you should
22 have been mad at.
23 There was nothing about that experience
24 that would keep you from being fair and
25 impartial in this case?

VENIREPERSON: No. It's just that every time he comes up for a hearing, I am there.

MS. STEWART: You are?

VENIREPERSON: Yes ma'am.

MS. STEWART: And where are the hearings at? Are they in Viera?

VENIREPERSON: No, they were in this courtroom.

MS. STEWART: In this courtroom?

VENIREPERSON: Uh-huh.

MS. STEWART: Wow, okay. And, Juror Number 4?

VENIREPERSON: The morning.

MS. STEWART: Good morning. I'm just trying to make sure you're really Juror Number 4.

You did not indicate whether or not on your questionnaire even -- I don't even know how these things work, because sometimes you know, no, no, no, and people go: No, I didn't put no there. So I don't know how the computer works down there or wherever these come from.

Okay. Have you ever served as a juror before?

VENIREPERSON: No, ma'am.

MS. STEWART: Okay, there was no answer there. And you indicated that you or a member of your family had been convicted of a crime.

Let me -- Before you answer that question, let me just tell you all something. I know the Judge told you yesterday. But yesterday to me is a blur, so I don't how much you guys remember.

But if there's something that you want to talk about -- Remember when she talked about: If you want to talk about something in private, as private as we're going to get is the attorneys, court personnel and the Court.

Okay. But if there's something that makes you uncomfortable, that you don't want to talk about in front of the group, that's perfectly fine. Just say "private" and we will discuss whatever it is in private. Okay?

Juror Number 4, you or a family member have been convicted of a crime?

VENIREPERSON: Right.

MS. STEWART: Okay, all right. And are you the victim of a crime?

VENIREPERSON: I've had stuff stolen from me in the past, but no law enforcement was

1 involved.
2 MS. STEWART: Okay. And let's see,
3 friend or a relative in law enforcement?
4 VENIREPERSON: A really good friend of
5 mine works for the Titusville Police
6 Department. I've been friends with his family
7 for more than 12 years.
8 MS. STEWART: Okay. Based on that
9 friendship that you have, would that cause you
10 to give greater weight to a law enforcement
11 officer's testimony than a civilian?
12 VENIREPERSON: Absolutely.
13 MS. STEWART: It would?
14 VENIREPERSON: (No audible response.)
15 MS. STEWART: Yes, okay. Even though
16 the Court will you that everybody is equal when
17 they take that stand?
18 VENIREPERSON: I understand that but,
19 you know, just knowing the guy for so many
20 years and knowing his stature as a, you know,
21 good person, you know, if he was the arresting
22 officer --
23 MS. STEWART: Okay. But let's say he's
24 not. This is not a Titusville Police
25 Department case that we're doing.

1 VENIREPERSON: Okay.
2 MS. STEWART: Yeah, we're doing a
3 Brevard County Sheriff's Office case.
4 VENIREPERSON: Okay. Well, then that
5 shouldn't bother me.
6 MS. STEWART: Okay. Then you can give
7 equal weight to a Sheriff's deputy that took
8 the stand, a Sheriff's agent, as you could to a
9 civilian?
10 VENIREPERSON: Right.
11 MS. STEWART: Okay.
12 THE COURT: And folks, may I remind you
13 what we're -- We have an audio record here.
14 See all of these a nice little microphones.
15 And sir, Mr. Four, I noticed that when
16 asked that last question, you nodded and we do
17 need an audible response.
18 And I think that the last question was:
19 Would you have a problem sitting on the jury
20 knowing that it's not -- that it's a Sheriff's
21 Department case not a TPD, a Titusville Police
22 Department case, would you be able to be fair
23 and impartial?
24 VENIREPERSON: Yes.
25 THE COURT: Okay, thank you.

MS. STEWART: Let's see, Juror Number 5.
VENIREPERSON: Good morning.
MS. STEWART: Good morning. You've never served on jury before?
VENIREPERSON: I was called in 2011, and didn't make it up here.
MS. STEWART: Called, meaning you just came and sat downstairs?
VENIREPERSON: I was downstairs, yeah.
MS. STEWART: Okay. And you put down here that you sued another person and/or a company?
VENIREPERSON: Yes.
MS. STEWART: You were involved in a lawsuit?
VENIREPERSON: Through work.
MS. STEWART: Oh, okay. Was this from --
VENIREPERSON: It was a class-action suit. My house got destroyed in a flood in Nevada, so we sued the Truckee Water District.
MS. STEWART: Oh, okay.
VENIREPERSON: For the levee break.
MS. STEWART: Oh, wow.
VENIREPERSON: And we finally settled

that last year.
MS. STEWART: Okay. And anything about going through that process -- class-action meaning a bunch of people sued based on this one event, right?
VENIREPERSON: Correct.
MS. STEWART: Anything about that would make you not want to sit on a jury in a criminal case?
VENIREPERSON: Not at all. We never even went to court.
MS. STEWART: Right.
VENIREPERSON: I lived here and it happened in Nevada.
MS. STEWART: Everything was done out there?
VENIREPERSON: Everything, yes, through letters, phone calls.
MS. STEWART: Okay. And you put down that you had been a victim of a crime?
VENIREPERSON: I have. I had my car broken into right in front of the house. They stole the radio and other things.
MS. STEWART: Recently?
VENIREPERSON: Now, that was 25 years

ago.
MS. STEWART: Oh, okay. Well, did law enforcement get involved in this?
VENIREPERSON: Yes.
MS. STEWART: Did they find the person who did it?
VENIREPERSON: They did.
MS. STEWART: Anything about that experience that would keep you from wanting to sit as a juror in a criminal case?
VENIREPERSON: Not at all.
MS. STEWART: Okay, all right. Now, Juror Number 6.
VENIREPERSON: Good morning.
MS. STEWART: Good morning. You are self-employed?
VENIREPERSON: Yes, ma'am.
MS. STEWART: And you do asphalt maintenance?
VENIREPERSON: That and road striping and signs, yes, ma'am.
MS. STEWART: I'm sorry, what's that?
VENIREPERSON: Road striping and road signs.
MS. STEWART: Painting the little --

VENIREPERSON: Yeah.
MS. STEWART: Huh, always thought like the county or the city or whatever did that. But that's contracted out?
VENIREPERSON: Yeah. The roads in Viera or Port Canaveral, School Board, that kind of thing.
MS. STEWART: Oh, wow. Okay, huh.
And how long have you been doing that?
VENIREPERSON: 30 years.
MS. STEWART: Okay. And how long have you been in Brevard County?
VENIREPERSON: 30 years.
MS. STEWART: Oh, okay.
VENIREPERSON: 31, 31, I'd say.
MS. STEWART: Okay. And you put down that you and your family have been sued?
VENIREPERSON: Yes.
MS. STEWART: Is that part of -- based on the job that you do now?
VENIREPERSON: There was one family matter and one business matter.
MS. STEWART: Oh, okay. Anything about those matters that would keep you from wanting to sit on the jury in this case?

VENIREPERSON: No, nothing at all.

MS. STEWART: Okay. And you have relatives or good friends in law enforcement?

VENIREPERSON: Yes. And, though, he might not want to admit it, the Court Deputy today, Chris Stall (phonetic) is my brother-in-law. He took off.

MS. STEWART: Oh, he's your brother-in-law?

VENIREPERSON: Yes.

MS. STEWART: Yes, he may be in and out of the courtroom throughout the trial. Anything about that?

VENIREPERSON: No, nothing at all.

MS. STEWART: Are you sure? Like if he thinks you should really, really find the Defendant guilty and you're not so sure, but you think you should probably do it because he's a Court Deputy?

VENIREPERSON: No, no.

MS. STEWART: You're going to keep -- you're going to follow your own way.

VENIREPERSON: That's correct.

MS. STEWART: All right. Great, thank you.

And Juror Number 7 what is Vencore?
VENIREPERSON: It's a company works out at the Space Center, a contractor.
MS. STEWART: Oh, okay. It's getting a little more lively out there, huh?
VENIREPERSON: Yes, it is.
MS. STEWART: And let's see, and you put down that someone in your family had been convicted of crime?
VENIREPERSON: A sibling.
MS. STEWART: You want to talk about it or do you want it private?
VENIREPERSON: No, I'm okay.
MS. STEWART: Okay. A sibling?
VENIREPERSON: Yes.
MS. STEWART: And how long ago was this?
VENIREPERSON: Back in '05.
MS. STEWART: Okay. And what type of crime?
VENIREPERSON: I don't know a lot about it, but she's just kind like the black sheep of the family, so I really didn't get involved.
MS. STEWART: Did this happen here in Brevard County?
VENIREPERSON: Yes. I believe it had

something to do with stealing lottery tickets from a business.

MS. STEWART: Oh, okay. And was she prosecuted by our office, by the State Attorney's office?

VENIREPERSON: I think so.

MS. STEWART: Okay. Anything about that -- I know you said she was the black sheep of the family but --

VENIREPERSON: I don't really know a whole lot about it, but I think (trailing off).

MS. STEWART: Okay. So nothing about that that would keep you from being fair and impartial?

VENIREPERSON: No.

MS. STEWART: Okay. And victim of a crime?

VENIREPERSON: I've had stuff stolen out of my open garage.

MS. STEWART: Oh, okay. And did you call the police?

VENIREPERSON: Yes.

MS. STEWART: Did they find the person that did it?

VENIREPERSON: Nope.

MS. STEWART: Were you mad at them for not finding them?
VENIREPERSON: No.
MS. STEWART: Did you report it just for insurance kind of purposes?
VENIREPERSON: Just to report it, so they knew that, you know, that somebody was going through the houses.
MS. STEWART: Okay. All right, thank you.
And Juror Number 8.
VENIREPERSON: Good morning.
MS. STEWART: Good morning. Okay. Now, because I'm using numbers, I've got to clear this map. Juror Number 11?
VENIREPERSON: Yes.
MS. STEWART: Do you know Juror Number 8?
VENIREPERSON: No.
MS. STEWART: Okay. Because you work at Abacus Technology, correct?
VENIREPERSON: Right.
MS. STEWART: And your dad works there?
VENIREPERSON: My dad, uh-huh.
MS. STEWART: Okay. I was just curious

as to whether or not -- When I'm going through them and it and I see a -- And it says the unusual name of the company. So, just kind of wanted to know if you guys knew each other.

Okay. You are a preschool teacher?

VENIREPERSON: Uh-huh.

MS. STEWART: Wow. How old are the kids?

VENIREPERSON: Two and-a-half to four.

MS. STEWART: Great ages. All right. Always thought there were no terrible twos. I always thought it was the terrible threes with my children because they can reason a little bit.

VENIREPERSON: Uh-huh.

MS. STEWART: And so it probably does like, you know, get up there.

VENIREPERSON: Yeah.

MS. STEWART: Let's say, you have friends or family in law enforcement?

VENIREPERSON: Yes.

MS. STEWART: And can you tell us about that?

VENIREPERSON: It's in -- They are in Ocala, so they are not local.

MS. STEWART: Oh, okay. Anything about that -- Is it family or is it friends?
VENIREPERSON: It's family. It's a cousin and an uncle.
MS. STEWART: Okay. Anything about that that would make you give greater weight to law enforcement's testimony than a layperson's?
VENIREPERSON: No.
MS. STEWART: Okay. And you've never been convicted of or charged with a crime?
VENIREPERSON: Correct.
MS. STEWART: Okay. All right, you've never been a victim?
VENIREPERSON: No.
MS. STEWART: Not even a bike out of the garage, huh?
VENIREPERSON: (No audible response.)
MS. STEWART: Okay, thank you.
VENIREPERSON: Uh-huh.
MS. STEWART: And Juror Number 9.
VENIREPERSON: (Indiscernible.)
MS. STEWART: All right, let me get my numbers straight here. Okay. On your questionnaire, it says you been in Brevard County for 19 years?

VENIREPERSON: Yes, my whole life.
MS. STEWART: That's what I was going to ask, was how old you are. Okay, 19 years.
All right. Are you employed right now?
VENIREPERSON: No, I'm not.
MS. STEWART: Okay.
VENIREPERSON: I was working at Walmart in Merritt Island.
MS. STEWART: Uh-huh.
VENIREPERSON: And then I got fired, because my leave of absence paperwork got denied. And it was for medical reasons.
MS. STEWART: Okay. So you put in leave of absence paperwork and it was denied?
VENIREPERSON: Yes.
MS. STEWART: Okay. And then you got fired?
VENIREPERSON: Uh-huh.
MS. STEWART: Was it because you left anyway, was that the reason?
VENIREPERSON: I was in my probation period, where I can only miss like three days.
MS. STEWART: Oh, okay.
VENIREPERSON: So, I was out more than three days and I got denied, because I was out

for two weeks, I believe.
MS. STEWART: Okay, for medical purposes?
VENIREPERSON: Yes.
MS. STEWART: Okay, all right. Well, you won't hear anything about Walmart in the trial.
Okay. And you've never been -- Neither you or a family member have never been convicted of a crime?
VENIREPERSON: Not that I'm aware of.
MS. STEWART: Okay. And let's see, are you -- Do you live at home with your parents?
VENIREPERSON: Yes, I do. I live with my dad.
MS. STEWART: Okay, with your dad?
VENIREPERSON: Yes.
MS. STEWART: All right. And what does your dad do?
VENIREPERSON: He works at EPS (phonetic).
MS. STEWART: Okay.
VENIREPERSON: At the (indiscernible) and the gas trucks.
MS. STEWART: Did he do the golf carts

at Christmas time?
VENIREPERSON: No, no, he stays with the big trucks.
MS. STEWART: That cracks me up when they come through Titusville in the golf carts.
Nobody in your family has been a victim of a crime?
VENIREPERSON: No.
MS. STEWART: No friends or family in law enforcement?
VENIREPERSON: My mom's roommate is a retired Cocoa police officer, I believe.
MS. STEWART: Okay, right.
VENIREPERSON: I believe he was with Cocoa.
MS. STEWART: Anything about that -- Are you close to that person?
VENIREPERSON: I don't see him that often.
MS. STEWART: Okay.
VENIREPERSON: My mom's a truck driver, so she's gone for a period of time.
MS. STEWART: Okay.
VENIREPERSON: And I like stay at her house for like a week out of every two months.

MS. STEWART: Oh, okay. All right. So nothing about that relationship that would keep you from being fair and impartial in this case?

VENIREPERSON: No, it wouldn't.

MS. STEWART: Okay, thank you.

And let's see, I'm on Juror Number 10. How long have you been in Brevard County?

VENIREPERSON: 27 years.

MS. STEWART: Okay, 27 years. And let's see, you've never served or been called for jury duty before?

VENIREPERSON: No.

MS. STEWART: Okay. And nobody, friends or family, ever been convicted of crime?

VENIREPERSON: No.

MS. STEWART: And no lawsuits?

VENIREPERSON: No.

MS. STEWART: You've never been a victim of a crime?

VENIREPERSON: No.

MS. STEWART: Okay. Law enforcement officers. No friends or family in law enforcement?

VENIREPERSON: No.

MS. STEWART: Okay. Have you ever

gotten a speeding ticket?
VENIREPERSON: Yes.
MS. STEWART: Okay, did you fight it?
VENIREPERSON: No.
MS. STEWART: Why didn't you fight it?
VENIREPERSON: I just paid it, because I was -- I knew I was in the wrong.
MS. STEWART: You knew you were guilty. All right. Okay, thank you.
Juror Number 11, hello again.
VENIREPERSON: Hello.
MS. STEWART: We've already established that you are an engineer at Abacus, right?
VENIREPERSON: Right.
MS. STEWART: How long have you been doing that?
VENIREPERSON: 35 years.
MS. STEWART: Oh, okay. And you were involved in a lawsuit at one point?
VENIREPERSON: Yes. I tried to sue somebody who didn't perform the services in our yard work, and I already had paid him.
And he never came back to give me service and I tried sue him. I went down to Viera and found a pretrial -- it's when they

had questionnaires.
MS. STEWART: Uh-huh.
VENIREPERSON: And he never showed up, and then I just dropped it.
MS. STEWART: Oh, okay.
VENIREPERSON: I didn't pursue it any further.
MS. STEWART: Okay. You have never been the victim of a crime?
VENIREPERSON: I was a victim. Somebody stole to my generator out of my shed.
MS. STEWART: Oh, okay.
VENIREPERSON: Yeah. And I didn't call the police or anything on that.
MS. STEWART: You did not?
VENIREPERSON: Because I didn't lock the door and they just helped themselves.
MS. STEWART: Well, you didn't call the police because you didn't lock the door?
VENIREPERSON: No.
MS. STEWART: It's okay to call the police when you don't lock the door; because basically, door shut or even open, if he doesn't have permission, he shouldn't be in there. Okay?

VENIREPERSON: Right.

MS. STEWART: Okay. And friends or family in law enforcement?

VENIREPERSON: No, but my neighbor is. He works at -- I think he's the Chief of Police in Titusville. He's John Lau.

MS. STEWART: Oh, yes, uh-huh.

VENIREPERSON: He's my neighbor.

MS. STEWART: Oh, okay. Is he a good neighbor?

VENIREPERSON: Yeah.

MS. STEWART: Okay. So, is there anything about that relationship --

VENIREPERSON: No, ma'am.

MS. STEWART: -- that would keep you from being fair and impartial in this case?

VENIREPERSON: No, we're just friends.

MS. STEWART: Okay, all right. And Juror Number 12.

VENIREPERSON: Good morning.

MS. STEWART: Good morning. You are retired?

VENIREPERSON: Yes.

MS. STEWART: What did you do before you retired?

VENIREPERSON: I worked for the power plant.

MS. STEWART: Okay. Locally?

VENIREPERSON: Yes. And then I went to (indiscernible) when they sold out down here.

MS. STEWART: Okay, okay. And how long did you do that?

VENIREPERSON: 21 years.

MS. STEWART: Okay. And we talked about your jury duty. No friends or family convicted of a crime?

VENIREPERSON: Yes, private.

MS. STEWART: Okay. And victim of a crime?

VENIREPERSON: Back in ' 77, I had a boat stolen, but they found it that evening.

MS. STEWART: Oh, okay.

VENIREPERSON: They had dropped it off somewhere and the Sheriff's Department found it.

MS. STEWART: Okay. Did you ever find out who stole the boat?

VENIREPERSON: No, they didn't know who stole the boat.

MS. STEWART: Okay, but you got your

boat back?
VENIREPERSON: Yes.
MS. STEWART: Okay. And friends or relatives or close family in law enforcement?
VENIREPERSON: No.
MS. STEWART: Okay, thank you.
Now, Juror Number 13. How are you?
VENIREPERSON: Good (indiscernible).
MS. STEWART: I can already tell you're going to be a quiet talker, I'm going to ask --
VENIREPERSON: Okay.
MS. STEWART: Okay, all right. You've never served as a juror before, and you are a hairdresser?
VENIREPERSON: Well -- Yes, I worked for 10 years, but most of all I'm a mom.
MS. STEWART: Oh, okay.
VENIREPERSON: And I have raised three wonderful adult children.
MS. STEWART: Oh, good for you. All right.
Let's see, do they live locally?
VENIREPERSON: They do not.
MS. STEWART: What are their occupations?

VENIREPERSON: My oldest son is in computer science. My second son is a photojournalist.

MS. STEWART: Wow.

VENIREPERSON: And my daughter is married to the Air Force.

MS. STEWART: Oh, okay.

VENIREPERSON: She is (trailing off).

MS. STEWART: Yeah. And let's see, have you ever been the victim of a crime?

VENIREPERSON: Actually our house was broken into when we lived in Texas.

MS. STEWART: Oh, okay. Did they find out who did it?

VENIREPERSON: They did not.

MS. STEWART: Did you call the police?

VENIREPERSON: Yes, I did.

MS. STEWART: Were you disappointed in how they handled it?

VENIREPERSON: Um, I didn't think I was.

MS. STEWART: So you are --

(More than one speaker, indiscernible.)

VENIREPERSON: Sorry, it was my grandmother's locket.

MS. STEWART: Oh, okay.

VENIREPERSON: That was the only thing that, you know, and they took TVs and the stereo; but it was my grandmother's locket that I lost.

MS. STEWART: Okay.

VENIREPERSON: But that was not their fault.

MS. STEWART: Right. So, anything about that experience that will keep you from being fair and impartial in this case?

VENIREPERSON: No, I'm not (trailing off).

MS. STEWART: Oh, the airplane, remember the pilot?

VENIREPERSON: Okay, my husband is a pilot.

(More than one speaker, indiscernible.)

VENIREPERSON: So, he would land it.

MS. STEWART: Okay. I mean, it's -- and listen, there is no right or wrong answer -- your answers are not to please myself or the Defense or Mr. Sendra or the Court. Your answers are what they are.

If you feel that there's been a life experience that you've had, you know, a

situation with law enforcement, a situation with a Defense attorney, something of that nature and you could not sit here and concentrate on the evidence being presented, then just let us know, because that's fair to everybody, right?

VENIREPERSON: Yeah.

MS. STEWART: Okay. So there's no right or wrong answer. If that experience keeps you from being fair and impartial, it's okay to say yes and it's okay to say no.

VENIREPERSON: Yes, I could be fair and impartial.

MS. STEWART: Okay.

VENIREPERSON: I'm okay.

MS. STEWART: I'm sorry, what did -- seriously, though, there's -- There are no right or wrong answers at all. It's what you feel. It's what your life experiences are, you know, it is just that's how you feel.

Juror Number 14, do you know Juror Number 10?

VENIREPERSON: No.

MS. STEWART: Because you both work as CNA's at rehab.

VENIREPERSON: I'm at the other office.

MS. STEWART: Oh, okay. Okay. You both work at the same place, but not the same --

VENIREPERSON: No, I'm at the other office.

MS. STEWART: Okay.

VENIREPERSON: And I work at night, so.

MS. STEWART: Oh, you work nights?

VENIREPERSON: Uh-huh.

MS. STEWART: Well, let's talk about that for a second, Juror Number 10.

Excuse me one minute, Juror Number 14.

Are you working nights now?

VENIREPERSON: Yes.

MS. STEWART: Like did you work last night?

VENIREPERSON: No.

MS. STEWART: Okay. If you are picked to be on the jury --

VENIREPERSON: Uh-huh.

MS. STEWART: -- are you going to be able to come in here and pay attention to what's going on if you worked the night before? What are your hours?

VENIREPERSON: Oh, it all depends.

Sometimes I do 3:00 to 11:00, or I have to pick up at 11:00 to 7:00.

MS. STEWART: 11:00 to --

VENIREPERSON: To 7:00.

MS. STEWART: To 7:00, okay. Let's say you worked from 11:00 to 7:00.

VENIREPERSON: Uh-huh.

MS. STEWART: Would you be able to come in here at -- Well, we usually start at about 8:30 or nine o'clock -- and sit for a whole day listening to evidence?

VENIREPERSON: Yes.

MS. STEWART: Okay.

VENIREPERSON: I do at times.

MS. STEWART: Okay. When you work from 11:00 to 7:00 and you don't have to do anything the next day, do you sleep during the day?

VENIREPERSON: No.

MS. STEWART: You don't?

VENIREPERSON: Uh-uh.

MS. STEWART: Why? You're Superwoman is what you are.

VENIREPERSON: No, I have a nine-year-old.

MS. STEWART: Oh, okay.

VENIREPERSON: That's not going to happen.

MS. STEWART: Okay, okay. All right. Juror Number 14, do you work nights?

VENIREPERSON: No.

MS. STEWART: No, okay. Let's see, how long have you been in Brevard County?

VENIREPERSON: 20 years.

MS. STEWART: 20 years, okay. And you have never served as a juror before. Did you ever get called or summoned before?

VENIREPERSON: No, this is my first time.

MS. STEWART: Oh, okay. And you put down that a family member or yourself has been convicted of a crime?

VENIREPERSON: Yes, I have brothers and uncles.

MS. STEWART: You have brothers and uncles?

VENIREPERSON: Yes.

MS. STEWART: Okay. You make it sound like it's because you're their brother or their uncle, you're going to be convicted of a crime, right?

So, your brothers and uncles, was that here Brevard County that they were convicted of crimes?

VENIREPERSON: Yes, ma'am.

MS. STEWART: And prosecuted by this office, the State Attorney Office?

VENIREPERSON: Yes, ma'am.

MS. STEWART: Anything about that that would keep you from being fair and impartial?

VENIREPERSON: No.

MS. STEWART: And I say that because the Defense deserves a fair trial and the State deserves a fair trial. Does everybody agree with that?

THE VENIRE: (Responded Affirmatively.)

MS. STEWART: Okay, and you have to -- with that? Yes?

THE VENIRE: (Responded Affirmatively.)

MS. STEWART: Okay, microphones.

So, there's nothing about your brothers and uncles that will keep you from being fair and impartial in this case?

VENIREPERSON: No, ma'am.

MS. STEWART: Okay, okay. You've never been the victim of a crime?

VENIREPERSON: No.

MS. STEWART: Okay. And no friends or family in law enforcement?

VENIREPERSON: No.

MS. STEWART: Okay, all right. And Juror Number 15, how are you?

VENIREPERSON: Good.

MS. STEWART: Are you employed?

VENIREPERSON: No.

MS. STEWART: Okay. Are you retired?

VENIREPERSON: Yes.

MS. STEWART: What did you retire from?

VENIREPERSON: Kennedy Space Center in the Visitors Complex.

MS. STEWART: Oh, okay. How long ago was that?

VENIREPERSON: It's been since '06.

MS. STEWART: Okay. Have you been back since then?

VENIREPERSON: Pardon me?

MS. STEWART: Have you been back there since '06 at all?

VENIREPERSON: (No audible response.)

MS. STEWART: It sure it has changed a lot.

VENIREPERSON: I'm sure it has.
MS. STEWART: It's changed a whole lot.
Okay. You put down that you -- None of your -- you nor your family members had been convicted of a crime?
VENIREPERSON: No.
MS. STEWART: Okay. And been a victim of a crime?
VENIREPERSON: No.
MS. STEWART: And no friends or family in law enforcement?
VENIREPERSON: No.
MS. STEWART: And we talked about your jury service. And as long as nobody drones on and on for a day and-a-half, you will be fine, right?
VENIREPERSON: Uh-huh, pretty much.
MS. STEWART: Okay, okay. Juror Number 16, you work at Spencers?
VENIREPERSON: Yes.
MS. STEWART: For which one, on Merritt Island or --
VENIREPERSON: Yeah, I just started there in November.
MS. STEWART: Oh, okay. And you are the

manager?
VENIREPERSON: Yes. They do store managers for that and do district managers (trailing off).
MS. STEWART: Oh, okay. If this trial goes on until -- what's today, Tuesday. If it goes on until Friday, is that going to be okay? It's not going to be an issue with your job?
VENIREPERSON: No, I can adjust my hours.
MS. STEWART: Okay, great. All right. And you've never served as a juror before?
VENIREPERSON: I've got calls, but I had a hardship so I got out of it.
MS. STEWART: Oh, okay. Have you ever been the victim of a crime?
VENIREPERSON: Yeah, on -- lost my thought on what I was going to say. I had a judgment against me and, I think, it was '06. Because my cousin forged my name on a credit application.
MS. STEWART: Wow.
VENIREPERSON: And I didn't know about it until a judgment was put in my name. And so I've been (indiscernible) before.

MS. STEWART: Did you clear it up?
VENIREPERSON: Oh, I just paid it.
MS. STEWART: Oh, okay.
VENIREPERSON: And then when I turned 18, two of my friends got caught stealing at Walmart. So I got like affiliated with that charge because I took them there.
MS. STEWART: Oh, okay.
VENIREPERSON: But that's it.
MS. STEWART: All right. But never a victim, like nobody has stolen anything from you?
VENIREPERSON: Oh well, at my job there's been a few.
MS. STEWART: Oh, okay, like shoplifting?
VENIREPERSON: Yes, uh-huh.
MS. STEWART: Okay, okay. Have you ever had to testify?
VENIREPERSON: No, other people saw that.
MS. STEWART: Oh, loss prevention?
VENIREPERSON: Yes.
MS. STEWART: Bingo.
VENIREPERSON: Right. It was loss

prevention on all those people.
MS. STEWART: Okay. And no friends or family members in law enforcement?
VENIREPERSON: No.
MS. STEWART: Okay, all right. And Juror Number 17.
VENIREPERSON: Good morning.
MS. STEWART: Good morning. What did you retire from? Bet I can tell by the shirt.
VENIREPERSON: I was out at Kennedy Space Center as a propellant mechanic.
MS. STEWART: Oh, okay. And how long ago was that? When did you retire, I mean?
VENIREPERSON: 2011.
MS. STEWART: How's retirement?
VENIREPERSON: I work harder now than I did then.
MS. STEWART: Okay, are you married?
VENIREPERSON: Yes.
MS. STEWART: Okay, okay. And let's see, you've been involved in a lawsuit before?
VENIREPERSON: Yes. When I had my company down in Miami, I took two individuals to court on different occasions for failure to pay. And both cases I won.

MS. STEWART: Okay. So nothing about that that would keep you from being fair and impartial?

VENIREPERSON: Not at all.

MS. STEWART: Okay. And have you been a victim of a crime?

VENIREPERSON: Several times, mostly automobile theft and burglaries to a residence.

MS. STEWART: And was that in Miami as well?

VENIREPERSON: In Miami, they were all in Miami.

MS. STEWART: Okay. Anything about any of those incidences -- Did you get angry with the police or feel like they didn't do the job?

VENIREPERSON: When you're living in a city with millions of people, you know, it's just a matter of time, you know. So no, I have no, nothing like that.

MS. STEWART: Okay, all right. And now you're living in a city with not a million people, do you like the small town is better?

VENIREPERSON: Yes, but it seems to be getting larger now.

MS. STEWART: Yes, all right. Any

friends or family in law enforcement?
VENIREPERSON: My father-in-law is retired from Chief of Police from Smyrna, Tennessee. My sister and her husband were agents with the FBI. They are both retired.
And I used to be in law enforcement from 1975 to 1981 as a police officer for Miami/Dade and also for the city of Coral Gables.
MS. STEWART: Wow. Miami/Dade that's something that --
VENIREPERSON: Well, it used to be called the Public Safety Department and now they call it Metro Dade County.
MS. STEWART: Right, right. Anything about that, I mean the fact that you were a law enforcement officer that --
VENIREPERSON: I'm really very open-minded when it comes everything, so no.
MS. STEWART: Okay, okay. All right. And Juror Number 18, how are you?
VENIREPERSON: Good, how are you?
MS. STEWART: Good. Now, what does a prep-cook do?
VENIREPERSON: I cook all the food and I precook a lot of food. Like roast beef, I have

to cook it the day before, so it's had time to cool before it's time to slice it and all that.

MS. STEWART: This is at Jimmy's Restaurant?

VENIREPERSON: Yes.

MS. STEWART: Okay. Is that the one on US-1?

VENIREPERSON: Yes.

MS. STEWART: Okay. Do you prep for -- I mean, do you ever have to prep for breakfast?

VENIREPERSON: Oh, yeah.

MS. STEWART: How early do you go in, if you have to do that?

VENIREPERSON: Me, I go in at 8:00.

MS. STEWART: Oh, okay. All right.

VENIREPERSON: We have an early person that comes in at 3:00.

MS. STEWART: Okay, that's what I was trying to figure out. Okay. You put down that either you or a family member has been convicted of a crime?

VENIREPERSON: Yes.

MS. STEWART: Talk about it or private?

VENIREPERSON: It was my daughter.

MS. STEWART: Oh, okay. Can you tell us

about that?
VENIREPERSON: She's done everything.
MS. STEWART: Oh, okay. Apparently you had to live through this or go through it with her?
VENIREPERSON: Yes, I raised her kids.
MS. STEWART: Oh, you raised her children because of the trouble she was getting into?
VENIREPERSON: Yes.
MS. STEWART: Okay. Did you have to go to court for her?
VENIREPERSON: On all of the stuff that she's done, no. I feel that you did it apparently, and you're going to pay.
MS. STEWART: Okay.
VENIREPERSON: And I'm not getting in the middle of it.
MS. STEWART: Okay. And what's your relationship like with her?
VENIREPERSON: It's good, I mean. But I don't agree with her choices.
MS. STEWART: Okay, do you still have the kids?
VENIREPERSON: I have them, yes.

MS. STEWART: Okay.
VENIREPERSON: But I only have one now. She's got the other three.
MS. STEWART: Okay, okay. All right. Does she live locally?
VENIREPERSON: Yes.
MS. STEWART: So she has been prosecuted by this State Attorney's office?
VENIREPERSON: Yes.
MS. STEWART: Anything about that that would keep you from being fair and impartial?
VENIREPERSON: No.
MS. STEWART: Okay. And you've never been the victim of a crime?
VENIREPERSON: Yes, I was -- Well, I was assaulted, not other than that.
MS. STEWART: You were assaulted?
VENIREPERSON: Uh-huh, yeah. I got hit with a frying pan.
MS. STEWART: This wasn't work related, was it?
VENIREPERSON: No.
MS. STEWART: Okay, someone didn't like your biscuits or something?
VENIREPERSON: No, I was (indiscernible)

and she had issues with somebody. And I don't know how it came about, but I was (trailing off).

MS. STEWART: Was it someone you knew?

VENIREPERSON: I kind of knew her, but not really.

MS. STEWART: Okay, so it was --

VENIREPERSON: I knew her basically by name.

MS. STEWART: Okay. And she hit you with a frying pan. Did you end up going to court over that or did she plead out?

VENIREPERSON: She pled and then she got put in jail, and I haven't seen her since.

MS. STEWART: Okay. Anything about that situation that would keep you from being fair and impartial in this case?

VENIREPERSON: No.

MS. STEWART: Okay, thank you.

Now, I'm going to talk to you about some concepts and some ideas and some things, and get to know your feelings on them.

We have this -- Well, let me just ask you this: Do all of you remember the charges that the Judge read to you yesterday, or do you

need to have them read to you again?

THE VENIRE: (No audible response.)

MS. STEWART: It's okay if you do, as long as the Court doesn't mind.

THE VENIRE: (Indiscernible.)

MS. STEWART: Okay, somebody is -- remember -- Juror Number 15.

VENIREPERSON: I'd like to hear it again.

MS. STEWART: Okay, there you go.

THE COURT: All right. Ms. Dana Lynn Loyd is charged with false report of child abuse, abandonment or neglect.

Count 1, in the County of Brevard, State of Florida.

On April 29th of 2015, Dana Lynn Loyd did knowingly and willfully make a false report of child abuse, abandonment or neglect, or advised another to make such false report to the Department of Children and Families concerning a child, Riley Michaud, date of birth, July 8th, 2003, for the purpose of arresting, embarrassing or harming another person contrary to the applicable Florida Statute.

MS. STEWART: All right. Juror Number 15, did you understand that?

VENIREPERSON: Uh-huh.

MS. STEWART: Somebody makes a false report to DCF, okay?

VENIREPERSON: Uh-huh.

MS. STEWART: By a show of hands, and I'll start with the last row and work -- We'll come forward.

Has anybody had any encounters or any dealings with DCF?

Okay. And let's see, Juror Number -- you're Number 4, right?

VENIREPERSON: Yes, ma'am.

MS. STEWART: Is it something that you can talk about or would you like to talk about it in private?

VENIREPERSON: No, I've dated a couple of women who had children. I don't have any of my own. But we've actually had one of her exes call DCF on us and they found nothing wrong.

MS. STEWART: Okay.

VENIREPERSON: So, you know, it's a huge disruption to the, you know, family setting and all of that.

MS. STEWART: Absolutely. And if you were to hear some folks from DCF come in here and testify, are you going to like say: Oh, I don't even want to hear it. I don't want to listen to you.

VENIREPERSON: Well, DCF was never really the problem. They came in and did what they were supposed to do.

MS. STEWART: Oh, okay.

VENIREPERSON: It was just more the problem of the actual --

MS. STEWART: The person that called?

VENIREPERSON: Yeah, the actual, you know, actual event.

MS. STEWART: Okay, all right. Okay. Ms. Number 3?

VENIREPERSON: I've been a guardian ad litem for five years.

MS. STEWART: Okay.

VENIREPERSON: And we've had dealings with DCF.

MS. STEWART: Okay, did you have to deal -- You didn't deal with anything like a false report or anything like that, did you?

VENIREPERSON: No.

MS. STEWART: No, okay. You actually, as a guardian ad litem, and you can correct me if I'm wrong, but you actually came in when there is a child in need of services?

VENIREPERSON: Right. We are appointed by the Court.

MS. STEWART: Okay. Anything about the fact that you were a guardian ad litem and you've heard the report, I mean, the charge here now?

VENIREPERSON: Yes.

MS. STEWART: Anything about that that makes you just not want to sit on this case?

VENIREPERSON: No, because we don't really know anything about it.

MS. STEWART: Right. In a vacuum, I told you, everything is in a vacuum right now.

VENIREPERSON: Yeah.

MS. STEWART: Okay. And let's see, the second row; DCF involvement. Juror Number 12?

VENIREPERSON: Yes.

MS. STEWART: Can you tell us about it?

VENIREPERSON: Some real close friends of ours are going through a problem right now with them because of their daughter and her

kids.
And I had to write a letter about them, my friends, you know, the two of them, letting them know how long I had known them and --
MS. STEWART: Okay.
VENIREPERSON: -- what did I think he was like and things.
MS. STEWART: Was it a situation where the children were going to be removed from the mother and placed with the grandparents?
VENIREPERSON: Yes, yes.
MS. STEWART: Okay, all right. Anything about that experience that would keep you from being fair and impartial in this case?
VENIREPERSON: No.
MS. STEWART: Okay. And Juror Number 10?
VENIREPERSON: Yes, I have. But it was a false report.
MS. STEWART: Okay. So what, did somebody call on you?
VENIREPERSON: Well, they were actually called on my son's father, but we stayed together, so (trailing off).
MS. STEWART: Oh, okay. So it was a

vindictive kind of thing?
VENIREPERSON: Yeah, I think -- I think it was, you know.
MS. STEWART: Okay, okay. Because it was false?
VENIREPERSON: Yeah.
MS. STEWART: All right. All right. Anything about that that would keep you from being fair and impartial?
VENIREPERSON: No.
MS. STEWART: Okay. And anybody else?
THE VENIRE: (No audible response.)
MS. STEWART: Okay, in row one?
Okay. Juror Number 18, and you're dealing with the grandchildren?
VENIREPERSON: Yes, she is actually -- they have -- She was just called on a week ago. And they are letting her keep the kids, but at my house, though, now. So they have to take them in once a month to her because she (indiscernible) the kids, other than the one that I'm raising.
MS. STEWART: Right, right, right. And Juror Number -- so it's the situation they are coming in and they're making sure that

everything is fine in the home?
VENIREPERSON: Yeah, with her.
MS. STEWART: Yes, but she was called on. Now, do you consider the call that was made on your daughter, was it --
VENIREPERSON: I think it was appropriate.
MS. STEWART: Appropriate, okay. All right. So now, DCF is coming in and doing follow-up kind of things?
VENIREPERSON: Right.
MS. STEWART: And Juror Number 2, when you -- your boyfriend, you said it was?
VENIREPERSON: Uh-huh.
MS. STEWART: When he was called on, how disruptive was that, the false report?
VENIREPERSON: I was a little agitated, because of the accusations they were making. But the guy was nice and they were respectable about it, so I couldn't (trailing off).
MS. STEWART: But you had to deal with it, right?
VENIREPERSON: Yeah.
MS. STEWART: Okay. The same question to you, Juror Number 4. I think you said that

they were just doing their job?
VENIREPERSON: Yes. For the most part, I think, but it -- like I said, it was disruptive for the family. You know, they came in right about dinnertime. My kids were getting cleaned up. Like it was just a bad --
MS. STEWART: Nothing convenient?
VENIREPERSON: No, it was not.
MS. STEWART: Because they don't really call you, do they? They just kind of show up, right?
VENIREPERSON: Right.
MS. STEWART: Okay, all right. Another thing I want to ask you about, and just with a show of hands will be fine. But do any of you subscribe to Brevard's Business News?
THE VENIRE: (No audible response.)
MS. STEWART: Has anybody ever heard of it?
You have heard of it, do you read it often?
VENIREPERSON: On occasion at this -- On occasion, once every couple of months.
MS. STEWART: Okay. And lately have you?

VENIREPERSON: I would have to say it's been several months since I've seen a copy.

MS. STEWART: Okay, all right. And let's see, I want to talk to you about kind of a few concepts in the law. And one of them is what the State's burden is.

The Judge told you that it's the State's burden, the whole burden is on this (indicating) table, to prove the case beyond a reasonable doubt.

Okay. And let's see, Juror Number 15, I'm going to pick on you because you've served on a jury. What's a reasonable doubt?

VENIREPERSON: What's a reasonable doubt?

MS. STEWART: Right. You heard the Judge read the definition, right?

VENIREPERSON: Yeah.

MS. STEWART: So kind of tell me what it's not, you know, not possible, not speculative you know, but it doesn't say beyond all doubt, correct?

VENIREPERSON: Yes.

MS. STEWART: Beyond a reasonable doubt?

VENIREPERSON: Right.

MS. STEWART: And reasonableness comes with common sense, do you agree?

VENIREPERSON: Right, yes.

MS. STEWART: Okay. And the State's burden is to prove each and every element of the crime beyond a reasonable doubt.

So, if there are seven elements, we have to prove the seven elements beyond a reasonable doubt.

If there's one, we have to prove just the one element beyond a reasonable doubt.

And the way you do that, the way you get to that proof, is by the testimony of witnesses. That's evidence. Do you agree with me, Juror Number 16?

VENIREPERSON: Yes.

MS. STEWART: Okay. Any exhibits that are either played to you or shown to you, that's evidence. Does everybody agree?

THE VENIRE: (Responded Affirmatively.)

MS. STEWART: And that all goes towards the elements beyond a reasonable doubt.

And I'm going to give you a little example, okay. And I'm going to use Mr. Sendra, because he's just sitting there.

1 Mr. Sendra is walking down the street.
2 And he knows that in Brevard County it is
3 against the law to eat chocolate on Sunday
4 because it's the law.
5 So, he sees me walking down the street
6 eating a chocolate bar on a Sunday and he
7 immediately calls the police. And the police
8 come and confiscate my chocolate bar and they
9 send it off to FDLE, the Florida Department of
10 Law Enforcement, and they test it. And sure
11 enough, it's chocolate.
12 And then we all come to court and the
13 policeman testifies: Yeah, I got the call from
14 Mr. Sendra, and he pointed out that there was
15 someone eating a candy bar. And so, I took the
16 candy bar and send it to FDLE.
17 Mr. Sendra testified: Yep, that's her.
18 I saw her and I know it was her, she did it.
19 FDLE comes in and says it was chocolate,
20 definitely it was chocolate.
21 And the prosecution gets the Court to
22 take judicial notice that on that particular
23 day it was a Sunday.
24 So, the elements of your crime are
25 chocolate on a Sunday. Okay? And based on

what I just told you -- Oh, and that it was me. Based on what I just told you, Juror Number 15, what would your verdict be if you heard that, those being the elements of the crime?

VENIREPERSON: I would have to say guilty.

MS. STEWART: Okay. Because each and every element is proven, right?

VENIREPERSON: They are proven, yes.

MS. STEWART: I mean, if the --

(More than one speaker, indiscernible.)

VENIREPERSON: Why you didn't eat the chocolate faster.

MS. STEWART: Okay. But I'm like the moped guy, okay. I just walk around eating chocolate on a Sunday. Basically it's because all three elements are proven beyond a reasonable doubt.

And so, if somebody says to you -- and who can I -- Let's see, if somebody says to you, Mr. Kavanaugh, I mean number 17. They didn't prove what color the wrapper was.

What are you going to do, what would your verdict be based on the three elements?

VENIREPERSON: Can I -- can I elaborate?

MS. STEWART: Well, based on the three elements I've just given you, what would your verdict be? And then we'll get to where you're going. Chocolate on a Sunday and me.

VENIREPERSON: It's a technicality.

MS. STEWART: But guilty?

VENIREPERSON: Still guilty.

MS. STEWART: Right, okay. Now, when we go to the color of the wrapper, Mr. Sendra swears that wrapper was blue, absolutely a blue wrapper. He gets on the stand and says it was a blue wrapper, it had a blue wrapper.

And then law enforcement comes in and says: Well, I took it, I confiscated it and it was red. And so, I put it into evidence with everything else.

What's your verdict?

VENIREPERSON: I'm going to go by the evidence the FDLE had and say not guilty.

MS. STEWART: Okay. Why is that, when they told you that --

VENIREPERSON: Because he could not positively identify the wrapper and FDLE could.

MS. STEWART: What if the wrapper came from FDLE with the chocolate?

VENIREPERSON: You're telling me that FDLE said it was one color and he's telling me that it's the other.

MS. STEWART: No, no, I'm telling you that Mr. Sendra said it was one color.

VENIREPERSON: Okay.

MS. STEWART: FDLE didn't testify as to the color of it.

VENIREPERSON: Oh, okay.

MS. STEWART: Okay.

VENIREPERSON: Well, then I have to take his word for it.

MS. STEWART: And not the police officer?

VENIREPERSON: Because he's under oath.

MS. STEWART: What about the police officer that's under oath and testifying and holding a red candy wrapper that came from FDLE with a chocolate?

VENIREPERSON: Well, then I've got to go with the police officer.

MS. STEWART: Okay, my point is --

VENIREPERSON: You are -- You're twisting this a little bit.

MS. STEWART: That's part of weighing

the evidence.

VENIREPERSON: Yeah.

MS. STEWART: And those of you that have been through it, you listen to testimony. You weigh the evidence and you decide what's more credible and what's not. I mean, that's your job as a juror.

And if you hear that FDLE tested that wrapper and here was chocolate on that red wrapper, and the police officer said it was a red wrapper and, you know, the chocolate came back chocolate, and you've got one witness saying: I'm pretty sure it was a blue wrapper. You have got to weigh that, you've got to weigh the credibility.

Do you understand where I'm going?

VENIREPERSON: Oh, yeah.

MS. STEWART: Okay. And then once you do all of that, and then you apply it to each and every element of the crime.

Are we on the same page?

VENIREPERSON: (No audible response.)

MS. STEWART: Okay, no? Go ahead.

VENIREPERSON: Have you got a minute?

MS. STEWART: I've got a minute.

VENIREPERSON: We had a problem in Coral Gables with radios being stolen out of BMWs.

MS. STEWART: Oh, is this the police officer?

VENIREPERSON: Yes.

MS. STEWART: Okay.

VENIREPERSON: I caught the individuals that were doing it. The case went to court. We had them dead to rights. Radios in their own personal cars that they had stolen, fingerprints, the whole nine yards.

I lost the case because the attorney said to the Defendant: Can you positively identify this as your radio?

And: Oh, yeah. That's mine, it positively --

What's the serial number on that radio?

MS. STEWART: Okay. But not to the Defendant, are you talking about the victim?

VENIREPERSON: Yeah, the victim. I'm sorry.

MS. STEWART: Okay, all right.

VENIREPERSON: And I lost that case because who knows the serial number on their radio?

1 Just like you're saying, who knows the
2 color of the wrapper, if one says it's red and
3 the other says it's blue, you know?
4 MS. STEWART: Okay, so I think you're --
5 (More than one speaker, indiscernible.)
6 VENIREPERSON: Oh, yeah.
7 MS. STEWART: And that's fine, that's
8 what we wanted to talk about it. Like we
9 talked about earlier. There is no right or
10 wrong answers.
11 So, if you got some sort of clear thing
12 on you that, you know, you're going to be held
13 in on convicting because you lost that case --
14 VENIREPERSON: Yeah.
15 MS. STEWART: Or are you just going to
16 say: Prosecution, you are terrible. I don't
17 want to have anything to do with prosecutors.
18 VENIREPERSON: It's like you say, it has
19 to be beyond a reasonable doubt.
20 MS. STEWART: Right, okay. But can you
21 be fair and impartial beyond a reasonable
22 doubt?
23 VENIREPERSON: Yes, I can.
24 MS. STEWART: Okay, so nothing -- You're
25 not going to bring in that case that you lost

with the radios in Coral Gables and -- I mean, it's part of who you are, right?

VENIREPERSON: I understand that.

MS. STEWART: Part of your makeup, it's part of your memories. But nothing about that is going to keep you from being fair and impartial in this case?

VENIREPERSON: No.

MS. STEWART: Okay. Let's see, the Judge mentioned to you also about the Defendant's right to remain silent. Those of you who have served on juries before, would you hold your hands up again?

Juror Number 15, you understand the right to remain silent, right?

VENIREPERSON: Yes.

MS. STEWART: And I keep picking on you Juror Number 15, but you were in a pretty heavy case.

It's an absolute right, does everyone agree?

THE VENIRE: (Responded Affirmatively.)

MS. STEWART: And the reason that that's an absolute right is because the burden is on this (indicating) table, right?

THE VENIRE: (Responded Affirmatively.)
MS. STEWART: All of the burden is right here. We have to prove everything in this courtroom and the Defense has to prove nothing.
Does everybody understand that?
THE VENIRE: (Responded Affirmatively.)
MS. STEWART: Okay, and are you going to abide by that? And it's hard for a lot of people to do. A lot of people say: Well, I want to hear both sides of the story. But that's not how it works here.
Does everybody understand that?
THE VENIRE: (Responded Affirmatively.)
MS. STEWART: Does anybody have a problem with that.
THE VENIRE: (Responded Negatively.)
MS. STEWART: Juror Number 13, you look a little like: Ah well, I don't know about that.
VENIREPERSON: I understand it.
MS. STEWART: Okay, all right. Okay, all right. Okay. How many people watch CSI religiously? By a show a hands.
THE VENIRE: (No audible response.)
MS. STEWART: What's it now, Chicago

Police, Chicago Fire, Chicago -- all that sort of thing?

(More than one speaker, indiscernible.)

MS. STEWART: Okay. We talked about the kind of evidence that comes from the stand in the form of exhibits.

Is anybody here going to be the CSI'ers and think that, you know, everything is DNA and fingerprints? Given the nature of this charge, it's a false report, right?

THE VENIRE: (No audible response.)

VENIREPERSON: All right. Anybody going to require DNA and fingerprints?

THE VENIRE: (Responded Negatively.)

MS. STEWART: Juror Number 13?

VENIREPERSON: No.

MS. STEWART: You have that hairdresser face, you've got, you know. You understand that the elements of the crime, there's no requirement in every case that there be DNA or fingerprints.

Does everybody understand that?

THE VENIRE: (Responded Affirmatively.)

MS. STEWART: There's no requirement that you know, that just goes more toward the

proof of the case.

And the nature of some cases is that you don't have to have DNA and fingerprints, because you've got a phone call made to DCF.

Does everybody understand that?

THE VENIRE: (Responded Affirmatively.)

MS. STEWART: Okay, all right. I'm going to ask you two questions, and I'm going to start with Juror Number 1 and come on around.

The first question is -- and I think -- Do you live with your parents?

VENIREPERSON: Yes.

MS. STEWART: Okay, all right. The first question is: Own or rent?

And yours would be: I live with my parents.

VENIREPERSON: Yes.

MS. STEWART: The next question I want to ask is: On a scale of one to 10, one being, I'd rather have a root canal, and 10 being, I can't wait to go through the courtroom doors and be a juror. I want to come in so badly, I want to serve on this jury. Okay, that's your parameters.

On a scale of one to 10, how do you feel about being -- serving on the jury?

VENIREPERSON: Seven or eight.

MS. STEWART: Okay, why is that?

VENIREPERSON: My sister goes to work at 5:00/4:30, so as long as I can get a ride home, I'm fine with it.

MS. STEWART: Oh, okay. What you're telling me is, you need to be out of here by 4:30?

VENIREPERSON: Well, she works at (indiscernible) and if I get out by 4:30, yes.

MS. STEWART: Okay. So, is it that you don't drive or you don't --

VENIREPERSON: We only have one car.

MS. STEWART: Okay.

VENIREPERSON: I can drive, but it's just that we only have one car. And Lorna (phonetic) lives for that one car.

MS. STEWART: Oh, okay. Okay. If we were to go beyond the 4:30 hour towards the five o'clock hour and maybe a little afterwards, would you be able to concentrate on what's going on in the courtroom or would you be distracted, because you'll be wondering how

you're going to get home?
VENIREPERSON: I'd be able to concentrate.
MS. STEWART: Okay, all right. And, Mr. Pace, own or rent?
VENIREPERSON: I own.
MS. STEWART: And on a scale of one to 10?
VENIREPERSON: Eight or nine.
MS. STEWART: Okay, why is that?
VENIREPERSON: I have nothing else to do at home. I've got two pets and I've got a son that will feed them if I'm not there.
MS. STEWART: Okay, what kind of pets?
VENIREPERSON: I've got a dachshund, a wiener dog and what is it, a Tennessee -- a Tennessee foxhound.
MS. STEWART: Oh, okay.
VENIREPERSON: Just those two.
MS. STEWART: Okay, all right. And Juror Number 3?
VENIREPERSON: Oh, an eight or nine.
MS. STEWART: Uh-oh, you know what we have going on here?
VENIREPERSON: What?

MS. STEWART: We've got seven, eight, eight or nine, eight or nine. You know what that is, it's called the Oprah effect. You know, when Oprah reads a book, everyone's got to read the book?

VENIREPERSON: Uh-huh.

MS. STEWART: You can be different, it's okay.

VENIREPERSON: I think everyone's responsible, though.

MS. STEWART: Okay, thank you.

And Juror Number 4?

VENIREPERSON: Own.

MS. STEWART: Uh-huh.

VENIREPERSON: And I would say a two or three.

MS. STEWART: Okay. You didn't like the book, did you? And why a two or three?

VENIREPERSON: I'd like to discuss that also in private.

MS. STEWART: Okay, sure. I'm sorry, all right.

And Juror Number 5?

VENIREPERSON: I own. And an eight.

MS. STEWART: Why an eight?

VENIREPERSON: It's my duty.
MS. STEWART: Okay. And Juror Number 6?
VENIREPERSON: I own. And I would say number -- I would say five.
MS. STEWART: Okay, why five?
VENIREPERSON: It's my civil obligation, so feel I should be here. And it's an opportunity I've have never had before.
MS. STEWART: Okay.
VENIREPERSON: And on the other side, I'm busy with work and I'm on the phone constantly.
MS. STEWART: Oh, okay. Well let me -- I'm glad you said that. Maybe at work, and if you had some crisis at work and you knew what was going on and you're trying to put out fires and at nine o'clock the Judge says: Come on and sit down, we're going to listen to some evidence.
And you have to listen to evidence from 9:00 to, at least, noon for the noon break. Are you going to be so distracted by issues at work that you can't concentrate on what's being put before you?
VENIREPERSON: No. If I had an

opportunity to use my phone, I could put out the fire.

MS. STEWART: I don't know about using your phone while --

(More than one speaker, indiscernible.)

MS. STEWART: Okay. As long as you could, at some point?

VENIREPERSON: Yes.

MS. STEWART: On a break or something like that?

VENIREPERSON: Yes.

MS. STEWART: Okay. It wouldn't be to the level of distraction that would keep you from paying attention?

VENIREPERSON: That's correct.

MS. STEWART: Okay. And Juror Number 7?

VENIREPERSON: I own. And a seven or eight.

MS. STEWART: Okay, why a seven or an eight?

VENIREPERSON: I've gotten out of doing jury duty before because of personal reasons, and I feel like it's my duty to be here.

MS. STEWART: Okay, thank you.

And Juror Number 8?

VENIREPERSON: I own. And I would say a one.

MS. STEWART: Wow, that's honesty.

VENIREPERSON: Yes ma'am. I work from 6:00 to 4:00 at my center, (indiscernible) Center, so I'm going into work before I'm even coming here. And we don't have substitutes.

And then I go straight from work to pick my kids up, and then straight to the football field. So, I'm home for like 30 minutes a day other than sleep.

MS. STEWART: How old are your children?

VENIREPERSON: Ten and 13.

MS. STEWART: Okay, all right. Now, a question as I asked Juror Number 6.

Given all of that, and you certainly have a very busy life, would it be -- would you be able to concentrate and give both sides in this case a fair trial by listening to the evidence, or would you be so distracted by things going on in your life that you couldn't do it?

VENIREPERSON: I think I'd be too tired and distracted. There's nobody covering at work right now, but my boss still.

MS. STEWART: Okay, okay. To the point where you don't think you could give it your full attention?

VENIREPERSON: Well, I --

MS. STEWART: It's okay.

VENIREPERSON: No, ma'am.

MS. STEWART: All right. Juror Number 9?

VENIREPERSON: I live with my parents.

MS. STEWART: Okay.

VENIREPERSON: And I would probably give an eight.

MS. STEWART: And eight, why an eight?

VENIREPERSON: Well, I feel like I'm responsible enough to be here. I've never done it before, so it's kind of interesting.

MS. STEWART: Okay. Can I ask you a question? You said you've lived here all your life and that's 19 years, right?

VENIREPERSON: Yes.

MS. STEWART: What's the hardest decision you've ever had to make?

VENIREPERSON: (No audible response.)

MS. STEWART: Is it answering that question? I joke, of course.

VENIREPERSON: I'm not really --
MS. STEWART: Huh?
VENIREPERSON: I'm not sure.
MS. STEWART: Really?
VENIREPERSON: Yeah.
MS. STEWART: It's okay. Well, let me ask you this: Sitting as a juror in a case, in any case, you know, be it a petit theft all the way up to homicide, you have to make decisions.
VENIREPERSON: Yes.
MS. STEWART: And you have to listen to the evidence, weigh that evidence, apply it to the elements of the crime and decide whether or not that person is guilty or not guilty.
And given your, you know, young years, do you think you can make that kind of decision and will you feel comfortable doing that?
VENIREPERSON: I would feel comfortable with doing that.
MS. STEWART: Okay.
VENIREPERSON: Yeah.
MS. STEWART: All right. And how far did you go in school, if you don't mind my asking?
VENIREPERSON: The eighth grade.

MS. STEWART: The eighth grade?
VENIREPERSON: Eighth grade. And in the ninth I dropped out and went adult-ed in Titusville.
MS. STEWART: Oh, okay, in --
VENIREPERSON: Titusville.
MS. STEWART: In Titusville, okay. Do you mind if I -- and if I'm -- if you want to talk in private, that's fine, but I have a few more questions towards that. Do you want for me to wait and ask you in private?
VENIREPERSON: No.
MS. STEWART: Okay. When you went to adult-ed, did you ultimately get your GED?
VENIREPERSON: No, I didn't.
MS. STEWART: Okay. Can I ask you why you decided to drop out at such a young age?
VENIREPERSON: Well, I was in the eighth grade and I was 16 years old and had all my friends. And I just didn't want to go to school, didn't like it.
MS. STEWART: That's very honest. So that's a decision you made, correct?
VENIREPERSON: Yes, it is.
MS. STEWART: Okay. And I think it 16,

you can voluntarily leave school, right, without a parent's permission you can do it?

VENIREPERSON: Yes.

MS. STEWART: All right. So that was a decision that you made. How do you feel about that decision now?

VENIREPERSON: Not the greatest.

MS. STEWART: Okay.

VENIREPERSON: Yeah.

MS. STEWART: Yeah, it must have been hard.

VENIREPERSON: I'm going back to get my GED.

MS. STEWART: Okay, good for you, good.

Okay, all right. And Juror Number 10? You already look tired to me, you don't look like --

VENIREPERSON: No, I don't own my residence, I rent. And I'd probably give it a five.

MS. STEWART: Okay, why a five? So, you've got to give me one side and then the other and you go down the middle, right?

VENIREPERSON: The only reason why I wouldn't was that it's like I said, my son, he

1 does his football till after five o'clock, he's
2 at practice and all that crazy stuff.
3 MS. STEWART: Okay.
4 VENIREPERSON: But I would do it just
5 for the experience.
6 MS. STEWART: Okay. And, you know,
7 crazy hours and football and all of this other
8 stuff, are you going to be distracted if you're
9 chosen to sit on the jury or will you be able
10 to concentrate on it?
11 VENIREPERSON: Yeah, I will be able to.
12 MS. STEWART: Okay, thank you.
13 And Juror Number 11?
14 VENIREPERSON: We own. And I'd say
15 five, and it's something private.
16 MS. STEWART: Okay. You know the drill,
17 a five?
18 VENIREPERSON: Yeah, a five.
19 MS. STEWART: Okay, why?
20 VENIREPERSON: Private.
21 MS. STEWART: Private, okay. I'm sorry.
22 All right. And Juror Number 12?
23 VENIREPERSON: Well, I've had a root
24 canal and I don't want to go through that
25 again.

MS. STEWART: I still hear a two coming, but I don't know why, okay.
VENIREPERSON: Well, I'll give it an eight.
MS. STEWART: Okay. And why an eight?
VENIREPERSON: Well, I don't have anything really pending right now because I'm retired.
MS. STEWART: Uh-huh.
VENIREPERSON: I mean, I can work, do some work. But there's nothing pending.
MS. STEWART: Oh, okay. So you will be able to give your full concentration to the trial?
VENIREPERSON: Sure.
MS. STEWART: All right. Juror Number 13?
VENIREPERSON: A seven.
MS. STEWART: Okay, why a seven?
VENIREPERSON: Well, I think it would be very interesting and, you know, it's a world I've never seen.
MS. STEWART: Yeah, okay.
VENIREPERSON: And (indiscernible).
MS. STEWART: All right. Juror Number

13?
VENIREPERSON: I rent, and I would say a two to a three.
MS. STEWART: Okay. Well, you know the -- two to three, why two to three?
VENIREPERSON: Because I'm a basketball coach in a high school. And then also I babysit on my days that I don't work.
MS. STEWART: Oh, okay.
VENIREPERSON: I'm kind of (indiscernible) basketball practice in the evenings and the summer and then track practice after school.
MS. STEWART: And what time does that start?
VENIREPERSON: At 3:30.
MS. STEWART: Oh, okay. And again, the same question, Juror Number 8. Remember, there's no wrong answer.
If you were picked to sit on this jury, would you be able to give the evidence your full attention?
VENIREPERSON: No.
MS. STEWART: You would not be able to?
VENIREPERSON: No.

MS. STEWART: Would you be too distracted by your duties?
VENIREPERSON: Yes.
MS. STEWART: Okay. Okay, thank you. Juror Number 15?
VENIREPERSON: I own. And I would give it a five.
MS. STEWART: A five, why is that, because you've been through it before?
VENIREPERSON: Like others, I agree that it's my duty to be here. And I don't have a problem with that.
And besides I have two dogs at home that are both very old. And we're at that point where we have to make a decision to have them put down.
MS. STEWART: Oh, okay.
VENIREPERSON: And it's just we are biding our time right at the moment. And my husband has health issues and he can't take as good of care of them.
MS. STEWART: Okay.
VENIREPERSON: It's like he can't get them outside in the fence and it's just a --
MS. STEWART: That can hurt, that's, you

1 know, that's hard. That's a hard thing
2 anytime. I mean, that's just hard.
3 VENIREPERSON: Well, it's kind of --
4 that's kind of distracting for me, because I
5 don't know how he's doing with the dogs.
6 MS. STEWART: Oh, okay. And when you
7 say kind of distracting, is it distracting to
8 the point to where you won't be able to listen
9 and give both sides a fair trial?
10 VENIREPERSON: Now I should be -- yes, I
11 can -- I can do that.
12 MS. STEWART: But you had rather --
13 VENIREPERSON: I'll be anxious to get
14 home.
15 MS. STEWART: Oh, okay.
16 VENIREPERSON: This is my fourth time
17 for jury duty, so.
18 MS. STEWART: Oh, yeah?
19 VENIREPERSON: I'm sure I have done my
20 duty.
21 MS. STEWART: You should play the
22 lottery, shouldn't you?
23 VENIREPERSON: No, I could do terrible.
24 MS. STEWART: Okay. Juror Number 16?
25 VENIREPERSON: I own. And then a five.

MS. STEWART: Why a five?
VENIREPERSON: Well, I work full-time, which I can get out of work. I've already told them that. Their dad is a stay-at-home-dad, but I have 18-month-old twin boys at home, so I have care for them.
And they have to go to the doctor's tomorrow. And it breaks my heart when they give them shots. And so, I don't want to miss it, but I will if I have to because actually they are (indiscernible) anyway.
MS. STEWART: Okay. What time is their doctor's appointment?
VENIREPERSON: At 10:00.
MS. STEWART: Okay. Yes, if you were picked you would probably miss the appointment.
VENIREPERSON: Yeah. I mean I -- it won't be distracting or anything, it's just that I'm their mom.
MS. STEWART: Right.
VENIREPERSON: And I know they will be crying.
MS. STEWART: Oh, I know. Okay.
All right. And to Juror Number 17?
VENIREPERSON: I own. And I would give

it a six.
MS. STEWART: Why a six?
VENIREPERSON: Because I do a lot of work out in my garage in mechanics. And the flip side of the six would be I'm usually used to setting on that side and not on this side. So, it would be an adventure if I did get picked.
MS. STEWART: Okay, all right. Now, when you say you do -- You said you're busier now in retirement than you were when you worked.
Is this some kind of like a little side job you have going? I just assumed you have a lot of --
VENIREPERSON: It's a hobby that turned into a business.
MS. STEWART: Oh, wow.
VENIREPERSON: And I don't regret it and I enjoy it. I've been gifted by God to be good at what I do and it involves small engines.
MS. STEWART: Great, okay. All right.
And Juror Number 18?
VENIREPERSON: A seven.
MS. STEWART: Okay, why a seven?

VENIREPERSON: I like the number.
(More than one speaker, indiscernible.)
MS. STEWART: There's no right or wrong answer, right?
VENIREPERSON: Right.
MS. STEWART: So, you are okay with serving as a juror then?
VENIREPERSON: Oh, yeah.
MS. STEWART: Okay, all right. Give me one moment, Your Honor?
THE COURT: Certainly.
(Whereupon, State Counsel discussion.)
MS. STEWART: Thank you very much for your time and attention.
And I have nothing further, Your Honor.
THE COURT: Well, all right, thank you. And then that is perfect timing for our lunchtime recess.
And, folks, I want to please caution you, now that we've actually begun the jury selection process. Once again, no texting, Tweeting, looking at social media, anything of that nature.
I usually just refer to this as the cone of silence, does anybody remember that program?

1 I know there's a couple of people old enough to
2 remember the cone of silence.
3 And so, you are in the cone of silence
4 now, which means don't let anybody talk to you
5 about your jury service. If someone tries to
6 speak with you, you go away from that person.
7 Tell them to stop talking and go away from that
8 person and immediately notify one of the
9 deputies. All right?
10 All right, thank you, folks. And we'll
11 see you back at 1:30 downstairs. I think we've
12 only got one brief matter at 1:15, so thank
13 you.
14 COURT DEPUTY: All rise for the jury.
15 (Whereupon, Venire out.)
16 THE COURT: All right. The record
17 should reflect that the jury has left the room.
18 The door is closed.
19 And I neglected to say when we began
20 that we had been on the record in
21 2015-CF-39871, the State versus Dana Lynn Loyd.
22 And Ms. Loyd has been present with Counsel all
23 morning, but before the jury came up.
24 Since our original discussion about jury
25 selection, or rather of Ms. Loyd's health today

and this -- excuse me -- and the --

MR. BROSS: Jury instructions and the plea.

THE COURT: You were talking -- yeah, you were talking about that and then there was one other thing, the -- Yes, the jury instruction, thank you, that's what I was trying to remember. Thank you.

All right. So, you all are welcome to go. I know Mr. Walbright (phonetic) is waiting for a moment.

COURT DEPUTY: What time do you want to start up with them?

THE COURT: Yeah, we'll start back up at 1:30, hopefully.

COURT DEPUTY: Okay, 1:30, folks.

THE COURT: Yeah. And Counsel, if you can come back by, you know, 1:20, 1:25, that will -- thank you -- we greatly appreciate that.

Mr. Walbright, I know you are here for Mr. Lawson.

(Whereupon, matters unrelated to this case were heard by with the Court.)

(Whereupon, the Court is in recess.)

(Whereupon, Venire out.)

THE COURT: All right. Ms. Burgess and Mr. Bross, you are here at the ring of the bell. Thank you very much.

Do we have -- Mr. Walbright, how would you like to proceed with Mr. Lawson?

THE COURT: All right. We would like to try and get the jury up here as close to the -- Mr. Lawson, please read very quickly.

(Whereupon, matters unrelated to this case were discussed with the Court.)

THE COURT: Oh, while they are chatting, Mr. Sendra and Ms. Stewart and Mr. Bross and Ms. Burgess, I've made a list that we only have three people who said that they would like to answer something privately, and it was Jurors Number 12, 4 and 11.

MR. BROSS: Uh-huh.

THE COURT: Would you like that we bring them in first and they can answer whatever questions, and then you all can proceed however you would like to?

MR. BROSS: Yes ma'am.

MS. STEWART: I'd like to do that, Judge, in case I have any follow-up.

THE COURT: Okay.

MR. BROSS: Okay, Judge, that's fine.

THE COURT: Good afternoon, Mr. Lawson. Okay. Mr. Walbright, are you ready to go?

(Whereupon, matters unrelated to this case were heard by the Court.)

THE COURT: Mr. Bross, Mr. Sendra and Ms. Burgess and Ms. Stewart, could you approach for a moment please?

(Whereupon, Venire out.)

THE COURT: In calling the ones who wanted to answer things in private, we explained to them what "private" was. And that was not a cameraman. That was not members of the public in here that are watching.

MS. STEWART: We can do it up at the bench.

THE COURT: Okay, if you would like to do it that way.

MS. STEWART: Yes.

THE COURT: Or if you want, we can go in there (indicating) and do it.

MR. SENDRA: No, I think we need to do it at the bench.

THE COURT: Yeah, right, we have to have

the recording.
MR. SENDRA: So we don't get any more accusations that the courtroom is being closed off or anything like that.
THE COURT: Uh-huh.
MR. SENDRA: Since there don't need to be any accusations that the courtroom is being closed off when Florida law says it's open.
THE COURT: Okay, but I mean --
MR. BROSS: But I'm fine, I'm fine with doing it at the bench.
THE COURT: But, you know, we promised the people that they would, you know, what "private" would be and we have all --
MR. BROSS:
MS. STEWART: Right.
THE COURT: -- described this.
MR. SENDRA: I understand that.
THE COURT: Okay, gotcha. I agree.
MR. SENDRA: Oh, one more thing, let me -- it's just scheduling really.
THE COURT: Sure.
MR. SENDRA: If the two DCF workers here that we plan on putting on today, if we can get to them.

THE COURT: Uh-huh.
MR. BROSS: Well, I'm afraid -- afraid that's not going to --
MR. SENDRA: That's fine, but I have them here just in case.
THE COURT: Okay.
MR. SENDRA: What I want the Court to know is, in going through this over lunch with the case agent, you know, I had done all of the editing on Ms. Loyd's statements, and I had missed a portion that I need to remove that deals with the other articles and things, it's like --
THE COURT: Uh-huh.
MR. SENDRA: So, I need to do some additional work. So at most, we can put two witnesses on this afternoon.
THE COURT: All right.
MR. SENDRA: So, I just wanted the Court to know that.
THE COURT: All right, and that's no problem. Thank you.
MR. BROSS: I can't imagine we'll get done today.
THE COURT: Okay, if we don't --

MR. SENDRA: We'll see how it goes. I just have them.

THE COURT: Right, right.

MR. SENDRA: I wanted the Court to know I have witnesses here.

THE COURT: Right, I appreciate it. Thank you very much. All right.

COURT DEPUTY: (Tenders document.)

(Whereupon, Court/Deputy discussion.)

THE COURT: Ms. Kies, didn't you tell me this morning that Mr. McCall (phonetic) was going to be -- was not going to be here for some reason?

(Whereupon, matters unrelated to this case were discussed with the Court.)

(Whereupon, Venire out.)

ISSUE: INDIVIDUAL VOIR DIRE

THE COURT: Folks, are you ready for Juror Number 4?

MR. SENDRA: Yes, ma'am.

THE COURT: Okay. Bring that person in please. It looks to be a him.

MS. STEWART: And who, which number are we bringing in?

THE COURT: Juror Number 4. This was --

if you all could just approach please, because he requested that this be privately. And we promised him that it would be outside of the presence of the public.

(Whereupon, Juror Number 4 entered the courtroom and was interviewed outside the presence of the venire panel as follows:)

THE COURT: All right. Good afternoon, sir.

VENIREPERSON: Yes, ma'am.

MS. STEWART: You're Juror Number 4?

VENIREPERSON: Correct.

THE COURT: Yes. You're Mr. John Allen, Juror Number 4. And you asked to privately -- no, wait, I'm sorry -- You asked to be private regarding why you answered that it was a -- that you were a two or a three for jury service.

VENIREPERSON: I didn't want to contaminate any other jurors. When I had my incident with DCF before, we asked if there was anything to do about a false report.

And they said after one report there's really nothing that they can do. Because any one report isn't worth checking out for the

1 safety of the child.
2 So if it was, you know, continued, you
3 know, reports, then it would be something that
4 they would be able to do something about, about
5 false reports. So, that's what the DCF person
6 told me.
7 MS. STEWART: The one that came to see
8 you?
9 VENIREPERSON: Correct. And my opinion
10 is, if she's already in court, this has
11 happened more than one time. So, that has
12 swayed me already in one direction just from my
13 previous experience.
14 MR. BROSS: Okay. So, from this part of
15 previous experiences, you've prejudged the
16 Defendant and you cannot be fair and impartial,
17 correct?
18 VENIREPERSON: That's kind of where I'm
19 looking at, correct.
20 MR. BROSS: Okay, no further questions.
21 THE COURT: Okay, any questions?
22 MS. STEWART: No.
23 THE COURT: Okay. Thank you very much.
24 VENIREPERSON: Okay.
25 THE COURT: And, Mr. Allen, let me tell

you, thank you very much for being mindful of the fact that you didn't want to contaminate the other jurors. We appreciate your consideration.

VENIREPERSON: Well, yes, I don't want to contaminate anybody else's judgment over whatever.

MS. STEWART: Absolutely.

VENIREPERSON: And so, that's why I didn't just say it, you know.

THE COURT: Thank you very much. All right, thank you very much.

VENIREPERSON: All right.

MR. BROSS: Since, you know (indiscernible).

THE COURT: Okay. Now, do we want to strike him for cause and put somebody else in?

MS. STEWART: I think, let's don't plug it in yet.

THE COURT: Okay.

MS. STEWART: Until after --

MR. SENDRA: Okay.

THE COURT: Do you want to just leave him in, because I am making --

MS. STEWART: Oh, no, no, no. I say

excused, but don't plug it in.
THE COURT: Right, but you mean but vacate the chair?
MS. STEWART: Yeah, because we've got --
THE COURT: We have additional folks, yeah, we do.
MR. BROSS: I think there's going to be a lot for cause, but I could be wrong. I mean, there's always several for cause, but I think there's going to be a lot more.
THE COURT: Yeah, there's a couple of others.
MR. SENDRA: I've only marked down to others besides Mr. Allen.
THE COURT: Yeah, I have two marked down so far. So, but anyway -- okay. Do you want to -- so, what do we want, is everybody an agreement?
MR. SENDRA: Yes.
MS. STEWART: That's fine.
THE COURT: All right, thank you.
(Whereupon, Juror Number 4 exited the courtroom.)
THE COURT: And then how about Juror Number 11 please. 11, yeah.

MR. BROSS: And definitely Juror Number 4.

THE COURT: Yeah, Mr. Alex. Mr. Alex.

COURT DEPUTY: Right in front of the bench here, sir.

(Whereupon, Juror Number 11 entered the courtroom and was interviewed outside the presence of the venire panel as follows:)

THE COURT: Good afternoon.

VENIREPERSON: Good afternoon.

THE COURT: You are Juror Number 11, and you indicated that you wished to talk privately about why you were a five?

VENIREPERSON: Right. The reason being is Monday morning when the Judge swore us in, one of the questions that was asked was: Do any of the grandparents, are they raising a grandchild?

And so that was why I went and approached him and he talked me into staying to serve as a juror. But I indicated to him that at 3:30 that day, my granddaughter had a doctor's appointment.

And he said: Well, just tell -- just tell the deputy before you get in the courtroom

that you have that appointment and they can help you. And you can get out of it. Unfortunately that didn't happen and I had to cancel the appointment.

So then the doctor called me this morning, well, actually this afternoon when I had lunch and said that they had another appointment on Thursday at four o'clock, that they had this week.

And so, I didn't want to let everybody know that we have legal custody over my granddaughter and that we are raising her. And it's kind of embarrassing, that's why I said private.

THE COURT: Okay. Based on his answer are there any questions?

MS. STEWART: Okay. Is there anything about that -- can your wife take her to the appointment on Thursday?

VENIREPERSON: No, she's a schoolteacher down in Merritt Island.

MS. STEWART: Oh really?

VENIREPERSON: So it's very hard for her and she works long hours. I mean, she gets off work when the kids go home. But then she has

to stay over to get her work done.
MS. STEWART: But my only other question to you then: You heard the questions I was asking the others, when you've got something in your head, is it going to be weighing on you so much that it's to the point of distraction that you can't pay attention to the evidence?
VENIREPERSON: Well, but the thing that I'm concerned about is her appointment now is at four o'clock on Thursday.
MS. STEWART: Uh-huh.
VENIREPERSON: And this appointment, I had to reschedule and she's overdue for this appointment. And so, I was fortunate that they were able to schedule her for this Thursday, because the appointment was going to be for June 29th, which would've been --
MS. STEWART: Right.
VENIREPERSON: So, I was fortunate that they had an opening.
THE COURT: Okay, for June 29th?
VENIREPERSON: Well, they are very busy I guess.
THE COURT: Yeah, I guess.
MR. BROSS: And just so I can be clear.

It sounds like you take care of your grandchildren.

VENIREPERSON: Right. And since my wife and I work both work full-time.

MR. BROSS: Uh-huh.

VENIREPERSON: And then, you know, taking care of her is somewhat --

MR. BROSS: And so, are you going to be concerned about your ability to take care of your grandchild, and also your ability to take care of the doctor's appointment if you were to serve on this jury?

VENIREPERSON: Well, I probably would be because that would be on my mind, to trying get her to the appointment.

MR. BROSS: So, it would affect your ability to concentrate on the facts in this case?

VENIREPERSON: It's hard to say.

MR. BROSS: Okay. I don't have any other questions.

THE COURT: I'm sorry, it's what?

VENIREPERSON: I'm sorry to say I would -- That would, that would probably hinder my service, as far as --

THE COURT: Okay.
MR. BROSS: I have no further questions.
THE COURT: All right.
MR. BROSS: I think he's telling the truth.
THE COURT: All right, thank you. And then thank you very much. I appreciate it, sorry.
(Whereupon, Juror Number 11 exited the courtroom.)
MR. BROSS: Are we going to strike him for cause?
THE COURT: And do we --
MR. BROSS: I think we should excuse him, but not strike him for cause just yet.
THE COURT: And, Mr. Sendra, do you object.
MR. SENDRA: No.
THE COURT: Any objection to doing that?
MR. SENDRA: No, not based on that ground.
THE COURT: Okay, okay.
MR. SENDRA: It's not (indiscernible) obviously.
THE COURT: Right.

THE CLERK: And what number was that?
THE COURT: Number 12, Number 12 -- no.
(More than one speaker, indiscernible.)
THE COURT: I have them written in the order they appear, the order that they came up.
MR. BROSS: I thought she was asking which one we had struck.
THE COURT: Oh, no, Juror Number 12 is the one coming in now.
(Whereupon, Juror Number 12 entered the courtroom and was interviewed outside the presence of the venire panel as follows:)
THE COURT: Good afternoon, sir. All right. And you are Mr. Brown?
VENIREPERSON: Yes.
THE COURT: You don't look like James Brown at all to me.
VENIREPERSON: Uh-uh. I've had that for a long time.
THE COURT: I know it's probably 9000 times that you've heard that.
Mr. Brown, you indicated that you wanted to talk privately regarding the question of whether any -- you or anyone in your family had ever been convicted of a crime?

VENIREPERSON: Yes.
THE COURT: Okay.
VENIREPERSON: My wife's brother was convicted of murdering someone.
THE COURT: And, Ms. Stewart, do you have any questions?
MS. STEWART: And where did that happen?
VENIREPERSON: He was with a group of Marines in Vietnam.
MS. STEWART: Oh, okay.
VENIREPERSON: And he got -- And he was the only one that was convicted.
MS. STEWART: So it was a court-martial?
VENIREPERSON: Yes.
MS. STEWART: Okay.
VENIREPERSON: And that all of them had done the same thing. But he didn't have no money to spend. They didn't have enough money. So, the other ones, their families were pretty high up here in the States.
MS. STEWART: Okay.
VENIREPERSON: So, they got the best lawyers and got them off. He spent three years in jail for that.
MS. STEWART: Okay, and does that -- I

mean, does that taint you towards this whole justice system of ours?

VENIREPERSON: I don't think so, because I understand that there's problems with our system.

MS. STEWART: Right, uh-huh.

VENIREPERSON: That when you hear the evidence, you've got to give it just the answer and that's it.

MS. STEWART: Right. So, you were wanting to talk about --

VENIREPERSON: I just didn't want to talk about it in public.

MS. STEWART: Yeah.

VENIREPERSON: And a lot of people say things when they know about it, too.

MS. STEWART: Sure, okay. All right.

MR. BROSS: I have something. That I appreciate you, you know, sharing this with us. Although this happened, it sounds like a while ago, this is something that still has a big impact on your mind and on your life?

VENIREPERSON: Yeah, it ruined his life. It just ruined his life.

MR. BROSS: And so, is that going to

affect your ability to be fair and impartial in this case towards either the State or the Defense?

VENIREPERSON: No, no.

MR. BROSS: Okay, thank you.

THE COURT: So, the bottom line is that that experience will or will not affect your ability to be fair and impartial?

VENIREPERSON: No, it won't affect it.

THE COURT: Okay.

MS. STEWART: The fact that it was Vietnam related.

VENIREPERSON: Yeah.

MS. STEWART: Is that what people would talk about?

VENIREPERSON: Yeah.

MS. STEWART: Okay, I understand.

THE COURT: Okay. Thank you very much, we appreciate it.

VENIREPERSON: All right.

(Whereupon, Juror Number 12 exited the courtroom.)

THE COURT: So then, are we all in agreement that number -- or are you all, I don't have any role in this. Are you all in

agreement to just let --
MS. STEWART: No, I'm not and I'll tell you why. The only reason is because I forgot about the other cause challenges that came up when I was questioning him.
THE COURT: Okay.
MS. STEWART: I mean, real quickly I can go through them.
THE COURT: Wait, which one, what are you talking about, you mean 4 or 11?
MS. STEWART: No.
MR. SENDRA: Number 8.
MS. STEWART: Certainly Juror Number 8.
MR. BROSS: And no objection to Juror Number 8, I agree.
THE COURT: Oh, Juror Number 8.
MR. SENDRA: A preschool teacher.
THE COURT: I had already marked her, yeah.
MS. STEWART: And 14, uh-huh.
MR. BROSS: Right.
MR. SENDRA: And so the record is clear, she had told the Court that she would be distracted.
THE COURT: Right.

MR. BROSS: You know, that she --
MR. SENDRA: I know, I just want the record to be clear.
THE COURT: Right, right, that she would be distracted.
MR. SENDRA: That she would be distracted. She didn't have anybody to cover her at work.
THE COURT: Right.
MR. SENDRA: And then all of her obligations with the kids as well.
THE COURT: Right, I have her -- I have her marked as a possible, Juror Number 8, Stephanie V-R-B-A-N-I-C.
MS. STEWART: Ver-banic (phonetic) I think, I don't know.
MR. BROSS: There you go.
THE COURT: Well, you say it good.
MR. SENDRA: That's pretty good.
THE COURT: Juror Number 8 sounds like a really good name.
(More than one speaker, indiscernible.)
THE COURT: All right, okay. And you all --
MS. BURGESS: And Juror Number 14, do

you have that one?
THE COURT: Yeah, I have her marked as well, Juror Number 14.
MS. STEWART: Yes, Juror Number 14.
MS. BURGESS: Okay.
THE COURT: Do you all agree to excuse Juror Number 14?
MR. SENDRA: Yes.
MR. BROSS: Yeah.
THE COURT: Okay.
MS. STEWART: And she never said she was going to be distracted. She just wants to care for her dogs.
MR. BROSS: Yeah, number -- I was worried. I mean, Juror Number 15, I had precautions.
MS. STEWART: Right, oh yeah?
MR. BROSS: Because she said between her dogs and her husband that I thought she was basically saying that: I'm going to be worried about my dogs and I need to take care my husband.
And because of his health and because of the dogs' health, that she's going to be thinking about them and wondering about the --

1 MS. STEWART: And that she would be
2 anxious about getting out.
3 THE COURT: Yeah. That's what she said
4 that: You will have my full attention while I
5 was here, but I would be anxious to get out.
6 MR. BROSS: Okay, I was --
7 THE COURT: And that was -- Wait, we are
8 talking about Juror Number 15, correct?
9 MR. BROSS: Yeah, uh-huh.
10 THE COURT: Okay, Juror Number 15.
11 MR. SENDRA: I think I have that quote
12 exactly.
13 THE COURT: Yeah.
14 MR. SENDRA: She said she could
15 concentrate.
16 THE COURT: Yeah.
17 MR. SENDRA: But she'd be anxious to get
18 out, and so I don't know --
19 THE COURT: That was exactly what she
20 said.
21 MR. SENDRA: I don't know how the Court
22 would really look at that at this point.
23 THE COURT: Yeah. I don't see, you
24 know, it seems --
25 MR. BROSS: I'll ask her questions about

it, I'll go into it once --
THE COURT: Well, it just seems to be that everyone is pretty much anxious to get out.
(More than one speaker, indiscernible.)
MR. BROSS: I also heard -- I also heard that Juror Number 13 indicated that she -- If the Defendant failed to testify, that she would have an issue with that. And that she didn't feel that she could be fair and impartial because she would want to go to --
MS. STEWART: I never heard that.
THE COURT: That she said what?
MR. BROSS: That she would have an issue being fair and impartial --
MS. STEWART: Oh, I did hear that.
MR. BROSS: -- if she did not hear the victim [sic] testify, she wanted to hear the Defendant testify.
THE COURT: Oh, yes.
MR. SENDRA: But then when it was explained to her --
MR. BROSS: Juror Number 13.
MR. SENDRA: -- she then said she understands and that she can abide by it.

MR. BROSS: Right.
THE COURT: Okay. Well, I think --
MS. STEWART: She said now, I -- I said: Do you understand?
And she said: Now, I do.
THE COURT: I have -- My quote is that she's the mom of three wonderful adult children. And she explained what they all did.
And then she said -- the last -- the last quote of hers I have is in quotations: "I can be fair and impartial, dash, dash, I'm okay."
MR. BROSS: Okay. Well, my memory was that she said that she wanted to hear the Defendant testify.
THE COURT: Okay.
MR. BROSS: And Ms. Stewart explained to her that she had to be. And she said: Okay, I understand.
But I don't -- okay. Well, I'll ask her questions.
THE COURT: You're free to --
MR. BROSS: Yeah, I'll ask her questions.
THE COURT: -- to talk to her about

that. That's something you're welcome to discuss with her.

MR. BROSS: Uh-huh.

THE COURT: But still, at this very moment, we've agreed that -- We've all agreed and you're stipulating to numbers --

MR. BROSS: 4, 11, 8 and 14.

THE COURT: Okay, so 4, 11, 8 and 14.

So 4, 8. Eight is 8 and then 14 is -- yeah, yeah, the other -- okay.

Okay. And one other thing --

THE CLERK: Are we changing the --

THE COURT: No.

(Whereupon, Court/Clerk discussion.)

MR. BROSS: The only other one I wanted to raise, is I believe that Juror Number 16 indicated that she had two twins who are getting shots tomorrow. And that she was concerned about the children getting shots. And that she was a mother who was going to be worried about her children.

MS. STEWART: They've got a stay-at-home dad, that she cried at the thought of them getting shots.

MR. BROSS: So, I'll have questions for

her.
THE COURT: Yeah. I don't know that we're going there yet. Okay, thank you.
COURT DEPUTY: Your Honor, is it okay to return these to the jury?
THE COURT: Yeah. This is actually what Counsel has agreed, that Jurors Number 4, 8, 11 and 14 be excused.
COURT DEPUTY: It's 4, 8, 11 and 14?
THE COURT: Yes. So the one gentleman that was up here, the gentleman with the big mustache, he's good to stay.
COURT DEPUTY: So Juror Number 12 stays?
THE COURT: Yes.
COURT DEPUTY: And the others again are, 8, 11, 4 and 14 are struck?
THE COURT: Yes. Yes, sir.
COURT DEPUTY: Okay.
MS. BURGESS: Is that for cause or what?
THE COURT: The cause challenge, yes, ma'am.
MS. BURGESS: Joint?
THE COURT: Yes, joint. Yes, they've -- that's a -- They've -- They are all -- Both the State and the Defense agree.

Okay. Now, I believe there will be consistence, at least, because I now think that we've shown them that when we say 1:30, it will really mean 2:30. When we say 9:30, it really means 10:30. And I'll just tell them, you know, we are in -- The next time going over and we will apologize if they are not.

Okay, are the rest of them coming on up?

COURT DEPUTY: Do you want to have them brought up?

THE COURT: Yes sir, we would love to see the rest of them. I'm sure Mr. Bross would love to see the rest of them, too, because it's his turn to talk and stop just sitting and listening.

COURT DEPUTY: He's going to release those few that you said to release, and then he will bring the rest of them up.

THE COURT: Thank you very much.

COURT DEPUTY: Do you want him to bring the first 18 up?

THE COURT: Yes, thank you. Well, minus the four.

(Whereupon, Court/Deputy discussion.)

COURT DEPUTY: He said one's in the

bathroom and they'll be up in a few minutes.

THE COURT: Okay. Folks, do any of you need a comfort break? Because there's a juror that's apparently in the restroom, so if anybody would like to take a quick break, now is the time to make a break for it.

Okay, we will be in recess for about five minutes.

(Whereupon, the Court is in recess.)

(Whereupon, Venire out.)

COURT DEPUTY: A couple of the jurors needed a comfort break, Your Honor, and then we'll gather them up.

THE COURT: I was just going to ask, could you give this to Mike? Do you mind giving this to Mike?

THE CLERK: Okay.

COURT DEPUTY: Waiting on one. Waiting on one, your Honor.

THE COURT: Okay, thank you.

Wait, wait, I think there's a couple more I need to give to you. Sorry, there's more than I thought they were.

THE CLERK: Okay.

THE COURT: Have you got them out there?

COURT DEPUTY: Your Honor, they're ready.

THE COURT: All right.

COURT DEPUTY: Are you ready for the jury, Your Honor.

THE COURT: Yes. Are we ready?

COURT DEPUTY: I'm going to have a couple sit over there (indicating) just to have a seat and then --

THE COURT: Oh, you're not going to have them in the regular, tell them to go on up?

COURT DEPUTY: Yeah, it will confuse them and I'll sit them right -- and we will call them right up, Judge.

THE COURT: Oh, okay.

COURT DEPUTY: As soon as they're settled, then we'll call them right up.

THE COURT: Okay, thank you. Perfect.

All right. We are back on the record in 2015-CF-39871 in the State v. Dana Loyd. Ms. Loyd has been present with Counsel at all times while the jurors that wished to be questioned privately were so questioned by Ms. Stewart and Mr. Bross.

And the jurors are now reentering the

courtroom. And the jurors were questioned at the bench in the presence of Counsel because there were members of the public in the courtroom.

(Whereupon, before the Court and Venire:)

COURT DEPUTY: Could I have the following numbers come on up: One, two, three. Number 1 first and then number 2. 5 and 6. 7 and 9. 10 and 12. 13 and 15. 16, 17 and 18.

Okay. Your Honor, all are present.

THE COURT: All right. Folks, good afternoon. Please have a seat, everyone.

Good afternoon. Folks, did anything happen over the lunch hour? And you know that we are not on the time that we said, did you figured that out yet?

We apologize. Once again, we were taking care of matters that had to be taken care of outside of your presence. Some of the matters were totally unrelated to this case.

So, did anything happen over the lunch hour folks, that to -- that would in any way impair your ability to be fair and impartial?

THE VENIRE: (Responded Negatively.)

THE COURT: All right, no one from the panel. And now, the folks in the gallery?

THE VENIRE: (Responded Negatively.)

THE COURT: Folks in the gallery, you can really start paying attention now, because you see there are a couple of vacancies. And that means you all are going to be filling those vacancies. So get ready to -- Get ready to do that.

All right. Then, Mr. Bross, would you like to inquire.

MR. BROSS: Yes, thank you.

THE COURT: All right, thank you.

MR. BROSS: May it please the Court, the State.

DEFENSE'S VOIR DIRE EXAMINATION

MR. BROSS: Good afternoon, ladies and gentlemen of the jury. I thank you for your time and attention here on your second day of jury service.

I'll try and not ask, you know, the same questions that the State asked you, but I do have some questions for you.

And if you understand my question, you know, do your best to answer it. If you don't

1 understand my question, I'll be happy to
2 rephrase it. And hopefully you won't think I'm
3 picking on you too much.
4 First of all, I wanted to ask, Mr. Pace,
5 how are you doing -- oh, I'm sorry, Juror
6 Number 2, how are you doing today?
7 VENIREPERSON: I'm doing fine, thank
8 you.
9 MR. BROSS: All right. And I believe I
10 heard you say that you had worked at Brevard
11 Public Schools, is that correct?
12 VENIREPERSON: That is correct.
13 MR. BROSS: All right. And how long
14 have you worked there?
15 VENIREPERSON: I started, I think, in
16 about 1999, or something like that.
17 MR. BROSS: Okay, 1999?
18 VENIREPERSON: Uh-huh.
19 MR. BROSS: And you are still working
20 there, correct?
21 VENIREPERSON: Correct.
22 MR. BROSS: Okay. And what is your
23 capacity there?
24 VENIREPERSON: Today, I mean at this
25 time, I am a campus monitor for Titusville High

School.
MR. BROSS: Okay. And a campus monitor, as a campus monitor, does that require a law enforcement position?
VENIREPERSON: It's not, I'm considered what they call classified. It's support personnel from the district, but I work hand-in-hand with the school resource officer.
MR. BROSS: Okay. And the school resource officer is law enforcement, right?
VENIREPERSON: He is law enforcement.
MR. BROSS: Okay. And how long have you worked in that capacity?
VENIREPERSON: Since August of last year.
MR. BROSS: Okay. And before that, what did you do?
VENIREPERSON: I worked in maintenance for not quite a year as a liaison for the air conditioning or HVAC Department. Prior to that I worked in Human Resources as a human resource developer.
MR. BROSS: Okay. Are those the only three jobs you've had at Brevard Public Schools, those three positions?

1 VENIREPERSON: No. I have also taught
2 art.
3 MR. BROSS: Okay. So, you are a Jack of
4 all trades?
5 VENIREPERSON: Yes sir.
6 MR. BROSS: You've done a little bit of
7 everything. And I believe that you had
8 indicated that you know Patti Buchanan?
9 VENIREPERSON: A Patti Buchanan, I don't
10 know how many there are.
11 MR. BROSS: Okay. And how long have you
12 known Patti Buchanan?
13 VENIREPERSON: I would say for about 10
14 years maybe.
15 MR. BROSS: Okay.
16 VENIREPERSON: But we never socialized
17 or anything, just in a work environment.
18 MR. BROSS: Okay. And how often do you
19 see her currently?
20 VENIREPERSON: I haven't seen her since
21 I left the district.
22 MR. BROSS: Okay. And when did you
23 leave the district?
24 VENIREPERSON: I shouldn't put it that
25 way. When I left the district from the Human

Resources Department, that's the last time I saw her.

MR. BROSS: Okay, so --

VENIREPERSON: But then I went to the HVAC after that.

MR. BROSS: Uh-huh.

VENIREPERSON: And I did some off-and-on teaching of art.

MR. BROSS: Okay. So, I think you said you known her for about 10 years?

VENIREPERSON: Somewhere around there.

MR. BROSS: Okay. And you saw her when, last when approximately?

VENIREPERSON: The last time I saw her would be 2010.

MR. BROSS: Okay. And was your relationship friendly, conversational?

VENIREPERSON: Both.

MR. BROSS: Okay. And if you were to find out that she's a witness in this case, how would that affect -- strike that.

If you were to find out that she was a witness in this case, would you be more likely to believe her testimony because of your knowledge of her, your relationship with her?

VENIREPERSON: I would think so.
MR. BROSS: And if you found out that she was a witness for the State of Florida in this case, would that affect your ability to be fair and impartial in the case?
VENIREPERSON: No, I can be fair and impartial.
MR. BROSS: Well, if you're telling me that you are more likely to believe her testimony because of your relationship with her, and if she were to testify on behalf of the State of Florida, how is it that you could be fair and impartial, if you're more likely to believe her testimony because of that relationship?
VENIREPERSON: Maybe I should put it this way:
MR. BROSS: Yes, sir.
VENIREPERSON: If we're weighing this, it would make no difference one way or another, that's what I'm trying to tell you.
MR. BROSS: Okay, if you're weighing what, her testimony?
VENIREPERSON: If we trying to balance this.

MR. BROSS: Okay.
VENIREPERSON: I mean, it would make no difference.
MR. BROSS: This isn't really a balancing test, you know, voir dire means to, you know, in a voir dire, our goal is to basically find out what type of juror, you know, if you would be an appropriate juror for this case.
Okay. It's not a pass or fail. It's not like that. Our goal is to find out if there's anything about this particular case and the parties involved that would affect their fairness and impartiality.
VENIREPERSON: No.
MR. BROSS: And, you know, when I asked you if she were to testify, you said you would be more likely to believe her testimony because you know her; which is what I think you said, correct?
VENIREPERSON: Yes, sure.
MR. BROSS: Okay. So, if she is testifying on behalf of the State, and you are more likely to believe her testimony because of your relationship with her, doesn't that put

the State on some -- give them some advantage in your eyes?

VENIREPERSON: I don't think so, not in my eyes.

MR. BROSS: Okay, how do you reconcile that?

VENIREPERSON: I reconcile that as that, if I know someone --

MR. BROSS: Okay.

VENIREPERSON: -- and I know that they had never lied to me before --

MR. BROSS: Okay.

VENIREPERSON: -- then I wouldn't expect them to lie to me now.

MR. BROSS: Okay. Now, I assume that all other witnesses that come in here, they're going to start out at zero. You're not going to be more likely to believe them or not to believe them because you do not know them, correct?

VENIREPERSON: I understand, yes.

MR. BROSS: Okay, but she is different. Because of your relationship with her, she starts out with a small advantage, correct?

VENIREPERSON: I don't think so.

1 MR. BROSS: Okay, so you're not --
2 VENIREPERSON: I think I'm just
3 misconstruing what you're trying to ask me.
4 MR. BROSS: Okay.
5 VENIREPERSON: I don't know that I would
6 treat her any differently than anybody else.
7 MR. BROSS: Okay. Well, you're more
8 likely to believe her, right?
9 VENIREPERSON: I am more than likely to
10 believe her.
11 MR. BROSS: Okay. You're more likely to
12 believe what she says because of your knowledge
13 and relationship with her?
14 VENIREPERSON: Still it's -- Still it's
15 no different. I mean, I'm being confused here.
16 MR. BROSS: Okay. I'm not trying to
17 confuse you, and I apologize. She has some
18 credibility because you know her, correct?
19 VENIREPERSON: I would say yes.
20 MR. BROSS: And she would have greater
21 weight or credibility, her testimony would have
22 greater weight or credibility with you because
23 you know her, as compared to some layperson who
24 walked in off the street that you had never met
25 before?

VENIREPERSON: I don't think so.
MR. BROSS: So, you are -- And I'm not trying to beat a dead horse here, I apologize, I'm just trying to understand.
So, her testimony would have greater weight and credibility because you know her, correct?
VENIREPERSON: Here we go again.
MR. BROSS: No, I'm just trying to -- I'm not trying to -- I'm trying to understand, so that's a true statement, correct?
VENIREPERSON: I want to say yes. but at the same time, does it make her any different than anybody else that walks up there? No.
MR. BROSS: Okay. Now, you also work with law enforcement, correct?
VENIREPERSON: Well, sort of, kind of.
MR. BROSS: Okay. Well, I believe you said that you work hand-in-hand with law enforcement in your capacity as a campus monitor?
VENIREPERSON: Right. If I see someone that doesn't belong on campus, I call him on my radio and say: There's so-and-so approaching the administration office that I have no idea

who they are. Can you check them out for me please?

MR. BROSS: Okay. Now, do you or other agencies -- strike that.

Is that resource officer from Titusville High School or from the Titusville Police Department?

VENIREPERSON: Yes.

MR. BROSS: Okay. Do other law enforcement officers, or do law enforcement officers from other agencies occasionally come to the school where you work?

VENIREPERSON: They do, but the only time I think I've ever seen them come there is when they are working with students, teaching them law enforcement information.

MR. BROSS: Okay. Now, and how, just ballpark, how frequently do law enforcement officers from other agencies come to the school where you work and you interact with them or have, you know, have some dealings with them?

VENIREPERSON: I don't have any dealings with them at all.

MR. BROSS: Okay.

VENIREPERSON: Just the one school

resource officer.

MR. BROSS: Okay. And I guess in that same vein, do you have any family or friends in law enforcement?

VENIREPERSON: No.

MR. BROSS: Okay. And if a law enforcement officer were to come in here and take the stand, and they are in their uniform and they have their badge, would you be able -- would you give their testimony any greater weight or credibility because they are law enforcement?

VENIREPERSON: No.

MR. BROSS: No, okay. And if I'm wrong, please correct me. Did I hear you say your wife is retired or is she currently working?

VENIREPERSON: No, I'm divorced.

MR. BROSS: Oh, you're divorced, I'm sorry. Okay. And you have any children?

VENIREPERSON: I have three.

MR. BROSS: Okay.

VENIREPERSON: One from my first marriage, two sons from the second.

MR. BROSS: Okay. And are they employed or are they in school?

1 VENIREPERSON: They are employed.
2 MR. BROSS: Okay. And what type of work
3 do they do?
4 VENIREPERSON: My oldest son, he works
5 part-time. I believe he works at the church,
6 but he is a disabled Marine veteran.
7 MR. BROSS: Okay.
8 VENIREPERSON: And my youngest son works
9 at Harbor Restoration, which is a high-end
10 automobile restoration. And my daughter works
11 in Melbourne and she works for Daily Bread down
12 there.
13 MR. BROSS: Okay, all right. Just one
14 more question on that vein and I'll move on to
15 someone else.
16 Let's say that you saw Patti Buchanan in
17 a month or two and, you know, she said: Hey,
18 what happened at trial?
19 And you were to happen to make the jury
20 panel, and you were to say: Well, we found her
21 not guilty. I voted for, you know, the
22 Defendant in this case to be found not guilty.
23 Would you have any reservations telling
24 her that?
25 VENIREPERSON: I would feel

uncomfortable about even talking about it at all.

MR. BROSS: Okay. Now, thank you, sir. I wasn't trying to beating a dead horse. I wasn't trying to make you uncomfortable. I'm just trying to understand.

I mean, these are kind of complicated things that we, you know, we talk about. But we're just trying to get a feel for, you know, if there's any bias or prejudices, and that goes for everyone, that would affect, you know, your ability to sit and hear this case fairly and impartially.

Oh, and it's -- Well, I'll come back to that. But I thank you for your time and I hope you don't think I was picking on you too much.

VENIREPERSON: No.

MR. BROSS: Juror Number 3, how are you doing today?

VENIREPERSON: Good, thank you.

MR. BROSS: Now, I know that this is -- I don't mean to talk about sore subjects, but that's sometimes how we get to places, I guess, or figure things out.

I thought I -- I believe I heard you say

that you were the victim of a crime?

VENIREPERSON: Right.

MR. BROSS: And I'm sorry about that, that's terrible. Approximately how long ago was that?

VENIREPERSON: In 1993.

MR. BROSS: Back in 1993?

VENIREPERSON: Uh-huh.

MR. BROSS: Wow. And I believe I heard you say that you still attend court proceedings and things like that, or you are still aware of things that go on in that case?

VENIREPERSON: Yeah. Well, he absconded for 11 years, and he was picked up in Tennessee and came back here to serve more time.

MR. BROSS: Okay. And I believe you said that you are currently retired?

VENIREPERSON: Yes.

MR. BROSS: And I think -- Where had you worked before?

VENIREPERSON: It's Brevard County Water.

MR. BROSS: Oh, that's right. That's right.

VENIREPERSON: We were their billing

office.
MR. BROSS: Thank you, that right. Water is cheaper in Mims, right. Gotcha, thank you.
And obviously being the victim of a crime is a traumatic experience?
VENIREPERSON: Uh-huh.
MR. BROSS: And I wouldn't wish that on anybody.
VENIREPERSON: No.
MR. BROSS: Was the fact that you were a victim, and it sounds like in some respect -- and I could be wrong and if I am -- if I am wrong, please correct me.
VENIREPERSON: Uh-huh.
MR. BROSS: Do you feel like justice was done completely in your case or do you feel --
VENIREPERSON: Oh, yeah.
MR. BROSS: Do you feel like he's paid a debt or do you feel like there's still a debt owed?
VENIREPERSON: Well, he's still paying his debt.
MR. BROSS: Okay, and so he's -- okay, so there's still some debt owed then?

VENIREPERSON: Right.

MR. BROSS: Okay. And I think I heard you say that you were a juror in the past, correct?

VENIREPERSON: Correct.

MR. BROSS: Was it just one time?

VENIREPERSON: One time.

MR. BROSS: Was that a civil case?

VENIREPERSON: A civil case.

MR. BROSS: A civil case, all right.

Now, when the -- do you -- I think -- do you still show up at proceedings or is it that you're made aware of proceedings when there are proceedings?

VENIREPERSON: Yeah. They just had a hearing and they wanted some information.

MR. BROSS: Okay.

VENIREPERSON: And they wanted to transfer his probation to Tennessee.

MR. BROSS: Okay.

VENIREPERSON: And they had a hearing on it.

MR. BROSS: Okay. And when you are made aware of these court proceedings on all of that, are you made aware by the State

Attorney's office?
VENIREPERSON: Yeah (indiscernible).
MR. BROSS: Okay, and like you keep --
VENIREPERSON: Yeah, we usually sit out there.
MR. BROSS: Okay, are you a Victim's Advocate as well?
VENIREPERSON: No.
MR. BROSS: Okay. But I think I heard I heard you say you're a guardian ad litem?
VENIREPERSON: A guardian ad litem.
MR. BROSS: As a guardian ad litem. Do you have any duties or special duties in regards to reporting?
VENIREPERSON: I actually left in 2006 and I'm no longer with them.
MR. BROSS: Oh, I'm so sorry. I apologize for that, sorry. You were a guardian ad litem though, correct?
VENIREPERSON: Yes.
MR. BROSS: Did you have duties to report crimes or things that you believe had happened to children as a guardian ad litem?
VENIREPERSON: We really didn't get into crimes or anything. These are people that are

in the Court system through no fault of their own.

MR. BROSS: Okay. Now, it sounds like this crime -- The crime that you were a victim of happened in 1993 and this is 2017 and you have -- Have you maintained a close relationship with the State Attorney's office and the Victim's Advocate during the process?

VENIREPERSON: Whenever they have a hearing.

MR. BROSS: Okay. Now, just on that same vein, does the State Attorney's office, because say, you know, prosecuted your case and because they contact you and make you aware of things that happen, do they have, you know, even if it's a minute kind of advantage, I mean, do you have some favorite, you know, even if it's a minor -- even if it's minor --

VENIREPERSON: But this is mine that they contact --

(More than one speaker, indiscernible.)

MR. BROSS: Ma'am?

VENIREPERSON: They just call and let me know when it's mine.

MR. BROSS: That's it?

VENIREPERSON: And they send text messages or message when they have a hearing.

MR. BROSS: Okay, okay. And I think I also heard you say you've talked to -- The Victim's Advocate contacted you as well, or you were speaking to the Victim's Advocate about it?

VENIREPERSON: Yeah, they will meet you at court, be here when you are here.

MR. BROSS: Okay. And I guess because of this experience where, you know, you were a victim of a crime and you've had some communications and contact relationships with the State Attorney's office, does that in any way affect your ability --

VENIREPERSON: No.

MR. BROSS: -- to be fair and impartial in this case?

VENIREPERSON: No.

MR. BROSS: No, okay.

VENIREPERSON: One thing has nothing to do with the other.

MR. BROSS: Okay. And kind of like I asked Juror Number 2, you know, let's say, you know, you were to tell the Victim's Advocate or

the Victim's Advocate said: Hey, you know, I heard you were a juror in this case.

Would you have any qualms or any issues with telling them, you know, let's say you were to find the Defendant not guilty in this case. Would you have any issue with that?

VENIREPERSON: Why, why? Why would I have a problem?

MR. BROSS: Okay. Why, I don't know.

VENIREPERSON: It's not just your decision, it's seven or six people's decision.

MR. BROSS: Okay. Well, I don't know and that's why I'm asking you questions, because I'm trying to figure out the -- I'm trying to get you to answer these questions.

Because again, you know, our only goal in here is to really trying to find a jury that's completely, you know, fair and impartial.

VENIREPERSON: Right.

MR. BROSS: So I'd appreciate if you answer my questions.

VENIREPERSON: Right.

MR. BROSS: And I may come back to you, but I thank you for your time.

Juror Number 5, how are you doing today?
VENIREPERSON: Good, sir, how are you?
MR. BROSS: Good, thank you.
I think you said that you work at Tractor Supply, correct?
VENIREPERSON: Yes.
MR. BROSS: Are you single or married?
VENIREPERSON: Married.
MR. BROSS: Okay. What type of work does your wife do?
VENIREPERSON: She's a vet tech.
MR. BROSS: Okay. And do you have children?
VENIREPERSON: I do.
MR. BROSS: Are they younger, older?
VENIREPERSON: They're 13 and 17.
MR. BROSS: Okay. So you have the joyous teenagers?
VENIREPERSON: Yeah.
MR. BROSS: Okay. And I think you said you were and eight when asked about your desire to serve as a juror, correct?
VENIREPERSON: Correct.
MR. BROSS: And you never served as a jury before -- a juror before?

VENIREPERSON: No.
MR. BROSS: And I think you also said that you had been a victim of a crime?
VENIREPERSON: Correct. Car broken into and radio stolen.
MR. BROSS: Okay. So, did the State Attorney's office prosecute or did they find the person in that case that did it?
VENIREPERSON: You know, in all honesty I was speaking to one of the cops. They walked me down the street, and I guess they had caught them doing it.
MR. BROSS: Oh, okay.
VENIREPERSON: And asked me to see which radio was mine and I pointed my radio out. I got it back like six months later.
MR. BROSS: Okay.
VENIREPERSON: I really don't know if --
MR. BROSS: Was that here locally or was somewhere else?
VENIREPERSON: Reno. Reno, Nevada.
MR. BROSS: Reno, okay.
VENIREPERSON: In 1996.
MR. BROSS: Okay. So, that really has no effect on your opinions in this case.

Do you have any friends or family in law enforcement?

VENIREPERSON: I have -- I have two cousins that are law enforcement, but I haven't spoken to them in years and years and years.

MR. BROSS: Okay, are they local?

VENIREPERSON: Reno.

MR. BROSS: Okay, Reno. And is that where your family is from, Reno?

VENIREPERSON: No.

MR. BROSS: Okay. And you never had any dealings with DCF or anything like that, correct?

VENIREPERSON: (No audible response.)

MR. BROSS: Okay. And you've never been accused of a crime?

VENIREPERSON: (No audible response.)

MR. BROSS: Okay, thank you.

And Juror Number 6, how are you doing today?

VENIREPERSON: Good, thank you, sir.

MR. BROSS: I think you said that your brother-in-law was a deputy here in the courthouse, correct?

VENIREPERSON: That is correct.

MR. BROSS: And you are currently employed, correct?
VENIREPERSON: Something like that, I guess.
MR. BROSS: Okay. And what type of work do you do?
VENIREPERSON: We have the road striping and the road sign business.
MR. BROSS: Okay. And how long have you been employed in that capacity?
VENIREPERSON: Thirty years.
MR. BROSS: Huh?
VENIREPERSON: Thirty years.
MR. BROSS: Thirty years, okay. And are you single or married?
VENIREPERSON: Married.
MR. BROSS: Okay. And what type of work does your wife do?
VENIREPERSON: My wife is a flight attendant.
MR. BROSS: Okay. And do you have any children?
VENIREPERSON: Yes.
MR. BROSS: Okay. How many children?
VENIREPERSON: Two daughters.

MR. BROSS: Okay. Are they older or younger, or in school?

VENIREPERSON: They're 20 and 33.

MR. BROSS: Okay. And what type of work do they do?

VENIREPERSON: They are both teachers.

MR. BROSS: Okay, in Brevard County Public Schools?

VENIREPERSON: One's at Viera High and one's in Tampa.

MR. BROSS: Okay, what do they teach?

VENIREPERSON: One's a math teacher and other one is an elementary teacher at a charter school.

MR. BROSS: And do you own your own business?

VENIREPERSON: Yes, sir.

MR. BROSS: And is it a small business?

VENIREPERSON: I would say small, yes, sir.

MR. BROSS: Okay. And you're the boss that runs the day-to-day operations, so to speak?

VENIREPERSON: Yes, sir.

MR. BROSS: And with your -- Does that

have any effect on your ability to serve as a juror in this case?

VENIREPERSON: Not as long as we get breaks and I can make phone calls.

MR. BROSS: Okay. Well, what if -- I mean, what if we don't get a break and you are stuck?

VENIREPERSON: Well, people are going to have to wait.

MR. BROSS: I'm sorry?

VENIREPERSON: People would have to wait, I guess.

MR. BROSS: Okay. So, does your business operate -- Do you have certain business hours that it operates?

VENIREPERSON: No, no.

MR. BROSS: Okay, 24 hours a day?

VENIREPERSON: Well, depending on the job with the road striping, that's night-work.

MR. BROSS: So, typically you're talking about your job is working nights?

VENIREPERSON: No, typically during the day.

MR. BROSS: Is it during the day?

VENIREPERSON: Yes, during the day. It

1 just depends.
2 MR. BROSS: Okay. And I, for some
3 reason, failed to note your number on a scale
4 of one to 10. Do you recall what it was?
5 VENIREPERSON: Yes, it was a five.
6 MR. BROSS: It's probably a three now,
7 right, after I started asking you questions?
8 Now, you had a brother-in-law who is in
9 law enforcement. Are you close to him?
10 VENIREPERSON: Not as close as -- No,
11 not that close.
12 MR. BROSS: Okay. And has he always
13 been a courtroom deputy or has he been a road
14 deputy?
15 VENIREPERSON: He was a road deputy at
16 first.
17 MR. BROSS: Does he ever -- Do you guys
18 do holidays together, Thanksgiving and stuff
19 like that?
20 VENIREPERSON: Most of the time.
21 MR. BROSS: Do you guys watch like
22 football games, basketball games?
23 VENIREPERSON: No, no.
24 MR. BROSS: Okay. And I asked some of
25 the other jurors about this as well. Is the

fact that you have a brother-in-law who's In law enforcement, a Sheriff's deputy, and there may be Sheriff's deputies who testify in this case, would you give the testimony of the deputies any greater weight or credibility because they are law enforcement?

VENIREPERSON: No, I would not.

MR. BROSS: Okay. So, if you were having Thanksgiving dinner with your brother-in-law and he says: What happened with that case you were a juror on?

And you say: Oh, we found her not guilty.

You wouldn't have any qualms or reservations about that?

VENIREPERSON: No.

MR. BROSS: So, if a law enforcement officer were to testify, they would start at exactly the same place as all other witnesses?

VENIREPERSON: Yes, of course.

MR. BROSS: You wouldn't see their testimony as -- or give their testimony any greater weight or credibility?

VENIREPERSON: That's correct.

MR. BROSS: Okay. Have you ever been a

victim of a crime?
VENIREPERSON: No, sir.
MR. BROSS: Have you ever been accused of a crime?
VENIREPERSON: No, sir.
MR. BROSS: And how long have your daughters been teaching?
VENIREPERSON: Oh, since getting out of college.
MR. BROSS: Okay.
VENIREPERSON: So, you know, 10 years and in six years respectively.
MR. BROSS: Now, have your -- Have you talked to your daughters about their work and things that they do at work and things that happened at work, and stuff like that?
VENIREPERSON: Yes, we communicate.
MR. BROSS: Okay. Did they ever tell you, you know, that they've had to report incidences regarding children they work with or anything, or students?
VENIREPERSON: We have heard some stories, yes.
MR. BROSS: Oh, you have?
VENIREPERSON: Yes.

MR. BROSS: And usually when someone is having to report something, it's probably something that's, you know, not the greatest. It's probably something that's not good.

If you were to hear -- strike that.

I'll come back to you, I don't want to -- I want to be careful the way I ask questions. I'll come back to you after I've thought of a better way to approach that subject. But I thank you for answering my questions, sir.

Juror Number 12, how are you doing today?

VENIREPERSON: Pretty good.

MR. BROSS: Thank you. Now, I believe, I thought I heard you say when this all started that you knew Phil Archer?

VENIREPERSON: Yeah, years ago.

MR. BROSS: Years ago?

VENIREPERSON: Yeah.

MR. BROSS: Okay. Approximately how long did you know him?

VENIREPERSON: Well, I dated his sister.

MR. BROSS: Oh, you did.

VENIREPERSON: He was a kid then. I

1 mean, you know, he was not very old.
2 MR. BROSS: Okay. So you knew him as --
3 you guys knew each other as children or when
4 you were younger, I imagine?
5 VENIREPERSON: No, I was older but he
6 was -- I guess he must have been about 12 or
7 13, or something like that.
8 MR. BROSS: Okay. But you were dating
9 her and he was a little kid?
10 VENIREPERSON: Yeah.
11 MR. BROSS: Did you used to pick on him
12 and pull his ears and give noogies? Did you
13 vote for him?
14 (More than one speaker, indiscernible.)
15 MR. BROSS: Did you vote for him?
16 VENIREPERSON: I can't say.
17 MR. BROSS: You don't have to -- I
18 shouldn't have asked that, I'm sorry.
19 THE COURT: Mr. Bross, aren't people's
20 votes private?
21 MR. BROSS: I'm sorry, I'm sorry. I
22 shouldn't have asked that question.
23 (More than one speaker, indiscernible.)
24 THE COURT: My goodness.
25 MR. BROSS: I was halfway kidding. I

1 won't ask you anymore things like that. I
2 apologize.
3 How long did you date his sister for, I
4 mean, is it something in high school that you
5 guys dated?
6 VENIREPERSON: Well, it was for about
7 three or four years.
8 MR. BROSS: Okay. Do you have any
9 communication with him still?
10 VENIREPERSON: No, I haven't seen him in
11 years.
12 MR. BROSS: Now, obviously the Assistant
13 State Attorneys who are working here in the
14 courtroom are, you know, working for Phil.
15 Does that have any effect on your ability to be
16 fair and impartial in this case?
17 VENIREPERSON: No.
18 MR. BROSS: Okay. And I believe you
19 said you had prior jury service. Is that
20 correct?
21 VENIREPERSON: Yes.
22 MR. BROSS: And how many times, once or
23 twice?
24 VENIREPERSON: No, I used to get called
25 about every two years, I think it was.

MR. BROSS: Okay.
VENIREPERSON: And then it's been 18 or 20 years since I got called and then I just got -- It surprised me when I got called up because I thought I wasn't getting called anymore.
MR. BROSS: Okay.
VENIREPERSON: But I used to get called pretty regular.
MR. BROSS: Have you ever sat on the jury where the jury reached a verdict, did you ever get to that point?
VENIREPERSON: Yes.
MR. BROSS: Okay. How many times, once, twice?
VENIREPERSON: Once.
MR. BROSS: Okay. And was that a criminal case or a civil case?
VENIREPERSON: It was just an assault case.
MR. BROSS: And then you said you were retired, I just can't recall from what?
VENIREPERSON: (Indiscernible) Utilities, it's a power plant down the road.
MR. BROSS: Okay. And what type of work did you do there?

VENIREPERSON: I was a board operator.
MR. BROSS: And how long did you do that type of work for?
VENIREPERSON: 21 years.
MR. BROSS: Okay. After moving on from Phil's sister, did you find someone to marry?
VENIREPERSON: Yes.
MR. BROSS: All right. And what type of -- Does your wife work outside the home or did she work?
VENIREPERSON: Yes, she still works.
MR. BROSS: What type of work does she do?
VENIREPERSON: She works with Adult-Ed here in Brevard County.
MR. BROSS: Okay. So she works for the school?
VENIREPERSON: Yes.
MR. BROSS: Brevard Public Schools, is she a school teacher or does she have some other job?
VENIREPERSON: She's like a learning specialist and she works with kids that can't speak English or what have you.
MR. BROSS: Okay. So that's because

they speak different languages or they have a language --

VENIREPERSON: Yeah.

MR. BROSS: Okay.

VENIREPERSON: She sets up a training program for them to go about it.

MR. BROSS: Okay. How long has she been doing that type of work, just ballpark?

VENIREPERSON: Probably 20-something years.

MR. BROSS: Okay, and do you have any children?

VENIREPERSON: Yes.

MR. BROSS: And how many children do you have?

VENIREPERSON: Three girls.

MR. BROSS: Okay. And what type of work do they do?

VENIREPERSON: My oldest works out here at the Space Center.

MR. BROSS: Okay.

VENIREPERSON: And the middle one works -- She used to work out there, but they got moved to Arkansas. Her husband lost his job.

And then the baby one is (indiscernible)

she's working in Orlando right now.
MR. BROSS: Okay, what part of Arkansas?
VENIREPERSON: Up there close to Harrisburg, Paris.
MR. BROSS: Okay. So, up in the Ozarks, is that where?
VENIREPERSON: Yeah.
MR. BROSS: Have you ever been up there and seen it?
VENIREPERSON: Oh, yeah.
MR. BROSS: Pretty up there, isn't it?
VENIREPERSON: Yes, it is.
MR. BROSS: Now, you've heard me ask some of the other jurors this question -- strike that.
Do you have any friends or family in law enforcement?
VENIREPERSON: I had a cousin years ago that was -- He was with law enforcement in Tallahassee, but he's retired. He's been retired almost 20 years now.
MR. BROSS: Okay. Well, for whatever reason, would you give a law enforcement officer's testimony any greater weight or credibility, you know, just because they are

law enforcement?
VENIREPERSON: No.
MR. BROSS: Okay. Now, you know, I ask this question, because some people think that you should give them, you know, a law enforcement officer's testimony greater weight or credibility because they are law enforcement.
And if you feel that way, that's fine. I'm just asking the question just to make sure that you don't feel that way. That's not the way you feel, right?
VENIREPERSON: No, I don't feel that way.
MR. BROSS: Okay. And have you ever been the victim of a crime?
VENIREPERSON: I had a boat that had been stolen back in about '76 or '77, somewhere along in there.
MR. BROSS: They did you a favor, didn't they?
VENIREPERSON: Well, I got it back that evening. The Sheriff's Department found it that evening.
MR. BROSS: Okay. And have you ever

been accused of a crime or anything like that before?

VENIREPERSON: No.

MR. BROSS: Okay. And did I hear you say you had some dealings with DCF, or is that something that we -- Oh, no, forget it, sorry.

Thank you. Thank you, sir.

Juror Number 10, how are you doing today?

VENIREPERSON: I'm good, how are you?

MR. BROSS: I'm good, thank you.

Now, you are a CNA at the rehab center, is that correct?

VENIREPERSON: Uh-huh.

MR. BROSS: And I think I heard you say that you had been a victim of false reporting?

VENIREPERSON: Well, the report wasn't against me. It was against my son (trailing off).

MR. BROSS: Okay. So, it was against you?

VENIREPERSON: Yeah.

MR. BROSS: And that probably -- Now, you heard what the charges are in this case, correct?

VENIREPERSON: Right.
MR. BROSS: Is the fact that that happened to you affect your ability to be fair and impartial in this case?
VENIREPERSON: No.
MR. BROSS: Okay. How long ago did that happen to you?
VENIREPERSON: Oh, that was probably like five years ago. Yeah, five -- four years ago.
MR. BROSS: Okay, did they -- So, what happened with the individual who made the false report?
VENIREPERSON: I don't know. I think they tried to say they was not eating right, it was non-nutritional stuff. But they had went -- I guess the social workers went and talked to -- seen them at school. And then they came to the house to see that.
MR. BROSS: Uh-huh.
VENIREPERSON: And it just went from there.
MR. BROSS: Okay. Did anything ever happen to the person who made the false report?
VENIREPERSON: No, I never knew who,

they never told us who it was.
MR. BROSS: Okay. Did you try to find out?
VENIREPERSON: Uh-uh.
MR. BROSS: And how many times did you have to meet with DCF over that incident?
VENIREPERSON: They only came once.
MR. BROSS: Okay. And the allegations in this case regarding, you know, regarding Ms. Loyd allegedly making a false report to DCF, and you were the victim of that.
VENIREPERSON: Right.
MR. BROSS: And it sounds like they never took action or they never did anything in regards to the person who did that, right?
VENIREPERSON: Uh-huh.
MR. BROSS: Okay. So, are you more likely to find the Defendant guilty because that's something that happened to you and you never got justice for it?
VENIREPERSON: No.
MR. BROSS: Are you sure?
VENIREPERSON: Yeah.
MR. BROSS: Okay. And I think -- Do you still live with -- You still live with your

parents, is that what I heard you say?
VENIREPERSON: No, I live in my house.
MR. BROSS: Okay. And are you single or married?
VENIREPERSON: Single.
MR. BROSS: Okay. And how many kids do you have?
VENIREPERSON: One.
MR. BROSS: Okay. And do you have any friends or family in law enforcement?
VENIREPERSON: No.
MR. BROSS: And I believe you said you were a five, correct?
VENIREPERSON: Huh?
MR. BROSS: I believe you said that as far as your desire to be here, it was a five?
VENIREPERSON: Yeah.
MR. BROSS: Okay, is it still a five?
VENIREPERSON: As far as going down from a five, I think it's a four.
MR. BROSS: Well, I have some more questions I'm considering. Now, you've heard me ask some questions about law enforcement?
VENIREPERSON: Uh-huh.
MR. BROSS: Have you got any friends or

family in law enforcement?
VENIREPERSON: No.
MR. BROSS: Okay. And are you more likely to believe the testimony of a witness merely because they are law enforcement?
VENIREPERSON: No.
MR. BROSS: Okay. And have you ever been the victim of crime?
VENIREPERSON: No.
MR. BROSS: Okay. Have you ever been accused of a crime?
VENIREPERSON: No.
MR. BROSS: Thank you.
Juror number 9, how are you doing today?
VENIREPERSON: I'm doing pretty good.
MR. BROSS: All right. And are you single or married?
VENIREPERSON: I'm single.
MR. BROSS: Okay. I thought I heard someone ask you this, but I don't recall the answer. Do you live at home or do you live by yourself?
VENIREPERSON: Yeah, I live with my parents.
MR. BROSS: Okay. And what type of work

do your parents do?

VENIREPERSON: UPS.

MR. BROSS: UPS, okay.

VENIREPERSON: Delivering packages.

MR. BROSS: And where do you -- Do you work with them?

VENIREPERSON: No.

MR. BROSS: Okay. Have you ever had -- have you had a job?

VENIREPERSON: Yeah, I used to work at Walmart.

MR. BROSS: Okay. Do you have any children?

VENIREPERSON: No.

MR. BROSS: Okay. Have you ever been accused of a crime?

VENIREPERSON: No.

MR. BROSS: Okay. And have you ever been the victim of a crime?

VENIREPERSON: No.

MR. BROSS: Do you have any friends or family in law enforcement?

VENIREPERSON: I have my mom's roommate.

MR. BROSS: Okay.

VENIREPERSON: Who's a retired Cocoa

police officer.

MR. BROSS: Okay. And let's say your mom's roommate, how long -- Is this someone that you know or someone that you're close with?

VENIREPERSON: I'm not close with him, but I do know him.

MR. BROSS: Okay, how long have you known him?

VENIREPERSON: Five years, but I've only see him every -- a week out of two months.

MR. BROSS: Okay, because you've been staying there and living with them?

VENIREPERSON: Yeah, I go there when my mom comes home.

MR. BROSS: Okay.

VENIREPERSON: She's a truck driver.

MR. BROSS: Okay, your mom's a truck driver?

VENIREPERSON: Yeah.

MR. BROSS: And so, since she lives with a retired Cocoa police officer and you go stay there -- okay. And that's been the situation for about five years?

VENIREPERSON: Yes.

MR. BROSS: Has that individual, the retired police officer, been an active duty police officer during any of that time?

VENIREPERSON: No, ever since I've known him, he was retired.

MR. BROSS: Uh-huh. Does he have friends in law enforcement that come over?

VENIREPERSON: No.

MR. BROSS: Okay. Does he ever tell you stories about the days that he was an officer and things like that?

VENIREPERSON: Yeah.

MR. BROSS: Okay. Now, some of the witnesses in this case might be law enforcement officers. And it sounds like you've developed, you know, a sort of close relationship with a law enforcement officer over five years.

Are you more likely to believe a witness' testimony, if that witness is a law enforcement officer?

VENIREPERSON: No, sir.

MR. BROSS: Okay. So, if you were to find your way onto this jury panel and you were staying with your mom that weekend, would you have any qualms saying: Oh, yeah, I was on the

jury panel and I found them not guilty.
VENIREPERSON: No.
MR. BROSS: It would have no effect on you?
VENIREPERSON: No.
MR. BROSS: Okay, and you are 19?
VENIREPERSON: Yes.
MR. BROSS: And let's see, when's the last time you had a job or worked?
VENIREPERSON: Five months ago.
MR. BROSS: Okay. Do you plan on going back to school or anything?
VENIREPERSON: Yes, definitely. I've got to get my GED.
MR. BROSS: Okay. What would you like to do with your future?
VENIREPERSON: I'd like to be a mechanic at like a four wheeler, like a Yamaha dealer or something.
MR. BROSS: Okay, so you like four wheelers?
VENIREPERSON: Yeah, I like off-road vehicles. I like that stuff.
MR. BROSS: Okay. Thank you, I might have some more questions for you.

Juror Number 7, how are you doing today?
VENIREPERSON: Good.
MR. BROSS: Now, I believe I heard you say you are a planner, is that what I heard?
VENIREPERSON: Yes, that's what they call me.
MR. BROSS: Okay, okay. What do you plan?
VENIREPERSON: Help the NASA private managers with the new work that they are doing out there.
MR. BROSS: Okay. And when you say the new work that they are doing out there, are you talking about some of the private companies that are working with --
VENIREPERSON: Well, NASA is -- When the shuttle got retired there's a whole new program. And they're remodeling the VAB, the crawler and things like that.
MR. BROSS: Okay.
VENIREPERSON: I'm in the planning group.
MR. BROSS: Okay, and how long --
VENIREPERSON: (Indiscernible.)
MR. BROSS: And how long have you been

working in that capacity doing this kind of work?

VENIREPERSON: I've been working out there for 14 years.

MR. BROSS: Okay. And are you single or married?

VENIREPERSON: Married.

MR. BROSS: Okay, and what type of work does your spouse do?

VENIREPERSON: He's a private manager out at the Space Center.

MR. BROSS: Okay. Now you plan and he manages, is that correct?

VENIREPERSON: Correct.

MR. BROSS: All right. And do you have any children?

VENIREPERSON: I have one.

MR. BROSS: Okay, are they old or younger?

VENIREPERSON: Older.

MR. BROSS: Okay, employed or in school?

VENIREPERSON: Employed.

MR. BROSS: Okay. What type of work does your -- your --

VENIREPERSON: My son.

MR. BROSS: Yeah, your son.
VENIREPERSON: He's a pool refinisher.
MR. BROSS: Okay. And I believe you said that you knew Juror Number 20, is that correct?
VENIREPERSON: Yes.
MR. BROSS: Okay. And how do you know Juror Number 20?
VENIREPERSON: He used to work with my husband when they were working on the (indiscernible) building.
MR. BROSS: Okay.
VENIREPERSON: And I would see him at work with him.
MR. BROSS: Okay. And are you guys friends or acquaintances?
VENIREPERSON: Acquaintances.
MR. BROSS: Okay. Now, let's say you were to get on the jury panel and Juror Number 20 got on the jury panel and the two of you had very, very different feelings about this case.
Would you change your mind to go along with Juror Number 20, or would you stick to your guns?
VENIREPERSON: No, I would stick to my

guns.
MR. BROSS: Okay. And have you ever been the victim of a crime?
VENIREPERSON: Somebody took something out of our garage when it was open.
MR. BROSS: A weed-eater or a --
VENIREPERSON: Actually it was a blower.
MR. BROSS: A blower, okay. Have you ever been accused of a crime?
VENIREPERSON: No.
MR. BROSS: And do you have any friends or family in law enforcement?
VENIREPERSON: No.
MR. BROSS: Okay. And I've asked this question of other people. For whatever reason, are you more likely to believe the testimony of a witness because they are a law enforcement officer?
VENIREPERSON: No.
MR. BROSS: No, okay. What kind of education -- Well, what did you study when you went to school, I guess I should ask.
VENIREPERSON: I have my BS in (indiscernible) technology.
MR. BROSS: Okay. And have you ever had

any dealings with DCF or anything like that?

VENIREPERSON: No.

MR. BROSS: Thank you.

Juror Number 13, how are you doing today?

VENIREPERSON: I'm okay.

MR. BROSS: Good. I know what kind of work your kids do, but I can't remember what you said you did.

VENIREPERSON: Oh, I didn't hear that statement.

MR. BROSS: Oh, I'm sorry, okay. I should know --

(More than one speaker, indiscernible.)

VENIREPERSON: -- if I had children, but I'm a hairdresser.

MR. BROSS: Okay. How long you been doing that work.

VENIREPERSON: Well, for 40 years, but on the side, you know, I worked for over 10 years.

MR. BROSS: Okay. So you know all about everyone's business, right? My mom always talks to her hairdresser.

VENIREPERSON: And I've been listening.

MR. BROSS: Yeah. Okay. And I think you said your husband is a pilot, correct?

VENIREPERSON: He is.

MR. BROSS: Does he --

VENIREPERSON: He's retired.

MR. BROSS: A pilot, okay. How long ago did he retire?

VENIREPERSON: Four years ago, he had medical problems.

MR. BROSS: Okay. Is he one of the pilots who got a gun and -- I know some of the pilots they trained to carry guns, was he one of those?

VENIREPERSON: No, no, he didn't.

MR. BROSS: No, okay. And do you have any friends or family in law enforcement?

VENIREPERSON: No.

MR. BROSS: Okay. And you've heard me ask the question and I'll ask you. For whatever reason, because of the way you were raised or whatever, are you more likely to believe a witness or give a witness' testimony any greater weight or credibility because they are law enforcement?

VENIREPERSON: I would not.

MR. BROSS: Okay. Have you ever been a victim of a crime?

VENIREPERSON: Oh, my house was broken into.

MR. BROSS: Okay, how long ago was that?

VENIREPERSON: Oh my goodness, it would be in '80 -- or no, it would be in '79.

MR. BROSS: Wow.

VENIREPERSON: That's what I was thinking.

MR. BROSS: Okay. So, that's not affecting you in any way in regards to this case, correct?

VENIREPERSON: No, it is not.

MR. BROSS: Okay. And have you ever had any dealings with DCF?

VENIREPERSON: I have not.

MR. BROSS: And have you ever been accused of a crime?

VENIREPERSON: I have not.

MR. BROSS: I think that's it, thank you.

THE COURT: Counsel, could you approach for a moment please?

MR. BROSS: Sure.

(Whereupon, side bar proceedings, out of the hearing of the Venire:)

THE COURT: I was surprised, I was expecting you to pay attention this morning and take good notes.

MR. BROSS: I did.

THE COURT: And read the jury questionnaires.

MR. BROSS: I did, did, I'm not --

THE COURT: And you are rehashing it all.

MR. BROSS: Okay, I'm --

THE COURT: And you are rehashing every last bit of it.

MR. BROSS: Okay, well, I will not --

THE COURT: Please use this time to --

MR. BROSS: All right. I feel that some of this stuff wasn't covered, but I will --

THE COURT: I mean, anything you feel was uncovered, you go ahead and do it.

MR. BROSS: Uh-huh.

THE COURT: But I've been typing it, and I'm typing the exact same thing over and over.

MR. BROSS: All right, okay.

THE COURT: And people will come to

think --
MR. BROSS: Okay, right. Thanks.
THE COURT: Thank you.
(Whereupon, before the Court and Venire:)
MR. BROSS: Now, Ms. Walker, how are you doing today. Oops, Juror Number 15, how are you doing today? Sorry.
VENIREPERSON: I'm good.
MR. BROSS: All right. I believe you and stated that you had four times that you had served on a jury?
VENIREPERSON: No, no. Four times I've been called for jury duty.
MR. BROSS: Okay. And did you actually go through deliberations?
VENIREPERSON: (Indiscernible.)
MR. BROSS: Okay. And I got the feeling that the last time or one of the times that you had served, that you had some things that didn't sit too well with you. Is that -- Am I wrong about that or is that a fair statement?
VENIREPERSON: Yeah.
MR. BROSS: Okay. Now, is there anything about that experience that affects

your ability to sit as a juror on this case?
VENIREPERSON: No.
MR. BROSS: Okay. And I thought I heard you say that your husband is at home and he's -- Does he have health problems or is it the dogs that have health problems or is it both of them?
VENIREPERSON: We all have health problems.
MR. BROSS: Okay. Now, I wasn't sure if you had the ability to serve -- your ability to serve as a juror on this case. I got the impression that you were concerned about your husband and you were concerned about your dogs. And you were concerned about your husband's ability to take care of the dogs.
VENIREPERSON: Right.
MR. BROSS: If you were chosen and you ended up having to stay here late because of your deliberations or for any other reason, would those concerns, the concerns about your husband and the pets and that sort of thing, would that affect your ability to deliberate in this case or to be a Juror?
VENIREPERSON: It wouldn't affect it, it

would just be I'm not home.
MR. BROSS: Okay.
VENIREPERSON: And doing what I should be doing.
MR. BROSS: Okay. Well, are you, you know, if, for some reason, you're deliberating or we're here late, are you going to be thinking and concerned about dogs, are you going to be concerned about your husband, so that you're thinking about those things instead of thinking about, you know, the testimony and the arguments and the instructions?
VENIREPERSON: No, I would tend to business here and worry about what I have to worry about when I get home.
MR. BROSS: Okay. And if you were deliberating and it got to be late and it got to be deliberating for a long time, are you going to be more likely to, you know, change your mind and go with the other people to try and get out of here because you're worried about your pets and that sort of thing?
VENIREPERSON: No.
MR. BROSS: Okay. What type of work did your husband do?

VENIREPERSON: He was a calibration specialist at NASA.

MR. BROSS: Okay. And I don't recall anyone asking if you had any friends or family in law enforcement, do you?

VENIREPERSON: No.

MR. BROSS: Okay, thank you.

Juror Number 16, how you doing?

VENIREPERSON: Good, how are you?

MR. BROSS: Good. Now, I believe earlier in the day you talked about your twin boys?

VENIREPERSON: Uh-huh.

MR. BROSS: And I believe you said they had a doctor's appointment tomorrow?

VENIREPERSON: Yes.

MR. BROSS: Okay. I thought I heard that you were concerned about the doctor's appointment and them getting shots and crying and things like that.

VENIREPERSON: Well, I'm concerned, but I know they're going to get shots and do what they usually do.

MR. BROSS: Okay. What time is their doctor's appointment?

VENIREPERSON: At 10:00.
MR. BROSS: Okay. So at ten o'clock to, you know, 10:00 to noon, are you going to be thinking about them?
VENIREPERSON: Well, I think about them all the time, so this isn't --
MR. BROSS: Okay, all right. Okay. So, is your concern for your boys and the shots that they are getting and the fact that they're going to want their mom, is that going to affect your ability to serve as a juror in this case?
VENIREPERSON: No, I'll call at lunch and check on them.
MR. BROSS: Okay.
VENIREPERSON: Like I do at work.
MR. BROSS: Okay, all right. And you are -- okay, thank you.
VENIREPERSON: Uh-huh.
MR. BROSS: Now, Juror Number 17, how are you doing today?
VENIREPERSON: Very good, and yourself?
MR. BROSS: Good, thank you.
Now, how long were you a law enforcement officer?

VENIREPERSON: From 1975 to 1982.
MR. BROSS: Okay. Was that the only time period that you were a law enforcement officer?
VENIREPERSON: Yes.
MR. BROSS: Do you still have friends that are working in law enforcement?
VENIREPERSON: Yes, I do.
MR. BROSS: So, you were in -- that was -- so, you were in Miami during the cocaine and bandit years?
VENIREPERSON: Yes, I was.
MR. BROSS: That was the time that we got the hell -- that we got the heck out of Miami, because that was --
VENIREPERSON: It was the Don Johnson era.
MR. BROSS: Yeah, yeah, it was a --
(More than one speaker, indiscernible.)
MR. BROSS: -- As I recall, because I remember that era.
And you still have friends in law enforcement?
VENIREPERSON: Yes, I do.
MR. BROSS: Now, I was surprised to hear

you say that you would not give a witness' testimony -- Well, actually I could be wrong, maybe I didn't hear you say that.

Are you more likely to believe a witness because he's a law enforcement officer?

VENIREPERSON: What I feel, is that a man or a woman that's wearing a badge has been sworn to a higher level. And I would hate to think that they would be less than candid to tell me something that wasn't true than someone off the street.

MR. BROSS: Okay.

VENIREPERSON: But at the same time, yes, I could be partial.

MR. BROSS: Okay. Well, I'm not asking you if you could be partial. I'm asking you that -- And I'm going to try and -- So, if a witness comes in here and takes the stand, they are sworn law enforcement officer and they're wearing a badge, they have gun on their side, are you going to give their testimony greater weight or credibility?

VENIREPERSON: I'm going to give that testimony the same credibility as the ones that walks in off the street.

MR. BROSS: Okay. But I thought I heard you say that you believe that they are sworn to a higher standard, and you would hate to think that they weren't being honest with you?

VENIREPERSON: Well, I would hope that they would be.

MR. BROSS: Okay. Are you more likely to believe what they say because they are law enforcement?

VENIREPERSON: I would have to see their body motions.

MR. BROSS: Okay. Is that different than you would judge a layperson, or would you judge them differently if they were law enforcement?

VENIREPERSON: You just can get a feel, you've got to see the reaction and how they answer the question.

MR. BROSS: Okay. And you haven't had any other jobs in law enforcement since 1982?

VENIREPERSON: No.

MR. BROSS: Okay, all right. Thank you.

VENIREPERSON: Okay.

MR. BROSS: Juror Number 18, I believe you had stated you had some dealings with DCF?

1 VENIREPERSON: Yes.
2 MR. BROSS: Okay. Now, this case
3 involves those types of -- It's some issues
4 regarding DCF. Are your prior dealings going
5 to affect your ability to be completely fair
6 and impartial in this case?
7 VENIREPERSON: No, it's not going to
8 bother me.
9 MR. BROSS: It's not going to bother
10 you, okay. All right, thank you.
11 Now, let me ask on the back row. Has
12 anyone in the back row there ever had a ticket
13 or a speeding ticket, a traffic citation?
14 THE COURT: Wait, Mr. Bross, are you
15 about to go into some general questions?
16 MR. BROSS: Yes.
17 THE COURT: I need to ask: Would anyone
18 like or need a comfort break, or would you
19 rather forfeit that?
20 All right, we've got one. All right,
21 let's -- We've got two. All right. Let's take
22 five minutes, folks. We'll try not to take too
23 long, so that we can move it along and make up
24 for our time zone problem.
25 Sorry, Mr. Bross, I didn't mean to cut

you off. I trying to -- waiting for the -- for the break.

(Whereupon, Venire out.)

THE COURT: All right. The jurors have left the room.

COURT DEPUTY: They are leaving currently.

THE COURT: The last one is leaving.

COURT DEPUTY: And when the door closes, I'll let you know.

THE COURT: And the door is screaming closed. It is now closed.

All right. Now we will be in recess for about seven minutes.

COURT DEPUTY: The Court is in recess for seven minutes.

(Whereupon, the Court is in recess.)

(Whereupon, Venire out.)

(Whereupon, sidebar proceedings out of the hearing of open court.)

THE COURT: Thank you.

Just for scheduling purposes, Janie is asking if we need more jurors for tomorrow. So, Mr. Bross, where are we in the scheme of things here, do you have a lot more questions?

MR. BROSS: I will, I was wondering if we had that first part, asking these set of questions. I'm just going to get a feel for everybody and then I'm going to start asking some tougher questions.

I don't think we're going to need anybody tomorrow, though. I'll try my best not to --

THE COURT: I didn't really -- I didn't count the number of people that we have out there.

MR. BROSS: Yeah.

THE COURT: I know we have a husband and wife and there's like what, there's a handful, how many did we start with?

MS. STEWART: We started with 30.

THE COURT: Okay, we started with 30.

MS. BURGESS: And then we struck four.

THE COURT: Yeah, so we're down to 26.

MR. SENDRA: Uh-huh, well, we're --

THE COURT: I'm a math geek here, I'll tell you that.

MR. SENDRA: We're down to 14 that we've actually questioned, Judge.

THE COURT: Right, we're down to 14 that

have actually been questioned. Yes, thank you. So I've got that right. I don't need a calculator, Mr. Sendra is also here. So, okay.

MS. STEWART: We should be able to get a jury out of these.

THE COURT: Yeah, that's what I'm saying. We ought to be able to get them today, so we don't have to bring anybody back tomorrow.

MR. BROSS: I don't know, juror -- I think Juror Number 2, we should strike for cause now, only because he -- and he said that he was -- I mean, he would give the State's witnesses the greater weight of credibility. He was unequivocal about it, you know.

And I tried to, you know, he said that several times that he -- Bertram who's the State's witness -- or Buchanan -- He said that he's known her for a long time and he said he would give her testimony greater weight of credibility, numerous times he said it.

And I said: Well, won't you -- won't you then give (coughing) at that point? And he said no, but I didn't reconcile how he got there.

MS. STEWART: I thought it was pretty clear how he got there.

THE COURT: I thought it was pretty clear, too. Yeah. And unfortunately, Mr. Bross, I'm going to have to disagree. I took very careful notes on all of that.

MR. BROSS: Yes, ma'am.

THE COURT: He last saw this lady, the woman of whom you are speaking, in approximately 2010. And he said, question mark, approximately -- He said they were friendly.

Oh, you said, you asked are they friendly and he said: "I would think so."

MR. BROSS: And I said: Would you give her testimony greater weight of credibility?

THE COURT: Right.

MR. BROSS: And he said yes.

THE COURT: No.

MR. BROSS: He said yes, and he said --

THE COURT: He said: I would think so in that, regarding more likely to believe her testimony. And can be fair -- but he can be fair and impartial.

MR. BROSS: Okay, well --

THE COURT: "Well, if we are weighing this, it would make no difference one way or another." That's a direct quote. "If we are weighing this, it would make no difference one way or another."

MR. BROSS: Okay, but that's not his comment when --

THE COURT: Paul Bross says, quote: "We're trying to, dot, dot, dot, see if there's anything about this case that affects your ability to be fair and impartial."

"Doesn't that give the State some advantage?"

Answer: "Not in my mind."

He, Mr. Bross, quote: "She starts out with a small advantage?"

Quote: "I don't think so."

Mr. Bross: "You are more likely to believe her coupled with your previous relationship with her?"

"She has some credibility because you know her, yes?"

Quote, answer: "I would say yes."

Mr. Bross: "More credibility than a layperson who walks off the street?"

Answer: "No."

He sticks to the fact that -- and then my note -- he sticks to the fact that he can be fair.

"Works with law enforcement?" That's the next question.

Quote: "If I see someone on campus, et cetera."

MR. BROSS: Well, my issue was that he said repeatedly that he was more likely to believe -- He would give her testimony greater weight or credibility because he knows her.

And he said that and he said it repeatedly. And I think the State would agree that he said that repeatedly.

MS. STEWART: No, I think the way that the question was asked was inartful. And I think that when he -- And at one point Mr. Bross goes: Here we go again.

THE COURT: Okay.

MS. STEWART: Because he's trying to say: I'm weighing the evidence.

MR. BROSS: No, what he said was he said --

THE COURT: The jurors are outside. Mr.

1 Bross, the jurors are outside. Let's take this
2 up when we are not on their dime here.
3 MR. BROSS: Okay.
4 THE COURT: Thank you.
5 COURT DEPUTY: All rise for the jury
6 please.
7 The same seats, folks.
8 VENIREPERSON: Are you sure?
9 COURT DEPUTY: Yeah, remember to skip
10 your missing friends.
11 (Whereupon, before the Court and
12 Venire:)
13 THE COURT: Alrighty. Thank you, folks.
14 Please, everyone have a seat.
15 Did anything occur over the brief recess
16 that would in any way impair your ability to be
17 fair and impartial, folks?
18 THE VENIRE: (Responded Negatively.)
19 THE COURT: The panel, no?
20 THE VENIRE: (Responded Negatively.)
21 THE COURT: The gallery, no?
22 THE VENIRE: (Responded Negatively.)
23 THE COURT: All right, thank you.
24 All right. Mr. Bross, please proceed.
25 MR. BROSS: Thank you. May it please

the Court, the State. And thank you, ladies and gentlemen of the jury.

I'm going to ask a couple of group questions. So, if your answer to the question is yes, please raise your hand. And if at some point it goes to no, put your hand down. And I will just ask the whole entire panel.

Who has gotten a speeding ticket or some kind of traffic citation in the panel?

And if so, raise your hand.

Okay, all right. Hold it, keep your hands up. Okay, let me see, we've got -- okay, a lot of you.

Now, has anybody taken that traffic citation to court or challenged it, has anyone done that?

THE VENIRE: (Responded Negatively.)

MR. BROSS: No, we've got two. Okay.

VENIREPERSON: I didn't challenge it.

MR. BROSS: Okay, we have one. One lone survivor, okay. So Juror Number --

THE COURT: Whoops, you have another one.

MR. BROSS: Two, okay. All right, sorry.

So, Juror Number 3 and Juror Number 9.
Juror Number 3, what did you get a ticket for?
VENIREPERSON: Actually it was causing an accident.
MR. BROSS: Okay, so you got a -- and how long ago was that?
VENIREPERSON: Oh, my God, 45 years ago.
MR. BROSS: Okay, okay. And why did you take it to court?
VENIREPERSON: Because I didn't do it.
MR. BROSS: Okay, so you felt like --
VENIREPERSON: And the police officer testified for me.
MR. BROSS: Ma'am?
VENIREPERSON: The officer that gave me the ticket testified for me.
MR. BROSS: Okay. So you felt like you had been wrongly charged causing this accident and you exercised your right to fight it, correct?
VENIREPERSON: I did.
MR. BROSS: All right, and what happened?
VENIREPERSON: The officer was there and

testified for me and he (indiscernible).
MR. BROSS: Okay. You challenged a governmental action and you won, right?
VENIREPERSON: Correct.
MR. BROSS: Okay, that's good.
Now, Juror Number 9, you got a ticket for what?
VENIREPERSON: Illegal dumping of trash.
MR. BROSS: Okay.
VENIREPERSON: In a different town, I believe it was.
MR. BROSS: Sorry, illegal dumping of what?
VENIREPERSON: Trash.
MR. BROSS: Okay. And you took this to court and fought it?
VENIREPERSON: I didn't take it to court. I got a hearing, like a court date to go to.
MR. BROSS: Okay.
VENIREPERSON: To see my (indiscernible) or whatever.
MR. BROSS: Okay, and what happened?
VENIREPERSON: I got a fine and I got eight hours of community service.

1 MR. BROSS: Okay. So, not necessarily
2 something that you challenged and fought, but
3 it's something that -- How do you feel about
4 that? How do you feel about getting a fine and
5 community service?
6 VENIREPERSON: I deserved it.
7 MR. BROSS: You deserved it, okay.
8 All right. Now, another show of hands.
9 How many of you have been driving down the road
10 at night and seen someone pulled over. And
11 they are doing this sort of thing (touching
12 nose) or taking a test on the side of the road.
13 Has anyone seen that?
14 THE VENIRE: (Responded Affirmatively.)
15 MR. BROSS: All right. Now, how many of
16 you thought to yourself: Oh, my God, that
17 person must be innocent. How many thought they
18 were innocent. They were presumed innocent?
19 THE VENIRE: (No audible response.)
20 MR. BROSS: None of you, right?
21 THE VENIRE: (Responded Negatively.)
22 MR. BROSS: Now, we all agree that we
23 have a presumption of innocence, correct?
24 THE VENIRE: (Responded Affirmatively.)
25 MR. BROSS: All right. But when you're

driving down the road at night and you see someone pulled over on the side of the road, you don't necessarily automatically think that this person is innocent. You think they did something wrong, right?

THE VENIRE: (Responded Affirmatively.)

MR. BROSS: Who here automatically thinks if you see someone pulled over on the side of the road getting a ticket or doing field exercises that that person must have done something wrong?

THE VENIRE: (No audible response.)

MR. BROSS: Come on. If you feel that way, be honest. All right. We all feel that way.

Now, in essence my client, Ms. Loyd, who I represent, is pulled over and she's on the side of the road and we all must afford her, her presumption of innocence.

And Juror Number 9, have you heard any evidence in this case yet?

VENIREPERSON: No.

MR. BROSS: No, okay. And Ms. Loyd is presumed innocent, right?

VENIREPERSON: Yes.

MR. BROSS: So, if you were to deliberate right now, what would your verdict be?

VENIREPERSON: I don't understand, can you repeat the question?

MR. BROSS: Sure. You've heard no evidence in this case yet, correct?

VENIREPERSON: No.

MR. BROSS: So, in the United State of America someone charged with a crime is presumed to be innocent, correct?

VENIREPERSON: Uh-huh.

MR. BROSS: So, if you were to deliberate right this second, what would your verdict be?

VENIREPERSON: Innocent, I guess.

MR. BROSS: Okay. Does everyone here agree with that?

THE VENIRE: (Responded Affirmatively.)

MR. BROSS: Does anyone here not agree with that?

Okay. Juror Number 5 and Juror Number 12.

Juror Number 5, you don't agree with that. Tell me why.

1 VENIREPERSON: Well, in this case in
2 particular, we haven't heard anything.
3 MR. BROSS: Right.
4 VENIREPERSON: So, I'm not going to make
5 a -- I'm not going to give you a verdict.
6 MR. BROSS: Okay. You agree that Ms.
7 Loyd is presumed innocent, correct?
8 VENIREPERSON: Presumed, absolutely.
9 MR. BROSS: And you've heard no evidence
10 in this case, correct?
11 VENIREPERSON: Correct.
12 MR. BROSS: So, if you've heard no
13 evidence and there is a presumption of
14 innocence, how could you find her anything
15 other than not guilty?
16 VENIREPERSON: Because my job is to
17 listen to the evidence.
18 MR. BROSS: Okay.
19 VENIREPERSON: And make a decision based
20 on the evidence. If I haven't heard any, I'm
21 not going to give a verdict.
22 MR. BROSS: Okay. So, if the -- so,
23 what does the presumption of innocence mean
24 then?
25 VENIREPERSON: The presumption of

1 innocence, that's presuming they are innocent.
2 MR. BROSS: Okay.
3 VENIREPERSON: And you're asking me to
4 make a decision based on no evidence at all.
5 MR. BROSS: Okay.
6 VENIREPERSON: So, I mean, the whole
7 purpose of me being here is to make a decision
8 on the evidence.
9 MR. BROSS: Okay. Well, my question is
10 really very, very specific.
11 MS. STEWART: Your Honor, I'm going to
12 object, this is -- may we approach?
13 THE COURT: Certainly.
14 MR. BROSS: There is an instruction that
15 she's presumed innocent.
16 THE COURT: Sorry, folks, we have great
17 hold music, so bear with us.
18 (Whereupon, side bar proceedings, out of
19 the hearing of the Venire:)
20 MS. STEWART: He's asking him to make a
21 decision of guilty or not guilty based on
22 having heard no evidence.
23 MR. BROSS: No, I'm not.
24 MS. STEWART: And I'm objecting to that.
25 MR. BROSS: What I'm asking is at this

point of the proceeding you've heard no evidence, correct? Yes.

And there is a presumption of innocence? Yes.

If they were deliberating right now their verdict would have to be not guilty.

THE COURT: Right.

MR. BROSS: There is an instruction for that. And that's what he's disputing, and that's why I don't --

MS. STEWART: No, he's saying: I didn't hear any evidence, I'm not going to deliberate.

MR. BROSS: Right, but the whole --

MS. STEWART: That's what he saying.

MR. BROSS: Right. And that's why he would have to be not guilty at this point. There's an instruction in the instructions that says --

THE COURT: Why don't you ask the question again and lay it out very clearly?

MR. BROSS: Okay. Well, specifically I did that. I went back and I said: Is she presumed innocent? Yes.

And you've heard no evidence? Yes[sic].

And I said so --

MS. STEWART: And if we ask you to deliberate now.

MR. BROSS: Okay, and he was -- and his answer is no.

MS. STEWART: Okay. But I'm just telling the Court this is not a cause issue.

THE COURT: No, right.

MS. STEWART: Because he's saying: I am here. My job is to listen to evidence. I haven't heard any evidence, so I'm not going to deliberate.

MR. BROSS: I've had this happen before, and I've only had this happen once before and that was in Bartow. And the Court specifically instructed the jury that they would have to find her not guilty.

And there is an instruction almost exactly on point that reads that way. That's why I --

THE COURT: I've already read it.

MR. BROSS: Okay. Well, that's why he should say, that's why his answer has to be not guilty.

MS. STEWART: And I -- you need to read that instruction again.

THE COURT: Okay.

MR. BROSS: Okay. Well, let me ask Juror Number 12 the question. Yeah, and see if he --

MS. STEWART: I'd ask you to read it now.

MR. BROSS: Yeah, I'd ask you to read that jury instruction.

THE COURT: I'll read that now.

MR. BROSS: All right.

(Whereupon, before the Court and Venire:)

THE COURT: All right, let me locate that.

All right. Folks, this seems to be the relevant portion that we are discussing.

The case to be tried is a criminal case. The burden of proof in a criminal case is one of the highest burdens of proof under the law. In a criminal case, the State has the burden to prove each element of the crime beyond and to the exclusion of every reasonable doubt.

The Defendant has entered a plea of not guilty. This means you must presume or believe the Defendant is innocent. This presumption

stays with the Defendant as to each material allegation in the Information, through each stage of the trial, unless it has been overcome by the evidence to the exclusion and beyond a reasonable doubt.

Is that the portion we were discussing?

MR. BROSS: Yes.

THE COURT: All right. Juror Number 5, did you hear that instruction?

VENIREPERSON: Yes.

MR. BROSS: Okay. So, if you were to deliberate right now, without hearing any evidence at all, would you find the Defendant guilty or not guilty?

VENIREPERSON: Not guilty.

MR. BROSS: Okay. Now, Juror Number 12, I'll ask you the same question. If you were to deliberate right now, would you find the Defendant guilty or not guilty?

VENIREPERSON: No, I wouldn't find her guilty, because I haven't heard nothing yet.

MR. BROSS: Does everyone here agree with that, that if you were to deliberate right now that you would -- your verdict must be not guilty. Does everyone here agree with that?

THE VENIRE: (Responded Affirmatively.)
MR. BROSS: All right. Thank you very much.
Now, I believe -- Juror Number 13, how are you doing today, you doing better?
VENIREPERSON: Yeah, thank you.
MR. BROSS: I believe, I thought I heard you say that you would want to hear the Defendant in this case testify. Am I -- was I -- or did I mishear you?
VENIREPERSON: I don't think I said that.
MR. BROSS: Is there anybody here who does? Who does want to hear the Defendant in this case testify? If so, please raise your hand.
THE VENIRE: (No audible response.)
MR. BROSS: No, okay.
So, is there anyone here who is going to have any trouble making a decision if they do not hear the Defendant testify in this case? Does anyone here feel that way? That they need to hear the Defendant testify in the case to make a decision?
THE VENIRE: (No audible response.)

MR. BROSS: No, nobody feels that way.
VENIREPERSON: No.
MR. BROSS: Okay. So I'll ask you on the back row. Anyone there on the back have any bumper stickers on their cars?
If you have any bumper stickers on your car, in the back row, please raise your hand.
THE VENIRE: (No audible response.)
MR. BROSS: No, no bumper stickers.
How about row number two, any of you jurors have bumper stickers on your car?
THE VENIRE: (No audible response.)
MR. BROSS: No, okay.
Row number three, in the front, any of you guys have bumper stickers? All of my bumper stickers are in the front.
Juror Number 13, what type of bumper stickers do you have on your car?
VENIREPERSON: "I'd Rather be Fishing With Andy and Opie."
MR. BROSS: Okay, so Mayberry.
VENIREPERSON: Yes.
MR. BROSS: And Titusville, right, don't we have (indiscernible) with Mayberry?
Okay, any other bumper stickers?

VENIREPERSON: No.
MR. BROSS: Okay. Juror Number 15, what kind of bumper stickers you have on your car?
VENIREPERSON: I have quirky bumper stickers. And one that says "Gun Control Owner (indiscernible).
MR. BROSS: Okay, okay. And I think you said Corgis, your dogs?
VENIREPERSON: Corgis.
MR. BROSS: Yeah, okay. And so, does that also mean that you are a member of the NRA?
VENIREPERSON: Yes.
MR. BROSS: Yes, okay.
All right. Juror Number 16, you must have a few. Well, you work at Spencers, so you probably have some.
VENIREPERSON: No, I refuse to have them on my car. I have airflows (phonetic) on my hood.
MR. BROSS: Okay.
VENIREPERSON: And then I have "The State of Florida" on my (indiscernible).
MR. BROSS: Okay, thank you.
And Juror Number 17, what type of bumper

stickers?

VENIREPERSON: I'm a NASCAR fan, so on my older truck I've got a number "3" and on the newer one, an "88."

MR. BROSS: All right.

VENIREPERSON: Dale Earnhardt and his son.

MR. BROSS: All right. And Juror Number 18?

VENIREPERSON: A fishing one and a NASCAR one and a Trump one.

MR. BROSS: All right. You're going to get along with Juror Number 17 and Juror Number 15. And what was -- What the last one you said?

VENIREPERSON: Trump.

MR. BROSS: Oh, Trump, okay. All right. I actually might get into some of my questions I have here.

Now, is anybody here any part of clubs, organizations, religious organizations, charities. If so, raise your hand.

THE VENIRE: (No audible response.)

MR. BROSS: Okay, we've got jurors. Juror Number 12, what organizations are you

part of?
VENIREPERSON: I just belong to a church.
MR. BROSS: Okay, all right. And Juror Number 13?
VENIREPERSON: Church.
MR. BROSS: Church, okay. Juror Number 15?
VENIREPERSON: I'm a secretary for the Sunshine Corgi Rescue.
MR. BROSS: Okay and that's for dogs. Okay. How long have you been doing that for?
VENIREPERSON: Actually I just took it over at the beginning of the year.
MR. BROSS: All right. And I had someone else. Yes sir?
VENIREPERSON: I'm a member of the Moose Lodge and also retired from the International Association of Machinists.
MR. BROSS: Okay. And yeah, you said you worked on engines, I think small engines, et cetera.
VENIREPERSON: Yes sir.
MR. BROSS: All right. Now any members of the NRA? I know Juror Number 15 said she

was a member of the NRA. And I've got Juror Number 3 as a member of the NRA, is that right?

VENIREPERSON: Uh-huh.

MR. BROSS: All right, thank you.

And anyone who has served in the military, armed services, please raise your hand.

Juror Number 2, what branch?

VENIREPERSON: The United State Army Security Agency.

MR. BROSS: Okay, Army, thank you for your service. I was going to guess Marines, I thought I saw the Marine --

VENIREPERSON: My son made me a Marine.

MR. BROSS: Oh, okay. And Juror Number 4 -- or I'm sorry, Juror Number 5, I'm sorry.

VENIREPERSON: Army.

MR. BROSS: Army, okay. Thank you for your service. How long did you serve for?

VENIREPERSON: Three years.

MR. BROSS: Okay, thank you.

Now, Juror Number 9, I'm going to pick on you for a second. Well, I think I started the question with you and then we had kind of a group discussion.

But if you were to deliberate right now, what would your verdict be?
VENIREPERSON: What this (indiscernible)?
MR. BROSS: Yeah.
VENIREPERSON: I believe not guilty.
MR. BROSS: I just want to see if you were still (indiscernible).
Now, who here has ever had to hire or fire somebody? If so, please raise your hand.
Okay, we've got quite a few here. Okay. Juror Number 3, tell me about that experience.
VENIREPERSON: She wasn't doing her job so I fired her.
MR. BROSS: And have you had to fire more than one person?
VENIREPERSON: Two.
MR. BROSS: Two, okay. And how long were you in a position where you had the duty to hire or fire someone?
VENIREPERSON: Years.
MR. BROSS: Years, okay. So over the years you only had two, that's pretty good.
VENIREPERSON: They were pretty bad.
MR. BROSS: I'm sorry?

VENIREPERSON: The two of them were pretty bad.
MR. BROSS: Okay. Then did you find that was something that was difficult to do?
VENIREPERSON: No, it was fun.
MR. BROSS: Was it? All right. Thank you.
Juror Number 5, have you ever done any hiring or firing or both?
VENIREPERSON: Both.
MR. BROSS: All right. And how long had you been in a position where you had to hire or fire people?
VENIREPERSON: Twenty years.
MR. BROSS: Okay. Which is easier, the hiring or the firing.
VENIREPERSON: Hiring sometimes.
MR. BROSS: Is it? Okay.
VENIREPERSON: The only thing is, you gotta find the right person for the job first.
MR. BROSS: All right. And how many times have you had to fire somebody?
VENIREPERSON: More than 10.
MR. BROSS: Okay. Now is that something that you find difficult?

VENIREPERSON: It's always difficult.
MR. BROSS: It's always difficult?
VENIREPERSON: Because they had families and their income quits.
MR. BROSS: Thank you.
And I think, Juror Number 6, I believe you and your spouse own the business. So, you probably do both, hiring and firing, correct?
VENIREPERSON: Well, in my business it's hard to find anybody to work, so you don't fire anybody.
MR. BROSS: Okay, you only hire?
VENIREPERSON: Yeah.
(More than one speaker, indiscernible.)
MR. BROSS: So, you're in the business of hiring and you don't like to fire, or you just can't find people so you keep them?
VENIREPERSON: I haven't had really the opportunity.
MR. BROSS: Okay. And did I have anyone else that raised their hand in regard to hiring and firing?
Okay, two more.
Juror Number 16, so you are -- is that at Spencer's?

VENIREPERSON: At (indiscernible) yes.
MR. BROSS: And how many times have you had to fire somebody?
VENIREPERSON: Countless.
MR. BROSS: Countless, okay. Is that because -- Is that because you're probably working with younger employees?
VENIREPERSON: Yeah (indiscernible) and it's Halloween. It's seasonal stuff.
MR. BROSS: Is that something you find difficult or do you have an issue with it?
VENIREPERSON: Not anymore.
MR. BROSS: Not anymore, okay. Is it something that you found hard at first, and then grown used to?
VENIREPERSON: Yeah. But it's more of you get fired for a reason, so you deserve it. I mean, you to have your first one feeling like --
MR. BROSS: Okay. And Juror Number 15, how about you? Where did you have the pleasure of hiring and firing people?
VENIREPERSON: I've managed a couple businesses.
MR. BROSS: Okay. And did you ever have

an issue with firing people?
VENIREPERSON: A little bit.
MR. BROSS: And how many times have you had to fire somebody?
VENIREPERSON: Only twice.
MR. BROSS: I'm sorry?
VENIREPERSON: Only twice.
MR. BROSS: Oh, twice, okay. And for how many years were you in a position where had to hire or fire people.
VENIREPERSON: Probably about 10.
MR. BROSS: Okay. Now, I know a little bit earlier the State talked about burden of proof and different types of cases and that sort of thing. And you very generally heard what the charges or allegations are in this case.
Juror Number 6, this is not a murder case, right?
VENIREPERSON: That's correct.
MR. BROSS: Okay. We're on a case involved in making -- allegedly making a false report regarding child abuse?
VENIREPERSON: That's correct.
MR. BROSS: Do you think the burden of

proof, that is the State must prove beyond and to the exclusion of every reasonable doubt, the elements in this case, because it's not a murder case, do you think the burden should be lower or different because of the type of crime it is?

VENIREPERSON: I think the burden should be the same in all.

MR. BROSS: Okay. And how do you feel about that, Juror Number 12? Do you think the burden should be the same in this case because -- I'm sorry -- should be the same in this case as a murder case, or do you think it should be different?

VENIREPERSON: No, it should be the same.

MR. BROSS: Okay. And does everyone here agree with Juror Number 6 and Juror Number 12, that the burden of proof in this case should be the same as it would be in a murder case?

THE VENIRE: (Responded Affirmatively.)

VENIREPERSON: Okay. It should not be any different or any lower because of the type of charge it is, right?

THE VENIRE: (Responded Affirmatively.)
MR. BROSS: And you all agree with that?
THE VENIRE: (Responded Affirmatively.)
MR. BROSS: Okay. Juror Number 1, how are you doing today?
VENIREPERSON: Good, and you?
MR. BROSS: Good, thank you.
I forgot to ask you earlier, do you live at home or with whom do you live?
VENIREPERSON: I live with my mom and dad and my sister.
MR. BROSS: Okay. And what type of work do your parents do?
VENIREPERSON: My mom is -- Well, she has basically had to quit work because she's losing her vision. And she was working at the Walmart Bakery.
MR. BROSS: Oh, that's terrible.
VENIREPERSON: My dad works at Walmart and also overnight as maintenance, but he sometimes leaves that to go to lunch with me.
MR. BROSS: So, you work at Walmart. Your mom worked at the Walmart bakery and your dad works at Walmart. What about your sister, where did she work?

VENIREPERSON: My sister works at (indiscernible).

MR. BROSS: Okay, all right. And I had also asked some of the other jurors, do you have any friends or family in law enforcement?

VENIREPERSON: Far as I know, no.

MR. BROSS: Okay. And are you more likely to believe a witness, if they were to take the stand and testify, because they are law-enforcement officers?

VENIREPERSON: No.

MR. BROSS: Okay, and how old are you?

VENIREPERSON: I'm 24.

MR. BROSS: Okay, 24. Thank you.

Now, I had asked -- We had talked a little bit earlier about presumption of innocence and, you know, seeing people pulled over on the side of the road at night.

Is there anybody here that thinks that Ms. Loyd must have done something wrong, if she is sitting here charged with a crime?

I mean, if you feel that way it's going to be okay, just raise your hand.

Is there anyone, you know, kind like the person who's pulled over on the side of the

road at night, and now we see them doing the exercises and that sort of thing; is there anybody here that believes that because Ms. Loyd is sitting here and we have a jury trial and a Judge and all of this going on, that she must have done something wrong?

Does anybody here feel that way, and if you do, just say --

VENIREPERSON: I do.

MR. BROSS: Okay. Juror Number 17, can you explain that a little more?

VENIREPERSON: In my opinion she wouldn't be sitting where she's at, if there wasn't some evidence of some kind that was against her.

MR. BROSS: Okay.

VENIREPERSON: She may be totally innocent.

MR. BROSS: Okay. But you believe that because she's sitting here, that she must have done something wrong?

VENIREPERSON: There's a red flag somewhere.

MR. BROSS: Okay. Does anybody else agree with Juror Number 17, if so, it's okay.

Juror Number 9?
VENIREPERSON: Yeah, I agree with that issue, I think.
MR. BROSS: Okay. So, you believe that because she is sitting there charged with a crime and that we're having a trial, that she must have done something wrong?
VENIREPERSON: Yeah, like he was saying. Like there's a red flag somewhere.
MR. BROSS: Okay. Does anyone else agree with that? That because she's sitting here charged with a crime -- I see you fidgeting, and I don't know if you're raising your hand.
VENIREPERSON: No.
MR. BROSS: Well, Okay. All right, I'm cool on that then.
Okay. Seriously, does anyone else feel that way, if so, it's okay because we like to know.
THE VENIRE: (No audible response.)
MR. BROSS: Okay. Somebody mentioned Trump, and I think that was Juror Number 18. There may be some evidence in this case about news reporters and things like that. And I

1 think that Trump recently said that reporters
2 were the enemy of the people.
3 How do you feel about that?
4 VENIREPERSON: I feel that everyone has
5 their own opinions on everything. I always say
6 my own.
7 MR. BROSS: Okay. Do you agree that
8 reporters are enemies of the people?
9 VENIREPERSON: No.
10 MR. BROSS: Okay. And does anybody here
11 agree with that statement that Trump made that
12 reporters are enemies of the people?
13 THE VENIRE: (No audible response.)
14 THE COURT: No, okay. Well, the reason
15 that I ask is there may be some evidence in
16 this case regarding news reporters and things
17 like that. And I just wanted to make sure that
18 nobody has any bias or prejudices against news
19 reporters.
20 Yes, sir, Juror Number 12?
21 VENIREPERSON: I think that they are out
22 for their own agenda.
23 MR. BROSS: Okay.
24 VENIREPERSON: Whatever that might be.
25 MR. BROSS: Okay.

VENIREPERSON: (Indiscernible.)
MR. BROSS: What's that?
VENIREPERSON: They're there to sell newspapers.
MR. BROSS: Okay. And so, Juror Number 12 and Juror Number 5.
I think Juror Number 12 said that he believed that reporters had some agenda.
And I think that Juror Number 5 said that they are there to sell newspapers.
VENIREPERSON: That's Number 3.
MR. BROSS: Oh, I'm sorry. Three. I keep doing that, sorry. Gosh, sorry, thank you. Thank you, Jury Number 5 for correcting me. Sorry, Juror Number 3 for misstating your number.
Does anybody else agree with that on news reporters? Comments about news reporters?
THE VENIRE: (No audible response.)
MR. BROSS: Okay, we'll come back to that.
Now, if you answered this question as yes, please raise your hand.
Has anyone here ever reported a crime or an allegation of abuse to any law enforcement,

1 DCF, or any agency whatsoever? Has anyone here
2 ever done that?
3 Juror Number 16 and Juror Number 15,
4 okay.
5 Okay, tell me about that, Juror Number
6 15.
7 VENIREPERSON: I was driving home from
8 work at night and there was a child running
9 down the street by himself half naked.
10 And I stopped and I picked him up. And
11 there was a motel right there in front of us.
12 And we just went into the motel and I called
13 the police.
14 MR. BROSS: How old was the child?
15 VENIREPERSON: Oh, he was probably
16 three. I thought maybe he had gotten out of a
17 hotel room or something. That's why I went
18 into the hotel. This was before cell phones.
19 MR. BROSS: Wow, okay. So, you're
20 driving at night and you see a three-year-old
21 child running down the street naked at night?
22 VENIREPERSON: Uh-huh.
23 MR. BROSS: Wow. So, you had pulled
24 over thankfully, and grabbed the child and then
25 called 9-1-1?

VENIREPERSON: Yeah.
MR. BROSS: What happened from there?
VENIREPERSON: The police came, and I don't know.
MR. BROSS: Okay.
VENIREPERSON: He didn't question me or anything.
MR. BROSS: Okay, did he --
VENIREPERSON: Now they did ask me what happened and I told them what I told you.
MR. BROSS: Wow.
VENIREPERSON: And that was that.
MR. BROSS: Did you ever follow up to hear what happened in that case?
VENIREPERSON: No.
MR. BROSS: No, all right. Juror Number 16, what about you?
VENIREPERSON: It was a shoplifting incident. And then I was driving home from work one day and saw a fatal car accident, and I was called back as a witness.
MR. BROSS: Okay, okay. So, did you stay at the scene?
VENIREPERSON: Yeah. I was the first one to see the person that was deceased.

MR. BROSS: Wow. That's probably a tough memory here?

VENIREPERSON: Yeah.

MR. BROSS: Anyone else have a position where they had to report a crime or child abuse, if they became aware of it?

Like I think Juror Number 6, I think your daughter is a school teacher, right?

VENIREPERSON: That's correct.

MR. BROSS: And they have a duty to report things like child abuse and neglect, and things like that, right?

VENIREPERSON: They have -- They have to, but they haven't.

MR. BROSS: Okay. Has anyone have, or has anyone ever had a job or a duty, for whatever reason, to report crimes of child abuse? Has anyone had this happen?

THE VENIRE: (No audible response.)

MR. BROSS: No, okay. Thank you.

Does anyone have anything against swearing?

Juror Number 17, okay, I see you laughing there. Is that because you like to swear or you have something against swearing?

VENIREPERSON: No, because the -- nevermind.

MR. BROSS: Yeah, you've got to tell us.

VENIREPERSON: I'm from the South and the words "Hell, No" are no big deal, you know.

MR. BROSS: Right, right, right. And so does anyone -- Seriously, does anyone have a problem with swearing or hearing it?

VENIREPERSON: Yeah, I do.

MR. BROSS: Okay.

VENIREPERSON: I mean, if it is in public.

MR. BROSS: Okay.

VENIREPERSON: And especially them people, they don't care.

MR. BROSS: Now, if you were hearing evidence, recorded evidence in this case, and somebody was swearing in that recorded evidence.

How would that affect your thoughts of that person who is swearing, if at all?

And we're not talking about a teenager, we're talking about somebody who --

VENIREPERSON: Well, that probably wouldn't -- The biggest thing that bothers me

is the -- is that people nowadays just take it for granted that it's okay to talk that way in public.

MR. BROSS: Yes, I understand exactly what you're saying. Okay.

VENIREPERSON: And that's pretty much -- I mean, everybody swears.

MR. BROSS: Okay, and I totally understand what you're saying. That, you know, in public and in -- I totally understand. And thank you for sharing that with us.

Does anyone else feel that way, as Juror Number 3?

Are your feelings similar to those expressed by Juror Number 15?

VENIREPERSON: Yes, yeah. There's other worse that you're hearing so, you know.

MR. BROSS: Okay. Now, if you heard let's say, an older person having a one-on-one conversation with another older person and there was some swearing in that conversation, would you hold that, or have any negative connotations against the person who was swearing?

VENIREPERSON: No, it's stupid.

MR. BROSS: Okay, that's one way to look at it. Yes, thank you.

Does anyone here believe that the Defendant has the burden of proving anything?

THE VENIRE: (No audible response.)

MR. BROSS: And by that, I mean does anyone here think that the Defense has to put on witnesses or put on evidence? Does anyone here think that I should have to do that?

THE VENIRE: (No audible response.)

MR. BROSS: We all agree that I don't have to do that, correct?

THE VENIRE: (Responded Affirmatively.)

MR. BROSS: Okay. Do we all agree that -- Well, strike that.

What lawyers say is not evidence, do we all agree with that, that what a lawyer says is not evidence? Do we all agree with that?

THE VENIRE: (Responded Affirmatively.)

MR. BROSS: You're laughing, I know what you're thinking.

Have any of you heard any news coverage or seen any news coverage about this case? If so, raise your hand.

THE VENIRE: (Responded Negatively.)

MR. BROSS: No, okay.
Does anyone here, for whatever reason, be it religious or otherwise, have any opposition to sitting in judgment of another? And that is because of your religious or moral belief that you cannot sit in judgment of another person. Does anyone have that issue?
THE VENIRE: (No audible response.)
MR. BROSS: No, okay.
Now, I believe I heard Juror Number 15, I believe I heard you say that during your trial you had heard, I guess, a witness droning on for a day and-a-half. I promise not to do that.
But do you promise not to hold it against me if I vigorously object?
VENIREPERSON: No, I won't.
MR. BROSS: Okay. Do you promise not to hold it against me if I vigorously cross examine police officers?
VENIREPERSON: Yes.
MR. BROSS: Okay. You promise not to hold it against my client as well?
VENIREPERSON: Yes.
MR. BROSS: All right. Is anybody here

1 going to hold it against me if they hear me
2 vigorously object or vigorously cross examine
3 police officers?
4 Is anyone going to think: Oh, I can't
5 believe he even objected or, you know, cross
6 examined that police officer?
7 THE VENIRE: (Responded Negatively.)
8 MR. BROSS: No, all right.
9 All right. Juror Number 10, how are you
10 doing today?
11 VENIREPERSON: I'm good.
12 MR. BROSS: All right. Now, you are --
13 and how old are you?
14 VENIREPERSON: I'm 25.
15 MR. BROSS: Okay, good. A young female.
16 Let's say that you got on this jury
17 panel and you had feelings about the case and
18 what should happen. And the other individuals
19 on the panel are older and they are all men.
20 VENIREPERSON: Uh-huh.
21 MR. BROSS: So it's just you and the
22 rest of them are older men, and they all had a
23 different opinion than you do. You feel this
24 way and they all feel the other way.
25 Are you going to change your mind to

agree with them or go with them, or are you going to stick to your guns?

VENIREPERSON: Stick to my guns.

MR. BROSS: Okay. How do you feel about that, Juror Number 15? Let's say you are the sole woman out there, or back there, and the rest of them are men during deliberations, are you going to stick to your guns?

VENIREPERSON: Of course.

MR. BROSS: All right. How do you feel about that, Juror Number 16? Are you going to stick to your guns or are you going to change your mind to go along with the men?

VENIREPERSON: No, not (indiscernible).

MR. BROSS: Oh, okay. All right.

Juror Number 2, you are a sole male back there. You are -- Are we XY or YY, what are we? I can't remember what are men.

VENIREPERSON: Yeah, okay.

MR. BROSS: You are the sole male representing man, but during deliberations with all the females, are you going to change your mind to agree with the women, or are you going to stick to what you believe should happen in this case?

VENIREPERSON: I stick to what I believe.

MR. BROSS: Okay, Thank you.

Anyone here going to change their mind just to go along with the other sex or with others that are older or younger?

THE VENIRE: (No audible response.)

MR. BROSS: Is everyone here going to deliberate as they believe and give the verdict that they believe is proper? Do we all agree with that?

THE VENIRE: (Responded Affirmatively.)

MR. BROSS: All right. A few more questions. And as a famous man once said: You've either got to leave, follow or get the hell out of the way. I guess I will use "hell" because you said it was okay to say it, Juror Number 17.

So, I will ask each one of you: Are you a leader, a follower or do you want people just to get the heck out of your way?

And I will ask you first, Juror Number one. Lead, follow or get out of the way?

VENIREPERSON: I don't know.

MR. BROSS: I'll put down a question

mark and I'll come back to you, how's that?

And Juror Number 2, lead, follow or get the heck out of the way?

VENIREPERSON: I'm pretty much a leader.

MR. BROSS: All right, thank you.

And Juror Number three?

VENIREPERSON: Leader.

MR. BROSS: Okay. Juror Number five?

VENIREPERSON: Leader.

MR. BROSS: All right. Juror Number 6?

VENIREPERSON: Leader.

MR. BROSS: All right. Juror Number 12?

VENIREPERSON: Leader.

MR. BROSS: All right. Juror Number 10?

VENIREPERSON: Leader.

MR. BROSS: Juror Number 9?

VENIREPERSON: Can I ask a question?

MR. BROSS: Sure.

VENIREPERSON: What does get out of my way mean?

MR. BROSS: That you just want to do your own thing, you don't want anybody to lead or follow you, but you just want to do your own thing.

VENIREPERSON: Own thing.

MR. BROSS: All right, okay. I guess I knew what your answer was.

All right. Juror Number 7?

VENIREPERSON: I'm more of a follower.

MR. BROSS: More of a follower, thank you.

Juror Number 13?

VENIREPERSON: Oh, sorry.

MR. BROSS: That's all right.

VENIREPERSON: I should decide to be a follower, then I might (indiscernible) I'm not sure. Oh, dear.

MR. BROSS: A little bit of both?

VENIREPERSON: Yes.

MR. BROSS: All right, I can -- I can see that, okay, in your character. Thank you.

Juror Number 15?

VENIREPERSON: Yeah, I'm a little bit of both. I can be a leader, but I can follow just as easily.

MR. BROSS: All right. Thank you.

Juror Number 16.

VENIREPERSON: A leader.

MR. BROSS: All right. And Juror Number 17?

VENIREPERSON: I'm a leader.
MR. BROSS: Thank you.
And Juror Number 18?
VENIREPERSON: I'm a leader.
MR. BROSS: Thank you.
Now, some of the evidence in this case you hear may involve accusations of child sex crimes. And obviously that's, you know, that is what it is.
Does that, the fact that issue of that discussion may be raised, is that going to affect anyone's ability to sit and hear the facts of this case?
If so, raise your hand, if it will, just raise your hand.
Yes ma'am. Juror Number 13 and Juror Number 10.
THE COURT: Would Counsel approach please?
MR. BROSS: Yes.
THE COURT: Sorry, folks, here comes the great music.
(Whereupon, side bar proceedings, out of the hearing of the Venire:)
THE COURT: The only thing they're going

to hear is her allegations on the call.

MS. STEWART: Well, there's --

THE COURT: And her allegation is of physical abuse.

MR. SENDRA: No.

MR. BROSS: Uh-uh.

THE COURT: Okay. Because I thought we were going to leave out the part --

MS. STEWART: But they're not going to hear anything graphic. He shaved her legs and he had sex with her.

THE COURT: Okay, right.

MS. STEWART: So I don't --

MR. BROSS: Well, some people because at that can be --

(More than one speaker, indiscernible.)

THE COURT: Keep your voice down, Mr. Bross.

MR. BROSS: I'm sorry.

THE VENIRE: Inside voice.

MS. STEWART: Well, they need to know that there's not going to be graphic pictures or anything like that.

MR. BROSS: Well, I'm just going to --

THE COURT: Please make that clear.

MR. BROSS: Understand. I'm just going to ask her -- Our procedure is to raise their hand, you know, however they -- I'm really not planning on getting --

THE COURT: You have to make it clear that nobody is --

MS. STEWART: They're going to hear an allegation of sexual abuse.

(More than one speaker, indiscernible.)

THE COURT: No one's colposcopy is going to be put on a big train.

MR. BROSS: No, no, what I said was -- my question was: This may involve allegations of a child sex crime. That was my question.

THE COURT: But that leaves one that, you know, the mind goes down many ratholes with that question.

MR. BROSS: Okay, okay.

THE COURT: And so, allegation being the key word.

MR. BROSS: Right. Well, that's what --

THE COURT: No actual description, no graphic description.

MR. BROSS: Just the allegation.

THE COURT: Yeah, just the allegation.

1 MR. BROSS: Shaving the child's legs and
2 having sex with and incest, I mean that's --
3 THE COURT: In general terms. That's
4 nothing graphic.
5 MR. BROSS: Well, I wasn't really
6 planning on getting too much into it. I was
7 just going to ask the two jurors that raised
8 their hands, you know, to explain that more.
9 And if she said: Well, you know, if
10 they start putting up pictures and stuff like
11 that, I'm going to have a real problem with
12 that.
13 I wasn't really planning on beating that
14 horse too much, I just wanted to --
15 THE COURT: All right. I think you
16 ought to clarify that it was -- that it is
17 simply spoken words, there are no --
18 MR. BROSS: Oh, okay, I'll do that.
19 Okay, I'll do that.
20 THE COURT: There's no description by
21 the child. There is no description by anyone.
22 MR. BROSS: I'll do that.
23 THE COURT: It's an alleged report.
24 MR. BROSS: Okay, I'll do that.
25 (Whereupon, before the Court and

Venire.)

MR. BROSS: Now, just to be clear. There are no photographs or videos or anything like that. And nothing -- no graphic descriptions, but there is an allegation that you will hear about this case. So, I just wanted to be clear so that we all know what we're talking about.

Juror Number 10, anything about that issue that, you know, that topic that would affect your ability to sit any of the facts of this case?

VENIREPERSON: Is it -- it that -- do you mean pictures?

MR. BROSS: No, no, there's no pictures. There's no video. There's no very graphic descriptions. There are some allegations and they are sort of general. But nothing, you know, that whole topic is what it is.

But I just wanted to make sure that there's nothing, you know, about that, the mere fact that words may be spoken, those general allegations may be raised, if that would affect your ability to fair and impartial in this case.

VENIREPERSON: It would.

MR. BROSS: It would, okay.

And Juror Number 13, the same -- Do you feel the same way as Juror Number 10 or do you feel differently.

VENIREPERSON: Well, you know, when you first mentioned it, it affected me.

MR. BROSS: Okay.

VENIREPERSON: But if it's minimal --

MR. BROSS: Okay.

VENIREPERSON: -- then I'm okay.

MR. BROSS: Okay, thank you. Thank you both.

Now, I know we talked about this generally kind of in the beginning, but does anyone think that they know each other or does anyone realize that: Oh, I remember that person. Has anything like that happened?

THE VENIRE: (Responded Negatively.)

MR. BROSS: Okay, okay. One moment.

(Whereupon, Defense Counsel discussion.)

MR. BROSS: And a couple more questions, but I thank you again for your time and attention.

Has anyone here ever actually -- I know

we talked generally about some DCF allegations. Has anyone here ever actually called the DCF Hotline? And if so, raise their hand.

THE VENIRE: (No audible response.)

MR. BROSS: No, okay.

(Whereupon, Defense Counsel discussion.)

MR. BROSS: Okay. A couple more questions, one or two.

Has anyone here ever used a false name to keep your identity private for any reason?

MS. STEWART: Objection, Your Honor, may we approach?

THE COURT: Certainly.

(Whereupon, side bar proceedings, out of the hearing of the Venire:)

MS. STEWART: He's getting into the facts of the case. She called the Hotline and said she's Theresa Smith. I mean, he's getting into the facts of the case and I object.

THE COURT: Sustained.

MR. BROSS: Your Honor --

THE COURT: It does get into the facts, sustained.

MR. BROSS: Okay.

THE COURT: You're just finding out if

they can be fair and impartial.

(Whereupon, before the Court and Venire.)

MR. BROSS: All right. Ladies and gentlemen, I thank you for your time. Thank you for answering my questions.

THE COURT: All right. Why don't we take a brief recess? You all can take a brief recess. We have a little bit to do.

Can you all approach for just another moment please?

(Whereupon, side bar proceedings, out of the hearing of the Venire:)

THE COURT: My thought was to the striking, and you can tell me if you have any founded for cause we can strike. And then see where we stand at that point.

MR. BROSS: Okay.

MS. STEWART: Okay.

THE COURT: So, and then -- then we don't -- the people --

MR. SENDRA: You said you wanted to ask a couple of more, right?

MR. BROSS: Right, I was -- I didn't want to ask him again, but I did want to ask

them just a couple of questions about --

THE COURT: Mr. Bross?

MR. BROSS: Ma'am?

THE COURT: Inside voice.

MR. BROSS: I'm sorry. I did want to ask Juror Number 2 about his friend who's a witness. Because I am certain that he was unequivocal in that he said he would give his testimony greater weight or credibility.

And I do agree that he said: But if I weigh it all out I can be fair.

And I said: How can you reconcile the fact that you would give your friend's testimony greater weight?

Well, I just want to ask him a couple more questions because I said: How can you reconcile the fact you would give his testimony greater credibility, but you can be fair and start out, in other words, equal.

And he kind of got frustrated with me and just said: I can do it.

But he was unequivocal about the fact that he would give her testimony greater weight and credibility. And I just -- I was going to ask if we could speak to him privately, maybe

some questions to find out if --

THE COURT: There's no reason to do it privately. He hasn't asked to do it privately.

MR. BROSS: Oh, okay.

THE COURT: If you want to beat that horse some more, you're welcome to do so.

MS. STEWART: And then I would request to talk to Juror Number 10.

THE COURT: Excuse me?

MS. STEWART: I would request to talk to Juror Number 10, because I don't think she's truly a cause. I don't think that he cleared up enough with her about the sexual stuff.

That they are not going to hear a child testify. They are not going to hear anything graphic, other than what was reported to the Hotline.

So, I mean, we could do this all day long. I think that Juror Number 2 made it very clear that he could listen to all of the witnesses across the board.

There's not a challenge for cause. He rehabilitated himself when he -- He was trying to basically be put in a corner saying: If she's your friend, then you've got to give her

more credibility.

And he came out and said: No, no. Do I know her as a friend, do I know her to be a credible person? Yes, but I can also judge the other people as well.

MR. BROSS: He was unequivocal that he would give her testimony greater weight or credibility. He was clear about that, he never said otherwise.

MS. STEWART: No, I don't --

MR. BROSS: He said he could be fair, but he never said that he wouldn't give her testimony greater weight or credibility.

THE COURT: Okay. This is not what we're here to argue about.

MR. BROSS: Okay, I'm just --

THE COURT: I'm here to discuss whether or not if you want to let them have a break now and strike them?

MR. BROSS: Sure.

THE COURT: And then call the rest back. And what I'm going to offer them the opportunity to do, is forge ahead until we have the final eight or -- tonight -- or all of them come back tomorrow. So that will probably --

MR. BROSS: I think we could --
THE COURT: Because there are -- We may have to plug in the four empty slots and quickly --
MR. BROSS: Okay, all right.
THE COURT: -- then question them.
MR. BROSS: Okay.
THE COURT: So, I will give them the choice, though.
(Whereupon, before the Court and Venire:)
THE COURT: All right. Folks, here's a point where you all get to decide.
What we would like to do is take a short recess and see if we are able to find eight people from this (indicating) group here who can serve on the jury. If we fall short of that, and obviously we're going to be drawing you all up front.
Now, and then the lawyers will -- Since you've been present for the entire day and have heard all of the questions, I would anticipate that the questioning would be a great deal shorter and it wouldn't take much longer at all.

My question to you is: Would all of you rather come back tomorrow or would you rather forge ahead tonight, and then only eight of you will come back tomorrow?

(More than one speaker, indiscernible.)

THE COURT: By show of hands, who wants to figure it out today, forge ahead.

All right, all of you. Do we have a nay?

We have one nay. The ayes have it, sir.

VENIREPERSON: Okay.

THE COURT: Sorry, this is a democracy and you are in the minority.

VENIREPERSON: I really can't even be on this case anyway.

THE COURT: Excuse me?

VENIREPERSON: I really can't even be on this case anyway.

THE COURT: Sir, please, okay. We are in recess now. You and the panel and the gallery are excused for 15 minutes. And please be back in the jury room at a quarter to 5:00.

(Whereupon, the Court is in recess.)

(Whereupon, Venire out.)

THE COURT: All right. The record

should reflect the jurors have left the room and the door is closed (door slams) and now it's closed for sure. Ms. Loyd has been present at all times with Counsel, as have been Counsel for the State.

And, folks, do you -- Would you like to make any challenges for cause now, or would you like to review your notes and make them in about 10 minutes?

MR. BROSS: We can do it now, I'm ready.

MS. STEWART: I'm ready.

THE COURT: Okay, let's go. Mr. Bross, who are you suggesting should be challenged for cause?

MR. BROSS: The first one is Juror Number 9. He indicated that --

MS. STEWART: Agreed.

THE COURT: Okay. Without objection, Juror Number 9 for cause.

MR. BROSS: Juror Number 17, the same reason.

MS. STEWART: Agreed.

THE COURT: All right.

MR. BROSS: And Juror Number 10. I know we have been discussing this at the bench, but

I did go back and I said: There's not going to be any pictures, there's not going to be any movies, there's not going to be any graphic discussions. It's just going to be, you know, mentioned generally.

And she said: That whole topic would affect my ability to be fair and impartial, and she said it would. Her last words were, "It would."

THE COURT: Ms. Stewart?

MS. STEWART: Well, that's what she said, Judge. But as I said at the bench -- and I'm just going to make my record. When people hear that they think that a child is going to be testifying, but this is an allegation of it.

And I don't think that Mr. Bross made it clear to her by saying: No child is going to take that stand. It's just going to be an allegation call to the Hotline. That's all this is, so.

THE COURT: The way that I heard it was that, Mr. Bross, before I called you to the bench, she had said: It isn't for me.

And then you went back and said something and never addressed her personally

again.
MR. BROSS: Well, no, I --
THE COURT: So, we could bring her in and allow Ms. Stewart to clarify and allow you to clarify.
MR. BROSS: Yeah. For the record, both Juror Number 10 and Juror Number 13 both raised their hands. I went back and I clarified. I asked Juror Number 10 and she said it was -- She didn't want to talk about the subject.
And then Juror Number 13, I went back to and she said: Okay, I understand now. It will be okay.
THE COURT: Well, I'm also mindful of the fact that Juror Number 10 is the only minority juror on the panel.
And in the interest of diversity and having a cross -- a fair representation of all the folks in the community, I think that we should, at least, give her an opportunity to clarify.
MR. BROSS: All right.
THE COURT: So at this time, I will deny it, pending further clarification.
MR. BROSS: Okay.

THE COURT: Is there anyone else?
MR. BROSS: I had previously intended to strike Juror Number 2. It's my belief he was clear that he would give her testimony greater weight and credibility. I agree that he said he could be fair.
And I asked him to reconcile those two, and he said he couldn't. And I asked him again: So you admit that you would give her testimony greater weight and credibility?
So Juror Number 2 for the record for cause. I'm sorry, number -- yeah, Two for the record.
THE COURT: And, Mr. Bross, I do have approximately almost one full page of notes on that line of questioning and he said -- I have Paul Bross, colon, question: She starts out with a small advantage?
Answer by the juror: I don't think so.
Question: You're more likely to believe because of your previous relationship with her, she has some credibility because you know her, yes?
Answer: I would say yes.
Question: More credibility than a

1 layperson who walks off the street?
2 Answer: No.
3 He sticks to the fact that he can be
4 fair. Works with law -- And then you switch to
5 work with -- Do you work with law enforcement?
6 Because he said he was in the school attaché,
7 or whatever his words were. He calls the
8 resource officer when he sees somebody that he
9 doesn't recognize on the campus. And then he
10 explains that.
11 And then when you went back to: If you
12 saw Patti Buchanan, would it be hard to say to
13 her -- to speak to her and tell her that you
14 had found this person not guilty that -- in
15 this situation?
16 Which has been explained through various
17 questions it has something to do with school.
18 And he said, quote: "I'd be
19 uncomfortable talking about it at all."
20 Meaning he didn't think it was any of
21 her business what he does on his own time. And
22 he made it clear that the last time he had
23 spoken to her -- saw her or spoken to her was
24 2010. And I would note that it is -- today is
25 March 28 of 2017.

So, Ms. Stewart, I know you made your objection at the bench, or you gave a response at the bench. And would you like to --

MS. STEWART: No, Your Honor, we will stand on the argument at the bench.

THE COURT: Okay, all right. Mr. Bross, I am going to deny that challenge for cause. You're welcome to strike, use a peremptory on them, if you wish; but I'm going to deny it for cause.

MR. BROSS: All right. And then on Juror Number 5, I asked him several times if -- And, you know, we went through the whole, you know, you've heard no evidence, the presumption of innocence, would you find her guilty or not guilty?

And he repeatedly, after I asked the question in every conceivable way and clarified it, said that she would be -- or he would have refused -- refused the presumption.

The State objected and we went up to the bench and Your Honor read the instruction, at which point he capitulated. It is my belief that he is not affording the Defendant a true presumption and that he believes that, you

1 know, basically he was saying (indiscernible).
2 THE COURT: So, you're saying that Juror
3 Number 5's comment regarding if he had to go
4 back and deliberate right now, he seemed --
5 MR. BROSS: He said: I would not -- I
6 would -- I would refuse to, you know, I would
7 refuse to -- or basically he said nothing: I
8 would refuse to deliberate because --
9 THE COURT: Right. I've heard no
10 evidence, is what his response was.
11 MR. BROSS: Correct.
12 THE COURT: And then I -- and then when
13 I read the -- after I read the -- re-read the
14 instruction that was given at the beginning,
15 you asked the question: If you deliberated
16 right now, what would your verdict be, sir?
17 Answer: Not guilty.
18 MR. BROSS: Okay.
19 MS. STEWART: And I would just like to
20 also, for the record, Judge. They were read
21 those instructions yesterday --
22 THE COURT: Yesterday morning.
23 MS. STEWART: -- morning.
24 THE COURT: Late morning.
25 MS. STEWART: Right.

THE COURT: Yes, but -- yes.
MS. STEWART: And once the Court read it, it cleared it up.
THE COURT: Yes.
MS. STEWART: And we had the appropriate response.
THE COURT: And so, once again, Mr. Bross, I will deny just cause on Juror Number 5. You're welcome, once again, to use a peremptory on him, but he's not a cause challenge.
MR. BROSS: I was just going to say that I had already gone through several other jurors, and they all agreed that they would -- that Ms. Loyd would be not guilty and explained why. Him and juror were -- 5 and 12 raised their hands as not agreeing with the other jurors. And that's how I --
THE COURT: No, actually I did them in order and he was the first one you asked when you --
MR. BROSS: No, I talked to --
THE COURT: No, I've got it down, Mr. Bross.
MR. BROSS: Okay.

THE COURT: I've got almost a transcript notes here that I've made.

MR. BROSS: That was what I asked of Juror Number 10 actually. I said Juror Number 10, I'm sorry, Juror Number 9 as opposed to --

THE COURT: Oh, Number 9?

MR. BROSS: Yeah, that's the first one I asked, and he got it right.

THE COURT: Number 9 had got a ticket for illegal dumping: I deserved it.

Many agree they feel a person pulled over on the roadside has done something wrong.

Number 5, this is presumption of innocence, a new topic, if you deliberated right now -- and then he gave -- he said: I've heard no evidence.

And then he was re-instructed and he said: Oh, if you -- If I deliberated right now, not guilty. And then everyone else said the same thing.

MR. BROSS: Okay.

THE COURT: All understand that if deliberating right now, the verdict is NG. That's my abbreviation for not guilty.

And so, I deny the challenge on Juror

1 Number 5 for cause.
2 MR. BROSS: Thank you. My other -- I
3 think my other two are Juror Number 12 and 3,
4 both seem to have a bias against reporters and
5 news reporters.
6 Juror Number 12 said -- Basically they
7 both said that they are out for their -- They
8 are out for their own agenda and that they are
9 there to sell papers.
10 And obviously, I think they will hear
11 evidence at trial that my client is a reporter
12 and is, you know, I believe that illustrates
13 they have a bias against my client because of
14 her profession.
15 THE COURT: Ms. Stewart?
16 MS. STEWART: How are they going to hear
17 evidence that she's a reporter?
18 I mean, does she take the stand and say:
19 I'm a reporter for a living.
20 Because none of those articles, all of
21 that, the Court has ruled on in the motion in
22 limine. So, I don't understand, you know, I
23 disagree that it's a challenge for cause.
24 He asked the question and he put it in
25 Trump's terms. And quite frankly, you are a

reporter and you work for a newspaper, you want to sell newspapers. I mean, that's a -- that was a valid answer.

THE COURT: Mr. Bross, you are a lawyer and it's a good thing when clients call, new clients call, correct?

MR. BROSS: Yes.

THE COURT: Your legal services are for sale, correct?

MR. BROSS: Yes.

THE COURT: To some -- I mean to put it in a rather derogatory or common way. I mean, it's not generally the way we talk about it.

But no, that's another peremptory challenge, sir. If you feel that those folks may disapprove of reporters in general, then you are welcome to challenge for cause. But I think if we asked all of them if they like lawyers in general, none of us may like those answers.

And so, you know, in order to -- You can't indict an entire profession and get them challenged for cause. If they said that they had read this particular whatever publication it is, and had a bias against it and anyone who

wrote for it, then that would be a different story.

But they just said: I think they're out for their own agenda; which there's been a lot of publicity to that, on that issue; as well as they're out to sell papers; and that's been the common thought for years.

I mean, why is the news of crime after crime after crime instead of all the good people that committed -- that performed community service that day?

MR. BROSS: Well, that's, you know --

THE COURT: It doesn't get ratings.

MR. BROSS: Okay.

THE COURT: So, would you like 10 minutes then to gather your thoughts about who you might like to strike in peremptories, unless you are ready to go forward?

MS. BURGESS: Could we have like two minutes to go over --

THE COURT: Sure, of course.

MR. BROSS: Yeah, just a few minutes.

While we're thinking, do they want to bring back in Juror Number 10?

MS. STEWART: That's fine.

THE COURT: We can do that, yeah.

Is it possible to get Number 10 to come up?

COURT DEPUTY: Sure, Judge.

THE COURT: Thank you. Oh, and while Juror Number 10 is on their way up, remember Number 19, as he was getting ready to walk out said: I have no business here anyway. Well (tenders document), here's why.

MR. BROSS: He's her neighbor. He was her neighbor. He was Dana's neighbor.

(Whereupon, Counsel reviewing document.)

MS. STEWART: How would Juror Number 19 have said anything yesterday? He was sitting in the back.

MR. BROSS: No, he had -- Yes, he raised his hand and told us all that he was Dana's neighbor.

THE COURT: Oh, okay.

MR. SENDRA: Yeah, but that's not really the issue.

THE COURT: Right.

MR. BROSS: Well, he says he knows about the case because he's her neighbor.

MS. BURGESS: And he's formed an

opinion.
THE COURT: All right. Is there a motion with regard to Number 19 based on the --
MS. BURGESS: What's it say, I didn't --
THE COURT: I know prior details about the case and have already formed my own opinion on the case (displaying document).
MR. SENDRA: We'll agree to that.
MS. STEWART: We will agree to a cause challenge, Judge, based on that he's already --
THE COURT: All right. Mr. Bross, Ms. Burgess.
MR. BROSS: Yeah, no objection.
THE COURT: All right, thank you.
MS. BURGESS: And make that joint for the Defense, Your Honor.
THE COURT: Yeah, it's joint. Thank you.
All right. And then so --
MS. BURGESS: Was that Juror Number 19?
THE COURT: That's Number 19, yes.
MS. BURGESS: Thank you.
THE COURT: All right, folks, I will -- oh, 10 is on their way up, sorry. Sorry.
COURT DEPUTY: They finally located her,

Your Honor, they were outside smoking.
THE COURT: Oh, okay. She didn't look like a smoker to me.
MS. STEWART: She didn't seem like a smoker.
THE COURT: No, she didn't strike me as a smoker.
COURT DEPUTY: She's just outside getting fresh air, huh?
Juror Number 10 is here, Your Honor.
THE COURT: All right. Would you like to bring her in please?
All right. We want to do this at the bench, folks.
COURT DEPUTY: Ladies and gentlemen, you have to wait outside please.
THE COURT: Well, no, she didn't ask for private. We're just actually --
COURT DEPUTY: They're fine, Your Honor?
THE COURT: Yeah.
INDIVIDUAL EXAMINATIONS
(Whereupon, Juror Number 10 entered the courtroom and was interviewed outside the presence of the venire panel as follows:)
THE COURT: And she's welcome to come to

the podium.
COURT DEPUTY: And you don't want them outside, Your Honor?
THE COURT: Good afternoon, Ms. 10.
VENIREPERSON: Afternoon.
THE COURT: Hey, doesn't get much better than that, right?
VENIREPERSON: Right.
COURT DEPUTY: (Whispering.) Do you want to gallery cleared for this?
THE COURT: (Shakes head.)
COURT DEPUTY: Okay.
THE COURT: Ma'am, there was a question asked with regard to would any mention of sexual abuse be problematic for you, and the attorneys would like to ask you some follow-up questions.
VENIREPERSON: Okay.
THE COURT: All right, Ms. Stewart?
MS. STEWART: As Mr. Bross said earlier, this is an allegation of sexual abuse, it was a call to the Hotline of an allegation.
VENIREPERSON: Uh-huh.
MS. STEWART: You're not going to hear -- No child is going to testify in this case as

to --
VENIREPERSON: Okay.
MS. STEWART: Would that change your thoughts on anything?
VENIREPERSON: It does like bring back a lot of stuff about, you know, things.
MS. STEWART: Okay. No, this is how you feel, it's how you feel. I just wanted to clarify to you that you are not going to hear a child testify.
VENIREPERSON: Okay.
MS. STEWART: But you still feel as though you can't be fair and impartial?
VENIREPERSON: Yeah.
MS. STEWART: Okay, thank you very much.
THE COURT: Okay. All right, thank you.
VENIREPERSON: I'm sorry.
THE COURT: No problem, thank you.
All right. Then, Mr. Bross, would you like to --
MR. BROSS: Let me strike Juror Number 10 for cause.
THE COURT: Your renewed challenge for cause on Juror Number 10 is granted.
MS. STEWART: Okay.

THE COURT: No objection, Ms. Stewart, I assume?

MS. STEWART: No.

THE COURT: I kind of heard that in your voice when you had been -- When you asked her the question, the second question.

MS. STEWART: Right.

THE COURT: All right. Now, I shall leave you all alone to make your --

MS. STEWART: Are we taking a break?

THE COURT: Unless you're ready.

MR. BROSS: Yeah, we're ready.

ISSUE: JURY SELECTION

THE COURT: Oh, okay. I'm ready when you are, I'm here at your -- all right.

Now, Number 1, all right, let's see what we got here. 1, 2, 3, 5 6 and 7.

Ms. Stewart, Mr. Sendra, do you accept?

MR. SENDRA: We'll strike Number 1.

THE COURT: All right, okay. Then, Mr. Bross, Numbers 2, 3, 5, 6, 7 and 12, accept?

MR. BROSS: Well, the Defense strikes Juror Number 2.

THE COURT: All right. And, Ms. Stewart, 3, 5, 6, 7, 12 and 13?

MS. STEWART: Acceptable.
THE COURT: Okay, Mr. Bross, accept?
MR. BROSS: The Defense strikes Juror Number 3.
THE COURT: Alrighty. That's Defense -- whoop, what a minute, minus --
MR. SENDRA: Two.
MR. BROSS: It's the second one, Your Honor.
MS. STEWART: 2.
THE COURT: 2, yes. Okay. I started out with one, two, three in a row, and it was like, oh, well, it can't be that.
Okay. So then, Ms. Stewart, Mr. Sendra, 5, 6, 7, 12, 13 and 15?
MS. STEWART: Accept.
THE COURT: Because 14 is no longer with us and hasn't been for quite some time, right?
MR. SENDRA: Correct.
THE COURT: Okay.
MS. STEWART: Acceptable.
THE COURT: All right, accepted.
Mr. Bross, Ms. Burgess, the same: 5, 6, 7, 12, 13, and 15?
MS. BURGESS: Just one second, Judge.

MR. BROSS: Yeah, Defense strikes Juror Number 5.

THE COURT: All right, that's Defense three.

Okay. And now, Ms. Stewart and Mr. Sendra, it's 6, 7, 12, 13, 15 and 16.

MS. STEWART: Acceptable.

THE COURT: Okay. Mr. Bross and Ms. Burgess, 6, 7, 12, 13, 15 and 16?

MR. BROSS: Acceptable, Your Honor.

THE COURT: Accept, all right.

Is 18 acceptable to both parties for an alternate?

MS. STEWART: Yes, Your Honor.

THE COURT: Mr. Bross, any objection to Number 18 for the alternate?

MR. BROSS: Her neighbor, I think we struck.

THE COURT: She's the waitress at Jimmy's, who makes the biscuits.

MS. STEWART: Oh yeah, that's right. I'm sitting here going: I can't be sure, but for some reason there's biscuits.

THE COURT: Biscuits, as soon as I say "biscuits" everybody knows who she is.

MR. BROSS: How many alternates are rehabbing, one or two?

THE COURT: One. I was going to have two, and I was going to ask you all if we wanted to bring them all up here and question them some more for one alternate, if somebody wants to --

MS. BURGESS: Can we un-strike somebody?

THE COURT: -- if you all would like me to un-strike someone to be the second alternate?

MR. BROSS: Aren't we into it -- I mean I'm -- or would one be -- I mean, I -- I would agree that probably --

MS. STEWART: If you're okay with one, I'm okay with one.

MR. BROSS: I would agree that probably get rid of 18 and swap one of -- someone else for an alternate maybe. Who do you like that we've struck so far?

MS. STEWART: Everybody.

(More than one speaker, indiscernible.)

MR. BROSS: Who can you live with?

MS. STEWART: It would have to be from the peremptory challenges because I think most

of the causes have gone.
THE COURT: The causes have gone.
MR. BROSS: Yeah the causes are --
(More than one speaker, indiscernible.)
MS. STEWART: And we can't do the --
THE COURT: The causes are --
MR. BROSS: You know, like I'm saying --
MS. STEWART: So you don't like 18 as the alternate, is that what you're saying?
MR. BROSS: Yeah, and I -- Well, yeah, but I don't know --
MS. STEWART: Are you using a strike?
MR. BROSS: If I, you know, that's what I was saying, can we agree to un-strike one of our peremptories to use them as the alternate?
THE COURT: Well, that would be Number 5, Number 3, Number 2 that are the Defense peremptories. Number 1 is the State's peremptory, and she's a lady that doesn't have a ride after 4:30. In fact, she is ride-less today.
MR. BROSS: Yeah.
MS. STEWART: I'll agree to Number 5.
MR. BROSS: Hmm.
MS. STEWART: Or I will agree to Number

2, let me -- Quite frankly, Mr. Buchanan's testimony, if she's the same person, is just that there were no substitutes at school that day. So I don't know, and there can be several people that can testify to that.

MR. BROSS: Your Honor, my client would rather have 18 as the alternate, so I will defer to her.

THE COURT: Okay.

MS. STEWART: Okay. And we're fine with one alternate, Judge.

THE COURT: Okay, are you sure?

MR. BROSS: Yes.

THE COURT: I have a little bit of a concern because I don't want something happening, you know, tomorrow or the next day and we are down to nobody. I kind of like the added pad, you know, measure twice and cut once. That kind of thing.

MS. STEWART: This is not -- If it was a longer case, I would be more concerned.

THE COURT: This should only be what, a couple of days, three days?

MS. STEWART: Yeah.

THE COURT: I mean, we anticipate that

we will finish on Friday?
MS. BURGESS: Yeah.
MR. BROSS: Yes.
THE COURT: Okay, okay. So then are you all comfortable? Ms. Loyd, are you comfortable with Juror Number 18 as the alternate?
THE DEFENDANT: Uh-huh, yes, ma'am.
THE COURT: Okay. And, Ms. Loyd, I've seen you at Counsel table talking with Counsel during this selection process, are you satisfied. Have you had a meaningful opportunity to participate in jury selection?
THE DEFENDANT: Yes, Your Honor.
THE COURT: And is this the jury that you want to have hear your case?
THE DEFENDANT: Um --
THE COURT: Well, I mean --
MR. BROSS: I would say that --
(More than one speaker, indiscernible.)
THE COURT: -- out of the folks that we have here, you know, is this -- Are you satisfied with the selections that your Counsel have made?
THE DEFENDANT: Yeah, yeah. It's just kind of confusing because, you know, you

1 understand when you recite what the law says
2 and you're -- a Defendant is entitled to a
3 representation of their peers.
4 And so the knowledge of looking at --
5 it's not -- okay, I'm not -- I'm not -- I'm not
6 at all --
7 THE COURT: Can you imagine how you
8 would feel if you were black?
9 THE DEFENDANT: No.
10 THE COURT: And you just imagine?
11 THE DEFENDANT: And that's one of my
12 observations that I have made.
13 THE COURT: Yeah. So, that objection is
14 raised many times.
15 MR. BROSS: Yes, I was going to say --
16 THE COURT: Them saying there are none
17 of my peers on this jury.
18 MR. BROSS: Right, and I've seen it, as
19 I'm sure when Judge Lemonidis was a Defense
20 attorney, she was probably --
21 THE COURT: I was horrified.
22 THE DEFENDANT: Yeah.
23 THE COURT: Yeah, I'm serious about
24 that. And so, you know, that's one of my, you
25 know, a jury of your peers, you know.

Fortunately you are who you are, you know.
THE DEFENDANT: Right, right. That was just my observing, you know, my observation. It's a travesty.
THE COURT: Right. But I mean, the fact that you -- Are you comfortable with the folks.
THE DEFENDANT: Yes, ma'am.
THE COURT: And the way that your Counsel has conducted jury selection and with the folks, and you participated in the strikes on who to sit and who not to strike and what not?
THE DEFENDANT: Uh-huh, yes, Your Honor.
THE COURT: Okay. Alrighty then, I think we're good, so we have -- Let's clarify one more time, and I'm going to circle them.
We have Number 6, number 7, Number 12, Number 13, 15 and 16. There are the actual jurors, numbers one through six.
And then number 18, the biscuit lady, the alternate. And just nobody go to Jimmy's for lunch this week. There are no good biscuits there. Okay, all right.
MR. SENDRA: Can I have a time for tomorrow?

THE COURT: Yes.
MR. SENDRA: Because the witness coordinator needs to call people.
THE COURT: Yes, let me -- Okay, wait. 9:15, okay. So we will ask them to be here by about 9:00, and if we had to wait a couple minutes for them, then -- Well, we'll ask them to come in at 9:00 and hopefully get them up -- Oops, there's only six -- only seven people we have to trundle around now.
MS. STEWART: Yeah, we don't have to wait for that many, you know.
THE COURT: Yeah. They'll move a little faster than 30.
MR. SENDRA: That's fine. All right,we don't have to do the whole thing, so.
THE COURT: Right. You have to do openings, right.
MR. SENDRA: I have time to get them here then.
THE COURT: Okay, we're okay. So then perfect. So, asking them to come in at 9:00 will work for everyone, does that sound realistic?
MS. STEWART: Yes.

THE COURT: Okay. Me and my over optimistic world. All right, we will get all of this done. Okay. What I'm doing is I'm checking tomorrow's schedule to make sure we don't have --

MS. STEWART: You have one plea that's a misdemeanor, so it shouldn't be very long.

THE COURT: Okay, that can be pretty quick.

MR. SENDRA: And I have a plea, too.

THE CLERK: You have two pleas, Judge.

THE COURT: Okay, two pleas. That should be very quick. Okay, as long -- And if somebody says that it's a plea to the Court, I'm going to say to set another date.

Okay, very good. Thank you very much.

Then let's call them up and seat the folks that are to be seated.

(Whereupon, Court/Deputy discussion.)

THE COURT: Perfect, thank you very much.

COURT DEPUTY: The Court is ready.

THE COURT: You all made a very wise choice, that wasn't very bad after all. You all were excellent, just boom, and it was done.

You wouldn't believe the people that set out here and ponder for 15 or 20 minutes. You all were amazing to get this done.

MS. BURGESS: (Tenders documents.)

THE COURT: Thank you for reminding me, Ms. Burgess. Madam Clerk is very possessive about those.

COURT DEPUTY: Do you want me to bring in the seven first, and then I'll bring the rest in.

THE COURT: Oh, you'll bring the seven that we --

COURT DEPUTY: You want me to bring in the seven first, and then bring in the rest to sit back there?

THE COURT: Sure. If you want to do that, that's fine. That will work. That will work. You do know which ones, right?

COURT DEPUTY: Yes ma'am. 6, 7, 12, 13, 15, 16 and 18.

THE COURT: Yes sir, thank you so much. All rise for the jury.

(Whereupon, before the Court and Venire:)

COURT DEPUTY: Come on in, sir, come

this way. She's going to change your seats on you here. You're going to take the second seat in the back row.

(Whereupon, Deputy seating the Venire.)

THE COURT: Alrighty. Folks, thank you very much. Have a seat please.

Folks in the gallery, I think you see the way it's laid out. We did this, rather than call everybody up one by one, to make it more efficient for you all. So, thank you.

Folks, you are going to be on the jury, so we will address you all in just one moment.

But folks, you all I'd like to thank tremendously on behalf of all of us for your time, your patience and your willingness to serve. The system doesn't work without you, and we greatly appreciate it.

Please call the phone tomorrow evening after 6:00, Madam Clerk?

THE CLERK: Yes.

THE COURT: Yes, after 6:00 and they'll let you know what -- Because there's another courtroom downstairs that is also having jury trials this week, I believe. And they may need additional jurors.

So, we should be set for the week, but you may -- You may get to go downstairs and do something down there.

All right. So, with our greatest thanks, have a wonderful evening. Oh, and your badges folks --

COURT DEPUTY: I've taken care of it Your Honor.

THE COURT: You have got it all squared away.

COURT DEPUTY: Yes, ma'am.

THE COURT: Thank you, you are efficient.

(Whereupon, remaining Venire released.)

THE COURT: Oh, can Counsel approach for just a moment? There's something that I forgot to ask you in the very beginning.

Sorry, folks, you're just going to tune this out like babies after a while.

(Whereupon, side bar proceedings, out of the hearing of the Venire:)

THE COURT: Does anybody wish to have notes -- questions rather, from the jury?

MR. BROSS: Sure.

MS. STEWART: Can we actually just

instruct them, swear them in, and instruct them tomorrow?

THE COURT: Well, that was what I was about to -- that was my other question.

MS. STEWART: I'm sorry, but I have a dog and if I don't get home he's going to --

THE COURT: Okay. Well, in no, my question -- What I was going to do is --

MR. SENDRA: And I'd rather do that, in case something happens overnight anyway. And in that way we don't have to start completely over.

THE COURT: Well, that's right, I wasn't going to swear them in yet. But I wanted to ask you -- Well, think about it overnight, whether you want them to ask questions.

MR. BROSS: Yeah, I thought it would be fun. I like it, I think it's fun. Because I like to see what they're thinking.

THE COURT: I've had it to blow up into a nightmare, but I will do whatever you want.

MR. SENDRA: Well, I think it's a nightmare in this case based on what's not permitted --

MS. STEWART: On the motions in limine.

MR. SENDRA: -- to be gone into.
THE COURT: Right, right.
MR. BROSS: I have -- Like I said I'd like to, but it's up to you. But you asked me and I like it. I think it's interesting and I like to see what they're thinking. I think their questions are interesting.
I was actually listening to something on an NPR talking about what forms the jury -- or the questionnaires and the jury instructions and everything that the better --
THE COURT: The juror questions?
MR. BROSS: Yeah.
THE COURT: All I can say is they did a personal (indiscernible) file and asked every -- each witness and she -- the paper came forward and there was some (indiscernible) questions on each page.
MS. STEWART: And I understand that, but sometimes -- I mean --
THE COURT: And then we all had to come up. They have to look into this and then we have had to weed through the questions and decide what's appropriate and what's not.
And I understand that those can

telegraph their thoughts and you know. And so, I mean, it's really up to you all. Why don't you think about it overnight?

MS. STEWART: Okay.

MR. SENDRA: All right.

THE COURT: And, you know, we don't have to decide right now. But what I am looking for, is I am going to get them instruction on --

MR. BROSS: Don't talk about the case and don't look anything up.

MR. SENDRA: Yeah.

THE COURT: All of that, yeah.

MS. STEWART: Okay.

THE COURT: And we won't -- I'm looking for the question on, you know, cone of silence.

MS. STEWART: Oh, okay.

THE COURT: The official cone of silence.

MS. STEWART: Okay.

(Whereupon, before the Court and Venire:)

THE COURT: All right. Folks, let me just give you a parting and instruction once again. You all will probably think you are

1 back in school again at some point.
2 THE CLERK: Judge?
3 THE COURT: Yes ma'am.
4 (Whereupon, Court/Clerk discussion.)
5 THE COURT: Okay. I want to reemphasize
6 that during the course of the trial the Court
7 may take recesses, during which you will be
8 permitted to separate and go about your
9 personal affairs.
10 During these recesses you will not
11 discuss the case with anyone nor permit anyone
12 to say anything to you or in your presence
13 about the case.
14 If anyone attempts to say anything to
15 you or in your presence about this case, please
16 tell that person that you are on the jury
17 trying the case and ask that person to stop.
18 If he or she persists, leave that person
19 at once and immediately report the matter to
20 the Court Deputy, who will advise me.
21 The case must be tried by you only on
22 the evidence presented during the trial in your
23 presence, and in the presence of Ms. Loyd, the
24 attorneys and me, the Judge.
25 The jurors must not conduct any

1 investigation of their own. This includes
2 reading newspapers, watching television or
3 using a computer, cell phone, the internet, any
4 electronic device or any other means at all to
5 get information related to this case or to the
6 people and places involved in this case. This
7 applies whether you are in the courthouse, at
8 home or anywhere else.
9 You must not visit places mentioned in
10 the trial nor use the internet to look at maps
11 or pictures to see any place discussed during
12 the trial.
13 Now, that part is -- all right. Jurors
14 must not have discussions of any sort with
15 friends or family members about the case or the
16 people and places involved. So, do not let
17 even the closest family members make comments
18 to you or ask you questions about the trial.
19 Because you all know what the first
20 question is going to be when you walk in
21 tonight: Are you on the jury?
22 And then when you say yes: What's it
23 about?
24 And then you're going to say (zips lips
25 motion) the cone of silence.

And I want to stress in this age of electronic communication, I want to stress again, that just as you must not talk about this case face-to-face, you must not talk about this case by using an electronic device.

You must not use phones, computers or other electronic devices or social media to communicate. Do not send or accept any messages related to this case or to your jury service.

Do not read anything on social media that may even vaguely suggest that it be related to this case or the issues, or anything that you have sort of heard in a sideways manner that may become part of this case.

Because doing that will be an immense disservice to both the State and to the Defense. And it will make the last two days of your life absolutely wasted. So certainly no one ever wants to feel that they have absolutely wasted two days of their life.

And, you know, we're here -- I'm here all day no matter what, but I know you are not. You all have other things you had much rather be doing perhaps.

So, you must not use phones, computers or other electronic devices. I think we've beaten that horse enough. But I want to stress the social media aspect of it because, as you know, people put all kinds of stuff on there.

I don't have a Facebook page. I don't know how it works and I don't want to know how it works. All I know is I see people obsessed with it and there's all kinds of stuff on it.

And so, I highly recommend to you that if you happen to be a social media user, please do your best to either watch a movie, read a book. I know now I sound like your mother, right? Read a book, do something other than look at social media until the trial is finished.

Just as an added insurance policy, so that once again, we don't get to the end of the case and find out that somebody read something on social media, and then you have wasted a whole week of your lives. So, let's not get there.

All right, folks. Thank you very, very much. And Madam Optimist is going to ask you to come in by nine o'clock tomorrow. Our goal

is to have you up here and listening to opening statements and witnesses by 9:15.

We have two pleas set at 8:30. And if either of them be seem to be developing little wrinkles that would make them more lengthy, I'm going to tell them to come back at another time.

All right. Because you are our guests, you are our priority now. All right, thank you so much, folks. And have a great evening.

Oh, Deputy, do you want them to come right up here tomorrow or do you want them downstairs?

COURT DEPUTY: No, Your Honor, downstairs.

THE COURT: Okay, downstairs, then Deputy Hughes will bring you up here tomorrow.

Thanks, folks, have a good evening.

(Whereupon, Venire out.)

THE COURT: All right. The record should reflect that the jury have left the room and the door is closed.

Mr. Bross, I want to show you this (tenders documents). You probably know far more about computers than I do, or Ms. Burgess,

you probably know far more about computers than I do.

MS. BURGESS: I don't have anything but a cell phone.

THE COURT: Well, this is the driver for that printer.

MR. BROSS: Oh, okay. Thank you, Your Honor.

THE COURT: So if -- I don't -- All I know is a thing called a driver for a printer.

MR. BROSS: Thank you.

THE COURT: I have no idea.

MR. BROSS: You've tapped out your expertise?

THE COURT: You have hit the bottom of my knowledge, folks. I have a husband who is a geek. And he told me something about printer drivers, and that's it.

MR. BROSS: You have your skill set, and high tech isn't one of them?

THE COURT: High tech is not. No one would ever accuse me of that.

All right. If there is nothing else this evening then, folks --

MR. BROSS: Yep.

THE COURT: Is everybody okay?

MR. BROSS: Yep.

THE COURT: All right, have a great evening.

And, Ms. Loyd, you seem much better today.

THE DEFENDANT: Yes.

THE COURT: I'm so glad, so the vitamin C really worked?

THE DEFENDANT: Me too.

THE COURT: You know there's something called -- There's some Chinese cold medicine that is amazing. You can buy it on Amazon, but it is called Gan Mao Ling, G-A-N M-A-O L-I-N-G.

THE DEFENDANT: Okay.

THE COURT: And it comes in a big bottle and you can get like 200 or 400 tablets, it's like maybe maximum $25.

But four little tiny tablets, four times a day and it will -- if you take it the very first day when you feel like that icky feeling that you're getting sick, boom, it knocks it out.

It's really good, I've been using it for years. I don't want to jinx it, but I've only

missed maybe one day of work in about 25 years because I was actually ill. And I've been taking it the second I feel it. So, take care.

(Whereupon, Court will be in recess overnight. Proceedings will resume at 9:00 AM on March 29, 2017.)

(Whereupon, Proceedings continued in Volume III.)

1 IN THE COUNTY COURT OF THE 18TH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA
2
3 CASE NO. 05-2015-CF-039871-AXXX-XX
4 STATE OF FLORIDA,
5 PLAINTIFF,
6 V.
7
8 DANA LYNN LOYD,
9 DEFENDANT.
10 _____/
11 TRANSCRIPT OF JURY TRIAL PROCEEDINGS
12 VOLUME III (Pages 471 - 724)
13 DATE: March 27-30, 2017
14 PLACE: Vassar B. Carlton Historic Courthouse
506 S. Palm Avenue
15 Titusville, Florida 32796-3592
16 BEFORE: The Honorable Robin Lemonidis,
Circuit Judge
17
These proceedings were digitally recorded
18 and the following was transcribed by:
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NO.	MK'D	DESCRIPTION	REC'D

NONE

(Whereupon, Proceedings continued in Volume IV.)

(Whereupon, Proceedings continued from Volume II.)
TITUSVILLE, FLORIDA; March 29, 2017
(Whereupon, the following proceedings were had before the Court:)
THE COURT: All right. At this time we are back on the record -- Well, is Mr. Bross nearby?
MS. BURGESS: He is on his way from Viera.
THE COURT: Okay.
MS. BURGESS: And he said we can go ahead and get started.
THE COURT: Oh, again?
MS. BURGESS: Yes.
THE COURT: Okay, all right. Then we are back on the record in the State of Florida versus Dana Lynn Loyd, 2015-CF-39871. Ms. Loyd is present with Counsel, Jessica Burgess and the State is represented by Ms. Stewart and Mr. Sendra. Mr. Bross is on his way, as advised by Ms. Burgess.
And, Ms. Burgess, you said that you are comfortable proceeding at this point, knowing that Mr. Bross will join you momentarily or shortly?

MS. BURGESS: Yes. He said we could proceed with both of the openings, yes.

THE COURT: All right, thank you. Okay. So obviously, you are going to be doing the opening?

MS. BURGESS: Yes.

THE COURT: Okay, no problem. All right. Then we've got our jury, right?

COURT DEPUTY: Yes, ma'am.

THE COURT: The instruction has to do with them anyway. All right, would you like to bring them in?

COURT DEPUTY: Yes, ma'am. All rise for the jury please. All rise for the jury.

(Whereupon, before the Court and Jury.)

THE COURT: Good morning, folks.

THE JURY: Good morning.

THE COURT: Thank you for coming back, please have a seat.

Did anything happen over the evening recess that would in any way affect your ability to be fair and impartial in this case?

THE JURY: (Responded Negatively.)

THE COURT: All right, thank you.

And I have some preliminary instructions

that we must go through, and then the attorneys will make an opening statement.

THE CLERK: I need to swear them in.

THE COURT: Oh, yes. Thank you.

Folks, could you please rise to be sworn?

JURY SWORN

THE CLERK: Please stand and raise your right hand.

Do you solemnly swear or affirm that you will well and truly try the issues between the State of Florida and the Defendant, and render a true verdict according to the law and the evidence, so help you God?

THE JURY: (Responded Affirmatively.)

THE CLERK: You may be seated.

(Whereupon, Jury is sworn in.)

THE COURT: Now, you're sworn. Madam Clerk is one of the most important players in the courtroom.

All right. Ladies and gentlemen of the jury, you have been selected and sworn to try the case of the State of Florida versus Dana Lynn Lloyd. This is a criminal case and Ms. Loyd is charged with false report of child

abuse, abandonment or neglect.

The definition of the elements of false report of child abuse, abandonment or neglect will be explained to you later. It is your solemn responsibility to determine if the State has proved its accusation beyond a reasonable doubt against Ms. Loyd.

Your verdict must be based solely on the evidence or lack of evidence and the law. The charging document, as I've explained, is not evidence and it is not to be considered by you as proof of guilt.

It is the Judge's responsibility to decide which laws apply to this case and explain those laws to you. It is your responsibility to decide what the facts of this case may be and to apply the law to those facts, thus the province of the jury and the province of the Court are well defined and they do not overlap. This is one of the fundamental principles of our system of justice.

Before proceeding further, it will be helpful if you understand how a trial is conducted. At the beginning of the trial the attorneys will have an opportunity, if they

wish, to make an opening statement.

The opening statement gives the attorneys a chance to tell you what evidence they believe will be presented during the trial. What the lawyers say is not evidence and you are not to consider it as such.

Following the opening statements, witnesses will be called to testify under oath. They will be examined and cross examined by the attorneys. Documents and other exhibits also may be produced as evidence.

After the evidence has been presented, the attorneys will have the opportunity to make their final argument. Following the arguments by the attorneys, the Court will instruct you on the law applicable to this case. After the instructions are given, the alternate juror will be released, and you will then retire to consider your verdict.

You should not form any definite or fixed opinions on the merits of the case until you have heard all of the evidence, the argument of the lawyers, and the instructions on the law by the Court. Until that time, you should not discuss the case among yourselves.

During the course of this trial the Court may take recesses, during which you will be permitted to separate and go about your personal affairs. During these recesses, you will not discuss the case with anyone, nor permit anyone to say anything to you or in your presence about the case.

If anyone attempts to say anything to you or in your presence about the case, once again -- and I went over this with you all yesterday, but I'm going to reinforce it -- please tell that person that you are on the jury trying the case and tell that person to stop. If he or she persists, leave that person at once and immediately report the matter to the Court Deputy, who will report it to me. And we will take whatever steps necessary.

And you see today that your badge clearly says "Juror," so everybody knows that you are a juror and should not be talking to you about anything that has to do with the case.

The case must be tried by you only on the evidence presented during the trial in your presence, and in the presence of the Defendant,

the attorneys and the Judge.

The jurors may not -- must not -- conduct any investigation of their own. This includes reading newspapers, watching television, using a computer, cell phone, the internet, any electronic device or any other means at all to get any information related to this case or the people and places involved in this the case. This applies whether you are in the courthouse, at home or anywhere else.

You must not visit places mentioned in the trial or use the internet to look at maps or pictures to see any place discussed in the trial. Jurors must not have discussions of any sort with friends or family members about the case or the people and places involved. So, do not let even the closest family members make comments to you or ask you questions about the trial.

In this age of electronic communication, I want to stress again, that just as you must not talk about this case face-to-face, you must not talk about this case by using any form of an electronic device. And that includes social media, as we discussed yesterday.

You must not use phones, computers or other electronic devices to communicate. Do not send or accept any messages related to this case or your jury service. Obviously, unless it is a text to your significant other to say: I'm going to be a little later this evening.

Do not discuss this case or ask for advice by any means at all, including posting information on an internet website, chat room or blog.

In every criminal proceeding a defendant has the absolute right to remain silent. At no time is it the duty of a defendant to prove his or her innocence. From the exercise of a defendant's right to remain silent, a jury is not permitted to draw any inference of guilt, and the fact that a defendant did not take the witness stand must not influence your verdict in any manner whatsoever.

The attorneys are trained in the rules of evidence and trial procedure, and it is their duty to make all objections that they feel are proper.

When an objection is made, you should not speculate on the reason why it was made.

Likewise, when an objection is sustained or upheld by me, you must not speculate on what might have occurred had the objection not been sustained nor what a witness might have said had he or she been permitted to answer.

All right. Now, with regard to Court Deputies. The Court Deputy will have charge of the jury, and that's Deputy Hughes, do you see him? Tiny Deputy Hughes is going to be your custodian for the next several days during the trial.

They are not allowed -- Deputy Hughes nor any other deputy -- is allowed to answer any questions concerning the case being tried; the trial, the witnesses, the Defendant or any other legal matter.

They are prohibited from discussing anything regarding the merits of the case, or any comments on witnesses or other matters connected with the trial of the case. They are allowed to assist you in your personal needs only, and to answer questions relative to accommodating your personal needs.

If a juror has a question about the trial, the case or any other legal matters,

please write the question on paper. Sign it and give it to the Court Deputy, who will accept it and deliver it to me. All right.

MS. STEWART: Judge, may we approach?

THE COURT: Yes, I was just going to ask you to do that. Mr. Bross, you are here now, too.

Pardon us for a moment, folks, and I again, I am going to apologize. We have got lovely hold music and you are going to hear this (white noise).

(Whereupon, the following sidebar proceedings, out of the hearing of the Jury:)

MS. STEWART: It's something that I think is really important.

THE COURT: Okay.

MS. STEWART: It's part of the preliminary instructions.

THE COURT: Well, all right, the note-taking?

MS. STEWART: It's not the note-taking.

THE COURT: Okay.

MS. STEWART: There's this paragraph (tenders book) in the preliminaries.

THE COURT: Okay (reviewing book).

MS. STEWART: And it explains to them why it's important that they not research, go online, and do all of that stuff.

THE COURT: Okay.

MS. STEWART: And with this case, I think it's really important.

THE COURT: All right, just one second.

MS. STEWART: It's standard.

THE COURT: I'm going to have to update this.

MS. STEWART: Do you want to keep my book, Your Honor?

THE COURT: I'll just do the page. Well, it's 2.1 and (j) (9) okay.

MR. BROSS: No objection.

THE COURT: Well, wait while you're here, we can identify what -- I'm going to take a poll on note-taking. I mean, not -- excuse me -- on questions.

MS. STEWART: Questions, okay.

THE COURT: All right. My poll rests with you, you're the four of my poll.

(More than one speaker, indiscernible.)

THE COURT: I know, Mr. Bross, that you expressed yesterday that --

MR. BROSS: I think that it's --
(More than one speaker, indiscernible.)
MR. BROSS: -- this is a complex case, though.
MS. STEWART: Well, it's something that --
THE COURT: What was it, that was 2.1?
MS. STEWART: Yeah, 2.1.
THE COURT: And?
MS. STEWART: (j) (9).
THE COURT: (j) (9) and it's 2.1. Okay. And it begins with: What are the reasons for this rule?
MS. STEWART: Right.
THE COURT: All right. Let's hear your thoughts on my other question.
MS. STEWART: Based on the evidence that they can't consider it because the motion is in limine. There is a lot of landmines, so.
THE COURT: Uh-huh.
MS. STEWART: I mean, that's my only concern with that. I don't mind otherwise, but this case is just special things that's been --
MR. BROSS: I think, Judge, is that's not something for your consideration.

MS. STEWART: Well, it's just saying we can't answer that question.

MR. BROSS: Oh, yeah, we can do --

THE COURT: Well, my experience -- my one experience -- with having done it that way, was we just said -- we just went and had to go through all of the questions, and then we just pick the ones that were going to be asked, and then that was it.

But the other issue here is that we got a little bit of a late start Monday, we didn't start until Tuesday.

And you all had thought that this was going to take all week and by doing the -- by allowing questions at this point would make this much more drawn-out and they are going to be hearing the snow a whole lot more often.

MS. STEWART: I just think that this is -- Well, there are cases that are, you know, conducive to that. I don't think this is one of them.

THE COURT: Right. And I do think there is an issue, because there has been quite a bit that we're going to leave out.

MR. BROSS: Okay. Well, maybe next time

then.

THE COURT: All right, thank you. We won't go into that.

(Whereupon, before the Court and Jury.)

THE COURT: All right, folks. And can you please, Ms. Burgess, can you tap your microphone please?

MS. BURGESS: (Complies.)

THE COURT: Yes. There we go, thank you. That needs to be on for you, yeah. Nothing that's being said at the tables is being recorded. We have different settings for these things.

Let me go back to the bit about no investigating on your own, no looking at computers or anything like that. What are the reasons for these rules?

These rules are imposed because jurors must decide the case without distraction, and only on the evidence presented in the courtroom.

If you investigate, research or make inquiries on your own, the trial Judge has no way to make sure that information you obtained is proper for the case.

The parties likewise, have no opportunity to dispute the challenge -- dispute or challenge the accuracy of what you find.

This is contrary to our system which assures every party the right to question and challenge the evidence being considered and the right to present argument with respect to that evidence.

Any independent investigation by a jury unfairly and improperly prevents the parties from having that opportunity that our judicial system promises.

And I think that's a more formal statement of what we discussed yesterday. It was straight from the book, not made slightly more -- we hadn't -- the legalese wasn't combed out of that quite as much as we tried to comb it out of it.

Now, note-taking, you may -- during the trial -- you may notice that you have these folders, these envelopes, in your hands right now. During the trial you may, if you wish, make brief notes to assist you in remembering the evidence. You do not have to take any notes if you do not desire to do so.

And I'm sure that by now, some of you have noticed that I am a bit of a compulsive note-taker. When my children call me, I pick up pen and paper.

And so, please disregard any note-taking that I may be doing because I am doing it constantly. That does not mean that you have to be doing it. I have my own purposes and that's -- it is what it is. You follow your own system of inputting data, so to speak. To take notes certain conditions must be observed.

Number one, you should not discuss your notes or read your notes to other jurors at any time or allow any other juror to read your notes even while deliberating your verdict.

The notes are not a transcript of the trial, they are not intended to be considered authoritative, but rather as an aid to refresh your memory. This isn't going to be a two-week trial, so hopefully that's not going to be a big, big problem.

The notes are not evidence and should not be given any precedent over your independent recollection of the facts. A juror who does not take notes should rely on his or

her independent recollection of the evidence and not be influenced by the fact that another juror has taken notes.

Each juror has been provided with a manila envelope containing a notepad and a pen. The numbers one through seven correspond with your seat. These notepads must be left on your seat during recesses and adjournments, like at the end of the day.

You will only be allowed to take them into the jury room when you deliberate your verdict. At the end of each day these notes will be secured for the evening recess by the clerk. And at the next convening of the Court, your sealed notes will be returned to you.

At the conclusion of the trial your sealed notes will be delivered to the Court Deputy and then given to Madam Clerk, who is directed and instructed to destroy and discard them; shred them.

At the end of the trial you will have to make your decision based on what you recall of the evidence. You will not have a written transcript to consult, and it is difficult and time-consuming for the reporter to make a disk

of the testimony and whatnot in order to play it back for you.

Because we've gone away from, as you know, the Court reporter who used to have that strip of hieroglyphics, and now we have an audio record. So, it does take a little bit of time for even the Wizard of Oz to -- that's what I call her because things magically happen here -- to make the disk and whatnot.

And so, I urge you to pay close attention to the testimony as it is given and not be distracted by excessive note-taking.

All right. At this time, would the State like to make an opening statement?

(Whereupon, State Counsel discussion.)

THE COURT: At this time, would the State like to make an opening statement?

MR. SENDRA: Sure.

THE COURT: All right.

MR. SENDRA: May it please the Court and Counsel.

STATE'S OPENING STATEMENT

MR. SENDRA: All right. You don't get to get questioned again today. You get to actually hear some testimony.

1 All right. Back on April 28th, 2015,
2 the child in this case that you will hear
3 about, Riley Michaud, was attending Quest
4 Elementary School here in Brevard County. Her
5 father is Tim Michaud, you will hear from them
6 also toward the end of the trial.
7 But you're going to hear today, you will
8 hear from Ms. Christiansen first. She's a
9 former employer and supervisor at DCF. They
10 received an intake Hotline call, or a Hotline
11 abuse intake call.
12 The subject of that call was Riley
13 Michaud and Tim Michaud and you're going to
14 learn -- you will hear the call. DCF provided
15 that recording to Agent Fischer from the
16 Brevard County Sheriff's Office, who was the
17 main investigating agent in this case.
18 During that call you will hear the
19 Defendant tell the Hotline that she overheard a
20 conversation at the school that Riley was
21 having, and Riley had said that her father
22 shaved her legs and repeatedly forces her to
23 have sex with him.
24 There will be a bunch of other
25 information that the Hotline operator asked to

1 obtain the information of the caller. And to
2 try to verify the information that's being
3 given to them about where the conversation
4 occurred.
5 What you will hear the Defendant say:
6 At the school I was substituting. She will
7 give other details about the child, claiming
8 that she's malnourished severely. She's only
9 allowed to eat certain things, the father has
10 weight restrictions for the child and things
11 like that.
12 The call from the Hotline had been
13 passed along to the local DCF people, because
14 the Hotline is in Tallahassee. Okay. That's
15 when Ms. Christiansen and Mr. Oneil Brooks get
16 involved. Okay. They are the local DCF people
17 that you're going to hear from in this case.
18 Ms. Christiansen was the supervisor that day
19 locally, and Mr. Oneil Brooks is the -- what we call a
20 child protective investigator. He's the person that
21 will go out and actually try to observe the child or
22 verify what they can in person, based on the report.
23 Okay. You're going to hear from Ms.
24 Christiansen that they checked with the school. They
25 do a preliminary investigation before they send Mr.

1 Brooks out to meet with the child. And they start
2 seeing red flags with the information that they had
3 received.
4 She will tell you that they checked with the
5 school and there were no substitutes that day for
6 Riley, who was in the sixth grade at the time. And
7 that there was nobody by the name used by the caller
8 to the DCF Hotline.
9 That caller had used the name of "Theresa
10 Smith" and the information that was obtained from the
11 school was that nobody by that name was substituting.
12 Nobody subbed for Riley that day.
13 You will hear on the intake call to the
14 Hotline that the person reporting does this on April
15 29th. You are going to find that out through the
16 witnesses. But they will say that the conversation
17 was overheard on April the 28th. Okay, the day
18 before. I believe it was a Tuesday.
19 And you're going to get records later on in
20 the case from the School Board that show you that
21 there were no subs that day at the school that dealt
22 with Riley, and there were no substitute by the name
23 of Theresa Smith.
24 And you will get that information through
25 Patti Buchanan, who is one of the Brevard County

1 School Board employees.
2 You are going to hear from Mr. Brooks, he's
3 going to tell you he responded to Quest Elementary at
4 the direction of Ms. Christiansen, his supervisor. He
5 went to meet with Riley and make a determination of
6 whether there appeared to be any immediate harm or
7 danger to the child. He responded to the school, they
8 did not observe any indicators that she was in any
9 immediate danger.
10 And they then spoke to the school employees,
11 including Ms. Sorokin who is the assistant principal.
12 You are going to hear from her at some point today or
13 tomorrow.
14 And she will tell you what the normal
15 procedure is as a teacher for reporting, that they
16 have in the school. She is going to tell you her
17 observations about the child, Riley, and how they're
18 inconsistent with what you hear on the DCF Hotline
19 call.
20 And she will also tell you who Riley's
21 teachers are, or were at the time. And tell you that
22 as far as she's aware, there was no call made to DCF
23 by a teacher from the school.
24 After that you're going to hear from Agent
25 Fischer. Agent Fischer will tell you that he was the

1 case agent assigned to this after DCF passed this
2 along to the Sheriff's office, because they had
3 suspicions that it was a false report. The
4 information wasn't checking out at all, so Agent
5 Fischer starts to look into this case.
6 Agent Fischer gets the intake report from DCF,
7 the initial report that they type up when they get the
8 Hotline call. And that report includes the phone
9 number of the caller.
10 Now, you're going to hear a little bit later
11 on that. When you hear the recording, the caller
12 tries to report anonymously. Okay. The problem with
13 that scenario is substitute teachers are mandatory
14 reporters. You are required to leave your name and
15 your phone number.
16 They take this report and he learns, because
17 he gains the recording and listens to it and you are
18 going to hear it, she leaves her number but refuses to
19 leave her name. And the only name she then gives is a
20 false name, because we know there's no Theresa Smith
21 at the school at that time.
22 Okay. So, Agent Fischer starts looking into
23 this. He's got the phone number, he uses whatever
24 investigative resources or databases he uses. He
25 determines what phone company that number belongs to.

1 And he sends out a subpoena basically: I need
2 the records for this cellular phone number and the
3 subscriber information, any payment information and
4 that sort of thing.
5 He gets a response from AT&T, which is the
6 company he learned the number belonged to. They
7 provide all of the information he requested. That
8 phone number, which you're going to learn is
9 321-591-7964, belongs to the Defendant, Ms. Loyd.
10 And the subscriber on that account is
11 Christopher Loyd, her husband. And you will also
12 learn that her husband was a former employee of the
13 Sheriff's office, and Agent Fischer has that knowledge
14 directly.
15 From there, Agent Fischer meets with the
16 School Board employees, and talks with Ms. Sorokin,
17 the assistant principal that I told you that you will
18 hear from, to get her statement and what knowledge she
19 has of the situation.
20 He meets with Ms. Buchanan, Ms. Buchanan
21 actually runs an inquiry in their employee database.
22 And you will see a printout from April 28th and April
23 29th, 2015, which shows you the subs, substitute
24 teachers that were at Quest Elementary on that two-day
25 timeframe based on the DCF call.

1 And that printout is going to tell you that
2 there were no substitute teachers by the name of
3 Theresa Smith. And based on the information you're
4 going to get from Ms. Sorokin, you're going to see
5 from that sheet that Riley didn't have any substitutes
6 that day either.
7 You are going to hear from Theresa Smith, the
8 only substitute teacher that was active in the Brevard
9 County school system at the time this report was made.
10 And she's going to tell you that she was not
11 teaching in County during the year 2015. She was
12 actually teaching in, I believe, it was Osceola County
13 over South of Orlando or the Orlando area.
14 She didn't make a report to DCF when she
15 substituted at the school. And she had not called the
16 Hotline about Riley.
17 Finally, you are going to hear from Mr.
18 Michaud. He will tell you that Riley was roughly 10
19 or 11 at the time. I might be out by year or two, but
20 she was under the age of 18.
21 Okay. He's going to tell you he's her father.
22 DCF came out and investigated this, they spoke to him.
23 Agent Fischer spoke to him. You will learn that the
24 DCF investigation was closed as unfounded.
25 Mr. Oneil Brooks will tell you that based on

1 all of the false information provided to DCF that was
2 verified through all of these other sources, that it
3 was not true.
4 And you will learn through Mr. Michaud that he
5 doesn't know the Defendant. And as far as he's aware,
6 his daughter doesn't know the Defendant.
7 You're going to get instructions at the end of
8 this case, and we will explain those to you and the
9 Judge will as well.
10 But at the end of the case, Ms. Stewart and I
11 are going to ask you to find the Defendant guilty of
12 false reporting of child abuse, abandonment or
13 neglect, because the evidence is going to show beyond
14 a reasonable doubt that nothing she said to DCF that
15 day was true.
16 And she also attempted to lie about it to
17 Agent Fischer. And when he finally confronted her
18 with the evidence, her consciousness of guilt comes
19 out when she says: I'm sorry for what I did. I'm not
20 going to make any excuses.
21 So, at the end, we're going to ask that you
22 return a verdict of guilty to this crime against Ms.
23 Loyd.
24 Thank you.
25 THE COURT: Thank you, Mr. Sendra.

Ms. Burgess?
MS. BURGESS: Yes, Judge. And I have demonstrative posters.
MR. SENDRA: May we approach, Judge?
THE COURT: Certainly.
(Whereupon, the following sidebar proceedings, out of the hearing of the Jury:)
MS. STEWART: We haven't been shown whatever this demonstrative evidence is.
THE COURT: I was just wondering that. You have to show everything to Counsel.
MS. BURGESS: Okay. (Tenders posters.)
THE COURT: And why don't we -- well, here, let's do this.
(Whereupon, before the Court and Jury.)
THE COURT: Folks, rather than to have you listening to that wonderful sound, why don't we excuse you for just a moment while we discuss something?
And this helps keep you awake and moving and all kinds of good things come from it.
COURT DEPUTY: All rise for the jury.
(Whereupon, before the Court and out of the presence of the jury.)
THE COURT: All right. The record

should reflect the jury has left the room and the door is closed. And as I have already said, Mr. Bross has joined us shortly after we began the proceedings.

All right. Ms. Burgess, what is it that you have?

MS. BURGESS: It's only definitions right now, okay?

THE COURT: Definitions of what?

MS. BURGESS: Let's see, the Florida Statute that she's charged under (tenders posters) and the elements of a false report.

THE COURT: (Reviewing posters.)

MS. STEWART: Sounds a lot like a closing. Opening, as the Court knows, is to give them a roadmap of what they expect the evidence to show.

MS. BURGESS: I believe, in my opening, I am allowed to define what a false report is and the statute under which she's charged; that's already been read to the jury.

MS. STEWART: No, that's fine. I'm just saying it's a roadmap, it's not a closing argument, so.

THE COURT: That does appear to be more

1 appropriate for closing as opposed to -- I
2 mean, it's not -- Obviously you are welcome to
3 quote from jury instructions to help guide the
4 jury, but that is really more argument than it
5 is opening statement material.
6 And the record should reflect that
7 you've got -- here, face me with those please
8 -- two, it looks like 18 by 24 poster boards
9 that's say -- that define Florida Statute
10 39.205 Sub (9): A person who knowingly and
11 willfully makes a false report of abuse,
12 abandonment or neglect, or who advises another
13 to make a false report, is guilty of a felony
14 in the third degree.
15 The next piece of paper attached to that
16 board says: Anyone making a report who is
17 acting in -- in big red letters -- "good faith"
18 is -- in large red letters again -- "immune
19 from any" -- underlined and capital letters --
20 "liability" and that --
21 MS. STEWART: And, Judge, can we just
22 stop right there since you've got to that?
23 THE COURT: Yeah.
24 MS. STEWART: That's not what the
25 instructions says, so that's -- Basically she's

1 putting up there what would be -- We've already
2 had that. We've already had that hearing.
3 MR. BROSS: But actually -- but I think
4 at this point that's --
5 (More than one speaker, indiscernible.)
6 MS. BURGESS: It's in the jury
7 instruction.
8 MR. BROSS: It is in the jury
9 instruction, I mean it says --
10 MS. BURGESS: It says -- No, it says --
11 THE COURT: Wait, wait; folks. Folks,
12 don't forget the door is --
13 MS. BURGESS: Sorry.
14 MS. STEWART: It is not assigned -- If,
15 at the time of making the report of child
16 abuse, abandonment or neglect, Dana Loyd was
17 acting in good faith. That's what it says.
18 THE COURT: Yes, yes.
19 MS. STEWART: And that's not what that
20 says.
21 THE COURT: It doesn't say immune, the
22 word "immunity" does not -- it is not a crime,
23 if, at that time -- if you look at the third
24 paragraph under the main -- the instruction on
25 the main charge, Ms. Burgess, it does say what

1 Ms. Stewart just quoted.
2 There is the -- the word "immune" is not
3 there. And the words "any liability" is not
4 there either. So, that is misleading.
5 MS. STEWART: And then, Judge, just for
6 further argument. They're not going to be read
7 the statute, they're going to be read the jury
8 instruction.
9 THE COURT: Right.
10 MS. STEWART: And the whole immunity
11 issue, if the Court will recall, they filed a
12 motion to dismiss. They refused to put their
13 client on the stand, which is called for in
14 that situation. And then they withdrew that
15 motion. And this is like a backdoor way of
16 getting that in again.
17 MR. BROSS: Actually, I believe, you can
18 make that argument in front of the jury.
19 THE COURT: Mr. Bross, Ms. Burgess is
20 making this argument because she's doing
21 opening statement.
22 MR. BROSS: Yes, Your Honor.
23 (Whereupon, Defense Counsel discussion.)
24 THE COURT: And may I ask, can you print
25 another witness list? I'm trying to speak

1 softly, so that I don't -- yeah. I probably
2 have it back there, but rather than go back
3 there and get it off my desk.
4 All right. So, Ms. Burgess, do you have
5 any further -- Do you have any further argument
6 you would like to make on this point?
7 MS. BURGESS: Yes, Judge. The statute
8 under which she is charged, 39.205 Subsection
9 (9) says: "A person who knowingly and
10 willfully makes a false report of child abuse,
11 abandonment or neglect, or advises another to
12 make a false report of --"
13 THE COURT: Ms. Burgess (silently
14 indicating, keep your voice down.)
15 MS. BURGESS: -- "is guilty of a felony
16 in the third-degree."
17 THE COURT: Please understand now
18 (indicating) that this door is very thin.
19 MS. BURGESS: I understand that.
20 THE COURT: Do you hear the tone that I
21 am using, can you use that tone as well?
22 MS. BURGESS: Yes, Judge.
23 THE COURT: And -- oh, wait; here, wait
24 -- whoa, whoa, whoa. Okay. Now, I've got you
25 on the record. Tap that microphone please.

MS. BURGESS: (Complies.)
THE COURT: Okay, we are picking you up. All right, go ahead.
MS. BURGESS: Okay. So, again, 39.205 Subsection (9) says that "a person who knowingly and willfully makes a false report of child abuse, abandonment or neglect, or who advises another to make a false report, is guilty of a felony in the third-degree. Anyone making a report who is acting in good faith is immune from any liability under this subsection."
THE COURT: All right. Ms. Burgess, at the end of the trial, are we going to be reading the statute or are we going to be reading jury instructions?
MS. BURGESS: I understand that we are reading the jury instructions.
THE COURT: Okay. But do the jury instructions contain that language?
MS. BURGESS: Well, we never --
THE COURT: Look at the jury instructions please, look at paragraph (3) under the main charge.
MS. BURGESS: (Reviewing document.)

1 Understand what the jury instruction says, but
2 we have the right to --
3 THE COURT: Okay. No, you --
4 MS. BURGESS: We have the ability to put
5 our client on the stand who can testify to the
6 immunity, that she made the call in good faith
7 and thus she should be immune from it.
8 THE COURT: Well, she's welcome to say
9 whatever she would like. But you can't tell
10 the jury that the -- You can't quote statutory
11 law to the jury that's not going to be part of
12 the jury instructions.
13 You may make the argument -- you may
14 make argument to the Court, for example, in a
15 pretrial motion, which apparently was
16 withdrawn.
17 But it's not proper to be displaying
18 something to the jury as the law that the jury
19 will be, you know, hearing at the end of the
20 case when it is not, in fact, accurately stated
21 and accurately reflected in the jury
22 instructions.
23 And once again, this is opening
24 statement. This is the opportunity for the
25 attorneys to explain to the jury what they

1 believe the evidence will show. It's not
2 argument, it's opening statement.
3 MS. BURGESS: I understand.
4 THE COURT: What evidence you believe
5 the -- what you believe the evidence will
6 show --
7 MS. BURGESS: And we believe that --
8 THE COURT: -- whether it's cross
9 examination or it's evidence you intend to put
10 on. Obviously you are not obligated to put on
11 any, you can sit there and play cards, you have
12 -- constitutionally you are permitted to do
13 that -- we understand you're not going to do
14 that.
15 But you may not read statutes to the
16 jury that are not part of the jury
17 instructions. And attempting to instruct the
18 jury during opening statement is not explaining
19 what you believe the evidence will show.
20 MS. BURGESS: Well, there's also the
21 second poster board that defines a false
22 report. And I believe that I have the right to
23 show them what a false report is and what to
24 look for.
25 THE COURT: Well, you can tell them, but

1 if you're -- but you -- and you can paraphrase
2 or you can quote. But displaying a board that
3 essentially shows them the jury instruction is
4 not really -- that is argument. That is
5 closing argument material, that is not opening
6 statement material.
7 Do you understand the difference between
8 opening statement and closing argument?
9 MS. BURGESS: Yes, Judge.
10 MS. STEWART: And, Judge, just so the
11 record is clear. If she is, on the board,
12 quoting from the jury instructions that are
13 going to be read, we've already --
14 THE COURT: She can read from the packet
15 of jury instructions.
16 MS. STEWART: I think we have agreed to
17 that jury instruction.
18 THE COURT: Uh-huh.
19 MS. STEWART: So, that's not our
20 objection. Our objection is the "immunity
21 from" within the statute, because that immunity
22 is from liability, it doesn't say immunity from
23 prosecution.
24 And as the Court knows, it's like stand
25 your ground, it's any civil liability. There

is an administrative fine called for in that, in that chapter as well.

And so, do you know what I mean, I just don't -- I think it should track the jury instructions and not the statute.

THE COURT: All right. You are welcome to explain through the course of your opening statement that the evidence will not show that A, B or C happened. And that actually it was done for the reason of D.

But this is not the time to be attempting to instruct the jurors on the law. That is actually the Court's job, which is explaining and instructing the jurors on the law.

MS. BURGESS: I would request that -- that's fine, if we want to get rid of that one, but I would still request to use the one defining a false report, so that I can clearly lay it out to the jurors and --

THE COURT: May I see that one please?

MS. BURGESS: (Tenders poster.)

THE COURT: All right. I'm looking at another, looks like, 18 by 24 poster board.

MS. STEWART: That's not on -- I don't

1 know where two came from.
2 THE COURT: It says: "False Report" in
3 big red letters and underlined.
4 And then in lower case black letters:
5 "Is a report of child abuse, neglect or
6 abandonment, or adult abuse, neglect or
7 exploitation that is made to Central Abuse
8 Hotline," which is big red letters and
9 underlined; capital red letters and underlined,
10 "Not True."
11 And then in lower case black letters:
12 "And is maliciously."
13 In all caps in red and underlined, "for
14 the purpose of."
15 And that is not part of the jury
16 instruction in this case. The jury
17 instructions say --
18 MS. BURGESS: Well, I believe, I pulled
19 the definition directly from that statute.
20 THE COURT: Well, once again, the jury
21 instructions are what the jury is going to be
22 given. We're not arguing statutory law here.
23 You are to argue in concert with what
24 the -- Well, you are not to argue in opening
25 statement at all. It is a statement of what

you believe the evidence will show.

MS. BURGESS: I understand.

THE COURT: So, if you would like to summarize what you believe the evidence will show, and how you believe the evidence will or will not show whatever it is, you are welcome to do so. And you are welcome to have your own notes that track the jury instructions.

Excuse me for just a moment, I'll be right back.

(Whereupon, the Court is in recess.)

(Whereupon, Jury out.)

THE COURT: Ms. Stewart, do you have another copy of the witness list?

MS. STEWART: Yes, I'll get you another copy.

THE COURT: Thank you. I didn't even look for it back there. We were talking about something else.

MS. STEWART: (Tenders document.)

THE COURT: Yes. This is the same one that you gave me the first day. Do you all want to take a look at it?

MR. BROSS: Yes. (Reviewing document.)

THE COURT: I usually tick them off as

they go, so I know what's still available.

But the bottom line, Ms. Burgess, is that is argument, and that is not taken from the jury instructions. So you are welcome to paraphrase the jury instructions. If you wish to read the jury instruction, for some reason, you're welcome to do that as well.

But what you've got there on those poster boards, it's definitely argument. And the purpose of opening statement is to tell the jury, give them an idea of what --

MR. BROSS: (Returns document.)

THE COURT: Thank you -- what you believe the evidence will show, so.

MS. BURGESS: Well, then what I'd like to do is just -- Mr. Bross and I have come up with -- if we just cover up everything except the elements of -- well, the definition of a false report -- and just show the four different aspects of it.

THE COURT: Let me see it please.

MS. BURGESS: (Tenders poster.)

THE COURT: You're holding it sideways.

All right. False report, and that's harmony, and personal financial gain, acquiring

1 custody of a child. Why do you have "or a
2 vulnerable adult"? That's not in the jury
3 instruction and that's totally irrelevant to
4 this case.
5 And number four you've got, which is
6 (d), "personal benefit for the person reporting
7 and any other private dispute involving a child
8 or vulnerable adult." There is no vulnerable
9 adult here and that has no place.
10 MS. BURGESS: Well, I can take that out.
11 THE COURT: And this is not argument,
12 this is opening statement. And you are welcome
13 to tell them what you believe that the evidence
14 will or won't show.
15 And you're welcome to tell them what you
16 believe the State must prove, and why you
17 believe that they won't be able to do so.
18 But you may not show them a poster board
19 that does not accurately reflect the jury
20 instruction, number one.
21 And number two, this is not the time for
22 argument. That is something that is really
23 better saved for argument. And that will give
24 you time to properly redact it or redo it,
25 because I don't know that we've got enough

1 white-out to cover all of that. You may want
2 to go buy a six-pack of white-out.
3 And please do remember that anything
4 that you are going to show the jury or to me,
5 whether it's a demonstrative exhibit or whether
6 it's a piece of evidence or anything else, must
7 first be shown to opposing Counsel to give them
8 an opportunity to object, if they wish or not.
9 All right. Are you ready to go?
10 Deputy, would you see if the jury is
11 ready?
12 COURT DEPUTY: Yes, ma'am.
13 THE COURT: Ms. Burgess, are you ready?
14 MS. BURGESS: Yes, Judge.
15 THE COURT: Thank you. And, Ms.
16 Burgess, please put those things over there
17 quickly.
18 MS. BURGESS: (Complies.)
19 THE COURT: Thank you.
20 COURT DEPUTY: Are you ready for the
21 jury, Your Honor?
22 THE COURT: All right, thank you.
23 COURT DEPUTY: Ready, Your Honor, all
24 the way over?
25 THE COURT: All the way over where they

1 were, thank you. Perfect, thank you.
2 COURT DEPUTY: All rise for the jury.
3 (Whereupon, before the Court and Jury.)
4 THE COURT: All right, folks. Hopefully
5 you had a cup of coffee or a glass of water.
6 Please have a seat.
7 And, Ms. Burgess, would you like to make
8 your opening statement at this time?
9 MS. BURGESS: May it please the Court
10 and the State.
11 DEFENSE'S OPENING STATEMENT
12 MS. BURGESS: Ladies and gentlemen of
13 the jury, thank you providing your service
14 today. Right now I am, along with Mr. Bross,
15 am responsible for making certain that the
16 State of Florida meets its burden.
17 As you know, my client, Ms. Dana Loyd,
18 sits here as an innocent person. It is the
19 State's job to prove beyond and to the
20 exclusion of every reasonable doubt that my
21 client is guilty of the charges that the State
22 has filed against her.
23 Your job is to listen to the evidence
24 presented. Once all of the evidence has been
25 presented, you will then hold Ms. Dana Loyd's

1 future in your hands as you go back to
2 deliberate.
3 MR. SENDRA: Objection, Your Honor.
4 THE COURT: Sustained.
5 MS. BURGESS: This is a case in which my
6 client has been charged with a crime of making
7 a false report to the Florida Abuse Hotline.
8 The Florida Abuse Hotline is a call center that
9 was created to receive anonymous calls
10 regarding abuse, neglect and abandonment of
11 children.
12 Once a call is received, it is then
13 forwarded to local law enforcement and the
14 State of Florida abuse investigators, who will
15 then investigate information provided by the
16 caller.
17 If at that time, it is determined that a
18 child has been neglected or abused, the State
19 will determine if safeguards need to be put
20 into place to protect that child.
21 The Hotline is for callers to report
22 suspected abuse. You will hear testimony from
23 seasoned investigators with years of experience
24 in investigating alleged crimes. These
25 investigators can be classified as experts in

their field and they take their jobs very seriously.

We appreciate their service to the community and we all are reminded that law enforcement officers sacrifice themselves daily for our safety.

MR. SENDRA: I'm going to object to her narrative, it's not part of the evidence.

THE COURT: Ms. Burgess, please stick to what you believe the evidence will show in this case.

MS. BURGESS: In this case, the officers and the investigators failed to properly investigate the report. The investigators failed to interview the child --

MR. SENDRA: Objection, Judge, can we approach?

THE COURT: Yes.

(Whereupon, the following sidebar proceedings, out of the hearing of the Jury:)

MS. STEWART: We're going to need to send them out?

THE COURT: Okay.

MS. BURGESS: What?

(Whereupon, before the Court and Jury.)

THE COURT: Folks, sorry, you get another trip. You finish that cup of coffee, it's probably not even cold by now, or cool. Do you all have a pot of coffee up here?

JUROR: We have no coffee.

THE COURT: Okay, would you like it? Well, let me ask you first, are you all coffee drinkers, would you like coffee in there?

JUROR: It's just a habit.

THE COURT: Okay.

(Whereupon, Jury out.)

THE COURT: All right, thank you. The record should reflect the jury has left the room and the door is closed.

All right. Mr. Sendra, what is your objection; sir?

MR. SENDRA: My objection is it violates the motion in limine that we had prior to this trial.

THE COURT: Are eight, let me --

MR. SENDRA: I approached on that one, I don't want to --

THE COURT: And give me one moment, I left the motions back on my table but I'll get them.

(Whereupon, the Court is at ease.)

(Whereupon, Jury out.)

THE COURT: Let me do this. Unfortunately I thought that was all settled, so I have my notes but I didn't have the motion.

All right. Which motion in limine?

MR. SENDRA: The only motion in limine the State filed.

THE COURT: It was 11/17?

MR. SENDRA: I don't -- I believe that was the right date.

THE COURT: Okay. I'm looking at the State's motion in limine that was filed on November 17th, that we heard about approximately one month ago.

All right. Let's see, this is any testimony or evidence -- this motion was granted -- and it refers to any testimony or evidence regarding prior unfounded abuse allegations. They filed two motions in limine, as I recall.

MR. SENDRA: I only filed one.

THE COURT: Then there was a Defense motion in limine.

MR. SENDRA: Multiple ones by the Defense.

THE COURT: The State's motion in limine is granted.

The Defense's motion to exclude Agent Fischer's summary of DCF call was granted.

The Defense motion to exclude the victim's alleged timeline was granted.

And I reserved ruling with regard to the motion to exclude the phone log, which I think we addressed the other day.

The Defense's motion in limine to exclude issues in Colorado was granted.

The Defense's motion in limine regarding contact with the soccer club was granted.

And the Defense's motion to exclude the Abuse Hotline call was denied.

So, then we have on February 23rd of 2017 regarding the redactions to the audiotape, and the redactions were mostly stipulated by both parties.

And the Defense's motion for immunity was withdrawn after argument with Counsel and we discussed the jury instruction.

So, I don't see anything. Can either

1 party direct me to anything that specifically
2 addresses the testimony of this child?
3 MR. SENDRA: Oh, it's under paragraph
4 (3) of my motion in limine, the State's motion.
5 And if I can make the argument, I think the
6 Court will understand why I'm objecting.
7 THE COURT: Certainly, certainly.
8 MR. SENDRA: So, the issue is a comment
9 that was put forward by the Defense that the
10 child was not spoken to is directly related to
11 prior unfounded abuse allegations. And that's
12 the reason there's a gag order in place from
13 Judge Maxwell that the child is not to be
14 interviewed.
15 So, she's now given the jurors a piece
16 of information --
17 THE COURT: Okay. (Silently indicating,
18 keep your voice down.)
19 MR. SENDRA: I can't -- (moves up to
20 bench).
21 She's now given the jurors a piece of
22 information that they're never going to hear
23 about. And they're not going to understand the
24 real reason why DCF was not allowed to talk to
25 that child.

And that's exactly what we moved to exclude prior to trial, and everybody agreed to it.

THE COURT: You're opening the door, Ms. Burgess, that's what you're doing.

MS. BURGESS: No, I'm not opening the door, Judge.

THE COURT: You are opening the door, you are.

MR. SENDRA: And there's not --

MS. BURGESS: I am allowed to present a Defense for my client.

THE COURT: Of course you are.

MS. BURGESS: She has a right to a competent defense.

(More than one speaker, indiscernible.)

THE COURT: Of course you are.

MS. BURGESS: And her defense as of right now is that nobody for this call spoke to the child. It doesn't reference any prior allegations.

I did not violate the motion in limine. I didn't even bring up that there was a prior obligation. In this particular call, nobody talked to her.

MR. SENDRA: Well, I would understand that, Judge, but for the fact that that's --

THE COURT: But the problem is then, that it was --

MS. BURGESS: His motion in limine --

THE COURT: He's within what --

(More than one speaker, indiscernible.)

THE COURT: What you're doing is --

MR. SENDRA: -- and she can't tell them about why they couldn't talk to her.

THE COURT: Right. You're opening the door to why they didn't speak to her.

MS. BURGESS: But, Judge, for --

THE COURT: Because they had apparently spoken to her a number of times before. And she was evaluated by Doctor Williamson (phonetic) and there were a number of things brought up in that evaluation.

MS. BURGESS: But, Judge, for the record, my client has a right to present a defense.

THE COURT: Certainly.

MS. BURGESS: Okay. So, her defense regarding this particular allegation is that nobody spoke to this child. And you are

1 preventing her from being able to present that
2 defense.
3 THE COURT: I'm not preventing her.
4 MS. BURGESS: I'm not opening the door
5 to any prior abuse allegations.
6 THE COURT: I am not preventing her, Ms.
7 Burgess. What I'm saying is, if you open the
8 door by saying: No one had spoke to her. That
9 will allow the State to explain, if they wish
10 to do so, why no one had spoke to her.
11 Do you understand why that is logical,
12 one that flows logically from that?
13 MS. BURGESS: No, because my client has
14 a right to present a defense, and her defense
15 is --
16 THE COURT: I'm not talking about your
17 client's right to present a defense. Obviously
18 she has a right to present a defense.
19 But when you do not wish to have these
20 prior allegations brought into this case, and
21 you made motions to prevent them and those
22 motions were granted, then by your stating that
23 no one from DCF ever spoke to this child, that
24 begs the question of why no one from DCF spoke
25 to this child.

1 And that then opens the door for the
2 State to explain, the child had been
3 interviewed apparently a number of times.
4 And they're actually to the point that
5 there was a gag order placed by another judge,
6 that no one was to speak to the child, period.
7 And that is, in a significant part, why
8 no one interviewed the child. Because she had
9 been interviewed multiple times.
10 MS. BURGESS: His motion does not
11 address that the child cannot be -- was not
12 allowed to be interviewed and it does not
13 address the gag order. And if he wanted to do
14 that, he should have put that in a motion.
15 He's saying that I cannot speak about
16 prior unfounded abuse allegations. I am not
17 speaking about that. I'm talking and saying
18 that nobody interviewed the child. That is my
19 client's defense. We don't know if the
20 allegations were true or not because nobody
21 spoke to her.
22 THE COURT: And then, that will allow
23 the State the opportunity, if they wish, to
24 present evidence as to why the case was pursued
25 in the manner in which it was.

And so, that's your choice. You're welcome to -- you're welcome to proceed as you -- in that vein, if you wish, understanding the ramifications.

MR. SENDRA: The other issue that the State has at this point, Judge, is there is no way to un-ring what she's said, even if you tell them to disregard it.

So now, we're into: What are we actually allowed to go into? Because they have a right to know based on what she's already told them, why the child wasn't interviewed.

Because now, you're getting into an argument that she's going to make a whole defense about they didn't interview this child and nobody --

THE COURT: (Silently indicating, keep your voice down.) I'm sorry, Mr. Sendra, your voice really carries.

MR. SENDRA: I know, and I try to (moves toward bench.)

THE COURT: I know, you try; but your voice really carries.

MR. SENDRA: They are setting up an entire defense that revolves around something

was specifically excluded prior to trial. And now the jurors are going to wholly be confused as to why DCF did not talk to this kid.

MS. BURGESS: Well, I wouldn't do -- we'll clear it up. We'll clear it up.

MR. SENDRA: I mean, is there a way for us to do this, to work with the DCF workers and not go into the Colorado stuff and everything else that was excluded that we agreed to?

What's -- I think you've already opened the door for it at this point, because otherwise, the jurors are going to sit there throughout this trial and go: Why didn't the DCF talk to this kid?

And nobody's going to know and I can't tell them. That completely stems from the comments you just made, knowing that the reason that they can't talk to her is because of all the prior unfounded allegations that have been proven untrue, and the gag order that has been placed by Judge Maxwell.

MS. BURGESS: Judge, if he wanted it in there that nobody -- that we can't talk about how nobody spoke to the child and he wanted the gag order, that should have been in the motion

in limine.

My opening statement, as it was just told to me and as I know, is not evidence, it's a roadmap. The jury is not supposed to take it as evidence.

MR. SENDRA: But it's a roadmap to something they are never going to hear.

THE COURT: Right.

MR. SENDRA: Or be explained. It's disingenuous because all of this was turned over in discovery and they were well aware there's a gag order and everything else that's close to this case.

THE COURT: Right, and that's --

MR. SENDRA: This has been a problem with this case from the beginning.

THE COURT: Well, it is a -- you have to tread very delicately on the -- around the landmines that exist here in the form of your motions in limine that were granted. And at this point, you are --

MS. BURGESS: This was not my motion in limine.

THE COURT: Well, you made a motion in limine to exclude allegations of calls to the

soccer club and calls to Colorado; both of those were granted.

And there was also a -- and both of those were -- and apparently they were granted because they were not relevant to this case, but part and parcel to those allegations, or from those allegations and the fact that they were unfounded, apparently Judge Maxwell found it appropriate to issue a gag order.

And that meant that no one was to speak to this child about anything about this subject, the subject of child abuse allegations. So, do you understand?

MS. BURGESS: Yes. And I ask then for a brief recess to talk to my client about how she wants to pursue going forward then.

THE COURT: All right.

MS. STEWART: And we would ask for one, too, Judge; we need to regroup here.

MR. SENDRA: We need to step out real quick.

THE COURT: Certainly, all right. We will be in recess until 11:45 -- I mean, 10:45. All right, we are in recess until 10:45.

(Whereupon, the Court is in recess.)

(Whereupon, Jury out.)

THE COURT: All right, okay. Ms. Burgess, you may not make statements that are misleading to the jury. And it is misleading to tell the jury that the child was never interviewed, because the child has been interviewed by a number of people, including Doctor Williamson.

And if you need to refresh your memory, with what Doctor Williamson's opinion was, you might want to do so. I'm holding his report in my hand that was filed on 12/1/15 at 3:40 PM -- 3:49 PM.

And there are a number of statements that I'm rather certain you would not like the jury to hear that are in this document. So, you proceed at your own risk.

And, Mr. Sendra, do you --

MR. SENDRA: Yes. At this point, Judge, I think -- I'll come up there.

THE COURT: Yes, come on up here. Your voice does carry.

MR. SENDRA: I mean, I think the case law is clear and Ms. Stewart and I agree, that you technically can't open the door, including

1 the problems that they already have --
2 THE COURT: Right. Yes, the case law is
3 clear that --
4 MR. SENDRA: The problem is that they
5 have already laid out their defense to the
6 jurors. And they have brought up an issue
7 there's no way --
8 THE COURT: To un-ring the bell.
9 MR. SENDRA: There's no remedy for us at
10 trial, unless we recede from the motion that we
11 filed and get some kind of relief at this
12 point. I honestly cannot ask for a mistrial,
13 the Court knows that as well.
14 So, she has now told him that the child
15 was not interviewed, which we didn't plan on
16 bringing up. And I have no way to explain that
17 to the jurors, they already have heard that.
18 ISSUE: MOTION TO MODIFY RULING
19 MR. SENDRA: So, at this point we are
20 asking to recede from our motion to the extent
21 that the jurors be allowed to know that there
22 was a gag order, and that that's based off of
23 prior unfounded allegations.
24 And that's all we want to be able to go
25 into. That's the only remedy I see that fixes

what she has just told the jurors at this point.

THE COURT: Well, let me put it this way. The case law is very clear that statements made by Counsel in opening do not, quote, "open the door" for the State to put on evidence that rebut the statements that Counsel made.

MR. BROSS: Yes, Judge, that's correct.

THE COURT: But Counsel may not make misleading statements in opening. And if you wish to pursue that avenue, and ask if anyone interviewed the child, et cetera, during your questioning of the detective or any other witness, then you are opening the door because that is during evidence.

And what is the State seeking?

MR. SENDRA: I'm asking to re-litigate our motion in limine for ruling from the Court that we can tell the jurors that there was a gag order in place, and it's based on prior interviews of the child.

MS. STEWART: And that was our motion in limine. And as the Court knows, motions in limine are fluid. They're not like a motion to

suppress, where once granted, nobody can bring up what was suppressed.

MS. BURGESS: I would object, because it's not in the motion in limine that was presented. And I don't believe I've opened the door, because my opening statement is not evidence, it's a roadmap.

THE COURT: The motion in limine addresses in paragraph (3) any testimony or evidence regarding prior unfounded abuse allegations.

Are you listening, Ms. Burgess.

MS. BURGESS: Yes, Judge.

THE COURT: Do you have the motion in limine in front of you?

MS. BURGESS: I do.

THE COURT: Are you tracking me with paragraph (3)?

MS. BURGESS: Uh-huh.

THE COURT: All right. Any testimony or evidence, and this was granted. Now --

MS. BURGESS: Right, testimony or evidence.

THE COURT: Right.

MS. BURGESS: My opening is not

1 testimony or evidence.
2 THE COURT: I understand that, but you
3 may not mislead the jury during opening
4 statement; period, end of story.
5 And the Florida Supreme Court -- I'm not
6 just making this up -- I am citing Young v.
7 State. And in this case, this is a Fourth DCA,
8 2000 case at 791 So.2d 1121. And this is just
9 a headnote which I know we're not to rely on,
10 but I'm giving you the shorthand here.
11 And the opening statement, indicating
12 that there would be no evidence that the
13 Defendant had cocaine in his physical
14 possession when he was arrested, was not
15 misleading. And thus, did not open the door to
16 the officer's testimony that it was not
17 uncommon in cocaine sales for the seller not to
18 have cocaine in his physical possession.
19 That goes down a whole different
20 rabbit-hole of the State then seeking to put
21 into evidence how these trials are -- how drug
22 dealers operate et cetera, et cetera. That's a
23 whole different rabbit-hole.
24 But the inverse of this is that
25 misleading statements are not permitted. And

by saying that the child was not interviewed is potentially an extremely misleading statement, because she wasn't and you know why she wasn't.

And you are misleading the jury by telling them that's part of the lack of evidence. And you may not mislead the jury.

MS. BURGESS: I understand, Judge. And proceeding forward, I will not make any more mention that the child had not been interviewed.

MR. SENDRA: And this is the problem, this is the argument I'm making to the Court. She said something that there's no way the Court can cure.

THE COURT: Well, I mean, I can say that --

MR. SENDRA: It's not evidence, I agree. I agree that the statement is not evidence. You're going to tell them to disregard the statement. And then they're going to hear a whole trial where nobody talked to this child. That's exactly what the testimony is going to be under the rulings that we had pretrial.

THE COURT: (Silently indicating, keep your voice down.)

MR. SENDRA: So, she's now misled them to the point where we have no remedy for exactly what she did.

THE COURT: Right, all right. And then I do have to agree that that your --

MS. BURGESS: Judge?

THE COURT: Yes, you may respond.

MS. BURGESS: There's no motion in limine saying that I cannot talk about the fact that nobody spoke to the child.

THE COURT: Shhh.

MS. BURGESS: It's not in their motion.

THE COURT: But what was excluded in limine was evidence regarding prior unfounded abuse allegations made against Mr. Timothy Michaud.

MS. BURGESS: Right, and I did not say anything regarding prior unfounded abuse allegations against Timothy Michaud.

THE COURT: Well, by your saying that she wasn't interviewed is an extremely superficial way, without explaining the history of why this child was not interviewed.

MS. BURGESS: And my opening is not -- it's not evidence.

THE COURT: Yes, but what you have done is you have rung a bell that cannot be un-rung.

MR. SENDRA: And the other problem would be is the jurors are allowed to ask questions; the Court has already told them that.

THE COURT: No, no; we didn't.

MR. SENDRA: Did we not do that? We chose not to?

THE COURT: No, no; we chose not to.

MR. SENDRA: Okay, I was thinking --

MS. STEWART: We're just asking that -- well, you go ahead.

MR. SENDRA: Well, you know what my request is, Judge.

THE COURT: Right, I'm just --

MR. SENDRA: I'm asking the Court to modify my motion in limine for a different ruling.

COURT'S RULING

THE COURT: I am. At this time, I am going to modify my ruling on the motion in limine and allow you to ask if the agent, or whomever it was that did it or wasn't permitted to do it, interviewed the child. And if they were not, why not?

MS. BURGESS: Okay.

THE COURT: And if they wish to say: Well, there's a gag order that was issued in a previous case, then that's the reason.

And if they wish to say that the child had been interviewed on similar allegations on previous occasions that had been unfounded, then they can say that.

But please listen carefully to what the questions are, and please tailor your questions to --

MR. SENDRA: I don't plan on going into anything else, Judge.

THE COURT: Right.

MR. SENDRA: We still don't want to go into anything else, other than what I just asked for from the Court .

THE COURT: Right. Just simply the fact that there is a reason that this has not occurred.

MR. SENDRA: So based on your ruling, Ms. Stewart and I had five minutes to talk to our witnesses. Because obviously we had already instructed them that they were not allowed to talk about this.

THE COURT: Certainly. Does this involve one of the first couple of witnesses?

MS. STEWART: The very first one.

MR. SENDRA: Very first one.

THE COURT: Oh, the very first one.

MR. SENDRA: And the second one.

THE COURT: Okay.

MR. SENDRA: And it's going to include the case agent.

THE COURT: Okay.

MR. SENDRA: So, we need to speak to a whole bunch of them.

THE COURT: Okay. I assume the first and second ones may be out there?

MR. SENDRA: Yes, ma'am.

MS. BURGESS: I thought they just stated that they were only asking the officer whether there was a gag order or not.

MS. STEWART: No.

MR. SENDRA: Ms. Christiansen's aware there's a gag order. Mr. Brooks is aware there's a gag order, and that's why he didn't speak to her when they went to the school.

MS. STEWART: They went to the school and he couldn't interview her.

MR. SENDRA: And Agent Fischer didn't attempt to talk to the child because of the gag order.

MS. BURGESS: Judge, my understanding of what the Court just ordered, was that Agent Fischer is the only one that they could ask about whether or not he could interview the child and why not.

MR. SENDRA: So now I'm limited to --

THE COURT: No, I said -- no, no, no.

MR. SENDRA: Now I'm limited, and all of the parties --

THE COURT: I said whomever it was that either attempted or was prohibited from interviewing the child should be allowed to explain why they did not, or why they did.

So, that does allow for a minimal explanation. Not delving into the whole tale, but simply a very limited explanation of why the particular child herself was not interviewed.

Would you like to chat with your witnesses, Mr. Sendra?

MR. SENDRA: I just wanted to make sure we were done with this before I stepped out.

MS. STEWART: I'll do it, so you stay.
THE COURT: All right.
MR. SENDRA: I'm going to go ahead and step out, Your Honor.
THE COURT: And I'll step out for two minutes myself.
(Whereupon, Court was in recess.)
(Whereupon, Jury out.)
THE COURT: Are they ready, or is the State still talking to them?
COURT DEPUTY: The State is still out there.
THE COURT: Okay.
MS. STEWART: Sorry.
ISSUE: RE COURT'S RULING ON MOTION TO MODIFY
THE COURT: Oh, there we go.
All right. Let me ask this finally. Ms. Burgess, you are correct, the issue of whether or not the child was spoken to is not the subject of the motion in limine. And, therefore, there's been no ruling as to whether or not the State can question the agents on why she was or was not interviewed.
So, following your line of thinking, that if it was omitted completely, then if it's

1 not there, it's fair game. It's not part of
2 the motion in limine, it's fair game.
3 And I am going to quote from Bozeman v.
4 State, which is at 698 So.2d 629 from 1997, a
5 Fourth DCA case. It was cited by the Florida
6 Supreme Court in 2002, and it states:
7 To open the door to evidence of prior
8 bad acts the Defense must first offer
9 misleading testimony or make a specific factual
10 assertion, which the State has the right to
11 correct so that the jury will not be misled.
12 See Brown v. State, Dodson v. State,
13 Hernandez v. State, Davis v. State, Allred v.
14 State, Fletcher v. State. It seems to be well
15 established law.
16 The "opening the door" concept is based
17 on considerations of fairness and the
18 truth-seeking function of a trial, where cross
19 examination reveals the whole story of a
20 transaction only partly explained in direct
21 examination.
22 So, it goes back to fundamental
23 fairness. Both sides are entitled to a fair
24 trial, both sides, everyone involved. So, if
25 you want to go down that road, you know what

1 the bends are.
2 And, Mr. Sendra, did you say that you
3 request any form of a curative instruction?
4 Did I miss that, or are you not requesting
5 that?
6 MR. SENDRA: No, I think the Court has
7 taken care of this.
8 THE COURT: All right, thank you.
9 (Whereupon, Defense Counsel discussion.)
10 THE COURT: All right. Then are you all
11 already to proceed?
12 MS. BURGESS: Just one second.
13 THE COURT: All right I'm bringing the
14 jury and, folks, it's been 45 minutes. Thank
15 you.
16 COURT DEPUTY: Yes, Your Honor.
17 THE COURT: All right. We are still on
18 the record in the State of Florida versus Dana
19 Lynn Loyd, 2015-CF-39871. Ms. Loyd is present
20 and has been at all times with Counsel, Ms.
21 Burgess and Mr. Bross. And the State is here
22 represented by Mr. Sendra and Ms. Stewart.
23 There's always somebody in the restroom
24 when we ask them to come in. They can be out
25 for 45 minutes and when you go to bring them

1 in, somebody's in the restroom.
2 I think we need to take the men's and
3 women's signs off those restrooms. Now, I
4 guess we can't there's different apparatus in
5 each. Because sometimes we have, you know,
6 five women and one man and --
7 COURT DEPUTY: The jury is ready, Your
8 Honor.
9 THE COURT: Okay, thank you.
10 COURT DEPUTY: Come on out, folks.
11 (Whereupon, before the Court and Jury.)
12 THE COURT: All right, folks, welcome
13 back. I hope you got accustomed to your
14 special room back there. Please have a seat.
15 Ms. Burgess, please proceed.
16 MS. BURGESS: Thank you, Judge.
17 DEFENSE'S OPENING STATEMENT (CONT'D)
18 MS. BURGESS: It's the State's job to
19 prove beyond and to the exclusion of every
20 reasonable doubt that my client is guilty of
21 the charges which are filed against her.
22 The State will fail at this burden. The
23 facts here are not complicated. But the legal
24 issue here -- legal issues here are
25 complicated. You will be required to determine

whether a false report was made.

And a false report means it doesn't have the general definition that we normally think of when we think about a false report.

A false report here means that it is a report of abuse, neglect or abandonment of a child to the Central Abuse Hotline, which report is maliciously made for the purpose of furthering one of four objectives.

The first one being harassing, embarrassing or harming another person.

The second one being for personal financial gain for the reporting person.

The third one being acquiring custody of a child.

Or the fourth one being the personal benefit for the reporting person and any other private dispute involving a child.

After hearing the evidence, you will find that none of these things are present. And you will not be able to convict the Defendant under this definition of false report.

You will not hear evidence to support that there was a false report. The report is

the allegations of sexual abuse. And you will not hear any information that the information provided to the Hotline was actually false.

The report is not the person's name and it's not the person's occupation. The Hotline for reporting is for reporting suspected abuse, neglect or abandonment; and there is no evidence that the report actually made to the Hotline was false.

The purpose of the law is to punish a person who made a false report.

MR. SENDRA: Objection.

THE COURT: Sustained.

MS. BURGESS: We would ask that you find the Defendant, Dana Loyd, not guilty of making a false report to the Hotline.

THE COURT: All right, thank you.

Mr. Sendra, Ms. Stewart, who will be the State's first witness?

MS. STEWART: The State would call Debra Christiansen.

THE COURT: All right, Ms. Christiansen.

THE CLERK: Please raise your right hand and place your left hand on the Bible.

Do you solemnly swear or affirm that the

1 testimony you are about to give shall be the
2 truth, the whole truth and nothing but the
3 truth, so help you God?
4 THE WITNESS: I do.
5 THE CLERK: Please follow the direction
6 of the deputy.
7 MS. STEWART: May I inquire?
8 THE COURT: Certainly.
9 MS. STEWART: Thank you.
10 WHEREUPON:
11 DEBRA CHRISTIANSEN,
12 a Witness herein, having been duly sworn, testified
13 upon her oath as follows:
14 DIRECT EXAMINATION
15 BY MS. STEWART:
16 Q. Can you please state your name and spell your
17 first and last name for the record?
18 A. Debra Christiansen. D-E-B-R-A.
19 C-H-R-I-S-T-I-A-N-S-E-N.
20 Q. And where are you employed?
21 A. Currently I'm employed by the State of Florida
22 agency for persons with disabilities.
23 Q. And back on April 29th of 2015, where were you
24 employed?
25 A. By the State of Florida Department of Children

1 and Families.
2 Q. And what were your duties back on April 29th
3 of 2015?
4 A. I was a senior child protective investigator,
5 so I investigated allegations of child abuse. And
6 being the senior, I also had some supervision duties
7 if the supervisor was not available.
8 Q. On that day, on the 29th of April, 2015, were
9 you an acting supervisor?
10 A. Yes.
11 Q. Okay. I want you to help me, if you don't
12 mind, to educate the jury a little bit about what you
13 do.
14 Do you investigate calls made to the child
15 Abuse Hotline or the Florida Abuse Hotline?
16 A. If the Hotline makes a report.
17 Q. And can you explain to us how that happens,
18 how does that happen?
19 Let's say I call the Hotline and I make a
20 report. Let's say I'm calling anonymously, okay?
21 A. Okay.
22 Q. What happens on an anonymous call to the Abuse
23 Hotline?
24 A. They call in. The operator will ask them a
25 bunch of questions to gather information on the

1 circumstances and try to get as much information as
2 they can.
3 And then it's up to the Hotline if they
4 generate a report or an investigation. If an
5 investigation is generated, then that's when it is
6 sent down to the local office.
7 Q. And where is this Hotline at?
8 A. Tallahassee.
9 Q. Okay. So, Tallahassee gets a call and it's
10 your jurisdiction, so they send it to you. How then
11 do you investigate an anonymous call to the Hotline?
12 A. We always get a paper, there's a general
13 report, they're usually typically three pages. The
14 first page is the demographics of who it's about, if
15 they were able to determine like the parents' names
16 and the children in the house. It has like
17 demographics: Dates of birth, Social Security numbers
18 and things like that.
19 Q. Sure.
20 A. And then it goes and it gives the allegations
21 of kind of what was said. And then it breaks it down
22 to the maltreatments that we use.
23 And then the very last page is called The
24 Reporter Page. And they will tell us when it was
25 called in, who called it in. It may have a person's

name. It may say "anonymous." It may say "web report" where someone like sent it through the web.

It will give us the caller ID number of who called it in. And sometimes reporters will ask that we contact them, and it will say that.

And then it might -- it usually says "additional information" about the reporter or information that they might not have wanted to put in the general report.

Q. Okay. Now, we're talking anonymous in that case; correct?

A. It's pretty much the same, whether it's anonymous or they give their name. It's just that the information is different.

Q. Can you explain to the jury what a mandated reporter is?

A. There are mandated reporters. They consider them professional mandated reporters, who are employed in certain positions. Those persons in those positions are mandated by law to call the Abuse Hotline, if they suspect that a child is abused or neglected.

And those would be law enforcement, doctors, anybody in the medical field, teachers, social workers, judges.

Q. Okay. Those are mandatory, of course. Now, when you get a call from a mandated reporter --

A. Uh-huh.

Q. -- do you call that person back?

A. Yes. A mandated reporter by Florida Statute has to leave their name and phone number. And as protocol of being an investigator on any investigation, one of the first things we do before we even leave the office, is to call the reporter.

Q. Okay, of a mandated reporting?

A. Any report.

Q. Or somebody that leaves their name?

A. Yes.

Q. Right, okay. All right. Now I'm going to turn your attention back to April 29th of 2015, were you made aware of call that was sent to the Abuse Hotline regarding a child by the name of Riley Michaud?

A. Yes.

Q. And how were you made aware of that?

A. When a report is generated, a call comes down to our secretary. She prints out the report, and then she always gives the supervisor a couple of copies of the report. And then we review it and then it's assigned to an investigator.

Q. Okay.
A. So I would have read the report then.
Q. Okay. And then did you, in fact, read the report involving Riley Michaud?
A. Yes.
Q. Okay. And when you read the report, what then did you do based the contents of what you read?
A. The report was assigned to an investigator.
Q. And who was the investigator?
A. Oneil Brooks.
Q. Okay. Now, this report that came in on Riley Michaud, was this a mandated reporter?
A. Yes.
Q. Okay. And what type of mandated reporter was it?
A. They were working within -- It said they were working within the school system.
Q. A substitute teacher?
A. Yes.
MR. BROSS: Objection, Your Honor, leading.
THE COURT: Overruled.
MR. BROSS: Huh.
BY MS. STEWART:
Q. All right. Now, can you explain to the jury

1 based on what you got -- and with any case, I'm
2 assuming you do this -- but based on the information
3 you got that the child was Riley Michaud, do you then
4 start getting background issues collected?
5 A. Yes. The investigator will pull up any prior
6 investigations involving anyone listed on there, on
7 the report; review the prior reports, the allegations,
8 the findings.
9 We get a criminal history on anybody over the
10 age of 18 that was listed, we would look at that. We
11 look up eFACTS, which is --
12 Q. Okay, explain to the jury what eFACTS is.
13 A. I was just going to say, eFACTS is the Clerk
14 of Court's records, so we look at the eFACTS. And if
15 there is anything that would be concerning, we would
16 then look at that further to find out, like if a
17 parent had been charged or convicted of something, we
18 will look at those types of things.
19 Q. Okay. Do you look at both civil and criminal
20 pending in eFACTS?
21 A. Yes.
22 Q. Okay. And the civil part could be a divorce,
23 right?
24 MR. BROSS: Objection, Your Honor,
25 leading.

1 MS. STEWART: What type of civil --
2 THE COURT: Sustained.
3 MS. STEWART: Thank you.
4 BY MS. STEWART:
5 Q. What type of civil proceeding do you find when
6 you look these up, what normally do you consider?
7 A. We would look at like Family Court. If
8 there's a divorce, we would try to find any
9 information on who has custody, who's the custodial
10 parent and things like that.
11 Q. Okay. And did you do that in this case?
12 A. Mr. Brooks did.
13 Q. Okay.
14 A. Normally what the investigator does, is they
15 do --
16 MR. BROSS: Objection, Your Honor,
17 nonresponsive.
18 THE COURT: Sustained.
19 BY MS. STEWART:
20 Q. Normally what does an investigator do?
21 A. Once the case is assigned to them, they are
22 the ones that do all of the information gathering.
23 Q. Okay.
24 A. And get all of that information. And then
25 prior to leaving the office, they will staff it with

the supervisor on what they found, and then there's a discussion on how to proceed.

Q. Okay. So in this case, involving Riley Michaud on April 29th of 2015, did you staff this with Investigator Brooks?

A. Yes.

Q. Okay, and what was your -- Once the staffing was over, is your goal then to somehow get to that child and make sure that child is okay?

A. Yes.

Q. And was that your goal in Riley Michaud's case?

A. Yes.

Q. All right. And did you discover, based on your staffing with Investigator Brooks, whether or not you would actually be able to interview Riley Michaud?

A. He discovered there was a court order through Family Court.

MR. BROSS: Objection, Your Honor, hearsay. I believe that this question can be partly addressed, but not through this witness. It's not based on her personal knowledge, it's based upon her special position.

THE COURT: Well, if it's personal knowledge then perhaps, Ms. Stewart, you can

1 inquire. Sustained --
2 MR. BROSS: Thank you.
3 THE COURT: -- for the moment to
4 clarify.
5 MS. STEWART: This is not offered for
6 the truth of the matter asserted through this
7 witness, Judge. It is offered to explain why
8 she did what she did next. So, that's my
9 argument as to his hearsay, but I will --
10 THE COURT: All right, then the
11 objection is overruled, if it's offered to show
12 the chain of events and not the truth of the
13 matter asserted.
14 BY MS. STEWART:
15 Q. Now, once you -- I mean, normally in a case,
16 would you interview that child in a normal case?
17 A. Yes, unless --
18 Q. Can you explain to the jury in this case why
19 you did not interview Riley Michaud, or anybody from
20 DCF or your investigator did not interview her?
21 A. The court order had said that the child was
22 not supposed to be --
23 MR. BROSS: Objection, Your Honor,
24 hearsay. The court order in and of itself is a
25 document and if they want to present that

1 document. But it's improper at this time for
2 this client -- or this witness -- to testify
3 about this document. I think it's improper to
4 present it as hearsay.
5 And also, the legal effect of that
6 document is also hearsay. May we approach?
7 THE COURT: Ms. Stewart, do you have any
8 response?
9 MS. STEWART: My response is the same as
10 the last, Judge. It's offered to show why she
11 did what she did next, to explain the chain of
12 events that followed.
13 THE COURT: Okay. Then has she
14 explained it by saying it was on order by a
15 court?
16 MS. STEWART: I'm not sure she got it
17 out because of the objection.
18 THE COURT: If she leaves it at the fact
19 that the reason is a simple reason, rather than
20 going into detail, the objection is overruled.
21 MR. BROSS: I would also object because
22 the language of the order may -- the language
23 of the order is --
24 MS. STEWART: Yes. Judge, can we
25 approach, because I don't know what he's --

THE COURT: Yes.
(Whereupon, the following sidebar proceedings, out of the hearing of the Jury:)
THE COURT: May I ask a question?
MR. BROSS: Yes.
THE COURT: Is anybody going to be able to get three consecutive questions out without having to take the jury out and put the white noise on? I'm just saying.
MR. BROSS: The language of the order is debatable, I think. And for this witness to testify that based upon the language in the order that she could not interview this witness [sic] is a legal conclusion. And so I think --
THE COURT: She can -- she can testify as to what her conclusion was based on her reading of the order. She's not a lawyer, she's not trained to construe things in one way or the other. She's a layperson who is reading a court document and --
MR. BROSS: Well, that's not what happened.
THE COURT: -- and explained the --
MR. BROSS: That's not what happened.
MS. STEWART: We can even get to what

1 happened because of the objections. But what
2 happened was she called Legal at DCF.
3 MR. BROSS: Right.
4 THE COURT: Okay.
5 MS. STEWART: And said: Now, what do we
6 do?
7 And Legal said: Go lay eyes on the
8 child.
9 THE COURT: Okay.
10 MS. STEWART: But not to interview the
11 child.
12 MR. BROSS: And the problem is, is that
13 Your Honor has changed the ruling on the motion
14 in limine, allowing the State to inquire as to
15 --
16 THE COURT: No, it wasn't, we left the
17 -- do not begin misleading the Court.
18 MR. BROSS: Yes, Your Honor, I
19 apologize. I misstated, I'm sorry.
20 THE COURT: The motion in limine
21 addressed nothing about interviewing or not
22 interviewing the child.
23 MR. BROSS: Yes, Your Honor. Yes, Your
24 Honor.
25 THE COURT: It addressed unfounded

allegations about Mr. Michaud.

MR. BROSS: Yes, Your Honor, yes. I apologize, I did not mean to mis-state that and I apologize.

Okay. Well, again, I would object. I think the proper procedure would be to show the jury the order and not have this witness testify as to legal conclusions about the order.

And if this witness spoke to Legal and Legal gave an opinion, then that opinion would be hearsay. And they would need to be calling Legal to say what they said.

THE COURT: Ms. Stewart, your thoughts?

MS. STEWART: I'm trying to explain why she did not interview the child, which they brought up. So, what she's going to say is: Yes, we called Legal.

After your call to Legal, did you interview the child?

No.

THE COURT: Okay. Your objection is overruled.

MR. BROSS: The problem is -- well, the problem is that --

1 THE COURT: The objection is overruled.
2 (Whereupon, before the Court and Jury.)
3 BY MS. STEWART:
4 Q. I believe that you were saying that you were
5 made aware of a court order not to interview the
6 child?
7 A. Correct.
8 Q. Okay. Now, had you ever run across that
9 before in your career?
10 A. Never.
11 Q. And based on that, did you contact anybody?
12 A. Yes, we had contacted the lead attorney for
13 DCF.
14 Q. And based on that contact with the lead
15 attorney, did you interview the child?
16 A. That day, no.
17 Q. Okay. Did you ever interview the child? Did
18 DCF ever interview the child based on -- not prior --
19 but based on the allegations on that April 29th, 2015
20 phone call?
21 A. No.
22 Q. Okay, and was that because of the Court order?
23 MR. BROSS: Objection, Your Honor, calls
24 for a legal conclusion. Nobody has --
25 THE COURT: Overruled. No, overruled.

BY MS. STEWART:

Q. It's a yes or no.

A. I'm not sure of that answer.

Q. Initially you didn't interview the child because of that?

MR. BROSS: Objection, Your Honor.

MS. STEWART: Okay.

BY MS. STEWART:

Q. Did there come a time when you sought a legal course --

THE COURT: Overruled.

BY MS. STEWART:

Q. -- to interview the child?

A. Yes.

Q. Was that granted by the Court?

A. Well, there was a court hearing because DCF had filed a motion to interview the child. And at that time, it was determined that the child had recently been interviewed--

MR. BROSS: Objection, Your Honor, hearsay.

BY MS. STEWART:

Q. Were you at the hearing?

A. Yes, I was.

THE COURT: Sustained.

BY MS. STEWART:
Q. So, somebody else interviewed the child?
A. Yes.
Q. Okay. And did you at some point -- You didn't do it, but did your investigator go and actually lay eyes on the child that day that the report came in, at the school?
A. Yes.
Q. Okay. And after your investigation and going through this, were there ever any charges brought based on this call?
A. Yes.
Q. Charges against Mr. Michaud?
A. Oh, no; there was not. There were no findings. We don't do charges, it would be findings and there were no findings.
Q. Okay, there weren't. Explain to the jury what "no findings" mean.
A. That means that there could be three possible answers. One would be no findings of --
Q. Which means what?
A. No findings of the maltreatment that was alleged.
Q. Okay.
A. Or there could be "not substantiated," meaning

1 we found some information that led to their possibly
2 could have been some abuse.
3 And then there's "verified." Verified would
4 be there was evidence of abuse.
5 Q. Okay. But no findings means no evidence?
6 A. Correct.
7 Q. Okay. And that was the finding in this case?
8 A. Correct.
9 MS. STEWART: One moment, Judge?
10 (Whereupon, State Attorneys discussion.)
11 BY MS. STEWART:
12 Q. Okay. Once you received his call, you are
13 told it's a mandated reporter. Do you call that
14 mandated reporter back, did you call that number back?
15 A. Yes. Normally the investigators, before they
16 leave the office, will call the reporter. But the
17 timing of this report when it came in, it was mid
18 afternoon. So, I instructed Investigator Brooks to go
19 to the school.
20 Q. And mid afternoon, meaning you didn't want
21 Riley Michaud --
22 MR. BROSS: Objection to leading.
23 BY MS. STEWART:
24 Q. No. What did midafternoon mean to you, why
25 was it important to move quickly?

THE COURT: Sustained.

A. I wanted him to get to school before the child was discharged from the school.

BY MS. STEWART:

Q. Okay, and did he do that?

A. Yes.

Q. Okay. Now, let's go back to what you did. Because he had to get to the school, did you call the mandated reporter back or the number back?

A. I called the number for the mandated reporter, yes.

Q. Okay. And did you speak to anyone at that time?

A. No, it went to voicemail.

Q. Did you leave a message?

A. I did not because --

Q. Okay. Go ahead.

A. Because the name for the report was listed as Theresa -- I think it was Smith -- and when I called the number on the caller ID, it gave a different name.

Q. What name did it give, do you remember?

A. Dana Loyd, I don't -- I don't remember if it was Dana Delaney (phonetic) or Dana Loyd; I think it was Dana Loyd.

Q. Okay, did you know Ms. Loyd?

A. No.

Q. Okay. So, you called this number back and you leave a -- you don't leave a message?

A. I did not leave a message.

Q. Did you ever at that time hear from Ms. Loyd?

A. Yes. Shortly after there was a call that came into our office. We had caller ID and it said that it was from Dana Loyd, and I answered the call.

Q. And can you tell the jury what the sum and substance of the phone call was?

A. When I answered the phone I just said hello, and she said: I had a missed call from this number.

And I asked what her name was because several people can call out from the same line, but it all feeds into that one. And she said that her name was, you know, Dana Loyd, and she had a missed call.

And I asked her if she knew anybody by the name of Theresa?

She said she did.

And I asked if Theresa had access to use her cell phone in the last 24 hours.

And she said no, she didn't.

I asked if anybody -- if anybody had access to use her cell phone in the last 24 hours.

She said no, they didn't.

1 And then I --
2 Q. Let me just interrupt you for one second. Why
3 did you say in the last 24 hours?
4 A. Because of the timing of when the report had
5 been generated to the Hotline.
6 Q. Okay. So, can you tell the jury -- April 29th
7 of 2015 is when you receive the report, and the call
8 was actually made when?
9 A. It would have been made that day.
10 Q. Okay.
11 A. I don't remember the exact timing, but it was
12 made that day.
13 Q. Okay, so go ahead. So, you were talking to
14 her and you asked her about the last 24 hours with her
15 phone?
16 A. Right. And she had said: No, nobody else had
17 access to her cell phone in the last 24 hours.
18 And then I asked if she was a substitute in
19 the school system.
20 And she said: No, she used to be, but she
21 hadn't in many years.
22 Q. Okay.
23 A. And then I said thank you, and I hung up.
24 Q. Okay.
25 A. I never said I was DCF. I never said I was an

1 investigator.
2 Q. Okay, all right. Based on that information,
3 did you contact law enforcement?
4 A. We always contact law enforcement when we get
5 an investigation.
6 Q. Uh-huh.
7 A. So, Investigator Brooks had called the
8 Sheriff's Department to do a joint response to the
9 school with him.
10 MS. STEWART: Okay, all right.
11 One second, Your Honor?
12 THE COURT: Certainly.
13 (Whereupon, State Counsel discussion.)
14 MS. STEWART: Nothing further. Thank
15 you, Your Honor.
16 THE COURT: Mr. Bross?
17 MR. BROSS: Thank you.
18 CROSS EXAMINATION
19 BY MR. BROSS:
20 Q. Good morning, ma'am, how are you doing today?
21 A. I'm good, thank you.
22 Q. Now, I believe that you've testified that on
23 or about April 29th, after receiving this call that
24 came in, that the child was not interviewed after you
25 contacted Legal?

A. Correct.
Q. Isn't it true that Legal advised that you would be allowed to interview the child?
A. If we felt it was needed, then yes, we could interview the child.
Q. Okay. So, nothing about your conversation with Legal stopped you from interviewing the child; correct?
A. Correct.
Q. And the gag order did not stop you from interviewing the child, correct?
A. The gag order meaning the Court order?
Q. Yes.
A. At that point in time, we didn't find a need to interview the child.
Q. Okay. But well, it sounded like you just testified that you did not interview the child because of this gag order.
But I wanted to clarify that you contacted Legal after you learned of the gag order, and Legal advised that you could still interview the child, if you wanted to, if you felt there was a need to; correct?
A. If we felt there was a need to, yes.
Q. Okay. So, nothing about the gag order stopped

you from interviewing the child; right?
A. Correct.
Q. Okay. And I think you also said that the child was interviewed, correct?
A. Yes.
Q. But the child was never interviewed after you received this call, correct?
A. No, that's incorrect.
Q. Who did that interview?
A. Child psychologist, Doctor Williamson. It's Williams or Williamson, I'm not sure which one.
Q. And when you spoke to -- strike that.
When you returned the call that was made to DCF with a number, you were speaking to someone on the phone; correct?
A. Yes.
Q. You had no idea who you were actually -- who you were speaking to, though; correct?
A. No, they said they were Dana Loyd.
Q. Okay. But other than that, you had no idea who you were speaking to; correct?
A. The caller ID said Dana Loyd.
Q. Okay. But you had never heard the voice of the person that you were speaking to, correct?
A. No, I hadn't.

Q. Okay. And you had never met Dana Loyd, correct?
A. Correct.
Q. And I think you weren't really sure what the caller ID said, I think you said there were two different names that it could have been; correct?
A. (No audible response.)
Q. It was Dana Loyd or something else, I think that you said?
A. Dana Delaney.
Q. Okay. So, you're not even a hundred percent sure that --
A. I'm pretty sure it was Dana Loyd.
Q. Okay. But it could have been this other name that you told the jury about; right?
A. Uh-huh.
Q. You've got to say yes or no.
A. Yes.
Q. Okay. So, you didn't lay eyes on the person you were speaking to; correct?
A. Correct.
Q. Okay. So, you were speaking to somebody when you returned a call on the caller ID, but you had never heard this voice before and never had met this person, whomever you were speaking to; is that a fair

statement?
A. Yes.
Q. Okay. Now, can you tell me when your involvement in this case began? Approximately April 29th?
A. Yes.
Q. Of 2015, I think it was; is that correct?
A. Yes.
Q. When did your involvement in this case end approximately?
A. After the court hearing.
Q. Okay, and do you recall approximately when that was?
A. I do not recall when.
Q. Okay, all right. I think you said that Brooks laid eyes on the child, but you weren't there and you don't have personal knowledge of what happened when he laid eyes on the child; correct?
A. No, I was not there.
Q. Okay. So, any questions about when he met her and what happened would be better directed towards that witness. Is that a fair statement?
A. Yes.
Q. Okay. Now, is it protocol to call the number back in the manner in which you did in this case? Is

1 that the protocol that you are supposed to follow?
2 A. It is. I mean, yes, it's protocol.
3 Q. And have you ever spoken to the child at issue
4 in this case?
5 A. Have I personally spoken to the child?
6 Q. Yes.
7 A. No.
8 Q. Okay. And other than the conversation that
9 you had on the call back from the caller ID on April
10 29th, and with the person you believe to be Dana Loyd,
11 did you ever speak to anyone else you believed to be
12 Dana Loyd after that point?
13 A. I'm not sure I understand.
14 Q. Okay. You have testified that on the date
15 that you received the call, you called back and you
16 spoke to someone who you believed to be Dana Loyd?
17 A. Uh-huh.
18 Q. And I just wanted to know if you ever, after
19 that date, spoke to someone you either believed to be
20 her or knew to be Dana Loyd?
21 A. I was asked by the Sheriff's Department to
22 compare the voice between --
23 Q. No, that's not my question. My question is:
24 Did you ever, after the date of April the 29th, did
25 you ever speak to someone you knew to be or believed

1 to be Dana Loyd?
2 A. No.
3 MR. BROSS: And, Your Honor, at this
4 time I don't believe I have any more questions.
5 THE COURT: All right. Ms. Stewart, any
6 redirect?
7 MS. STEWART: Just briefly.
8 REDIRECT EXAMINATION
9 BY MS. STEWART:
10 Q. You just testified on cross that Doctor
11 Williams or Williamson interviewed the child?
12 A. (Nods head.)
13 Q. After that interview, were the findings
14 against Timothy Michaud still unfounded?
15 A. Yes, they were.
16 Q. Thank you.
17 MS. STEWART: Nothing further.
18 THE COURT: All right. Then may this
19 witness be excused?
20 MS. STEWART: Yes, I'm sorry.
21 THE COURT: All right. Subject to
22 recall or excused?
23 MS. STEWART: Subject to recall, but she
24 can leave the courtroom. We'll reach out if we
25 need her.

THE COURT: Okay, all right. Thank you very much, Ms. Christiansen.

And I know that, folks, you've probably really worked up an appetite going back and forth. So, why don't we take a break, and is the next witness very short?

MS. STEWART: No, not that short.

THE COURT: Okay. So, why don't we take a break until -- if you can return at 1:15 downstairs we've -- we have, I think, three very brief matters and we will get you up here by 1:30. I am an eternal optimist. One of these days we will get you up here at 1:28.

(Whereupon, Jury out.)

THE COURT: All right. Folks, then we will be in recess here. Please come back by 1:20 and we've got a couple of very brief matters, as you heard me say. And then we will be able to get these folks right up here shooting for 1:28. All right, thank you.

(Whereupon, the Jury was released for the noon recess.)

(Whereupon, Jury out.)

MR. BROSS: What time is the jury coming back, Judge?

THE COURT: They are coming back at -- I asked them to come back at 1:15 -- so we can get them up here hopefully by 1:30.

MS. BURGESS: Do you have anything this afternoon?

THE COURT: We have got status hearings, there are three.

THE CLERK: Two.

THE COURT: Two, but they are --

THE CLERK: Oh, and an order to show cause.

THE COURT: Oh, there's an order to show cause; thank you, yes. It's an order to show cause on a person who didn't show for a deposition. And I think it was a Defense order to show cause.

THE CLERK: It's the victim.

THE COURT: Yeah. And is that Mr. Craig (phonetic)?

(Whereupon, the Court is in recess.)

(Whereupon, Jury out.)

THE COURT: Okay. Are my optimistic dreams about to come true, that we are about ready for the jury?

MR. BROSS: We need to bring her out.

THE COURT: Oh, we need Ms. Burgess and Ms. Loyd.

MR. BROSS: Yes, I'll go get them, Judge.

THE COURT: Are they outside, Mr. Bross?

MR. BROSS: I have not -- Oh, there they are, they're walking in.

THE COURT: Okay. Perfect, thank you.

Good afternoon, Ms. Burgess.

MS. BURGESS: Good afternoon, Judge.

THE COURT: Perfect timing. Look, you're going to make my dream become a reality. It is 26 minutes after 1:00, the jury is on its way up and we're going to get them in here.

(Whereupon, Defendant enters the courtroom.)

THE COURT: All right. And, Ms. Loyd, you are present, too. All right. Yes, come on in. Like I just said, you're going to make my dream become a reality, look what time it is.

THE DEFENDANT: I was staring at my clock.

THE COURT: Yes, we're going to get them in here right on time.

COURT DEPUTY: They're on their way up.

THE COURT: Okay, excellent. Thank you. They are all probably in awe or in shock that we're ready.

MR. SENDRA: We're going to need a TV or something.

THE COURT: There's one right in the back.

MR. SENDRA: I need that one, the one that you guys use that has all of the connections.

THE COURT: Oh, you want the big one?

MR. SENDRA: Yes.

THE COURT: Deputy Hughes, do you know if the big TV is back there?

COURT DEPUTY: Yes, it's back there.

THE COURT: Is it? Okay. We will need to roll that out.

COURT DEPUTY: Yes, Your Honor.

THE COURT: Thank you.

COURT DEPUTY: Unfortunately, Your Honor, I don't know where anything is.

THE COURT: Yes. I was just going to say that I saw a great big TV just in the little room (indicating), but it's not the one that you're talking about, the big one.

MR. SENDRA: That little one isn't -- that little one is not going to work. I know what you are referring to.

(Whereupon, Equipment discussion.)

(Whereupon, Jury out.)

THE COURT: Okay, thank you so much. Alrighty, we are back on the record in the State of Florida versus Dana Lynn Loyd, 2015-CF-39871. Ms. Loyd is present with Counsel, Mr. Bross and Ms. Burgess. And Ms. Stewart and Mr. Sendra are here for the State. And are the jurors present?

MR. SENDRA: May I approach real quick, Judge?

THE COURT: Certainly.

MR. SENDRA: (Tenders document.) I've given a copy to the Defense.

THE COURT: All right, thank you.

MR. BROSS: No objection, Your Honor.

THE COURT: All right.

MS. STEWART: It's standard.

MR. SENDRA: That's the editing instructions.

THE COURT: All right. Would you like for me to read this?

MR. SENDRA: It will be during Agent Fischer's testimony.
THE COURT: Okay.
MR. BROSS: I think right before you play it, you're supposed to read it.
THE COURT: Right, right before you play the recording, you would like for me to read this?
MR. SENDRA: Correct.
THE COURT: And I'm sure that if I forget, you will remind me.
MR. SENDRA: Yes.
THE COURT: Thank you. In all we trust, many minds make for complete work.
All right. Are we ready, yes? Let's bring them in. Oops, we missed my optimal time by one minute, but we're good.
COURT DEPUTY: All rise for the jury.
(Whereupon, before the Court and Jury.)
THE COURT: Good afternoon, folks, please have a seat.
Did anything happen over the recess, the lunch recess, that would in any way affect your ability to be fair and impartial?
THE JURY: (Responded Negatively.)

THE COURT: All right. And no one has fainted, because you're coming in here exactly at the time that we said we wanted you to come in, right?

THE JURY: (Responded Affirmatively.)

THE COURT: Excellent. All right.

Ms. Stewart, who will be the State's next witness?

MS. STEWART: Theresa Smith.

THE COURT: All right, thank you.

THE CLERK: Please raise your right hand and place your left hand on the Bible.

Do you solemnly swear or affirm that the testimony you are about to give shall be the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: Yes, I do.

THE CLERK: Please follow the direction of the deputy.

THE WITNESS: Thank you.

WHEREUPON:

THERESA SMITH,

a Witness herein, having been duly sworn, testified upon her oath as follows:

DIRECT EXAMINATION

BY MS. STEWART:

Q. Good afternoon.

A. Good afternoon.

Q. Could you please state your name for the record and spell your name?

A. My name is Theresa Smith. T-H-E-R-E-S-A. My last name is S-M-I-T-H.

Q. And where are you employed?

A. I am currently a Brevard County school teacher.

Q. Are you full-time or subbing?

A. I'm full-time, uh-huh.

Q. Okay. And back in April of 2015, where were you working at that point?

A. I was employed in the Osceola County school district full-time as a teacher.

Q. During the month of April of 2015, did you substitute teach in a Brevard County school?

A. No, ma'am; uh-uh.

Q. And during April of 2015, did you call the Abuse Hotline to report anybody?

A. No.

MS. STEWART: One moment?

(Whereupon, State Counsel discussion.)

BY MS. STEWART:
Q. Do you know anybody by the name of Dana Loyd?
A. I do not.
Q. Thank you.
MS. STEWART: Nothing further, Your Honor.
THE COURT: All right, thank you.
Ms. Burgess, Mr. Bross, any cross?

CROSS EXAMINATION

BY MR. BROSS:
Q. Good afternoon, ma'am, how are you doing today?
A. Hi, how are you?
Q. Good, thank you. I believe you just testified that you do not know Dana Loyd, correct?
A. I do not, no.
Q. Okay. And you don't know if Dana Loyd knows you or if she has any reason to know you; correct?
A. No, I don't. I don't know that, yeah.
Q. Okay. And do you know how many other Theresa Smiths are in the area, or do you know any other Theresa Smith?
A. I don't know any. I know there's a lot of Smiths, but I'm not sure about Theresas. I'm sure there are.

Q. Okay, okay. But you are not personally aware of any other Theresa Smiths specifically, but you are -- at the time -- Smith is a common name, correct?
A. Uh-huh.
Q. Is that a fair statement?
A. Yes, I don't know any others; uh-huh.
Q. Okay, all right. And you have really no knowledge, personal knowledge, about this or any of the parties or people involved; correct?
A. No, I don't know anything; uh-uh.
Q. Okay. And you have no reason to suspect or believe that somebody was targeting or intentionally using your name or your identity or your alias; correct?
A. No, I have no knowledge of that.
Q. Okay. And so, you're not claiming to be the victim of identity theft or anything like that. Is that a fair statement?
A. Yes, it's a fair statement.
Q. All right. Ma'am, thank you very much. I hope you have a nice day.
A. Uh-huh, thank you.
THE COURT: All right. May Ms. Smith be excused?
MS. STEWART: She may be excused, yes.

THE COURT: All right, thank you. Thank you, Ms. Smith.

THE WITNESS: Thank you.

THE COURT: All right, who will be the State's next witness?

MR. SENDRA: Oneil Brooks.

THE COURT: All right, Mr. Brooks.

THE CLERK: Please raise your right hand and place your left hand on the Bible.

Do you solemnly swear or affirm that the testimony you are about to give shall be the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: Yes.

WHEREUPON:

ONEIL BROOKS,

a Witness herein, having been duly sworn, testified upon his oath as follows:

DIRECT EXAMINATION

BY MR. SENDRA:

Q. Sir, could you state your name and spell your name for the record please?

A. Oneil, O-N-E-I-L. My last name is Brooks, B-R-O-O-K-S.

Q. Okay. Where are you employed, sir?

A. I am currently unemployed.
Q. What was that?
A. Currently unemployed.
Q. Okay. Let's talk about 2015, how were you employed back in April of 2015?
A. With the Department of Children and Families.
Q. Okay. What role did you have within the Department of Children and Families?
A. Child protective investigator.
Q. Okay. What are the general duties or responsibilities of a child protective investigator?
A. To investigate circumstances surrounding abuse or neglect of a child.
Q. Let's talk about how you go about getting assigned to a case. Okay. How does that occur within your office, how would you get assigned to a case when you worked for DCF?
A. Based on rotation, the amount of people that are available on that particular day, and when the cases come in from the Hotline into the respective offices.
Q. Okay. And so the Hotline is located -- Do you know where the Hotline is located?
A. In Tallahassee.
Q. Okay. And then if a report is made to the

1 Hotline, they take it down and then what, they forward
2 it to your office. Is that how it works?
3 A. They forward it to -- Yeah, whatever area of
4 the State, yeah.
5 Q. Okay. And is that the only way you receive
6 cases?
7 A. Everything is through the Hotline, yes.
8 Q. Okay. It's never just a referral from a
9 police department or anything like that?
10 A. No.
11 Q. All right. Let's talk about April 29th of
12 2015, do you remember that day?
13 A. Vaguely.
14 Q. All right. Did you become involved in an
15 investigation regarding Riley and Tim Michaud?
16 A. Yes.
17 Q. Okay. And can you tell the members of the
18 jury how you became involved in that case?
19 A. A Hotline report came into the office and it
20 was assigned to me sometime that afternoon.
21 Q. Okay. And I know you said you vaguely
22 remember the day. You said it was assigned to you
23 sometime around noon or early afternoon. Was it prior
24 to school release or before children were released
25 from school?

A. I think it was pretty close to school being released.
Q. Okay, all right. So, what is the first step or what did you do in this case when you got the assignment from the Hotline tip or report?
A. We reviewed the intake narrative and names, and then usually we check the criminal history for, you know, names listed on the report and stuff like that.
Q. Okay. So, you are basically trying to gain background information --
A. Background information.
Q. -- about who you're going to investigate. Is that an accurate statement?
A. Correct.
Q. Okay, did you do that in this case?
A. Yes.
Q. Okay. After doing that, at some point, do you review the case with a supervisor?
A. Yes.
Q. Okay, and who would that person be in this case?
A. I believe the acting supervisor at that time was Debra Christiansen.
Q. Okay. And when you reviewed the case with

her, did she give you any direction as to what steps to take after you get all of the preliminary background investigation?

A. Yes, just --

MR. BROSS: Objection, Your Honor, hearsay.

THE COURT: I'm sorry. Mr. Sendra, can you please repeat the question?

MR. SENDRA: I asked if he was given any direction after doing the background investigation by the supervisor.

THE COURT: Overruled.

BY MR. SENDRA:

Q. It's a yes or no answer, sir.

THE COURT: Without saying what you were told to do, what did you do?

A. Yes. Yes, I did.

BY MR. SENDRA:

Q. All right. So, what's the next step you take after being given direction by Ms. Christiansen in this case?

A. I gathered all of the, you know, paperwork that I needed and went out to see the child.

Q. Okay, where was that in this case?

A. That was at school.

Q. Do you remember at which school?
A. I can't recall the name of the school.
Q. Okay. But you responded to the school that day to try to make contact with this child; is that accurate?
A. Correct.
MR. BROSS: Objection, Your Honor. Objection, Your Honor, leading.
THE COURT: Sustained.
BY MR. SENDRA:
Q. Did you go to the school to make contact with the child that day?
A. Yes.
Q. Did anybody respond to the school with you?
A. Usually we respond with law enforcement.
Q. Okay, did that happen in this case?
A. Yes.
Q. All right. And were you able to either interview or lay eyes on Riley Michaud in this case when you responded to the school?
A. Yes, we --
MR. BROSS: Objection to compound, to lay eyes or to interview. It's a compound question.
THE COURT: Overruled.

BY MR. SENDRA:
Q. You can answer, sir.
A. We laid eyes on the child.
Q. Okay, all right. And did you speak to anybody else at the school that day regarding the report that you had received?
A. I believe I spoke with the principal and/or the guidance counselor.
Q. Okay. And was that to try to verify or validate some of the information you had received in the report?
A. Correct.
Q. Okay. And did the information you had received in the report validate or check out with what the principal or the school personnel were telling you?
MR. BROSS: Objection, Your Honor, hearsay.
THE COURT: Well, Mr. Sendra, are you asking what he physically observed?
MR. SENDRA: I asked him about what he did. And now, I'm asking if the information matched what was in the report that he received and responded to.
THE COURT: Okay, overruled.

BY MR. SENDRA:
Q. And don't tell me the content. Did the information you received from the school match or check out with what you received in the report?
A. No.
Q. All right, okay. Did you interview Riley Michaud that day, April 29th of 2015?
A. No.
Q. Why not?
MR. BROSS: Objection, Your Honor, hearsay (indiscernible).
THE COURT: Overruled.
BY MR. SENDRA:
Q. Yes, sir?
A. Prior to going to the school while doing the background research, we found there was a court order based on prior investigations that the child should not be interviewed.
And upon arriving at the school, that was also reiterated to me by the principal.
MR. BROSS: Objection, Your Honor, move to strike.
THE COURT: To strike what?
MR. BROSS: May we approach?
THE COURT: Yes.

(Whereupon, the following sidebar proceedings, out of the hearing of the Jury:)

MR. BROSS: I thought there wasn't supposed to be mention of prior investigations, and this witness has mentioned prior investigations. He said: Based upon prior investigations, that was his words.

And so, it's my understanding that his motion in limine specifically excluded mention of prior investigations.

THE COURT: That was already brought up, that they were not permitted to interview the child due to a prior court order based on a prior litigation.

MR. BROSS: Yeah, well that's --

THE COURT: It was regarding -- it was already testified -- Ms. Christiansen has already testified about that.

MR. BROSS: She testified that --

THE COURT: Nobody testified about the substance of any investigation.

MR. BROSS: It was that she could investigate based upon the Court order, but she chose not to. That's what she testified to, that was her testimony on cross.

1 But nobody ever said that because of a
2 prior investigation. And his motion in limine
3 specifically talks about not mentioning prior
4 investigations which means --
5 MS. STEWART: That motion in limine was
6 thrown out when they said the child was never
7 interviewed.
8 MR. SENDRA: Yes.
9 MS. STEWART: A motion in limine is
10 fluid, it can --
11 THE COURT: The motion in limine, I'll
12 have to refer to that.
13 MR. BROSS: As I recall, Your Honor said
14 that no one ever filed a motion in limine
15 regarding the child.
16 THE COURT: Regarding the child.
17 MR. BROSS: Regarding interviewing the
18 child.
19 THE COURT: Right.
20 MR. BROSS: But the part regarding the
21 prior investigations, it's my understanding,
22 that was specifically what his motion was for.
23 MR. SENDRA: That order -- that order
24 not to talk to the child was based off of prior
25 unfounded investigations. I'm not going into

1 the substance or anything else.
2 MR. BROSS: Right, but it's --
3 MR. SENDRA: And that's exactly what Ms.
4 Christiansen testified to.
5 MR. BROSS: She testified that there was
6 an order saying that the child could not be
7 investigated. But she was told by Legal that
8 she could interview the child if she wanted to.
9 No one has not -- no one has mentioned
10 prior investigations that he was --
11 MS. STEWART: No, she did.
12 THE COURT: Do you want me to read you
13 back my notes?
14 MR. BROSS: No, that's fine, Your Honor;
15 I would concede.
16 THE COURT: Thank you.
17 (Whereupon, before the Court and Jury.)
18 THE COURT: All right. Mr. Sendra, you
19 may proceed.
20 BY MR. SENDRA:
21 Q. All right. So, you did not interview Riley
22 Michaud on 4/29/2015?
23 A. No, sir.
24 Q. Okay. Did you physically observe her?
25 A. Yes.

1 Q. Okay. Did you make any observations, or what
2 observations did you make of her physical appearance
3 or demeanor on that day?
4 A. As I recall, she was -- I guess it was
5 dismissal -- and in the cafeteria area where she was
6 waiting and she was talking to other kids.
7 She was dressed neatly, clean. From what I
8 could see, no visible marks or bruises, you know, on
9 her extremities, on her face area or anything like
10 that.
11 Q. Okay, all right. Based on the background
12 information that you had, you were aware roughly what
13 age she was, or what age she was at the time?
14 A. Yes.
15 Q. Okay. Did she appear to be malnourished to
16 you, based on your observations?
17 A. No.
18 Q. Did you or DCF ever try to interview Riley
19 Michaud after 4/29/15 regarding this report?
20 MR. BROSS: Objection to a compound.
21 The question is potentially: Did he interview
22 the child? I think that would be the proper.
23 But asking if he or DCF would be compound and
24 lacks personal knowledge.
25 MR. SENDRA: I can support the

1 objection.
2 THE COURT: Okay, thank you. You may
3 proceed.
4 BY MR. SENDRA:
5 Q. Did you try to interview Riley Michaud after
6 4/29/15 regarding this report?
7 A. There was a follow-up visit to the home.
8 Q. Okay.
9 A. To observe her in the home, however, there was
10 no interview.
11 Q. Okay, and that's something you did?
12 A. Yes.
13 Q. Okay.
14 THE COURT: I'm sorry, sir, didn't hear
15 the last thing you said: However, there was no
16 --
17 THE WITNESS: No interview.
18 THE COURT: Oh, no interview. Thank
19 you.
20 THE WITNESS: I saw her in the home.
21 THE COURT: Okay.
22 THE WITNESS: But I didn't interview
23 her.
24 BY MR. SENDRA:
25 Q. Who was present at home with her when you did

that home visit?

A. Riley and her father.

Q. Okay. What observations did you make at that time?

A. I was able to assess her again physically, you know, visually assess her again physically based on the information in the report.

And make sure there was enough food in the home and living arrangements were acceptable per standards.

Q. Okay, and was that -- did you make those findings in this case, that it was acceptable based on your observations?

A. Yes, the home had enough food. Sleeping arrangements were appropriate. The things that we look for, you know, in a home visit.

MR. SENDRA: One moment, Judge?

THE COURT: Yes, sir.

(Whereupon, State Counsel discussion.)

BY MR. SENDRA:

Q. Sir, did this investigation occur in Brevard County, Florida?

A. Yes.

MR. SENDRA: I don't have any other questions, Judge.

THE COURT: Thank you.
Mr. Bross, Ms. Burgess, any cross?
MR. BROSS: Yes, Your Honor.
CROSS EXAMINATION
BY MR. BROSS:
Q. Now, sir, isn't it true that your purpose for going to the school was specifically not to interview the child, but to lay eyes on the child?
A. As far as responding to the school?
Q. Yes.
A. Yes.
Q. Okay. And so, you did not interview the child at the school, but your intent was not to do so; correct?
A. I don't understand.
Q. Strike that, I'll strike the question.
Now, isn't it true that after you and your superior, Ms. Christiansen, had asked Legal whether or not you could interview the child, it was, in fact, made -- you were, in fact, made aware that the child could be interviewed if you wanted to; isn't that true?
A. At a later time.
Q. Okay. Isn't it true that you could have interviewed the child, if you wanted to, despite the

gag order?
A. That day, there was no instructions to interview the child.
Q. My question to you, sir, is simply: Isn't it true that you could have interviewed the child, if you had wanted to, despite the gag order?
A. The day I responded to the school, no.
Q. But at some point, you could have interviewed the child, if you wanted to, despite the gag order; correct?
A. What do you mean by gag order?
Q. Well, you just testified on direct about a gag order; right?
MR. SENDRA: Can we approach for a moment?
THE COURT: Yes, please do.
(Whereupon, the following sidebar proceedings, out of the hearing of the Jury:)
THE COURT: Yes, sir?
MR. SENDRA: It's not really an objection, but we informed our witnesses to refer to it as a "court order" because we thought that's what the Court wanted us to do, so I think he's just got it confused on the term.

1 MR. BROSS: Okay, that's fine.
2 THE COURT: Mr. Bross, I just want to
3 caution you, that you are doing what you're
4 objecting to the State doing. And, therefore,
5 by bringing to the forefront the fact that
6 there was a gag order and that he wasn't
7 allowed to interview the child on that day but
8 at a later date, et cetera, et cetera.
9 And you are hitting on the same things
10 here that you are then objecting to. And the
11 way this works is, if the gander starts it, the
12 goose is going to get have their say as well.
13 MR. BROSS: Yeah. Well, I was trying to
14 bring that up because on direct, you allowed
15 him to ask if he went to the school and either
16 interviewed or laid eyes on the child.
17 And I objected, and you had --
18 THE COURT: Well, it would have been an
19 objection to asking the question, if he said:
20 Did you interview the child?
21 MR. BROSS: Well, we --
22 THE COURT: An interview but didn't
23 question.
24 MR. BROSS: Well, it was called out,
25 because it would be either interview or lay

1 eyes on, and I thought we were trying to stay
2 away from the --
3 THE COURT: And so, there's -- there's
4 no -- is he not allowed to give him an option?
5 Did you do this or that?
6 MR. BROSS: Yes, but --
7 THE COURT: And the man can say either:
8 No, I didn't do this; and yes, I did do that;
9 or no, I didn't do either or yes, did both.
10 MR. BROSS: Yes, ma'am; I understand
11 what you're saying.
12 THE COURT: And does that make it a
13 leading question or does that make it a
14 compound question?
15 MR. BROSS: No, I just --
16 THE COURT: Does it make a question that
17 is preserving -- that is more -- that's more
18 efficiently getting to the bottom of whatever
19 information this witness has to offer.
20 MR. BROSS: Yes, ma'am. I understand
21 the Court's ruling on all that.
22 THE COURT: Thank you.
23 (Whereupon, before the Court and Jury.)
24 BY MR. BROSS:
25 Q. So, when did you stop working for DCF?

1 A. November of 2016.
2 Q. Okay. And you never spoke to Dana Loyd;
3 correct?
4 A. No, sir.
5 Q. And you, I believe, laid eyes on the child on
6 two separate occasions; correct?
7 A. Yes.
8 Q. And other than -- and your initial involvement
9 was on or about April 29th of 2015. Do you recall
10 when you last had any involvement in this case?
11 A. I can't recall any specific date.
12 Q. Now, did you ever actually listen to the call
13 that was made to DCF regarding the report of abuse,
14 did you ever actually hear that call?
15 A. I did not.
16 Q. And you don't know -- You never heard the call
17 and you have no personal knowledge about who made the
18 call, the sound of the voice of the person who made
19 the call, or anything like that; correct? Is that a
20 fair statement?
21 A. That's correct.
22 Q. Okay, and did you -- and I believe you
23 testified that you went to the home of the child at
24 issue in this case and Tim Michaud. And you attempted
25 to interview Mr. Michaud, but he declined to be

interviewed. Is that correct?
A. I believe so.
Q. Okay. So, you never interviewed the child and you never interviewed the father, Tim Michaud, and you never interviewed Dana Loyd. Is that correct?
A. Correct.
Q. And when you laid eyes on the child initially, when you first went to the school, did that happen from a distance or how close were you to the child when you laid eyes on the child?
A. We were in the same room, probably from where I sit to where you are.
Q. Okay. Did you speak to the child on that day?
A. No.
Q. Okay. Did she know -- so you never -- you never spoke to her at all, said anything to her that day?
A. No.
Q. Okay. And when you laid eyes on her, was she like taken out of class and brought to an area so you could lay eyes on her, or did you go to where she was and lay eyes on her; how was that done? Tell me how -- describe to me how that happened.
A. I went into, I believe it was a cafeteria area where all the children were waiting to be picked up

after school.
Q. Okay. So, it sounds like you laid eyes on her from a distance of 10 or 15 feet, and she had no idea that you were doing so; is that a fair statement?
A. Yes.
Q. Okay, so did anybody -- okay. And when you laid eyes upon her from a distance while she was waiting after school to be picked up, was there anyone with you, standing with you or were you standing by yourself?
A. The deputy and the principal.
Q. Okay. And isn't it true that you have never made a determination as to whether or not the report made in this case was false?
A. I'm not -- can you repeat that question?
Q. Sure. Isn't it true that you never made a determination as to whether or not the report made in this case is false?
MR. SENDRA: I'm going to object, it calls for a legal conclusion.
THE COURT: Sustained. Invasion of the province of the jury.
BY MR. BROSS:
Q. Now, when you laid eyes on the child a second time at the home, did you speak to the child on that

occasion?
A. Yes, I did.
Q. Okay. Approximately how long did you speak to her for?
A. A minute or two.
Q. Okay. And when you initially saw the child the first time at the school when you laid eyes on her when she was in the cafeteria from a distance, how long did you observe her for?
A. A couple of minutes.
Q. Okay. And did you take any photographs or videos or anything like that?
A. No.
Q. And what was the last thing you did, as far as your involvement in this case working as a worker for DCF; do you know or do you recall?
A. (No audible response.)
Q. You know, I'll strike that question.
Now, I believe you said that your acting supervisor on the day that you were made aware of the call on April 29th of 2015 was Ms. Christiansen?
A. Yes.
Q. How long had she been your acting supervisor for at that time?
A. It could have been about two weeks. Usually

she's an acting supervisor when the regular supervisor goes on vacation.

Q. Okay. And so, was the -- and how many times before that had Ms. Christiansen been your acting supervisor?

A. Numerous, numerous times.

Q. Numerous times, okay. So it wasn't uncommon for her to be your acting supervisor?

A. No.

Q. And other than that time that you went to the home to lay eyes on the child and to speak to Mr. Michaud where he refused to be interviewed, did you ever talk to him after that date?

A. I believe I did.

Q. Okay. Do you have a recollection of it or you just think you did?

A. I don't have recollection of what we spoke about or when or how long after that time.

Q. Okay. So, you don't recall how long you spoke to him or where?

A. It was probably a phone call.

Q. Okay. Did you ever try to contact Ms. Loyd at all?

A. No.

Q. And in total, approximately how long or how

much time did you spend working on this case or are on the -- let me strike that.

How much time did you spend working on the allegation of abuse regarding the child?

A. I believe that the investigation was closed within 60 days.

Q. Okay now, I'm sorry if I asked a bad question. That was an inarticulate question.

And I appreciate you telling me the investigation was done approximately within 60 days. And that's because the investigations are supposed to be closed within 60 days, right?

A. Correct.

Q. Okay. My question was a little more specific. I was asking how many man-hours you personally spent working on the allegation of abuse?

A. Just I -- there's no way for me to tell you how many man-hours was spent.

Q. That you personally spent, just ballpark. I mean, if you don't know, that's fine.

A. I don't know.

Q. Okay. And approximately how many cases were you handling simultaneously while you are handling this case, just approximately?

A. Probably about 15.

Q. Fifteen, okay. And was that the number of cases or the ballpark area number of cases that you normally handled at any given time?
A. Yeah, that's roughly about the average caseload.
Q. Okay, that's what I'm asking. That's your average caseload?
A. Yes.
Q. Okay. And I think you said you left DCF in the fall of 2016?
A. Yes.
Q. How long were you employed? When did you start there?
A. 2013.
Q. Okay. When you initially started there in 2013, what was your position, what did you do there?
A. An investigator.
Q. Okay. So, the entire time you were there you were an investigator?
A. Yes.
Q. Okay. And when you started there, do you recall what season or what month you started there?
A. Probably around the spring.
Q. Okay.
A. Somewhere around there.

Q. Okay. So you worked there from approximately the spring of 2013 to the fall of 2016, so a little over three years?
A. Yes.
Q. Okay. And what training or education did you have to become a child protective investigator, or an investigator for DCF?
A. I interned there prior to being employed.
Q. Okay.
A. And in as far as educational background?
Q. Yes, sir.
A. I have a bachelor's degree in criminal justice and a Master's in business administration.
Q. Okay. And how long did your internship last, just approximately?
A. Approximately about three or four months.
Q. Okay. And you received a BS in criminal justice and an MBA, I believe, in business administration?
A. Yes.
Q. When did you receive the MBA?
A. The MBA was completed in 2013 sometime.
Q. Okay, so --
A. A while after I started working.
Q. Okay. So, while you were working at DCF, you

1 continued to get your MBA?
2 A. Yes.
3 Q. All right. I believe you had testified that
4 the child did not look malnourished. But do you have
5 any schooling or education in medicine or medical
6 diagnoses, diseases or anything like that?
7 A. We do get specialized training to assess for
8 neglect or abuse, as far as medical neglect.
9 Q. Okay. And approximately how much training do
10 you receive for that, specifically for medical
11 evaluation?
12 A. It's while you are on the job, it's kind of
13 like ongoing training.
14 Q. Okay, on-the-job training?
15 A. Yeah.
16 Q. Okay. And you investigated this allegation in
17 approximately April of 2015, and you began working in
18 the spring of 2013. Did that include your internship?
19 A. Yes.
20 Q. Okay.
21 A. Oh, for my employment?
22 Q. Yes.
23 A. No.
24 Q. Okay, so --
25 A. My internship was in 2012.

1 Q. Okay. So, at the time you had investigated
2 this incident, you had been working as an investigator
3 for approximately two years?
4 A. Yes.
5 Q. And had you ever worked as an investigator
6 before this employment in 2013?
7 A. No.
8 Q. Just a few more questions. And when you were
9 working as an investigator in 2015, at the time you
10 investigated this incident, are you working alone or
11 do you have a partner or how does that work?
12 A. I usually worked alone.
13 Q. Okay. And I believe you said your acting
14 supervisor was Ms. Christiansen, was she your direct
15 supervisor?
16 A. At that time, yes.
17 Q. Okay. And did you have anyone else who was --
18 and I know you have another supervisor who is there
19 and then she was the acting supervisor. Other than
20 those two individuals, did you have anyone else that
21 you had to answer directly to?
22 A. No.
23 MR. BROSS: All right. Thank you, sir,
24 have a good day.
25 THE COURT: Does that prompt any

\redirect?

MR. SENDRA: Yes, Judge, and I'll be quick.

REDIRECT EXAMINATION

BY MR. SENDRA:

Q. So, Mr. Brooks, you voluntarily chose to leave DCF; correct?

A. Yes.

Q. Okay. And you are seeking other employment at this time?

A. Yes.

Q. Okay, and do have an offer for employment?

MR. BROSS: Objection, Your Honor, relevance.

A. Yes, I do have an offer.

THE COURT: Overruled.

BY MR. SENDRA:

Q. And who is that with?

A. The Brevard County Sheriff's Department.

Q. And let's talk about the information you received. So, when you get the tip from the Hotline -- Maybe I wasn't clear. Initially, you get some kind of report or document that gives you information regarding the call?

A. Yes, a report; printed report.

Q. Okay. And is that what? Ten pages? Do you know roughly how many pages they are?

A. Three or four pages.

Q. Okay. And you received a report like that in this case?

A. Yes.

Q. All right. And we'll talk about your last involvement in the case a little bit. Were you the one responsible for closing out this case?

A. Yes.

Q. What were your findings when you closed out this case?

A. It was unfounded.

MR. SENDRA: I have no further questions.

THE COURT: All right, thank you.

Then may Mr. Brooks be excused?

MR. SENDRA: Yes.

THE COURT: All right, thank you.

THE WITNESS: Thank you.

THE COURT: He's excused-excused or subject to recall?

MR. SENDRA: Subject to recall, Judge. But we will get in touch with him if we need him, so he can leave the courthouse.

THE COURT: All right. Thank you, Mr. Brooks. They have your contact information, so thank you; sir.

Who will be the State's next witness?

MR. SENDRA: Judge, can we approach for a second?

THE COURT: Sure.

(Whereupon, the following sidebar proceedings, out of the hearing of the Jury:)

MR. SENDRA: It's going to be Agent Fischer, the main case agent. So I need to put the disk in and go through all the different interviews and everything.

THE COURT: How long do you want to -- I mean, do you want to set up?

MR. SENDRA: I don't know if you just wanted me to proceed or if you wanted to give them a really quick break while I was doing that or what.

THE COURT: I mean, they've only been in here 40 minutes.

MR. SENDRA: Okay. I'm just asking, that and want to --

THE COURT: No, I appreciate that because the way things go, they appreciate that

very much.

(Whereupon, before the Court and Jury.)

MR. SENDRA: Robert Fischer.

THE COURT: All right.

THE CLERK: Please raise your right hand and place your left hand on the Bible.

Do you solemnly swear or affirm that the testimony you are about to give shall be the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: Yes.

THE CLERK: Follow the deputy's directions.

WHEREUPON:

ROBERT FISCHER,

a Witness herein, having been duly sworn, testified upon his oath as follows:

DIRECT EXAMINATION

BY MR. SENDRA:

Q. Could you state your name and spell your name for the record please?

A. My name is Robert Fischer, F-I-S-C-H-E-R.

Q. Are you employed, sir?

A. I'm a deputy sheriff for the Brevard County Sheriff's Office.

Q. Okay. How long have you been employed in that capacity?
A. It's almost six years, six years in June.
Q. Okay. And what are your current responsibilities?
A. Right now I am a corporal with the road patrol unit.
Q. Okay. And back in April, 2015, what were your duties or responsibilities at that time?
A. In April, I was an agent for BCSO's Special Victims Unit.
Q. We're going to go back real quick because I think I skipped it. What did you have to do to become a deputy sheriff or what -- actually, let me clarify that first.
Did you have any employment in law enforcement prior to being with the Sheriff's Office?
A. No.
Q. Okay. What training or experience did you obtain to become a deputy sheriff with the Brevard County Sheriff's Office?
A. I attended the police academy. It was at Brevard Community College back then, Eastern Florida State College now, in Melbourne.
Q. And what did that program consist of?

A. Oh boy. It was five months of FDLE training, physical tests, books, studying, everything you need to become a police officer.

Q. Do you have any specifics about topics, as they are called, while you were in the training program?

A. Oh, you name it; sir. They go through a lot of the statutes. Some of it includes basic battery, burglaries, stolen vehicles.

We did get into a little bit of sex crimes and things like that, which ultimately led to me going to the Special Victims Unit.

Q. So you get training on how to do investigations and how to write reports and things like that; is that also true?

A. In the academy, sir?

Q. Yes.

A. Yes, that is true.

Q. Okay. And do you have any continuing training or on-the-job training once you graduate from the academy and get hired with the Brevard County Sheriff's Office?

A. When you get hired, you go through orientation, so that's a few weeks. They go over writing reports the way the Sheriff's Office would

have you do that.

From there, depending on your position, if you are road patrol, you work with your squad at that point and you know, they bring you on from there.

Of course, there's a field training program, which you ride with a training officer for -- gosh, I've kind of blocked it out now because it's been six years, but it's about 12 weeks for your one-on-one with a training Officer.

And they look over your reports and teach you how to fix what you're doing wrong, and do it the right way.

Q. Okay. And did you do that in your experience or your time with the Sheriff's Office?

A. Yes, sir; I did.

Q. The field training, you underwent that?

A. Yes, sir. Yeah, I guess about six years ago when I started.

Q. All right. Now, let's go back to April 29th of 2015, did you become involved in an investigation regarding a report of child abuse?

A. Yes, sir.

Q. Okay. And how did you become involved in the investigation in April of '15?

A. So, on the 29th of April in 2015, I was the

on-call agent for the Special Victims Unit, so calls that came in for that unit would come to me.

I was contacted by a patrol deputy. He and his trainee were at Quest Elementary School, it was a joint response with DCF, in reference to a DCF Hotline call.

Q. Okay. And based on the response of the other deputy with DCF, were you asked to investigate further?

A. Yes, sir.

Q. Okay. And what were you investigating in this case?

A. I was investigating who placed the call to the DCF Hotline.

Q. Okay, and I'm assuming -- did you obtain the report from DCF for the Hotline intake report?

A. Well, DCF -- yes, sir, as far as physically getting it, I don't believe I got it that day, but a short time afterward I got the actual report.

We had talked about the report on the phone, the DCF's -- they're called CPIs, Child Protective Investigators -- we talked about the report on the phone that day.

Q. Okay. Who did you speak with from DCF regarding a report or allegation that day?

1 A. Well, first, I spoke with Oneil Brooks. He's
2 a child protective investigator with DCF. And sort of
3 at the end of our conversation, he put Debra
4 Christiansen on, who was a supervisor with DCF.
5 Q. And then he, I'm assuming, told you what they
6 had discovered or what research they had done
7 regarding this matter. Is that accurate?
8 A. Yes, sir. Basically they were called --
9 MR. BROSS: Objection, Your Honor,
10 hearsay.
11 THE COURT: Sustained.
12 MR. SENDRA: I didn't ask him to tell me
13 what it is, I asked him if --
14 THE COURT: Right.
15 BY MR. SENDRA:
16 Q. You can say yes or no to the question.
17 A. Yes. Yes, sir; they told me that.
18 Q. All right. So, based on that information and
19 the report that you received, what was the next step
20 in your investigation?
21 A. So the next -- Should I explain what I was
22 asked to investigate at this point?
23 Q. Well, sure; you have the information from DCF.
24 A. Okay.
25 Q. You have the little bit of -- I'm assuming you

1 did a little background research, based on the
2 information that you got?
3 A. Yes, sir.
4 Q. Okay. So, what are you investigating at that
5 point?
6 A. So, the DCF call that was made to the Hotline
7 pertained to a student at Quest Elementary School.
8 And it was allegedly called in by a substitute teacher
9 at that school.
10 When DCF and BCSO deputies arrived and met
11 with the principal, she explained that there was no
12 substitute teacher for that child on what would have
13 been the prior day or that day. So, that was
14 suspicious to them; that's when they contacted me.
15 DCF did their investigation into that student,
16 the one who was the subject of the DCF Hotline call.
17 They then advised me that there was an order from the
18 Court that they could not, nor could any --
19 MR. BROSS: Objection, Your Honor,
20 hearsay.
21 THE COURT: Sustained.
22 A. Okay. Well, I was to investigate who made the
23 call.
24 BY MR. SENDRA:
25 Q. Hold on, hold on, hold on. All right, don't

1 answer the question; okay?
2 A. Okay.
3 Q. I'm going to ask a different question.
4 A. Very good.
5 Q. All right. So based on all of that, you are
6 trying to make a determination of whether this report
7 is true or not; is that what you are doing?
8 A. Yes sir.
9 Q. Okay, all right. So, at that point, you start
10 looking into the information you received from DCF
11 regarding the actual identity of the caller. Is that
12 accurate?
13 A. Yes, sir.
14 Q. Okay. And what steps do you take to try to
15 identify the person that called the Hotline?
16 A. So, when you call that Hotline, your number is
17 captured, your phone number. So, on the intake report
18 that phone number and the name provided are listed on
19 that report.
20 And so, I searched through -- the first thing
21 you do, you take that phone number -- I believe it was
22 321-591-7964. And if you do a Google search you'll
23 find a cell phone lookup, that will tell you who the
24 carrier for that phone number is.
25 Once you have the carrier in this case, AT&T,

you can send what's called a subpoena. A subpoena is just a request for records, so that's --

Q. Okay. I'm going to stop you there.

A. Okay.

Q. All right. So, did you do that in this case?

A. Yes, sir.

Q. Okay. So you took the phone number that you had from the DCF report and looked up what company it belonged to?

A. Yes, sir.

Q. Okay. And did you take the following -- and did you send a subpoena in this case to AT&T?

A. I sent it to the State Attorney's office, and then it's delivered from there to the company.

Q. Okay. And then did you receive a response from AT&T?

A. I did. I think it was about -- I want to say -- gosh, it was about -- boy I'm trying to put the -- it was, a least, a month, it might have been two months afterwards, so it took a while.

Q. Okay. What information did you request from AT&T regarding that phone number?

A. So, I requested to know who the number was assigned to, who the customers were. I also wanted to know what calls were made from that number. Certainly

on April the 29th, which was the date the DCF call came in.

And so, I also -- we usually will request method of payment for the account. Sometimes that gives you additional information, if you're trying to find out who owns that account.

Q. Okay, and did you do so in this case?

A. Yes, sir.

Q. Did you receive that information?

A. Yes, sir.

Q. And did you review it?

A. Yes, sir.

Q. Were you able to make a determination from the records who the account belonged to?

A. Yes.

Q. Okay, and who was that?

A. Dana Loyd.

Q. Was the account information related to anybody else besides Ms. Loyd?

A. There was a Chris Loyd, or a Christopher Loyd.

Q. Okay. Are you aware of what relationship Chris Loyd has to Dana Loyd?

A. Yes, sir. I was told that he was her husband.

MR. SENDRA: May I approach the clerk, Judge?

THE COURT: Certainly.

BY MR. SENDRA:

Q. All right. Sir, I'm going to show you what's been marked as State's Exhibit B (tenders exhibit) Can you tell me if you recognize that document?

A. (Reviewing exhibit.) They appear to be the results of the subpoena of AT&T's records.

Q. Okay. And did you request a business records certification from AT&T when you sent the subpoena for that information?

A. Yes, sir.

Q. Did they return one?

A. Yes, sir.

Q. Along with the records?

A. Yes, sir. It appears to be the top page. It's a declaration of authenticity.

Q. All right.

MR. SENDRA: At this time, Judge, I would ask to move State's Exhibit B into evidence as the first numbered exhibit.

THE COURT: All right.

MR. SENDRA: Based on the testimony of the officer and the business records certification.

THE COURT: All right, thank you.

Any objection.
MR. BROSS: No objection, Your Honor.
THE COURT: All right, thank you.
Then exhibit B shall become Exhibit one.
(Whereupon, State's Exhibit B was received in evidence as State's Exhibit No. 1.)
BY MR. SENDRA:
Q. Based on the records you received, Ms. Loyd is associated with the account and now, also Mr. Loyd. That's what you said, correct?
A. Yes, sir.
Q. Okay.
A. I noticed on one date that a credit card in her name was used to pay for that cell phone account.
Q. All right. And what are you looking for in the AT&T records when you subpoenaed the information?
A. Well, the customer name.
Who owns this phone?
Who had been using this phone?
What numbers were called from this phone, in particular on April the 29th, 2015?
Q. Okay. And were you able to find any phone calls on April 29th that had meaning to you in this case?
A. Yes, sir. I noticed that there was a call on

that date that was placed to a number, which I learned later was the DCF Abuse Hotline number.

Q. Okay. And did the timing or the length of that call on the AT&T records -- Well, you testified that you had later received the actual call from DCF; correct?

A. Yes, sir.

Q. The records and the recording?

A. Yes, sir.

Q. So, were you using -- when you got the AT&T records, did you compare the length of the phone call that you said meant something to you, versus the length of the recorded phone call from DCF?

A. Yes, sir; it was consistent with the time.

Q. Okay. And do you know what item number that is on the records?

A. If you let me look at it, I could show you. I want to say it's 13:41, it's item number.

Q. Would looking at the record refresh your memory?

A. Yes, sir.

Q. (Tenders exhibit.) There you go, sir.

A. (Reviewing exhibit.) So, yes, sir; 13:41 was the time of the DCF call. And there was another number that was kind of significant, it was the call

-- if I can mention that the DCF investigator --
Q. Okay, let me stop you real quick.
A. Okay.
Q. Are there any other calls on there, other than the one to the Abuse Hotline that meant something to you?
A. Yes, I'm sorry. Debra Christiansen, she provided me with a sworn recorded statement in which she said, I guess --
Q. Okay. And we're not talking about what she said.
A. Oh, okay.
Q. But were you aware of whether she had made contact with Ms. Loyd or had attempted to?
A. Yes, sir.
Q. Okay. And is that what you were looking for on the records, to see if her phone number matched an identity at any point?
A. Yes, sir.
Q. Okay, were you able to do that?
A. Yes, sir.
Q. Okay. And how many calls are there in the record that meant something to you regarding Ms. Christiansen and Ms. Loyd?
A. So, there appeared to be three.

Q. Okay, all right. All right, we have talked about the recording and the intake report. You did say that you requested those from DCF, correct?
A. Yes.
Q. About the Hotline call?
A. Yes, sir. The actual call, as well as the outgoing message warning.
Q. Okay, let's talk about that. So, you received a disk from them; is that accurate?
A. Yes, sir. I believe that's how I received it, via CD.
Q. Okay. And along with that disk, did they provide you with any other documentation?
A. At that time I don't -- I don't recall that they had sent the business certification. I believe I had to ask for it.
Q. Okay.
A. And I eventually received one.
Q. Okay. And that's regarding the call and the intake records regarding the call?
A. Yes, sir.
Q. Okay, all right. Let's talk about the warning. Had you ever had to call the Hotline before?
A. Oh, numerous times.
Q. Okay. You were talking about an outgoing

1 message or a warning, can you describe to the jury
2 what that is?
3 MR. BROSS: Objection, Your Honor -- I'm
4 sorry -- I withdraw my objection (trailing
5 off).
6 A. Okay. So, when I was a patrol officer, which
7 I am now, if I would have to call the DCF Hotline to
8 make them aware of a house or a situation that I felt
9 might require some looking into, you call the number
10 and you hear an outgoing message, it says something to
11 the effect --
12 MR. BROSS: Objection, hearsay.
13 THE COURT: Sustained.
14 THE WITNESS: Okay.
15 MR. SENDRA: He has personal knowledge
16 of this, Judge, he said he had called the
17 Hotline and heard the message.
18 MR. BROSS: Objection, hearsay.
19 THE COURT: It's offered to show --
20 MR. SENDRA: It's not proving to show
21 what the message had said, but that he's heard
22 it and he understand what it means. I'm going
23 to offer it into --
24 MR. BROSS: It's being used to prove the
25 truth of the matter.

MR. SENDRA: Okay, I can move on.

THE COURT: Okay.

BY MR. SENDRA:

Q. I'm sorry. But you heard the message before; correct?

A. I have.

Q. All right. And in this case, you said you have the business records certification -- is that accurate -- regarding the call, the call placed by Ms. Loyd, the outgoing message, and then also the intake report; correct?

A. Yes, sir.

MR. SENDRA: May I approach the witness, Judge?

THE COURT: Certainly.

BY MR. SENDRA:

Q. I'm showing you what's been marked as Composite State's A (tenders exhibit). Do you recognize those items?

A. (Reviewing exhibit.) Yes, sir. I reviewed this disk. I listened to the intake and then the -- yeah.

Q. Okay. What is contained on that disk?

A. So, this disk, it has the call that was placed to DCF regarding the student at Quest Elementary. And

I believe it also has the outgoing message to reporters, telling them -- well, the outgoing message that you hear when you call the number.

Q. Okay. Are there any markings on the disk that make you aware that that's actually what's on there, and that you have personal knowledge of that?

A. Yes, sir; I initialed it and I dated it. I listened to this disk.

Q. Okay. And the document attached to that disk, do you recognize that?

A. Yes, Landis Ender was the point of contact who provided me with the records I needed, and then she signed the business record certification.

MR. SENDRA: Okay. At this time, Judge, I would ask that State's Exhibit A be entered as the State's next numbered exhibit.

THE COURT: All right.

MR. SENDRA: Based on the testimony and the business records certification.

THE COURT: All right, any objection?

MR. BROSS: No objection, Your Honor.

THE COURT: All right. Without objection, Exhibit A will become State's two.

(Whereupon, State's Exhibit A was received in evidence as State's Exhibit No. 2.)

MR. SENDRA: At this time I would ask to publish to the jury, Judge, which requires me --

THE COURT: Certainly. To take a moment to set up; no problem.

BY MR. SENDRA:

Q. Agent Fisher, based on your experiencing calling the Hotline, do you hear the outgoing message before or after you're able to give the Hotline whatever information you are trying to provide?

A. Before.

(Whereupon, State's Exhibit 2 audiotape was published to the jury.)

HOTLINE: This is the Florida Department of Children and Families Abuse Hotline. Select one of the following languages:

For English, press one.

For Spanish, press two.

For Creole, press three.

If this is an emergency, hang up and dial 9-1-1.

Any person who knowingly and willfully makes a false report is guilty of a third-degree felony. Violation of this law can result in imprisonment and/or a Department

imposed fine of up to $10,000. Anyone making a report who is acting in good faith is immune from any liability.

All calls to the Florida Abuse Hotline are recorded. The identity of the person making a report is confidential. Please listen to all options before making your selection.

If you are calling to report abuse, neglect or exploitation, please press one.

If you would like to verify the identity of a Child Protective Services worker who has recently contacted you or visited your residence, please press two.

To obtain information and referrals to other services in your local area, please press three.

If you have previously called the Hotline and you have your confirmation case number, please press one, otherwise please press two.

Please hold while your call is transferred.

(Whereupon, telephone ring tone.)

(Whereupon, recording paused.)

BY MR. SENDRA:

Q. All right. Agent Fischer, is that the warning or outgoing call that you were referring to here in your testimony?

A. Yes, sir.

(Whereupon, Publication of State's Exhibit 2 resumed.)

HOTLINE: This is the Florida Abuse Hotline, how may I help you?

CALLER: This is to report suspected abuse.

HOTLINE: Okay. May I have your name?

CALLER: I don't think you need that but (indiscernible).

HOTLINE: I'm sorry?

CALLER: Theresa.

HOTLINE: And your last name?

CALLER: Smith.

HOTLINE: And your current phone number please?

CALLER: I don't want to leave a number.

HOTLINE: Okay. Go ahead and tell me about your concerns today.

CALLER: I am a substitute teacher and I was substituting at a school in Brevard County, Florida. The name of the school was Quest

Elementary.

There's a little girl who is in the sixth grade and her name is Riley, Riley Michaud.

HOTLINE: How do I spell that?

CALLER: I think it's M-A-C-H-A-D-D [sic].

HOTLINE: Okay.

CALLER: I overheard a conversation that her father shaves her legs and he forces her to have sex with him.

HOTLINE: Okay. And when did she make these -- When were those comments made?

CALLER: On Tuesday.

HOTLINE: Okay. And is there any more details about what's going on?

CALLER: No.

HOTLINE: Okay. And with the information that you overheard, do you know if the incidents are ongoing or was it past incidents?

CALLER: Oh, she -- it was -- it was a comment made about, she's only (clears throat) allowed to (clears throat) her father says how much she can weigh and the little girl looks

terrible.

HOTLINE: And when you say "terrible" can you tell us what that means?

CALLER: She looks malnourished, she looks just unhealthy and very stressed. I would guess that she weighs -- I don't know, maybe 50 or 55 pounds -- and she's going to be 12.

HOTLINE: And you say that the father restricts her weight?

CALLER: Yes. She had some soup for lunch, and that was it.

HOTLINE: Okay. And do you know why he does that or what --

CALLER: Why he --

(More than one speaker, indiscernible.)

HOTLINE: And then did she give like any kind of -- any more information about the sexual abuse, that -- do you know, if it was something in the past that she was reporting, something that happened in the past, or is it something that is currently going on now?

CALLER: The way I understood it, it's been happening for a long time, and it's currently happening.

HOTLINE: Okay. And did she give any more details as to how long it's possibly been going on?

CALLER: Not that I can recall, no.

HOTLINE: Okay. And what is the father's name?

CALLER: Tim.

HOTLINE: And is that short for Timothy?

CALLER: Yes.

HOTLINE: And the same last name as the child, or does he have a different last name?

CALLER: The same last name.

HOTLINE: And what is the -- do you know what -- do you know the child's birth date?

CALLER: I think she's going to be 12 in December.

HOTLINE: And what is it like in the family?

CALLER: They are like --

HOTLINE: Does the child seem to have any disabilities like a hearing impairment?

CALLER: No.

HOTLINE: And do you know if there is a mother in the home?

CALLER: No.

HOTLINE: Okay. And how would you describe the child's general behaviors at school and how she interacts with others, other children?

CALLER: Very standoffish, she hasn't -- she only has one little friend.

HOTLINE: You said she's very standoffish and it appears she only has how many friends?

CALLER: One. Now, that's not a happy -- not a happy child which, you know, sometimes I think she's (indiscernible) around the corner and is just -- just not a happy child, it's like she -- it looks like she has the weight of the world on her shoulders.

HOTLINE: Okay, okay. And do you know if there are any other children or adults residing in the home besides the father?

CALLER: No, I do not know.

HOTLINE: And in her past, do you know what type of --

CALLER: Well, I just interpreted --

HOTLINE: What kind of father does she have, has she expressed how they interact?

CALLER: No. Included in the

conversation that I heard that he -- she's his wife now.

HOTLINE: She stated that -- what did she say?

CALLER: That she's her dad's -- she's her dad's wife now.

HOTLINE: She said that she is her dad's wife?

CALLER: Yes.

HOTLINE: Okay, and has she -- did she express how she's with the plan or any -- if she doesn't comply with his restrictions with the weight?

CALLER: She doesn't get food and she's locked in her room.

HOTLINE: Okay. And do you know how long she's locked in a room for?

CALLER: No.

HOTLINE: Okay. And what is their home address?

CALLER: That, I don't know. I know that they live in Viera.

HOTLINE: Do you have a phone number for them?

CALLER: No, I do not.

HOTLINE: Do you know where Riley is right now?

CALLER: She should be in school. She was in school yesterday.

HOTLINE: Do you know where she will possibly be for the next 24 hours?

CALLER: I'm not -- I know she plays soccer, but I don't know her soccer schedule for the practice schedule.

HOTLINE: Okay.

CALLER: I don't know where she goes after school.

HOTLINE: Okay. And and is there anyone else who is aware of the information you have reported today?

CALLER: When I talked to a couple of different teachers, they were aware of it. But I guess they just didn't want to talk about it.

HOTLINE: What are -- do you have those teachers' names?

CALLER: No.

HOTLINE: Okay. And just to inform you, you are a legally mandated reporter. Your information is kept confidential by law. And we are -- and you are required to provide your

name and phone number for a contact.
CALLER: I'll leave you my name -- I'm not -- I can't -- I can't -- I would have to -- I'm a substitute teacher here.
HOTLINE: What is the school's phone number?
CALLER: That, I don't know. I get called by a machine.
HOTLINE: Okay. And do you know if anyone in the home has any disabilities, hearing impairment or limiting disability?
CALLER: No.
HOTLINE: Okay. Based on the information that you have provided today, we will go ahead and generate a report for an investigation. Let me give you my name and ID number.
CALLER: Okay.
HOTLINE: My name is Shamira, that is spelled S-H-A-M-I-R-A; and my ID number is 283. And what time does the school dismiss today?
CALLER: 2:40.
HOTLINE: I'm sorry?
CALLER: At 2:40.
HOTLINE: Okay, all right. Thank you

for providing the information and I hope that you have a great day.

CALLER: Okay, you too.

(Whereupon, the recording concluded.)

BY MR. SENDRA:

Q. Okay, all right. And, Agent Fischer, is that the Hotline call that you were investigating in this case?

A. Yes, sir.

Q. And as you reviewed that call, did you ever talk to members of the Brevard County school system in relation to this case?

A. Yes, sir.

Q. Okay. And had you listened to this call prior to that?

A. Yes, I had.

Q. Okay. So, what is the name of the individual that you were trying to gain information from the Brevard County School Board about?

A. The substitute teacher which --

Q. Okay. And which gave the name, on the recording, what name do we hear?

A. The recording gives the name of Theresa Smith.

Q. And you eventually spoke to the School Board employees, do you remember who you spoke with?

A. Ms. Buchanan, seems familiar to me; sir.
Q. Okay. And what, if anything did you ask Ms. Buchanan to do in relation to this investigation?
A. So, I wanted to know were there substitute teachers in that child's class that day, which was the 28th.
And then I wanted to know the last time the -- I'm sorry -- if Theresa Smith was a substitute teacher. And if so, when was the last time that Theresa Smith was a substitute in Brevard County; yeah.
Q. And through their databases and information systems, were they able to provide you that information?
A. Yes, sir; they told me --
MR. BROSS: Objection, hearsay.
A. Okay. Well, I can tell you about the records I got.
MR. SENDRA: Hold on.
THE COURT: Mr. Sendra, do you have in your response?
MR. SENDRA: I didn't ask for the contents necessarily.
THE COURT: All right, all right. So that's sustained.

Sir, if you would, without saying what they said, you can answer whether or not.

THE WITNESS: Yes, ma'am. I believe I answered in the affirmative, yes.

BY MR. SENDRA:

Q. So, Ms. Buchanan was able to make a determination of how many Theresa Smiths worked for the School Board?

A. Yes, sir.

Q. Or in the school system in Brevard at that time with that name?

A. Yes, sir.

Q. Okay. And was she able to -- You asked her to look into whether Theresa Smith substituted at Riley's school on April 28th, 2015 or April 29th of 2015?

A. Yes, sir.

Q. Okay, and she was able to provide you with that information?

A. Yes.

Q. Or whether she existed or not?

A. Yes, sir.

Q. Okay. And was she able to provide you with information regarding how many Theresa Smiths they had registered in their system as teachers within the Brevard County school system at the time in 2015?

A. Yes.

Q. All right. Based on this information from the School Board, and the call you received from DCF, and the phone records, what do you do next in your investigation?

A. I believe the next thing I did was meet with Ms. Loyd.

Q. Okay, and where did that meeting take place?

A. That was at her house in Titusville.

Q. Okay. And do you know what address that was at?

A. Well, I want to say Orange Street and I believe it was -- I could look at my report to refresh my memory, but I thought the address was 714 Orange Street.

Q. Okay.

MR. SENDRA: Judge, may the witness look at his report to refresh his memory?

THE COURT: Certainly.

BY MR. SENDRA:

Q. You can look at your report, sir.

A. Okay.

Q. Read it, and when your memory is refreshed, please close the binder.

A. Absolutely. (Reviewing document.) Yes, sir;

714 Orange Street. I had just made a note on the top.

Q. Okay, all right. And you said that occurred at Ms. Loyd's home?

A. Yes, sir.

Q. Okay. And who responded with you to meet with Ms. Loyd?

A. An agent, Sarah McClendon (phonetic). She came with me as well.

Q. All right, and that's a female agent?

A. Yes, sir.

Q. And when did this meeting occur?

A. I'm very sorry (shakes head).

Q. Was it in April of 2015?

A. It was in August of 2015.

Q. Okay. So, it was after you had taken the other step in your investigation. At this point you basically have a suspect and you wanted to talk to them. Is that what you were doing?

A. Yes, sir. She was one of the last people that I spoke to.

Q. Okay, was that interview recorded?

A. Yes, sir.

Q. All right?

MR. SENDRA: May I approach the Clerk, Judge?

THE COURT: Certainly.
MR. SENDRA: May I approach the witness?
THE COURT: Yes.
BY MR. SENDRA:
Q. I'm showing you what's been marked as State's Exhibit D for identification. (Tenders exhibit.) Do you recognize that item?
A. (Reviewing exhibit.) Yes, sir.
Q. Okay, how do you recognize that item?
A. I listened to this disk and initialed it with the date and my initials and ID number.
Q. And what is that disk a depiction of, what are the contents a depiction of?
A. This is a conversation between Ms. Loyd and myself.
MR. SENDRA: At this time, Judge, I would ask to move State's D in as the next numbered exhibit?
THE COURT: All right, any objections?
MR. BROSS: No, Your Honor.
THE COURT: All right. Without objection, State's D -- excuse me, State's -- yeah, State's D will become State's three; I believe.
(Whereupon, State's Exhibit D was

received in evidence as State's Exhibit No. 3.)

MR. SENDRA: At this time, Judge, I would ask to publish to the jury.

THE COURT: All right.

MR. SENDRA: And then I would request that the Court read the instruction that we agreed on.

THE COURT: All right, thank you. Yes, thank you. Thank you.

All right. Folks, you are about to listen to an audio recording. The Court instructs you that the recording has been edited to eliminate irrelevant portions that would not add to your understanding of this case.

The fact that the recording has been edited should not concern you in any way and must not impact the way you listen to and consider this evidence.

(Whereupon, State's Exhibit 3 published to the jury.)

AGENT FISCHER: This is Agent Fischer with the Brevard County Sheriff's Office. Today's date is August 19th, 2015 and the time now is 12:31 PM.

I am attempting to speak with Dana Lynn Loyd in reference to case report number 15-142492. We will be at 714 Orange Street in Titusville. Present is Agent Sarah McClendon as well.

(Whereupon, sound of knocking.)

AGENT FISCHER: Hello there.

MS. LOYD: Hi.

AGENT FISCHER: Dana Loyd?

MS. LOYD: Yep.

AGENT FISCHER: Hey, Rob Fischer with the Sheriff's Office.

MS. LOYD: Nice to meet you. Hi, how are you?

AGENT FISCHER: How are you?

MS. LOYD: Good.

AGENT FISCHER: It looks like an historic house. Looks like a little bungalow house or something.

MS. LOYD: I think, yep. 1948 it started and finished in 1950.

AGENT FISCHER: So probably nothing around here when you started building?

MS. LOYD: No, because we haven't (indiscernible).

AGENT FISCHER: Oh, where shall we go?

MS. LOYD: Oh, right here, I have --

AGENT FISCHER: Is that your seat?

MS. LOYD: Yeah.

AGENT FISCHER: I almost have these chairs, but they are like lighter colored wood.

MS. LOYD: You know, it's funny (indiscernible) just these two. You know, I couldn't believe (indiscernible).

AGENT FISCHER: Wow, yeah. So, sorry Dean Ogden (phonetic) couldn't be here, he's doing FBI stuff. When's the last time you met Mr. Ogden?

MS. LOYD: I've never met him.

AGENT FISCHER: You've never met, right.

MS. LOYD: I never take calls without (indiscernible) because if I don't know the number and I don't answer.

So, I was -- it just kept coming through and coming through. So I was trying to look online to see where -- who it belonged to.

And all I was ever able to get was that it was a landline out of Melbourne, so I finally answered. And it was a woman and she said: Is this Dana?

1 And I said: Who am I speaking with?
2 And she said: This is DCF.
3 And I said, okay.
4 She said: When's the last time you
5 substituted in the Brevard County school
6 system?
7 And I said: I don't know, I know it's
8 been some time, so it was probably a few years
9 ago. Why?
10 Did you substitute three days ago?
11 No.
12 She said: Are you friends with -- and
13 she gave me this name.
14 And I said I don't -- she threw at that
15 name -- why are you asking me questions and
16 what's your name?
17 She said: This is DCF.
18 I said: I get that. What's your name?
19 She wouldn't tell me. So she said this
20 woman -- wait, I've got it in my notes
21 somewhere -- called, had substitute taught, and
22 called into the agency's Hotline on Riley. She
23 said the child's name.
24 And I said: Wait a minute, just -- You
25 just called me and you're telling me the person

who called in, so I can confirm to you who it is (indiscernible) Theresa Smith.

You're calling me to tell me that Theresa Smith, who's supposed to be protected by calling the Hotline at work, you're giving me her name and who she called in on?

Well, then just fuck you. And I hung up the phone.

Well, I called the number back to (indiscernible) so the next day (audio breaking up) the next day, I got through to a supervisor, who said well that wasn't was a (indiscernible) professional. We would at least told you we would be in touch.

I never heard anything back.

AGENT FISCHER: So they never talked to Riley. Okay.

Do you recognize this? I'm sorry, that not --

(Whereupon, recording of DCF call played by the Agent. As a recording of a recording, of a recording, totally indiscernible.)

MS. LOYD: So when was that?

AGENT FISCHER: April the 29th. Dana, that's you.

MS. LOYD: No, that's not me on the phone.

AGENT FISCHER: Okay. Do you want me to show you the intake report from DCF?

MS. LOYD: Yeah.

AGENT FISCHER: Okay. The reason DCF became concerned is that there were no substitutes for Riley there on that day and the reporter called from 321-591-7064.

MS. LOYD: That's my phone number.

AGENT FISCHER: Yes. And that's your voice on the phone, too.

(Whereupon, ring tone sound.)

AGENT FISCHER: -- but if you want to show me anything, I would love to see it. Okay.

MS. LOYD: Yes (indiscernible). I'm sorry for wasting your time, and now (indiscernible).

AGENT FISCHER: I don't think you're wasting our time.

MS. LOYD: I'm not making excuses for what I did. No, I'm just --

AGENT FISCHER: Wait, wait.

(More than one speaker, indiscernible.)

MS. LOYD: -- yes, I'm sorry that -- I didn't think that --

AGENT FISCHER: And I'm very --

MS. LOYD: I'm very sorry that now you have to go to (indiscernible) and they're going to press charges on me?

AGENT FISCHER: Right. I think you're very passionate about what you do, but I think maybe when someone says: I'm a substitute teacher and this kid said her dad sexually abused her, because I was there and I want it (indiscernible) that's when we are called in.

We don't look over every DCF call, but that's what got us involved. All right?

MS. LOYD: Okay.

AGENT FISCHER: All right. Do you have anything else to show us?

(Whereupon, recording was concluded.)

BY MR. SENDRA:

Q. All right. Agent Fischer, you had to listen to the DCF recording prior to conducting the interview with Ms. Loyd; correct?

A. Yes.

Q. Okay. And was the voice -- based on your knowledge of that voice, was the voice on the

recording consistent with the person you were speaking to during that interview?
A. It sounded consistent to me, sir.
Q. Okay, all right. During that interview, did Ms. Loyd acknowledge that the number you said called the Hotline belonged to her?
A. Yes, she did.
Q. Okay. And she also acknowledged that she never met the child, Riley? I believe it was a little muffled on there, but is that an accurate statement of what she said to you?
A. That is accurate and it was muffled; yes.
Q. Okay. And she said she overheard the conversation Riley was having on April 28th, is that accurate, the day before the recorded call was placed to DCF?
MR. BROSS: Objection, Your Honor, mischaracterization of the evidence and it's also leading.
THE COURT: One moment please.
Mr. Sendra, what is your question again?
MR. SENDRA: I asked about the day the call was placed versus the day that the conversation was overheard by her.
THE COURT: Right. You said were the

voices the same?
MR. SENDRA: That was before.
THE COURT: Right.
MR. SENDRA: But this was in reference to the days.
THE COURT: Can you just repeat the question that you asked, to which Mr. Bross objected?
MR. SENDRA: Sure, yes. I asked Agent Fischer, if the acknowledgment was that the conversation was overheard April the 28th, 2015, and this call to the Hotline was placed on April 29th, 2015?
THE COURT: Okay.
MR. BROSS: And I objected to --
THE COURT: And your objection is a mischaracterization of evidence?
MR. BROSS: Yeah, well, it's not recorded, it's not on --
THE COURT: Overruled.
MR. BROSS: All right.
THE COURT: Thank you.
BY MR. SENDRA:
Q. You can answer the question.
A. I'm sorry, could you repeat the question?

1 Q. Okay. The person on the recording said they
2 were a substitute teacher, is that accurate?
3 A. Yes, on the DCF incoming call; yes.
4 Q. And on the DCF call, they said they overheard
5 a conversation that Riley was having. Is that true?
6 A. Yes, sir.
7 Q. Okay. And did they say on what day they
8 overheard that conversation?
9 A. Oh, they said -- They said on Tuesday, and
10 then that would be the 28th. And then the 29th of
11 April was Wednesday, when the DCF call came in.
12 MR. BROSS: Objection, your Honor, the
13 audio recording of the call -- The call
14 recording speaks for itself, so that's an
15 interpretation; and to add dates and things,
16 That nurses improper.
17 THE COURT: Mr. Bross, overruled.
18 You're welcome to explore that area on cross
19 examination, sir.
20 BY MR. SENDRA:
21 Q. All right. Ms. Loyd admitted in her interview
22 with you, when you went to meet with her at her home,
23 that she had spoken to DCF; correct?
24 MR. BROSS: Objection, Your Honor, the
25 audio that the jury just heard speaks for

1 itself. To have him summarize it or restate it
2 is improper, somehow he's --
3 THE COURT: Overruled.
4 A. So, I asked Ms. Loyd a question, something to
5 the effect of: Did you call DCF because of this, or
6 was it something else?
7 And she said: I called because of this.
8 BY MR. SENDRA:
9 Q. Okay. And that she did admit that she spoke
10 to somebody else from DCF?
11 A. Yes, she said --
12 Q. To a supervisor or something to that effect,
13 correct?
14 A. Oh, yes. Yes, she did.
15 Q. Okay.
16 A. She, I guess, even on that audio you would've
17 heard where she thought it was an African-American
18 woman.
19 Q. Okay. And she admitted that she had
20 substituted, that she had been a substitute teacher at
21 some point, is that accurate?
22 A. Ms. Loyd?
23 Q. She told you that, Ms. Loyd, that she had been
24 a substitute teacher at some point in time?
25 A. At some point; yes, I believe so. I believe

she -- I really can't recall if, during that conversation, we talked about it.

Q. Okay.

A. Yeah, I don't remember. I know when I was -- if I can say -- when I was at the School Board I asked them the last time she subbed and it had --

MR. BROSS: Objection, Your Honor, hearsay.

A. Okay.

THE COURT: Sustained.

A. I think they provided records.

BY MR. SENDRA:

Q. Okay. Are you aware of what a mandatory reporter is?

A. Yes, sir.

Q. Okay. Can you explain that to the jury?

A. So, as a police officer, a schoolteacher or say, a DCF worker, if you come -- and I believe doctors and nurses as well -- if you come across a situation in which you think a child might be abused or something else criminal is taking place, you are required to contact DCF and make them aware. So that's why I have called him numerous times as a police officer.

Q. All right. And then at some point, Ms. Loyd

1 denies making the call, but then eventually apologizes
2 and says she's sorry; right?
3 MR. BROSS: Objection, Your Honor,
4 leading and again --
5 THE COURT: Sustained as to leading.
6 BY MR. SENDRA:
7 Q. Did Ms. Loyd ever directly admit to you
8 whether she placed that phone call to the DCF Hotline?
9 A. During our conversation she said something to
10 the effect of: It's weird, because I was on a
11 three-way call when I made the call to DCF.
12 MR. BROSS: Objection, Your Honor,
13 again, we have heard the audio and to have him
14 --
15 THE COURT: Overruled, statements have
16 been disclosed.
17 A. She said that to me during my interview with
18 her.
19 BY MR. SENDRA:
20 Q. Okay. So she never directly admitted to you
21 that she made that call; correct?
22 A. No, sir. No, she made admissions.
23 Q. Okay. At some point she did apologize to you,
24 is that true?
25 MR. BROSS: Objection, asked and

1 answered.
2 THE COURT: Overruled.
3 BY MR. SENDRA:
4 Q. You can answer.
5 A. Yes. Towards the end of the interview, I
6 think you heard a bit of it, she was saying: I
7 apologize for wasting your time, and now you have to
8 go to Phil Archer, the State Attorney, and find out if
9 he will prosecute or file charges on her. That's what
10 she said.
11 Q. Okay. And do you see that individual in the
12 courtroom today that you interviewed in August of
13 2015?
14 A. Yes, sir.
15 Q. In reference to this call?
16 A. Yes, sir.
17 Q. All right. And the voice, that's also the
18 same person whose voice you identified on the Hotline
19 recording and during your interview?
20 A. Yes, sir.
21 Q. Okay. Can you point that person out by an
22 article of clothing they're wearing to the members of
23 the jury?
24 A. It's the lady with the light blue shirt at the
25 end of the table.

Q. All right. Did you ever speak to Riley Michaud in reference to this allegation?

A. No, sir.

Q. Did you attempt, at any point, to talk to Riley Michaud?

A. No, sir.

Q. Okay. And is there a reason that you did not do that?

A. When I spoke with DCF --

MR. BROSS: Objection, hearsay.

A. Okay. During my investigation --

MR. SENDRA: Hold on.

THE COURT: Mr. Sendra?

MR. SENDRA: It explains why he didn't take the action that I'm asking him about.

THE COURT: All right. Without saying what they said, Deputy, you can answer.

THE WITNESS: Oh yes, ma'am.

THE COURT: Right.

A. So, there was a court order in place that --

MR. BROSS: Objection, hearsay.

THE COURT: Overruled.

THE WITNESS: Was that overruled?

THE COURT: Yes, that means you can answer.

THE WITNESS: Oh, yes. Thank you; ma'am.

A. So, there was a court order in place which said neither law enforcement or DCF shall approach or interview the child without the Court's permission.

BY MR. SENDRA:

Q. Okay. And so, based on that, you chose not to interview Ms. Michaud; correct?

A. Yes, sir.

Q. All right.

MR. SENDRA: May I have a moment, Judge?

THE COURT: Certainly.

(Whereupon, State Counsel discussion.)

BY MR. SENDRA:

Q. And did this occur in Brevard County, Florida?

A. Yes, sir.

MR. SENDRA: I don't have any other questions, Judge.

THE COURT: Thank you.

Mr. Bross?

MR. BROSS: Thank you. May it please the Court, State and ladies and gentlemen of the jury.

CROSS EXAMINATION

BY MR. BROSS:

Q. Sir, you just testified that you did not interview the child based upon -- I think you said you and DCF did not interview the child, based upon this Court order.

Isn't it true that you were made aware that a child could be interviewed despite that order, if there were concerns for the child's safety?

A. So, there was no substitute teacher in her class that day, sir. So, I didn't --

Q. That's not my question to you. Isn't it true you were made aware that the child could be interviewed by DCF or yourself, if there were concerns for the child's safety?

A. That was sometime later. I think it might have been when I interviewed Debra Christiansen and I don't recall the date of that, sir.

Q. All right. Now, did you do a supplemental report in this case?

A. Yes, sir.

Q. Would it refresh your recollection as to that event to review that supplemental report?

A. Okay.

MR. BROSS: May I approach?

THE COURT: Certainly.

MR. SENDRA: Objection, it's not really clear what he's trying to refresh his memory about. There's no question on the table.

THE COURT: All right.

MR. BROSS: I believe he said he wasn't sure about when he was made aware about whether or not the child could be interviewed.

THE COURT: Okay.

(Whereupon, State Counsel discussion.)

MR. SENDRA: I'm going to object to him giving an answer, it's going to call for hearsay.

MR. BROSS: It doesn't call for hearsay, I'm asking him to refresh his --

MS. STEWART: May we approach?

THE COURT: Certainly.

(Whereupon, the following sidebar proceedings, out of the hearing of the Jury:)

MR. SENDRA: It directly calls --

MS. STEWART: He's summarizing Debra Christiansen's interview with him, when she says: We have had contacted DCF Legal, and they are of the opinion that we can talk to the child, if we thought the child was in danger.

1 That wasn't to him, that was to Debra
2 Christiansen. He's summarizing in his report.
3 MR. BROSS: He just testified that he --
4 he just testified that he -- that neither he or
5 DCF could interview the child based upon this
6 Court order. It wasn't --
7 THE COURT: Well, he said he was later
8 made aware that he could have interviewed the
9 child.
10 And your question was: When were you
11 made aware of that?
12 And then you wanted to --
13 MR. BROSS: Right, refresh his
14 recollection.
15 MS. STEWART: And he said it was
16 sometime later.
17 MR. BROSS: Right.
18 THE COURT: Right, he said sometime
19 later.
20 MR. BROSS: I think he said: I'm not
21 sure, but I think it was sometime later, and he
22 --
23 THE COURT: Yeah, he said some --
24 (More than one speaker, indiscernible.)
25 MR. BROSS: Okay, all right. Okay, all

1 right.
2 THE COURT: And do you want him to.
3 MS. STEWART: Judge, if you -- if he
4 says: On April 29th, Ms. Christiansen was the
5 assigned supervisor he is, in his report,
6 summarizing what Ms. Christiansen told him.
7 THE COURT: So, that would be double
8 hearsay?
9 MS. STEWART: Right.
10 MR. BROSS: It's not double hearsay.
11 I'm asking him to refresh his recollection.
12 THE COURT: Well, you're not asking what
13 he said, you're asking what someone else said
14 that someone else said.
15 MR. BROSS: No, no.
16 THE COURT: And that's called double
17 hearsay, Mr. Bross.
18 MR. BROSS: I know that, Judge, I know
19 that. I am asking -- he stated that he
20 believed DCF -- that he and DCF could not
21 interview the child based upon the Court order.
22 THE COURT: Shh-shh-shh, please.
23 MR. BROSS: Okay. And he said he
24 thought it was sometime later that he was made
25 aware that but -- I'm sorry -- he thought that

it was sometime later that he was made aware that they could interview the child.

THE COURT: No, he said --

MS. STEWART: With Legal.

THE COURT: -- he was later made aware that he could have interviewed the child. And he stated on direct that when he called DCF initially, they said that he was not permitted to interview the child without leave of the Court .

MR. BROSS: Okay, all right.

THE COURT: I mean, that's what I heard. If you would like to question him about it --

MR. BROSS: That's all right, I'll ask him questions about that.

MS. STEWART: But as to --

THE COURT: Okay. I mean, if you --

MS. STEWART: But as to summarizing on April the 29th, summarization of his questions --

THE COURT: Why would you ask him to now regurgitate double hearsay?

MR. BROSS: I'm not asking him to regurgitate double hearsay. He testified on direct.

1 THE COURT: May I see what you're trying
2 to show him?
3 MR. BROSS: Sure. (Tenders document.)
4 THE COURT: (Reviewing document.)
5 MS. STEWART: And that's everything that
6 Ms. Christiansen testified to.
7 THE COURT: Okay. Well, if there were
8 concerns for the child's safety.
9 MR. BROSS: Correct.
10 MS. STEWART: But it still came from Ms.
11 Christiansen. It's not something that he --
12 THE COURT: It came from -- right, it
13 came -- it didn't come from --
14 MS. STEWART: He didn't speak to Legal.
15 MR. BROSS: Okay, well --
16 THE COURT: Right, he didn't speak --
17 yeah, and so I'm --
18 MR. BROSS: First of all, you letting
19 them tag team --
20 THE COURT: No, I mean --
21 MR. BROSS: And you're very, very
22 adamant that I can't, because he's --
23 THE COURT: All right, all right, mister
24 --
25 MR. BROSS: So I'm not going to --

THE COURT: Mr. Bross. All right, Mr. Bross, you're --

MR. BROSS: So I'm not going to --

THE COURT: Mr. Sendra, you may actually --

MR. BROSS: And secondly --

THE COURT: it's actually better if she answers.

MR. SENDRA: I'm sorry?

THE COURT: Because Mr. Sendra does not have an inside voice, and you don't either right now. Okay.

MR. SENDRA: That's neither here nor there, Judge. I think it needs to be fair for both sides.

MR. BROSS: Do we just let her make the argument and I --

THE COURT: I know, I know.

(More than one speaker, indiscernible.)

THE COURT: So what -- what is the concern?

MR. BROSS: You let him testify on direct over my objection that he and DCF could not initially interview the child.

THE COURT: Right.

1 MR. BROSS: Because of this Court order.
2 THE COURT: Correct.
3 MR. BROSS: And I asked him: Isn't it
4 true that you and DCF could have interviewed
5 the child despite the Court order?
6 And he said initially no, but I believe
7 he later found out that he could and my
8 question was -- I think he said he wasn't sure
9 -- and I said: Well, would it refresh your
10 recollection as to when you found out that you
11 or DCF could interview the child, if you had
12 concerns about the child's safety.
13 And that's what I wanted him to refresh
14 his recollection about. And that's when I was
15 going to ask him to refresh his recollection
16 with his report.
17 And that's when he could say: Okay, I
18 now -- my memory is now refreshed, it wasn't
19 sometime later, it was on April 29th. That's
20 it. That's all I was going to do.
21 THE COURT: Okay, so -- but was he made
22 aware of that on April 29th?
23 MR. BROSS: Yes.
24 THE COURT: Or was he made aware of that
25 sometime later?

MR. BROSS: He was made aware of it on April the 29th.

MS. STEWART: He was --

THE COURT: He absolutely --

(More than one speaker, indiscernible.)

MR. BROSS: He responded to the school with Oneil Brooks and I asked him --

MR. SENDRA: He did not, he did not.

THE COURT: He said that there was --

(More than one speaker, indiscernible.)

MR. BROSS: I'm sorry?

MR. SENDRA: He did not. He definitely was not the person.

THE COURT: Oneil testified there was a road patrol officer that responded. And the road patrol officer then called in this deputy because this deputy was an investigator.

MR. BROSS: Okay. Well, I'm --

THE COURT: And so, it went from road patrol to detective and it didn't do -- and it didn't happen on the same day, or within the same hour or two.

MR. BROSS: Okay, all right.

THE COURT: As I heard it.

MR. BROSS: Okay.

1 THE COURT: I mean, you're welcome to
2 inquire about it.
3 MR. BROSS: Okay, I'll ask questions.
4 THE COURT: Please do that.
5 MR. BROSS: I will, thank you.
6 (Whereupon, before the Court and Jury.)
7 MR. BROSS: Thank you.
8 BY MR. BROSS:
9 Q. Sir, when did you first become involved in
10 this case?
11 A. April 29th, 2015, sir.
12 Q. Okay. And what was your first involvement in
13 this case?
14 A. So, I was basically paged by the deputy. I
15 believe it was Deputy Preston (phonetic) sir, and his
16 trainee, Johnson (phonetic) I think it was. And they
17 made me aware of the fact that they were at Quest
18 Elementary with DCF.
19 Q. Okay.
20 A. Okay.
21 Q. And what did you do after being made aware of
22 the deputy being at Quest Elementary with DCF?
23 A. In the nature of the call, sir?
24 Q. Yes, and what did you do once you became aware
25 of this?

1 A. I started reading everything I could about the
2 child named in the call.
3 Q. Okay. And who did you speak to once you
4 became aware of this on April the 29th?
5 A. Oneil Brooks was the DCF CPI, sir. And then
6 shortly -- I guess towards the end of that
7 conversation, I talked to Debra Christiansen, sir.
8 Q. Okay, and this all occurred on April 29th?
9 A. Yes, sir.
10 Q. Okay. And at that time, did you have any
11 discussions on April 29th about whether or not the
12 child could be interviewed?
13 A. Yes, sir. They mentioned the Court order.
14 Q. Would it refresh your recollection to look at
15 your report as to when you were made aware as to when
16 that child -- I'm sorry -- strike that.
17 Would it refresh your recollection to look at
18 your report as to the date that you were made aware
19 that the child could be interviewed, if you had
20 concerns for the child's safety?
21 MR. SENDRA: I'm going to object, Judge,
22 he has asked the questions and he has directly
23 answered them. There's no need to refresh his
24 memory.
25 MR. BROSS: He said his memory would be

refreshed as to the date he was made aware that the child could be interviewed, if there's concerns for the child's safety, if he could look at his report.

THE COURT: All right. He's welcome to look at his report.

MR. BROSS: Thank you.

THE COURT: He's welcome to look at his report.

MR. BROSS: Thank you, Judge.

BY MR. BROSS:

Q. (Tenders document.)

A. Thank you. (Reviewing document.) Okay.

Q. Okay. So, did that refresh your recollection as to when you were made aware that you or DCF could interview the child, if you had concerns for the child's safety?

A. It looks like July 14th.

Q. Okay. It's not April the 29th?

A. No, sir. I believe the context of that is she was telling me the story. And Ms. Christiansen started April 29th and was telling me her story. And I was not made aware of that part of it until July the 14th.

Q. Okay. What date did you conduct this

1 interview with Ms. Loyd?
2 A. August 19th.
3 Q. Okay. Now, what is Brevard Business News?
4 A. I think it's a publication of some sort.
5 Q. Okay. And I believe that in the audio we
6 heard, you had said something to the effect to Ms.
7 Loyd that: I know that you are passionate about what
8 you do.
9 What were you referring to? Were you
10 referring to the fact that Ms. Loyd was a reporter and
11 she was writing for Brevard Business News?
12 MR. SENDRA: I'm going to object, it's
13 hearsay.
14 MR. BROSS: What?
15 THE COURT: It's a statement by party.
16 MR. SENDRA: Only the opposing party can
17 introduce that statement. And he's attempting
18 to do it during the State's case, so it is not
19 the appropriate time.
20 MR. BROSS: Okay. I'm asking him what
21 he meant by what he said, I said: What did you
22 mean when you said to Ms. Loyd that: You are
23 passionate about what you do.
24 MR. SENDRA: Can we approach?
25 THE COURT: Yes.

(Whereupon, the following sidebar proceedings, out of the hearing of the Jury:)

THE COURT: Okay. Maybe I'm missing something here, but I heard him say: I know you're passionate about what you do.

MR. SENDRA: Uh-huh.

THE COURT: And he said he's vaguely heard of this newspaper.

MR. SENDRA: Uh-huh.

THE COURT: And so, your question was what?

MR. BROSS: What did he mean when he said to Ms. Loyd: I know you're passionate about what you do. I'm asking him to explain what he meant.

THE COURT: Okay.

MR. SENDRA: That's, again, a statement of a party opponent that he trying to elicit, so he doesn't have to put his client on the stand.

THE COURT: No, no --

MR. SENDRA: He's not permitted to do this.

MS. STEWART: No, no, no; his question --

THE COURT: -- his question is: What did you mean; you, Deputy Fischer, mean when he said: I know you're passionate about what you do.

MR. SENDRA: And the answer to that question is going to be that Ms. Loyd told him she writes for the Brevard -- Brevard's Best News [sic] and that she's a reporter.

THE COURT: But he said "Brevard Business News."

MS. BURGESS: Well, her blog is Brevard Business News.

THE COURT: Brevard Business News.

MR. SENDRA: Okay. She has a blog and a newspaper that she writes for, so the response is going to be: She told me that she wrote for these people, and I've written articles.

MR. BROSS: No, I believe that --

THE COURT: You may not elicit your client's statements on --

MR. BROSS: And that's not what I'm trying to do. That's not what I'm trying to do.

THE COURT: -- during the State's case.

MR. BROSS: I don't believe that's --

THE COURT: If you want your client to testify, then she can take the stand and testify.

MR. BROSS: Okay. I don't believe that's the Deputy's answer and that wasn't my intent. I believe he's going to say: Because I know she's a reporter and she's passionate about the articles she writes. I think that's what he's going to say.

MR. SENDRA: And that's --

MS. BURGESS: But he didn't -- she didn't say that when he asked the question -- because she's a reporter?

MR. BROSS: No.

THE COURT: Did she say that? And why would that have been redacted?

MR. BROSS: I don't know why he redacted it. I don't know why he -- I don't know why he redacted the --

THE COURT: Well, the things that were redacted were redacted at your request.

MR. BROSS: He didn't redact that, he left in the statement: I know you're passionate --

MS. STEWART: Judge, I think we may need

to break.
MR. BROSS: Can you please let me --
THE COURT: Yes, okay. Hold on just --
(More than one speaker, indiscernible.)
MR. SENDRA: She just asked for a break.
(Whereupon, before the Court and Jury.)
THE COURT: Folks, would you all like to take a mid afternoon break, so you don't have to listen to this static?
THE JURY: (Responded Affirmatively.)
THE COURT: Thank you. And what I mean is the white noise. It's getting -- I was waiting for 3:30 but I didn't -- Yes, it's taking longer than I thought with the white noise. Thank you, folks. We will see you in about 10 minutes, I hope.
(Whereupon, Jury out.)
THE COURT: All right. The record should reflect that the witness, or that the jury, has left the room and the door is closed.
MR. BROSS: Okay. If we're going to have this argument, I will --
THE COURT: Shh. if you're going to have this argument or discussion or whatever, please come up here and do it. Because that wall

(indicating) is as good as made of paper. Okay?

MR. BROSS: Okay.

THE COURT: Please come up to the bench and discuss whatever it is you would like to discuss now in a very low voice.

MR. BROSS: Okay. Well, I would ask not to do it with the witness present. We may be talking about what he would have to say, and I am not --

THE COURT: Well, we can take --

COURT DEPUTY: Judge, I was going take them down to smoke, maybe they could have smoke now?

THE COURT: Okay, sure.

COURT DEPUTY: Okay.

MR. SENDRA: Can he proffer his answer? That would probably solve the problem.

THE COURT: Why don't you just --

MR. BROSS: I was going to -- I wasn't --

THE COURT: Why don't you just proffer what you're trying to do here? And we will decide whether or not it's relevant and admissible.

PROFFERED CROSS EXAMINATION

BY MR. BROSS:

Q. Sir, we heard you say on the video that -- I'm sorry, on the audio to Ms. Loyd: "I know you're passionate about what you do."

What did you mean by that?

A. So, at that time, she was starting to get -- it was towards the end of our interview.

Q. Uh-huh.

A. And she was starting to get emotional.

Q. Okay.

A. So, I was just trying to console her.

Q. Okay. But you said, your specific words to her were: I know that you are passionate about what you do.

A. Oh, okay. Do you --

Q. What did you mean by that? Were you referring to her being a news reporter and writing articles?

A. Well, I mean it's the online article, we're not supposed to talk about that, but her --

Q. No, we can talk about the online articles. You just can't talk about what it contains, you can't talk about the content of her articles.

A. Oh, okay.

Q. But the fact that it exists, you can talk

about.
A. Okay. So, she makes these articles about the Michaud family.
Q. Okay. And so, you were talking -- you don't even have to say -- you don't have to say the Michaud family, you can say that --
THE COURT: Well, Mr. Bross, you can't have it both ways.
MR. BROSS: Okay. Well, he can say Michaud family.
THE COURT: You can't have it both ways.
MR. BROSS: I'm sorry?
THE COURT: You can't have him talk about the fact that she is writing an article online, et cetera, and then completely eviscerate the content. Because then that's misleading the jury, sir.
MR. BROSS: Okay. Well, I'm not --
THE COURT: I mean, she's not writing about endangered species or global warming or, you know, cutting the deficit. We are talking about a specific topic.
MR. BROSS: Okay. Well, I don't have an objection to him, but what I'm trying to say, Judge, is I don't have him -- object to him

1 testifying that she writes articles in
2 Brevard's Best News about the Michaud family;
3 and that's fine.
4 And I think you -- and she writes
5 articles about all sorts of other people as
6 well, that's fine, and I don't have any problem
7 with that.
8 And I think that's a fair -- and that's
9 all I was asking and that's fair testimony.
10 It's fair game and it explains to the jury what
11 they have already heard, which they heard him
12 say: I know you're passionate about what you
13 do.
14 THE COURT: And it also -- if you would
15 like to go down the road of Ms. Loyd being --
16 writing articles online about the Michaud
17 family, then you are opening the door, sir.
18 MR. BROSS: Okay.
19 THE COURT: Which would allow the State
20 to bring up the fact that there may be a period
21 of time prior to the date on which the
22 detective spoke with her, that she had written
23 articles about the Michaud family and that --
24 and perhaps even other events that went beyond
25 articles or other -- other contacts that may

have been made in pursuit of information relating to those articles.

MR. BROSS: Okay. Well, I don't see how --

THE COURT: Or disseminating information related to those articles.

MR. BROSS: Well, Your Honor, as I -- As you know, I believe I have a right -- Ms. Loyd has a right to present a defense.

THE COURT: Absolutely.

MR. BROSS: And the State has now put this comment out there: I know you're passionate about what you do.

THE COURT: And you have highlighted it by making a big deal of it instead of just letting it go.

MR. BROSS: No, because I think it's important that the jury knows that she's a news reporter and that she writes articles and that's what -- and she's passionate about what she does.

And I think it's important in her defense that the jury knows that, because it goes to the false reporting definition and the maliciousness and all of this other stuff.

THE COURT: Well, if you're going to get into the fact that she is -- that she's -- that comment leads to her writing articles about -- writing articles, then that will allow either you or the State to ask whether articles have been written about this particular family and whether they have -- There were previous articles about this particular family, et cetera. You are really opening the floodgates here, sir.

MR. BROSS: Okay. Well, Mr. Sendra and I had spoke, I guess, before we started the afternoon.

THE COURT: You had spoken?

MR. BROSS: Spoken; yes, thank you.

THE COURT: I'm still a mom, still a mom.

MR. BROSS: Yes, thank you. And I think that we were discussing the Court's ruling and all that, and I was trying to ask questions that were consistent with whatever rulings the Court had previously made.

And I agree that there's certainly, you know, there are certain substantives and, you know, certain specific facts that we may not be

able to get into.

And there's nothing, at least so far, precluding the Defense from, at least, mentioning the fact or making the jury aware of the fact that Ms. Loyd is a reporter and writes news articles.

And I was trying to -- I believe that, you know, does not open the door as widely as Your Honor is indicating that the Court may rule. Because again, I'm trying to comport -- I mean, when we have motions in limine and we redact things, we're keeping all sorts of things from the jury. And we try many cases with the jury only hearing, you know, limited facts.

And so, I don't see how, you know, by merely making the jury aware Ms. Loyd is a reporter and that she publishes articles. And that this witness -- they heard this witness then say: "I know you're passionate about what you do." And that is that she's a reporter and she writes articles.

It explains his testimony and explains her role and all of this, without opening a door as broadly as, I believe, Your Honor

1 indicates that it might.
2 And so, I'm asking the Court to keep
3 this narrow as Sean and I had -- consistent
4 with what the State and I had spoken about
5 after -- or before starting the afternoon
6 session was, mentioning or there being some
7 testimony that she's a reporter and she writes
8 articles. And then we're supposed to leave it
9 right there, not going any further.
10 And so, we had spoken about that and I
11 believe that was consistent with the Court's
12 ruling and not violating it, a prior order of
13 the Court .
14 And it kept or, at least, explained or
15 put into context some of the issues that the
16 Defense may raise and should be allowed to
17 raise.
18 THE COURT: All right. And so, you want
19 to ask the deputy whether the question:
20 "You're passionate about what you do," relates
21 to the fact that she writes online articles?
22 MR. BROSS: Right, and she's a reporter
23 and that's -- that's basically it -- And just
24 keep it simple when he explains, so the jury
25 knows what he's talking about when he says: "I

1 know you're passionate about what you do."
2 THE COURT: Okay. And then how would
3 that not allow the State to say -- to ask
4 whether they had -- whether Ms. Loyd had
5 written previous articles about this particular
6 family?
7 MR. BROSS: Okay, I think that --
8 THE COURT: As opposed to being
9 passionate about, you know, writing a series of
10 articles lowering the debt ceiling or anything
11 of that nature?
12 MR. BROSS: Okay. Well, I think that,
13 again, I think that it would be fair game. I
14 think it would be consistent with the Court's
15 prior ruling.
16 And again, I think that if we all agree
17 that this witness could testify that Ms. Loyd
18 had written articles about the Michaud family,
19 I think that's fair. That she's written
20 articles about other children or other
21 individuals who may have been abused, but not
22 get into specifics, you know.
23 Or not even abuse, but has written
24 articles about the Michaud family and other
25 families, but not get into specific -- the

specifics of the article, but merely that she's a reporter and that she's written those articles about this family and maybe other families.

And again, I think that would be con -- without violating Your Honor's ruling on the State's motion in limine about talking about prior investigations and all of that stuff.

Because again, it wasn't my intent to violate Your Honor's order. Because if I got into the substance of those articles, it wouldn't violate your order, but merely be letting the jury know that she's a reporter and she writes articles about this family and other families, I think that would not violate the Court order.

And again, I think the Defense would be allowed to do that, not opening a door and keeping it to those issues, so the Defense can, at least, be able to present the defense.

Because if you tie both of our arms behind our backs, we're not going to be able to -- we are really -- I mean, you're really taking the sense of the duty to defend the case -- I mean, there's been a lot of things

1 that were redacted. There's a lot of things
2 that a jury, you know, doesn't hear at a trial.
3 And all the Defense is asking is to be
4 able -- or to make the jury aware that Ms. Loyd
5 is a reporter and that she writes articles on
6 this family and other families, to explain why
7 she has any involvement with this family.
8 Because, for instance, I think the issue
9 of her guilt or innocence would be different,
10 if she's good friends with the mother, the
11 mother of the child at issue, and she was doing
12 this to try and help the mother of the child on
13 custody matters, or if for some other, you
14 know, improper purpose.
15 But if -- and I believe Ms. Loyd may
16 take the stand at trial and say: Look, you
17 know, I did what I did because I have genuine
18 concerns for the child. I write articles
19 about, you know, some things for this
20 newspaper.
21 And, you know this wasn't done out of --
22 to try and harm anybody or because I'm a mean
23 person, it was done because I have a legitimate
24 care about the child.
25 And I don't see how that the distinct,

1 keeping to the factual evidence, you know,
2 clearly only to those who, you know: I write
3 articles about this and other families, would
4 violate the Court's motion -- order on the
5 motion in limine, ruling on the motion in
6 limine. And it also allows the Defendant to
7 present a defense.
8 THE COURT: Well, you realize that you
9 have gone from out here (indicating) down to
10 here in the time that you've been talking?
11 MR. BROSS: Well --
12 THE COURT: You've narrowed your
13 question now to (indicating): What does that
14 mean? It means she writes articles, which
15 certainly would allow the State then to say:
16 Are you aware of, you know, it would allow the
17 State to ask whether the detective is aware --
18 the agent -- the --
19 MR. BROSS: The corporal.
20 THE COURT: I'm sorry, whatever --
21 whatever -- whatever he's --
22 MR. BROSS: I think he's --
23 (More than one speaker, indiscernible.)
24 THE COURT: Whatever uniform you're
25 wearing today, sir. I don't mean any

disrespect.

MR. BROSS: He's got the Chevrons, and that's how I learned it; the Chevrons.

THE COURT: Yes. Yeah, three up and three down means to me, an end of an ending. Okay.

MR. SENDRA: I'll withdraw my objection to the extent that the answer can conform to what he just said, as long as they're aware that's going to mean that I can then make the argument that she's harassing this gentleman by repeatedly writing an article -- repeatedly writing articles and then placing this phone call where all of the information is going to be proven false by all of the other evidence.

THE COURT: So, Mr. Bross, you're welcome to ask that question, whether the passionate means the -- what you just said, the very narrow but -- but that does then allow the State to ask whether there is -- whether he has knowledge of previous articles, because that would also go to his comment that he believes she was passionate.

MR. BROSS: Right, and then I'm -- I'm trying to explain that and I'm trying to, you

1 know, without giving our hand away too much --
2 but trying to, you know, make some sense, which
3 I think, you know, would make sense in my mind.
4 And I mean, if the Court is going to
5 allow, you know, if we're going to keep the
6 issues narrow -- and I guess it's good that the
7 Sergeant is being there, so he can kind of hear
8 the limitations of what we're going to talk
9 about.
10 But we don't want to get into -- and I
11 don't want any testimony -- we don't present a
12 -- plan on presenting any testimony or evidence
13 about, you know, specific allegations or
14 anything like that.
15 THE COURT: No, no.
16 MR. BROSS: Yeah, that his family and --
17 THE COURT: No, no.
18 MR. BROSS: A family and articles and
19 maybe other articles, other articles, other
20 families as well, but that's it.
21 THE COURT: But what you -- what you're
22 -- you're on very, very thin ice.
23 MR. BROSS: Okay.
24 THE COURT: Understand. Because once
25 you ask about any article, then the other --

the other -- your opponent is permitted to ask whether there have been other articles.

MR. BROSS: Okay, that's fine. Yes, ma'am.

THE COURT: Which would also logically flow from a comment: "I know you're passionate about what you do."

MR. BROSS: Right.

THE COURT: Because people don't write a single, you know --

MR. BROSS: Right. Well, then that would make sense that she's written --

THE COURT: -- 400 word piece and somebody comment: Oh, you're passionate.

MR. BROSS: Rather than: Oh, you're passionate about what you do. Making false reports to DCF or, you know, harassing or, you know, whatever. Whatever that may be.

So, thank you. So, I will keep it very narrow and very limited. I don't really plan on asking any witness, other than this witness, and if Ms. Loyd testifies.

And obviously she would testify consistent with what we've now talked about, she's heard everything that we said. But I

1 don't really plan on exploring this with any
2 other witness; and then the Sergeant has heard
3 it as well.
4 THE COURT: He's actually a corporal.
5 MR. BROSS: Oh, he is? Oh, three up and
6 three down, that's what you meant, that's a
7 Sergeant. Sorry, I was never good at that.
8 THE COURT: Actually it's a master
9 sergeant or something.
10 MR. BROSS: Thank you.
11 THE COURT: Actually it's what it is,
12 it's the end of an ending.
13 MR. BROSS: Yeah, okay.
14 THE COURT: Yeah. Okay, let's all take
15 a quick break.
16 (Whereupon, the Court is in recess.)
17 (Whereupon, Jury out.)
18 THE COURT: All right. All right, wait.
19 Now, before he brings them out. All right.
20 Sitting in the quiet with nobody talking,
21 sometimes helps me organize my thoughts.
22 On further consideration, Mr. Bross, if
23 you ask the question: What did you mean by:
24 "You are passionate about what you do", and you
25 leave it there; and he says: Well, she was

upset, like you just said.
MR. BROSS: I think she said she's a reporter and she writes articles.
THE COURT: Well, I think his first words were: "She was becoming emotional and I was trying to console her."
And then you said: Are you aware that she's a reporter, or something along that line.
Anyway, if you say: Are you aware that she's a reporter?
And he indicates that he is, and that was part of the gist of that comment and you leave it there, then that does not warrant the State asking about other articles, other inquiries, any other things that may have happened.
If you take it further, however, then that changes the landscape.
MR. BROSS: Okay, thank you. Thank you, ma'am.
THE COURT: All right.
MS. STEWART: But the question asked is: Why did you say: "I know you're passionate about what you do."
THE COURT: "You are passionate about

what you do."

MS. STEWART: That's the question.

THE COURT: Right, that's the question.

MS. STEWART: All right.

THE COURT: And as long as that's the only question, then we would not open the door to anything.

MR. BROSS: Okay. Thank you, Your Honor.

THE COURT: And so, all right. And just for the record, we're here back on the record in the State of Florida versus Dana Lynn Loyd, 2015-CF-39871. Ms. Loyd is present with Counsel, Mr. Bross and Ms. Burgess. Ms. Stewart and Mr. Sendra are here on behalf of the State.

And we are about to bring the jury back in. Thank you, Deputy Hughes.

COURT DEPUTY: All rise for the jury.

(Whereupon, before the Court and Jury.)

THE COURT: All right. Folks, I hope you are refreshed. Don't worry, while you all are refreshed, we still get to work. So no worries, thank you.

All right. Mr. Bross, you may proceed.

MR. BROSS: Thank you. May it please the Court, the State of Florida and ladies and gentlemen of the jury. Thank you.

CROSS EXAMINATION (Continued.)

BY MR. BROSS:

Q. Good afternoon again. And again, thank you for your time.

I believe we heard you say on the audio to Ms. Loyd, something to the effect of: "I know you're passionate about what you do."

Will you please explain to the ladies and gentlemen of the jury what you meant by that?

A. It was toward the end of our interview and she was getting kind of emotional, so I was trying to console her.

Q. Okay. And was that also in regards to something else that you knew or were aware of about Ms. Loyd?

A. At that time, I was trying to console her, sir.

Q. Okay. Didn't you make that statement in regards to whether Ms. Loyd is a reporter and she writes -- that she's a reporter?

A. I thought you said that.

Q. Okay. So, that statement had nothing to do

with Ms. Loyd being a reporter?
A. I thought you said that, sir.
Q. Okay. Well, that's not my question.
A. Okay.
Q. I said your statement to her was: "I know you're passionate about what you do", had nothing to do with her being a reporter?
A. I don't -- Again, at that time, I was trying to console her. I wasn't thinking of anything else.
Q. Okay. Now, earlier you had testified that you believed that when the caller had referenced the Tuesday that you -- I think you said you thought it was Tuesday, the 28th?
A. Yes, sir, that's what I believed.
Q. Okay. Isn't it true that she -- that the caller never referenced a specific date and, in fact, it could have been any Tuesday?
A. I believe that's true, sir.
Q. And it was merely your supposition or your speculation that it was Tuesday the 28th, correct?
A. I could tell you about mandatory reporters and the fact that you are required to, I guess, report to DCF in a somewhat quick fashion.
Q. No, as I said, it was your speculation that it was Tuesday the 28th?

A. Oh, yes, sir. I thought it said that.
Q. Okay. And you are aware that Ms. Loyd is a reporter, correct?
A. Yes.
Q. Okay. And isn't it your belief that Ms. Loyd made this call because of her concern for the child?
MR. SENDRA: I'm going to object. Well, I'll withdraw that.
THE COURT: Okay.
A. If that was a question that I asked her, if I believe that she called out of concern for the child? No.
BY MR. BROSS:
Q. Okay. Isn't it your opinion that she appeared concerned for the child when you met with her that day?
A. Yes.
Q. Okay. And isn't it true that you believe that Ms. Loyd, her purpose in making the call, was that she was trying to accomplish that someone would interview or speak to the child?
A. She was trying to have somebody go talk to the child; yes, sir.
Q. And at the time that you went and interviewed Ms. Loyd, you were aware that Ms. Loyd was a

1 journalist and you had read articles online that she
2 had published on Brevard's Best News; correct?
3 A. So when I went to interview -- yes, I had
4 researched her and her articles.
5 Q. Okay. Can you explain to me how saying to
6 someone: "I know you're passionate about what you
7 do", is consoling them?
8 A. Like I said, we had spoken for maybe an hour
9 and this was after I had, you know, played the tape
10 for her from the intake.
11 And she had made admissions to me like, she
12 had made that call, that she didn't know the child. I
13 believe she said that she didn't know the mother of
14 the child either.
15 So, at that point she started getting
16 emotional, so I was just trying to, you know, we were
17 -- I wasn't trying to, you know, to be harsh with her.
18 Q. But what is it that she -- what was it that
19 she did when you said: "I know you're passionate
20 about what you do." What was it that she does?
21 A. Well, sir, when I said what I said, she was
22 crying, so that's why I said it.
23 Q. So, you meant that she was passionate about
24 crying, that that is what she does?
25 A. No, in the -- oh, I'm sorry. So, in general,

so she wrote several articles on her website.
Q. Okay, thank you. And I believe you just told the jury that it is your belief that Ms. Loyd did not know the mother of the child or the father; correct?
A. I believe she stated she never met Riley Michaud. The father, we had some discussion about whether she had met him sometime in the past.
And, sir, I can't give you testimony that she said absolutely that she had never met the mother, but I thought -- but I got that impression from it, sir.
Q. Okay. And you are the case agent in this case; correct?
A. Yes, sir.
Q. And can you tell the ladies and gentlemen of the jury what a case agent is please?
A. We are in charge with the investigation of the allegations. We collect the evidence. We presented it to the State Attorney's office for prosecution.
Q. Okay. And so, the case agent is responsible for obtaining all of the evidence, reports, supplemental reports. And then basically putting all of that together and getting it to the State Attorney's office. Correct? Is that right?
A. In some cases. In this one, I believe, there's a primary report of Deputy Preston, and a

1 supplemental report, which would be mine. And I think
2 that was it.
3 Q. Okay. And before your interview with Ms. Loyd
4 -- What was the date of the interview again?
5 A. I believe it is August 19th, 2015; sir.
6 Q. Before that date, had you ever spoken to Ms.
7 Loyd before?
8 A. Yes, sir. I called her to arrange the
9 interview, sir.
10 Q. Okay. And before that, other than calling to
11 arrange the interview and the date of the interview,
12 had you spoken to her, other than those two times?
13 A. There might have been more than one call to
14 arrange the interview. I can't tell you how many,
15 like if you want me to give you a number. We talked
16 to arrange the interviews and then when I met her in
17 person.
18 Q. Okay. And when you met Ms. Loyd, you met her
19 at her home; correct?
20 A. Yes, sir.
21 Q. And I guess you guys for sitting around her
22 kitchen table, correct?
23 A. I don't know what it was, it was a table; sir.
24 I don't know if it was quite in the kitchen. It was
25 kind of between the kitchen and the living room, if I

remember correctly.
Q. And I believe your audio recorder, that was -- was that hidden?
A. It was in my notebook (indicating) sir. Well it wasn't this one, it was like a leathery looking thing with the pocket. So it was inside there, sir.
Q. Okay. Because I think that even in the beginning, we hear you -- well, we hear like a zipper sound?
A. Yes, sir.
Q. Is that you zipping up your recorder inside of your notebook?
A. No, I believe that was me maybe verifying the address. The recorder should have been in the open outside pocket, because I'm paranoid about zipping it up and turning it off.
Q. Okay. Ms. Loyd did not know you were recording her, did she?
A. No, sir, I don't believe so.
Q. Okay. And Ms. Loyd actually believed that you were there investigating the allegations regarding the child; correct?
A. I told her I wanted to speak with her about Riley and Tim Michaud, sir.
Q. Okay. So, when you went and spoke to Ms.

1 Loyd, you had -- or she, based upon what you had said
2 to her, she believed that you are there investigating
3 the child, Riley; right?
4 A. I told her I wanted to know everything that
5 she knew about Riley and Tim Michaud.
6 Q. Okay.
7 A. So, that's why I asked to come and that's what
8 we talked about.
9 Q. Okay. And you at no time indicated to her,
10 except towards the end I guess, that you were there
11 maybe to investigate her; correct?
12 A. When I played the DCF recording. I still
13 wanted to hear what she had to say, though, about the
14 Michaud family and what she knew.
15 Q. Okay. And, in fact, I believe you said that
16 she was a reporter and she wrote articles and she was
17 actually trying to discuss other articles that she was
18 working on as well when you were there; correct?
19 MR. SENDRA: I'm going to object, Judge.
20 THE COURT: Your legal basis?
21 MR. SENDRA: Part of the motion in
22 limine.
23 MR. BROSS: No, no. No, I wasn't asking
24 about regarding this -- okay, that's why --
25 I'll withdraw it. I mean, that was a bad

1 question. I asked a bad question, I'm sorry.
2 I apologize.
3 THE COURT: The objection is sustained.
4 MR. BROSS: Okay.
5 BY MR. BROSS:
6 Q. When you were speaking to Ms. Loyd at her
7 home, was she discussing other articles completely
8 unrelated to Riley or the Michaud family when you were
9 there; do you recall?
10 A. I mean, it was in the audio that was redacted;
11 sir. I don't --
12 Q. Okay, all right; that's fine. Okay, that's
13 fine.
14 And I believe you said you never interviewed
15 the child, correct?
16 A. Yes, sir.
17 Q. And you never interviewed the father?
18 A. I did, we did a recorded statement; sir.
19 Q. Okay. How long did that last approximately?
20 A. Ah, geez. I mean, you're talking about a
21 ballpark of maybe 10 minutes.
22 Q. And did you tell him that he was being
23 recorded or did you record it surreptitiously as well?
24 A. I believe I told him that he was being
25 recorded.

Q. Okay. So, he knew that you were recording the conversation, but Ms. Loyd did not?
A. Yes, sir; he was --
Q. That's fine, sir.
A. Okay.
Q. Why did you not advise Ms. Loyd that you were, in fact, there investigating her and recording the conversation?
A. I wanted to learn what she knew about the Michaud family, sir. So at that point, I was not prepared to arrest her. So, I wanted to know everything that she knew.
Q. Okay. So, again, why didn't you, at least, inform her: Hey, I'm investigating this incident and I want to record this; is that okay? Why didn't you do that?
A. I'm not required to tell her, sir.
Q. Okay. So, you just chose not to?
A. Yes, sir.
Q. Okay. So, do you think you misleaded (sic) her -- that you misled her in some regard when you told her that you wanted to discuss Riley and the Michaud family with her, and recorded the conversation without her knowledge?
A. I don't think so. I told her that I wanted to

1 talk about the Michaud family, I wanted to talk about
2 Riley and Tim.
3 As you heard, when I went to the house, I was
4 very cordial when I asked her what she knew. I mean,
5 a lot of it was redacted, sir.
6 But I mean, you heard it yourself. So, I
7 mean, I just wanted to know what she knew about the
8 Michaud family at that time, and she told me.
9 Q. Now, I think we heard in the beginning of the
10 warning that you talked about, it said that -- I
11 believe that in that, in that warning, it said that
12 all calls that are made are protected and anonymous --
13 or that the call, all calls and the identity of the
14 caller was anonymous. Isn't that what the recording
15 said?
16 A. I don't know it by heart, sir.
17 Q. Okay. So, you don't recall it saying anything
18 about them being anonymous?
19 A. I don't know the wording.
20 Q. Okay.
21 A. If you want to -- yeah, I mean -- I mean, it
22 says a bunch of things.
23 Q. Okay.
24 A. There's a context to that, I believe.
25 Q. Okay, okay. But do you recall that it said

1 something about, you know, the information and the
2 caller's identity is anonymous?
3 A. It says something about it being a felony as
4 well, to make a false call.
5 Q. Well, that's not my question. Would you just
6 answer my question?
7 A. Well, sir, I can't just -- It says something
8 to that effect, but I can't say what the verbiage is;
9 no, sir.
10 Q. Okay. But it's not anonymous, because there's
11 caller ID and a phone number attached to the call;
12 right?
13 A. That's DCF stuff, sir.
14 Q. Okay. Now, I believe you -- sorry.
15 (Whereupon, Defense Counsel discussion.)
16 BY MR. BROSS:
17 Q. Other than speaking to Ms. Loyd on the phone
18 to set up the interview and the interview, have you
19 spoken to her at any other time about this incident,
20 or about this event that we are here on today?
21 A. No, I don't even think I had heard of her
22 before this.
23 Q. Okay. And I think you said that you have been
24 working for the Sheriff's Office for approximately six
25 years?

A. In June, six years; yes, sir.
Q. Okay. And this -- At the time of this incident, it was 2015. Do you recall when you first became employed by the Sheriff's Office?
A. Late June of 2011 -- oh, well it -- yes, sir, sorry.
Q. Okay. And when you first became employed by the Sheriff's Office, what were your duties?
A. Oh, Mr. Bross, I'm sorry. I was a reserve for a year prior to that.
Q. Okay.
A. So, I wasn't paid and I had another job. So technically from June of 2010, sir.
Q. But as a reserve deputy, that's not a full-time deputy, is it?
A. No, sir; no.
Q. Okay. And you became a full-time deputy in June of 2011, and were you initially assigned to road patrol?
A. Yes, sir.
Q. And when did you become a detective?
A. Oh boy. I'm sorry, sir, I haven't -- hmmm.
Q. Just ballpark.
A. Yeah. So, I was there two and-a-half years in investigations, and, so geez, 2012, so it was two

1 years after the -- 2013, I'm so sorry.
2 Q. Okay.
3 A. Because I wasn't -- I don't think about that
4 anymore.
5 Q. Okay. So, you became a detective in 2013.
6 And when did you leave being a detective or stop being
7 a detective?
8 A. Oh, last January.
9 Q. So it was 2016?
10 A. Yes, sir.
11 MR. BROSS: Okay. Thank you, sir, I
12 have no further questions.
13 THE WITNESS: Yes, sir.
14 THE COURT: Any redirect, Mr. Sendra?
15 (Whereupon, State Counsel discussion.)
16 MR. BROSS: May I approach the witness,
17 Judge, I left a document up there.
18 THE COURT: Oh, certainly.
19 MR. BROSS: Thank you. (Retrieves
20 document.)
21 THE WITNESS: Yes, sir.
22 MR. SENDRA: Just briefly, Judge.
23
24
25

REDIRECT EXAMINATION

BY MR. SENDRA:

Q. Corporal Fischer, you told -- you told us that Ms. Loyd had written articles about the Michaud family; is that correct?

MR. BROSS: Objection, Your Honor.

THE COURT: Can you approach for a moment please?

(Whereupon, the following sidebar proceedings, out of the hearing of the Jury:)

THE COURT: Okay, all right. What is the basis of your original objection?

MR. BROSS: The question was -- I think he just said: You've written articles about the Michaud family.

THE COURT: Right.

MR. BROSS: And I thought --

THE COURT: And you mentioned that in your direct [sic].

MR. BROSS: That's fine, then I'll withdraw.

THE COURT: Or in your cross.

MR. BROSS: Okay, I will withdraw it then. Leading questions are --

MR. SENDRA: Remember his question being

about the Michaud family and others?

MR. BROSS: Yes.

MR. SENDRA: And that's exactly what I wrote down, and so --

MR. BROSS: Yes. Okay, that's fine, and I'll withdraw the question.

MR. SENDRA: I'm not going to go into context.

THE COURT: Okay.

(Whereupon, before the Court and Jury.)

BY MR. SENDRA:

Q. You are aware that Ms. Loyd wrote articles about the Michaud family, correct?

A. Yes, sir.

Q. Okay, and before the phone call?

A. Yes, sir.

Q. And let's talk about investigations a little bit. You said you had training in the academy and through your job about investigations, correct?

A. Yes, sir.

Q. Is it a common investigatory technique to hide a recorder when you're talking to a suspect?

A. Yes, sir, it is.

Q. And why would you want to do that?

A. Suspects tend to talk more if they don't feel

they are being recorded. When you turn on the recorder, even in the smallest investigations, people clam up.

So, I just wanted to know everything she knew about the Michaud family; so that's why.

Q. Okay. And during your interview with Ms. Loyd, she told you she had never met Riley or her mother; correct?

A. She definitely said she did not meet Riley. I got the impression -- I'm sorry, I'm not fresh with the --

Q. You are not a hundred percent positive about whether she had met the mother?

A. Yes, sir. But I got the impression that she said that she had not met the mother either.

Q. Okay.

MR. SENDRA: I don't have any other questions.

THE COURT: All right, thank you.

May Corporal Fischer be excused?

MS. STEWART: Subject to recall, Judge.

THE COURT: Subject to recall. All right, thank you, sir.

MS. STEWART: But you can leave the courthouse.

THE COURT: Who will be the State's next witness?

MR. SENDRA: Judge, can we approach?

THE COURT: Certainly.

(Whereupon, the following sidebar proceedings, out of the hearing of the Jury:)

MR. SENDRA: That's all we had lined up for today.

THE COURT: So that's everybody you've got.

MR. SENDRA: Correct. And the next two people would be School Board employees, and I couldn't have them on hold all day.

THE COURT: Right.

MS. STEWART: We really thought we were going really slow after this morning, so we --

THE COURT: We were kind of slow.

(More than one speaker, indiscernible.)

MR. SENDRA: I mean, we're not ending that early.

THE COURT: No.

MR. BROSS: Well, you are calling the dad?

MR. SENDRA: Yeah, he' here. He'll be on the stand tomorrow. He just got here.

MR. BROSS: Oh, okay. That's fine.
MS. STEWART: We will finish tomorrow for sure.
MR. BROSS: And is that going to be all?
MR. SENDRA: I would expect by noon we will be done for sure with our case.
THE COURT: Okay.
MR. BROSS: I mean, are you going to call them now? I mean do you expect to --
MS. STEWART: He's not here yet.
MR. BROSS: I'm sorry, I thought he was here. I'm sorry, I thought he was here waiting.
MR. SENDRA: Well, he's arrived in Florida.
MS. STEWART: Well, he's physically in the county, but he's not at the courthouse.
MR. SENDRA: But he's not here.
MR. BROSS: Oh, okay; I'm sorry.
MR. SENDRA: By the time he gets here, it would be time to go home.
MS. STEWART: Right. Right.
MR. BROSS: I misunderstood, I thought he was here waiting.
MR. SENDRA: Oh, no, no.

MR. BROSS: I apologize.
THE COURT: Okay.
MR. SENDRA: And I've told all of the witnesses 8:45 tomorrow morning.
THE COURT: Okay, perfect.
MR. SENDRA: So that we could get started at 9:00. I'm assuming that's what you were planning on telling them.
THE COURT: To start at the crack of 9:00, yeah, absolutely.
MS. STEWART: Okay.
(Whereupon, before the Court and Jury.)
THE COURT: All right. Folks, I know you are going to be greatly disappointed, but it seems to be since -- it seems to be the time for us to break for the day.
And I know you are all disappointed, it's still sunny outside and now about 83 degrees, and you've got to go home. It's going to be light for another three hours.
So, we thank you very much for your time and attention today. We hope to start at the crack of 9:00 tomorrow. So, if you can come in at about 8:45, I know that we will have the last few witnesses queued up and ready to go.

And well, then -- I mean, for the State (indicating) I'm gesturing towards the State -- because that's what I was just informed, that they will have the last two people queued up and ready to go. And then we'll see where it goes from there.

So, please remember, no talking, texting, reading social media, investigating, you know, I won't go through the whole long thing again. But let's just leave it at a complete cone of silence.

Okay. Thank you very much, folks. Have a great evening.

Now, you know what the United States Supreme Court meant when they said "With all deliberate speed." You are seeing that, we are melting a glacier with a blow dryer.

(Whereupon, Jury out.)

THE COURT: Alrighty, everyone have a good evening and we will see you tomorrow.

(Whereupon, Court will be in recess overnight. Proceedings will resume at 9:00 AM on March 30, 2017.)

(Whereupon, Proceedings continued in Volume IV.)

1 IN THE COUNTY COURT OF THE 18TH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA
2
3 CASE NO. 05-2015-CF-039871-AXXX-XX
4 STATE OF FLORIDA,
5 PLAINTIFF,
6 V.
7
8 DANA LYNN LOYD,
9 DEFENDANT.
10 _____/
11 TRANSCRIPT OF JURY TRIAL PROCEEDINGS
12 VOLUME IV (Pages 725 - 969)
13 DATE: March 27-30, 2017
14 PLACE: Vassar B. Carlton Historic Courthouse
506 S. Palm Avenue
15 Titusville, Florida 32796-3592
16 BEFORE: The Honorable Robin Lemonidis,
Circuit Judge
17
These proceedings were digitally recorded
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6 4 C QUEST-Job Inquiry dated: 745
7 Aug. 19, 2015, 9:42 AM
8
9 NONE
10
11 DEFENDANT'S EXHIBITS
12 NO. MK'D DESCRIPTION REC'D
13
14
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1 (Whereupon, Proceedings continued from Volume III.)
2 TITUSVILLE, FLORIDA; March 30, 2017
3 (Whereupon, Jury out.)
4 THE COURT: All right. Good morning,
5 Ms. Loyd.
6 THE DEFENDANT: Hi.
7 THE COURT: You are here and we are
8 almost ready to get everyone in place.
9 Ms. Burgess, you are here and Ms. Loyd
10 is present.
11 Ms. Loyd, why don't you come on up and
12 have a seat?
13 THE DEFENDANT: Okay. (Complies.)
14 THE COURT: Because we are about ready
15 to proceed. Ms. Burgess, do you have any idea
16 about what happened to Mr. Bross?
17 MS. BURGESS: He was coming down from
18 Viera, so he is on his way here.
19 THE COURT: Okay. Well, we'll be able
20 to carry on without him at this one, won't we?
21 MS. BURGESS: Yes, ma'am.
22 THE COURT: All right. Because he was
23 supposed to be here at 9:00, and trial takes
24 precedence over anything else, especially a
25 trial where the jury is actively waiting.

MS. BURGESS: Well, he said that we could go ahead.

THE COURT: Not just getting ready for trial or to see if he's up for trial, this is a trial in progress. So, if he's not here, he will come in when he gets here.

And, Ms. Burgess, I'm sure you are quite capable of holding down the fort until that happens, so.

MS. BURGESS: He said to go ahead.

THE COURT: He asked that we proceed without him?

MS. BURGESS: Yes.

THE COURT: All right, thank you.

THE JURY: The jurors are back there, Your Honor.

THE COURT: All right, the jurors are here?

COURT DEPUTY: Yes, ma'am.

THE COURT: Alrighty.

THE JURY: It's nine o'clock.

THE COURT: Yep, then let's bring them in. Let's not let them think they are in a time warp anymore, or that we are in that other time zone.

Okay. Somebody's probably in the restroom.

All right. We're back on the record in the State of Florida versus Dana Lynn Loyd, 2015-CF-39871. Ms. Loyd is present with Counsel. And Ms. Burgess has advised that Mr. Bross is running a little late, but has asked that we proceed without him. And the jury is ready to come in. And the State is also present, represented by Ms. Stewart and Mr Sendra.

COURT DEPUTY: Yes, Your Honor, and two are in the restroom.

THE COURT: Two. Well, you never know, Mr. Bross may be here by the time they are.

COURT DEPUTY: Are you ready, Your Honor?

THE COURT: Yes, sir.

(Whereupon, before the Court and Jury.)

THE COURT: Good morning, everyone.

THE JURY: Good morning.

THE COURT: Nice to see you all again, please have a seat.

Did anything happen over the evening recess that would in any way affect your

ability to be fair and impartial in this case?
THE JURY: (Responded Negatively.)
THE COURT: All right, thank you.
Then, Ms. Stewart, who will be the State's next witness?
MS. STEWART: Kristin Sorokin.
THE COURT: All right, Kristin Sorokin.
THE CLERK: Please raise your right hand and place your left hand on the Bible.
Do you solemnly swear or affirm that the testimony you are about to give shall be the truth, the whole truth and nothing but the truth, so help you God?
THE WITNESS: Yes, I do.
COURT DEPUTY: Walk this way please, and please watch your step.
THE WITNESS: Thank you.
MS. STEWART: May I inquire?
THE COURT: Yes.
MS. STEWART: Thank you.

WHEREUPON:

KRISTIN SOROKIN,

a Witness herein, having been duly sworn, testified upon her oath as follows:

DIRECT EXAMINATION

BY MS. STEWART:

Q. Could you please state your name and spell both your first and last name for the record?

A. Yes. My name is Kristin Sorokin. My first name is Kristin, K-R-I-S-T-I-N. And my last name is Sorokin, S-O-R-O-K-I-N.

Q. And where are you employed?

A. I'm employed at West Elementary School.

Q. And what are your duties at Quest?

A. I am the assistant principal there.

Q. Okay, how long have you been the assistant principal there?

A. This is my sixth year.

Q. Okay. So on April 29th of 2015, you were at Quest in that capacity?

A. Yes.

Q. Okay. And on April 29th of 2015, were you at the school when DCF and law enforcement showed up there?

A. Yes.

Q. And who do they show up in regards to?

A. Riley Michaud.

Q. Okay. And were you familiar with Riley?

A. Yes.

Q. Riley was a student at the school?
A. Yes.
Q. Okay. And when they showed up, did they ask to speak to her?
A. If I can recall correctly, yes.
Q. Okay, and did you allow them to?
A. No.
Q. And why not?
A. Because Mr. Michaud had come to the school previously and given us documents from the Court, legal documentation, that the DCF is not to speak to the child.
Q. Okay. But did they ask you to come and lay eyes on Riley?
A. Yes.
Q. Did you allow that?
A. Yes.
Q. Okay. And let's talk a little bit about Riley. Did you have any concerns about Riley?
A. No.
Q. Was Riley undernourished?
A. No.
Q. Did Riley look like she had the weight of the world on her shoulders?
A. No.

Q. Okay. Did Riley ever complain to anybody at school, to your knowledge, about her home life?

A. Not to my knowledge.

Q. And did she have friends?

A. Yes.

Q. Okay, a normal girl?

A. A normal girl.

Q. Okay.

A. Quiet, but a normal girl; uh-huh.

Q. Now let's talk about your school's protocol in terms of, if a teacher, substitute or otherwise, overhears a child say: I'm being molested. I'm being beaten. I'm being starved.

A. Uh-huh.

Q. What's the protocol set up at the school for the teacher to then report that?

A. I can speak on the behalf of the teacher, not a substitute teacher, I don't know what their protocols are. But our protocol is that, if there's any suspicion they would -- we are mandatory reporters, so we would have to report.

Our policy is that they come to myself, my principal or my guidance counselor to make a DCF phone call. We typically do it in pairs, so that there's another person in the room, another witness as to

1 what's being said.
2 The teacher, of course -- it's not a rule that
3 you have to, but typically it's my experience that
4 they do, they feel more comfortable; and we will make
5 a phone call and I send the paperwork to my Brevard
6 County district.
7 Q. Okay. And on April 29th of 2015, where there
8 any substitute teachers in any of Riley's classes?
9 A. Not that I'm aware of, no.
10 Q. Okay.
11 MS. STEWART: One moment please?
12 THE COURT: Certainly.
13 (Whereupon, State Counsel discussion.)
14 MS. STEWART: Nothing further. Thank
15 you, Your Honor.
16 THE COURT: All right, thank you.
17 Ms. Burgess, any questions?
18 MS. BURGESS: Yes, Your Honor.
19 CROSS EXAMINATION
20 BY MS. BURGESS:
21 Q. Good morning.
22 A. Good morning.
23 Q. How are you?
24 A. Okay. How are you?
25 Q. Good. Did you, after the call was made, did

you ever talk to Riley about the allegations in the call?
A. What call are you referring to?
Q. You have knowledge that a call was placed to the Florida Abuse Hotline regarding Riley Michaud?
A. No.
Q. Okay. So, is it your testimony then that you never heard the call placed to the Florida Abuse Hotline?
A. I was not in any phone call that was made to DCF on Riley Michaud.
Q. Okay. How much -- I believe you said you are an assistant or a vice principal?
A. Yes.
Q. Okay. How much interaction do you have with the students as a vice principal?
A. It depends on the student. To be honest with you, a big portion of my job is discipline. So, unless a child is misbehaving, they typically will come to me for that.
So, with Riley in particular, I didn't have that much interaction, but I knew who she was and I saw her on a daily basis.
Q. So, are you testifying that your interaction with Riley was just seeing her on a daily basis?

A. Yes.
Q. So, you don't have any further knowledge as to her home life, other than seeing her on a daily basis?
A. No, I have no knowledge of her home life.
Q. Did anyone at the school investigate the allegations?
A. What do you mean?
Q. From the phone call.
A. Not that I'm aware of, I don't even know about the phone call.
Q. Was a counselor of hers assigned to investigate?
A. Not that I'm aware of.
Q. I believe you testified that you allowed someone to lay eyes on the child, who was that?
A. That was, there were, if I recall correctly, it was two police officers: A Brevard County Sheriff and a DCF worker.
Q. Okay. Where were they when they laid eyes on her?
A. They were in our Edu-Care, our after-school program.
Q. Okay. Approximately how far away from the child were they when they laid eyes on her?
A. Probably from me to you.

1 Q. Is it your belief that they could tell if the
2 child had been sexually abused based on laying eyes on
3 her?
4 MS. STEWART: Objection, Your Honor,
5 form of the question: Is it your belief.
6 THE COURT: Sustained.
7 BY MS. BURGESS:
8 Q. Could you tell whether or not the child had
9 been sexually abused by laying eyes on her?
10 A. No.
11 Q. I believe you testified that a substitute
12 teacher wouldn't come to you and report abuse, is that
13 correct?
14 A. I said that I had never had that happen. And
15 I'm not aware of the training that the district
16 provides for substitute teachers.
17 Q. Okay. So, substitute teachers aren't required
18 to come to you to report allegations of sexual abuse;
19 is that correct?
20 A. No, nobody is technically required to come to
21 me.
22 Q. Okay. But it's your protocol at your school
23 that typically substitute --
24 A. It's recommended.
25 Q. But is it your protocol that typically

1 substitutes would come to report allegations of sexual
2 abuse to you?
3 A. It's not a protocol, it's just that I've never
4 had an experience with that before.
5 Q. Okay. And I believe that you testified that
6 on April 29th there were no substitutes in Riley's
7 classes?
8 A. That is my understanding.
9 Q. Okay. Would you know about any days, if there
10 were substitutes?
11 A. I wouldn't know. No, I don't recall.
12 MS. BURGESS: One moment please?
13 (Whereupon, Attorney/Client discussion.)
14 MS. BURGESS: I have nothing further,
15 Judge.
16 THE COURT: All right, thank you.
17 Does that prompt anything, or may Ms.
18 Sorokin be excused?
19 MS. STEWART: Yes, Your Honor.
20 THE COURT: Excused-excused or --
21 MS. STEWART: Excused-excused.
22 THE COURT: Okay. Thank you, Ms.
23 Sorokin.
24 THE WITNESS: Thank you, Your Honor.
25 THE COURT: Who will be the State's next

witness?
MR. SENDRA: Patti Buchanan.
THE COURT: All right, Ms. Buchanan.
THE CLERK: Please raise your right hand and place your left hand on the Bible.
Do you solemnly swear or affirm that the testimony you are about to give shall be the truth, the whole truth and nothing but the truth, so help you God?
THE WITNESS: I do.
COURT DEPUTY: Follow me, and watch your step getting in.

WHEREUPON:

PATRICIA BUCHANAN,

a Witness herein, having been duly sworn, testified upon her oath as follows:

DIRECT EXAMINATION

BY MR. SENDRA:

Q. Good morning, ma'am. Could you state your name and spell both your name for the record please?

A. Patricia Buchanan. P-A-T-R-I-C-I-A. B-U-C-H-A-N-A-N.

Q. Okay, do you also go by Patti?

A. I do.

Q. Okay. How are you employed, ma'am?

A. Right now I'm not employed, I'm retired from Brevard Public Schools.
Q. That's right, I'm sorry for that. You told me that. How were you previously employed?
A. I was employed as employment manager and records custodian from '84 to 2015.
Q. Okay. And that's with the Brevard County Public School system?
A. That's correct.
Q. Can you explain to the members of the jury what your job responsibilities would be in that position?
A. Basically on-boarding all new employees, subs, teachers, support staff and managing all records for those employees.
Q. Okay. And you said you were managing records, would that include records regarding substitute teachers at schools on specific days?
A. Yes, sir.
Q. Okay.
MR. SENDRA: May I approach the Clerk, Judge?
THE COURT: Certainly.
MR. SENDRA: May I approach the witness?
THE COURT: Yes, sir.

BY MR. SENDRA:
Q. I'm going to show you what's been marked as State's Exhibit C (tenders exhibit) do you recognize that document, ma'am?
A. (Reviewing exhibit.) Yes.
Q. Okay. How do you recognize that document?
A. This is an inquiry as to substitutes who worked to replace a teacher. This is coming out of an automated data system.
Q. Okay, what system would that be?
A. It's an automated substitute locator system.
Q. Okay. And are those records required to be kept by the school district?
A. Absolutely.
Q. Okay. And would your office have made that record back in 2015?
A. Yes.
Q. Okay. And was that record made at the request of law enforcement in this case?
A. Yes.
MR. SENDRA: At this time, Judge, I would ask to move State's C in and as the next numbered exhibit.
THE COURT: All right. Any objection?
MS. BURGESS: No, Judge.

THE COURT: All right. Without objection, then Exhibit C shall become -- are we at four or five now?

THE CLERK: Four.

THE COURT: All right, thank you.

It shall become Exhibit four.

(Whereupon, State's Exhibit C was received in evidence as State's Exhibit No. 4.)

BY MR. SENDRA:

Q. I'm going to show this document to you one more time, ma'am. (Tenders exhibit.) Can you tell us what school that's regarding?

A. (Reviewing exhibit.) Quest Elementary School.

Q. Okay. And what are the dates in question on that document?

A. 4/28/15 and 4/29/15.

Q. Okay, thank you. Well, actually one more question. Were there any substitutes in the school on that day by the name of Theresa Smith, based on the records?

A. No, sir.

MR. SENDRA: May I have one moment?

THE COURT: Certainly.

(Whereupon, State Counsel discussion.)

MR. SENDRA: I don't have any other

1 questions.
2 THE COURT: All right, any cross?
3 MS. BURGESS: Yes, Judge.
4 CROSS EXAMINATION
5 BY MS. BURGESS:
6 Q. Good morning.
7 A. Hi there.
8 Q. Are you aware that Dana Loyd was a substitute
9 teacher prior to April 29th of 2015?
10 A. No, I'm not.
11 Q. Okay. Did you ever verify that she was a
12 substitute teacher with Brevard County schools at any
13 point?
14 A. To an authority or --
15 Q. I'm sorry?
16 A. To an authority?
17 Q. I guess my question is: Did you ever verify
18 whether Ms. Loyd has ever been a substitute teacher?
19 A. I couldn't tell you. I've verified employment
20 for thousands of employees. Brevard Public Schools
21 employs 10,000 employees.
22 Q. Okay. Is the only dates that you checked if
23 there was a substitute teacher April 28th and April
24 29th at Quest Elementary School?
25 A. That was what was requested and that was what

was produced.
Q. Okay. So those are the only -- your testimony is that those are the only dates that were checked to see if there was a substitute?
A. At that time, yes, ma'am.
Q. Okay. And just to verify, you're not providing an opinion either way as to whether the allegations referenced in that call were correct or were true or not?
A. The allegation of what please, ma'am?
Q. Did you ever hear the Florida Abuse Hotline call?
MR. SENDRA: I'm going to object, Judge, this is outside the scope of direct examination.
THE COURT: I'm going to overrule the objection, there is a wide latitude on cross.
BY MS. BURGESS:
Q. Did you ever hear the Florida Abuse Hotline call?
A. Absolutely, our teachers are required to use it, all teachers in the State of Florida if they suspect abuse.
Q. Okay. So, your testimony is that you did hear the call?

A. I don't --

Q. The Florida Abuse Hotline call, are you testifying that you heard it?

A. Oh, no, no. Not at all, I did not; no.

Q. Okay.

A. You asked me if I knew about it.

Q. Right.

A. A specific one?

Q. Right, yes.

A. No, ma'am.

Q. Okay. And so you are not providing an opinion either way as to the allegations?

A. I am not.

Q. Okay. And you didn't personally ever interview the victim in this case?

A. No, ma'am.

Q. Okay. Thank you very much.

MS. BURGESS: Nothing further, Judge.

THE COURT: All right. Does that prompt anything Mr. Sendra?

MR. SENDRA: No, Judge, she's excused.

THE COURT: All right, she may be excused-excused?

MR. SENDRA: Yes, Judge.

THE COURT: All right. Thank you, Ms.

Buchanan.

Who will be the State's next witness?

MR. SENDRA: Timothy Michaud.

THE COURT: All right, Mr. Michaud.

THE CLERK: Raise your right hand please, and place your left hand on the Bible.

Do you solemnly swear or affirm that the testimony you are about to give shall be the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: Yes.

COURT DEPUTY: This way, sir. Watch your step getting in.

THE WITNESS: Yes, sir.

WHEREUPON:

TIMOTHY MICHAUD,

a Witness herein, having been duly sworn, testified upon his oath as follows:

DIRECT EXAMINATION

BY MS. STEWART:

Q. Could you state your name and spell your name for the record, sir?

A. Timothy Michaud. Spell both names?

Q. Yes.

A. T-I-M-O-T-H-Y. And the last name is

M-I-C-H-A-U-D.
Q. All right, sir. I'm going to ask you about your family. Do you have a daughter by the name of Riley Michaud?
A. Yes, I do.
Q. Okay. And when was Riley born?
A. July 8th, 2003.
Q. Okay, were you present for that?
A. I was.
Q. All right. And how old would she have been in April of 2015?
A. Eleven.
Q. Okay. And are you divorced from Riley's mother?
A. I'm divorced.
Q. Okay, and when did that take place?
A. April of 2006, I believe.
Q. And who has custody of Riley?
A. I have sole custody.
Q. Okay, since when?
A. April of 2011.
Q. And was that court order in place in April of 2015, that you had sole custody?
A. Yes.
Q. Let's talk about a report in April of 2015.

Do you remember being involved or investigated in relation to an allegation made in April of 2015 about you?

A. Yes.

Q. Okay, and who spoke to you about that allegation?

A. Somebody from DCF called me. And then eventually I spoke to a Sheriff.

Q. Okay. And that was in relation to an allegation of you sexually abusing your daughter, according to the report?

A. Yes.

Q. Okay, how did that make you feel?

A. Completely embarrassed.

Q. Okay. And so, you spoke to DCF and then you spoke to law enforcement, did it make you -- how else did it make you feel? Did you have any other feelings regarding the whole situation?

A. You know, it's embarrassing. You worry about your daughter, you know, it's -- I mean, I don't -- I mean, it's hard to describe.

I mean, you are just embarrassed by it, just not true, you know, somebody making an allegation that's just not true.

Q. Do you personally know Dana Loyd?

A. I do not.
Q. Have you ever met her?
A. No.
Q. Are you aware of who she is?
A. Yes.
Q. How are you aware of who she is?
A. She had written some articles about me.
MR. SENDRA: Okay. May I have a moment, Judge?
THE COURT: Certainly.
(Whereupon, State Counsel discussion.)
BY MR. SENDRA:
Q. Do you know when the articles were written about you?
A. I know there were some written about that same time, and they have been written past then, past 2015.
Q. Okay. So, you're not sure of an approximate start date or when it began?
A. Maybe '14.
Q. Okay. So, prior to this allegation that was made against you?
A. Yes.
Q. Okay. Are you aware of how the DCF report was closed out in this case? Were you made aware?
A. Yeah, it was -- It was closed out as

1 unfounded.
2 Q. And did you permit DCF or law enforcement to
3 speak to your daughter in this case?
4 A. No.
5 Q. Why not?
6 MR. BROSS: Objection, Your Honor.
7 THE COURT: Overruled.
8 BY MR. SENDRA:
9 Q. You can answer the question.
10 A. Oh, okay. I have a court order that says no
11 one is supposed to talk to Riley.
12 Q. Okay. And where did that order come from,
13 just what court?
14 A. From my -- through my divorce.
15 Q. Okay, so Family Court?
16 A. Yes, sorry.
17 Q. Okay. And at the time in 2015, when this
18 allegation was made, were you living with your
19 daughter in Brevard County, Florida?
20 A. Yes.
21 Q. Was she attending school in Brevard County,
22 Florida?
23 A. Yes.
24 Q. What school?
25 A. Quest.

Q. All right.
MR. SENDRA: I don't have any other questions, Judge.
THE COURT: All right, any cross?
MR. BROSS: Yes, just briefly.
CROSS EXAMINATION
BY MR. BROSS:
Q. Good morning, sir, how are you doing today?
A. I'm excellent, thank you.
Q. You have just testified that you were embarrassed when you found out about the allegations regarding your child's sex abuse.
Isn't it true that there had been such allegations before this incident that were completely unrelated to Ms. Loyd?
A. I would think so.
Q. So, there were -- there were times before this incident that you had dealt with someone on such incidents?
A. I would think, yes.
Q. Okay. Now, has Ms. Loyd ever attempted to interview you to get your side of the story?
A. I received an email once.
Q. Okay, and her -- and she requested an interview so she could get your version of events or

your side of the story for a news article?
A. I don't remember the specific email, but she requested some information I believe; yes.
Q. Okay. Do you know if it was before or after this incident?
A. I honestly don't remember.
Q. And I believe you spoke to an officer regarding this incident at your home?
A. I just want to make sure. Are you asking if they came to my house?
Q. Yes. Did you speak to a police officer regarding this incident?
A. I don't think he -- I don't think they came to my house.
Q. Okay. Do you recall where you spoke to a police officer regarding this incident?
A. I remember getting a phone call.
Q. Okay. You don't actually remember speaking to a law enforcement officer in person and him recording the conversation between the two of you?
A. I don't remember that now specifically, I'm sorry.
Q. Okay. That's fine, you don't remember everything. And I believe the email that you received from Dana Loyd, I think you said it was just

requesting information; correct?
A. To the best of my recollection, yes.
Q. Okay. And I believe you testified that you've never personally met her?
A. Not that I'm aware of, no.
Q. Okay. You've never filed an injunction or any type of civil suit against Ms. Loyd, correct?
A. I have not, no.
MR. SENDRA: I'm going to object to relevance, Judge.
THE COURT: Overruled, we'll allow wide latitude on cross.
MR. BROSS: Thank you, Your Honor.
A. No.
BY MR. BROSS:
Q. And I apologize if you have told me already. Did you receive the email requesting information before or after you were made aware of a phone call to the Abuse Hotline?
A. I don't remember.
Q. Okay. Now, other than that email, do you recall having -- have you had any other communication or contact, either from Dana Loyd to yourself or to yourself from Ms. Loyd that you are aware of?
A. I don't believe so.

THE COURT: Mr. Bross, please approach. Counsel, please approach. Sorry, folks.

(Whereupon, the following sidebar proceedings, out of the hearing of the Jury:)

THE COURT: You understand that the door --

MR. SENDRA: They've already opened this door five questions ago.

MS. STEWART: It's said and done.

(More than one speaker, indiscernible.)

THE COURT: The door is wide open.

MR. BROSS: Oh, okay.

THE COURT: You have already asked about other allegations made prior to this one and you have now -- yeah, you've --

MR. BROSS: The question I just asked was, if he had ever had communication directly to himself from Dana Loyd or from Dana Loyd to himself?

THE COURT: And she filed a motion -- he filed a motion to --

MR. BROSS: And I asked if he had ever sued her, filed any kind of lawsuit against her.

THE COURT: It was: Have you ever filed

for an injunction or had a lawsuit?
MR. BROSS: Right, and he hadn't. And I don't see how that would open the door.
THE COURT: Well, you're talking about prior allegations.
MR. BROSS: Well, that has nothing to do with that. I'm asking if he's ever taken legal action against her.
THE COURT: Right, and that's (indiscernible).
MR. BROSS: Okay. So, I don't see how that would open the door about prior allegations. And I want to -- and I'm -- I would, with all due respect, Your Honor --
THE COURT: I mean, you are asking about prior allegations.
MR. BROSS: No, I'm asking if he ever took legal action with regards to this incident, and he said he never did.
THE COURT: Well, you also asked whether there were other prior allegations prior to this.
MR. BROSS: Completely unrelated to Ms. Loyd. That's what I think, have you ever -- have you ever --

THE COURT: I have your question here and it's not --

MR. BROSS: That's why I said, I think, have you ever -- because he asked -- On direct he asked, you know, how he felt about receiving, you know, when he was made aware of these allegations by Ms. Loyd.

THE COURT: Uh-huh.

MR. BROSS: And he said he was extremely embarrassed and I was merely -- and I said: Sir, isn't it true that you have received other allegations completely unrelated to Ms. Loyd?

And he said yes. And that was my question. It was only in the context of unrelated to Ms. Loyd, not from Ms. Loyd.

THE COURT: Uh-huh, proceed.

MR. BROSS: Yes, Your Honor.

(Whereupon, before the Court and Jury.)

MR. BROSS: Hold on one second.

(Whereupon, Defense Counsel discussion.)

MR. BROSS: Sir, I have no other questions. Thank you very much for your time.

THE WITNESS: Sure.

THE COURT: Does that prompt any redirect?

1 MR. SENDRA: Just one moment Judge.
2 THE COURT: Okay.
3 (Whereupon, State Counsel discussion.)
4 REDIRECT EXAMINATION
5 BY MR. SENDRA:
6 Q. You were asked about prior allegations. Were
7 there prior allegations that you sexually abused your
8 daughter made against you?
9 A. Yes.
10 Q. Prior to 2015?
11 A. Yes.
12 Q. Are you aware if Ms. Loyd ever made one of
13 those allegations against you?
14 MR. BROSS: Objection, Your Honor.
15 THE COURT: Overruled.
16 BY MR. SENDRA:
17 Q. You can answer the question.
18 A. I'm not aware if she has.
19 Q. But DCF has been called on you previously,
20 before this --
21 MR. BROSS: Objection, Your Honor,
22 leading.
23 THE COURT: Sustained, if he knows --
24 BY MR. SENDRA:
25 Q. Has DCF been called on you prior to this

1 incident in April of 2015?
2 MR. BROSS: Objection, Your Honor, lack
3 of personal knowledge, hearsay.
4 THE COURT: Overruled. If he knows, he
5 can say so. If he doesn't, he can say he
6 doesn't.
7 A. Can you repeat the question?
8 BY MR. SENDRA:
9 Q. Was DCF called and were you investigated prior
10 to this incident in April of 2015?
11 A. Yes.
12 Q. What were the results of those investigations?
13 A. They were unfounded.
14 Q. Who has interviewed Riley in the past
15 regarding allegations, just names.
16 A. (No audible response.)
17 Q. I'll do it this way. Has she been interviewed
18 by the police previously and including this scenario?
19 A. Yes.
20 Q. Okay. Has she been interviewed by DCF?
21 A. Yes.
22 Q. All right. Has she been interviewed by a
23 child psychologist?
24 A. Yes.
25 Q. Can you name the child psychologist?

A. Doctor Deborah --

MR. BROSS: Objection, Your Honor, outside the scope of cross.

THE COURT: Overruled.

BY MR. SENDRA:

Q. You can answer.

A. Doctor Deborah Dey (phonetic) and Doctor Williamson.

Q. Okay. And was she interviewed by Doctor Williamson before or after this report in 2015?

MR. BROSS: Again, outside the scope of cross.

THE COURT: Overruled. You specifically asked about prior allegations, then the State is permitted to follow up on that.

BY MR. SENDRA:

Q. You can answer the question.

A. He has spoken to her before and after.

Q. Okay. Based on your own personal knowledge, are you aware of whether your daughter has ever met Ms. Loyd?

A. No, I don't believe she has.

MR. SENDRA: One moment?

(Whereupon, State Counsel discussion.)

BY MR. SENDRA:

1 Q. And then you said that Ms. Loyd had written
2 articles about you, correct?
3 A. Yes.
4 Q. Have those been written during the pendency of
5 your custody or Family Court case?
6 A. Yes, sir.
7 Q. And they are in relation to you and Riley and
8 the type of allegations we're talking about here?
9 A. Yes, sir.
10 (Whereupon, State Counsel discussion.)
11 BY MR. SENDRA:
12 Q. So, are you aware if Ms. Loyd contacted
13 anybody else in regard to these allegations?
14 MR. BROSS: Objection, Your Honor,
15 hearsay, speculation, and lack of personal
16 knowledge.
17 THE COURT: Overruled. The question
18 was: To your knowledge?
19 BY MR. SENDRA:
20 Q. You can answer.
21 A. Yes.
22 Q. Okay, who?
23 A. She had --
24 MR. BROSS: Objection, Your Honor,
25 hearsay. I mean, he should explain how he even

had personal knowledge.

THE COURT: Overruled. I will allow him to answer the question and explain.

BY MR. SENDRA:

Q. You can answer.

A. She had called a soccer club locally.

MR. BROSS: Objection, Your Honor, hearsay. May we approach?

THE COURT: You're welcome to.

(Whereupon, the following sidebar proceedings, out of the hearing of the Jury:)

MR. BROSS: My question to him was: Have you had any prior allegations that were completely unrelated to Ms. Loyd?

I did not ask about prior allegations from Ms. Loyd. I asked about prior allegations that were --

MR. SENDRA: He opened the door when he asked about prior sexual abuse allegations against this gentleman, it doesn't matter who made them.

MR. BROSS: Yes, and I said -- I said completely unrelated to Ms. Loyd.

MR. SENDRA: It's all relevant now.

THE COURT: Understand, Mr. Bross, when

you started and went down the road of prior allegations, you opened the door to the other matters that had previously -- that previously were not going to be part of this.

MR. BROSS: Okay, I don't --

THE COURT: I have no idea why you desired to ask that question in light of the motions in limine, but you did and --

MR. BROSS: It could have --

THE COURT: -- and I warned you and --

MR. BROSS: I don't see how asking about prior allegations that were completely unrelated to Ms. Loyd --

THE COURT: Because you are leaving -- you're leaving -- Well, Mr. Sendra, do you have a response to that?

MR. SENDRA: He opened the door. And I have the report that it's false, and it shows a pattern of harassment directly by the Defendant.

MR. BROSS: But that's not the -- that's not the theory that the State has followed, in that they have not filed any notice of Williams Rule or anything like that.

The reason I asked the question is

because the State asked how he felt when he received the notice of the allegation regarding Ms. Loyd.

And he said he was like surprised, he was upset. And the reason I asked the question, I said: Sir, have you received other allegations of sexual abuse that was completely unrelated to this case or Ms. Loyd? And he said yes.

So, I never asked about prior allegations that Ms. Loyd made against him or anything having to do with Ms. Loyd. It was a very clear question, it was prior allegations from --

THE COURT: You were asking -- the problem is, Mr. Bross, you were asking about prior allegations which is a question certainly; and the object here -- remember the case that the Court -- the case that I quoted from yesterday, that the bottom line of a trial is fairness to both parties?

MR. BROSS: Okay.

THE COURT: And that means to the Defendant and to the State as well.

MR. SENDRA: Right.

THE COURT: And so, if you are asking him if he's been accused of this before, the State is entitled to delve into that.

And whether he is aware of someone else making allegations or whether he's aware that --

MR. BROSS: Okay. Well, I have -- I like -- okay, what's --

THE COURT: And I know you responded --

(More than one speaker, indiscernible.)

THE COURT: -- but when -- once you get into prior allegations, your questioning is not -- does not prevent the door from opening --

MR. BROSS: Well, Judge, I --

THE COURT: -- because you've -- if you -- If you did not want the subject to come up at all, you should not have inquired with regard to any prior allegations.

MR. BROSS: Okay, well it's --

THE COURT: Because what you're doing is leaving the jury with the impression that everybody in the world is reporting this man essentially for abuse of a child.

MR. BROSS: Okay. Well, Judge, I --

THE COURT: And he's entitled to -- the

1 State is entitled to a fair trial as well as
2 your client is.
3 MR. BROSS: Well, your Honor, I prefaced
4 the statements. But my question was very
5 specific regarding prior allegations made by
6 other persons, other than Ms. Loyd.
7 It wasn't about prior allegations made
8 by Ms. Loyd. He is now going to get into prior
9 allegations made by Ms. Loyd.
10 And my questions were not about prior
11 allegations by Ms. Loyd, they were about, you
12 know, prior allegations made by a third person,
13 other than Ms. Loyd before Ms. Loyd's.
14 He's now asking about prior allegations
15 made by Ms. Loyd, which is completely unrelated
16 to my questioning, that is not -- Because I did
17 not ask about prior allegations made by Ms.
18 Loyd, I asked about prior allegations by third
19 persons unrelated and unknown to Ms. Loyd.
20 THE COURT: Mr. Sendra?
21 MR. SENDRA: This whole case is about
22 the sexual abuse allegations she made against
23 this gentleman. He brought it up, it's now
24 relevant. And she's going around telling other
25 people that this has happened.

1 MR. BROSS: Okay. I didn't bring up
2 prior allegations she made. I mean, I brought
3 up prior allegations made by third persons.
4 MR. SENDRA: Nothing, Judge, you don't
5 get to (indiscernible) the Defendant when the
6 whole trial is about a sexual abuse allegation.
7 And he asked specifically about prior
8 sexual abuse allegations against my witness.
9 MR. BROSS: Maybe my --
10 MR. SENDRA: He's attacking his
11 credibility and I have a right to --
12 MR. BROSS: And you bolstered -- You
13 bolstered his credibility when -- when he asked
14 him how he felt about when he received notice
15 of this abuse allegation.
16 And it was like I was surprised. He
17 acted like he had never been accused of that
18 before.
19 So, in fairness, I said: Have you ever
20 received any prior sexual abuse allegations by
21 any third person unrelated to Ms. Loyd?
22 And the answer was yes, and that was --
23 and I was very careful not to ask about prior
24 allegations made by Ms. Loyd, that's why I
25 didn't -- I was very clear to clarify third

1 persons only, and other than Ms. Loyd.
2 So, I don't see how that would open the
3 door to prior allegations made by Ms. Loyd,
4 when that was specifically excluded by Your
5 Honor.
6 THE COURT: Mr. Bross, when you said the
7 words "prior allegations" you did open the door
8 for the State to -- you're saying "bolster" and
9 they're not -- you can say bolster and someone
10 else may call it rehabilitation. And so they
11 have --
12 MR. BROSS: But it was --
13 (More than one speaker, indiscernible.)
14 THE COURT: And they did not say a word
15 about it on direct. You asked about it on
16 cross. I cautioned you and you had followed --
17 MR. BROSS: They did it on direct. He
18 asked him how he felt when he received the
19 knowledge of these abuse allegations.
20 THE COURT: Okay.
21 MR. BROSS: And he said: I was
22 surprised, I was shocked. He acted like he had
23 never ever been accused of this before.
24 THE COURT: Okay, well --
25 MR. BROSS: So, my question was --

1 THE COURT: -- then the State is
2 entitled to delve into whether or not prior
3 allegations were made, how they were made and.
4 MR. BROSS: Yeah, but they --
5 MS. STEWART: And they were --
6 (More than one speaker, indiscernible.)
7 MR. BROSS: No. Well, you know, I asked
8 specifically --
9 THE COURT: How do --
10 MR. BROSS: I asked specifically about
11 prior allegations by other persons, not prior
12 allegations that Ms. Loyd made.
13 THE COURT: Mr. Bross, that's --
14 MR. SENDRA: And that's misleading. Ms.
15 Loyd has made other allegations against him.
16 MR. BROSS: I know, and I didn't ask him
17 --
18 THE COURT: It's misleading and it's --
19 MR. BROSS: No, it's not.
20 THE COURT: Go back and finish. Your
21 objection is overruled.
22 (Whereupon, before the Court and Jury.)
23 MR. BROSS: It's based on hearsay, it's
24 lack of personal knowledge. He doesn't have
25 personal knowledge of what he's about to

testify to, it's based on what someone else told him.

THE COURT: That objection is sustained, as long as it's not what someone said; it's whether something was said, or offered to -- It's the effect on the listener.

As long as he's not stating anything that is meant to establish the truth of the matter asserted.

BY MR. SENDRA:

Q. Did Riley play for a soccer team in Brevard County?

A. She did.

Q. Okay, can you name that club?

A. Space Coast Soccer.

Q. Okay, and were you a coach?

A. I was.

Q. Okay, and what years?

MR. BROSS: Outside the scope of direct, objection -- or cross.

THE COURT: Overruled.

BY MR. SENDRA:

Q. You can answer.

A. I coached from, I think '12, 2012 through the fall of last year.

Q. Okay. And during the time that you were coaching with the soccer club, were you ever temporarily suspended for --

MR. BROSS: Objection, Your Honor, leading.

THE COURT: Overruled.

BY MR. SENDRA:

Q. You can answer.

A. I was.

Q. Okay. Were you made aware of why you were being suspended?

MR. BROSS: Objection, Your Honor, hearsay.

MR. SENDRA: It calls for a yes or no answer, Judge.

MR. BROSS: It's leading.

THE COURT: Overruled.

BY MR. SENDRA:

Q. You can answer the question.

A. Yes.

Q. Okay. And how long did that suspension last?

A. A week.

Q. Okay, and were you reinstated?

A. I was.

Q. Are you currently living in Florida?

A. No, sir.
Q. Where are you working, not the name of the company, where are you currently living and working?
A. I live in Marietta, Georgia, and I work in Atlanta.
Q. Okay. Have you tried during 2015 to obtain employment in any other state?
A. Yes.
Q. Okay, what state?
A. Colorado.
Q. What business?
A. It was a hotel.
Q. Okay. And were you interviewed for that position?
A. Yes, sir.
MR. BROSS: Objection, Your Honor, we're way outside of the cross examination right now. He's talking about a job in Colorado, that's way outside of cross.
THE COURT: Mr. Bross -- Mr. Sendra, are you going to tie this up?
MR. SENDRA: May we approach, Judge?
THE COURT: Well, I'm just asking you, yes or no, are you laying the predicate or something else?

MR. SENDRA: That's my plan, but --
THE COURT: All right.
MR. SENDRA: -- I don't know because of the hearsay objections whether I'm going to get there or not.
THE COURT: Okay, all right. Your objection is overruled.
BY MR. SENDRA:
Q. You can answer the question.
A. Can you repeat it? Sorry.
Q. What was the employer in Colorado that you applied to?
A. The specific one?
Q. Yes.
A. Millennium Hotels.
Q. Okay, and were you interviewed for that position?
A. Yes, sir.
MR. BROSS: Objection, Your Honor, relevance.
THE COURT: Mr. Sendra, are you headed towards tying this up?
MR. SENDRA: Correct.
THE COURT: Overruled.
BY MR. SENDRA:

Q. You can answer.
A. Was I interviewed?
Q. Yes.
A. Yes.
Q. Okay. Were you offered that position?
A. I was.
Q. Okay, did you accept that position?
A. I had.
Q. Okay. And at some point did you withdraw your acceptance of that position?
A. I did.
Q. Okay, and were you made aware --
MR. BROSS: Objection, Your Honor, hearsay and relevance. Were you made aware? It's the same as somebody telling you, it's the same thing.
THE COURT: Well, without saying what anyone said; overruled. As long as he's not saying what anyone told him, he can tell us what happened.
BY MR. SENDRA:
Q. Where you made aware --
MR. BROSS: Objection, leading.
THE COURT: Overruled.

1 BY MR. SENDRA:
2 Q. Were you made aware of Ms. Loyd contacting
3 that employer?
4 MR. BROSS: Objection, hearsay.
5 MR. SENDRA: I'm not asking for the
6 contents, I'm asking --
7 MR. BROSS: It doesn't matter, he's
8 still going to tell you that Ms. Loyd contacted
9 them. It's hearsay, because the --
10 THE COURT: Sustained.
11 MR. SENDRA: May I have one moment,
12 Judge?
13 THE COURT: Certainly.
14 (Whereupon, State Counsel discussion.)
15 BY MR. SENDRA:
16 Q. Have any of the other prior allegations ever
17 been sustained against you? Were they all unfounded?
18 A. Yes, they were all unfounded.
19 MR. SENDRA: I don't have any other
20 questions, Judge.
21 THE COURT: All right. May this witness
22 be excused?
23 MR. SENDRA: Subject to recall.
24 THE COURT: All right, thank you.
25 Who will be the State's next witness?

MR. SENDRA: May we have one moment, Judge?

THE COURT: Sure.

(Whereupon, State Counsel discussion.)

STATE RESTS

MR. SENDRA: At this time the State rests, Judge.

THE COURT: All right. Folks, we are going to give you a couple of moments, like about 15 minutes, because we've got some matters to take care of outside of your presence. And we will try and do that with all deliberate speed.

COURT DEPUTY: Please rise for the jury.

(Whereupon, Jury out.)

THE COURT: All right. The record should reflect that the jury has left the room and the door is closed.

Mr. Bross, please approach. And either Mr. Sendra or Ms. Stewart, please approach.

(Whereupon, the following sidebar proceedings, out of the hearing of open court:)

THE COURT: Mr. Bross, make that coffee cup disappear.

MR. BROSS: Oh, I'm sorry, Judge.

THE COURT: It's a strong rule in --
MR. BROSS: I know that, I'm sorry.
THE COURT: You didn't see the sign written in red outside the front door?
MR. BROSS: No, I'm so sorry.
THE COURT: No food or drinks.
MR. BROSS: No, I'm so sorry.
THE COURT: Make that disappear. You've been drinking it in front of the jury, that is a hundred percent inappropriate.
MR. BROSS: I believe -- I didn't know -- okay.
THE COURT: You may have a bottle of water with a screw top on it.
MR. BROSS: Okay.
THE COURT: That you can set behind the leg at Counsel table, and that is it.
MR. BROSS: Okay.
THE COURT: And you may not drink in the presence of the jury.
MR. BROSS: Okay. I am so sorry, I didn't know that. I apologize.
THE COURT: Thank you.
(Whereupon, before open Court.)
THE COURT: Okay. Do you have any

1 motions you would like to make?
2 MR. BROSS: Yes, Your Honor.
3 MR. SENDRA: Can we do it up here
4 because --
5 THE COURT: Yes.
6 ISSUE: MOTION FOR JUDGMENT OF ACQUITTAL
7 MR. BROSS: Your Honor, the Defense
8 would like to move for a judgment of acquittal.
9 The State has not presented a prima facie case
10 of guilt that this jury or any reasonable jury
11 could find Ms. Loyd guilty of the charges in
12 this case.
13 There's no evidence that would prove a
14 false report, and that is that there was a
15 false report of abuse, neglect or abandonment
16 of the child to the Central Abuse Hotline; and
17 which report was maliciously made for the
18 purpose of harassing, embarrassing or harming
19 any person for personal financial gain for the
20 reporting person, acquiring custody of the
21 child or a personal benefit of the reporting
22 person and any other private dispute involving
23 a child.
24 I think the evidence in this case is
25 clear that Mr. Michaud and Ms. Loyd don't know

1 each other. She has no dog in the fight.
2 She's a news reporter. She was doing an
3 investigation. She even reached out to Mr.
4 Michaud to get his version of events. She
5 wasn't sending him harassing, hateful,
6 threatening or malicious emails.
7 And so, we would ask that you grant the
8 judgment of acquittal.
9 THE COURT: Ms. Stewart or Mr. Sendra?
10 MR. SENDRA: All of the evidence at this
11 point is taken in the light most favorable to
12 the State, Judge.
13 And the Court has heard all of the
14 evidence. All of the evidence talks about this
15 phone call. All the evidence submitted proves
16 that this phone call and the content of the
17 phone call has to be completely false.
18 Because the evidence shows that that
19 teacher never existed on that day in that
20 school and could have never overheard the
21 conversation.
22 And at this time, she has also admitted
23 that she is sorry for what she had done. And
24 that that was her phone number and nobody had
25 access to that phone. So, we know that the

1 Defendant had placed the call.
2 Whether it was maliciously made or not
3 for the purpose of harassing, embarrassing or
4 harming the subject of the call, Mr. Michaud,
5 is a jury question. It's just like intent,
6 it's a function of the mind and that's a
7 complete jury question. That's for them to
8 decide at this point.
9 COURT'S RULING
10 THE COURT: All right. And taking the
11 evidence in the light most favorable to the
12 State, and all inferences that can be drawn
13 therefrom, the State has proved a prima facie
14 case sufficient to go to the jury.
15 MR. BROSS: Okay.
16 THE COURT: So, I have some questions
17 for Ms. Loyd.
18 MR. SENDRA: So you are denying the
19 motion, Judge?
20 THE COURT: I am denying the motion for
21 judgment of acquittal.
22 MR. BROSS: Can we have, Your Honor,
23 respectfully can we have -- She may take the
24 stand, we've talked about it; and it kind of
25 depended on what the State did this morning.

Can we have just five minutes to just make that final decision?

THE COURT: Sure.

MR. BROSS: I'm really sorry about the coffee, I didn't know. I know you're saying there's a sign and I'm really, really sorry or I wouldn't have done that. I apologize.

THE COURT: No, (indiscernible).

MR. BROSS: I know, believe me, Judge -- most -- a lot of judges allow coffee in courtrooms. The only one who -- the only one who doesn't is Earp. That's the only one I can think of.

THE COURT: Well, Judge (indiscernible).

MR. BROSS: And you're right, and you're right.

MR. SENDRA: The only thing I'm going to ask, is that you read her the instruction now, and then give them time to talk about it, so that she can --

THE COURT: All right.

MR. BROSS: Okay, that's fine.

MR. SENDRA: -- Let's give the Court --

MR. BROSS: That's fine.

THE COURT: All right, Ms. Loyd?

1 THE DEFENDANT: Yes.
2 THE COURT: I have some questions for
3 you, ma'am.
4 THE DEFENDANT: Okay.
5 THE COURT: Yes, ma'am, and I'm going to
6 speak softly because the jury are in the next
7 --
8 COURT DEPUTY: They're downstairs, Your
9 Honor.
10 THE COURT: Oh, they are downstairs?
11 COURT DEPUTY: Yes, ma'am.
12 THE COURT: Okay. Okay, good. Maybe
13 that ought to be a question for jury selection:
14 How many people smoke? That way we'll know.
15 ISSUE: DEFENDANT'S RIGHTS INQUIRY
16 BY THE COURT:
17 Q. All right, Ms. Loyd, are there any witnesses
18 -- Well, at this point let me ask: Are there any
19 witnesses that you have told your attorneys about, not
20 yesterday or like this past Friday, but, you know,
21 with sufficient detail --
22 THE COURT: Ms. Burgess, I'm speaking to
23 Ms. Loyd, please allow her to make -- allow her
24 to have my full attention.
25 MS. BURGESS: Yes, Judge.

1 BY THE COURT:
2 Q. That you have -- and you have given them
3 sufficient detail about, who is not Tommy in Orlando
4 or something like that, anyone like that that you have
5 asked Counsel to contact that they have not contacted?
6 A. The question is: Did I tell them that --
7 Q. Have you given your Counsel the names of
8 witnesses that you wanted them to call and potentially
9 testify on your behalf that your Counsel has failed to
10 contact or refused to contact?
11 A. No, ma'am.
12 Q. All right. And we did have a motion, so I
13 am -- and so I would presume that -- Are there any
14 other motions that you had asked Counsel to file that
15 Counsel failed or refused to file?
16 A. Are you talking about today or the whole -- or
17 the whole --
18 Q. The whole time this case -- The whole two
19 years that this case has been pending?
20 A. No, uh-uh.
21 Q. No, okay. Now, this is the time, Ms. Loyd,
22 when you have an opportunity to testify, if you wish
23 to do so, and you can tell the jury your version of
24 events or not.
25 You have an absolute right to remain silent,

as you've heard me say a number of times. This is one of the most important decisions that you and you alone get to make regarding this case.

And like most big decisions, there's an upside and there's a downside. While it is your decision, you certainly should consult with your attorneys, because they know you and your background and they understand how the process works perhaps a little better than you do.

If you do choose to testify, you will be treated like any other witness. And as you've seen, the lawyer who puts on the witness asks non-leading questions.

And the witness is not permitted to narrate and tell a story. The answers must be in response to specific questions.

And when the -- Do you understand what I mean by non-leading questions, open-ended questions? And while the other lawyer, which would be the State in this case, either Ms. Stewart or Mr. Sendra, would then cross examine you, where they can ask leading questions, as you've heard over the course the last several days.

And you have to -- and they -- you have to understand also that you can be impeached. Do you

1 understand what I mean by the word impeached?
2 A. (No audible response.)
3 Q. That you can -- that if you've made an
4 inconsistent statement in the past, then that can be
5 brought up and if -- and it can also be -- also, if
6 you have previously been convicted of a felony or any
7 other crime of dishonesty or false statement, that can
8 also be brought up.
9 And please understand, that as long as the
10 State has a good faith basis to ask, they can -- they
11 can and most likely will. And then it the only other
12 -- the next question they can ask is, if the answer is
13 yes: How many times?
14 And if you answer: Yes, X number of times,
15 and that's an incorrect answer, then the State would
16 have the ability to inform the jury of what types of
17 convictions you may have.
18 And if the answer is no, and then it's no. If
19 you give the correct -- if you have a prior conviction
20 -- which I have no idea --
21 MR. BROSS: And that's the answer.
22 MR. SENDRA: Judge, we don't have any
23 records.
24 THE COURT: Okay, there is nothing of
25 that nature?

MR. SENDRA: We have no records.
THE COURT: Okay, so that's --
MR. BROSS: There are no records.
THE COURT: So, that eliminates that.
MR. BROSS: None of that, Judge.
THE COURT: All right, thank you.
BY THE COURT:
Q. In the event of your -- whether or not to testify is something that you -- I'm going to give you time right now, to talk about it with your attorneys. And when we all come back, then you all can make the decision, or inform me of your decision. Thank you.
A. Thank you.
(Whereupon, the Court is in recess.)
(Whereupon, Jury out.)
THE COURT: Deputy Hughes, did you see where the attorneys went?
COURT DEPUTY: Mr. Bross went out that way, and the State went out that way.
THE COURT: Okay.
COURT DEPUTY: I'll go see if I can collect them.
THE COURT: Okay, thank you.
MR. BROSS: I'm sorry, she's using the restroom. But she will be testifying, Judge,

we're going to call her.

THE COURT: All right. And I'm going to inquire of her.

MR. BROSS: Yes Judge.

THE COURT: Just to make sure it's her decision and hers alone.

All right. Ms. Loyd and Ms. Burgess, now we've got everybody.

All right. We are back on the record in 2015-CF-39871, the State of Florida versus Dana Lynn Loyd. The jury is still out.

ISSUE: DEFENDANT'S RIGHTS INQUIRY (Continued.)

BY THE COURT:

Q. But Ms. Loyd, have you had enough time to go over the question of whether or not you would like to testify with Counsel?

A. (Nods head.)

Q. Okay. You have to give me a yes or no out loud because we are being recorded, ma'am.

A. Yes, Judge.

Q. Okay. And what is your decision, ma'am?

A. Oh, I thought that was my answer.

Q. No, I said had you had enough time --

A. Oh, yes; I have had enough time.

Q. -- to discuss it. Okay. That's question

1 number one.
2 Question number two: What is your decision?
3 Would you like to testify or would you like to not
4 testify?
5 A. I will testify.
6 Q. You will, all right. And this is your
7 decision; correct? Not your friends, not your
8 attorneys, not your mother's or father's, whatever any
9 other relative, it's yours and yours alone?
10 A. You mean my answer? Yes.
11 Q. All right, thank you.
12 THE COURT: Then let's bring the jury
13 in. All right. Then he's about to bring the
14 jury in. Ms. Loyd is present with Mr. Bross
15 and Ms. Burgess. And the State is present with
16 Ms. Stewart and Mr. Sendra.
17 (Whereupon, Court/Deputy discussion.)
18 THE COURT: And just as a matter of
19 scheduling, folks, while we're waiting for the
20 jurors, depending on the length of time that we
21 have prior to lunch, what we can do is then go
22 over the jury instructions and come back and do
23 closings immediately after lunch. Does that
24 sound reasonable to everyone?
25 MS. STEWART: Yes.

1 THE COURT: Okay. It will give you all
2 an opportunity to collect yourselves and go
3 through your notes. At least, we're waiting
4 for them this time, we earned it.
5 MR. SENDRA: We're getting revenge.
6 THE COURT: Yeah, we earned it.
7 COURT DEPUTY: The last I heard they
8 were in the elevator, so they can't be far.
9 THE COURT: Oh, some are in the
10 elevator? I noticed the one lady seems to have
11 like a problem.
12 COURT DEPUTY: Yes, she does.
13 THE COURT: Okay, thank you.
14 COURT DEPUTY: All rise for the jury
15 please.
16 (Whereupon, before the Court and Jury.)
17 THE COURT: All right, folks, please
18 have a seat. Did anything occur over the
19 recess that would in any way impair your
20 ability to be fair and impartial.
21 THE JURY: (Responded Negatively.)
22 THE COURT: No? Thank you.
23 All right the State has rested. And Mr.
24 Bross and Ms. Burgess, how would you like to
25 proceed?

MR. BROSS: Well, Your Honor, the Defense would like to call its first witness, Dana Loyd.

THE COURT: All right. Ms. Loyd, please come forward.

THE CLERK: Please raise your right hand and place your left hand on the Bible.

Do you solemnly swear or affirm that the testimony you are about to give shall be the truth, the whole truth and nothing but the truth, so help you God?

THE WITNESS: I do.

COURT DEPUTY: Please come this way, and watch your step getting in.

WHEREUPON:

DANA LYNN LOYD,

the Defendant herein, having been duly sworn, testified upon her oath as follows:

DIRECT EXAMINATION

BY MR. BROSS:

Q. Good morning, ma'am; how are you doing today?

A. I'm okay, how are you?

Q. Good, thank you. Will you please state your name and spell it?

A. Yes. My name is Dana, D-A-N-A. Middle name

(coughing) excuse me, it's the cough drop -- is Delaney, D-E-L-A-N-E-Y. Last name is Loyd, L-O-Y-D.

Q. All right, and how old are you?

A. I am 44.

Q. Okay, and where do you live?

A. I just recently moved to Rockledge.

Q. Okay. And before that, where did you live?

A. In Titusville.

Q. All right. Are you single or married?

A. I am married, I have been married for 13 years.

Q. Okay, do you have any kids?

A. I have two young boys.

Q. All right, and how old are they?

A. They are nine and 11.

Q. All right. And what do you do as a profession or hobby in reference to this case?

A. I have an online publication.

Q. Okay, what's the name of that online publication?

A. BrevardsBestNews.com.

Q. And are you the only writer for that publication or are there other writers?

A. I have other writers.

Q. Okay. So, and is this a monthly, weekly,

1 daily publication?
2 A. Our goal in the beginning, when we first
3 started, was monthly. And since all of this has
4 happened, it's not as often as we could have been.
5 Q. Okay.
6 A. So, if that makes any sense.
7 Q. And what type of articles does Brevard's Best
8 News write about, or what is the subject of your
9 reporting?
10 A. Holding people accountable, law enforcement
11 and public officials accountable. There's been
12 articles about the military, the Port and different
13 things like that.
14 Q. Okay. And you also wrote about victims and
15 that sort of thing as well?
16 A. We have written about victims, yes.
17 Q. Okay. And approximately how long have you
18 been affiliated with Brevard's Best News?
19 A. I'm fairly confident I started it in 2011.
20 Q. I'm sorry, did you say you and who?
21 A. In the beginning I started it solely.
22 Q. Okay.
23 A. I'm pretty sure I started it, it was
24 2010/2011.
25 Q. Okay, and what is the -- to find this --

1 strike that.
2 Now, did you begin doing an investigation into
3 this case, into the facts of this case, or the facts
4 of the allegations that are the subject of this case?
5 A. Yes, I did.
6 Q. Approximately when did you begin investigating
7 that?
8 A. I'm fairly confident that it was shortly after
9 I started. (Clears throat) excuse me. So I'm going to
10 say spring or summer of 2011.
11 Q. Okay. And what sort of things did you do when
12 you began investigating it?
13 A. I've always been -- I want to find out who,
14 what, where, when, why and how; so that's been my
15 number one priority, to research and to have all of
16 the documentation that I need before I can make an
17 educated decision.
18 Q. Okay. And did you do that with regard to the
19 allegations in this case that you made against Mr.
20 Michaud that was heard earlier?
21 A. I did a thorough investigation.
22 Q. And did you reach out to Mr. Michaud to speak
23 to him to get his version of events?
24 A. At one point I did, yes.
25 Q. Okay. Did you reach out to Ms. Michaud to get

her version of events?
A. I did.
Q. Did you reach out to various agencies to get their version of events?
A. I reached out to the respective attorneys.
Q. Okay.
A. Yes. And, yes. I'm sorry, I did, yes. Law enforcement, couple of law enforcement agencies, I did reach out to.
Q. Okay. And approximately how many pages of documentation did you create, or did you compile rather, during the course of your investigation of this matter?
A. I've got two bankers -- I think that's the word -- like, you know, the boxes that you buy reams of paper in?
Q. Yes.
A. I've got two boxes of those in this case.
Q. For your investigation, not regarding the criminal case against you, but the other --
A. No, no. Oh, no.
Q. But regarding the fact of the other -- the allegations that are the subject of this?
A. The one that I started working on in '11; yes, sir.

1 Q. Okay.
2 A. Yes, sir.
3 Q. And I think you heard earlier, when Mr.
4 Michaud testified, that you reached out to him and he
5 didn't give you his version of events. Is that your
6 recollection as well?
7 A. Yes, yeah.
8 Q. Yes?
9 A. He did not.
10 Q. Okay. Now, have you investigated or done
11 articles on the other -- on other victims of sexual
12 abuse?
13 A. I think this was the first, this was the first
14 child.
15 Q. Okay.
16 A. I tried to -- I did like an undercover and
17 went and worked with prostitutes who were survivors of
18 sexual abuse.
19 That was a piece that I had done in 2011. And
20 at one point I had another writer and she had written
21 about sexual abuse.
22 I can't remember who her -- I cannot remember
23 who her victim was, though. But yes, that's something
24 that we've covered.
25 Q. Okay. And is that a topic that's near and

1 dear to your heart for personal reasons?
2 A. It's very dear towards my heart, yes.
3 Q. And you take reporting seriously?
4 A. I do.
5 Q. And do you believe that -- strike that.
6 What is your belief or opinion in regards to
7 an individual's requirement to report that sort of
8 abuse of children?
9 A. All right, I couldn't -- Would you repeat
10 that, I'm sorry?
11 Q. Sure. What is your understanding or belief as
12 to an individual's requirement to report sexual abuse
13 of a child?
14 MS. STEWART: I'm going to object as to
15 relevance.
16 MR. BROSS: It goes to show her --
17 THE COURT: Sustained.
18 BY MR. BROSS:
19 Q. As a reporter, are you a mandatory reporter of
20 sexual abuse?
21 A. Yes. And as a citizen of Florida, we are all
22 mandated reporters.
23 Q. Okay. So, as a citizen of the State of
24 Florida, everyone is mandated to report sexual abuse;
25 correct?

A. Yeah, per Governor Scott; yes.
Q. And you can be criminally punished, if you failed to report sexual abuse of a child; correct?
MR. BROSS: Objection, Your Honor.
THE COURT: Sustained.
MR. BROSS: Okay.
BY MR. BROSS:
Q. And what is your understanding of someone who is aware of child sexual abuse and does not report it?
MR. BROSS: Objection, Your Honor.
THE COURT: Sustained.
BY MR. BROSS:
Q. Now, are there other stories that you have done long-term investigations in?
A. Oh, yes. Yes.
Q. Okay. Now, you've obviously sat here through the trial. You've heard the allegations in this case. You've spoken to the police.
Now, let's start out with: You made the call in this case, correct?
A. I did.
Q. Now, when we heard the call that was made, we heard the automated message in the beginning. Do you recall that?
A. I do.

1 Q. Okay. What is your understanding of that
2 automated message and how it applies to you?
3 MS. STEWART: Objection, Your Honor.
4 THE COURT: Legal basis?
5 MS. STEWART: It calls for a legal
6 conclusion.
7 MR. BROSS: No. No, it didn't.
8 THE COURT: He asked for her
9 understanding. I'll overrule that objection.
10 BY MR. BROSS:
11 Q. You can answer.
12 A. My understanding is when a person calls the
13 Hotline, I heard what you all heard yesterday, the
14 recording of what it says.
15 My interpretation was, if you are acting in
16 good faith, you don't have to go through this. That's
17 my interpretation.
18 Q. Okay. And when you say this, what do you
19 mean?
20 A. Being arrested in front of your children,
21 going to jail, going to trial.
22 MS. STEWART: Objection, Your Honor.
23 THE COURT: Sustained.
24 MR. BROSS: Okay.
25 MS. STEWART: And so, I ask the Court to

1 ask the jury to disregard.
2 THE COURT: Folks, please disregard any
3 of the nonresponsive portions of that last --
4 of Ms. Loyd's last answer.
5 MR. BROSS: I had asked her what --
6 THE COURT: You asked her what her
7 interpretation was --
8 MR. BROSS: Right.
9 THE COURT: -- of the warning that is --
10 that was on the --
11 MR. BROSS: No, my question was --
12 answer was -- the question was: "What do you
13 mean to go through this?"
14 And her answer was: "Being arrested."
15 That was the question and the answer
16 was: "For me to go through this."
17 THE COURT: Well, there was -- it ended
18 at: "Go through this. Appear in court."
19 MR. BROSS: Yes ma'am.
20 BY MR. BROSS:
21 Q. Now, and did you have a good faith basis to
22 make the report you made in this case?
23 A. (Whispering) I did.
24 THE COURT: Ma'am, you have to answer
25 out loud, remember we are being recorded.

A. Sorry. In my heart I believed I did, yes.
BY MR. BROSS:
Q. And do you still believe that today?
A. With every inch of my being.
Q. And you voluntarily spoke to the police, do you recall that?
A. I did.
Q. And when you spoke to the police, what did you think they were there doing?
A. They were there to help me help save this little girl.
Q. Okay. And when you're saying to save the girl, you're talking about Riley, the child involved in this case; correct?
A. Yes, that's what I intended to do.
Q. All right. And did you believe that you were making an anonymous phone call?
A. Yes, that was my -- yes.
Q. Okay. And you had been a substitute teacher at some time, correct?
A. Yes.
Q. And why did you say on the Hotline that you were a substitute teacher?
A. I had to answer honestly, I felt that would get more attention to get help with a little girl.

Q. Okay. So, your basis for saying "substitute teacher" was because you thought -- when you say "more attention" you thought that they would take action or get an investigation done?
A. I did.
Q. Okay. And why is that?
A. I really can't -- why I thought that?
Q. Yes.
A. Because I had been a substitute teacher before. My background is retired education and we're like the foot-soldier, so we see stuff every day.
Q. And we saw a Theresa Smith testified here in court. Did you know her?
A. No.
Q. No, okay. Were you using a specific Theresa Smith's name, or is that a pure coincidence?
A. No, that's an absolute -- I had actual aliases and I -- that was a pure -- I would never bring anything into -- I don't know her, not -- no.
Q. Okay. And I believe you said earlier, you had testified that you had done some undercover investigation regarding prostitution or something to that effect?
A. Uh-huh, uh-huh.
Q. Is sometimes going undercover or using

aliases, is that part of reporting investigative techniques?
A. Yes, yes.
Q. Similar to the officer testifying that you know, he came to your house and recorded you, and --
MS. STEWART: Objection Your Honor.
MR. BROSS: -- it's like they do on all of the drugs?
THE COURT: Sustained.
BY MR. BROSS:
Q. And your job is to testify you're passionate about what you do. Are you passionate about what you do?
A. Yes, very passionate.
Q. Now, did you -- was your intent to harass anybody?
A. Oh, no.
Q. Was your intent to embarrass or harm another person?
A. No.
Q. Were you seeking personal financial gain?
A. No.
Q. And were you trying to acquire custody of a child?
A. No, I wasn't; no.

Q. Were you trying to seek any other personal benefit in any private dispute or personal dispute or public dispute?
A. No, I was not.
Q. What was your goal?
A. To get somebody who is certified and trained to go interview the child. And that was my only goal.
Q. Well, I think you had talked about a good faith -- or what were you talking about when you were talking about good faith to the jury a minute ago?
A. I was referring to on the recording when it goes to the -- I can't remember exactly what it said, but the bottom line, the last statement is: Anybody making a call in good faith is immune from prosecution.
Q. Okay, and talk about -- and what is your under -- do you believe that applied to you?
A. I believed it, yes.
Q. Do you still believe that applies to you?
A. Yes.
Q. So, in regards to anything going on between Michaud and his ex or anything regarding -- You have no skin in the game, or no dog in the fight, with any of those people; right?
A. No.

1 Q. Your whole role was to help the child?
2 A. Yeah, I will stand up for a child. Adults can
3 figure stuff out on their own.
4 Q. Now, so did you willfully and knowingly make a
5 false report of this sexual abuse?
6 A. Of the sexual abuse, no.
7 (Whereupon, Defense Counsel discussion.)
8 BY MR. BROSS:
9 Q. Were you concerned that based upon your
10 investigation and what you knew, that there could be
11 repercussions if you did not report the sexual abuse?
12 MS. STEWART: Objection, Your Honor.
13 THE COURT: Legal basis?
14 MS. STEWART: Well, relevance.
15 THE COURT: Sustained.
16 BY MR. BROSS:
17 Q. I think you said or you testified that you
18 began your investigation in 2011. When did you end
19 your investigation, or have you ended it?
20 A. It's been put on a standstill. I haven't been
21 able to do anything since I was charged.
22 Q. Do you recall who from DCF that you spoke to
23 about the case involving you? Do you recall anyone?
24 A. The name of the person when I called?
25 Q. No, did you -- strike that.

1 Did you speak to anyone, other than the 1-800
2 call, did you speak to anyone else in DCF regarding
3 the allegations made against you?
4 A. No, I never heard from DCF about this.
5 Q. Okay. And I believe the officer testified
6 yesterday and said he had two contacts: One, to set
7 up a meeting and the other one was the meeting.
8 Did you speak to any other law enforcement
9 officers about the allegations made against you?
10 A. Against me?
11 Q. Yes.
12 A. Well, I want to make sure I understood the
13 question; sir. Can you say it one more time?
14 Q. Sure. Other than the two communications that
15 you had with the officer that testified yesterday, did
16 you speak to any other law enforcement officers about
17 the allegations made against you?
18 A. Not in a law enforcement capacity, no.
19 Q. Okay. Did you speak to any other law
20 enforcement officers about the allegations regarding
21 abuse allegations against Mr. Michaud?
22 A. I did.
23 Q. Okay. How many, how many times?
24 MS. STEWART: Objection, Your Honor,
25 relevance.

THE COURT: I'm sorry, the question was: How many other times did she speak to other people about allegations of --

MR. BROSS: About how many other law enforcement officers did she speak to about the allegations regarding abuse against Mr. Michaud?

THE COURT: That was the previous question.

MR. BROSS: That was the question she was just answering.

THE COURT: No, she had already answered that and you went on to say: Other than law enforcement, who else did you talk to about this investigation? Was that your next question?

MR. BROSS: No, that's -- no, it's not.

MS. STEWART: My objection is --

THE COURT: To which Ms. Stewart objected?

MS. STEWART: Yes. I objected when he said: Have you talked to any other law enforcement officers about allegations against Tim Michaud?

THE COURT: Okay. And the basis you

said is relevance?
MS. STEWART: Relevance.
THE COURT: All right. That's overruled.
A. I can answer?
BY MR. BROSS:
Q. Uh-huh.
A. Do you want to know -- are you asking for the specific number, or are you asking for titles or just for --
Q. Yeah, I'm asking -- yes, how -- I just want -- I just want you to tell the jury, the ladies and gentlemen of the jury, how many other law enforcement officers you spoke to about the allegations made against Mr. Michaud.
A. Seven or eight.
Q. And I believe you heard me ask Mr. Michaud if he was aware about other individuals making allegations against him. Do you recall that?
A. I do recall that.
Q. Okay. Were you made aware about allegations that other individuals made against Mr. Michaud?
MS. STEWART: Objection, Your Honor, hearsay.
MR. BROSS: Okay. I'll withdraw it,

withdraw the question.
BY MR. BROSS:
Q. And as far as you know, the -- strike that question.
(Whereupon, Defense Counsel discussion.)
BY MR. BROSS:
Q. Ma'am, how did you initially become involved in investigating the allegations made against Mr. Michaud? How did you first become aware of that?
A. When I first started my publication, we were extremely aggressive in what's going on in Brevard County. So, I was contacted by -- Do I say the name?
Q. Yeah, you can say who contacted you.
A. Okay. I was contacted by a gentleman named Dean Tong, who is a child abuse expert over on the West Coast.
And he had asked me if I had heard anything in reference to this case. And I had not, and he sent me documentation to start reviewing it and looking over it.
Q. Okay. And so, you were initially contacted by an expert over on the West Coast, and that's how you became aware of this case and began investigating this case; correct?
A. Yes.

1 Q. So, none of this is based upon any personal
2 animis or animosity that you have against Mr. Michaud;
3 correct?
4 A. No, no.
5 Q. This isn't some heavy labor dispute, or he
6 didn't steal your parking space or anything like that,
7 right?
8 A. No, he didn't. I never saw the man until
9 today.
10 Q. Now, so you never saw the man until today, but
11 how many -- I believe you said how many -- I know you
12 said two banker's boxes, but how many pages of
13 documents do you have regarding investigations
14 regarding him, though?
15 MS. STEWART: Objection, Your Honor,
16 that was asked and answered.
17 THE COURT: Sustained.
18 BY MR. BROSS:
19 Q. Now, your report was based upon your
20 investigation into this matter; correct?
21 A. Yes, sir.
22 Q. And that investigation started in 2011?
23 A. Yes, sir.
24 (Whereupon, Defense Attorneys discussion.)
25 BY MR. BROSS:

Q. And the investigation, was that -- you said spring of 2011, correct? Or do you recall?
A. I think I had -- I did say "spring" that was when --
Q. I'm sorry?
A. I wanted to make sure I'm as accurate as I possibly can be when I'm thinking of the seasons. So, I think that's the first time he had called back, that I had heard from Dean Tong and started looking into it very --
Q. Okay. And the Hotline call was made in April of 2015, correct?
A. No, April 29th of 2015.
Q. Right. So, this call was based upon your almost four years of investigation into this matter; correct?
A. Yes.
(Whereupon, Defense Counsel discussion.)
BY MR. BROSS:
Q. And your publication is still active, correct? Brevard's Best News is still an active publication?
A. Yes.
Q. And still publishing articles?
A. Articles are being published. I currently have not been able to write; but, yes.

Q. And, again, your goal in making the call was to do what?
A. To put the -- to get somebody to go speak to the child -- that was my goal.
Q. Based on what?
A. Because based on every piece of paper of evidence that I've seen, there is a problem. Someone needs to help this little girl.
MR. BROSS: Okay, thank you? I have no further questions.
THE COURT: Okay, Ms. Stewart?
MS. STEWART: Thank you.
CROSS EXAMINATION
BY MS. STEWART:
Q. If your passion is to help this instance of child abuse, why is it that Riley is your obsession and no other child?
MR. BROSS: Objection, Your Honor.
THE COURT: Overruled.
A. You lost me at "obsession". Can you rephrase the question?
BY MS. STEWART:
Q. Well, it's an obsession, isn't it?
A. I'm not obsessed, no.
MR. BROSS: Objection, Your Honor.

BY MS. STEWART:

Q. Since 2011 when --

A. Yes.

Q. -- Tim Michaud got custody of Riley --

MR. BROSS: Objection, Your Honor.

BY MS. STEWART:

Q. You have been writing about --

THE COURT: Legal basis?

MR. BROSS: That's not a fact of anything in evidence.

THE COURT: Overruled. Ms. Loyd just testified to that exact fact.

A. I've written a total of two or three articles in this case. And they don't -- I have --

BY MS. STEWART:

Q. My question -- my question is: Since Timothy Michaud got custody of Riley, you started this when you got contacted by Dean Tong. Remember, you told the jury that; right?

A. I didn't -- that's when --

Q. And who is Dean Tong associated with?

A. Dean Tong is a child abuse --

Q. Associated with Amy Casey (phonetic)?

MR. BROSS: Objection, Your Honor, I will ask that she be allowed to answer the

1 question.
2 THE COURT: Overruled.
3 MR. BROSS: Instead of stepping all over
4 her answer.
5 THE COURT: Overruled.
6 BY MS. STEWART:
7 Q. Is he associated with Amy Casey?
8 A. He was -- he was originally hired by the
9 father to --
10 Q. Okay, here's my question.
11 A. Uh-huh.
12 Q. Is he associated with Amy Casey?
13 A. I don't know of his personal life.
14 Q. You know Amy Casey, though, don't you?
15 A. I know of her. I don't personally know her, I
16 don't associate with her.
17 Q. She's here right now, right? She's here at
18 the courthouse today?
19 A. Who? I have no idea, I have not --
20 Q. Is Amy Casey Timothy Michaud's ex-wife?
21 A. Yes.
22 Q. Okay. So you do know her, and you've spoken
23 to her before; correct?
24 MR. BROSS: Objection, Your Honor,
25 argumentative, misleading and --

THE COURT: Overruled.
BY MS. STEWART:
Q. You do know her, correct?
THE COURT: Wide latitude on cross for both sides.
A. I know her about as well as I know you.
BY MS. STEWART:
Q. Oh, you know her better than you know me.
A. I haven't --
Q. On your blog on April 17th of 2015, almost but not quite, 10 or so days before the April 29th telephone call --
A. Uh-huh.
Q. -- you blogged about Tim Michaud in Brevard's Best News; correct?
A. (No audible response.)
Q. And if you need to refresh your recollection, I can show it to you.
A. I mean, I don't have it in front of me. But if that's the date that you say --
MS. STEWART: May I approach the witness, Your Honor?
THE COURT: Yes.
(Whereupon, State/Defense discussion.)
MS. STEWART: May I approach the

1 witness, Your Honor?
2 THE COURT: Certainly.
3 BY MS. STEWART:
4 Q. I'm showing you the online version of your
5 blog (tenders laptop).
6 A. Uh-huh, that's it (reviewing laptop).
7 MR. BROSS: Objection, Your Honor, this
8 is an improper refreshing of recollection. If
9 she wants to refresh her recollection, she
10 should --
11 MS. STEWART: She said she didn't have
12 it in front of her.
13 MR. BROSS: -- she should show her what
14 she wants to use to refresh her recollection.
15 And let her read it and refresh her. Not
16 trying to impeach her, like she's trying to do
17 right now.
18 MS. STEWART: I'm not trying to impeach
19 her.
20 THE COURT: Overruled. If she needs --
21 presenting her with a computer -- this is --
22 BY MS. STEWART:
23 Q. Does that refresh your recollection?
24 A. Yeah, can I -- you want me to read or are you
25 going to ask me questions? I don't remember what I

1 wrote but --
2 Q. Does it refresh your recollection as to the
3 date?
4 A. Yes.
5 Q. Okay, and what is that date?
6 A. It says it's April the 17th.
7 Q. And you blogged about Timothy Michaud on that
8 date, correct?
9 A. I didn't read the article, I don't remember
10 what I said about -- had written about --
11 Q. I can let you read the article. But on that
12 day you blogged about that 2014 phone call that you
13 made to DCF, a year before the April 29th phone call?
14 MR. BROSS: Objection, Your Honor,
15 outside the scope of direct.
16 THE COURT: Overruled. A wide latitude
17 on cross.
18 MR. BROSS: All right.
19 BY MS. STEWART:
20 Q. Okay, let me ask it this way: You made that
21 2014 called to DCF, correct?
22 A. Which call? I don't know which call you are
23 referring to.
24 Q. In your blog you say: I made a 2014 call to
25 DCF. Would you like to read it?

A. Read the article?
Q. Yes.
A. Yes.
MS. STEWART: May I approach, Your Honor?
THE COURT: Yes, ma'am. Do you want to show Mr. Bross?
BY MS. STEWART:
Q. Well, you know what, not only in your blog do you say that, you --
MR. BROSS: Objection, Your Honor.
Hold on.
Objection, Your Honor, she just puts it on the floor. She needs to let her answer the question or withdraw it.
THE COURT: Right. Now, Ms. Stewart, if you're going to show it to Ms. Loyd --
MS. STEWART: Well, let me -- let me just ask -- let's see if maybe she will remember this.
BY MS. STEWART:
Q. In that interview you did with the police, you told them that you made a call to DCF in 2014 against Timothy Michaud; correct?
A. Is that when I interviewed Detective Whitfield

(phonetic)? I mean, my -- I don't remember what --
Q. Your interview with Agent Fischer?
A. (No audible response.)
Q. I'll tell you what, let me let you read this and --
MR. BROSS: What? Can I see?
MS. STEWART: (Tenders laptop) You can.
MR. BROSS: (Reviewing laptop.) I don't know what you're doing there.
(Whereupon, State/Defense discussion.)
MR. BROSS: Okay, that's fine. You can read that and if that refreshes your recollection, that's fine.
BY MS. STEWART:
Q. (Tenders laptop.) This is on the 17th, if you could just read that and tell me if that refreshes your recollection.
A. (Reviewing laptop.)
(Whereupon, State Counsel discussion.)
BY MS. STEWART:
Q. You made the call to DCF in 2014, correct?
MR. BROSS: Objection, Your Honor, objection. That mischaracterizes what that says and it's not a fact in evidence. And I think that the proper procedure is --

1 THE COURT: Overruled.
2 MR. BROSS: -- is your recollection
3 refreshed?
4 THE COURT: Overruled.
5 BY MS. STEWART:
6 Q. You made the call to DCF in 2014, correct?
7 A. I made a call to DCF in 2014.
8 Q. Against Timothy Michaud?
9 A. The call was based on a picture of a little
10 girl who is dressed scantily, with "Straight Pimped"
11 (phonetic) next to the little girl's picture.
12 Q. Against Timothy Michaud?
13 A. He's who posted it on Facebook.
14 Q. Okay. And you, again made a call in 2015?
15 A. April 29th of 2015.
16 Q. You blogged about it until you were told not
17 to after your arrest, correct?
18 MR. BROSS: Objection, Your Honor,
19 relevance.
20 THE COURT: Overruled.
21 A. I blogged about -- oh, I came forward and said
22 in the article that I -- that I used the alias of
23 "Theresa Smith" when I -- yes, I did. Blogging is, I
24 guess, what's taking me --
25 BY MS. STEWART:

Q. Okay. Well, let's go back to that alias of Theresa Smith.
A. Uh-huh.
Q. When Agent Fischer first came to your house and asked you about it, and you said: That's not me. That's not me. That's not me.
Until he confronts you with the phone number, and then you say: Oh, that's my number.
I mean, you were denying it because you knew you were guilty of a false report, correct?
A. I never thought I was guilty of a false report because I --
Q. Okay, when -- when did you hear --
MR. BROSS: Hold on. Will you please let the witness answer the question instead of stepping on her answer?
THE COURT: Overruled, Mr. Bross.
BY MS. STEWART:
Q. When did you hear, and from whom did you hear, while Riley Michaud was living with her father that she was starving? Who told you that?
A. I don't recall.
Q. You are under oath, who told you that?
A. Not -- there was -- I don't -- I have documentation. Nobody specifically verbalized those

words. I just received documentation.
Q. Who told you --
A. Nobody told me personally. When you're saying "Who told me", nobody personally told me anything; I have received documentation.
Q. Who told you that Riley Michaud was carrying the weight of the world on her shoulders?
A. It was noted in a -- the comment that was made was: It appears that the child is carrying the weight of the world on her shoulders. Who wrote that, I don't -- I don't remember.
Q. So you are basing your whole investigation on people you can't verify, on sources you can't tell this jury.
A. I didn't want this on my heart, in my soul, so I turned it over to the proper authorities with the information that I had gone through.
Q. And it was unfounded. In 2014, it was unfounded, correct?
A. I'm not --
Q. But that wasn't good enough for you, because you are obsessed with this.
MR. BROSS: Objection, Your Honor.
BY MS. STEWART:
Q. So, you make another call in 2015.

1 MR. BROSS: Hold on, hold on. Objection
2 to the -- Counsel is making a comment: "You
3 are obsessed with this."
4 And that's not expressing her comments.
5 She's already said she wasn't obsessed with it,
6 that wasn't her express comment.
7 And so, I object to the comments and
8 move to strike them from the record.
9 MS. STEWART: Well, I'll move on.
10 THE COURT: All right, thank you.
11 BY MS. STEWART:
12 Q. Who told you that Riley Michaud was locked in
13 her room?
14 A. I don't have -- I don't have a specific
15 person. Again, I took all of the information that I
16 had and I just basically laid it out.
17 Q. Who told you that Riley Michaud was basically
18 taking over the role of her dad's wife?
19 A. I don't know.
20 Q. Who told you that Riley Michaud was being
21 sexually abused by her father?
22 A. Riley told me in one of the reports that I
23 read, she finally disclosed that.
24 Q. Riley did? Told you?
25 A. Through the reports that I read. I've never

1 met the child.
2 Q. So, through hearsay?
3 A. Through the reports that --
4 Q. You're claiming that there is a report?
5 A. Through the reports that I read.
6 Q. When the cases were unfounded?
7 A. Through the reports that I read.
8 Q. Can you produce those reports?
9 A. Yes.
10 Q. Where are they?
11 MR. BROSS: Hold on, hold on, Ms.
12 Stewart. Let me give you all of them. (Tenders
13 documents) Here, here and here.
14 BY MS. STEWART:
15 Q. Okay. This was (reviewing documents) okay,
16 this was a prior investigation; correct?
17 A. (No audible response.)
18 Q. Correct?
19 A. Yes, ma'am.
20 Q. Not in Brevard County?
21 A. No, ma'am.
22 MR. BROSS: Relevance?
23 BY MS. STEWART:
24 Q. Okay. And Mr. Michaud was never prosecuted or
25 charged with anything, based on that; correct?

A. It happened in another state and that State transferred the case to Brevard County.
Q. Okay. Well, how did that happen? Because I'm not aware of how another state can transfer a case to Brevard County.
A. Sexual allegations that were alleged --
Q. Okay. Let's talk about that case being transferred and you start blogging. Can you tell the jury if you know a person by the name of Dale Young?
A. I know a Dale Young.
Q. He was an agent with the Sheriff's Office?
A. Yes, he was.
Q. He investigated Timothy Michaud?
A. We're going to disagree on the interpretation of "investigated."
Q. So, no matter what anybody tells you, you are never going to believe that Riley is safe and sound, and has been since April of 2011 when she got away from her mother? You are never ever going to believe that, are you?
A. I think when she's properly interviewed by equipped people and I'm told no, that there's something about me that if you -- that you -- it's not been done proper. It's not been done proper.
Q. Are you aware that Riley is upset because of

all the stuff that's been posted?
MR. BROSS: Objection, Your Honor, facts not in evidence. She's not -- Ms. Stewart is not --
THE COURT: Overruled.
MR. BROSS: -- and Ms. Stewart is not supposed to be testifying for the child.
THE COURT: Overruled. Overruled. It is cross examination, Mr. Bross. You were given wide latitude, and the State is also given wide latitude.
A. I don't -- I don't know Riley.
BY MS. STEWART:
Q. Right, you don't. And when you said you reached out to people: "I reached out to law enforcement. I reached out to Mr. Michaud."
A. Uh-huh.
Q. You also reached out to a job he was about to get in Colorado, didn't you?
MR. BROSS: Objection, Your Honor, that one is outside the scope of direct.
THE COURT: Overruled. Wide latitude in cross.
A. I was working on a piece following up -- I think -- I think I need to clarify this so everybody

1 understands.
2 BY MS. STEWART:
3 Q. Did you contact a potential --
4 MR. BROSS: Objection, Your Honor, she's
5 trying to get --
6 (More than one speaker, indiscernible.)
7 MR. BROSS: -- and I would ask that the
8 witness be allowed to finish her answer.
9 THE COURT: Overruled, Mr. Bross.
10 BY MS. STEWART:
11 Q. Did you contact a potential employer of Mr.
12 Michaud in Colorado?
13 A. I contacted a company in which he had -- which
14 I don't -- I don't recall if there was a job offer.
15 It was to confirm if this company was offering him a
16 position.
17 The person that I spoke to said: I cannot
18 confirm or deny that we have offered him a position,
19 and he asked why.
20 I said that there was some information in
21 reference to this guy that I was working on, Timothy
22 Michaud. And told him that he could Google him. That
23 was the -- It was a 19 second --
24 Q. Because you wanted them to --
25 MR. BROSS: Objection, Your Honor, I'd

like for her to finish.
A. It was a 19 second conversation, maybe 20, at the most.
BY MS. STEWART:
Q. And you said to Google him?
A. I did.
Q. Because you wanted them to know about these false allegations, correct?
MR. BROSS: Objection, Your Honor, that's a loaded question.
THE COURT: Overruled.
A. I want people to make the best educated decision that they can make based on all the information.
BY MS. STEWART:
Q. You are obsessed with Timothy Michaud?
A. I'm obsessed with getting the veterans off the street. I'm obsessed with feeding the homeless on Wednesdays. I am not obsessed with him, with Timothy Michaud.
I don't know him. I know, Ms. Stewart, what it's like to be a child and --
MS. STEWART: Oh, objection, Your Honor, may we approach?
THE COURT: Certainly.

MR. BROSS: She didn't finish her answer.

MS. STEWART: I didn't ask the question, that's why I objected.

MR. BROSS: Oh, because she was trying to answer the question.

(Whereupon, the following sidebar proceedings, out of the hearing of the Jury:)

MS. STEWART: She wants to get out that she's a victim of child sexual abuse.

THE COURT: And that's absolutely forbidden.

MR. BROSS: Ma'am?

THE COURT: That's absolutely forbidden. No, she's not permitted to seek sympathy from the jury.

MR. BROSS: But it was --

THE COURT: And bring up something totally irrelevant. She's already said her heart and soul is in this cause.

MR. BROSS: Okay. Well, for the record, I believe that --

THE COURT: And so, for the record, that's why Ms. Stewart has to be cutting her off, before she wanders into improper diatribes

that are nonresponsive.

MR. BROSS: Okay. Well, for the record, I believe that it would be proper. Because Ms. Stewart keeps asking her why she's so obsessed or so involved or interested in this matter.

And if this reporter was a victim of a child sex crime and no one stood up for her and did anything about it, then it would explain why she's so obsessed with it.

But if the Court isn't willing to let her answer the questions, I would like to proffer in direct for her answer, because I think it is relevant.

It's based upon the State repeatedly asking her why she is so obsessed with it. That's what makes it relevant and that's why it's a fair answer.

THE COURT: Ms. Stewart, have you got any thoughts on that?

MS. STEWART: That it's not relevant at all, it's nothing but -- it's a garnishment -- It's just like the: "Arresting me in front of my children."

THE COURT: It's simply -- it is -- it's a statement simply made to garnish Ms. Loyd's,

her -- regardless of her personal motive -- I mean, maybe you became a lawyer because you were sued, your family was sued when you were a kid. What difference does that make now, okay?

MR. BROSS: But the State keeps asking her why she's so obsessed with this.

THE COURT: Well, what I'm saying is, why people do what they do is not always relevant.

MR. BROSS: Okay.

THE COURT: She's already answered the fact that she's very, very passionate about this. The objection is overruled.

(Whereupon, before the Court and Jury.)

THE COURT: And there's not to be any further discussion about that.

MR. BROSS: I understand. Was the objection sustained?

THE COURT: The objection was -- the objection -- there was not to be a discussion about that.

MR. BROSS: Well, the State made the objection, so I think that --

THE COURT: I'm getting a lot of -- of who's objecting to what, so you're getting it

-- you're doing it now.
BY MS. STEWART:
Q. And you also reached out to the soccer club that Mr. Michaud was coaching, correct?
A. That is correct.
Q. Was that because you wanted them to Google him as well?
A. No, I was -- in working my article, I wanted to find out, what is the protocol for the Brevard County Soccer Club to do background checks on coaches, was the -- was how -- that was my -- my priority in the beginning.
What was the -- what is it that you -- How do you guys do background checks on soccer coaches?
Q. Did you talk to them about any of the coaches, or just Mr. Michaud?
A. I can't -- I think -- I think at that time, it was just mister -- I think it was just Mr. Michaud.
Q. Okay. Now, you said that you got involved in all of this because you wanted somebody certified and trained to interview that child; correct?
A. Somebody that has not been paid and somebody who would not have an axe to grind, I guess, for a lack of better words.
Q. Are you familiar with what CPT is?

A. The Child Protection Team.
Q. Right. And they interview victims of child sexual abuse, correct?
A. Yes, they do.
Q. And they are certified and trained, correct?
A. They are.
Q. And in 2014, when you called the Hotline on Mr. Michaud, Riley was interviewed by the Child Protective Team; correct?
A. Oh, I have no idea.
Q. Well, you're a reporter, you're investigating.
A. I've never received that documentation, though, that she was interviewed.
Q. Did you ever ask for it?
A. It was -- I had so many public records requests out there and you're talking about when this happened. I mean, I don't know. It could be sitting in an in-box somewhere. I haven't touched anything in this since.
Q. When you called that Hotline, you sat and you told this jury that you thought it would be an anonymous report; correct?
A. Yes, because it was an 800 anonymous number.
Q. You also told the jury that you were once a substitute teacher, correct?

A. I was.
Q. And you knew then that substitute teachers were mandatory reporters, correct?
A. I think what I said to the jury is -- and if there's any misunderstanding, everybody is a mandated reporter in the State of Florida.
Q. But you knew --
A. Teachers are mandated reporters.
Q. Okay, thank you.
A. I don't know about substitutes, we had different classes. In my class that I took for substituting it was: If you hear something, or you see something, say something.
Q. Why wasn't unfounded not good enough for you, in terms of Mr. Michaud?
A. (No audible response.)
MR. BROSS: Objection, Your Honor, it's a vague and ambiguous question, because if you don't know which --
THE COURT: Overruled.
BY MS. STEWART:
Q. Both times, why weren't both times of those allegations being unfounded, why wasn't that good enough for you?
MR. BROSS: Objection, Your Honor. If

she's talking about a second one that happened after the call, that would not be relevant.

THE COURT: Overruled. There's been testimony now of two calls and two times that --

MS. STEWART: In 2014 and 2015 is what I'm asking about.

THE COURT: There you go.

MR. BROSS: Okay, if there was -- if there's a second one in 2015, after the call in 2015 --

THE COURT: Mr. Bross?

MR. BROSS: Yes, ma'am.

THE COURT: Read your notes.

A. When I made a phone call --

BY MS. STEWART:

Q. No, no, listen --

A. I -- I had --

Q. No, here's my question; okay?

A. I just answered your question, you know.

Q. Here's my question:

A. Uh-huh.

Q. Why wasn't unfounded good enough for you?

MR. BROSS: The same objection, Judge.

THE COURT: The same, overruled.

A. Because unfounded meant that nobody talked to the child. You heard -- you heard DCF say that they didn't interview the child.

BY MS. STEWART:

Q. In 2014, they did.

A. In 2014, they --

Q. And listen, in 2015 --

MR. BROSS: Objection, Your Honor --

(More than one speaker, indiscernible.)

BY MS. STEWART:

Q. -- a child psychologist, two of them, interviewed that child. Why wasn't that good enough for you?

A. In 2015? Okay. In 2015, two times you're saying -- I haven't had any documentation since 2015 when I had been arrested. I have not seen any reports of two child psychologists.

Agent Fischer referred to Doctor Deborah Dey's report, if that's what you are referring to; that one? That one, I do believe --

Q. Why wasn't it good enough for you?

A. Because the woman received like $12,000 from the father to write the report.

Q. Why wasn't CPT good enough for you?

A. I don't -- I just honestly am not -- Why is

the CPT investigation out of North Carolina not good enough for the State of Florida?

Q. Because it was unfounded.

A. That's not true, Ms. Stewart.

Q. Yes, it was. That was Dale Young's investigation. Dale Young even warned you to stop blogging about it because it was unfounded.

MR. BROSS: Objection, relevance and hearsay.

BY MS. STEWART:

Q. Isn't that true?

MR. BROSS: It's irrelevant hearsay, what Dale Young said.

THE COURT: Sustained.

BY MS. STEWART:

Q. When you called that Hotline on April 29th of 2015, you knew that everything that you were saying was untrue and unverifiable; didn't you?

A. I knew I was not Theresa Smith.

Q. And you knew the contents, the details: She had soup for lunch. I overheard her talking to another little girl. That was --

A. I never said I overheard her, I said overheard --

Q. Oh, do you want to play it again?

A. I said I overheard a conversation.
Q. Okay.
A. I said I overheard a conversation.
Q. Right, which was a lie?
A. (Nods head.)
Q. Right?
A. I'm going to leave it at that. I overheard a conversation.
Q. The whole phone call was a lie, correct?
A. (No audible response.)
Q. And you knew it was. You knew when you told that Hotline: "I overheard a conversation," that was not the truth; correct?
A. I did what I had to do to try to protect a child.
Q. That you had no information of any kind from anybody, that you could name, on any of the points that I asked you. You had no source that you could name, because it's all just in reports; correct?
A. I was definitely -- when you asked me that question, I can name names of -- of the past court mandated supervisor, I have his reports. I have Detective Whitfield's reports. I have reports of --
Q. Do you have Detective Young's -- Agent Young's report?

A. I have requested those for many years through the Sheriff's Department, and they just don't seem to exist.

Q. Do you have -- but those reports are part of the discovery in this case, your case; correct?

A. In the discovery?

Q. Uh-huh.

A. I'm not -- I don't -- I never saw anything. I can't answer your question a hundred percent.

Q. Okay. Then how can you say they don't exist a hundred percent, when they are part of the discovery in your case?

A. When I made the phone call to DCF, I did not have documentation of a completed investigation that transpired from Brevard County.

Q. So in 2014?

A. I said when it -- I said maybe when I made a phone call in 2015. I did not have documentation from Brevard County that there had been a completed investigation on this child.

Q. Okay. You brought in, in 2014, that you made a call to DCF?

MR. BROSS: Objection, Your Honor, mischaracterizing -- I withdraw the objection.

BY MS. STEWART:

1 Q. Correct?
2 A. That was based on the picture of a little girl
3 who said "Straight Pimped" next to it.
4 Q. You called DCF and there was an investigation?
5 A. I was not aware of an investigation, because
6 what I was told is there would be no investigation.
7 Because, that is considered child erotica, which is
8 not illegal in the State of Florida.
9 Q. There was no prosecution that came from that
10 of anybody, correct?
11 A. Correct.
12 Q. It wasn't good enough for you, you kept
13 blogging?
14 MR. BROSS: Objection, asked and
15 answered.
16 BY MS. STEWART:
17 Q. Correct, you kept about blogging about Riley?
18 THE COURT: Overruled.
19 A. Like I said, I've written a total of, I think,
20 three pieces about this case. It's not just about
21 Riley, it's about the entire case.
22 BY MS. STEWART:
23 Q. Well, whoa, whoa, whoa. Wait a minute.
24 Earlier you said that it was all about saving this
25 little girl?

A. I'm trying to -- I am trying to save a little girl and what I've written about -- You're asking me if I'm just going on my blog and I'm just talking about this little girl.

And I have talked about the judges in the case, the other people in the case as well.

Q. Uh-huh, and Mr. Timothy Michaud?

A. The father.

Q. Uh-huh. And you even blogged a little bit about the mother; right?

A. I don't -- if you're saying that I did, then I'm going to believe that I did.

Q. Okay.

A. I blogged about Darrell, or Dean Tong, as well.

Q. Is there any reason in the world -- all right, I'll withdraw that.

On April 29th of 2015, when you made that call, you knew that it was false; correct?

MR. BROSS: Objection, asked and answered like three times now.

THE COURT: Overruled.

BY MS. STEWART:

Q. And all of this is just a systematic harassment of Timothy Michaud, isn't that correct?

A. That is not correct.
MS. STEWART: Okay. I have no further questions, Judge.
THE COURT: Okay.
MR. BROSS: I have some.
REDIRECT EXAMINATION
BY MR. BROSS:
Q. You were asked about some of the things that you've looked at in regards to your reporting and your opinions in this case. If I show you some of that, would that refresh your recollection?
A. Yes.
MR. BROSS: (Tenders documents.) Do you want to look at these?
MS. STEWART: What's the question?
MR. BROSS: The question is: Would it refresh your recollection if I showed you --
MS. STEWART: What are you -- what are you refreshing? There's no question that needs refreshing.
MR. BROSS: You had asked her, ma'am, you were asking her -- Yes, the question was, you were asking her: What about things that you've looked at to form an opinion in this case?

MS. STEWART: Well, what did she look at?

MR. BROSS: And I said: Would it refresh your recollection to see those papers? And I am now showing them to her, so she can look at them and refresh her recollection.

MS. STEWART: Judge, the question would be: What has she looked at? And if she didn't know, then he could refresh her --

THE COURT: How is this relevant?

MR. BROSS: Because she was asked on cross examination numerous times about the documents and evidence that she looked at in forming her opinions.

And she, the State, asked her to list all of those things. And she said that she could remember some of them, but she couldn't remember all of them.

So, I am asking -- I'm now going to show her some of those things, so it can refresh her recollection, so she can tell the ladies and gentlemen of the jury the things that she looked at in forming her opinion and the basis for making the call.

THE COURT: Mr. Bross, that does not go

to any material allegation in the case. This is not a case of whether or not your client believed that there was some form of injustice occurring or some bad act occurring.

The question for the jury is whether or not there was a false allegation of child abuse made; period, end of story. Whether -- whether your client believed she was doing it for a good reason or not she's -- she can say, but you are getting way far afield.

MR. BROSS: Your Honor, I was --

THE COURT: You are getting way far afield.

MR. BROSS: I'm going to have to ask to approach.

THE COURT: You're welcome to.

(Whereupon, the following sidebar proceedings, out of the hearing of the Jury:)

ISSUE: DEFENSE MOTION FOR MISTRIAL

MR. BROSS: Based upon the comments that the Court just made, I'm going to ask for a mistrial. I think based upon those comments, that was akin to jury instructions.

You just basically tried to take away the complete defense, the things that are her

1 belief and the things that she thought were not
2 relevant to the facts of this case. I believe
3 that's basically instructing the jury.
4 The jury just heard everything you said,
5 and I believe that's an improper instruction of
6 the jury. And there's no way un-ring that bell
7 and I'm asking for a mistrial.
8 Because when you -- I was trying -- the
9 State asked numerous times: What did you look
10 at? What documents did you look at for making
11 this call?
12 And she tried to answer, she couldn't
13 remember everything. And so I was going to let
14 her look at some of the documents, the
15 documentation, so she could answer Ms.
16 Stewart's questions more effectively.
17 And they objected, and then Your Honor
18 basically said that none of that was relevant.
19 And her thoughts about, you know, whether or
20 not if it was true in the allegations.
21 And Judge -- not that it was relevant,
22 and the only thing that's relevant is the false
23 call. That's akin to instructing the jury.
24 And that's akin to, in my opinion, that
25 the Court is making opinions about the case and

1 basically telling the jury that she's guilty.
2 And I'm asking for a mistrial, there's no way
3 to un-ring that bell.
4 THE COURT: Ms. Stewart?
5 MS. STEWART: Judge, first of all, what
6 he was trying to do at that time when he says:
7 You looked at documents?
8 Yes, I did.
9 Will it refresh your recollection?
10 He didn't say: What documents did you
11 look at?
12 And she didn't say: I don't know.
13 So that was the reason for my saying
14 that it was improper. I don't think now -- I
15 mean, I don't have an opinion on a mistrial,
16 except that the whole -- well, no; I don't -- I
17 don't. You're making a ruling on an objection,
18 that's all.
19 MR. BROSS: But you went beyond that,
20 Your Honor, you basically told the jury that
21 this case was about whether or not she made a
22 false call. And I think that --
23 THE COURT: It took me (indicating
24 document) I'm going to tell the jury that in
25 about an hour.

MR. BROSS: Uh-huh, in looking at that --

THE COURT: About an hour from now.

MR. BROSS: And if you --

THE COURT: I'm reading all -- I'm looking at the instructions here.

MR. BROSS: All right, but that's --

THE COURT: And the State is going to be (indiscernible). That's why I have it turned back (indicating) to open this page here, so we could see what the elements were, and if there was any relevant reason for you to now go down the whole rabbit-hole to --

MR. BROSS: Knowing and willfully making a false report, that is why they are relevant.

COURT'S RULING

THE COURT: Mr. Bross. Mr. Bross, respectfully, your motion for mistrial is denied. You have made a record of it and your -- and the -- bringing in the documents that she used to form her opinion --

MR. BROSS: Goes to whether or not it was knowingly and willfully making a false report. That's why it's relevant.

MS. STEWART: Those documents are not

even near the time period of the phone call.
MR. BROSS: They are -- they are relevant and they are -- I mean, they are damning, I mean, pictures of the child --
MS. STEWART: Based on his unfounded --
(More than one speaker, indiscernible.)
MR. BROSS: -- of ejaculation and all sorts of things. I mean, it's obscene and it's relevant to --
THE COURT: Mr. Bross, this is getting way too far afield. She stated that she looked at documents. You held documents up for the jury to see. Please, please move on.
MR. BROSS: And the State --
THE COURT: Please move on.
MR. BROSS: Huh.
THE COURT: That's all.
(Whereupon, before the Court and Jury.)
BY MR. BROSS:
Q. Ma'am, was part of the basis for your call looking at Riley's private journal?
A. Not the entire -- Not the entire journal -- but there was pieces from the journal that I looked at; yes.
Q. Was part of the basis of your phone call

1 looking at pictures that Riley drew?
2 A. Yes.
3 Q. Is part of the basis of your phone call was
4 11-24-39 FORCE from other jurisdictions?
5 A. Yes.
6 Q. Is part of the basis for your phone call
7 looking at the interviews of the child taken by
8 investigators in other states?
9 A. Yes.
10 Q. Is part of the basis for your phone call
11 looking at interviews of numerous other individuals,
12 including the father, the child and -- well, mainly,
13 those two -- their statements?
14 A. Would you ask me that question again, I'm
15 sorry?
16 Q. Was the basis for you making the phone call
17 looking at the interview of the child done by
18 investigators, and looking at the interview at the
19 father done by investigators in other states?
20 A. I don't think that I ever saw -- I don't think
21 that anybody in any other state interviewed the dad --
22 but in reading some of the transcripts and some of the
23 reports of his answers, it was based on that; yes.
24 Q. Okay. And also you looked at numerous
25 photographs [sic] that were drawn by Riley, correct?

A. I did.
MS. STEWART: I'm going to object.
MR. BROSS: Were they the -- this is for --
THE COURT: Okay, legal basis?
MS. STEWART: Well, did she see Riley draw them? Because otherwise, it's hearsay. She doesn't know who drew them.
BY MR. BROSS:
Q. Did you look at photos -- or pictures -- that you believed to be drawn by Riley?
A. I did.
Q. Did they bother or disturb you?
MS. STEWART: Objection, Your Honor.
THE COURT: Sustained.
BY MR. BROSS:
Q. Now, in the middle of your investigation of Mr. Michaud, you began your investigation in 2011; correct?
A. I think that's correct, yes.
Q. And in the middle of that investigation, did you see a picture of Riley posted by Mr. Michaud in 2014?
A. I did.
Q. Okay. Was there something about that picture

that concerned you?
A. Greatly.
Q. Okay. And I believe you said that there were words in the caption of the picture or associated with the picture, what would those words?
A. "Straight Pimped."
Q. And was the child posed suggestively?
A. Yes.
Q. Was the child sticking her leg out and showing some skin, if you will?
A. Yes.
Q. And this was posted by the father?
A. Yes.
Q. The man that you were investigating for allegedly sexually abusing?
A. Yes.
Q. And did this photograph that you posted during the middle of your investigation of him make -- confer -- or concern you or strengthen your belief that he was doing what he was accused of doing?
A. Yes.
Q. And, I believe --
THE COURT: Mr. Bross, excuse me, can you approach please, you and the State?
MR. BROSS: Yes.

(Whereupon, the following sidebar proceedings, out of the hearing of the Jury:)

THE COURT: Mr. Bross, please bear in mind that this is direct, not cross.

MR. BROSS: Yes, ma'am.

THE COURT: Every single question has been leading so far.

MR. BROSS: Yes, ma'am.

(Whereupon, before the Court and Jury.)

BY MR. BROSS:

Q. Do you recall how -- how did you say -- you made a call because -- the call you made to DCF was because of a photograph; correct?

A. Are we talking about 2014?

Q. Yes.

A. Yes, sir.

Q. And how was that photograph characterized the authorities?

MS. STEWART: Objection, Your Honor, hearsay.

MR. BROSS: It's already been --

THE COURT: Sustained.

MR. BROSS: She's already testified to it.

THE COURT: Sustained.

MR. BROSS: All right.
THE COURT: You've already --
MR. BROSS: Okay.
THE COURT: The objection is sustained. The question -- the form of the question posed --
MR. BROSS: It's still --
(More than one speaker, indiscernible.)
THE COURT: -- by the State. No, it doesn't.
BY MR. BROSS:
Q. Now, your understanding when you made the call, it was your understanding that it's a crime to falsely report the abuse; correct?
A. I did understand that, yes.
Q. Was it your understanding that it was a crime to use an anonymous name when -- or an alias -- when making a report?
A. No.
Q. Did you think it was a crime to use an anonymous profession when making a call?
A. No.
Q. Your understanding was that report itself, the substance of the report, that is that there is abusive crime, that is the part that you believed that if was

false, that was a crime; correct?
A. If that's false, that's a crime; yes. And I said: I need to report suspected abuse.
Q. And you were asked questions about investigations done by the Brevard County Sheriff's Office. Were you frustrated with the investigations, or alleged investigations, or non-investigations done by the Brevard County Sheriff's Office in this case?
A. Extremely.
Q. Okay. Is that something that you wrote about in your articles?
A. I think I did touch on it.
Q. Did you feel as though -- so, based upon your frustration with the lack of investigation, that's what prompted the phone call, is that what -- strike that.
What prompted the phone call?
A. The combination of all of the information. I had a nightmare on 28 April --
MS. STEWART: I'm going to object as to nonresponsive.
MR. BROSS: I ask it what prompted her to question -- to make the call, for her to tell the jury what --
THE COURT: Sustained. You asked her

what -- was she prompted by the phone call -- or did -- was the phone call prompted by her frustration with the BCSO?

MR. BROSS: And I withdrew that question and I said: What prompted the call? And I think she was telling the jury what prompted the call.

THE COURT: Yeah. And I think she just said she was frustrated by the -- fine.

MR. BROSS: Okay.

BY MR. BROSS:

Q. So, ma'am, what -- can you finish telling the jury what prompted the call?

A. I'd gone through all of the information. I went to bed on April 28th. I woke up on April 29th (crying) telling the whole truth is hard.

I woke up because I had wet my bed because I had a nightmare, that this little girl had hung herself. I reached out to --

MS. STEWART: Objection, Your Honor, as to relevance.

MR. BROSS: It's relevant why she made the call, Your Honor, absolutely relevant. First, objective state of mind is relevant.

THE COURT: Overruled. Her objective

state of mind is --

DIRECT EXAMINATION (Continued)

A. I had reached out to (crying) it wasn't (crying) and I saw the school resource officer. I said: Could you do me a favor, can you go check on this little girl?

He said: You need to call the Hotline, just call it anonymously.

MS. STEWART: Objection, Your Honor, hearsay.

THE COURT: Sustained.

A. That's why I made that call that day.

THE COURT: Ma'am, there's no question on the floor.

THE DEFENDANT: I'm sorry.

MR. BROSS: Thank you, ma'am. Thank you, ma'am.

MS. STEWART: Your Honor, may I please recross?

THE COURT: Yes.

FURTHER RECROSS EXAMINATION

BY MS. STEWART:

Q. The things that were sent to you from North Carolina was when Riley was living with the mother; correct? The North Carolina that you were talking

about?
A. I'm not --
Q. It was in Bunn (phonetic) North Carolina and Riley was living with her mother at that time; correct?
A. Yeah, I believe so.
Q. Okay, and that was in 2009; correct?
A. I wasn't sent that in 2009.
Q. The allegations were in 2009, correct?
A. I think they were in 2009.
Q. And then in 2011, Timothy Michaud gets full custody, correct?
MR. BROSS: That's outside the scope of cross [sic] we didn't talk about custody at all.
MS. STEWART: No, were talking about the --
(More than one speaker, indiscernible.)
MR. BROSS: We didn't talk at all about that in the cross [sic].
THE COURT: Sustained. Sustained.
MS. STEWART: It's going to the reports she was talking about, that were well before --
THE COURT: Right, based on the reports -- if it was included in the reports --

MR. BROSS: Your Honor didn't let me --
THE COURT: -- I have no idea what's in the reports.
MR. BROSS: Your Honor didn't let me get -- Your Honor did let me show her the reports or ask about the reports.
THE COURT: You --
MR. BROSS: You did not, you said --
THE COURT: Please approach the bench.
(Whereupon, the following sidebar proceedings, out of the hearing of the Jury:)
MS. STEWART: He got it in by saying drawings and, you know, it was a terrible --
MR. BROSS: Your Honor, we did not --
MS. STEWART: They are hearsay, they can't come in anyway.
THE COURT: Wait a minute, when you went down the entire list, you did a rather lengthy list of: Was this part of what prompted it?
Was this part of what prompted it?
And was this part of what prompted it?
And she said -- answered yes to every question.
And that is going to be discussed, the material that she had allegedly got from North

Carolina. So, I'm going to allow the question.
(Whereupon, before the Court and Jury.)
BY MS. STEWART:
Q. Again, the North Carolina investigation was in 2009; correct?
A. Yes.
Q. About the time you start your blog in the spring of 2011, you heard Mr. Michaud say that he got full custody of Riley in April 2011; correct?
A. I heard him say that today.
Q. Yes. And in 2014, is when you made the first call to the DCF Hotline; correct?
A. Based on the picture?
Q. Uh-huh.
A. Yes.
Q. And then 2015 is why we're here today; correct?
A. Yes. The only thing -- can I clarify something about --
MS. STEWART: I have nothing further, Your Honor.
THE COURT: All right, thank you.
Ms. Loyd, you may retake your seat at the Counsel table. Thank you, ma'am.
All right, I think were going to --

DEFENSE RESTS

MR. BROSS: Your Honor, the Defense rests.

THE COURT: Thank you. Thank you, for reminded me of that. All right, thank you.

Folks, why don't we take an early lunch hour. And why don't you come back, however --

THE CLERK: It's got to be a magic time like yesterday.

THE COURT: Oh, it's always a magic time. Why don't you come back -- we could do -- since it's 11:34, let's say now, if you came back by 1:00, then each side can do closing. And we don't have anything on the docket for one o'clock or for 1:15 today, that's why we have this luxury.

And then -- wait a minute -- no, because we still have to -- yes, if you -- if you come back at 1:15, we will try and have you in here by 1:20. Because it doesn't take as long to move seven of you around as it does the 30. Thank you.

All right. And please do be mindful and don't allow anything to influence you at this point because we are a long ways down the road.

COURT DEPUTY: All rise for the jury.

(Whereupon, the Court is in recess.)

VID #539

(Whereupon, Jury out.)

CHARGE CONFERENCE

THE COURT: All right, folks. The record should reflect the jury is up and the door is closed. Counsel, let's go through the jury instructions. I don't know that there's going to be a lot to redo at this point because --

MR. BROSS: Your Honor, I would ask, based upon the Defendant's testimony, ask for an instruction on good faith immunity even though -- even though we withdrew ours stand your ground motion -- I believe that the statute does provide for good faith immunity.

And I believe it would be proper to put in the instructions that -- an instruction that's consistent with the good faith immunity that, if you believed that based upon the facts and circumstances -- and Ms. Loyd was acting in good faith in making the call -- that she be immune from prosecution.

THE COURT: Ms. Stewart or Mr. Sander?

MS. STEWART: It is not a crime, if, at the time of the making of the report of child abuse, abandonment or neglect, Dana Loyd was acting in good faith. It's in the instructions.

THE COURT: It's in the instructions, Mr. Bross.

MR. BROSS: Well, I -- but I --

MS. STEWART: And there's no -- immunity is no liability -- it's not from prosecution, if you read the statute.

MR. BROSS: Okay. Well, I believe that it would be proper to put it in there.

THE COURT: Mr. Bross, insofar as it is already stated in the third -- if you want to call it two lines a paragraph -- there are two lines, two lines and the fifth and sixth line of the instruction on the charge is, quote:

"It is not a crime, if, at the time of making the report of child abuse, abandonment or neglect, Dana Lynn Loyd was acting in good faith."

So, that's how I will read it.

MR. BROSS: All right. Thank you, Your Honor.

THE COURT: I will deny any further instruction than that, than the standard.

MR. BROSS: Thank you, Your Honor.

THE COURT: Okay, all right. Let's start with -- I presume no one has any objection to closing argument, introduction, statement of charge.

Mr. Sendra, you did add the definition of false report and it is on top, right under the definition of child. So, Mr. Bross, Ms. Burgess, have you reviewed this?

MR. BROSS: Yes.

THE COURT: All right. Any objection to this instruction, other than the -- your previous request -- which we have addressed?

MR. BROSS: No, Your Honor.

THE COURT: All right. So you accept this instruction as it is?

MR. BROSS: Yes, Your Honor.

THE COURT: All right. Then plea of not guilty and reasonable doubt, burden of proof is that -- is everyone on the same page with that?

MR. BROSS: Yes, Your Honor.

THE COURT: No objection?

Mr. Bross, do you have an objection to

the standard instruction, plea of not guilty, reasonable doubt and burden of proof?

MR. BROSS: No, no, Your Honor. I'm sorry, I thought -- I thought I had answered that.

THE COURT: That's what I was asking about.

Okay. Weighing the evidence are there some of the 10 that need to be stricken?

MR. BROSS: I don't believe we had any expert witnesses in this case.

THE COURT: All right.

(1) Did the witness seem to have an opportunity to see and to know the things about which they testified?

Did the witness seem to have an accurate memory? That's number (2).

(3) Was the witness honest and straightforward?

(4) Did the witness have some --

MR. BROSS: Wait, number (9) leave (9) out.

THE COURT: All right. Ms. Stewart, Mr. Sendra; any objection?

MS. STEWART: I think (6) through (10)

need to come out -- I mean -- yeah, (6) through (10).

MR. BROSS: I actually agree, except I think number (8) could stay in, but I think (7) (9) and 10 I agree.

THE COURT: Was there any impeachment?

MS. STEWART: There was no impeachment.

THE COURT: There was no impeachment, Mr. Bross. No one was ever impeached with anything.

You handed Agent Fischer a document and said: Didn't you say this happened on April the 29th?

And he said: No, sir; the date on this report is July 14th.

And then you said: Oh, okay.

And then left the document up there and had to retrieve it when he was being redirected, as I recall.

MR. BROSS: That's fine, Your Honor.

THE COURT: Okay. So, you are in agreement that (6) through (10) come out?

MR. BROSS: Yes.

THE COURT: All right. Mr. Sendra, I see you've got your finger on the button there,

so you can take that out.
MR. SENDRA: I'm working on it.
THE COURT: Okay, thank you.
MR. SENDRA: Obviously the Defendant becoming a witness stays in?
THE COURT: Right, that comes in. And then it looks like you may have highlighted it.
MS. STEWART: It won't be on the final.
THE COURT: Right, you'll take it --
MR. SENDRA: It won't be highlighted, it will just be --
THE COURT: You'll de-highlight -- right -- you were doing that as a play folder.
MR. SENDRA: It was just to make it easier for me at this point.
THE COURT: Right, no worries.
MR. SENDRA: And I believe the next page --
THE COURT: Okay. So, obviously we take out Defendant not testifying.
All right, and what about statements? Does anybody feel that this is a necessary -- oh, well --
MS. STEWART: I think that anytime a defendant talks to law enforcement, it should

probably stay in.
MR. BROSS: I agree. I agree.
THE COURT: Okay, thank you.
All right. Rules for deliberation, any standard -- any -- any objection as to that?
MR. BROSS: No, Your Honor.
THE COURT: Okay. Cautionary instruction, any objection?
MR. BROSS: No, Your Honor.
THE COURT: Okay, all two and-a-half lines of that?
MR. BROSS: No, Your Honor.
THE COURT: Okay, and verdict?
MR. BROSS: No, Your Honor.
THE COURT: All right. The verdict itself, guilty or not guilty, there are no -- there appears to be no lessers.
MR. BROSS: On the -- isn't there -- I thought there was a lesser. All right, I guess I mis -- I guess I was wrong, apologize, Judge.
THE COURT: All right. So, you're not requesting sort of lesser; correct?
MR. BROSS: Well, I -- I'm -- if I -- if, I guess, during the break I find a lesser, I will write it up and bring it, but a lesser,

I can't find it at this moment.

MS. STEWART: Well, there's no standard instruction, so there's no lesser.

THE COURT: Right, it's category one and category two type lessers.

MS. STEWART: Right.

MR. BROSS: But I think there is a lesser, and I can tell the Court were I think it will be in one second.

(Whereupon, Defense Counsel discussion.)

MR. BROSS: Your Honor, I withdraw the request unless I get the information, I don't want to --

THE COURT: Okay, okay. And then the verdict form. You said you have no objection to that, correct?

MR. BROSS: Well, I think not guilty should be on top, but I always think that.

THE COURT: Well, the -- the -- I thought that in the past myself and --

MR. BROSS: I wonder when.

THE COURT: However, the -- the instructions here say --

MR. BROSS: I know that the Florida Supreme Court said --

THE COURT: -- the person must be -- you should convict the Defendant of the highest crime that has been proved by the State or -- you should find the Defendant guilty of the highest crime that has been proved by the State or not guilty.

MR. BROSS: Right. I understand, Your Honor, I understand.

THE COURT: Or something along that line.

MR. BROSS: I understand. But I think because the Defendant is presumed innocent, I think that comes -- should come first.

THE COURT: I do not disagree with that. But the Florida Supreme Court says it's not there.

MR. BROSS: I understand, that makes sense.

THE COURT: So, we're going with them.

MS. STEWART: So, submitting the case to the jury, is that where were at?

THE COURT: I'm going to follow and get out of the -- stay out of the way -- of the Florida Supreme Court.

MS. STEWART: Yes.

THE COURT: Okay, this is not the time to be a leader.
MR. BROSS: Yes, ma'am.
THE COURT: All right, submitting the --
MR. BROSS: No objection.
THE COURT: What about the -- there's one highlighted on the exhibits.
MS. STEWART: That's in case you want to say that to them, right. It just says --
MR. SENDRA: And the issue is, they're really not going to ask for -- they're going to get probably the documentary exhibits to go with them -- but the audio --
THE COURT: Right, there's the audio there that would have to be played.
MR. BROSS: Well, I think you have to -- I think you have give both -- both of them.
MS. STEWART: Yeah, you have to give --
MR. SENDRA: Both of them will be applicable.
THE COURT: Right.
MR. BROSS: Well, to hear -- I guess it will be to hear.
THE COURT: So, if you wish to see or hear any digital exhibit?

MR. BROSS: Yes.
THE COURT: How about that?
MR. BROSS: Yes.
THE COURT: I think that's what we've used in the past.
MR. SENDRA: If you wish to see or hear?
MS. STEWART: No, just hear because --
THE COURT: If you wish to see -- or well, there's no seeing, right?
MS. STEWART: Right.
THE COURT: Okay, so it's just --
MR. BROSS: Well, they can look at it.
THE COURT: Yep, there it is. That's a CD all right. Okay.
MR. SENDRA: If you wish to hear any exhibit, please request that in writing?
THE COURT: Okay, that's perfect.
MR. SENDRA: Is that what you want?
THE COURT: If you wish to hear --
MR. BROSS: If there's any digital exhibit; is that what you said, Your Honor?
THE COURT: Yes.
MR. BROSS: All right.
THE COURT: If you wish to hear any digital exhibit, please request that in

writing. Because I think there were two, right?

MR. SENDRA: Correct.

THE COURT: And instructions on discharge, are we good?

MR. BROSS: Yes.

THE COURT: Okay, the standard. Alrighty.

MR. SENDRA: And I will email them to everybody.

THE COURT: All right, thank you very much. Will it be only those pages or a whole new batch?

MR. SENDRA: No, it will be a clean copy, it's a Word document.

THE COURT: Oh, okay. That's right, okay.

And, Ms. Loyd, may I ask you whether you have given any -- given either Mr. Bross or Ms. Burgess -- permission to concede guilt any way during closing?

THE DEFENDANT: (No audible response.)

MR. BROSS: I guess, during closing argument, I can say if I choose, that we don't excuse that you are, in fact, the one who made

the call.

But if I do that without your permission, that would indicate this for a 3.50 motion or some other motion.

So, she's asking you if it's okay, if I choose to -- which I may or may not do -- okay, there we are not excusing that you made the phone call. So, she saying is it okay if I concede that you made phone call.

THE COURT: Right, are you -- are you -- have you allowed -- are you in favor or allowing -- giving your attorney permission to concede any aspect of what may be perceived as guilt in this situation?

MR. BROSS: If I choose to do so, if I choose to.

THE DEFENDANT: I do.

THE COURT: Okay.

THE DEFENDANT: Is that my answer?

THE COURT: Yes, thank you.

MR. BROSS: And I may or may not do it.

THE COURT: All right. Then you do, if he finds it appropriate, then he may. Is what you are saying?

THE DEFENDANT: Okay.

THE COURT: Okay. And it's not -- I'm asking you. I'm not telling you, I'm asking you.

THE DEFENDANT: Yes, okay.

THE COURT: Okay, all right. Then we will see you all at 1:15. I think we've got it all squared away, right?

Is there any -- is there anything else that I've neglected? The defenses rested and we've got --

(Whereupon, State Counsel discussion.)

THE COURT: Let's -- before we come back at 1:15, folks -- can we talk for just a moment?

MR. BROSS: Sure.

THE COURT: How long do you anticipate for closing?

(Whereupon, disturbance in gallery.)

COURT DEPUTY: Court is still in session, please.

VOICE: I'm sorry.

COURT DEPUTY: Thank you.

MR. SENDRA: I'm thinking maybe an hour total.

THE COURT: You mean total, as in --

MR. SENDRA: The initial -- no, for us -- for us.

THE COURT: But not -- I got -- I want to tell you, in the past before, when someone else said to me that it would be two hours total. And I said: Okay. Then an hour for you and an hour for you.

And no, I think what he meant was two hours for him. Oh, okay.

MR. SENDRA: It's just an approximation. I believe Ms. Stewart and I are going to split the closing.

THE COURT: Okay. So, an hour?

MR. SENDRA: I believe about an hour.

THE COURT: All right, is that --

MR. SENDRA: But it's an estimate not --

THE COURT: Right. I'm not trying to set a hard deadline.

MR. SENDRA: I know, I'm just letting the Court know.

THE COURT: I'm just trying to get a general idea.

Okay. And, Mr. Bross, are you an agreement --

MR. BROSS: If I go --

THE COURT: -- with that?
MR. BROSS: If I go close to an hour, please throw something at me.
THE COURT: Okay, all right. Thank you.
All right, folks, we will see you all at 1:15. Well, I could've told you at 1:30 -- I mean, at one o'clock -- but oh, well.
MR. SENDRA: I just emailed the instructions to everybody.
THE COURT: Thank you very much. All right, we are in recess until 1:15. Thank you very much, Mr. Sendra, for doing this. We are all ready to go.
(Whereupon, the Court is in recess.)
VID #540
THE COURT: Good afternoon, everyone.
And you all have shown that to Mr. Sendra in Ms. Stewart?
MR. BROSS: Yes, Your Honor. I'm going to show it after its construction.
THE COURT: Okay.
MS. BURGESS: It's off of the jury instructions.
THE COURT: Okay. Is the jury downstairs?

COURT DEPUTY: They're on their way up, Your Honor.
THE COURT: Oh, we're missing a key player.
COURT DEPUTY: Do you want me to hold off on them until she appears?
THE COURT: Yes. We can't do anything without Madam Clerk.
Something's dangling there, Mr. Bross, on the back.
MR. BROSS: Oh, I didn't --
THE COURT: You've got a hanging chad.
MR. BROSS: I know, right?
THE COURT: Yeah.
MR. BROSS: Oh, Your Honor, the Defense requests --reports the instruction, that under Florida Statute 39.20 -- I'm sorry, under 39.201 Florida Statutes -- the Defense is requesting the instruction that under Florida law, all citizens are required to report child abuse, sexual abuse, et cetera.
THE COURT: Do you have any case law to back that up?
MR. BROSS: I was looking for something --

THE COURT: Any legal authority?
MR. BROSS: Well, it's a brand -- it's new statute -- well, it's a relatively new statute.
THE COURT: Okay, well --
MR. BROSS: But under Florida Statute --
THE COURT: There is a really strange thing called Google --
MR. BROSS: Yeah. Yes, I've seen it.
THE COURT: -- that, unless you've been under a rock for the last 15 years, you would probably know about it.
MR. BROSS: Yes, ma'am.
THE COURT: And you probably know about it better than I do.
MR. BROSS: Yes ma'am.
(Whereupon, Defense Counsel discussion.)
THE COURT: All right, they're ready?
COURT DEPUTY: Yes ma'am.
THE COURT: The jurors are ready.
(Whereupon, Defense/State Counsel discussion.)
THE COURT: Oh, one quick second. Oh, now, I see we have a key player here. We were waiting on our key player. We need to take out

"key-woman" insurance on you, Madam Clerk.

All right. Ms. Stewart and Mr. Sander, have you all had an opportunity to review the demonstrative exhibit of Counsel?

MR. SENDRA: Yes.

THE COURT: All right.

MS. STEWART: No objection.

MR. SENDRA: They follow the jury instructions.

THE COURT: Okay, all right. Alrighty, is everyone ready to proceed?

MR. BROSS: Yes, Your Honor.

THE COURT: All right. Then let's bring the jury in, and we've only missed it by six minutes.

COURT DEPUTY: It will be a minute.

THE COURT: See, six minutes ago nobody would have been in the restroom.

I'll do the preliminaries. Were back on the record in the State v. Dana Lynn Loyd, 2015-CF-39871. Ms. Loyd is present with Counsel, Ms. Burgess and Mr. broad spirit and the State is also present, represented by Ms. Stewart and Mr. Sendra. And we are waiting for the jurors to come in.

1 COURT DEPUTY: All arise for the jury.
2 (Whereupon, before the Court and Jury.)
3 THE COURT: Good afternoon, folks,
4 please have a seat.
5 Did anything occur over the noon recess
6 that would impair your ability to be fair and
7 impartial in any way?
8 THE JURY: (Responded Negatively.)
9 THE COURT: All right, thank you. Then
10 let me begin with: Folks, both the State and
11 the Defendant have now rested their cases. The
12 attorneys will now -- now will present their
13 closing -- their final arguments.
14 Please remember that what the attorneys
15 say is not evidence or is it your instruction
16 on the law. However, do listen closely to
17 their arguments, they are intended to aid you
18 in understanding the case.
19 Each side will have equal time, but the
20 State is entitled to divide this time between
21 an opening and a rebuttal argument after the
22 Defense has given their closing -- their
23 closing argument.
24 And, Mr. Sendra, you are standing?
25 MR. SENDRA: I am.

THE COURT: Would you like to begin?
MR. SENDRA: I would, Judge.
THE COURT: Thank you.
MR. SENDRA: May it please the Court and Counsel.
STATE'S CLOSING ARGUMENT
MR. SENDRA: I want to start by playing the recording for you again, because I know that it was a little while ago that you heard it, of the intake call.
(Whereupon, State's Exhibit 2 was republished to the jury.)
HOTLINE: I'm sorry.
CALLER: Theresa.
HOTLINE: And your last name?
CALLER: Smith.
HOTLINE: And your current phone number please?
CALLER: I don't want to leave a number.
HOTLINE: Okay. Go ahead and tell me about your concerns today.
CALLER: I am a substitute teacher and I was substituting at a school in Brevard County, Florida. The name of the school was Quest Elementary.

There's a little girl who is in the sixth grade and her name is Riley, Riley Michaud.

HOTLINE: How do I spell that?

CALLER: I think it's M-A-C-H-A-D-D [sic].

HOTLINE: Okay.

CALLER: I overheard a conversation that her father shaves her legs and he forces her to have sex with him.

HOTLINE: Okay. And when did she make these -- When were those comments made?

CALLER: On Tuesday.

HOTLINE: Okay. And is there any more details about what's going on?

CALLER: No.

HOTLINE: Okay. And with the information that you overheard, do you know if the incidents are ongoing or was it past incidents?

CALLER: Oh, she -- it was -- it was a comment made about, she's only (clears throat) allowed to (clears throat) her father says how much she can weigh and the little girl looks terrible.

HOTLINE: And when you say "terrible" can you tell us what that means?

CALLER: She looks malnourished, she looks just unhealthy and very stressed. I would guess that she weighs -- I don't know, maybe 50 or 55 pounds -- and she's going to be 12.

HOTLINE: And you say that the father restricts her weight?

CALLER: Yes. She had some soup for lunch, and that was it.

HOTLINE: Okay. And do you know why he does that or what --

CALLER: Why he --

(More than one speaker, indiscernible.)

HOTLINE: And then did she give like any kind of -- any more information about the sexual abuse, that -- do you know, if it was something in the past that she was reporting, something that happened in the past, or is it something that is currently going on now?

CALLER: The way I understood it, it's been happening for a long time, and it's currently happening.

HOTLINE: Okay. And did she give any

more details as to how long it's possibly been going on?

CALLER: Not that I can recall, no.

HOTLINE: Okay. And what is the father's name?

CALLER: Tim.

HOTLINE: And is that short for Timothy?

CALLER: Yes.

HOTLINE: And the same last name as the child, or does he have a different last name?

CALLER: The same last name.

HOTLINE: And what is the -- do you know what -- do you know the child's birth date?

CALLER: I think she's going to be 12 in December.

HOTLINE: And what is it like in the family?

CALLER: They are like --

HOTLINE: Does the child seem to have any disabilities like a hearing impairment?

CALLER: No.

HOTLINE: And do you know if there is a mother in the home?

CALLER: No.

HOTLINE: Okay. And how would you

1 describe the child's general behaviors at
2 school and how she interacts with others, other
3 children?
4 CALLER: Very standoffish, she hasn't --
5 she only has one little friend.
6 HOTLINE: You said she's very
7 standoffish and it appears she only has how
8 many friends?
9 CALLER: One. Now, that's not a happy
10 -- not a happy child which, you know, sometimes
11 I think she's (indiscernible) around the corner
12 and is just -- just not a happy child, it's
13 like she -- it looks like she has the weight of
14 the world on her shoulders.
15 HOTLINE: Okay, okay. And do you know
16 if there are any other children or adults
17 residing in the home besides the father?
18 CALLER: No, I do not know.
19 HOTLINE: And in her past, do you know
20 what type of --
21 CALLER: Well, I just interpreted --
22 HOTLINE: What kind of father does she
23 have, has she expressed how they interact?
24 CALLER: No. Included in the
25 conversation that I heard that he -- she's his

wife now.
HOTLINE: She stated that -- what did she say?
CALLER: That she's her dad's -- she's her dad's wife now.
HOTLINE: She said that she is her dad's wife?
CALLER: Yes.
HOTLINE: Okay, and has she -- did she express how she's with the plan or any -- if she doesn't comply with his restrictions with the weight?
CALLER: She doesn't get food and she's locked in her room.
HOTLINE: Okay. And do you know how long she's locked in a room for?
CALLER: No.
HOTLINE: Okay. And what is their home address?
CALLER: That, I don't know. I know that they live in Viera.
HOTLINE: Do you have a phone number for them?
CALLER: No, I do not.
HOTLINE: Do you know where Riley is

right now?
CALLER: She should be in school. She was in school yesterday.
HOTLINE: Do you know where she will possibly be for the next 24 hours?
CALLER: I'm not -- I know she plays soccer, but I don't know her soccer schedule for the practice schedule.
HOTLINE: Okay.
CALLER: I don't know where she goes after school.
HOTLINE: Okay. And is there anyone else who is aware of the information you have reported today?
CALLER: When I talked to a couple of different teachers, they were aware of it. But I guess they just didn't want to talk about it.
HOTLINE: What are -- do you have those teachers' names?
CALLER: No.
HOTLINE: Okay. And just to inform you, you are a legally mandated reporter. Your information is kept confidential by law. And we are -- and you are required to provide your name and phone number for a contact.

CALLER: I'll leave you my name -- I'm not -- I can't -- I can't -- I would have to -- I'm a substitute teacher here.

HOTLINE: What is the school's phone number?

CALLER: That, I don't know. I get called by a machine.

HOTLINE: Okay. And do you know if anyone in the home has any disabilities, hearing impairment or limiting disability?

CALLER: No.

HOTLINE: Okay. Based on the information that you have provided today, we will go ahead and generate a report for an investigation. Let me give you my name and ID number.

CALLER: Okay.

HOTLINE: My name is Shamira, that is spelled S-H-A-M-I-R-A; and my ID number is 283. And what time does the school dismiss today?

CALLER: 2:40.

HOTLINE: I'm sorry?

CALLER: At 2:40.

HOTLINE: Okay, all right. Thank you for providing the information and I hope that

you have a great day.

(Whereupon, Publication of State's Exhibit 2 concluded.)

MR. SENDRA: They have their own agenda. Remember we talked about it in an opening -- or in jury selection -- Ms. Stewart discussed it with some of the jurors, as well as Mr. Bross.

Well, the only agenda here in this case is Ms. Loyd continually harassing Mr. Michaud. You heard her on the stand today, she admitted she placed that called on April 29th of 2015; which Ms. Stewart and I presented the witnesses to prove that, and then the Defendant confirmed that she made that call when she took the stand.

And unfortunately for Ms. Loyd, when all of this started caller ID existed and the Hotline had it. So, we had the phone number.

Agent Fischer obtained the records from AT&T, he told you, through a subpoena. And when he got those records back, it had information regarding Ms. Loyd and this call being placed.

Now, what were Ms. Stewart and I, as representatives of the State, required to prove

1 to you over the last four days here?
2 We were required to prove to you -- and
3 the Judge is going to give you this instruction
4 after both parties get their opportunity to
5 speak to you -- that we had to prove to you
6 beyond a reasonable doubt that the Defendant,
7 Dana Loyd, knowingly and willfully made a false
8 report of child abuse, abandonment or neglect.
9 We know Dana Loyd did it, you heard the
10 call. You heard Agent Fischer's interview with
11 her, where she admits it's her phone number and
12 says she's sorry for what she did, "I'm not
13 making any excuses."
14 And then you heard her take the stand
15 today and tell you that she made the call. So,
16 the identity of the person is not an issue in
17 this case.
18 Now, you're going to -- whether the
19 report deals with child abuse, abandonment or
20 neglect, you're going to get definitions.
21 And those definitions will tell you that
22 child abuse encompasses sexual abuse, and
23 that's the heart of what's reported in this
24 case. And you just heard the phone call. "I'm
25 reporting suspected sexual abuse of a child."

1 You don't have to look any further in terms of
2 that.
3 So, what are we left with?
4 We are left with the definition of false
5 report. False report means a report of abuse,
6 neglect or abandonment of a child to the
7 Central Abuse Hotline.
8 And you know there was a call to the
9 Hotline in this case because you've heard it.
10 Ms. Loyd admitted she made it, so we have
11 already met that.
12 Which report is maliciously made for the
13 purpose of, and you have four choices:
14 Harassing, embarrassing or harming another
15 person.
16 The evidence shows that this call was
17 made to harass and embarrass Mr. Michaud, and
18 it was maliciously made by the Defendant.
19 You heard during the testimony that she
20 had called DCF on Mr. Michaud in 2014. She
21 wasn't satisfied with the outcome of that
22 investigation, and so then we end up with this
23 call in 2015, where she is now making up
24 tremendous lies.
25 Listen to the content of that statement.

1 Listen to what she said she overheard, which
2 she couldn't have. And we know that from all
3 of the other witnesses that the State
4 presented.
5 You heard from Theresa Smith, who was
6 the only active Theresa Smith substitute
7 teacher in Brevard County at the time, that she
8 didn't make this call and that she didn't teach
9 at that school at that time. And you heard
10 from Agent Fischer and the Defendant in this
11 case.
12 Malicious, that's what we're going to
13 talk about, harassing and embarrassing. Mr.
14 Michaud told you it was embarrassing to him.
15 He's had these allegations against him for a
16 long time. A lot of people have interviewed
17 him and Riley, a lot.
18 And Ms. Loyd was aware of that. She
19 told you about the other investigations.
20 You've heard that the child was interviewed by
21 multiple child psychologists, multiple agents
22 with DCF and multiple agents with various
23 police departments.
24 Not one allegation has ever been proven
25 founded against Mr. Michaud, never. Since

1 2009, there has never been one founded
2 allegation against him.
3 Yet Ms. Loyd continues to glom onto this
4 situation and remain obsessed with Mr. Michaud.
5 And continues to propagate the harassment
6 that's happened to him for the last seven or
7 eight years of his life.
8 She told you she wrote articles. You've
9 heard from the other witnesses that she's
10 written articles about Mr. Michaud and the
11 family. They started back when her blog
12 started in 2011.
13 And we've heard since then that there's
14 been two calls to DCF that Ms. Loyd is
15 responsible for. At some point, the only
16 reason you can be calling is to harass that
17 person or to embarrass them.
18 She wants you to believe that she cares
19 about this child. But the problem with that
20 logic is, she wants you to completely ignore
21 the fact that no matter what anybody has done
22 in this case over the last eight years with
23 this child, that they are wrong. That
24 qualified professionals in every instance are
25 wrong, that's what she wants you to believe

1 today.
2 She reported once in 2014, she didn't
3 like that. And then we get to 2015 and we are
4 here again. And that's why we're here today,
5 the 2015 call, because she didn't like what
6 happened in 2014.
7 She didn't like the fact that there was
8 a court order that the child couldn't be talked
9 to, or could not be talked to without leave of
10 court. Because it has been determined that it
11 is detrimental to continue talking to this
12 family about the unfounded allegations over and
13 over and over.
14 And yet she continues to post articles
15 about this family and put out there for
16 everybody to see, that this father is
17 supposedly raping or sexually abusing his
18 daughter. It's harassment and it's
19 embarrassing, and there's no other intent she
20 could have had when she placed that phone call.
21 Maybe when she placed a phone call in
22 2014, it wasn't malicious. But when you do it
23 again after the child has been interviewed and
24 it's proven unfounded, it's malicious. It is
25 malicious at that point.

She wants you to believe that this is a legitimate news story. Reporters report facts. She's not reporting facts, because the facts of this case are that this child has never been sexually abused; ever.

That's not reporting, that's editorializing your own comments and beliefs about the case, and not looking at the objective facts. And that's what she wants you to do. That's what she's asking you to do.

Listen to all of the other witnesses that testified, you heard from Mr. Brooks. Mr. Brooks told you he did the background on the family. He was aware of the prior allegations and the Court order.

He went to the school. He observed the child. The child appeared normal to him. He had been doing this for at least three years and had been involved in many investigations.

You heard from the school principal -- or the assistant principal, I'm sorry -- Ms. Sorokin. The child was normal, a little quiet but normal. She didn't see any problems with nourishment. And she's in contact with children every single day of her life in the

1 school system.
2 You heard from Ms. Christiansen, that
3 she called Ms. Loyd. And you have the phone
4 records, it's in there. Ms. Loyd called the
5 Hotline, we know the number. It's her phone
6 number that called.
7 And we have the number going back to her
8 later on that day. And it's two calls, and
9 they are highlighted that are the ones that
10 we're talking about with Ms. Christiansen.
11 So, you heard from Ms. Christiansen what
12 the reporting procedures are and how they go
13 about their investigations when they receive a
14 report.
15 Okay. The report comes from the
16 Hotline. You heard that Mr. Brooks and Ms.
17 Christiansen received that report in this case.
18 It was forwarded to Brevard because Brevard was
19 the location of the allegation.
20 And they then did their preliminary
21 background and they kind of split up and did
22 different things on the case.
23 Mr. Brooks went to the school, because
24 they wanted to see this child before dismissal.
25 That's what he told you.

1 And Ms. Christiansen started looking
2 into some of the other issues, because when Mr.
3 Brooks got to the school, he learned that there
4 were no subs. There were no subs for Riley in
5 the last two days.
6 Listen to the call. I suspect they're
7 going to tell you the caller never says what
8 Tuesday, or Ms. Loyd never said which Tuesday
9 she overheard this conversation. But it's
10 pretty clear that we are talking about Tuesday,
11 as in the day before this call was made.
12 So, she's not a substitute teacher. And
13 she hasn't been for years, based on her own
14 statement; which also proves she wasn't in the
15 school that day.
16 And why do you go about all of the false
17 statements or lies that are in that call?
18 To cover up your identity, because you
19 don't want to be found out that you're making
20 this report of abuse.
21 And because you know it's going to
22 garner an immediate response from DCF and
23 police. And it's going to continue to harass
24 and embarrass Mr. Michaud. And that's the only
25 intent that she could have had at that point.

At some point, you're not trying to help the child anymore. And she had plenty of information prior to making this call to say that: There's no need for me to do this; and she did it anyway.

She listened to that warning and it's a minute and-a-half long -- or a minute -- on the DCF Hotline. That says it's a felony to do this. It's a felony to false report.

She had no facts that said this was true. She had never met the child, remember?

Her own words, "I've never met the child."

It's in the interview with Detective Fischer.

And she may or may not have met the mother, but that was cleared up on cross examination, when Ms. Stewart had asked Ms. Loyd if she knew Ms. Casey. And she finally admitted that she did.

So, let's look at it. She lies on the call. She lies to Agent Fischer initially. Agent Fischer has to confront her with the phone call. She tries to deny that it's her voice.

1 And then when he confronts her and says:
2 That's you, Dana. That's you on the call.
3 And she tries to say: No, it's not.
4 And then he says: Well, I have the
5 phone number that it came from.
6 And then she admits it's her phone
7 number.
8 You heard from Ms. Christiansen that,
9 when she talked to Ms. Loyd, Ms. Loyd said
10 nobody had access to her phone during that
11 timeframe. And that's important because she's
12 the one that made the call, which she told you
13 on the stand that she did.
14 So, listen to what's corroborated here.
15 And you've got the job for the witnesses,
16 that's totally up to you. Whether you believe
17 people, whether you believe part of what they
18 said or that you believe everything that they
19 said, that's totally up to you as jurors, that
20 your job.
21 And you will get an instruction that's
22 called weighing the evidence, and you will get
23 to decide. And there's factors, the Court will
24 give you factors:
25 Did the witness seem to have the

1 opportunity to see or to know the things about
2 which the witness testified?
3 I would argue to you that all of the
4 witnesses that the State put forward clearly
5 did. Ms. Loyd didn't. She's the only person
6 that lied about everything in this case.
7 Everything that --
8 MR. BROSS: Objection, Your Honor. I
9 mean, it's an improper -- the objection
10 (trailing off).
11 MR. SENDRA: I'm sorry?
12 MR. BROSS: Judge, I object to the
13 statement that the State just made regarding
14 how Ms. Loyd testified.
15 THE COURT: All right. The objection is
16 overruled.
17 MR. SENDRA: You get to make the
18 decision. You get to decide. You heard the
19 testimony. You get to listen to the audio
20 recordings, if you choose to, the Judge will
21 tell you that. You can ask for all of them
22 again after you go back into the jury room.
23 The evidence before you in the case says
24 Ms. Loyd is the only person that could have
25 seen or known the things about which she was

saying, but she wasn't there. She was not there when she says she was. She had never met Riley and she never overheard it.

And you get to treat her like any other witness. Because the instructions will tell you that she has become a witness in this case, you get to apply the same rules to her as everyone else; okay?

Did the witness seem to have an accurate memory?

That's your call. I would suggest to you that all of the State's witnesses seemed pretty straightforward. And when you look at their testimony in totality, it lines up.

When you look at what Ms. Loyd testified to on the stand when Ms. Stewart asked her questions, very simple questions, about what documents she had and things like that: Have you ever met the child?

I'm not sure how accurate that was considering there were a lot of them. I'm not sure, and I don't know. But was it honest and straightforward? Again, that's your decision.

Did the witness have some interest in the case?

1 That's also your decision.
2 Does the testimony agree with the other
3 testimony and evidence in the case?
4 This is a big one. Obviously you
5 understand Ms. Stewart's and my position is
6 that the evidence the State put forward agrees
7 with each other.
8 Ms. Sorokin told you about what happened
9 that day when a response happened. And I
10 believe there were -- I believe that the
11 response was actually the same for Ms. Sorokin
12 and Mr. Brooks as to how close they were when
13 they observed the child. I believe it was from
14 the witness stand to the podium, both people
15 said that.
16 So, you get to decide what agrees and
17 what disagrees. And from the State's point of
18 view, the only thing that disagrees in this
19 case is everything Ms. Loyd did.
20 You have rules for deliberation which
21 they are important. And we talked a little bit
22 about this during jury selection. I don't
23 remember the example Ms. Stewart gave, but I
24 think it was a chocolate, the chocolate with
25 the wrapper.

1 A stupid example, right? But there's a
2 reason, there is a reason for it. And the
3 reason is you also said where you legislate
4 when we talked about this in jury selection,
5 and it's not from the courtroom.
6 We're asking that you follow the law and
7 the law says that you are not to -- your
8 verdict must be unanimous. There's eight
9 things here, okay?
10 But it also says that you are not
11 supposed to make this decision because you feel
12 bad for anyone or sorry for them or are angry
13 at them.
14 You should not feel sorry for Ms. Loyd.
15 She lied to you throughout this entire process
16 and the evidence proves that. The evidence
17 proves everything on that call was a lie.
18 Finally at the end, we're going to ask
19 -- and you get a verdict form and the Judge
20 will give this to you:
21 We, the jury, find as follows, as to
22 Count 1-- there's only one count in this
23 case -- check only one. You can only have one
24 and it's got to be unanimous.
25 The Defendant, Dana Loyd, is guilty of

1 false report of child abuse, abandonment or
2 neglect.
3 Or the Defendant, Ms. Loyd, is not
4 guilty.
5 And it will be signed by the foreperson.
6 The Judge will tell you that it's like a
7 business meeting, you get to pick a foreperson
8 to preside everything and you go from there.
9 So, back to what we had to prove in
10 false report.
11 Maliciously made for the purpose of
12 harassing or embarrassing or harming another
13 person.
14 With the lies that are on that call,
15 there's no way that intent could be anything
16 other than to harass or embarrass Mr. Michaud.
17 And armed with all of the information
18 that she had, she still chose to go with her
19 personal belief, that this child was in danger.
20 And that's just not the case, and all the
21 evidence says it's not the case.
22 Harass or embarrass. I suspect they're
23 going to get up and tell you Ms. Loyd told you
24 she did this out of concern for the child. I
25 think that argument probably would have flown

in 2014, the first call she admitted to making.

I don't know how you can do that again in 2015 with all the lies that are on this call, with all the other information that's before the Court and you as the jury panel, and say that the intent is not malicious. The intent is malicious.

She doesn't believe it, for whatever reason. She's fixated on Mr. Michaud and she just won't let this go. It doesn't matter who tells her that this is not happening, she is not going to listen. And she made that obvious when she made that call on April 29th of 2015.

Based on all of the evidence in this case, Ms. Stewart and I, as members of the State, are asking that you return a verdict of guilty to the crime of false report of child abuse, because the evidence shows that that's the only reasonable inference to draw from the evidence in this case.

Thank you.

THE COURT: Thank you, Mr. Sendra.

All right. Mr. Bross, argument?

MR. BROSS: Thank you, Your Honor.

Can I have two seconds to grab the

easel, Your Honor?
THE COURT: Oh, what would you like?
MR. BROSS: Actually, I just need two seconds just to grab this easel. Hopefully I won't make too much noise.
THE COURT: Oh, all right. Deputy, do you want to help him with that?
MR. BROSS: No, I've got it. I've got it.
THE COURT: Okay, thank you.
MR. BROSS: Is it okay if I walk over here to get to it? Or should I move it over here? What is Your Honor's preference?
THE COURT: I don't (shakes head).
MR. BROSS: I didn't know if Your Honor had a preference.
THE COURT: As long as everyone can see it.
MR. BROSS: All right. May it please the Court and the State.

DEFENSE'S CLOSING ARGUMENT

MR. BROSS: Good afternoon ladies and gentlemen. I wanted to thank you for your jury service. I wanted to thank you for listening intently. And, again, I appreciate your time

and attention in this matter, I'll try and be brief.

I'm not going to bore you by rehashing everything you've heard, all the evidence you've heard. But I want to talk to you about some things that I think are extremely important. And I want to talk to you about some things that you haven't heard.

You know, the State, first and foremost -- and you've heard it throughout these proceedings and will hear it during closing argument -- what lawyers say is not evidence.

Okay. So, if I or the State talk about things and you never heard or saw those things, then there's no evidence of those things. And you can't rely on what we say, or what the State says, you have to rely on evidence.

And there's a whole lot of things that have been spoken about that that you've never seen any evidence of. Some of those things I would posit are:

We never heard from any expert witnesses.

We haven't heard from any doctors.

We haven't seen any court orders.

And there's a whole lot of things that you haven't seen --

MR. SENDRA: I'm going to object, Judge. May we approach?

THE COURT: Certainly.

(Whereupon, the following sidebar proceedings, out of the hearing of the Jury:)

MS. STEWART: First of all, I'll object, because I'm going to do the second closing.

MR. BROSS: Hold, on, hold on, hold on, I'm going to -- I have an object -- no, Mr. Sendra gave closing.

MS. STEWART: And I'm doing second closing.

MR. BROSS: No, Mr. Sendra gave first closing. I think he should make the argument, and he has been through and -- and I object. Mr. Sendra should be the one making the argument.

MR. SENDRA: Who's doing the --

THE COURT: Ms. Stewart is the one that apparently is making the second argument.

MR. SENDRA: That's fine, I won't say anything.

MS. STEWART: At the beginning of this

case, when we had all of those motions in limine, the reason there are no doctors testifying or any of that stuff, is because they had their motions in limine to keep out prior allegations, and we had ours.

After the doors were opened, he can't now then complain because witnesses, certain witnesses, were not called. It's improper argument and he knows why they weren't called.

MR. BROSS: It's improper for the State to talk about evidence that was never presented at trial.

And for them to talk about recusing of expert witnesses and things like that, are not things that a jury ever heard anything about; so that's improper.

And I have a right to talk about the evidence and the lack of evidence in those sorts of things. And the State hasn't --

(More than one speaker, indiscernible.)

THE COURT: -- for that, sir.

MR. BROSS: -- has not -- they intentionally talked about expert witnesses and doctors' reports, and Dana being told not to talk about this. But there's been no evidence

of those things at trial, nothing.

And, Judge, it is improper for them to talk about it, so I'm trying to -- I was going to object when he doing that, but --

THE COURT: Well, sir, that was in cross examination.

MR. BROSS: Ma'am?

THE COURT: That was cross examination, that was fair game.

MR. BROSS: I know, but for the State to talk about those things in closing, I should have -- I was going to object and instead of objecting I said: Well, I'll just remind the jury that there's no evidence of those things.

And they brought it up and talked about it in closing. And I'm just reminding the jury that they did not hear any evidence of those things.

THE COURT: Are you saying there was a --

MR. BROSS: That they talked about expert witnesses.

THE COURT: Right.

MR. BROSS: They talked about Ms. Loyd being told not to talk-- and they talked about

1 doctors. They talked about statements of
2 doctors, the findings of doctors. And none of
3 that stuff was presented at trial.
4 And they talked about Ms. Loyd being
5 told not to make these calls or whatever, and
6 there was no evidence of that.
7 MS. STEWART: Well, I never said
8 anything about her not making calls.
9 MR. BROSS: You didn't make closing, Mr.
10 Sendra did.
11 MS. STEWART: This -- I'm still doing
12 rebuttal.
13 MR. BROSS: He was just doing it in his
14 -- I know -- in his closing he talked about
15 being --
16 MS. STEWART: May I just address --
17 nobody ever said anything about expert
18 witnesses. What was said was when they, in
19 their opening, said the child -- they never
20 talked to Riley.
21 That's when, what they call a gag order
22 or the court's order in the Family Court, came
23 out. And everybody agreed, there was a court
24 order saying -- and that's why DCF backed off
25 and was -- we can't talk to this child.

MR. BROSS: No, but he --
MS. STEWART: That testimony is evidence.
MR. BROSS: And DCF -- but DCF testified they could have spoke to the child and there was definitely somebody's testimony that they could have spoken to the child, if they wanted to, which is consistent with the report.
THE COURT: Well, they did -- there was a little bit more of a caveat than "If they had wanted to."
MR. BROSS: Well, if they had --
THE COURT: If there was a reasonable belief that the child was in grave danger or something like that.
MR. BROSS: Well, if -- if they were concerned for the child, but they could have -- the State could have shown the court order and they haven't.
So, there was different interpretations of this court order and the State hasn't --
MS. STEWART: None of that was supposed to come in.
MR. BROSS: Okay, but it did come in and now you're talking about it. And you could

1 have put that evidence in and you didn't.
2 So, I have a right to tell the jury that
3 they are relying on the State Attorney's
4 comments instead of the evidence it. And I
5 have a right to talk about that.
6 THE COURT: Right. So, I will overrule
7 the objection.
8 MR. BROSS: Thank you.
9 (Whereupon, before the Court and Jury.)
10 MR. BROSS: So, again, ladies and
11 gentlemen of the jury, as you begin your
12 deliberations, I want you to think about all of
13 the things that you've heard lawyers talk
14 about, but did not hear any evidence of:
15 There's been no evidence of doctors.
16 There's been no evidence of experts.
17 There's been no evidence of court
18 orders.
19 None of that stuff has been presented to
20 you.
21 And in this case, the charges in this
22 case are unique charges. They are not the type
23 of charges that we are commonly confronted
24 with, or we commonly hear.
25 And this is also a very unique area of

1 the law, because you've heard some discussion
2 of mandatory reporters. Those are people who
3 are required to report allegations or
4 knowledge; or if they have knowledge of child
5 abuse or sexual abuse, they are required to
6 report these things.
7 But beyond that, that is the only area
8 where people are required to report, that any
9 citizen in the State of Florida is required to
10 report that they have knowledge of child abuse,
11 sexual abuse or those things.
12 And we all, in the State of Florida,
13 have a duty to report those things. And if we
14 don't, you can be criminally prosecuted. So
15 you're darned if you do and you're darned if
16 you don't.
17 And in this case, Ms. Loyd took the
18 stand, and she took the stand for a reason.
19 And the reason was because she wanted to
20 explain to you why she made the phone call.
21 Ms. Loyd does not have any skin in the
22 game as it relates to Mr. Michaud and Ms.
23 Michaud. Ms. Loyd is a reporter. Ms. Loyd
24 spent years and years and years investigating
25 the sexual abuse allegations in this case.

1 You heard Ms. Loyd tell you that there
2 had been allegations from other people in other
3 states. This is not something that she made
4 up. This is not something that she plucked out
5 of thin air. She was contacted by a child
6 abuse sex expert, as she told you, who was, in
7 fact, initially hired and retained by Mr.
8 Michaud. And eventually he contacted Ms. Loyd,
9 to have her investigate into this case and to
10 look into this case.
11 So, this case is really about her
12 intent. It's really about what's in her mind.
13 And that's really why you had to hear from her
14 and why you had to -- why we had to put -- why
15 she had to testify. Because the only way that
16 you can know what's in her mind or what her
17 intent is, is if she takes the stand and tells
18 you.
19 Now, I agree that if she takes some
20 action or does something, that it might give
21 you some indication of her intent. But she
22 testified that she wrote articles about making
23 phone calls. She wrote articles about making
24 both phone calls.
25 But first of all, let's talk about the

first phone call. The first phone call is kind of a -- The State has tried taking an approach in this case that they are just kind of taking everything and just throwing it against the wall and let's just see what sticks. What doesn't, drips to the floor.

First, it's about a false child abuse report. Well, then it's about harassing. I mean, what are they -- what are they prosecuting her for? I mean, what is really going on here?

What's going on here, is that Ms. Loyd is a news reporter. She's a substitute teacher. She's a citizen. She has children, she's a parent. She has genuine concern for this child.

She told you that she has seen a plethora of evidence, including parts of the child's diary. She's seen photographs or pictures that the child had drawn. She's seen interviews of the child. She has done a lot of investigation into this incident.

And the first phone -- The first phone call in 2014 was made in response to a photograph that the father posted online which

was, as she said, was inappropriate. And I think it was described as -- I can't -- if I can remember I will tell you.

But that's why I want you, ladies and gentlemen, to look carefully at the statute and look carefully at the jury instructions. And one of the instructions you will receive is -- there's only one count in this case, and it's made a false report of child abuse, abandonment or neglect.

So, when you get the instruction itself it will look like this.

And to prove the crime of false report of child abuse, abandonment or neglect, the State must prove the following element beyond a reasonable doubt: Dana Lynn Loyd knowingly and willfully made a false report of child abuse, abandonment or neglect.

It doesn't say that she knowingly and willfully used the wrong name, or knowingly and willfully said that she had a different job than she actually had.

It says: That she knowingly and willfully made a false report of child abuse, abandonment or neglect.

1 Now, you have heard no evidence -- Ms.
2 Loyd told you that she believed the allegation,
3 and she still believes the allegation, based
4 upon everything she's heard and everything
5 she's seen and everything she knows. She
6 believed the allegation was true.
7 And this is what we call a subjective
8 standard. You have to look at her subjective
9 state of mind. It's kind of like self-defense.
10 If someone is attacking you and you believe
11 that, you know, if you believe that someone is
12 going to harm you, you have the right to defend
13 yourself.
14 Well, in this case, she believed, based
15 upon everything she knew, that there was sexual
16 abuse, a terrible, terrible thing.
17 And as I told you before, not only is
18 she a reporter, which makes her a mandated
19 reporter, but she is also a citizen of the
20 State of Florida, which requires everyone to
21 report. So she has basically two duties to
22 report this.
23 And the only way she can be guilty is if
24 she willfully made, if she knowingly and
25 willfully made a false report of child abuse.

1 And we put her on the stand, she looked
2 at you and said: I believe it, I believe it
3 still.
4 And there's a whole bunch of evidence
5 that it was based on she was reported by -- or
6 she was -- a child -- A child abuse expert is
7 the one who first made her aware of this and
8 she's written news articles on it.
9 And secondly, and this is in the jury
10 instruction, I'm not making this stuff up: It
11 is not a crime, if, at the time of making the
12 report of child abuse, abandonment or neglect,
13 Dana Lynn -- or Dana Loyd -- was acting in good
14 faith.
15 So, she makes the report and as long as
16 she's acting in good faith, she is not guilty
17 of a crime. So, you've heard all of the
18 evidence, you've heard her testify. If she was
19 acting in good faith, she's not guilty.
20 So, if you believe that she did not
21 knowingly and willfully make a false report of
22 child abuse, she's not guilty. If you think
23 that she was acting in good faith, she's not
24 guilty.
25 And the odd thing about this statute --

1 and it's a weird statute, I admit, but I didn't
2 write it -- False reports, right here, really
3 create another element unto itself.
4 Even though it says: The State must
5 prove the following elements, "false report"
6 this word, really creates another element.
7 Because when you get the jury instruction, you
8 will see on the jury instructions that false
9 report doesn't mean what we all would commonly
10 think false report means.
11 It means, a report of abuse, neglect or
12 abandonment of a child to the Central Abuse
13 Hotline, which is maliciously made for the
14 purpose of harassing, embarrassing or
15 threatening of -- I'm sorry -- harassing,
16 embarrassing or harming of a person, personal
17 financial gain for reporting of a person,
18 acquiring custody of the child, or for the
19 personal benefit of the person in any other
20 private dispute involving a child.
21 Okay. Well, so when you look at the
22 statute, because this is a complicated statute,
23 but false report does not have the meaning that
24 most people think it would have. It has a
25 definition unto itself. It is a very specific

1 definition.
2 The Court will hand you the jury
3 instructions and you can see them and you can
4 read them for yourselves, and you'll see what
5 I'm talking about.
6 But false report means, a report of
7 abuse, neglect or abandonment made to the child
8 abuse Central Hotline, which is maliciously
9 made for the purpose of harassing, embarrassing
10 or harming another person.
11 So, the State has this burden of proving
12 this beyond and to the exclusion of every
13 reasonable doubt. They have to prove to you
14 beyond and to the exclusion of every reasonable
15 doubt that she was knowingly and willfully
16 making a false report. They have to prove that
17 beyond and to the exclusion of every reasonable
18 doubt.
19 They have to prove to you that she was
20 not acting in good faith. And they have to
21 prove to you that she was doing it maliciously
22 for the purpose of harassing, embarrassing or
23 harming another person. All of which require
24 you to look into her mind, to get to know what
25 she's thinking; quite frankly.

1 And this statute is meant to punish
2 people who have some beef with their neighbors,
3 or some beef with some person and they're set
4 in their -- and they want to call -- they want
5 to call the Hotline because they are upset
6 about something with somebody and they want to
7 -- they want to cause someone problems, they
8 want to go after somebody. That's what this
9 statute is for.
10 In this case, we have a situation where
11 we have an individual who is made aware of this
12 case, initially by an expert contacting her
13 and: Hey, can you do some investigation on
14 this?
15 She investigated from 2011 until --
16 until, you know, basically until her arrest --
17 then she stopped.
18 During the pendency of that
19 investigation, or while she was doing her
20 investigation from 2011 to 2015, the father
21 posted pictures -- at least, one picture you've
22 heard about, which concerned her so much that
23 she called the Hotline because it was -- I
24 think I -- well, I asked her:
25 Was she in a provocative pose?

Yes.

Was she showing some skin?

Yes.

I think it was --

MS. STEWART: Objection, Your Honor facts not in evidence.

MR. BROSS: Actually, those --

THE COURT: Sustained.

MR. BROSS: Okay. I asked Ms. Loyd about the photograph that caused her to call the Hotline in 2014, and she told you what the picture looked like and why she was concerned.

And the words that were also associated with that picture and she never heard -- and you have not heard any evidence from anybody about what happened after that and what she was told after that, if anything.

So then she tells you: I've been investigating. In 2015 she had been investigating this case at this point for almost four years and it's been eating at her, it's eating at her. It's bothering her, she's continued to investigate and she's got all of this evidence.

And she has a dream, I mean and she

said -- and her dream bothered her so much she said: I can't live with this thing anymore. I've been trying to get people to -- and she told you: I've told numerous law enforcement officers about this over the years and no one ever did anything.

It was eating at her so much, she had this dream where in her dream something terrible happened and she finally said: You know what, today's the day. And she called the Hotline.

Now, again, the statute doesn't say to falsely report your name or to falsely report your profession or to falsely report; it says to falsely report child abuse, abandonment or neglect.

So you have to make a false statement regarding those things, and it has to be maliciously made. It has to be knowingly and willfully and maliciously made. And it has to be with maliciously, for the purpose of doing one of these bad things to somebody.

Ladies and gentlemen of the jury, the State has failed in their burden of proof. They have not proven to you that what she did

1 was make a false report of child abuse,
2 knowingly and willfully, maliciously for the
3 purposes of embarrassing or harming another
4 person.
5 And furthermore, they have not proved to
6 you that it was not -- they have failed to
7 prove that it was not done in good faith.
8 Ms. Loyd was writing articles about
9 this. She was investigating this. She was
10 talking to law enforcement officers about this.
11 She reached out to Mr. Michaud to get
12 his side of events and sent him an email and
13 said: Hey, I've been hearing all this stuff,
14 I've got all of this evidence. Tell me your
15 side. He declined to tell her his story.
16 She reached out to the mother: Tell me
17 what happened. You didn't hear much about
18 that.
19 But she was utilizing tactics which are
20 the type of tactics that reporters use, that
21 police officers use, that the police officer in
22 this case used.
23 When the law enforcement officer that
24 you heard from in this case reached out to her,
25 she was excited. She was like: Okay, finally.

1 Finally someone is going to do something.
2 They're finally going to investigate.
3 So, she meets with the law enforcement
4 officer, hoping that someone is going to
5 finally investigate. Finally, someone is going
6 to go speak to the child.
7 And lo and behold, they are
8 investigating her with a hidden recorder under
9 false pretenses. I mean, that's okay, that's
10 all right.
11 Some of the witnesses that you heard
12 from in this case, the DCF officers who were
13 first made aware of the report April 29th of
14 2015, they laid eyes on the child. They looked
15 at the child from a distance, they didn't
16 actually speak to the child. The law
17 enforcement officer never actually spoke to the
18 child.
19 All of the witnesses that you heard from
20 in this trial that took the stand never spoke
21 to the child about this incident, they did not.
22 None of them did.
23 You've heard testimony -- Well, you've
24 heard talk about other things, but you didn't
25 hear anyone testify and say: Yes, I spoke to

that child. I interviewed the child. I investigated that. You've not heard any evidence from these witnesses regarding that issue.

So, ladies and gentlemen of the jury I beg of you, I pray of you respectfully, hold the State of Florida to their burden.

Now, was using a false name smart? Maybe not. Well, then, you know, saying she overheard something? Maybe not.

She told you why she did it: "I wanted to be a mandatory reporter, which they would hopefully take seriously, which would hopefully get them to interview the child and take action."

I believe the law enforcement officer who testified. He testified that he believed that she was trying to get someone to speak to the child, to basically investigate the sexual abuse allegation.

So, again, when you look at the entirety of the case -- Well, when you look at the entirety of the case that's been presented to you -- when you look at the facts and the evidence that's been presented to you and look

at -- and when you remember the testimony that you've heard in this case, Ms. Loyd took the stand and she testified and told you that:

I've investigated this for years. I believed it was true then, I believe it's true now. I believe that no one has properly investigated this. I believe in other states they took it more seriously. I believe it was sent down here and they didn't take it as seriously. I'm still concerned for this child. And my whole goal in all of this was to get someone to investigate these allegations.

So, the State of Florida, I would respectfully submit, has not met their burden. Their burden, I respectfully submit, is a very, very high burden. Not only is their burden beyond and to the exclusion of every reasonable doubt, they have to prove things which are inherently difficult to prove.

I agree it's very, very difficult to prove that someone knowingly and willfully made a false report in bad faith, with the intent of maliciously harassing, embarrassing or harming another person. I agree that those aren't easy things to prove when you are having to look

1 into someone's mind.
2 But it's the State's -- It's the State's
3 case. It's the State's burden. And the
4 legislature wrote the statutes. So, that's not
5 something you should concern yourself with.
6 What you should concern yourself with is
7 what the statute requires, what evidence you've
8 heard and applying the facts of the case, the
9 actual facts that you heard in court, not the
10 arguments, not all of the other stuff that we
11 didn't actually see and didn't actually hear,
12 but the evidence that was presented to you.
13 And why. Why is she maliciously going
14 after Mr. Michaud?
15 She's not, she's trying to protect a
16 little girl. And that good faith protects her,
17 thankfully it protects her and it should.
18 I mean, do you want to live in a society
19 where people are terrified or scared to make
20 reports of suspected child abuse and child
21 neglect?
22 Do we want -- and I agree, we have a
23 state where you are required to report sexual
24 abuse, you know, if you suspect. If you have a
25 good faith or you have a reason to suspect

1 child abuse or child neglect in the State of
2 Florida, every citizen is required to report
3 it.
4 And now, someone has done what they have
5 been told to do, and now they're going to
6 criminally prosecute her for that. That
7 doesn't make sense. Ladies and gentlemen of
8 the jury, that defies logic.
9 Maybe that's why it's such a high
10 burden. Maybe that's why the State has to
11 prove the false report was malicious for the
12 purpose of harassing or embarrassing another
13 person. Maybe that's why they have to prove
14 that she knowingly and willfully made a false
15 report and there was no good faith.
16 That's probably why those elements are
17 in there, to protect her, because those are not
18 easy things to prove and the State has not
19 proven it.
20 In fact, I submit the evidence is that
21 she would speak to anyone who would speak to
22 her about it. She was right about it and
23 published it in the newspaper, a newspaper that
24 she was working with.
25 She was publishing the fact that she was

making the phone calls. She was publishing the fact that she was doing these investigations. She was publishing the fact that she was trying to speak to the players involved. And that is not someone who is trying to hide something, who's doing something sleazy.

So, ladies and gentlemen of the jury, please do not leave your common sense at the door. Common sense tells you that we live in a state where we want to protect children. We live in a state where we are required to report child sex abuse.

Ms. Loyd does that and she has a good faith -- she had a good reason to do it because she's been investigating it for four years; and during that four years, she's saying, at least, one questionable photo posted by the father.

And, therefore, ladies and gentlemen of the jury, I would ask that during your deliberations -- You will receive a verdict form -- and we respectfully request that when you're deliberating, you will find Ms. Loyd not guilty.

Ladies and gentlemen of the jury, your verdict must be unanimous. That is each and

every one of you must agree on your verdict. And I would ask -- during voir dire -- I asked, you know, many of you questions:

Would you change your mind to go with the men?

Would you change your mind to go with the women?

Ladies and gentlemen of the jury, please stick to your guns. And please take the time to consider the complexity of the statute, the high requirement, the high requirement and the high burden of the statute.

And just because this is not a murder case doesn't mean the State's burden is any lower. The State's burden is just the same in this case as if it was a first-degree murder case. They have to prove beyond and to the exclusion of every reasonable doubt all of these complicated elements that we've spoken about.

So, I thank you for your time and I thank you for your consideration.

THE COURT: Thank you, Mr. Bross.

All right, Ms. Stewart?

STATE'S FINAL ARGUMENT

MS. STEWART: If the goal, as Ms. Loyd said when she took the stand, was to protect this child, that's all she wanted to do was to protect this child; if that was her goal, then you call the Hotline and you say: My name is Dana Loyd and I have this information.

What did she say she said when I confronted her with: You didn't know that was true. You didn't know shaving her legs was true. You said that you overheard this conversation with two little girls while you were at the school, and that wasn't true because none of this was true.

And let me tell you about this obsession and this harassment and the maliciousness behind what she did.

She had a blog. The blog started in the spring of 2011, when Mr. Michaud got full custody of Riley Michaud. That's when all of this started. And guess what keeps that blog alive, continuing to go after Mr. Michaud:

2009 there's a report, unfounded.

2014 she calls. The child is interviewed by CPT; unfounded.

2015, between 2014 and 2015, the Family Courts are involved. And let me tell you why you know that's evidence. A witness takes the stand, and what that witness says is evidence.

CPT told you there was a court order that nobody could talk to that child. And Ms. Sorokin told you that the father had dropped off a copy of that court order at the school. That's in evidence, that was there.

What Dana Loyd is doing, every single time she gets law enforcement involved or the Hotline involved, is she's putting Riley through psychological hell. She's not protecting Riley, she's making Riley go through yet another investigation when everything is unfounded for four years.

For four years of absolute hell, and that's not malicious? That's not harassing? Of course, it is.

And then she calls and -- And what you have to understand, this wasn't true about the shaving of the legs, you didn't know if that was true. You didn't know if she was starving or not. You didn't know if she was locked in the bedroom.

You know what she said: "I said suspected abuse."

And sure enough, when you look at that she said: I'd like to report suspected abuse. She knew none of it was true, none of it. It was done solely for the purpose of harassing Mr. Michaud.

There is only one element that the State has to prove beyond a reasonable doubt, and that is that Dana Loyd knowingly and willfully made a false report of child abuse, abandonment or neglect.

The false report has a definition to guide you. You get that from the evidence you've heard and the circumstances of the case, the circumstances of the phone call and, of course, the exhibits that you have seen.

Based on all of that, based on Ms. Loyd's continual harassment, we would ask that you find her guilty as charged of making a false report of child abuse. Thank you.

JURY CHARGE

THE COURT: Thank you very much.

Folks, bear with me, we've got some instructions to read.

1 Folks, I thank you for your attention
2 during this trial. And please pay attention to
3 the instructions that I am about to give you.
4 Dana Lynn Lloyd, the Defendant in this
5 case, has been accused of the crime of false
6 report of child abuse, abandonment or neglect.
7 To prove the crime of false report of
8 child abuse, abandonment or neglect, the State
9 must prove the following element beyond a
10 reasonable doubt:
11 Dana Lynn Loyd knowingly and willfully
12 made a false report of child abuse, abandonment
13 or neglect.
14 It is not a crime, if, at the time of
15 making the report of child abuse, abandonment
16 or neglect, Dana Lynn Loyd was acting in good
17 faith.
18 Child means any unmarried person under
19 the age of 18 years, who has not been
20 emancipated by order of the Court.
21 False report means the report of abuse,
22 abandonment or neglect of a child to the
23 Central Abuse Hotline, which report is
24 maliciously made for the purpose of:
25 Harassing, embarrassing or harming

1 another person.
2 Personal financial gain for the
3 reporting person.
4 Acquiring custody of the child.
5 Or personal benefit for the reporting
6 person in any other private dispute involving a
7 child.
8 Abandonment means a situation in which
9 the parent or legal custodian of a child, in
10 the absence of a parent or legal custodian, the
11 caregiver, while being able, has made no
12 significant contribution to the child's care
13 and maintenance or has failed to establish and
14 maintain a substantial and positive
15 relationship with the child, or both.
16 For purposes of this subsection,
17 establish or maintain a substantial and
18 positive relationship includes, but is not
19 limited to frequent and regular contact with
20 the child through frequent and regular
21 visitation or frequent and regular
22 communication to or with the child. And the
23 exercise of parental rights and
24 responsibilities.
25 Marginal efforts and incidental or token

1 visits or communications are not sufficient to
2 establish or maintain a substantial positive
3 relationship with the child.
4 A man's acknowledgment of paternity of
5 the child does not limit the period of time
6 considered in determining whether the child was
7 abandoned.
8 The term does not include a surrendered
9 newborn infant as described in Florida Statute
10 383.50. Quote, "A child in need of services as
11 defined in Chapter 984, or a family in need of
12 services as defined in Chapter 984."
13 The incarceration, repeated
14 incarceration or extended incarceration of a
15 parent, legal custodian or caregiver
16 responsible for a child's welfare may support a
17 finding of abandonment.
18 Abuse means any willful act or
19 threatened act that results in any physical,
20 mental or sexual abuse, injury or harm that
21 causes or is likely to cause the child's
22 physical, mental or emotional health to be
23 significantly impaired.
24 Abuse of a child includes acts or
25 omissions. Corporal discipline of a child by a

1 parent or legal custodian for disciplinary
2 purposes does not in itself constitute abuse
3 when it does not result in harm to the child.
4 Neglect occurs when a child is deprived
5 of or is allowed to be deprived of necessary
6 food, clothing, shelter or medical treatment,
7 or a child is permitted to live in an
8 environment where such deprivation or
9 environment causes a child's physical, mental
10 or emotional health to be significantly
11 impaired or to be in danger of being
12 significantly impaired.
13 The foregoing circumstances shall not be
14 considered for neglect, if caused primarily by
15 financial hardship -- financial inability --
16 unless actual services for relief have been
17 offered to and rejected by such person.
18 A parent or legal custodian legitimately
19 practicing religious beliefs in accordance with
20 a recognized church or religious organization,
21 who thereby does not provide specific medical
22 treatment for a child, may not for that reason
23 alone be considered a negligent parent or legal
24 custodian.
25 However, such an exception does not

preclude a court from ordering the following services to be provided when the health of the child so requires:

(a) Medical services from a licensed physician, dentist, optometrist, podiatric physician or other qualified healthcare provider.

(b) Treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well recognized church or organized religion.

Neglect of a child includes acts or omissions.

The Defendant has entered a plea of not guilty. This means you must presume or believe the Defendant is innocent. The presumption stays with the Defendant as to each material allegation in the Information, through each stage of the trial, unless it has been overcome by the evidence to the exclusion of and beyond a reasonable doubt.

To overcome the Defendant's presumption of innocence, the State has the burden of proving the crime with which the Defendant is

charged was committed, and the Defendant is the person who committed the crime. The Defendant is not required to present evidence or prove anything.

Whenever the words "reasonable doubt" are used, you must consider the following:

A reasonable doubt is not a mere possible doubt, a speculative, imaginary or forced doubt. Such a doubt must not influence you to return a verdict of not guilty, if, after carefully considering, comparing and weighing all of the evidence, there is an abiding conviction of guilt.

On the other hand, if, after carefully considering, comparing and weighing all of the evidence, there is not an abiding -- excuse me -- or if, having a conviction, it is one which is not stable, but one which wavers and vacillates, then the charge is not proved beyond every reasonable doubt, and you must find the Defendant not guilty because the doubt is reasonable. It is to the evidence introduced in this trial and to it alone that you are to look for that proof.

A reasonable doubt as to the guilt of

the Defendant may arise from the evidence, conflict in the evidence, or lack of evidence.

If you have a reasonable doubt, you should find the Defendant is not guilty. If you have no reasonable doubt, you should find the Defendant guilty.

It is up to you to decide what evidence is reliable. You should use your common sense in deciding which is the best evidence, and which evidence should be relied upon -- should not be relied upon in considering your verdict.

You may find some of the evidence not reliable or less reliable than other evidence. You should consider how the witnesses acted, as well as what they said. Some things you should consider are:

(1) Did the witness seem to have an opportunity to see and to know the things about which the witness testified?

(2) Did the witness seem to have an accurate memory?

(3) Was the witness honest and straightforward when answering the attorneys' questions?

(4) Did the witness have some interest

in how the case was to be decided?

(5) Does the witness' testimony agree with the other testimony and other evidence in the case?

Whether the State has met its burden of proof does not depend upon the number of witnesses it has called or upon the number of exhibits it has offered. But instead upon the nature and quality of the evidence presented.

The fact that the witness is employed in law enforcement does not mean that his or her testimony deserves more or less consideration than that of any other witness.

The Defendant in this case has become a witness. You should apply the same rules of consideration to her testimony that you apply to the testimony of other witnesses.

It is entirely proper for a lawyer to talk to a witness about what testimony the witness would give if called to the courtroom. The witness should not be discredited for talking to a lawyer about his or her testimony.

You may rely upon your own conclusion about the credibility of witnesses. A juror may believe or disbelieve all or any part of

the evidence, or the testimony of any witness.

A statement claimed to have been made by the Defendant outside of court has been placed before you. Such a statement should always be considered with caution and be weighed with great care to make certain it is freely and voluntarily made.

Therefore, you must determine from the evidence that the Defendant's alleged statement was knowingly, voluntarily and freely made. In making this determination you should consider the total circumstances, including but not limited to:

(1) Whether when the Defendant made the statement, she had been threatened in order to get her to make it.

(2) Whether anyone had promised her anything in order to get her to make it.

If you conclude the Defendant's out-of-court statement was not freely and voluntarily made, you should disregard it.

And there are some general rules that apply to your discussion. You must follow these rules in order to return a lawful verdict.

First, you must follow the law as it is set out in these instructions. If you fail to follow the law, your verdict will be a miscarriage of justice. There is no reason for failing to follow the law in this case. All of us are depending upon you to make a wise and Legal decision in this matter.

Second, this case must not -- must be decided only upon the evidence you have heard from the testimony of witnesses, and have seen in the form of the exhibits in evidence and these instructions.

Third, this case must not be decided for or against anyone because you feel sorry for anyone or are angry at anyone.

Fourth, remember the lawyers are not on trial. Your feelings about them should not influence your decision in this case.

Fifth, your duty is to determine if the Defendant has been proven guilty or not in accord with the law. It is the Judge's job to determine a proper sentence if the Defendant is found guilty.

Sixth, whatever verdict you render must be unanimous, that is each juror must agree to

the same verdict, that is each juror must agree to the same verdict.

Seventh, the jury is not to discuss -- I'm sorry, I misread that. Finally, your verdict should not be influenced by feelings of prejudice, bias or sympathy. Your verdict must be based on the evidence and on the law contained in these instructions.

Deciding a verdict is exclusively your job. I cannot participate in that decision in any way. Please disregard anything I may have said or done that made you think that I preferred one verdict over the other.

You may find the Defendant guilty as charged in the Information or not guilty. If you return a verdict of guilty, it should be for the highest offense which has been proven beyond a reasonable doubt. If you find that no offense has been proven beyond a reasonable doubt, then of course your verdict must be not guilty.

Only one verdict may be returned as to the crime charged. This verdict must be unanimous, that is all of you must agree to the same verdict. The verdict must be in writing,

and for your convenience the necessary form of verdict has been prepared for you, and it is as follows:

(Displaying document.) And you may have a copy of it there a little closer to you where people even as blind as I am can see it. This is the verdict form, folks, and it's only one of two choices. It's guilty or not guilty. There's no lesser included offenses in this particular case.

In just a few moments, you will be taken to the jury room by the Court Deputy. The first thing you should do is chose a foreperson who will preside over your deliberations.

The foreperson should see to it that the discussions are carried out in an organized way, and that everyone has a fair chance to be heard. It is also the foreperson's job to sign and date the verdict form when all of you have agreed on a verdict, and to bring that verdict form back to the courtroom when you all return.

During deliberations, jurors must communicate about the case only with one another, and only when all jurors are present in the jury room. If someone goes to the

restroom, pause please.

Until you have -- excuse me -- you are not to communicate with any person outside the jury about this case. Until you have reached a verdict, you must not talk about this case in person, through the telephone, writing or electronic communication, such as a blog, Twitter, email, text message or any other means.

And we have a very foolproof way of helping you along with that. Many of you may have cell phones, tablets, laptops or other electronic devices here in the courtroom. The rules do not allow you to bring your phones or any of these types of electronic devices into the jury room.

Kindly -- well, I believe Deputy Hughes will pick up phones in a basket and Madam Clerk will guard them with her life until you have reached a verdict.

Do not contact anyone to assist you during deliberations. These communication rules apply until I discharge you at the end of the case. If you become aware of any violation of these instructions, or any other instruction

that I have given in this case, you must tell me by giving a note to the Court Deputy.

If you need to communicate with me, send a note through the Court Deputy, signed by the foreperson. If you have questions, I will talk with the attorneys before I answer, so it may take some time. You may continue your deliberations while you wait for my answer. I will answer any questions, if I can, in writing or orally here in open court.

Your verdict finding the Defendant either guilty or not guilty must be unanimous. Okay, in case you missed that the first two times. The verdict must be the verdict of each juror, as well as that of the jury as a whole.

During the trial items were received into evidence as exhibits. You may examine whatever exhibits you think will help you in your deliberations. These exhibits will be sent into the jury room with you when you begin to deliberate.

If you wish to hear any digital exhibit, please request that in writing and we will bring you out here so that we can play it for you.

In closing, let me remind you that it is important that you follow the law spelled out in these instructions in deciding your verdict. There are no other laws that apply to this case. Even if you do not like the laws that must be applied, you must use them.

For two centuries we have lived by the constitution and the law, no juror has the right to violate the rules we all share.

And, folks, you are about to be the ones to get to work now. However, before you go back into the jury room, Juror Number Seven, lucky number seven, you are the alternate.

And sometimes the alternate is happy that they don't have to make that decision. And other times the alternate can feel gypped, because he has sat through the whole thing and he may be ready to go.

But we are happy to have your contact information, so that you can find out what the verdict was. You are welcome to stand by and wait, if you would like to do that.

But please let me tell you this, I want to thank you immensely for your time and your consideration of this case. And I also wish to

advise you of some very special privileges enjoyed by jurors.

No juror can ever be required to talk about the discussions that occurred in the jury room except by court order. And that will include you, Madam Number Seven, because you have sat through the whole trial.

For many centuries our society has relied upon juries for consideration of difficult cases. We have recognized for hundreds of years that a jury's deliberations, discussions and votes should remain their private affair for as long as they wish it.

And in your case, ma'am, your opinion should remain your private affair for as long as you wish it. Therefore, the law gives you a unique privilege not to speak about your thoughts on this case.

Although you are at liberty to speak with anyone about your thoughts, you are also at liberty to refuse to speak to anyone.

A request to discuss either your thoughts or any other aspect of your jury service may come from those who are simply curious or from those who might seek to find

fault with you, from the media, from the attorneys or elsewhere. It will be up to you to decide whether to preserve your privacy as a juror.

And so we can if -- Well, let -- Do you have anything, ma'am, in the jury room?

JUROR: Yes.

THE COURT: You do, all right. Deputy Hughes, would you like to assist Madam Number Seven in collecting her belongings.

COURT DEPUTY: Yes, ma'am.

THE COURT: And the other jurors can retire to deliberate their verdict.

MR. SENDRA: I need the packets to not go back there because I didn't -- most of the places have been replaced already.

THE COURT: Which ones?

MS. STEWART: Asking questions --

MR. SENDRA: The one's that include --

THE COURT: I know, I was -- they are -- where are those?

MR. SENDRA: I've already fixed it, I'm waiting to print it but --

THE COURT: Okay, where are the packets?

(Whereupon, Court/Clerk discussion.)

THE COURT: Oh, can we have one?
COURT DEPUTY: (Tenders documents.)
THE COURT: Thank you very much.
(Whereupon, Court/Attorneys discussion.)
THE COURT: And so, anyways the -- these are -- if anybody wants to inspect (tenders document) -- Oh great, see, I've even got my card to --
MS. STEWART: Oh, that's what that's for?
THE COURT: Yeah.
MS. STEWART: I couldn't figure out why it was up there.
THE COURT: And it disappeared there, who had it?
MR. BROSS: Well, I think he laid it on top of the evidence, it was laying up here for you --
THE COURT: Oh, okay.
MR. BROSS: I think he was ahead of the game.
THE COURT: Yeah, he is. He usually is.
Does Madam Number Seven have her belongings?
COURT DEPUTY: She's getting them right

now.
THE COURT: Oh, there she is. Okay.
And, ma'am, like I said, you're welcome to stay. But if you would like, you can -- you're welcome to email Mike who's my Judicial Assistant. No email sits unanswered in his in-box for more than three minutes. Thank you very much. I greatly appreciate your service. And as I said, you're welcome to stay, if you wish.
All right. Folks, then it's now at the -- we're going to -- we have one edit we're going to make to the instructions.
COURT DEPUTY: Okay, so just give them these?
THE COURT: Yes, and we will give them the -- we will send back in -- Deputy Hughes will bring them back to you in just a moment.
All right, you may retire to deliberate.
COURT DEPUTY: And I will just take this for right now.
THE COURT: Yeah, you can take that and you may retire to deliberate your verdict, thank you.
COURT DEPUTY: Judge, they get their

notes to take with them, right?
THE COURT: Sir?
COURT DEPUTY: All their notes go back, right?
THE COURT: Oh, they get their notes.
COURT DEPUTY: Okay.
THE COURT: Right. They get their notes, thank you.
(Whereupon, Jury retires to deliberate.)
THE COURT: Oh, we have -- he's printing a page -- the rule --
MR. SENDRA: I've already printed it.
THE COURT: Okay, we need a copy.
COURT DEPUTY: I'll be right back.
THE COURT: Okay, thanks.
We need a copy, are you doing that?
MR. SENDRA: Yes.
(Whereupon, matters unrelated to this case were discussed with the Court.)
MS. STEWART: Before we go off the record, can you inquire of --
THE COURT: Okay, certainly.
MS. STEWART: While Ms. Burgess is here --
THE COURT: Okay.

MS. STEWART: -- whether or not the Defendant with the instructions was --

THE COURT: All right. And, Ms. Burgess, do you have any objection to the instructions as they were read?

MS. BURGESS: No.

THE COURT: All right, thank you.

MS. BURGESS: Thank you.

THE COURT: And, Ms. Stewart, the same?

MS. STEWART: No objection.

THE COURT: No objection, okay. Thank you. And you understand the only thing that I omitted was that line on disregarding the questions that you asked that weren't answered.

MS. BURGESS: Right, yes.

THE COURT: And then that raises the -- all right, then we will be in recess until we have a verdict.

(Whereupon, Court is at ease awaiting the call of the Jury.)

(Whereupon, Jury out.)

COURT DEPUTY: Court is back in session.

THE COURT: Okay. Ms. Burgess, Mr. Bross, we're missing an essential member of your posse.

MR. BROSS: Yes, and they went to get her, Judge.
THE COURT: Or your party, okay.
Is today the 30th?
COURT DEPUTY: Yes, ma'am; the 30th.
THE COURT: It is, it's the 30th?
COURT DEPUTY: Yes, ma'am.
THE COURT: Okay. I haven't dated anything today. Oh, yeah; it is. That's right, because I texted "Happy Birthday" to somebody this morning because it was the 30th.
COURT DEPUTY: Ms. Loyd is at security right now.
THE COURT: Oh, okay. She's outside?
COURT DEPUTY: Yeah, she's out there.
THE COURT: Okay.
COURT DEPUTY: She's going through security.
THE COURT: Alrighty. Oh, I'll be right back. I forgot something.
COURT DEPUTY: Yes ma'am.
(Whereupon, Defendant enters the courtroom.)
COURT DEPUTY: Remained seated, court is in session.

1 THE COURT: Oh, folks, before the jury
2 comes in -- all right, let's --
3 First of all, we're back on the record
4 in the State of Florida versus Dana Lynn Loyd,
5 2015-CF- 39871. Ms. Loyd is present with
6 Counsel, Ms. Burgess and Mr. Bross. And the
7 State is represented by Ms. Stewart and Mr.
8 Sendra.
9 And those of you in the audience, I
10 know, folks, all of you have been watching very
11 carefully. And this is a very crucial part.
12 It's just as important as it is to have a fair
13 trial for everyone, it is important that there
14 be no outbursts regardless of what the verdict
15 is, and obviously none of us know.
16 But there should be no outbursts
17 whatsoever. No display of emotion, nothing.
18 Please, if you feel you are not able to
19 contain yourself, I will give everybody,
20 anybody that feels that way, 30 seconds to
21 leave right now.
22 Mr. Bross, you have to stay.
23 All right. So, everyone understands it
24 is also very important to the fairness of our
25 process that there be no outbursts. Thank you.

Okay, Deputy Hughes, you can bring the jury in.

COURT DEPUTY: All rise for the jury.

(Whereupon, jury returns with verdict.)

THE COURT: All right. Folks, I was thinking someone was missing, but no. All right. Folks, please have a seat.

Have you reached a verdict?

JUROR: Yes.

JURY VERDICT

THE COURT: All right. And Madam Foreperson, can you please hand the verdict to Deputy Hughes?

COURT DEPUTY: (Tenders document.) Here, Your Honor.

THE COURT: Thank you. (Reviewing document.)

All right. Madam Clerk, would you like to publish the verdict?

THE CLERK: We the jury finds as follows as to Count 1 in this --

THE COURT: I'm sorry, wait. Excuse me. Mr. Bross, would you and Ms. Burgess and Ms. Loyd like to come to the podium please?

MR. BROSS: Yes, Your Honor.

THE COURT: Thank you.

All right, thank you. I'm sorry, Madam Clerk.

THE CLERK: We the jury find as follows as to Count 1 one in this case. The Defendant, Dana Lynn Loyd, is guilty of false report of child abuse, abandonment or neglect.

So say we all this 30th day of March, 2017 in Titusville, Brevard County, Florida. Signed, Foreperson Virginia Williams.

THE COURT: Thank you, Madam Clerk.

Would either side like the jury polled?

MS. STEWART: Not from the State.

MR. BROSS: Yes, Your Honor.

JURY POLLED

THE COURT: All right. Juror Number 1, is this your verdict, sir?

JUROR: Yes, it is.

THE COURT: Juror Number 2, is this your verdict?

JUROR: Yes.

THE COURT: All right. Juror Number 3, is this your verdict?

JUROR: Yes.

THE COURT: All right. Juror Number 4,

is this your verdict?

JUROR: Yes.

THE COURT: Juror Number 5, is this your verdict?

JUROR: Yes.

THE COURT: Juror Number 6, is this your verdict?

JUROR: Yes.

THE COURT: All right, thank you. All right, thank you very much.

ADJUDICATION OF GUILT

THE COURT: Ms. Loyd, having been found guilty, I will adjudicate you guilty and ask you to have a seat for a moment, so we can let these folks get on their way. And then we can come back and discuss how to proceed.

And I think the thing that they would probably most like to have right now is their cell phones. And that way -- and then do you all have things in the jury room?

COURT DEPUTY: The room's empty.

THE COURT: Okay.

COURT DEPUTY: You want them all back there anyway?

THE COURT: Yeah, I'll just come in and

say goodbye. All right. Yeah, I'll come on in.

COURT DEPUTY: All right, folks --

THE COURT: Oops; oh, wait. I'm sorry. I forgot the -- I always forget this, I've got the seating chart over it. Folks, there's one last parting instruction.

I wish to thank you for your time and consideration of this case. I also wish to advise you of some very special privileges enjoyed by jurors. And if it sounds like you just heard this. you did. No juror can ever be required to talk about the discussions that occurred in the jury room except by court order.

For many centuries our society has relied upon juries for consideration of difficult cases. We have recognized for hundreds of years that a jury's deliberations, discussions and votes should remain their private affair as long as they wish it.

Therefore, the law gives you a unique privilege not to speak about the jury's work. Although you are at liberty to speak with anyone about your deliberations, you are also

at liberty to refuse to speak with anyone about your deliberations.

A request to discuss either your verdict or your deliberations may come from those who are simply curious or from those who may seek to find fault with you, from the media, from the attorneys or elsewhere. It will be up to you to decide whether to preserve your privacy as a juror.

And with that, Deputy Hughes, do you want to bring them back and give them their phones. I will come back and thank you.

COURT DEPUTY: All rise for the jury.

(Whereupon, the Jury was discharged.)

(Whereupon, the following proceedings were had before the Court:)

THE COURT: All right. Ms. Burgess, Mr. Bross and Ms. Loyd, why don't you come forward please?

Would you like to proceed to sentencing right now, or would you like to -- How would you like to proceed?

MR. BROSS: Well, we will proceed to sentencing.

MS. STEWART: Well, Judge, she's

1 entitled to a PSI since she --
2 MR. BROSS: Yeah, she waives PSI on the
3 record. I think the parties agree that she has
4 no prior record at all. This is her only --
5 MR. SENDRA: Can we have the sentencing
6 date, Judge, though, so that Mr. Michaud can
7 get some kind of input? He's on a plane
8 somewhere, so I can present that to the Court.
9 THE COURT: Okay, if you would like to
10 do that. That's what I said, what would the
11 parties like?
12 MR. SENDRA: I don't plan on flying him
13 here again. I'm assuming that he will write
14 some kind of letter that he will ask me to
15 present to the Court.
16 THE COURT: Okay.
17 MR. SENDRA: So, I'm assuming we can do
18 it next week.
19 THE COURT: Yes, we can do it. Yes.
20 MR. BROSS: And, Your Honor --
21 THE COURT: I know we have next -- yes,
22 sir?
23 MR. BROSS: Just real quick, I know you
24 adjudicated her guilty already. But I believe
25 that you, if you choose, can not do that and I

was going to respectfully beg of Your Honor not to adjudicate her until you've from the Defense.

THE COURT: I have already adjudicated her guilty.

MR. BROSS: Okay; yes, ma'am.

THE COURT: Thank you.

We've got Thursday morning or afternoon or Friday morning.

MR. BROSS: I'd say Thursday afternoon.

THE COURT: Thursday afternoon?

MR. BROSS: Yes, ma'am.

THE COURT: That will work, that's a week from today.

MR. BROSS: Yes.

THE COURT: All right. So Thursday at 1:30. And so, Thursday, April the 6th at 1:30. Oh, there's something, I don't why I have this written here; okay.

Yes, okay. And how long do you all anticipate, so I can make the appropriate number of little hash marks on my calendar.

MR. BROSS: Probably 45 minutes, Your Honor.

THE COURT: 45 minutes, all right.

Thank you.

MR. BROSS: And I assume that's for everyone, if the State is just reading a letter.

MS. STEWART: Right.

MR. SENDRA: I believe that will be all we will present, other than oral argument.

THE COURT: Okay, okay, okay. And then we can do it that way.

MR. BROSS: Okay, thank you.

THE COURT: All right. Thank you then. We will see you all here. If you got here at 1:20, no one is going to hold it against you.

MR. BROSS: All right, Your Honor.

THE COURT: Thank you, we appreciate that.

THE CLERK: Do we need to get prints, Judge, and DNA?

THE COURT: We can do fingerprints today, yeah, and DNA.

COURT DEPUTY: And (indiscernible).

(More than one speaker, indiscernible.)

THE COURT: No, no. Ms. Loyd has attended every court appearance, so I don't feel there is any need to remand her at this

time.
MR. BROSS: Thank you.
THE COURT: All right, thank you.
MR. BROSS: May I be excused, Your Honor.
THE COURT: You certainly may.
MR. BROSS: Have a nice day.
THE COURT: All right. Thank you everyone. Thank you for --
(More than one speaker, indiscernible.)
THE COURT: Yes, she's doing DNA. Thank you.
MS. STEWART: May I be excused, Your Honor?
THE COURT: Certainly.
MS. STEWART: Thank you.
THE COURT: Thank you. Have a good afternoon, everyone. Thank you, take care.
(Whereupon, the proceedings were concluded.)

(Whereupon, Master Index continues in Volume V.)

1
2
3 CERTIFICATE OF REPORTER
4
5 STATE OF FLORIDA]
]
6 COUNTY OF BREVARD]
7
8 I, SHIRLEY P. KING, RPR, CLVS, FPR, do
hereby certify that I was authorized to and did
9 transcribe the foregoing proceeding, and that
the transcript page 1 through page 979 is a
10 true and correct transcript from the digital
record of the proceeding to the best of my
11 ability.
Done and dated April 25, 2017 at
12 Melbourne, Brevard County, Florida.
13
14
15
16 ----------
17 SHIRLEY P. KING, RPR, CLVS, FPR
Registered Professional Reporter
18
19
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22
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25

1 IN THE COUNTY COURT OF THE 18TH JUDICIAL CIRCUIT
IN AND FOR BREVARD COUNTY, FLORIDA
2
3 CASE NO. 05-2015-CF-039871-AXXX-XX
4 STATE OF FLORIDA,
5 PLAINTIFF,
6 V.
7
8 DANA LYNN LOYD,
9 DEFENDANT.
10 _____/
11 MASTER INDEX OF JURY TRIAL PROCEEDINGS
12 VOLUME V (Pages 970 - 979)
13 DATE: March 27-30, 2017
14 PLACE: Vassar B. Carlton Historic Courthouse
506 S. Palm Avenue
15 Titusville, Florida 32796-3592
16 BEFORE: The Honorable Robin Lemonidis,
Circuit Judge
17
These proceedings were digitally recorded
18 and the following was transcribed by:
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2	A	CD-(composite)DCF Intake Call & DCF message to Reporters and Certification of the same	636
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DEFENDANT'S EXHIBITS

NO.	MK'D	DESCRIPTION	REC'D

NONE

CERTIFICATE OF REPORTER

STATE OF FLORIDA]
]
COUNTY OF BREVARD]

I, SHIRLEY P. KING, RPR, CLVS, FPR, do hereby certify that I was authorized to and did transcribe the foregoing proceeding, and that the transcript page 1 through page 979 is a true and correct transcript from the digital record of the proceeding to the best of my ability.

Done and dated April 25, 2017 at Melbourne, Brevard County, Florida.

Shirley P. King

SHIRLEY P. KING, RPR, CLVS, FPR
Registered Professional Reporter