

1 MS. PETERSON: Thank you, Judge.

2

3

DIRECT EXAMINATION

4 BY MS. PETERSON:

5 Q. Alexis, how old are you?

6 A. Five.

7 Q. Five. Do you, is there someone
8 sitting next to you right now or standing up next to
9 you?

10 A. Yes.

11 Q. Who's that?

12 A. Grandpa.

13 Q. Is it your grandpa?

14 A. (Nonverbal response.)

15 Q. Is that a yes? You have to say yes
16 or no.

17 A. Yes.

18 Q. Okay, thank you. And do you have a
19 mom?

20 A. Yes.

21 Q. Is she here today?

22 A. (Nonverbal response.)

23 Q. Are you pointing somewhere?

24 A. My mom's over there.

25 Q. Okay, thanks. Alexis, do you go to

1 school?

2 A. (Nonverbal response.)

3 Q. Is that a yes or no?

4 A. I go to Kindercare, 'cause I don't go

5 to that other school anymore. I go to Doris Hancock

6 after, after Kindercare.

7 Q. So you go to two schools I guess,

8 huh?

9 A. (Nonverbal response.)

10 Q. Is that a yes?

11 A. (Nonverbal response.)

12 Q. Can you say yes or no for me whenever

13 I ask you a question, okay?

14 Alexis, do you know what it means to

15 tell the truth?

16 A. (Nonverbal response.)

17 Q. You have to say yes or no. Do you

18 know what it means to tell the truth?

19 A. Yes.

20 Q. Okay. Tell me what it means to tell

21 the truth.

22 A. You need to not say no, to not tell

23 any -- I don't know.

24 Q. Okay. Do you know what a lie is?

25 A. Yes.

- 1 Q. Okay. Is it bad to tell a lie?
- 2 A. Bad.
- 3 Q. What will happen if you tell a lie?
- 4 A. Punished.
- 5 Q. Okay. Do you promise to tell the
- 6 truth today?
- 7 A. Yes.
- 8 Q. Okay, Alexis.
- 9 MS. LEMCKE: Could we approach very quickly,
- 10 Judge? I'm sorry to interrupt you.
- 11 (Conference at the bench.)
- 12 THE COURT: Okay, go ahead.
- 13 MS. PETERSON: Thank you, Judge.
- 14 BY MS. PETERSON:
- 15 Q. Alexis, can you tell me what your
- 16 granddaddy is wearing today, your grandpa?
- 17 A. He's wearing a jacket and a shirt and
- 18 pants.
- 19 Q. A jacket and a shirt and pants. What
- 20 color is the jacket?
- 21 A. Black.
- 22 Q. Black. If I said that the jacket was
- 23 red, would that be the truth or a lie?
- 24 A. Lie.
- 25 Q. Okay. Do you promise to tell the

- 1 truth today?
- 2 A. Yes.
- 3 Q. Okay. Alexis, were you living in a
4 house with your mom awhile ago?
- 5 A. (Nonverbal response.)
- 6 Q. Is that a yes or a no?
- 7 A. Yes.
- 8 Q. Okay. And who was living in the
9 house with you guys?
- 10 A. Mommy and sissy.
- 11 Q. Okay, sissy, okay. Did you guys, did
12 you have a neighbor or anything?
- 13 A. Yes.
- 14 Q. Okay. Who was the neighbor?
- 15 A. Larry.
- 16 Q. Larry, okay. Did you like Larry?
- 17 A. (Nonverbal response.)
- 18 Q. You are shaking your head. Can you
19 tell me yes or no did you like Larry?
- 20 A. I don't want to say.
- 21 Q. You don't want to say it?
- 22 A. Uh-uh.
- 23 Q. Can you just tell me if you liked
24 Larry or not? Did you like Larry?
- 25 A. No.

1 Q. How come you didn't like Larry?

2 A. Because he's bad.

3 Q. Because he's bad. What did he do
4 that was bad?

5 A. He touched me.

6 Q. He touched you, okay. Can you tell
7 me where he touched you?

8 A. (Nonverbal response.)

9 Q. You're pointing. Can you show the
10 judge where you're pointing?

11 THE COURT: The record should reflect she is
12 pointing to what, counsel?

13 MS. PETERSON: Her vaginal area, Judge. I
14 am going to show a picture as well.

15 THE COURT: Okay.

16 MS. LEMCKE: Your Honor, may I approach also
17 so I can follow along with what's going on?

18 THE COURT: Sure.

19 BY MS. PETERSON:

20 Q. Alexis, I'm going to show you a
21 picture here. Is that a picture of a little girl?

22 A. (Nonverbal response.)

23 Q. Is that a yes?

24 A. Yes.

25 Q. Okay, thanks. And you had said that

1 Larry touched you, and you pointed where that was.
2 Do you have a name for what that is where Larry
3 touched you?

4 A. Privates.

5 Q. Private, okay. Can you take this pen
6 and just circle where the privates are on the picture
7 of this girl?

8 A. (Witness complies.)

9 Q. Okay, thank you, Alexis.

10 And I will have this marked as
11 Exhibit 1. I move to admit.

12 THE COURT: Any objection?

13 MS. LEMCKE: Submit it, your Honor.

14 THE COURT: It's admitted.

15 BY MS. PETERSON:

16 Q. Alexis, how did Larry touch you in
17 your private? What did he use to touch you with?

18 A. With his.

19 Q. With his private?

20 A. (Nonverbal response.)

21 Q. Okay, she nodded yes.

22 Okay, do you have a name for what you
23 call a boy's private?

24 A. I don't want to say it.

25 Q. Is there a name that you know but you

1 don't want to say it? Is that it?

2 A. (Nonverbal response.)

3 Q. Let me try again so I understand. Do
4 you know that there is a name for a boy's private?

5 A. (Nonverbal response.)

6 Q. You don't know that, okay.

7 Alexis, I'm going to show you another
8 picture. Do you know what that's a picture of? What
9 is that a picture of?

10 A. A boy.

11 Q. A boy, okay. Does the boy have
12 different privates than a girl?

13 A. (Nonverbal response.)

14 Q. Is that a yes or a no?

15 A. Yes.

16 Q. Okay. Can you take this pen and show
17 me where the boy's privates are on this picture?

18 A. (Witness complies.)

19 MS. PETERSON: Okay, Judge, I will have this
20 marked as Exhibit Number 2. She circled the penis,
21 and I would move to admit that.

22 MS. LEMCKE: Submit it, your Honor.

23 THE COURT: It's admitted.

24 BY MS. PETERSON:

25 Q. Alexis, where did that happen that he

1 touched you in your private with his private?

2 A. In his room.

3 Q. In his room, okay. Was anybody else
4 there?

5 A. (Nonverbal response.)

6 Q. Is that a no or a yes?

7 A. No.

8 Q. Okay. Did he, did he ever touch you
9 anywhere else?

10 A. (Nonverbal response.)

11 MS. LEMCKE: She's nodding no.

12 MR. ABCOOD: I need some clarification. I'm
13 not sure whether she means location or locus on the
14 bodies.

15 BY MS. PETERSON:

16 Q. Do you know how many times Larry
17 touched you?

18 A. (Nonverbal response.)

19 Q. Is that once that you talked about
20 with his private?

21 A. (Nonverbal response.)

22 Q. You are holding up your finger, but I
23 have to ask you and you have to answer. Was that,
24 how many times did that happen where Larry touched
25 your private with his private?

1 A. One time.

2 Q. One time, okay.

3 MR. ABOOD: I think, and I beg your pardon,
4 but I think the question was did he ever touch you
5 other than the one time, and she said one time.
6 There was no qualification concerning private versus
7 private. My reading of her testimony right now, she
8 is claiming there was one touching and it had nothing
9 to do with private or private?

10 THE COURT: Is there a reason we are doing
11 this right now? I mean are we going to discuss the
12 testimony when we are done or are you going to do
13 that during cross?

14 MR. ABOOD: I beg your pardon, but I think
15 she testified to something, the State repeated it to
16 move on to the next question but misrepeated the
17 child's testimony.

18 THE COURT: I think she changed the topic
19 entirely, but we are talking about locus versus
20 locale, and she went to time, which to me is to go
21 back and lay foundation.

22 MR. ABOOD: But the question was did he
23 touch you more than that one time.

24 THE COURT: If you are going to make an
25 objection, make it; otherwise, let's not do a 20

1 minute soliloquy here.

2 MR. ABOOD: I'm sorry, Judge.

3 THE COURT: Do you have an objection?

4 MR. ABOOD: My objection was she
5 misinterpreted or is misapplying the child's
6 testimony to you.

7 THE COURT: Okay. The objection is
8 overruled. I mean you are going to do
9 cross-examination. If there's some misunderstanding
10 or some twist or whatever, you can feel free to
11 examine.

12 MR. ABOOD: Yes, thank you, Judge.

13 THE COURT: It was a simple question. I
14 will let you keep going.

15 MS. PETERSON: Thank you, Judge.

16 BY MS. PETERSON:

17 Q. Alexis, I think I forgot what I was
18 asking you, but let me try again. You told me that
19 Larry touched your private with his private, right?

20 A. (Nonverbal response.)

21 Q. Is that a yes?

22 A. Yes.

23 Q. Okay. How many times did that
24 happen?

25 A. One time.

1 Q. Okay. Was there ever a time where
2 Larry did something different?

3 A. No.

4 Q. Okay. Was there ever a time that you
5 saw Larry's private another time?

6 MS. LEMCKE: Objection, asked and answered.

7 THE WITNESS: No.

8 THE COURT: It's overruled.

9 THE WITNESS: I mean I saw it.

10 BY MS. PETERSON:

11 Q. You saw his private, okay. Tell me
12 what happened when you saw his private.

13 A. He touched my private.

14 Q. Was this a different time or the same
15 time?

16 A. Different time.

17 Q. Okay. Tell me what happened on this
18 different time.

19 A. Not two times he didn't.

20 Q. Okay. Well, what did he do then?

21 MR. ABOOD: I'm sorry, I didn't hear that,
22 Judge.

23 MS. PETERSON: She said not two times.

24 MR. ABOOD: Not two times.

25 MS. PETERSON: She was clarifying.

1 BY MS. PETERSON:

2 Q. What did he do?

3 A. He touched it.

4 Q. He touched what?

5 A. My privates.

6 Q. With what?

7 A. With his.

8 Q. Okay. Alexis, did Larry ever touch
9 your private with his hand?

10 A. (Nonverbal response.)

11 Q. You're nodding your head. Can you
12 tell me if Larry ever, can you say yes or no if Larry
13 ever touched your private with his hand?

14 A. Yes.

15 Q. Okay. Where did that happen?

16 A. At his house.

17 Q. Okay. How many times did that
18 happen?

19 MS. LEMCKE: Objection, it assumes facts not
20 in evidence. I don't think we have established it
21 happened.

22 THE WITNESS: One time.

23 BY MS. PETERSON:

24 Q. One time?

25 MS. LEMCKE: That's okay, I might have

1 misunderstood the question, quite honestly.

2 MS. PETERSON: Okay.

3 THE COURT: Do you need me to say anything?

4 MS. LEMCKE: No, no, no. She can go ahead.

5 THE COURT: I can restate what I heard, but
6 I don't want to do that if I don't have to.

7 MS. LEMCKE: No, that's okay.

8 THE COURT: Okay.

9 MS. LEMCKE: Just so that you know, when she
10 answered it made me realize I might have
11 misunderstood the question.

12 THE COURT: Oh, okay.

13 BY MS. PETERSON:

14 Q. Can you tell me about that, when
15 Larry touched his hand to your private? You said
16 that was at his house?

17 A. (Nonverbal response.)

18 Q. Is that a yes?

19 A. Yes.

20 Q. Okay. Who else was there?

21 A. Chelsey, me, and him.

22 Q. Okay. When he touched his hand to
23 your private, were you wearing clothes?

24 A. (Nonverbal response.)

25 Q. Is that a no?

1 misunderstood the question, quite honestly.

2 MS. PETERSON: Okay.

3 THE COURT: Do you need me to say anything?

4 MS. LEMCKE: No, no, no. She can go ahead.

5 THE COURT: I can restate what I heard, but
6 I don't want to do that if I don't have to.

7 MS. LEMCKE: No, that's okay.

8 THE COURT: Okay.

9 MS. LEMCKE: Just so that you know, when she
10 answered it made me realize I might have
11 misunderstood the question.

12 THE COURT: Oh, okay.

13 BY MS. PETERSON:

14 Q. Can you tell me about that, when
15 Larry touched his hand to your private? You said
16 that was at his house?

17 A. (Nonverbal response.)

18 Q. Is that a yes?

19 A. Yes.

20 Q. Okay. Who else was there?

21 A. Chelsey, me, and him.

22 Q. Okay. When he touched his hand to
23 your private, were you wearing clothes?

24 A. (Nonverbal response.)

25 Q. Is that a no?

- 1 A. Yes.
- 2 Q. Okay, so let me understand.
- 3 A. No, I wasn't, no. It was a no.
- 4 Q. I guess I'm confused, Chelsey.
- 5 Excuse me, Alexis. Were you wearing clothes when he
- 6 touched your private with his hand?
- 7 A. Yes.
- 8 Q. Okay. So did he --
- 9 A. No, I wasn't wearing clothes.
- 10 Q. Okay. How did it get to be you
- 11 weren't wearing any clothes?
- 12 A. (Nonverbal response.)
- 13 Q. Did you take your clothes off?
- 14 MR. ABOOD: For the record, Judge, she put
- 15 her hand like this in a gesture that appeared to me
- 16 to mean I don't know.
- 17 THE COURT: The record will reflect that she
- 18 gestured her hand in a circular motion.
- 19 MR. ABOOD: Right.
- 20 BY MS. PETERSON:
- 21 Q. I'm sorry, Alexis, you said that he
- 22 took your clothes off?
- 23 A. (Nonverbal response.)
- 24 Q. Is that a yes?
- 25 A. Yes.

- 1 Q. Okay. And then what did he do? Did
2 he say anything?
- 3 A. (Nonverbal response.)
- 4 Q. What did he say?
- 5 A. To not tell no one.
- 6 Q. Okay. Alexis, did Larry ever make
7 you kiss him?
- 8 A. (Nonverbal response.)
- 9 Q. Is that a yes?
- 10 A. Yes.
- 11 Q. Okay. Can you tell me a little bit
12 about that? Where did he tell you to kiss him?
- 13 A. At his private.
- 14 Q. On his private?
- 15 A. (Nonverbal response.)
- 16 Q. Is that a yes?
- 17 A. Yes.
- 18 Q. Okay. Did you kiss him on his
19 private?
- 20 A. Yes.
- 21 Q. And where did that happen?
- 22 A. At his house.
- 23 Q. Okay. Did Larry ever kiss you?
- 24 A. No.
- 25 Q. Did he ever put his mouth anywhere on

- 1 your body?
- 2 A. (Nonverbal response.)
- 3 Q. Is that a yes?
- 4 A. Yes.
- 5 Q. Okay. Tell me, tell me where he put
- 6 his mouth.
- 7 A. On my privates.
- 8 Q. Okay. And where did that happen?
- 9 A. At his house.
- 10 Q. Okay. Did Larry ever touch you
- 11 anywhere else on your body?
- 12 A. Yes.
- 13 Q. Okay. Where did he touch you?
- 14 A. Privates.
- 15 Q. Privates, okay. Your front privates
- 16 like you were showing me in the picture?
- 17 A. (Nonverbal response.)
- 18 Q. Is that a yes?
- 19 A. Yes.
- 20 Q. Do you have, do you have back
- 21 privates?
- 22 A. (Nonverbal response.)
- 23 Q. Is that a yes?
- 24 A. Uh-huh.
- 25 Q. You just said uh-huh. You have back

- 1 privates too?
- 2 A. Yes.
- 3 Q. Do you have a name for that?
- 4 A. Butt.
- 5 Q. A butt, okay. Did Larry ever touch
6 you on your butt?
- 7 A. No.
- 8 Q. Okay. Alexis, I just have a couple
9 of more questions for you. You told me about a time
10 where Larry asked or told you to kiss him on his
11 private. Did he ever ask you to just touch him on
12 his private?
- 13 A. Yes.
- 14 Q. Okay. What happened that time?
- 15 A. Nothing.
- 16 Q. Okay. So he asked you, but nothing
17 happened?
- 18 A. (Nonverbal response.)
- 19 Q. Is that a yes?
- 20 A. Yes.
- 21 Q. Okay, Alexis, I'm done asking you any
22 questions now, so I'm going to have, this man and
23 this woman are going to have some more questions for
24 you though, okay? All right, thanks, Alexis.
- 25 THE COURT: Ms. Lemcke?

1 MS. LEMCKE: Court's indulgence, your Honor.

2

3

CROSS-EXAMINATION

4 BY MS. LEMCKE:

5 Q. Alexis, my name is Nancy, and I'm
6 just going to ask you a few more questions just like
7 Tami did, okay?

8 Before you came to court today, did
9 you talk to some people about this?

10 A. (Nonverbal response.)

11 Q. Is that a yes?

12 A. Yes.

13 Q. Do you remember who you talked to
14 about this?

15 A. The one who was talking to me.

16 Q. Was that Tami?

17 A. (Nonverbal response.)

18 Q. Okay. So you talked to Tami about
19 this?

20 A. (Nonverbal response.)

21 Q. Did you talk to anybody before you
22 talked to Tami about this?

23 A. (Nonverbal response.)

24 Q. Do you remember? It's okay, if you
25 don't remember you can just say.

- 1 A. I don't remember.
- 2 Q. Okay. Did you talk to your family,
3 like your momma?
- 4 A. (Nonverbal response.)
- 5 Q. Did you talk to your nana, and is
6 your nana your grandma?
- 7 A. (Nonverbal response.)
- 8 THE COURT: Try to get a yes or no.
- 9 MS. LEMCKE: I'm sorry, I forget.
- 10 THE COURT: She is shaking her head.
- 11 MS. LEMCKE: Sorry, Judge.
- 12 BY MS. LEMCKE:
- 13 Q. Is that a yes?
- 14 A. (Nonverbal response.)
- 15 Q. And do you remember talking to a lady
16 named Paula?
- 17 A. (Nonverbal response.)
- 18 Q. Is that a yes?
- 19 A. (Nonverbal response.)
- 20 Q. Did any of those people that you
21 talked to, did they talk to you about what you should
22 say when you come to court today?
- 23 A. Only one girl.
- 24 Q. Only one girl. Who's that?
- 25 A. The one that was just talking to me.

1 Q. I'm sorry, the one that was just
2 talking to you, okay. How about with your, with your
3 -- well, strike that.

4 How about your mom, when you talked
5 to your mom, did your mom talk to you about what you
6 should say when you come to court?

7 A. (Nonverbal response.)

8 Q. Okay. What did your mom tell you you
9 should say when you came to court?

10 A. Say it the right way.

11 Q. Okay, say it the right way. And what
12 is the right way? What do you think the right way
13 is?

14 A. Talk the right way.

15 Q. Talk the right way, okay.

16 Court's indulgence.

17 Okay, when you talked to your momma,
18 did she help you with what you were going to say
19 today?

20 A. Yeah.

21 Q. Is that a yes? I'm sorry, is that a
22 yes?

23 A. Yes.

24 Q. Okay. And when she helped you with
25 what you were going to say today, did she tell you

- 1 what to say today?
- 2 A. (Nonverbal response.)
- 3 Q. Is that a yes?
- 4 A. Yes.
- 5 Q. Okay. Did you talk to anybody else
- 6 besides your mom and your nana about what you were
- 7 going to say today?
- 8 A. Yes.
- 9 Q. Did you talk to Joe about what you
- 10 were going to say today?
- 11 A. (Nonverbal response.)
- 12 Q. Is that a yes?
- 13 A. No. I don't know.
- 14 Q. No, you don't know, okay. Did you
- 15 talk to me about what you were going to say?
- 16 A. (Nonverbal response.)
- 17 Q. Is that a yes?
- 18 A. (Nonverbal response.)
- 19 Q. Before today, did you talk to me?
- 20 A. No.
- 21 Q. Did you talk to a gentleman named
- 22 Vince before you came to court today? That maybe you
- 23 don't remember.
- 24 A. No, I don't remember.
- 25 Q. Okay, she said I don't remember.

1 Court's indulgence for one moment.

2 When you said just a couple of
3 minutes ago when I asked you, do you remember me
4 asking you if you talked to your mom?

5 A. Yes.

6 Q. Okay. And I asked you if you talked
7 to your mom before you came here today?

8 A. (Nonverbal response.)

9 Q. Is that a yes?

10 A. Yes.

11 Q. Okay. And you said you had talked to
12 your mom?

13 A. Yes.

14 Q. Did your mom help you remember what
15 you should say in court today?

16 A. Uh-huh.

17 Q. Is that a yes?

18 A. Yes.

19 Q. Okay. And how did your mom help you
20 remember what you should say in court today?

21 A. How to talk right.

22 Q. Okay. She told you how to talk
23 right. And what does talking right mean?

24 A. It means everyone has to hear your
25 voice.

1 Q. Everyone has to hear your voice. Did
2 she tell you what you should say when you come to
3 court?

4 A. (Nonverbal response.)

5 Q. Is that a yes?

6 A. (Nonverbal response.)

7 Q. Did she tell you what you should say
8 about Larry?

9 A. Yes.

10 Q. Okay. You told Tami just a couple of
11 minutes ago that Larry touched your private with his
12 private. Do you remember that?

13 A. (Nonverbal response.)

14 Q. Is that a yes?

15 THE COURT: Do you want to ask her yes or
16 no? When you say is that a yes, we are not going to
17 hear anything. I'm trying not to interrupt either of
18 you, but we'll have a record replete with no answers.

19 MS. LEMCKE: Okay. I'm repeating it. You
20 don't want me to say --

21 THE COURT: Just ask her yes or no.

22 MS. LEMCKE: Okay, okay.

23 BY MS. LEMCKE:

24 Q. Do you remember where you were when
25 Larry touched your private with his private?

- 1 A. At his house.
- 2 Q. Okay, you were at his house. And do
3 you remember where you were in the house?
- 4 A. In his room.
- 5 Q. You were in Larry's room, you weren't
6 in Chelsey's room, yes or no?
- 7 A. No.
- 8 Q. Okay. And where was Chelsey when you
9 were in Larry's room?
- 10 A. She was in the same room.
- 11 Q. She was in the same room?
- 12 A. (Nonverbal response.)
- 13 Q. Yes? Can you answer, say yes out
14 loud for me?
- 15 A. Yes.
- 16 Q. Thank you. And what was Chelsey
17 doing when you were with Larry?
- 18 A. Her, he was doing the same thing to
19 her.
- 20 Q. Okay. And where was she? Was she
21 standing up?
- 22 A. No, her was laying down.
- 23 Q. She was laying down?
- 24 A. (Nonverbal response.)
- 25 Q. Were you standing?

- 1 I'm sorry, Judge, I'm so sorry.
2 Is that a yes, she was laying down?
3 A. Yes.
4 Q. And where were you standing, or were
5 you laying down?
6 A. I was laying down, her was laying
7 down, he was.
8 Q. Okay. So all three of you were
9 laying down, okay. You weren't standing up?
10 A. (Nonverbal response.)
11 MR. ASOOD: She nodded her head yes for the
12 record.
13 BY MS. LEMCKE:
14 Q. All three of you were laying down?
15 A. (Nonverbal response.)
16 Q. Is that a yes? Can you say yes for
17 me?
18 A. Yes.
19 Q. Thank you. You weren't standing up
20 at all?
21 A. No.
22 Q. Okay. And do you remember were your
23 clothes on or were they off?
24 A. Off.
25 Q. They were off.

- 1 Court's indulgence.
- 2 Do you remember did Larry say
- 3 anything to you when you were laying there?
- 4 A. Yes.
- 5 Q. Okay. Do you remember what he said?
- 6 A. He said to not teli no one.
- 7 Q. Do you remember did you say anything
- 8 back?
- 9 A. No.
- 10 Q. Okay. Was Chelsey saying anything?
- 11 A. No..
- 12 Q. Okay. So she was just being quiet?
- 13 A. (Nonverbal response.)
- 14 Q. Is that yes?
- 15 A. Uh-huh.
- 16 Q. Okay. Do you remember what you were
- 17 wearing that day?
- 18 A. No, I don't remember.
- 19 Q. Okay. Did you have any ice cream
- 20 after that?
- 21 A. (Nonverbal response.)
- 22 Q. No?
- 23 A. Uh-uh.
- 24 MS. LEMCKE: Did you get that uh-uh?
- 25 THE COURT: Try yes or no. When she answers

1 something, try yes or no. Just say it, is that a yes
2 or no. You can give her both options, not giving
3 one, which would appear to suggest one. Give her
4 both. That's just a suggestion, because otherwise --

5 MS. LEMCKE: I understand, Judge. I'm
6 trying to do that, but sometimes I get to questions
7 where I --

8 THE COURT: If the answer calls for yes or
9 no, she doesn't get it and you still don't have it in
10 the record.

11 MS. LEMCKE: I will try to make the record
12 as best I can. It's not easy.

13 THE COURT: Well, I am going to start
14 interrupting because that's my job, to make it the
15 best that I can.

16 MS. LEMCKE: All right.

17 BY MS. LEMCKE:

18 Q. Do you remember also when you talked
19 about, when you talked about Larry touching your
20 private with his hand? Do you remember that?

21 A. (Nonverbal response.)

22 Q. Yes? Okay, can you say yes for me
23 out loud?

24 A. Yes.

25 Q. Thank you. Were your clothes on or

- 1 were they off then?
- 2 A. Off.
- 3 Q. Okay. And do you remember how your
4 clothes got to be off?
- 5 A. 'Cause he taked them off.
- 6 Q. Larry took them off, okay. And do
7 you remember where Chelsey was?
- 8 A. He wasn't, I mean her was in the same
9 room.
- 10 Q. She was in the sate room?
- 11 A. (Nonverbal response.)
- 12 Q. Yes? Can you say yes for me?
- 13 A. Yes.
- 14 Q. Okay. And do you remember what
15 Chelsey was doing?
- 16 A. Laying down quiet.
- 17 Q. She was laying down quiet?
- 18 A. (Nonverbal response.)
- 19 Q. Do you remember if you were in
20 Chelsey's room or if you were in Larry's room?
- 21 A. Larry's room.
- 22 Q. Okay. It wasn't Chelsey's room?
- 23 A. Uh-uh.
- 24 Q. Okay.
- 25 MR. ABCOD: That's a no.

1 MS. LEMCKE: That's a no.

2 THE COURT: It is if you say so, I guess.

3 Do you see my problem?

4 When you say uh-uh, sweetie, are you
5 saying yes or no?

6 THE WITNESS: No.

7 THE COURT: Thank you.

8 BY MS. LEMCKE:

9 Q. And at the time when you said that
10 Larry touched your private with his hand, did he say
11 anything to you?

12 A. Yes.

13 Q. And what did he say?

14 A. He said to not tell anyone. I don't
15 remember.

16 Q. And did you say anything back?

17 A. No.

18 Q. Is that all he said?

19 A. Yes.

20 Q. He didn't say, he didn't say anything
21 else after that?

22 A. No.

23 Q. Okay. Now, there was another time
24 you told Tami about just a couple of minutes ago
25 where you mentioned that you kissed Larry on his

- 1 private. Do you remember that?
- 2 A. Yes.
- 3 Q. Okay. And do you remember where in
- 4 Larry's house that was when that happened?
- 5 A. Huh?
- 6 Q. Do you remember where you were when
- 7 that happened?
- 8 A. In his room.
- 9 Q. In Larry's room? Is that a yes?
- 10 A. Yes.
- 11 Q. Where was Chelsey?
- 12 A. In the same room.
- 13 Q. And what was she doing?
- 14 A. The same thing.
- 15 Q. Okay. And was she sitting down or
- 16 was she standing?
- 17 A. Sit -- laying down I mean.
- 18 Q. I'm sorry, sweetie, what?
- 19 A. Laying down.
- 20 Q. And where were you?
- 21 A. In his room.
- 22 Q. Were you sitting? Were you standing?
- 23 A. Laying.
- 24 Q. Okay. So you and Chelsey were both
- 25 laying?

1 A. (Nonverbal response.)
2 Q. Is that a yes? Can you say yes for
3 me?
4 A. Yes.
5 Q. And was Chelsea saying anything?
6 A. No.
7 Q. Okay.
8 Court's indulgence.
9 Okay, now Tami asked you about
10 another time when you said that Larry put his mouth
11 on your private. Do you remember telling Tami about
12 that?
13 A. (Nonverbal response.)
14 Q. Is that a yes? Can you say yes for
15 me?
16 A. Yes.
17 Q. Thank you.
18 A. You already said those.
19 Q. I did?
20 A. Uh-huh.
21 Q. Sometimes I forget too, okay? And if
22 I ask it twice, will you not get mad at me?
23 A. (Nonverbal response.)
24 Q. Is that a no?
25 A. No.

- 1 Q. Okay, all right. That time were you
2 at Larry's house when that happened?
- 3 A. (Nonverbal response.)
- 4 Q. Is that yes?
- 5 A. Yes.
- 6 Q. Okay. And do you remember what room
7 you were in when that happened?
- 8 A. In his.
- 9 Q. Okay. In his room?
- 10 A. (Nonverbal response.)
- 11 Q. Is that a yes?
- 12 A. Yes.
- 13 Q. Okay. And where was Chelsey on that
14 time?
- 15 A. In the same room.
- 16 Q. She was in the same room with you?
- 17 A. (Nonverbal response.)
- 18 Q. Yes? Can you say yes for me?
- 19 A. Yes.
- 20 Q. Okay, thank you. And what was
21 Chelsey doing? Do you remember what she was doing?
- 22 A. (Nonverbal response.)
- 23 Q. No? Can you say no for me?
- 24 A. No.
- 25 Q. Okay. But she was there in the room?

- 1 A. (Nonverbal response.)
- 2 Q. Is that a yes?
- 3 A. Yes.
- 4 Q. Do you remember if you had your
5 clothes on or off?
- 6 A. Off.
- 7 Q. They were off?
- 8 A. (Nonverbal response.)
- 9 Q. Is that yes?
- 10 A. Yes.
- 11 Q. Okay. And did Larry say anything to
12 you?
- 13 A. He said to not tell anyone.
- 14 Q. Okay. And did you say anything back
15 at all?
- 16 A. No.
- 17 Q. And then one of the last things that
18 Tami asked you about was she asked you about Larry
19 having you touch his private. Do you remember that?
- 20 A. Yes.
- 21 Q. Okay. And where did that happen?
- 22 A. At his house.
- 23 Q. And do you remember what room you
24 were in?
- 25 A. In his.

- 1 Q. And where was Chelsey?
- 2 A. In the same room.
- 3 Q. Okay. And was she sitting there?
- 4 Standing there? Where was she in there?
- 5 A. Laying there.
- 6 Q. Okay. And were you sitting up or
- 7 were you standing, do you remember?
- 8 A. No.
- 9 Q. Okay. Were you ever standing up when
- 10 any of this stuff happened?
- 11 A. No. I mean I wasn't standing.
- 12 Q. You weren't standing?
- 13 A. Uh-uh.
- 14 Q. Okay, all right.
- 15 Let me ask you this, Alexis, do you
- 16 know how to count to ten?
- 17 A. (Nonverbal response.)
- 18 Q. Yes?
- 19 A. Can I just count Spanish?
- 20 Q. You know how to speak Spanish too?
- 21 Good for you. I'm thinking maybe in English for me,
- 22 because I don't know how to speak Spanish very well.
- 23 Can you count to ten for me in English?
- 24 A. Uno, dos, tres, cuatro, cinco, seis,
- 25 siete, ocho, nueve, diez.

- 1 Q. Okay. Now about in English, can you
2 do that in English too?
- 3 A. (Nonverbal response.)
- 4 Q. Is that a yes? Can you say yes for
5 me?
- 6 A. Yes.
- 7 Q. Okay. Now, every one of these
8 things you talked about, did they each just happen
9 once?
- 10 A. Once.
- 11 Q. How many times did you see Larry's
12 private?
- 13 A. One time.
- 14 Q. Just one time?
- 15 A. Yes.
- 16 Q. Did you ever tell your mom that you
17 made this stuff up?
- 18 A. I don't know.
- 19 Q. Okay. How about your grandma, did
20 you ever tell your grandma, no, grandma I lied, I
21 made this up?
- 22 A. No.
- 23 Q. You know who Chelsey is, don't you?
- 24 A. (Nonverbal response.)
- 25 Q. Is that a yes?

- 1 A. Yes.
- 2 Q. Is she a friend of yours?
- 3 A. Yes.
- 4 Q. Do you play with her?
- 5 A. Yes.
- 6 Q. Do you have fun when you play with
7 her?
- 8 A. Yes.
- 9 Q. Okay. Is Larry Chelsey's dad?
- 10 A. (Nonverbal response.)
- 11 Q. Is that yes? Can you say yes for me?
- 12 A. Yes.
- 13 Q. And you would sometimes go over to
14 Chelsey's house to play?
- 15 A. (Nonverbal response.)
- 16 Q. Is that yes?
- 17 A. Yes.
- 18 Q. And sometimes Larry would be there?
- 19 A. (Nonverbal response.)
- 20 Q. Is that yes?
- 21 A. Yes.
- 22 Q. But Chelsey was always with you when
23 you were over at Larry's; is that right?
- 24 A. Yes.
- 25 Q. Okay. Did you ever have any other

- 1 friends over at Chelsey's?
- 2 A. No.
- 3 Q. Okay. Nobody else ever came over to
- 4 Chelsey's besides just you and Chelsey?
- 5 A. Yes.
- 6 Q. Okay.
- 7 A. But when I told her I had a friend,
- 8 her said why you won't be my friend, but I am.
- 9 Q. Can you say that for me one more
- 10 time, please?
- 11 A. When I had a friend and I liked her,
- 12 and her wouldn't let me play with her.
- 13 Q. She wouldn't let you play with her,
- 14 your friend wouldn't?
- 15 A. No.
- 16 Q. Okay. And did this friend ever come
- 17 to Chelsey's house?
- 18 A. No.
- 19 Q. Okay.
- 20 Court's indulgence.
- 21 THE COURT: How much more do you have?
- 22 MS. LEMCKE: Huh?
- 23 THE COURT: How much more do you have?
- 24 MS. LEMCKE: Not much.
- 25 THE COURT: Okay. I need you, I have to

1 take a recess, so I can take a recess now or it's got
2 to be quick.

3 MS. LEMCKE: Do you want to take it now?
4 Whatever the court wants to do.

5 THE COURT: How many questions do you have?

6 MS. LEMCKE: It just depends how long it
7 takes me to get through all of this. There is not
8 that many. I mean this is it.

9 MS. PETERSON: If she just has a few
10 questions, I would rather finish with this witness.

11 THE COURT: Okay, go ahead.

12 BY MS. LEMCKE:

13 Q. Okay, do you remember all the things
14 that you talked about with Tami and I that happened
15 with Larry?

16 A. (Nonverbal response.)

17 Q. Is that a yes? Can you say yes for
18 me?

19 A. Yes.

20 Q. Thank you. Chelsey was always there
21 when these things happened; is that right?

22 A. Yes.

23 MS. PETERSON: Objection, asked and
24 answered.

25 THE COURT: Sustained.

1 BY MS. LEMCKE:

2 Q. Chelsey was always in the same room
3 when all these things happened?

4 A. Yes.

5 MS. PETERSON: Objection, asked and
6 answered.

7 THE COURT: Sustained.

8 BY MS. LEMCKE:

9 Q. Chelsey was always awake when you
10 guys --

11 MS. PETERSON: Judge?

12 THE COURT: I don't think that's been asked
13 and answered.

14 MS. PETERSON: I'm sorry, I was pretty sure.

15 MR. ABOOD: Judge?

16 THE COURT: Mr. Abood, you of all people.

17 MR. ABOOD: You're right, Judge.

18 THE COURT: It's the pot calling the kettle
19 black on the early objection thing.

20 MR. ABOOD: I apologize.

21 THE COURT: That's okay.

22 Do you want to go ahead and ask her
23 the question again?

24 BY MS. LEMCKE:

25 Q. Chelsey was always awake when you

1 guys were there?

2 A. Yes.

3 Q. And when I say when you guys were
4 there, I mean when the things happened with Larry,
5 Chelsey was always there and she was awake?

6 A. Yes.

7 MR. ABCOOD: Okay. Your Honor, did you want
8 to leave the bench for a few minutes and we'll finish
9 this up when --

10 THE COURT: I thought if she was close we
11 could --

12 MS. LEMCKE: It just takes me a longer time
13 to get through everything than I thought. My last
14 thing that I had was a page and a half and it took
15 quite a while, so I don't want your Honor to be upset
16 if it takes me longer. My suggestion would be if you
17 want to take a break, let's just take it.

18 MS. PETERSON: Judge, I think Alexis has
19 been through a lot. This is pretty grueling. I
20 think she would probably like to finish this, and I
21 would request we just finish the cross-examination.

22 THE COURT: Well, unfortunately if Alexis
23 could control the bathroom needs of the court, then
24 we would do what we could for Alexis, but
25 unfortunately the court has its own needs sometimes

1 that have to take precedence so I need a break for
2 one minute. If it's going to be now or five minutes
3 from now, I don't care, but it's got to be soon.

4 MS. LEMCKE: I would prefer you do it now.

5 THE COURT: I've got to do it, State.
6 Sorry.

7 MS. PETERSON: I'm sorry, Judge. That's
8 fine.

9 THE COURT: Okay. I'm going to take
10 literally two minutes. We'll let Alexis step outside
11 with her mother for two minutes. We'll ask her
12 mother not to discuss the testimony, and then we'll
13 bring her back in. I apologize, but it's got to be
14 done.

15 THE BAILIFF: Thank you, your Honor.

16 (Brief recess.)

17 THE COURT: Before we call her back in.

18 MS. PETERSON: Yes, Judge.

19 THE COURT: The record should reflect that
20 the same parties are present. The witness is outside
21 in the hallway.

22 Ms. Lemcke, I don't want you to think
23 I'm picking on you.

24 MS. LEMCKE: I know you're not.

25 THE COURT: I don't mean to interrupt your

1 examination, but what you don't understand is nodes
2 don't get in the record, so there is going to be a
3 lot of empty holes.

4 THE BAILIFF: I'm sorry, your Honor.

5 Could you please step outside for a
6 moment?

7 THE COURT: I'm sorry, we were having a
8 conversation.

9 And also, just a suggestion, do with
10 it what you will, but when you say is that a yes or
11 can you say yes, there was no indication that she
12 ever nodded yes or anything unless you make a record
13 of it, so you either need to say she's nodded in the
14 affirmative, can you say yes or can you say yes or
15 no. It's a suggestion, but I'm telling you the
16 record is going to be a mess. You have all of the
17 State's testimony and barely any of yours because
18 it's all inaudible.

19 MS. LEMCKE: I think I have gotten it to
20 where I'm satisfied. If they can see her nodding her
21 head, if she had a problem with my putting on the
22 record can you say yes for me, can you say no for me.

23 THE COURT: I'm just, I know, but that's my
24 job, not yours.

25 MS. LEMCKE: I understand, your Honor.

1 THE COURT: If the transcript, I mean that's
2 what I spend 90 percent of my time doing, which is
3 protecting the record, making sure it's all in the
4 record. You can ask the questions the way you want,
5 but so long as you are clear that nonverbal responses
6 and nods of the head are not going in the record.
7 There's empty blanks or "nonverbal response" is what
8 gets put in there. If you are fine with that, that's
9 fine.

10 MS. LEMCKE: That's why I asked the follow
11 up with her, asking can you say yes in the
12 microphone.

13 THE COURT: I know. It's just a suggestion,
14 you know. Do whatever you want. If you ask her is
15 that yes or no, she answers. It's not like she
16 doesn't understand the question.

17 MS. LEMCKE: It's not that I don't want to
18 do it that way, it's just that I have gotten in the
19 habit of doing it the other, and as long as they are
20 not objecting I have my answer.

21 THE COURT: All right.

22 MR. ABOOD: We appreciate the concern,
23 Judge. I think we probably got most of them. In
24 fact, I interjected a few times. We might have
25 missed a couple of them.

1 THE COURT: Okay. I'm just bringing to your
2 attention something my court reporter brought to my
3 attention during the recess. You can listen to the
4 two that are doing this or you can do whatever you
5 want.

6 MS. LEMCKE: I understand, Judge. I
7 understand.

8 THE COURT: The bottom line is are you ready
9 to go? I had to take a recess, folks.

10 MS. PETERSON: We are ready, Judge.

11 THE COURT: Such is life.

12 MS. PETERSON: If we are set, can we call
13 her back in?

14 THE COURT: Bring her back in.

15 MS. LEMCKE: Can I approach just briefly, or
16 we, whatever?

17 THE COURT: Yes.

18 (Conference at the bench.)

19 THE COURT: As is customary, I'm going to
20 establish she understands she is still under oath to
21 the best of my ability, and if you have anything you
22 want to follow up on as to what either one of you
23 would have done, you are free to do so.

24 Alexis, do you remember earlier when
25 you raised your right hand?

1 THE WITNESS: (Nonverbal response.)

2 THE COURT: Is that yes or no?

3 THE WITNESS: Yes.

4 THE COURT: Do you remember promising me you
5 would tell the truth, yes or no?

6 THE WITNESS: Yes.

7 THE COURT: Do you understand you still have
8 to tell the truth?

9 THE WITNESS: Yes.

10 THE COURT: You are going to be asked some
11 more questions, and you still have to tell the truth,
12 do you understand, yes or no?

13 THE WITNESS: Yes.

14 THE COURT: Do you promise?

15 THE WITNESS: Yes.

16 THE COURT: Okay. Thank you very much.

17 BY MS. LEMCKE:

18 Q. Alexis, I'm going to show you
19 something. Can you tell me what that is?

20 A. A cup.

21 Q. Okay. Can you tell me where the
22 outside of the cup is?

23 A. Numbers.

24 Q. Okay.

25 Oh, she is referring, just for the

1 record, your Honor, she is noticing numbers are on
2 the bottom of the cup.

3 So is this part, and I'm circling my
4 hand now around the exterior of the cup. Is that
5 part the outside?

6 A. Yes.

7 Q. What would this part be called?

8 A. Inside.

9 Q. Okay. So we have outside and inside?

10 A. (Nonverbal response.)

11 Q. Is that a yes or no?

12 A. Yes.

13 Q. Okay, okay. When you talked about
14 the fact that you kissed Larry's private, his private
15 didn't go inside your mouth, did it?

16 A. Uh-uh.

17 Q. Is that a yes or no?

18 A. No.

19 Q. Okay. And when Larry put his mouth
20 on your private, his mouth did not go inside your
21 private, did it?

22 A. Uh-uh.

23 Q. Is that a yes or no?

24 A. I forgot the --

25 Q. Was that a yes or no?

1 A. Yes.

2 Q. Okay. When you initially answered my
3 question, you first said no, his mouth did not go
4 inside your private. Do you remember that?

5 A. Yes.

6 Q. Okay. So his mouth did not go inside
7 your private?

8 A. Yes, he did.

9 Q. Okay. The mouth was on the --
10 court's indulgence just a moment.

11 I have nothing further, your Honor.

12 MS. PETERSON: Nothing further, Judge.

13 THE COURT: Alexis, you are all done. Thank
14 you very much for your testimony. You are excused.

15 THE WITNESS: Thank you.

16 THE COURT: State, do you have another
17 witness?

18 MS. PETERSON: I do, Judge. The State calls
19 Paula Hammack.

20 MR. ABOOD: Might I inquire as to --

21 THE COURT: The record should reflect that
22 the witnesses, both of them, are leaving the
23 courtroom.

24 PAULA HAMMACK,

25 called as a witness and having been first duly sworn