

1 to tell the truth, the whole truth, and nothing but  
2 the truth, 'was examined and testified as follows:

3 THE CLERK: Please be seated. State your  
4 full name and spell your last name for the record.

5 THE WITNESS: Paula Hammack, H-a-m-m-a-c-k.  
6

7 DIRECT EXAMINATION

8 BY MS. PETERSON:

9 Q. Paula, how are you employed?

10 A. I'm a Child Protective Services  
11 investigator with the Clark County Family and Youth  
12 Services.

13 Q. And how long have you worked for  
14 Clark County Family and Youth Services?

15 A. I have been with their agency nine  
16 years.

17 Q. Ms. Hammack, I want to direct your  
18 attention, have you ever had any contact with an  
19 individual by the name of Ashley Ashford?

20 A. Yes, I have.

21 Q. Excuse me, Alexis Ashford?

22 A. Yes, I have.

23 Q. Okay. And is that the five year old  
24 who just left the courtroom today?

25 A. Yes, correct.

1 Q. How did it come about that you had  
2 some contact with Alexis?

3 A. I received a referral in reference to  
4 a friend of Alexis' by the name of Chelsey Schwiger.  
5 At that time I had some contact with Detective  
6 Roberts, and he indicated that Alexis also might have  
7 had some dealings with Chelsey's father where they  
8 were concerned about some touching problems.

9 Detective Roberts had interviewed  
10 Chelsey and Alexis at the time, and they gave no  
11 disclosure; however, he was concerned that maybe a  
12 female investigator would be more, she would be more  
13 comfortable talking to. And at that time I conducted  
14 an interview with Alexis on February 2nd, 2001.

15 Q. Can you tell me where that interview  
16 took place?

17 A. At the children's advocacy center,  
18 which is also known as SAINT.

19 Q. Is there a particular room you do  
20 those interviews in?

21 A. Yes. We have an interview room  
22 there.

23 Q. What's the setup of that room like?

24 A. The interview room we use for  
25 children that are younger children, when you walk in

1 there is like two stairs, like steps.

2 MR. ABCOD: What's the relevancy to the  
3 content or the way the interview room looks? I'm  
4 satisfied. There's an interview tape. Maybe we can  
5 get to the interview.

6 MS. PETERSON: Judge, I'm going to be  
7 seeking to admit some statements Alexis made to  
8 Ms. Hammack under 51.395, and I'm trying to establish  
9 that the circumstances of that statement are  
10 sufficient to show reliability and trustworthiness.

11 THE COURT: Okay. Is it a pretty room, or  
12 are you saying, are you going to suggest or make an  
13 offer of proof that it's welcoming to children or  
14 something like that?

15 MS. PETERSON: That's where I was going,  
16 Judge. I'm sorry.

17 THE COURT: Okay, go ahead.

18 BY MS. PETERSON:

19 Q. Ms. Hammack, you were describing  
20 there were some stairs. Is that a child friendly  
21 environment?

22 A. Yes.

23 Q. Can you tell me what about it makes  
24 it child friendly?

25 A. It's, it's got pillows in there, a

1 doll, and stuff where the kids can kind of, it's like  
2 kind of relaxed. They can crawl and move around.  
3 It's not like it's in a chair or a table where it's  
4 uncomfortable or anything. They are able to move  
5 around in the room freely and stuff.

6 Q. Okay. And when you interviewed  
7 Alexis, was there anybody else in the room with you?

8 A. No, there was not.

9 Q. How did you go about talking to her  
10 about the disclosures that she had made?

11 A. Prior to us going into the interview,  
12 Alexis had some time to play and stuff in the  
13 playroom at the SAINT office, and I sat in there and  
14 played with her, just kind of built some rapport,  
15 didn't ask her any questions about anything relevant  
16 to the investigation.

17 I also had time to talk to the  
18 maternal grandmother who gave me some background  
19 information on the case. So when I went into the  
20 interview room -- let me go back. Also Detective  
21 Ramirez was present on another case there, so I had  
22 some time to brief with him some information he had  
23 shared with me with reference to the case as well.

24 Q. Just so I understand, was it your  
25 understanding that the child had made an initial

1 disclosure to the grandmother?

2 A. Yes.

3 Q. Okay. And so you had talked to the  
4 maternal grandmother about that as well?

5 A. Yes, I had.

6 Q. And then what did you do then with  
7 your interview?

8 A. When I took her into the room,  
9 instead of dealing with the developmental and stuff,  
10 because that had already been addressed in prior  
11 interviews, I started talking briefly with her,  
12 talking to Detective Ramirez, which I referred to as  
13 Vince I believe in my statement. I asked her if she  
14 had talked to him and stuff, and that's kind of where  
15 it went from there.

16 Q. Okay. And did you ask then about  
17 what she had told the detective?

18 A. I believe I asked her, but I think I  
19 asked her later in the interview.

20 Q. Okay.

21 A. I asked her if she had talked to the  
22 detective, and she said yes.

23 Q. How did you focus her attention to  
24 talk about this, the allegations that were going on?

25 A. I had asked her if she had talked to

1 the detective, Vince, and she said yeah. And I said  
2 what did you talk about. She stated they talked  
3 about Larry. And I said what did you talk about .  
4 Larry, and she went on to say that he does -- I can't  
5 recall exact words, he does bad things or something  
6 to that nature.

7 Q. Okay. And did you ask her then a  
8 little more specifics about what Larry was doing?

9 A. Yes.

10 Q. What did she tell you?

11 A. She indicated that he was touching  
12 her on her, what she called her boobies and on her  
13 private on top of the clothes, and that he touched  
14 her on her butt underneath the clothes. She  
15 indicates that he took her clothes off and his  
16 clothes. She indicated in the interview that he made  
17 her touch his, she called it a ding-dong, with her  
18 hand.

19 Q. Okay. What was she referring to with  
20 the ding-dong?

21 A. His private area.

22 Q. His penis?

23 A. Uh-huh.

24 Q. Is that a yes?

25 A. Yes. I'm sorry.

1 Q. And how were you able to determine  
2 that's what she was talking about with regards to the  
3 ding-dong phrase?

4 A. When we talked about body parts, I  
5 asked her about her body parts and stuff, and she  
6 indicated that his ding-dong was a private part.

7 Q. Okay.

8 A. Was something that --

9 Q. Okay. And you said that she told you  
10 about touching his ding-dong. What did she say  
11 specifically about that?

12 A. Can I refer to my notes?

13 Q. Yes. Do you have notes in addition  
14 or just the taped statement?

15 A. The statement.

16 Q. Okay. And just so I'm clear, I guess  
17 you tape the interviews that you do with children?

18 A. Yes, I do.

19 Q. And have you had a chance to look at  
20 the transcript of that statement?

21 A. Yes, I have.

22 Q. And would that refresh your  
23 recollection as to what she actually told you with  
24 regards to touching his ding-dong?

25 A. Yes.

1 Q. Ms. Hammack, if you would go ahead  
2 then and let me know when you are set.

3 A. Okay. I think it's on, I don't know  
4 if you guys have it, it's on page eight. I had asked  
5 her did he ask you to touch him somewhere, and she  
6 indicates yes. And then I asked her where did he ask  
7 you to touch him, and she says she doesn't want to  
8 say, and then she says his pee pee. And I asked her  
9 what about his pee pee, and she said he had to take  
10 his panties off. He got all naked.

11 Q. Did she describe what happened after  
12 he got all naked?

13 A. She gets a little, she starts to shut  
14 down, and what I mean by that is she gets a little  
15 fidgety in the room with me, not really focusing in  
16 on what I'm asking her.

17 And so when I talked to the maternal  
18 grandmother, she said she had been making some  
19 drawings and doing stuff, so I asked her if she would  
20 make a drawing. She said yeah, but nothing really  
21 came of that. She attempted to make a drawing, but  
22 it wasn't related to anything I could determine being  
23 anything described as a ding-dong I guess I should  
24 say.

25 Q. Did there come a time then when you



1 actually asked her about touching his ding-dong?

2 A. I did. I asked her what did he make  
3 you touch his ding-dong with. She started to point  
4 to, there was some Kleenex in the room. She's  
5 pointing to the Kleenex, and that's when I started to  
6 lose her, not lose her, but as far as she, she wasn't  
7 focusing and stuff, so we got a little confused  
8 again.

9 I had asked her, I said did you touch  
10 his ding-dong with your foot, and she said yes, and I  
11 stopped right there and kind of reiterated. I asked  
12 her, I said did you tell your grandma something  
13 happened at Larry's, and she said yes, and I said did  
14 Larry ask you to touch his ding-dong with your hand,  
15 and she said yes.

16 Q. Okay. You also mentioned that at  
17 some point during the interview she indicated that he  
18 touched her butt I believe is what you said?

19 A. Yes.

20 Q. Can you tell me about that?

21 A. I had just, we had just went over  
22 body parts. She had named all her body parts, and I  
23 asked her if anybody had touched her on her, and I  
24 went through the body parts and stuff and made sure  
25 she understood what was okay and not okay touching.

1 I asked her about her butt, and she said he touched  
2 her under her clothes on her butt with his hand.

3 Q. Okay. And I think you said there was  
4 another disclosure that she made about him touching  
5 her private; is that correct?

6 A. I believe she says it in the end that  
7 he touches his private to her private, or, excuse me,  
8 I'm sorry, it was -- let me make sure here. Because  
9 she indicates at one time when I asked her has  
10 anybody touched her private, she said Larry touched  
11 it on top of her clothes. I asked her later in the  
12 interview.

13 Q. Did she indicate when you were  
14 talking about on top of her clothes, did she indicate  
15 how he touched her, with a hand or something else?

16 A. With his hand.

17 Q. And you were saying questions, you  
18 asked a follow-up question near the end of the  
19 interview you were saying?

20 A. I asked her did his ding-dong touch  
21 you on your private, and she didn't give any  
22 response, and I say yes or no, and she says yes.

23 Q. Okay.

24 MS. PETERSON: I will pass the witness,  
25 Judge.

1 THE COURT: Cross-examination?

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

3

4

CROSS-EXAMINATION

5 BY MR. ABOOD:

6 Q. Ms. Hammack, you and I have met  
7 before. I'm Joe Abood. Do you remember me at all?

8 A. Yes, I do.

9 Q. How are you doing?

10 A. I'm doing fine, Mr. Abood.

11 Q. I have a few questions I want to ask  
12 you about this.

13 A. Okay.

14 Q. Is it fair to say that this child  
15 made the initial disclosure to her grandma?

16 A. Yes.

17 Q. What's her grandma's name?

18 A. Linda Simone.

19 Q. What she said to her grandma is one  
20 specific allegation, right?

21 A. The information I had was that the,  
22 he -- let me make sure. She told her that Larry's  
23 pee pee smells.

24 Q. Yeah, right, something like that.  
25 You don't have any information that she ever said

1 anything other than that to her grandma?

2 A. No.

3 Q. And you are also aware the fact that  
4 moments later she told grandma that she made it up,  
5 right?

6 A. I don't recall.

7 Q. You don't recall whether or not that  
8 child told her grandma she lied about it?

9 A. No, I don't. I don't recall that.

10 Q. Do you recall that this child told  
11 her own mother that she lied about it?

12 A. No, I am not aware of that.

13 Q. You don't have that information?

14 A. No, I don't.

15 Q. Have you discussed this case with the  
16 State, the district attorney?

17 A. Briefly this morning.

18 Q. Okay. And you've discussed it with  
19 the detectives?

20 A. I have had some discussions with the  
21 detectives, yes.

22 Q. And specifically Detective Ramirez?

23 A. I have had short discussions with  
24 Detective Ramirez on the date of the interview, which  
25 was February 2nd, and I don't recall him saying

1 anything about her lying about it.

2 Q. So nobody ever told you she told her  
3 mom and grandma that she made these things up?

4 A. Not that I recall.

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

7 THE COURT: Sustained.

8 MR. ABOOD: All right, okay.

9 BY MR. ABOOD:

10 Q. You told us a little earlier she drew  
11 a picture of something called a ding-dong?

12 A. She didn't draw a picture of a  
13 ding-dong. She drew a picture. It was more  
14 scribbling and scratching. You couldn't determine  
15 what that was.

16 Q. All right. In response to your  
17 asking her to draw a picture of Larry's ding-dong,  
18 she drew something, didn't she?

19 A. I didn't ask her to draw a picture of  
20 Larry's ding-dong, I asked her to draw a picture of  
21 what he made her touch.

22 Q. What he made her touch. We were  
23 talking about Larry's ding-dong, weren't we?

24 A. Yes.

25 Q. Okay. So this picture that she drew

1 she provided to you?

2 A. She scribbled on a piece of paper.

3 Q. Okay. Let's call it a scribble then  
4 since you are more comfortable with that. She gave  
5 that scribble to you?

6 A. Yes.

7 Q. And you gave it to the State?

8 A. No, I didn't.

9 Q. Okay. Do you have this picture?

10 A. I don't, no. I don't have it.

11 Q. Can you tell us where it is?

12 A. No, I can't. I don't know where it's  
13 at. I don't know if I, I think I might have  
14 disregarded it because I found it just to be, it was  
15 just scribble.

16 Q. If it looked like a penis, it would  
17 be in your file right now, wouldn't it?

18 A. Possibly.

19 Q. Okay. Are you telling this court  
20 that you destroyed this drawing that she made?

21 A. I am not saying that, I said I don't  
22 know where it's at.

23 Q. Do you have another file on this  
24 case?

25 A. No, I don't.

- 1 Q. Is this the only file you have on  
2 this case?
- 3 A. Yes, it is.
- 4 Q. And it's not in there?
- 5 A. Correct.
- 6 Q. Did the State ever ask you to provide  
7 this drawing that was made?
- 8 A. No, they did not.
- 9 Q. And you didn't think it was important  
10 for you to keep a drawing that a child made in  
11 reference to someone's ding-dong?
- 12 A. At that time I did not.
- 13 Q. Does it surprise you that I think  
14 it's important?
- 15 A. No, it doesn't surprise me.
- 16 Q. Is there a way you can reproduce this  
17 drawing that she made in reference to someone's  
18 ding-dong?
- 19 A. It's scribble. I doubt it.
- 20 Q. It didn't look anything like a penis,  
21 did it?
- 22 A. No, it didn't.
- 23 Q. That's why you didn't save it, is  
24 that right?
- 25 A. Correct.

1 Q. All right. I want to ask you some  
2 questions about the statement.

3 Court's indulgence.

4 Did she do two drawings with you?

5 A. No.

6 Q. She only did one drawing?

7 A. I gave her once piece of paper and  
8 she drew on that piece of paper.

9 Q. I will get back to this drawing in a  
10 second.

11 A. Okay.

12 Q. Now, Ms. Peterson asked you some  
13 questions about this statement that this young child  
14 provided to you. Now, you have a copy of the  
15 statement, don't you?

16 A. Yes, I do.

17 Q. And the State has a copy, and they  
18 have provided me with a copy. Can I show you that  
19 real quick? Is that the same copy you have got?

20 A. Yes.

21 Q. I want to ask you a few questions to  
22 clarify some things you testified about, and I will  
23 tell you what page I'm on; is that okay?

24 A. Okay.

25 Q. And they ought to be the same, your



1 pages ought to be the same. I don't want to go  
2 through the whole thing with you, but there's a  
3 couple of things I want to try to flush out if you  
4 don't mind. And I will start on page six. There was  
5 a point in your discussion with this child where you  
6 talked to her about what would happen to her if she  
7 told. Do you remember that?

8 A. Yes.

9 Q. Okay. And I'm looking at page six,  
10 and let me start with line ten, okay, do you ask the  
11 question what did he tell you would happen if you  
12 told?

13 A. Yes.

14 Q. Okay. And her answer is, um, I don't  
15 know, correct?

16 A. Yes.

17 Q. And then you asked did he say you  
18 would get ice cream or that somebody would be sad.  
19 That was your next question, right?

20 A. Yes.

21 Q. And what was her answer?

22 A. Get ice cream.

23 Q. Get ice cream. So she is telling you  
24 that he said if she told she would get ice cream,  
25 right?

1 A. Uh-huh.

2 THE COURT: Is that a yes?

3 THE WITNESS: Yes, I'm sorry.

4 BY MR. ABOOD:

5 Q. Let me turn to, refer you to page  
6 seven. You then started asking her questions about  
7 where these incidents happened, correct?

8 A. Yes.

9 Q. And she tells you in his house; is  
10 that right?

11 A. Yes.

12 Q. And then your next question ends up  
13 being there in his house, who was there at his house  
14 with him. I'm looking at line ten.

15 A. Yes.

16 Q. And she tells you no, just him and  
17 Chelsey, correct?

18 A. Yes.

19 Q. And then your next question is, yeah,  
20 where was Chelsey when he touched you; is that right?

21 A. Yes.

22 Q. And what's her answer?

23 A. She said she is standing behind.

24 Q. She is standing behind, okay. And in  
25 fact you went further and tried to clear that up, and

1 she in fact confirmed that yeah, Chelsey was standing  
2 behind.

3 A. Yes.

4 Q. Okay. Now, by the way, there is a  
5 certain art to these interview techniques, isn't  
6 there?

7 A. There is a method, yes.

8 Q. There is a method. And when I say  
9 "method" and when you say "method," I want to make  
10 sure we are talking about the same thing. You have  
11 had to undergo certain training in terms of how to  
12 interview children, right?

13 A. Yes.

14 Q. And some of the real basic concerns  
15 that you guys have is that you don't want to ask  
16 questions of little children that essentially provide  
17 them with the answer; is that right?

18 A. Yes.

19 Q. Okay. I'm going to refer you to page  
20 eight. Now, you're asking her questions about what  
21 he touched, what Larry touched her private with; is  
22 that right?

23 A. Yes.

24 Q. And she talks about her hand, or, I  
25 beg your pardon, she talks about his hand, correct?

- 1 A. Yes.
- 2 Q. You're on page eight?
- 3 A. Yes.
- 4 Q. Look at line 15 very quickly, please.
- 5 A. Mine's not numbered.
- 6 Q. I'm sorry, it's somewhere in the
- 7 middle. I will read it to you and see if you can
- 8 find it. Yeah, was it on top of the clothes or, and
- 9 I beg your pardon, she confirms that he touched her
- 10 with his hand, right?
- 11 A. Yes.
- 12 Q. And your follow-up question is was it
- 13 on top of the clothes or underneath the clothes,
- 14 correct?
- 15 A. Yes.
- 16 Q. What's her answer?
- 17 A. On top of the clothes.
- 18 Q. On top of the clothes. Now, you go
- 19 on to say on top of the clothes, okay. Did he touch
- 20 you with any other part of his body, and what's her
- 21 answer?
- 22 A. That's all.
- 23 Q. That's all, okay. Page eleven, now
- 24 you're asking her about what she saw underneath his
- 25 panties, correct?

1 A. Yes.

2 Q. And she talks about seeing something  
3 called his ding-dong, right?

4 A. Yes.

5 Q. Your question is did he make you  
6 touch his ding-dong, and she gives no verbal  
7 response, correct?

8 A. Correct.

9 Q. And you say to her you're shaking  
10 your head, what does that mean, right?

11 A. Right.

12 Q. And she says?

13 A. Yes.

14 Q. Yes, okay. Now, your next question  
15 is what did he make you touch his ding-dong with; is  
16 that right?

17 A. Yes.

18 Q. Okay. Again, she gives no verbal  
19 response, and you say huh?

20 A. Yes.

21 Q. And she gives no verbal response, and  
22 you say I don't know what that is, and what does she  
23 say?

24 A. Kleenex.

25 Q. Kleenex. So your next question is he

1 made you touch his ding-dong with Kleenex; is that  
2 right?

3 A. Yes.

4 Q. And does she give a response?

5 A. She gives no verbal response.

6 Q. So again you say yeah, what did you  
7 do with the Kleenex. Is there a response?

8 A. No verbal response.

9 Q. No verbal response, okay. So she is  
10 giving you no verbal response concerning touching his  
11 ding-dong with the Kleenex.

12 You ask a question did he make you  
13 touch his ding-dong with your foot; is that right?

14 A. Yes.

15 Q. Does she give a response?

16 A. No verbal response.

17 Q. No response, okay. Now, you say you  
18 are shaking your head, what does that mean, right?

19 A. Correct.

20 Q. She says yes?

21 A. Yes.

22 Q. Your question is you're shaking your  
23 head back and forth, is that yes or no, and she says?

24 A. She says it's yes.

25 Q. Now, you ask he made you touch it

1 with his foot, with your foot, and again, there's no  
2 response; is that right?

3 A. Correct.

4 Q. Okay. Page 15, please. At the top  
5 of the page, you ask her did his ding-dong touch you,  
6 touch you on your private. Does she give a response?

7 A. No.

8 Q. And then you say yes or no, correct?

9 A. Correct.

10 Q. And she says?

11 A. Yes.

12 Q. Yes. Your question then is yeah,  
13 were you standing up when this happened. What does  
14 she say?

15 A. Yes.

16 Q. Yes. Your question is was he  
17 standing up, and what does she say?

18 A. Yes.

19 Q. And you say what, right?

20 A. Uh-huh.

21 Q. Okay. And she says uh-huh. And then  
22 you say what do you think about Larry, do you like  
23 Larry, right?

24 A. Correct.

25 Q. Okay. So in this question and answer

1 series that I just went through with you right now,  
2 she claims when his ding-dong touched her private he  
3 was standing up, correct?

4 A. Correct.

5 Q. And she was standing up, correct?

6 A. Correct.

7 Q. They were both standing up when that  
8 happened?

9 A. Per her statement, yes.

10 Q. Okay. Now, is that what you mean  
11 when you told the judge, because clearly that doesn't  
12 make any sense, does it?

13 A. I would probably need more  
14 clarification, but it makes one wonder. I guess it  
15 doesn't make sense.

16 Q. Is that what you meant when you told  
17 this judge that she was shutting down, she wasn't  
18 giving you the answers that you were expecting?

19 A. She is starting to limit her eye  
20 contact, she started to move around the room, yes.  
21 She was starting to stare at the mirror that was in  
22 the room. She wasn't facing me, she was standing in  
23 the corner not facing me.

24 Q. Uh-huh. And your experience with  
25 young children, and then of course you know this from



1 your training, they have a problem with eye contact  
2 sometimes when they are saying things that aren't  
3 true; is that right?

4 A. I don't know if I would say that's  
5 true.

6 Q. I wouldn't expect you to say it's  
7 true, okay.

8 By the way, does that, in response to  
9 my telling you today that this young child told both  
10 her grandmother and her own mother that she made this  
11 up, that she lied, does that cause you in your  
12 duties --

13 MS. PETERSON: Judge, I'm going to object.  
14 I think that misstates and asks a question that's not  
15 in evidence. I think the mother said that she said  
16 yeah, it was a lie, but I don't think there is  
17 anything about the grandmother.

18 MR. ABOOD: I think I asked mom.

19 THE COURT: First of all, why don't you  
20 finish the question, because he hasn't finished it  
21 yet, and then you can object based on all the  
22 question. Maybe when it's finished you will have  
23 other grounds, I don't know, but let him finish it.

24 Could you restate the question?

25 MR. ABOOD: I sense you are giving me a

1 heads up about something here.

2 THE COURT: Speculation, relevance, I don't  
3 know.

4 Does it affect her duties, would it  
5 have changed what she did?

6 MR. ABOOD: No, no.

7 BY MR. ABOOD:

8 Q. You are still involved in this case,  
9 aren't you?

10 A. Correct.

11 Q. In fact, you are the CFS person  
12 assigned to this case, aren't you?

13 A. In regards to the Schwiger case.

14 Q. In regards to the Schwiger case,  
15 right.

16 A. Correct.

17 Q. There may be additional  
18 responsibilities you have in this Schwiger case,  
19 correct?

20 A. Correct.

21 Q. Do any of those responsibilities get  
22 changed by the fact that this young child told her  
23 mother and her grandmother that she made this up?

24 A. I would still proceed on the matter.  
25 I mean I would interview everybody involved.

1 Q. So you plan on doing some  
2 interviewing?

3 A. Correct.

4 Q. Okay. Other than interviewing this  
5 young child, which you have already done -- by the  
6 way, how many times have you interviewed this young  
7 girl?

8 A. Once.

9 Q. And this is the product that we have  
10 right here, right?

11 A. Correct.

12 Q. Have you ever spoken to her about  
13 this case, the Schwiger case, where it wasn't  
14 recorded?

15 A. No.

16 Q. Okay. Has anybody at CPS, to your  
17 knowledge, spoken to her about this case where it  
18 wasn't recorded?

19 A. Not to my knowledge.

20 Q. Do you know a young lady named, do  
21 you know Chelsey Schwiger?

22 A. Yes, I do.

23 Q. She is over at CPS, isn't she?

24 A. She is not in protective custody.

25 Q. She is not?

1 A. No.

2 Q. Was there a time that she was?

3 A. Yes.

4 MS. PETERSON: Objection, relevance.

5 MR. ABCOD: Well, I think, well, let me go  
6 this and we'll see if you have the same objection.

7 BY MR. ABCOD:

8 Q. Did you take any statements from her  
9 concerning the Schwiger case?

10 A. I talked to Chelsey on February 2nd,  
11 2001, at her school, at Doris Hancock, with  
12 Specialist Natalie Guessman, whereas she did not  
13 disclose any problems with touching.

14 Q. That was a whole mouthful. Let me go  
15 through it again. I guess the answer was yes, you  
16 did talk to Chelsey Schwiger?

17 A. Schwiger?

18 Q. Schwiger right, Chelsey Schwiger  
19 about this specific case, right?

20 A. About touching, yes.

21 Q. And in fact did you get a recorded  
22 statement there?

23 A. I have her taped statement. I don't  
24 believe I transcribed it because there was no  
25 disclosure.

1 Q. There was no disclosure?

2 A. Correct.

3 Q. Much like the ding-dong picture  
4 that's no longer with us. Do you have a problem  
5 transcribing --

6 MS. PETERSON: Objection, argumentative.

7 MR. ABOOD: So the State and defense have  
8 the benefit of the facts of that case --

9 THE COURT: Sustained?

10 MR. ABOOD: -- we are making a, if you don't  
11 mind, on the record we are making a request that any  
12 of the statements taken actually be transcribed and  
13 provided to the district attorney's office and  
14 provided to the defense.

15 THE COURT: Sure. Why don't we address that  
16 after we are done questioning the witness?

17 MR. ABOOD: Yes, your Honor, thank you.

18 BY MR. ABOOD:

19 Q. So I guess what you are telling us is  
20 you did take a statement from this young lady, right,  
21 that's Larry Schwiger's daughter, correct?

22 A. Correct.

23 Q. She is the same five year old little  
24 girl that this Alexis girl kept referring to as being  
25 with her when all these things happened, right?

1 A. Correct.

2 Q. And in fact you were armed with the  
3 information of all these things that supposedly  
4 happened when you sat down with Chelsey, correct?

5 A. Correct.

6 Q. So you kind of had a background or  
7 you had an idea of the kind of questions you wanted  
8 to ask Chelsey?

9 A. Correct.

10 Q. And a lot of those questions had to  
11 do with confirming what Alexis told us today in  
12 court; is that right?

13 A. Correct.

14 Q. And can you tell this judge how much  
15 of Alexis' story Chelsey actually confirms?

16 MS. PETERSON: And I'm going to object.  
17 That actually calls for a hearsay answer.

18 THE COURT: Well, it does, but in the  
19 totality of generalizing, if she is going to say none  
20 I will let her answer it.

21 THE WITNESS: No, she doesn't say --

22 THE COURT: How much of the story did she  
23 confirm?

24 THE WITNESS: None, none.

25 / / / /

1 BY MR. ABCOB:

2 Q. Okay, all right. I guess the  
3 testimony to this court is because her statement  
4 wasn't helpful to you or the State's prosecution of  
5 Larry, you never even transcribed it, right?

6 A. I did not transcribe it. Detective  
7 Roberts talked to Chelsey prior, so I didn't see, I  
8 didn't feel that my case, my interview, would have  
9 been any more relevant than his. He had the same  
10 information.

11 Q. Did you tell the district attorney's  
12 office that you spoke to Chelsey and she did not  
13 confirm anything Alexis said?

14 A. I believe my information was with  
15 Detective Roberts, which I assume that he referred to  
16 the D.A.'s office.

17 Q. Despite your own assumptions, did  
18 you --

19 A. I never talked to the D.A.'s office  
20 about my interview with Chelsey Schwiger.

21 Q. You never told them that this other  
22 five year old girl, who supposedly was there when all  
23 this was happening, didn't confirm any of it?

24 A. No. That information was already  
25 provided by Detective Roberts, who had already prior

1 interviewed Chelsey Schwiger.

2 Q. Were you privy to the interview that  
3 Detective Roberts did with Chelsey?

4 A. Did I have an interview in front of  
5 me by Detective Roberts, no. Did I have information  
6 verbal, yes.

7 Q. Do you know whether or not he  
8 provided the transcript of his interview of Chelsey?

9 A. No, I do not.

10 MS. PETERSON: And Judge, I have to object  
11 here. I think we're way off base now, and I'm  
12 objecting as to relevance as to the line of  
13 questioning about Chelsey's interview.

14 MR. ABOOD: You know why we are way off  
15 base, we are way off base because these are facts  
16 that don't support the State's prosecution of this  
17 guy. This evidence clearly, as exculpatory evidence,  
18 should have been provided to the defense. There's no  
19 way in the world we cannot classify this evidence as  
20 exculpatory evidence.

21 THE COURT: Can you ask your questions, and  
22 we can discuss this when everyone's done with her  
23 testimony.

24 MR. ABOOD: Thank you, Judge.

25 / / / /



1 BY MR. ABOOD:

2 Q. Didn't you just tell us a few minutes  
3 ago the reason you didn't tell the district  
4 attorney's office that Chelsey just didn't confirm  
5 anything Alexis said is because you thought Detective  
6 Roberts told them, right?

7 A. Correct.

8 Q. Okay. And then I asked you did  
9 Detective Roberts provide them with the recorded  
10 statements of this little girl essentially just not  
11 confirming anything, and what was your answer?

12 A. I don't recall, I don't know.

13 Q. You don't know, okay. So you know he  
14 told them that Chelsey didn't confirm anything Alexis  
15 says, but you don't know if he provided them with the  
16 recorded statements where all the questions are asked  
17 and all the denials are made, correct?

18 A. Correct.

19 Q. Was there ever going to come a time  
20 when you gave the State this information that this  
21 other little girl that was supposedly there just  
22 isn't confirming anything Alexis says?

23 A. Again, it goes back to Detective  
24 Roberts with his information. I already assumed he's  
25 already provided that. My case is not submitted to

1 the deputy district attorney for criminal  
2 prosecution. That information is given to Metro's  
3 detective who then submits it to --

4 Q. So he's --

5 A. He had already interviewed Chalsey,  
6 so I figured in his packet that interview was in his  
7 packet.

8 Q. So he's the loose link. The reason  
9 we don't have your recorded statements is because he  
10 didn't give them to us, right?

11 MS. PETERSON: Again, objection, Judge.

12 THE COURT: Sustained. I mean I think you  
13 made the point. For her to speculate as to what the  
14 loose link is, and I mean she is not obligated, she's  
15 not part of the criminal prosecution team.

16 We can argue the legal aspects of the  
17 discovery and exculpatory statements, but I will  
18 sustain the objection to the question. She's  
19 answered she didn't think she had to, she doesn't  
20 work for Metro, doesn't work for the prosecutor.

21 Next question?

22 MR. ABOOD: Thank you, Judge. I  
23 apologize.

24 BY MR. ABOOD:

25 Q. So the thing we can say -- and I just

1 have a couple more questions for you, Ms. Hammack.  
2 The thing we can say for sure is that this photograph  
3 of a ding-dong or this, I beg your pardon, this  
4 drawing of a ding-dong that looks nothing like a  
5 penis, we're not going to get the benefit of that  
6 drawing at this point; is that right?

7 A. Correct.

8 Q. You just don't have it?

9 A. I don't have it.

10 MR. ABOOD: Okay, thank you, Judge.

11 MS. PETERSON: Nothing further, Judge.

12 THE COURT: Thank you very much for your  
13 testimony, ma'am. You are excused.

14 MS. PETERSON: Judge, I do have one final  
15 witness, and it's Linda Simione.

16 THE COURT: You know, I didn't expect this  
17 would go on for two and a half hours. I mean if this  
18 is going to take another hour, I'm going to take a  
19 recess.

20 MS. PETERSON: Let me find out.

21 Judge, can we approach just briefly?

22 THE COURT: Sure.

23 (Conference at the bench.)

24 MS. PETERSON: The State calls Linda  
25 Simione.