

1 THE BAILIFF: Please raise your right hand  
2 and face the clerk.

3 LINDA SIMIONE,  
4 called as a witness and having been first duly sworn  
5 to tell the truth, the whole truth, and nothing but  
6 the truth, was examined and testified as follows:

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

9 THE WITNESS: I'm Linda Simone. My last  
10 name is S-i-m-i-o-n-e.

11 THE CLERK: Thank you.

12

13 DIRECT EXAMINATION

14 BY MS. PETERSON:

15 Q. Linda, what is your relation to  
16 Alexis Ashford?

17 A. I'm her grandmother. She refers to  
18 me as her nana.

19 Q. Are you married then to Fred Simone,  
20 her grandpa?

21 A. Yes, I am.

22 Q. Okay. And was Alexis living at 6750  
23 Del Ray, Number 106, I guess back in August of 2000?

24 A. Yes, she was.

25 Q. And is that here in Las Vegas, Clark

1 County, Nevada?

2 A. Yes, it is.

3 Q. And when exactly did she move in?

4 A. I believe it was, I can't be certain  
5 the month, but I believe it was August.

6 Q. Okay. And did you ever come in  
7 contact with a neighbor by the name of Larry?

8 A. Yes, I have.

9 Q. And do you see Larry here in the  
10 courtroom today?

11 A. Yes, I do.

12 Q. Could you point to him and tell me  
13 what he's wearing today?

14 A. He's wearing blue and blue pants. He  
15 has glasses on. He has brown hair. He's sitting  
16 right in front of me.

17 MS. PETERSON: May the record reflect,  
18 Judge, the witness has identified the defendant?

19 THE COURT: The record shall so reflect.

20 BY MS. PETERSON:

21 Q. Were you aware that Larry actually  
22 lived next door to 6750 Del Ray, Number 109?

23 A. Yes, I was.

24 Q. And is that here in Las Vegas, Clark  
25 County, Nevada?

1 A. Yes, it is.

2 Q. Were you aware of any times where  
3 Ashley, your granddaughter, would actually be over at  
4 Larry's house?

5 A. Yes.

6 Q. I'm sorry, I just said Ashley. I  
7 meant Alexis, your granddaughter.

8 A. I thought you referred to her last  
9 name as Ashford.

10 Q. Okay, I apologize. I meant were you  
11 aware of any time where Alexis had gone over to  
12 Larry's?

13 A. Yes.

14 Q. Was that a routine or was that a  
15 habit that would happen?

16 A. I believe. I went, I came around  
17 after work every day to check on my grandchildren,  
18 and I believe that Larry was taking --

19 MS. LEMCKE: Your Honor, I object to  
20 anything that's speculative. I don't know if she can  
21 lay a better foundation for other knowledge.

22 THE COURT: Can you rephrase the question?

23 MS. PETERSON: Sure.

24 BY MS. PETERSON:

25 Q. Do you have a lot of contact with

1 your daughter and granddaughter?

2 A. Yes, I do.

3 Q. How often would you come by their  
4 house?

5 A. Monday through Friday after work.

6 Q. Okay. And what would be the purposes  
7 of you coming by?

8 A. Just to check on the kids, make sure  
9 Alexis had a way home from school, check on my older  
10 granddaughter, which is in high school right across  
11 the street.

12 Q. Would Alexis be at the house, at her  
13 house, or would she be somewhere else when you would  
14 get there?

15 A. It would be about the time she was  
16 getting out of school. Sometimes I would go to the  
17 school and pick her up, and sometimes I would not be  
18 there because she was still in. It was between 2:30  
19 and 3:00, and the school let out around 3:00.

20 Q. Were you aware of Larry ever picking  
21 her up?

22 A. Yes, I was.

23 Q. Did you ever have to get Alexis from  
24 Larry's house?

25 A. Yes.

1 Q. How would that happen?

2 A. I would go over to pick her up,  
3 because I liked to take her home with me. And Wendy  
4 would say she was at Larry's because he would pick  
5 her up from school, and I would go over to pick her  
6 up.

7 Q. Okay. Would you just knock on  
8 the door and find Alexis? Did you have to call  
9 first?

10 A. I would knock at the door and there  
11 was no answer, so I would go back to Wendy and I  
12 would say I thought you said Alexis was over at  
13 Larry's. She said let me call them. The statement  
14 was give me a few minutes and I will open the door.

15 Q. And, I'm sorry, who said that?

16 MS. LEMCKE: Your Honor, objection, hearsay.

17 THE WITNESS: Wendy told me she called Larry  
18 at the time. I didn't know Larry that well.

19 MS. PETERSON: Okay.

20 THE COURT: Ma'am, when somebody objects,  
21 you have to stop testifying for a minute and let me  
22 make a ruling.

23 THE WITNESS: Oh, I didn't hear that. I'm  
24 sorry.

25 THE COURT: That's okay.

1 The objection is sustained.

2 MS. LEMCKE: Move to strike.

3 THE COURT: The answer shall be stricken.

4 BY MS. PETERSON:

5 Q. Just so I'm clear though, Wendy told  
6 you something about whatever she heard on the phone?

7 A. She would say --

8 Q. I don't want to know what it is, but  
9 that's what she told you, right?

10 A. Yes.

11 Q. Thank you. I want to just talk to  
12 you. Did there ever come a time when your  
13 granddaughter told you something about what was going  
14 on with Larry?

15 A. Yes.

16 Q. When did that occur?

17 A. I don't know the exact date, but it  
18 was in January, it was between the 5th and around the  
19 10th. I can remember about that time frame.

20 Q. Okay. And we are talking about  
21 January 2001, correct?

22 A. Correct.

23 Q. And where did this take place when  
24 she began to talk about this?

25 A. On the way home from school one day.

1 She goes to Doris Hancock. I pick her up from that  
2 school.

3 Q. So you picked her up that day?

4 A. Yes.

5 Q. And was there anybody else in the car  
6 with you?

7 A. No.

8 Q. So just you and your granddaughter?

9 A. Yes.

10 Q. And how did it come about that she  
11 said something about Larry?

12 A. She just told me she had a secret.

13 Q. Okay. Had you asked her if she had a  
14 secret, or did she just blurt it out?

15 A. No, she just told me she has a  
16 secret.

17 Q. What did you do when you heard her  
18 say she had a secret?

19 A. At first I didn't really bother with  
20 it, you know, and then she said it again. She said I  
21 have a secret to tell you, nana, and I said okay,  
22 tell me, and she goes I can't tell you. And I asked  
23 her why, and she said because mommy would be killed  
24 or she would be beat up.

25 Q. And are those the exact words?

1 A. Exactly exact words.

2 Q. Okay. And then what happened after  
3 Alexis said that?

4 A. She had, I told her nothing would  
5 happen to her mommy. I said, you know, I didn't  
6 really know what she was going to tell me, and she  
7 said I can't tell you, and I said okay, I have a  
8 secret but I'm not going to tell you my secret. She  
9 goes okay, I'll tell you, and she told me that -- can  
10 I continue?

11 Q. Yes. What did she tell you?

12 A. She told me that Larry, that Larry's  
13 weiner stunk, and I said what do you mean by that,  
14 and she said his weiner stunk. And I said when did  
15 you smell his weiner, and she said Larry had me kiss  
16 his weaner.

17 Q. All right. Do you know what Alexis  
18 meant by the word "weiner"?

19 A. Yes, I did.

20 Q. How did you know what she meant by  
21 the word "weiner"?

22 A. Because that's the way, you know, I  
23 think she would say it, you know.

24 Q. What was she referring to when she  
25 said the word "weiner"?



1 MR. ABCOD: I will object to that. It's  
2 clear she has no knowledge what the young girl is  
3 referring to.

4 THE COURT: You can lay foundation about  
5 whatever she has knowledge of.

6 BY MS. PETERSON:

7 Q. Have you ever talked to Wendy, your  
8 daughter, or your granddaughter about the names for  
9 private parts or anything like that, or were you  
10 aware of whether or not your granddaughter had a  
11 particular name for a penis?

12 A. No. She would use the word private  
13 for herself, but she had referred this to a weiner.

14 Q. And after she said that about I guess  
15 kissing his weiner?

16 A. Yeah. She said his weiner smelled  
17 and he wanted her to kiss his weiner.

18 Q. Okay. And what happened?

19 A. Oh, she could have used the word  
20 "ding-a-ling." I can't recall whether it was weiner  
21 or ding-a-ling. I remember it was one of those  
22 words. But when she said it to me, I was like my  
23 mind was blown about it.

24 Q. Okay. And what happened after you  
25 heard that?

1           A.       I asked her, I said when did this  
2 happen, she said I can't tell you no more. And I  
3 said Alexis, you don't have anything to worry with  
4 me, you can tell me, you know, what happened, and she  
5 said that her and Chelsey was playing house with  
6 Larry and took their clothes off and said that he  
7 wanted her to kiss his ding-a-ling or weiner. I  
8 don't remember the exact word. It was one of those  
9 words that she had told me.

10           Q.       Okay, okay. And after she told you  
11 that Larry, that Larry wanted to play house and she  
12 did this, what did she say after that?

13           A.       There was really no more said at that  
14 point. I didn't want to push any more on her. I  
15 didn't say anything to her.

16           Q.       Did you have any further discussions  
17 with her about this?

18           A.       No, I did not. I talked to my  
19 husband about it, Fred Simicne. Can I go on?

20           Q.       Let me just make sure I understand.  
21 Did you talk to her about it any more on that day?

22           A.       No.

23           Q.       Did you talk to her about it again  
24 another time?

25           A.       She spoke to me more about it. She

1 started drawing pictures.

2 Q. Tell me about the pictures she drew.

3 A. We were, she always played in my  
4 kitchen, and she was drawing on her little table.  
5 She said this is what Larry's weiner looks like, and  
6 I was like how do you know what it looks like. She  
7 goes because I seen it, so I said Alexis, tell nana  
8 what happened, and she says I ain't telling you no  
9 more. She was kind of feared of me saying something  
10 to Larry and Wendy. She did not want me to tell her  
11 mother.

12 MR. ABOOD: I'm going to object. There is  
13 no evidence that she knows what's in this little  
14 girl's mind.

15 THE COURT: Do you want to lay foundation,  
16 State?

17 BY MS. PETERSON:

18 Q. Let me just ask you this, Linda. I  
19 guess at some point when she's talking about this and  
20 showing the picture she stopped saying anything?

21 A. No, no, she didn't stop. We talked a  
22 little bit about it. I told her she needed to tell  
23 me what was going on so I could talk to her mommy.  
24 She says please don't tell my mommy.

25 Q. Okay.

1           A.       I said Alexis, nothing is going to  
2 happen to you or your mommy, you tell nana. And she  
3 started telling me about Larry would take her to his  
4 bedroom, and they would play house, and Chelsey and  
5 her would take their clothes off. And I asked her --

6           MS. LEMCKE: Judge, can we get the  
7 foundation? Is that the following day at dinner or  
8 is this on another occasion?

9           THE WITNESS: This is the following day.

10 BY MS. PETERSON:

11           Q.       So this is the time where she is  
12 drawing a picture, correct?

13           A.       Yes, yes, the following day. I asked  
14 no more questions of her that day she told me about  
15 that.

16           Q.       That first day in the car?

17           A.       The only one I spoke to is my  
18 husband, and I called my daughter.

19           Q.       Let me slow you down.

20           A.       Okay.

21           Q.       You didn't ask her any more questions  
22 after she told you in the car?

23           A.       No.

24           Q.       But the next day she is drawing a  
25 picture, and you are asking some more questions?

1 A. Yes.

2 Q. And you said, again, she mentioned  
3 that Larry played house or whatever, is that what you  
4 said?

5 A. Yes, correct.

6 Q. And what did she say?

7 A. She told me that she would go to  
8 Chelsey's and they would play house, and they would  
9 play in Larry's room and that they would, he would,  
10 he had the girls take their clothes off. And I would  
11 also say what did he do with you then, and she said  
12 he would get on top of Chelsey and then got on top of  
13 me. And then she would say I don't want to talk  
14 about it no more. It was in bits and pieces that  
15 day. There was, you know, a little bit of a  
16 conversation more so the second day than the first  
17 day after I spoke to my daughter.

18 Q. Okay. Have you talked to her since  
19 that second time at your house or somewhere else  
20 about what Larry was doing?

21 A. We have spoke, yes, about it.

22 Q. Who would bring it up?

23 A. Alexis would bring it up mainly.

24 Q. Okay.

25 A. She didn't want to go home anymore.

1 She wanted to stay with me because she was afraid of  
2 Larry.

3 MR. ABOOD: I'm going to object, your Honor.  
4 She doesn't know what's going on in this girl's mind.

5 BY MS. PETERSON:

6 Q. Did she say she was afraid of Larry?

7 A. Yes, she did.

8 Q. Did there ever come a time where  
9 Alexis was playing with Play-Doh?

10 A. Yes.

11 Q. Can you tell me about that?

12 A. At school the teacher had made  
13 Play-Doh for the kids. She came home, and she was  
14 out again in her kitchen, their little table, and she  
15 rolled up some Play-Doh, and she said this is what  
16 Larry's ding-a-ling -- that the, that's the word she  
17 used -- looks like. She rolled it up to look just  
18 like one, and she had said it would be like this and  
19 it would get bigger later.

20 And I thought that really puzzled me  
21 when she had told me that.

22 Q. When did she say that about the  
23 Play-Doh and his ding-a-ling would get bigger?

24 A. It wasn't the second time. I cannot  
25 tell you exactly when it was.

1 Q. It was the time after the second time  
2 when she does the drawing?

3 A. Exactly.

4 Q. Did she ever say anything to you  
5 about Larry kissing her anywhere?

6 A. Yes, she did.

7 Q. Can you tell me about that?

8 A. That was later. She had said to me,  
9 I said when you played house with Larry, I kind of  
10 asked her when you played with him what all happened,  
11 and she said he would take my clothes off and  
12 Chelsey's clothes off, he would lay on top of Chelsey  
13 first and get on top of me, and he would kiss my  
14 private. And she used the word "private" then.

15 MS. PETERSON: I will pass the witness,  
16 Judge.

17 THE COURT: Cross-examination?

18

19

CROSS-EXAMINATION

20 BY MR. ABOOD:

21 Q. Good day, ma'am.

22 A. Hi.

23 Q. My name is a Joe Abood. I'm a public  
24 defender. I will ask you some of these same types of  
25 questions.

1 A. Sure.

2 Q. I want you to be aware that I have a  
3 copy of a statement that you gave the police. Do you  
4 remember giving that statement?

5 A. Yes, I do.

6 Q. Okay. You told us today that there  
7 was some pictures that were drawn?

8 A. Yes.

9 Q. Do you have those pictures?

10 A. No, I do not.

11 Q. Who did you give them to?

12 A. I, at the time when she drew them I  
13 picked them up and through them out, but I still have  
14 the Play-Doh.

15 Q. The Play-Doh, I guess.

16 A. Yeah. It dried up, and it's in the  
17 cabinet.

18 Q. Okay. And I guess the nature of that  
19 Play-Doh is you take a wad, you stick it in your hand  
20 and do this business with it, and eventually you make  
21 shapes or something with it?

22 A. She made, yee, she did.

23 Q. Okay. I want to go through your, you  
24 know, one more question. Is it fair to say that each  
25 time here in your statement that you used the word



1 "weiner," you might have meant the word  
2 "ding-a-ling"?

3 A. She used both names. At times she  
4 would say weiner and sometimes she would say  
5 ding-a-ling. She used both statements.

6 Q. Okay. You know why I'm bringing it  
7 up, right, all right, there was some confusion  
8 earlier. I think at one point you said I am not sure  
9 if she used the word "weiner."

10 A. Well, she used, like when she first  
11 told me, I couldn't recall if it was weiner or  
12 ding-a-ling, but she used both of those words to me  
13 when we were speaking about it.

14 Q. Okay. Let me talk to you about the  
15 statements you gave the police.

16 A. Okay.

17 Q. My records show that it was on  
18 January 25th. Does that make sense to you?

19 A. I told the officers I was not sure of  
20 the date that she had told me, and I do not believe,  
21 that's probably when I went to make the statement,  
22 around that time.

23 Q. That's what I'm saying.

24 A. I thought you said Alexis told me  
25 about --

- 1 Q. Right.
- 2 A. It was the beginning of January,  
3 between I would say the 10th and the 15th Alexis told  
4 me.
- 5 Q. Let's do this, if you don't mind,  
6 okay?
- 7 A. Okay.
- 8 Q. I will ask you a specific question,  
9 and then you give me an answer.
- 10 A. Okay.
- 11 Q. Okay, all right. My records show you  
12 gave Metro a statement about what you know about this  
13 case on January 25th. Does that make sense?
- 14 A. Detective Robert, I don't know if  
15 he's Metro. It was a detective.
- 16 Q. Okay, he is --
- 17 A. He called me, yes.
- 18 Q. Thank you. I'm going to ask you some  
19 questions about that statement, okay?
- 20 A. Sure.
- 21 Q. All right. When you testified today,  
22 you told this judge that the first time that Alexis  
23 said something to you about having a secret and not  
24 wanting to tell --
- 25 A. Correct.

1 Q. -- that she told you that she didn't  
2 want to tell because of something about her momma  
3 being killed?

4 A. She was worried about her mommy being  
5 killed or beaten up.

6 Q. Did she use those words "killed" or  
7 "beaten up"?

8 A. Yes, she did.

9 Q. That must have shocked you.

10 A. Yes, she did.

11 Q. And that's probably one of the things  
12 about this story that she told you that most struck  
13 your mind; is that right?

14 A. Correct.

15 Q. Okay. And my understanding from  
16 looking at your statement is you were watching TV one  
17 evening and you were rubbing her back; is that right?

18 A. She likes her back rubbed a lot, yes,  
19 she does.

20 Q. You were rubbing her back, and then  
21 she says to you nana, I have a secret?

22 A. No, that's not when it happened. It  
23 happened on the way home from school.

24 Q. Okay. Well, do you know that what  
25 you told the police, the detective, is that it was in

1 the evening, towards the end of the evening we were  
2 watching TV and she had me rub her back?

3 A. That was the second day when she was  
4 talking about Larry getting her clothes off of her  
5 and laying on top of her.

6 MS. PETERSON: Counsel, can you tell me what  
7 page you are on?

8 MR. ABOOD: I'm on page two right in the  
9 beginning of the statement.

10 BY MR. ABOOD:

11 Q. Apparently you are telling us now she  
12 told you some story prior to the back rubbing?

13 A. On the way home from school.

14 Q. Okay. So she tells you that I have a  
15 secret thing on the way home from school and while  
16 she is watching TV the following day?

17 A. The following day, yes.

18 Q. Okay. What do you remember about  
19 exactly what she told you on the way home from  
20 school?

21 A. She had told me she had a secret, and  
22 I asked her what her secret was, and she didn't want  
23 to tell me because she told me her mom would be beat  
24 up or killed.

25 Q. Uh-huh.

1           A.       And I said Alexis, nothing will  
2 happen to you, you talk to me.

3           Q.       Okay.

4           A.       And I let it go for a minute. I said  
5 I have a secret too. And she says okay, I'll tell  
6 you, and she says Larry's weiner stinks. And I said  
7 to her what do you mean his weiner stinks, and I said  
8 how do you know if stinks, and she goes because I had  
9 to kiss his weiner.

10          Q.       Anything else?

11          A.       No. That's all she told me on the  
12 way home from school.

13          Q.       So she tells you this on the way home  
14 from school, and those must have been shocking words.

15          A.       Yes. I didn't take her home, I took  
16 her right to my house after that.

17          Q.       Okay. And you didn't call Metro?

18          A.       No, I did not.

19          Q.       You didn't tell anybody?

20          A.       I told my daughter that evening. I  
21 didn't get to that point. When she was talking to  
22 me, I didn't know what I could ask and what I could  
23 not.

24          Q.       So you told your daughter that  
25 evening, and she didn't call Metro either, right?

1           A.       I guess she did. No, that evening,  
2 no.

3           Q.       When you finally did get around or  
4 when Metro did get around to getting informed about  
5 this, that's when they went to take this voluntary  
6 statement?

7           A.       No. Before Metro I went to the  
8 school principal, and I spoke with Helen, the school  
9 principal. I didn't know how to handle it at the  
10 time, and I talked to her, but it was on a Thursday I  
11 spoke with her, I believe, and on a Friday I talked  
12 to the school principal, and on Monday Metro came  
13 around to speak to me.

14          Q.       Okay. And on Monday when they came  
15 around --

16          A.       It was Monday or Tuesday. I don't  
17 remember the exact, about the day or the time.

18          Q.       That's all right.

19          A.       They didn't speak to me. My daughter  
20 had told me that Larry --

21          Q.       Ma'am, let me pose a question to you  
22 and then you can give me an answer, okay?

23          A.       Okay.

24          Q.       You told the principal or you had a  
25 discussion with the principal?

1 A. Yes.

2 Q. Metro comes around to see you either  
3 on Thursday or Friday?

4 A. Metro didn't come around to see me,  
5 not me. My daughter told me Metro came to her house.

6 Q. Okay, all right. When they came to  
7 your place --

8 A. They never came to my place.

9 Q. You met them?

10 A. They called me on the phone. It was  
11 a Detective Roberts.

12 Q. And you met him there?

13 A. At the office on West Charleston  
14 Boulevard.

15 Q. That's when you gave him this  
16 statement?

17 A. Yes.

18 Q. This is the only statement you gave?

19 A. This is the statement I gave him when  
20 he called me to come down and talk with him. There  
21 was two detectives. I don't recall the other one.

22 Q. But this is the only statement there  
23 is, right?

24 A. I spoke to not only him, I spoke to  
25 Child Protection.

1 Q. Did they take a statement from you?

2 A. I'm sure they did. I mean I talked  
3 to them about it. I don't know if they wrote it  
4 down, but I think there was a microphone at the time.

5 Q. Okay, all right. Now, from the day  
6 you gave this statement, Alexis had said something to  
7 you only how many days before?

8 A. How many days before what, sir?

9 Q. Before you gave this statement? In  
10 other words, how many days had elapsed from that ride  
11 home from school?

12 A. On Thursday she told me, on Friday I  
13 talked, she told me on Thursday and Friday I talked  
14 to the school.

15 Q. Okay. And how many days after Friday  
16 did you actually give this statement?

17 A. I believe it was a Monday or Tuesday.  
18 It was over, the weekend went by, and it was either  
19 Monday or Tuesday that following week.

20 Q. Okay. So about a little less than a  
21 full week had gone by before --

22 A. Correct.

23 Q. -- they took your statement?

24 A. Correct.

25 Q. Okay. And they were asking you



1 questions about exactly what happened here, right?

2 A. Correct.

3 Q. Okay. And have you had any chance or  
4 any opportunity to review the statement that you gave  
5 Metro?

6 A. No. I have never even seen it.

7 Q. I have a copy of it right here. And  
8 if I ask you a question you don't know the answer to,  
9 I may have an opportunity to show this to you, okay?

10 A. I don't have my glasses, but I can go  
11 get them.

12 Q. That's all right, don't worry about  
13 it. I will help you out with that.

14 I'm looking over the statement you  
15 gave Metro. Today you told us there was a car ride.

16 A. A what, sir?

17 Q. A car ride. Alexis was in your car  
18 coming home from school?

19 A. Correct.

20 Q. And that was the first time that she  
21 told you that she had a secret, and you baited her a  
22 little bit, and she told you about Larry's weiner,  
23 right, or his ding-dong?

24 A. Right.

25 Q. That was the first time?

1 A. Correct.

2 Q. Does it surprise you at all you never  
3 told Metro about this incident in your statement?

4 A. When I went in to see Metro?

5 Q. Well, ma'am.

6 A. Does it surprise me?

7 Q. Yes or no?

8 A. No, because, you know, I couldn't  
9 remember word-for-word what she had told me what the  
10 dates were. I just know when he asked for a  
11 statement I had told him what I could remember.

12 Q. Okay. So you forgot about the car  
13 ride?

14 A. No, I didn't forget about the car  
15 ride, I just told him to me the most important thing,  
16 you know. I don't remember exactly what I even told  
17 to him to be honest with you. I just know what I  
18 told him, what Alexis had told me.

19 Q. I guess you tried to tell the most  
20 important part of the story?

21 A. Yes, correct.

22 Q. Okay. And would you acknowledge that  
23 one of the most important parts of the story is that  
24 Alexis tells you she doesn't want to tell the secret  
25 because she doesn't want her mother to be killed?

1           A.       I think it's all important. That's  
2 important too, but I think the whole story is  
3 important. The whole situation was important to me.  
4 I just wanted to get to the bottom of it and see if  
5 my daughter ever heard everything. I wanted to talk  
6 to everybody before I made any --

7           Q.       Let me interrupt you and clarify my  
8 question. Does it surprise you that you never told  
9 Metro that the reason why this little girl didn't  
10 want to tell the story is because she had a fear her  
11 mother would be killed? Does that surprise you?

12          A.       There was so much going on in my head  
13 at that time.

14          Q.       I am not looking for, you don't have  
15 to give me an explanation, just yes or no does it  
16 surprise you?

17          A.       Yes, it does surprise me that I  
18 didn't say that.

19          Q.       Okay. Because it surprised me too.  
20 That's why I asked.

21          MS. PETERSON: Objection, Judge.

22          THE COURT: Sustained.

23                    Mr. Abood, please, you have done it a  
24 couple of times. It's getting late in the day and I  
25 need to stop in ten minutes.

1 MR. ABOOD: I think we'll be done by then,  
2 Judge.

3 BY MR. ABOOD:

4 Q. Since you gave the detectives this  
5 statement, you have had a chance to talk to Wendy  
6 about this, right?

7 A. Yes, I did.

8 Q. You have had a chance to talk to the  
9 detectives about this case?

10 A. I only spoke with Robert one time on  
11 one occasion when I went in.

12 Q. And did Wendy tell you something  
13 about the fact that the reason Alexis didn't want to  
14 say anything was because she was scared that --

15 A. Never.

16 Q. -- Wendy, her mother, would be  
17 killed?

18 A. Never.

19 Q. That's just something you forgot to  
20 tell Metro?

21 A. Exactly.

22 Q. Okay, all right. Now, when we  
23 acknowledge that you didn't say anything to them  
24 about the car ride in this statement, but did you  
25 talk to them about the following evening when you,

1 the two of you, were watching TV?

2 A. To be honest, I don't know exactly  
3 what statement I had made to them, but I'm telling  
4 you from the words of what I can remember of  
5 everything, how it all got started.

6 Q. Okay.

7 A. It was a shock to me on everything  
8 that took place.

9 Q. Okay. And when Metro asked you about  
10 this and you started telling them this story, do you  
11 remember saying to them I didn't want to confuse her  
12 so I didn't ask her anything else that evening?

13 A. I don't recall saying that to them.

14 Q. Okay. Do you recall saying I didn't  
15 know if she heard this story or made it up?

16 A. I never said that to them.

17 Q. You never said that to them?

18 A. I don't think I did.

19 Q. It's in your statement, but you are  
20 telling us now you don't think you said that?

21 A. I don't, no, I don't think so.

22 Q. Okay. It was quite late and she was  
23 cranky?

24 A. Yes, she was cranky.

25 Q. I gave her a bath that night and I

1 checked her private and I didn't notice any redness  
2 or anything abnormal?

3 A. No, I did not notice anything.

4 Q. Okay. You agree that you did do that  
5 though?

6 A. Yeah. I gave her a bath.

7 Q. Okay. The next day you spoke to your  
8 husband, Frank Simone?

9 A. Fred Simone.

10 Q. I mean Fred.

11 A. I spoke to him the first day.

12 Q. Well, you told, I'm just going  
13 through what you told him in your statement to the  
14 detective.

15 A. I spoke with him the first day.

16 Q. Okay, you spoke to him on the first  
17 day, but you also spoke to Christina. That's Alexis'  
18 older sister, right?

19 A. Not the first day.

20 Q. The second day?

21 A. Yeah, the second day.

22 Q. And she is 14?

23 A. Yes, she was.

24 Q. And you were all having a family  
25 dinner together?

1 A. Correct.

2 Q. And you said to Alexis during that  
3 family dinner, Alexis, tell nana a little more about  
4 Larry when you played house with him, right?

5 A. Not those exact words.

6 Q. Well, I got those words directly out  
7 of your statement, but will you at least agree you  
8 said something like that?

9 A. Yes, I did.

10 Q. All right.

11 MS. PETERSON: Counsel, what page was that  
12 you got that out of?

13 MR. ABOOD: Page five.

14 BY MR. ABOOD:

15 Q. She said I don't want to talk about  
16 it, I told you not to tell anybody?

17 A. Correct.

18 Q. Christina says you can tell sissy?

19 A. Correct.

20 Q. Sissy, being herself, the older  
21 sister?

22 A. Yes.

23 Q. She said we played house. Larry took  
24 his clothes off and he laid on top of Chelsey, is  
25 that right?

1 A. Correct.

2 Q. Okay. So a little earlier when you  
3 testified to the judge here that she said that he  
4 made or he had the girls take their clothes off,  
5 that's not exactly what happened, what actually was  
6 said is that Larry took his clothes off?

7 A. Well, they took both girls clothes  
8 off. Both girls' clothes were taken off.

9 Q. And this is something you say in your  
10 statement to Metro?

11 A. I don't know if it's in that  
12 statement, to be honest with you. I just told them  
13 briefly what I -- at the time I was upset over all of  
14 it about what she had told me, but I never looked at  
15 the statement. I don't know exactly what I said in  
16 there.

17 Q. Okay.

18 A. From word to word.

19 Q. Later that evening she says to you,  
20 and I'm talking about Alexis, Alexis says to you,  
21 nana, I was lying to you, I was making that story up?

22 A. No, she did not, no.

23 Q. All right, ma'am. I'm looking at --

24 A. That's not exactly how she said it to  
25 me.



1 Q. Why don't you tell us exactly how she  
2 said it before I impeach you with your own statement.

3 A. She had told me, I said Alexis, you  
4 don't have to lie. If this isn't the truth, you need  
5 to tell nana the truth, because I won't be mad at you  
6 for telling me the truth, so if you are lying, she  
7 says okay, nana, she says all right, I will tell you,  
8 I lied. And later on she goes I didn't lie the same  
9 evening.

10 Q. Okay. Page five.

11 A. I talked to her first.

12 MR. ABOOD: Can I approach very quickly?

13 THE COURT: Go ahead, yes.

14 BY MR. ABOOD:

15 Q. I show you what purports to be your  
16 own statement to Metro.

17 A. I need my glasses.

18 Q. How about if I read something to you?

19 A. Correct.

20 Q. Okay. This is what apparently came  
21 up on a recording that you gave to Detective Roberts.

22 A. Okay.

23 Q. So Christina looked at her, and she  
24 goes, and I'm talking about this dinner thing that  
25 you had with Christina there, so Christina looked at

1 her and she goes did you get on top of Larry, because  
2 she got more out of this than I could or she got more  
3 out of her than I could, I'm sorry, and she said no,  
4 I don't want to talk about it no more. And my  
5 husband said don't pry her no more, because she was  
6 getting real nervous about it and started to cry  
7 about it.

8                   So we went about our dinner. Later  
9 that evening she goes nana, I was lying to you, I was  
10 making that story up. So I just let the whole thing  
11 ride. Do you remember telling that --

12                   A.        I remember.

13                   Q.        -- ma'am? Yes or no?

14                   A.        Yes or no?

15                   MS. PETERSON: You know what, Judge, I've  
16 got to object again. He's not even letting her  
17 answer.

18                   MR. ABCDD: You know what, my questions  
19 require a yes or no answer if she's got a yes or no,  
20 and if you have something you would like to add, feel  
21 free.

22                   MS. PETERSON: Well, Judge.

23                   THE COURT: Court's going to be in recess.

24                               (Brief recess.)

25                   THE COURT: Okay, the record should reflect

1 we are back on the record after a short recess in  
2 01F02703K, State versus Lawrence Schwiger.

3 Folks, it's 1:30 o'clock. Court's  
4 going to be in recess. If you have any further  
5 questions you wish to ask this witness, if you can  
6 keep it to less than five minutes, we'll excuse her  
7 today; otherwise, I will bring her back at another  
8 time and place. Not another place, but another time.

9 How long is it going take you to  
10 complete cross-examination and redirect examination,  
11 counsel?

12 MR. ABOOD: I would like to get it done in  
13 five minutes, Judge. I'm not quite sure I can.

14 THE COURT: Okay. Well then, State, I'm  
15 sure you have some questions when he is done,  
16 correct?

17 MS. PETERSON: I don't have a whole lot of  
18 redirect. If he could taper it down, I think we  
19 could get it quickly.

20 THE COURT: Here's the thing, there's no  
21 jury here today, and it's getting late in the day.  
22 My staff has been here for five and a half hours,  
23 having just taken one or two minute bathroom breaks,  
24 not really your problem, but the tolerance for  
25 exchanges between the two of you is getting shorter

1 and shorter as the day goes on. So direct your  
2 comments to me and make your objections, let me rule,  
3 and let's get through this, okay?

4 MS. PETERSON: Okay.

5 THE COURT: Thank you very much. That, and  
6 the other issue is that the court needs to take a  
7 recess every hour and a half due to something that  
8 has nothing to do with any of you, it just has to be  
9 the way it is. That's why I have to keep taking  
10 recesses.

11 MR. ABOOD: All right, Judge. I just wanted  
12 to make a record.

13 THE COURT: Not a problem, but I would  
14 appreciate it if the two of you would not engage in  
15 exchanges and direct your comments to me.

16 MR. ABOOD: I apologize to Ms. Peterson.

17 THE COURT: That's okay.

18 BY MR. ABOOD:

19 Q. Okay, ma'am, again, I want to ask you  
20 a few more questions about the statement you gave to  
21 the detectives. And let me remind you, you know, I'm  
22 really only concerned with what you told the  
23 detectives. I'm not concerned with you wanting to  
24 add or delete or whatever, I'm making a record of  
25 what's actually told to the detective, okay?

1 A. Correct.

2 Q. Okay.

3 THE COURT: I forgot one thing.

4 By the way, do you understand you are  
5 still under oath?

6 THE WITNESS: Yes.

7 THE COURT: Thank you. I forgot.

8 MR. ABCOD: Thanks, Judge.

9 MS. PETERSON: Could I have the court's  
10 indulgence.

11 BY MR. ABCOD:

12 Q. Okay, so we talked about the fact  
13 that you had the dinner party, etc., and she told  
14 you, and I'm talking about Alexis, Alexis said to you  
15 that she made it up, and you acknowledged that she  
16 said that to you; is that right?

17 A. What I said to her is --

18 Q. Ma'am, let me try this one last time.  
19 I'm going to ask you questions that require a yes or  
20 no answer. Now, if I ask you a question --

21 A. Okay, yes.

22 Q. Okay, thank you. Now, not only did  
23 she tell you she made this story up, but you in fact  
24 told her mother that she told you she made the story  
25 up, right?

1           A.       I told her she made that statement  
2 once or twice, yes, I did.

3           Q.       You told that to her mother?

4           A.       Yes.

5           Q.       The young lady who testified a little  
6 earlier today?

7           A.       Yes.

8           Q.       And in response to your telling that  
9 to her mother, her mother sat down with her for at  
10 least an hour and talked to her about this, didn't  
11 she?

12          A.       I don't recall that.

13          Q.       You told that to the police?

14          A.       I don't recall that that same day,  
15 sir.

16          Q.       Okay.

17          A.       It wasn't on that same day.

18          Q.       Maybe it's not the same day.

19          A.       She had spoke to her, yes, and I  
20 wasn't there when the conversation was going on.

21          Q.       I didn't suggest you were.

22          A.       Okay.

23          Q.       But did you not tell the police they  
24 had a long discussion, probably about an hour?

25          A.       I don't recall if I told them that.

1 Q. Okay. And during that discussion,  
2 you will acknowledge or you'll agree that the young  
3 child also told her that in fact she made the story  
4 up; is that right?

5 A. Yes.

6 Q. Okay. Now I'm on page five. The  
7 following day or a day or so later you said to  
8 Alexis, Alexis, tell nana a little more about Larry  
9 when you play house with him; do you recall that?

10 A. Yes.

11 Q. She said I don't want to talk about  
12 it, I told you not to tell anybody, right?

13 A. Yes.

14 Q. Okay. Now, the whole thing got  
15 dropped, and throughout the week, throughout the week  
16 the young child would say to you I don't like Larry,  
17 he's a bad man 'cause he likes to touch little girls'  
18 privates, right?

19 A. Yes.

20 Q. And you said to her did he touch your  
21 privates, correct?

22 A. Yes.

23 Q. And she said no, he touched Chelsey's  
24 private, correct?

25 A. Correct.

1 Q. Okay. She went on to tell you that  
2 Larry likes to get on top of her, being Chelsea, and  
3 take his clothes off?

4 A. Yes, she told me that.

5 Q. Okay. Now, you also told the  
6 detective that Alexis is in a confused state of mind  
7 right now with her mother's situation; is that right?

8 A. No.

9 Q. Ma'am, you didn't tell Metro --

10 A. About coming to stay with me, but she  
11 is not -- well, confused on what, sir, what?

12 Q. Page eight, please.

13 A. What are you referring to, in a  
14 confused state about what?

15 Q. Let me read you your statement and  
16 let me know if you said this. This is the detective.

17 A. Okay.

18 Q. She is in a confused state right now  
19 with her mother's situation, her not knowing where  
20 she is staying at and a little nervous, so this is  
21 why I didn't go any further.

22 A. Yes, I will say yes to that.

23 Q. Okay, thank you. Now, it's true that  
24 Alexis never ever told you that Larry ever stuck  
25 anything in her private; is that right?



1           A.       She never said he stuck it inside  
2 her. I don't think she would even know how to  
3 describe it. She just pointed to her private.

4           Q.       Okay. So when the detective asked  
5 you that same question that I just asked you, you  
6 said no, no, never used that ever; is that right?

7           A.       What?

8           Q.       Well, the wording that I just said,  
9 did she ever disclose to you he's ever stuck anything  
10 in her private, your answer no, no, never used that  
11 ever.

12          A.       She didn't say it like that.

13          Q.       Okay. It's that simple.

14          A.       Okay.

15          Q.       Okay. Now, when Alexis started  
16 telling you this story, you told Wendy, your  
17 daughter, I don't want Alexis going over there  
18 anymore, right?

19          A.       Correct.

20          Q.       And after you told her that, she let  
21 Alexis go there anyway, right?

22          A.       One time.

23          Q.       And you confronted her?

24          A.       Exactly. That's why I took the kids.

25          Q.       You confronted her?

1 A. Yes.

2 Q. Okay.

3 A. I don't know if she went over there.  
4 I seen him try to pick her up from school, and I was  
5 there. I don't know if she went over there, but I  
6 know he picked her up from school, he was going to  
7 pick her up from school.

8 Q. Okay. You confronted your daughter  
9 about that fact, right?

10 A. Yes.

11 Q. Do you remember what your daughter  
12 said to you?

13 A. No.

14 Q. Does that refresh your memory, now,  
15 Alexis told me that it's a lie.

16 MS. PETERSON: I'm sorry, counsel, could you  
17 tell me where you're at?

18 MR. ABCOOD: Page eleven.

19 THE WITNESS: I don't remember saying that.

20 BY MR. ABCOOD:

21 Q. Are you going to have an argument  
22 with me if I tell you it's in your statement?

23 A. I don't want to argue with you, sir.

24 Q. I don't want to argue with you  
25 either, but if I tell you it's in the statement with

- 1 the detective, does that help you at all?
- 2 A. No.
- 3 Q. Okay, all right. Now, you're trying  
4 to drum up some custody with these two young girls,  
5 aren't you?
- 6 A. No, not at that time, no, I was not.
- 7 Q. Did you suggest to the detective that  
8 you might be embroiled with your daughter in a little  
9 custody thing?
- 10 A. After this, yes.
- 11 Q. Okay.
- 12 A. After this took place and she had  
13 told me and I felt she had poor judgment where her  
14 daughter was going, yes, I did.
- 15 Q. Okay.
- 16 A. I want --
- 17 Q. As you sit here --
- 18 A. Not to take custody, I want to --
- 19 Q. It's my turn now, please.
- 20 A. I'm sorry.
- 21 Q. Okay. As you sit here today talking  
22 to this judge, you are, you will acknowledge that you  
23 and your daughter have an issue or a disagreement as  
24 to whether you should have custody of the 14 year old  
25 and the little five year old Alexis, right?

1           A.       No, we don't have a disagreement to  
2 that, no.

3           Q.       Has your daughter finally agreed to  
4 allow you to be their caretaker?

5           A.       Since this has happened I didn't want  
6 her at the unit anymore, so I took her into my home  
7 and she agreed after that.

8           Q.       Okay. What incentive do you use with  
9 your daughter to get her to agree to have you --

10          A.       This whole thing that happened with  
11 Larry and Alexis.

12          Q.       And you think your daughter is the  
13 one that exercised poor judgment?

14          A.       Yes, I did, by allowing her to go  
15 over and not finding out where he was going, what was  
16 going on over there.

17          Q.       Okay. And you believe that the kids  
18 are in a safe environment with you right now?

19          A.       Yes, I do.

20          Q.       And under no circumstances  
21 presently --

22          A.       But Wendy could be living with me  
23 there too.

24          Q.       I'm sorry, I thought we had an  
25 agreement I would ask you a question.

1 A. Okay.

2 Q. Okay. Under no circumstances  
3 presently are you inclined to give Wendy, your  
4 daughter, back her children right now?

5 A. I never said I would take them away  
6 indefinitely. They are her children. If she's got  
7 them in a different situation, she can have them  
8 back.

9 Q. But she needs to run through some  
10 hoops and make some things happen for you to make  
11 that adjustment?

12 MS. PETERSON: I'm going to object now,  
13 Judge, because I think this is going outside of the  
14 bounds of relevance. My objection is relevance.

15 THE COURT: What's the relevance?

16 MR. ABCOOD: Well, this lady now has I guess  
17 what we'll call custody. It's not legal custody.

18 THE WITNESS: No, I have no type of legal  
19 custody, nothing, just they are staying at my house  
20 now.

21 MR. ABCOOD: They are staying at her house  
22 now. I think that's relevant to the court in terms  
23 of her testimony and the things she remembers and  
24 doesn't remember, because it's against apparently  
25 mother's interest to have the children stay with

1 grandma right now.

2 THE COURT: State?

3 MS. PETERSON: That's fine, Judge. I'll  
4 submit it.

5 THE COURT: Okay. I will allow the  
6 question.

7 BY MR. ABOOD:

8 Q. So presently you have the 14 year old  
9 and the five year old?

10 A. Yes, I do.

11 Q. You told Metro, you told the  
12 detectives there is so many issues going on right  
13 now, right?

14 A. Yes, I probably did.

15 Q. What issues were you talking about  
16 when you told that to Metro?

17 A. The issue with Larzy and my  
18 granddaughter. I just didn't think, you know, her  
19 being there in that environment, I didn't want her  
20 over there anymore.

21 Q. Okay. By the way, did you know Larry  
22 well prior to this?

23 A. No, I did not. I spoke to him a  
24 couple of times.

25 Q. Right, but you are aware of the fact

1 your daughter knew him pretty well?

2 A. I don't know how well she knew him.  
3 She never had really a whole lot to say about Larry  
4 to me.

5 Q. Okay, all right.

6 Court's indulgence for just a second  
7 if you don't mind.

8 Are you aware of the fact that Alexis  
9 testified a little earlier her mom apparently helped  
10 her to come in and testify today?

11 A. She was with me. Her mother didn't  
12 help her with nothing. We picked her up, and the  
13 only things we said to Alexis is God's with you and  
14 you just tell the truth. That was the only statement  
15 that Wendy and I both made.

16 Q. I don't recall asking you anything  
17 about that.

18 A. Nobody told her anything. I picked  
19 Wendy up from her home.

20 Q. I will ask you one more question.

21 A. Okay.

22 Q. Wendy herself testified, well, the  
23 child testified, Alexis, that mom helped her with  
24 what she had to do here today. Now, let me finish.  
25 Is that because mom has some hoops to go through to

1 get back into your good graces to get these two girls  
2 back?

3 A. I don't think her mother said  
4 anything.

5 MS. PETERSON: Objection, speculation,  
6 relevance.

7 MR. ABOOD: Thank you very much for your  
8 time.

9 THE COURT: Sustained.

10 MR. ABOOD: Thank you, Judge. Thank you.

11 THE COURT: Anything else?

12 MS. PETERSON: Nothing further, Judge.

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

15 THE WITNESS: Thank you.

16 THE COURT: Does the State rest?

17 MS. PETERSON: Yes, Judge.

18 THE COURT: Due to the lateness of the hour,  
19 if you are going to present witnesses or have your  
20 defendant testify; otherwise, if you are going to  
21 rest today I'm going to have to do argument in the  
22 morning, because I have to take a recess.

23 MS. LEMCKE: That's fine.

24 THE COURT: Now, do you have any witnesses  
25 and did you discuss with your client his right to